A Review of the Family Court Department of the Maricopa County Superior Court

Conducted for the
Arizona Supreme Court
Administrative Office of the Courts

by
Greacen Associates, LLC

Final Report

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Executive Summary

The Maricopa County Superior Court has a well deserved reputation as an innovative court – for instance, in recent years the source of new ideas and approaches for the entire nation in dealing with self represented litigants and juries. The Family Court Department in recent years has followed in that tradition – developing and implementing a series of new and promising programs. They include an integrated family court, a family drug court, a court navigator, and a series of staff support services providing excellent mediation, settlement, custody studies, parenting classes, and domestic violence assistance processes. During the tenure of the current Superior Court Presiding Judge, the judicial resources devoted to the Family Court Department have increased by over 50%. The most recent Department Presiding Judges have made great efforts to raise awareness of the importance of family cases, relieve the stress of the family law assignment, and elevate the status of the judges who serve in the Department.

But all of the innovation and the increased resources have not brought with them the level of prompt and efficient service needed by the court's customers – the litigants, their lawyers, and the children of the families caught up in the distress of divorce. In February of this year the Arizona Supreme Court commissioned this study to assess the overall performance of the Family Court Department and its many ancillary staff services. The data we have gathered from myriad sources confirm that the Department's performance is substantially out of compliance with the Supreme Court's standards for timely disposition of family cases, that its judges use a wide variety of different case management and calendaring practices that produce quite disparate results, that its ancillary services are overused and not well coordinated, and that its basic processes, such as the entry of decrees in default cases, are backlogged and delayed.

In short, as the Department has implemented new, innovative programs, it has not paid sufficient attention to the core function of consistently, efficiently, and effectively resolving family law cases. Its leaders have tolerated the fragmentation of family law practice among 25 different judicial chambers. Maricopa County's Family Court Department is not alone in this phenomenon. Court leaders around the country are realizing that courts have given insufficient attention to the basic discipline of case management over the past ten to fifteen years ago as they have focused instead on broader important issues such as access to justice, therapeutic courts, and alterations to court structures and funding mechanisms.

The Family Court Department's innovations – creating various non-adversarial dispute resolution alternatives provided to litigants by dedicated, professional staff – are not antithetical to effective and efficient management of family cases. It is not necessary or appropriate to discontinue the ancillary services the court has developed. To the contrary, those services are valued by the bar and the litigants. The Department can provide both speedy <u>and</u> effective dispute resolution processes. To do so, however,

requires more disciplined use of the services within the context of a proactive case management system emphasizing early court intervention in family law cases, efficient use of staff, judge, lawyer and litigant time, effective assistance for self represented litigants, and expectations that even the most highly conflicted divorce matters will be resolved quickly.

This report summarizes the data gathered over the past six months by Greacen Associates and answers a number of specific questions posed by the Supreme Court and by the leadership of the Maricopa County Superior Court itself. The court, the Family Court Department, and the Clerk of Court staff have been extremely supportive and cooperative throughout this study, looking to its findings and recommendations to inform the agenda for a new Family Court Department Presiding Judge and a new Department Court Administrator.

The court's own innovations have included a series of case management pilot projects which, taken together, have identified the principles and specific mechanisms needed to produce the outcomes desired not only by its customers, but by the court itself. The Northwest Pilot Program has focused on early judicial intervention in family cases, limited, targeted use of ancillary staff services, and a concentrated effort to resolve all outstanding issues in divorce cases during the parties' first appearance at the courthouse. The Southeast Pilot Program has focused on simplified, streamlined Conciliation Services programs and faster delivery of those program services. A second Southeast Pilot Program is testing early intervention by an interdisciplinary team of court staff. A "default on demand" process focuses on a one day process for completing all steps needed to enter default divorce decrees (and ultimately stipulated consent decrees) in cases that qualify.

In the report that follows we report the results of a variety of data gathering efforts, describe the components of proactive case management and aggressive calendar management that characterize the court's best judicial case managers, and summarize the results of a month long litigant and lawyer satisfaction survey conducted for all judge and commissioner hearings and trials, Conciliation Services sessions, Expedited Services conferences, DCM/ACM case management conferences, and ADR settlement conferences.

Some of the results merely confirm what we already know, for instance

- that the court cannot expect self represented litigants to take initiative to move their cases through the court process; the court must provide that initiative; and

- that strict continuance policies and judicious oversetting of court calendars produce better case management results.

Some of the results are dismaying, for instance

- that only 48% of family cases are resolved within the first six months (compared to the Supreme Court's standard of 95% case completions);

- that half of default cases take longer than six months before a decree is entered;

- that the average family case has two and a half different judges assigned during its life; a third of all family cases have more than three judges; this is true despite the fact that 43% of the cases are uncontested;

- that the average time from a motion to set until the commencement of a trial is five and a half months;

- that the average time from a motion for temporary orders to a hearing on the motion is seven weeks;

- that the most frequently voiced complaints of litigants and lawyers are the delay in the system, the paperwork involved, and the confusion they experience;

- that satisfaction ratings for the Self Service Center are lower than for the litigating and decision making units of the Department.

Some of the results are more encouraging, for instance:

- that the court's performance in disposing of cases within twelve months is within two percentage points of the average of other large urban courts studied over the last fifteen years;

- the average ratings for all presiding officers on fairness and on the conduct of today's proceeding are very high;

- that there is a relationship between the litigants' and lawyers' ratings of their overall experience with the court's process and the judge's performance as an effective case manager; and

- that there is <u>no</u> correlation between the ratings of the judge's performance on the bench and his or her effectiveness as a case manager (i.e., litigants and lawyers do not appear to resent judges who aggressively manager their caseloads).

One of the issues on which the Supreme Court sought our opinion was the appropriateness of locating Expedited Services within the office of the Clerk of Court. That issue was resolved by the Clerk's transfer of the unit to Trial Court Administration effective July 1, 2004. During the study we were regularly reminded of the presence of tension and distrust in the relationship between the Clerk of Court and the court's judicial and administrative leadership. We hope that resolution of the controversy over Expedited Services will significantly improve that relationship. It is clearly a step in the right direction.

We identify a series of eight overall challenges facing the Family Court Department:

- reconciling competing goals;
- better addressing the special requirements of case management in an environment dominated by self represented litigants;
- providing a consistent judicial process and predictable outcomes for the litigants and their lawyers;
- defining a proactive role for the court in moving cases through the process;
- defining an appropriate role for the court in guiding litigants through the process;
- integrating the different components and services of the Department;
- simplifying the process, and
- avoiding the compulsion to enforce technical requirements.

We conclude with a series of recommendations, some for the Arizona Supreme Court and some for the Family Court Department itself.

We urge the Supreme Court to:

- Adopt authoritative distinctions between legal information and legal advice for the guidance of court staff;
- Provide training to the Judicial Selection Commissions regarding the judicial needs of the Family Court Department;

- Revisit the current disposition time standards and require the Maricopa County Superior Court to propose interim time standards for family cases to be in effect for its caseload for the next two calendar years;

- Revised current Rule 38.1 of the Rules of Civil Procedure to eliminate the practice of maintaining active and inactive civil calendars; and

- Provide Judge Campbell with written directions to improve the performance of the Family Court Department.

We propose a series of changes for the Family Court Department that would:

- Create a standard procedure for early intervention in all family cases conducted by both staff and judges, focused on resolution of most cases on their first appearance in court, and providing a "single, simple process" for initial processing of all family matters;

- Improve the Department's use of ancillary services by targeting referrals;

- Aggressively manage all cases that are not resolved at the first court appearance;

- Create judge/staff teams to replace the current ancillary services units;

- Expand the amount of one-on-one service provided to self represented litigants in the Self Service Center, in the new judge/staff teams, and in the Department as a whole;

- Create a governance structure for the Department;

- Take action to lessen the impact of the current judicial rotation period for judges in the Family Court Department, including, if necessary, extending the rotation period;

- Provide case management training for all newly appointed Family Court Department judges;

- Provide case management training/coaching for inefficient case managers;

- Improve the timeliness of imaging and entry of documents into case files;

- As soon as possible, eliminate the maintenance of paper case files by the Clerk of Court in family cases filed since 2002;

- Resolve the case management concerns of the Attorney General's Child Support Enforcement Division;

- Reassess the role of attorney case managers; and

- Improve the use of the iCIS system.

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Introduction

In February 2004, the Arizona Supreme Court commissioned this study of the Family Court Department of the Maricopa County Superior Court to determine the efficiency and effectiveness of the court, and the Clerk of Court, in resolving family law matters. The inquiry was defined broadly. Greacen Associates was to look particularly at the extent to which the court is meeting Supreme Court standards in disposing of family cases, how well the court manages family cases, how well the various ancillary services perform, the status of the court's automated systems, and the quality and sufficiency of the written materials provided by the court to litigants.

One of the focal concerns of the Supreme Court was the Expedited Services Program within the office of the Clerk of Court. The program – created in 1988 by agreement of the Clerk of Court and the Superior Court -- was unique within the state as a quasi-adjudicatory function residing within the office of the Clerk of Court rather than within the court itself. The Supreme Court's concerns about the program caused it to extend the rules authorizing it (Rule 53(k) of the Rules of Civil Procedure, authorizing the appointment of "family court conference officers," Local Rule 6.9(c) establishing an "Expedited Process" for establishing or modifying support or enforcing support, medical insurance coverage, medical or dental cost reimbursement, spousal maintenance, custody, or parenting time, and Local Rule 6.14 setting forth the Plan for Expedited Process) for a limited time for additional experimentation and "preparation of a complete report regarding the efficacy of the rule." The structural issue was resolved during the course of this study at the initiative of the Clerk of Court who, in a joint announcement with the Presiding Judge and Family Court Presiding Judge on May 25, 2004, transferred the Expedited Services program and staff to Trial Court Administration, effective July 1, 2004. While the issue of the structural location of Expedited Services is no longer an issue for this review, the performance of the unit remains a topic for analysis.

The study has included a variety of types of data from a number of sources:

- official data reports from the Family Court Department prepared by Trial Courts Administration;

- special reports prepared for Greacen Associates by Court Technology Services drawing data from the court's iCIS automated case management information system;

- a special study conducted by the Attorney General's office to determine what practical difference, if any, arises from processing of Title IV-D

child support cases through Expedited Services or through a commissioner;

- litigant and lawyer satisfaction surveys completed for every court proceeding during the one month period beginning April 26 and ending May 21, 2004. Almost 5,000 completed surveys were collected and analyzed;

- interviews with every available judge[1] and commissioner of the Family Court Department and with selected staff members, members of the family law bar, and a representative of the Attorney General's Office;

- interviews with supervisors and members of Conciliation Services, Expedited Services, DCM/ACM case managers, the ADR program, the Family Court Navigator, Family Support Services, the Self-Service Center, and the Domestic Violence Prevention Center;

- observations of court hearings, and of sessions conducted by Conciliation Services, Expedited Services, DCM case managers, and ADR pro tem judges;

- interviews with every judicial assistant for Family Court Department judges and commissioners on calendaring and case management practices; and

- a review of selected forms, instructions, brochures and other information provided by the court to litigants.

The Maricopa Superior Court, its Family Court Department, and the Clerk of Court have been gracious and accommodating. The court's leadership has welcomed this study, referring to it as a "gift" from the Supreme Court that comes at a particularly appropriate time of changing leadership within the Family Court Department. We relied on court staff to schedule appointments, collect materials, and administer the litigant and lawyer satisfaction surveys. We particularly appreciate the extensive support provided by Robin Hoskins, the Family Court Navigator, Debra Rubenstein, Assistant Court Administrator within the Family Court Department, and Mary Horvath and Stephanie Valenzuela of Court Technology Services for their personal support during the project.

Greacen Associates is indebted to Julia Hosford Barnes, Diddy Greacen, John Greacen, Wiggy Greacen, Jim Witkowski, Don Sattler, Marcy Shaw and Kim Galloway for their assistance in gathering and analyzing information and in preparing this report.

[1] Some of these interviews were conducted in person; some were conducted by phone. A very small number of judges chose not to participate.

This report describes the Family Department, reports our findings, and makes a series of recommendations to the Arizona Supreme Court and to the Maricopa County Superior Court for steps that can be taken to improve the performance of the Family Court Department.

We feel it is important to state at the beginning of this report that there are many positive aspects of the operation of the Maricopa County Superior Court Family Court Department. There is strong leadership at the court at many levels, the staff is committed to doing what is best for the families in the county, and innovations are a part of the history of the court and continue to play a large role in improvements in the court. As consultants, we are asked to look at what is not working and suggest improvements. The comments for improvement listed in this report should not overshadow or minimize the numerous positives that exist at the court. We are confident that the court will consider our recommendations and will be able to fully, competently and efficiently implement a plan for improvement. Our specific suggestions are derived from pilot projects currently underway in different parts of the Family Court Department.

Description of the Family Court Department

The Family Court Department consists of 25 judges, 8 commissioners, and a substantial staff contingent, supported by personnel of the Clerk of Court. The court's goal has been to assign one judicial officer to the Department for every 100,000 persons living in Maricopa County.[2] Counting the eight commissioners, the court is within two positions of attaining that goal.

Increasing the number of judges and commissioners assigned to the Family Court Department has been a major objective of the current Presiding Judge of the Superior Court, the Honorable Colin Campbell. During his tenure, the Family Court Department has increased in strength from 20 to 32 judicial positions. The assignment historically has not been a popular one among the judges. The Presiding Judge has a difficult time getting judges to agree to a two year rotation in the assignment, much less continue in the assignment for additional time.[3] Because of the resistance of the more senior members of the bench to sitting in the Family Court Department, the court has developed the practice in recent years of assigning all newly appointed judges to handle family cases. This has brought considerable enthusiasm to the assignment, although it has also meant that most of the judges in the Department lack experience in all aspects of serving as a judge – in

[2] The court adopted this standard from the Eleventh Judicial District Court in Miami/Dade County, Florida. The court also borrowed the attorney case manager concept, and the standard of one for every two judges, from that court.

[3] There are several exceptions to this general rule. One judge, who came from a family law practice, is into a third rotation. Another judge has agreed to stay for a fifth year. Another has agreed to a second term.

presiding in court, in managing cases, in handling paper work, in supervising staff, and in working collegially with other judges. In addition, Superior Court judges are rarely appointed from the family law bar; jury trial experience is considered an important qualification for a Superior Court judgeship and family law practice does not involve juries. New judges must also master domestic relations law and practice, which includes understanding the fundamentals of the emotional dimensions of divorce for parents and children.

All cases are assigned to a judge upon filing. The judges handle most contested matters. The commissioners hear matters relating to the establishment of child support in Title IV-D cases brought by the Attorney General's office, petitions for ex parte orders of protection in domestic or child abuse cases, hearings on contested protection order cases, default cases, consent decrees, requests for waiver or deferral of fees, requests for temporary administrative support, simplified child support modifications, requests for granting a divorce without holding a hearing under Rule 55(b)(1)(ii), and vacation of Orders of Assignment (of wages). They also serve as settlement facilitators for the ADR program.

The Family Court Department has four ancillary service units that perform quasi-adjudicative functions:

- Expedited Services;
- Conciliation Services;
- Alternative Dispute Resolution; and
- Attorney Case Management/Differentiated Case Management conferences

It has four other services that support litigants in family cases:

- Self Service Center
- Family Violence Prevention Center
- Family Support Center
- Navigator

The following is a brief description of each of these eight services.

Expedited Services

In 1987, the Arizona legislature established new procedures to expedite public access to the courts for the enforcement of court orders concerning child support, spousal support and parenting time. Expedited Services was created in 1988 by the Clerk of the Court's office to assist the court. In July, 2004 the conference officers were transferred from the purview of the Clerk of Court to Trial Court Administration.

Expedited Services is empowered by Local Rule 6.14 to conduct “alternative dispute resolution proceedings” to obtain agreement among the parties or to make a recommendation to the court regarding:

- establishment of paternity in Title IV D cases or by voluntary stipulation of the parties;

- establishment and modification of child support in both Title IV D and private (non Title IV D) cases;

- enforcement of child support, custody and parenting time provisions of existing court orders.

Cases may be filed as Expedited Services matters or they may be referred from the judges; these referrals usually involve requests to modify or enforce child support. Expedited Services also provides monitoring and supervision of orders to enforce child support, custody or parenting time.

Expedited Services conference officers hold hearings in their offices at the courthouse during which parties can provide documents and oral testimony under oath. Counsel may also be present. Conference officers have no power to force parties to perform. Regardless of the manner in which the case is referred to Expedited Services, either through a direct filing or by referral from a judge, the conference officer provides a written stipulation agreed to by the parties or a written recommendation with a proposed order. These are directed to the judge to whom the case is assigned. The order is reviewed by and signed by the judge (or returned for further review or elaboration). After the order is signed by the judge, a party has 25 days within which to file an objection to the order, which leads to a hearing on the matter before the judge or a commissioner if a hearing has been requested.

The major questions regarding Expedited Services relate to the timeliness of resolution of cases referred to Expedited Services, how best to target the use of these services in family law cases, the formalities associated with the conferences themselves, the quality of conference officer decision making, the propriety of having persons without legal training performing quasi-judicial functions, and the elimination of overlaps with Conciliation Services and with the role of commissioners in establishing child support in Title IV D cases.

Conciliation Services

Conciliation Services offers a variety of professional services to parties in a family court matter. They provide the following services:

- Conciliation Counseling

- Underage Premarital Counseling
- Parent Education
- Parent Conflict Resolution Classes
- Mediation
- Open Negotiation
- Evaluation Services where there appear to be questions regarding parental unfitness
  - Early Post Decree Conference
  - Dispute Assessment
  - Full Family Evaluation
- Emergency requests
- Reciprocal Home Study

We looked in detail at two of the service areas: mediation and dispute assessment. Conciliation Services provides the following description of these two services.

> Mediation is available in all Family Court actions that involve a controversy over custody or parenting time of minor children. All referrals are screened by Conciliation Services for appropriateness of mediation. Mediation is confidential by statute and contents of the sessions cannot be divulged or discussed with the judge; therefore, only areas of agreement are reported to the Court. Mediation is usually completed within 60 days of receipt of the case in Conciliation Services.
>
> Dispute Assessment is a brief evaluation process that identifies and addresses alleged parental deficits and salient issues in dispute and centers the assessment only on those areas. Interviews with the parties are limited and scheduled at the evaluator's discretion. Typically interviews include parental interviews, child interviews and/or observations of the parent/child interaction. The evaluator may also gather collateral information concerning custody, parenting time, and the best interest of the children. Target length of the report is five to ten pages. Dispute Assessment is usually completed within 90 days of receipt of the case in Conciliation Services.

Conciliation Services typically conducts its processes serially. It first attempts mediation. If mediation does not resolve the custody and visitation issues, the case is referred to a different staff person for a dispute assessment. Other services are performed as called for in a particular case, e.g., drug testing.

The major questions regarding Conciliation Services relate to the timeliness of resolution of cases referred to Conciliation Services, how best to target the use of these services in family law cases, and whether any of these services should be outsourced to the private counseling community.

Alternative Dispute Resolution.

Alternative Dispute Resolution (ADR) is a case settlement service provided by commissioners and other judges pro tem who are practicing lawyers in the community who provide volunteer settlement conferences. Judges pro tem must have at least five years of experience practicing law. This service is offered to parties who are represented by counsel immediately prior to trial. The ADR staff schedules the conferences with the volunteer attorneys.

The judges pro tem are authorized to enter settlement agreements reached during the ADR process into the record. They typically deal with any issues that are pending before the court that would be dealt with at the trial. Settlement conferences are typically scheduled 90-120 days after referral.

There was almost universal approval of the Alternative Dispute Resolution program among judges and lawyers. The major concerns regarding this service relate to the time required to get a settlement conference set and when the conferences should occur during the life of the case. Today they are typically held after other ancillary services have been used and immediately before trial. There is also some question whether the time of commissioners is well used in holding conferences that may take longer to settle than they would take to resolve at trial.

Differentiated Case Managers and Attorney Case Managers

Differentiated case managers (DCM) meet with parties in cases shortly after an answer is filed to inform the parties of the next steps in the process, to help identify and narrow the issues in the case, and to provide the judge with information about the case. Although settlement is not a purpose of these conferences, it frequently results. DCM conferences are not held in cases in which both sides are represented or in cases in which domestic violence is involved. The differentiated case managers are being replaced by the attorney case managers (ACM); as the former leave the court their positions are being filled with attorneys.

The Strategic Plan 2003-2008 identifies the role of the attorney case manager as follows:

> The attorney case manager program is designed to provide a model case flow and a system of case management to assist the Family Court judges with their caseloads. The goal of the Family Court is to employ at least one attorney case manager for every two Family Court judges.
>
> Attorney case managers shall set and conduct DCM (or Settlement/ Management) Conferences in appropriate cases, as determined by the assigned judges. The attorney case managers may review and prepare court files for the judges, monitor

referrals to social service organizations, and assist the Court by attending hearings, draft orders, calculating child support, and assisting litigants with any procedural questions.

We found considerable confusion about the role of the attorney case managers. ACMs are assigned to five judicial officer teams (four judges and a commissioner). Some conduct case management conferences; some do not. In a few cases the judges and ACMs have created clear and useful roles for the ACM to perform. However, the work performed varies widely from ACM to ACM.

Self Service Center

The Self Service Center (SSC) is a facility located at each courthouse to provide resources to help self represented litigants help themselves. The services available at the center include forms for various court proceedings, an internet based service program, and information on how a litigant may find a lawyer. The primary function of the SSC is for persons to browse through the various packets of forms and information displayed in racks along the walls of the Center, to choose the appropriate packets for their situation, and to purchase those materials at a nominal price from the Center staff.

Staff answer questions about the forms and the court processes to the extent that they have time available to do so. However, the Center is designed to serve as a forms dissemination process, not as a one-on-one information giving or assistance function.

Family Violence Protection Center

The role of staff at the Family Violence Protection Center (FVPC) is quite different from that of the staff at the SSC. It too provides forms and information for victims of domestic violence. But it also provides assistance in completing forms or provides a party with access to a computer to complete forms electronically. When the forms are complete, Center staff will direct petitioners to the “duty” commissioner who is assigned to hear “walk in” domestic violence cases. If relief is appropriate, the commissioner or the judicial assistant will complete the order of protection during the court hearing using an automated form.

The Center will also provide forms for respondents to use to contest a protection order petition.

The Center staff schedule all commissioner hearings on contested orders of protection.

Family Support Center

The Family Support Center is operated by the Clerk of the Court. It performs child support calculations pursuant to simplified modification; customer service for both IV-D and non IV-D cases; non IV-D arrears calculations upon request by a customer; collects, receipts and forwards purge payments (amounts needed to avoid arrest on a non-support warrant); tracks specialized filings; refers cases to the judicial divisions and expedited services; and signs appropriate stipulations and dismissals. While the Expedited Services conferences officers have been transferred to Court Administration as of July, 2004, the Family Support Center remains with the Clerk of Court.

Family Court Navigator

The Navigator is available to members of the public to take inquiries and provide information about family court processes and procedures. The Navigator also works closely with the Family Court Advisory Council. The role of the Navigator is to improve the effectiveness, efficiency and accessibility of the Family Court Department by responding to public inquiries and recommending possible solutions. The Navigator performs most of her services by telephone.

Other Innovations

The court has a tradition of innovation. The Self Service Center was the nation's first program designed to provide forms and instructions to self represented litigants. The differentiated case management program – which was instituted by a previous Family Court Department Presiding Judge and Court Administrator – attempted to assign family cases to different "tracks" based on their complexity. The program became enmeshed in controversy when attorneys objected to attending meetings presided over by non-attorney court staff. It never achieved its potential.

A major restructuring some years ago changed the roles of judges and commissioners, transferring to the judges the responsibility for establishing temporary orders. The court's rationale was that temporary orders – in most cases – set the pattern for future custody and property division decisions and should be made by judges. Judges would also be able to schedule all future court proceedings at the time of a temporary orders hearing, obviating the need for a party to file a motion to set.

The ADR settlement conferences are a new innovation, as are a number of the services provided by Conciliation Services. The Navigator and the Family Violence Prevention Center are also new.

Three years ago the Family Court Department created a pilot Integrated Family Court in the Southeast facility where all family, juvenile delinquency, juvenile dependency, and probate cases involving members of the same family can be assigned to one judge who administers all of them in a coordinated fashion. The program was evaluated last year and is being expanded to Downtown at the Durango facility.

The Department has begun a pilot Family Drug Court providing continuing judicial attention and extensive treatment and drug testing services for parties in family cases with substance abuse problems.

The Department has a thorough strategic plan and extensive training programs for its judges. It also has many committees, including a Family Court Advisory Council, which includes representatives from outside agencies.

A statewide committee established by the Supreme Court is drafting new rules of procedure for family law matters. Family cases have historically been governed by the Rules of Civil Procedure. However, there are sufficient differences in family cases to warrant a set of procedural rules designed specifically for this litigation. For instance, the parties already know a great deal about each other and, unlike general civil cases, the discovery needs of the parties are minimal.

Several new initiatives are particularly relevant to the focus of this study and are described in more detail.

The Northwest Pilot Project

In February, 2003, the Northwest judges proposed a case management pilot project to the Maricopa County Family Court Department. The pilot project focuses on early, efficient and comprehensive judicial intervention with a strong guiding principle to terminate the cases in the shortest possible time.[4]

At the time a party first seeks judicial action in the case, the court schedules a 30 to 60 minute "settlement management conference" (SMC). The parties are required to meet and confer before the SMC, to exchange information, and to formulate and communicate their positions on issues in dispute (without stating their reasons or arguments for those positions). During the SMC, the judge identifies the issues and level of complexity of the case. If possible, the judge settles disputed issues, enters the agreements on the record under Rule 80(d), and issues a divorce decree. If the case cannot be resolved fully that day, the judge enters any necessary temporary orders, makes

[4] In some respects, the Northwest judges have prioritized two of the numerous competing goals as the most essential – early judicial intervention, targeted referrals to ancillary services, and quick dispositions. See later discussion of competing goals.

any referrals that are appropriate, and schedules future hearings. The Northwest judges use the SMC process to take early control of the case. A case never goes forward after the SMC without a next calendared event.

The Northwest judges use a "targeted" approach to referrals to ancillary services in cases that are not terminated at the SMC. Each judge determines in the SMC which ancillary service is warranted and what specific services offered by the ancillary service will be helpful. Each judge spoke with us extensively about the process s/he uses to weigh how much time will be needed for the ancillary service versus the benefit to the case if the information is provided. The judge makes preliminary decisions needed to enhance the effectiveness of the ancillary service if a referral is made. The judges all have and use an automated child support calculator developed by Judge Norman Davis and do not postpone a decision merely to have Expedited Services compute the amount of child support.

The ancillary services providers and supporting court staff in Northwest have modified their procedures and practices to conform to the Northwest model priorities. In a few instances where an ancillary service did not conform to the priorities, the judges in Northwest stopped using that service. In several instances, if an ancillary service was available within a short time frame that did not slow down a case, the judges indicated a willingness to increase the use of that ancillary service. For example, they have begun using the Southeast pilot project approach of holding a mediation conference with the parties that will result in a report to the court if the parties fail to reach agreement. "Pure" mediation, offered as a confidential service without reporting a result to the court, is no longer offered.

When we interviewed judges and staff at the Northwest facility in April 2004, without exception they enthusiastically supported the pilot project fourteen months after it had been implemented. The pilot project has been accepted by a large variety of court employees – from new judges, to seasoned court employees, from judges with extensive domestic relations experience to employees without previous domestic relations experience. The pilot is thriving in the courthouse despite the fact that its principal sponsor, Judge Davis, transferred to the Downtown courthouse to prepare for assuming the duties of Presiding Judge of the Family Court Department.

Unlike the other judges in Maricopa County, the judges in Northwest have adopted a common procedural framework. None of the judges there believe that the common framework infringes on their judicial autonomy. Rather, they report that it allows them to make better targeted decisions in exercising their judicial discretion.

Southeast pilot project I

The pilot project in Southeast focuses on the services provided by Conciliation Services. The Conciliation Services staff now limit their services to two – mediation and dispute assessment. The services are no longer provided serially or assigned to different staff. Mediation is not held out to be confidential. If mediation does not lead to a resolution of all custody issues, the staff person conducting the mediation prepares a report for the court identifying the issues in dispute and the parties' positions on each issue.

Conciliation Services are scheduled from the courtroom when a judge decides to make a referral (by a phone call to the staff to get the soonest available date), and the parties are required to report to Conciliation Services immediately upon leaving the courtroom to register for the service and provide current contact information. If both parties are not present, they must return to the courthouse for this initial registration process.

The overarching objective of the Southeast pilot project is to reduce the time required for a Conciliation Services referral – by eliminating the time required for the traditional paper referral process, by eliminating delays in scheduling an appointment, by reducing the time taken by CS to conduct the mediation/dispute assessment, and – by operating more efficiently – by reducing the time required for an appointment.

The judges and Conciliation Services staff in Southeast wholeheartedly support the project.

Southeast pilot project II

The Conciliation Services staff, together with one of the Attorney Case Managers and the DCM case manager[5] in Southeast, have developed a staff-based early intervention process that they intend to begin testing soon. Building upon the early intervention approach of the Northwest settlement management conferences, this program will expand the DCM case management conference to direct the services of all of the ancillary court services to cases at the earliest stage. At a DCM conference set soon after filing of an answer, a staff team will meet with the parties to assess the issues in the case. They will then address them immediately. If there is a custody dispute, Conciliation Services staff will attempt to resolve it that day. If there is a property issue, the Attorney Case Manager will attempt to settle it with the parties. If a child support calculation is needed, the DCM Case Manager, who used to work in Expedited Services, will perform it.

[5] We understand that the Southeast DCM case manager no longer works at the Southeast facility. This pilot project will necessarily be implemented differently from the model described above.

The objective is the same as the original Southeast pilot project – to provide services to litigants faster. But it has additional characteristics. It attempts to coordinate all of the ancillary services' skills in addressing the needs of the parties in each case. And it attempts to complete all services on the day the parties first come to court. If matters remain unresolved, they will be summarized for the judge in a dispute assessment.

Electronic final decree

Another of Judge Davis' initiatives has been the development of "E-forms." There are two aspects to "E-forms."

The first is an "interactive" process for parties to use to complete family court forms. The computer poses questions to the party. Based on the answers provided, the computer then enters the information into the form. The party then reviews, prints and files the form. The process will ease many of the difficulties that self represented litigants have in correctly filling out court forms.

The second is an "E-decree." Family Court Department staff are working with Court Technology Services to create a standard divorce decree that will be completed for each case as its component parts are resolved. The "E-decree" will be a part of the electronic record for each case. As the parties reach agreement on parts of the case – or a judicial officer makes rulings on them -- they will be entered into the draft decree, or "decree in progress." For instance, when Conciliation Services successfully mediates all custody issues, the parenting plan portion of the decree will be completed by the CS staff. When child support has been calculated, it will be entered into the decree. Judge Davis has suggested that the "E-decree" be organized according to the five issues that must be resolved in a decree – custody, child support, property division, spousal maintenance, and allocation of debts.

Default on Demand

As will be shown later in this report, the entry of default judgments has become a serious bottleneck for the court. Following a visit to the Pima County Superior Court, a Family Court Department committee chaired by Judge Steinle has developed a "walk in" default decree process. The petitioner or the petitioner's counsel will call the court and arrange for the file to be available the following day. The party will then come to the court, bring the proposed default decree, obtain the file from the Clerk of Court, and take it to a "duty" commissioner or judge who will review the proposed decree for compliance with state law and approve it if it is in compliance. If not, the commissioner or judge will consider whether to waive any deficiencies (such as completion of a parenting education program). If the deficiencies cannot be waived, the judge will explain them explicitly to the party so that they can be remedied.

A change in leadership

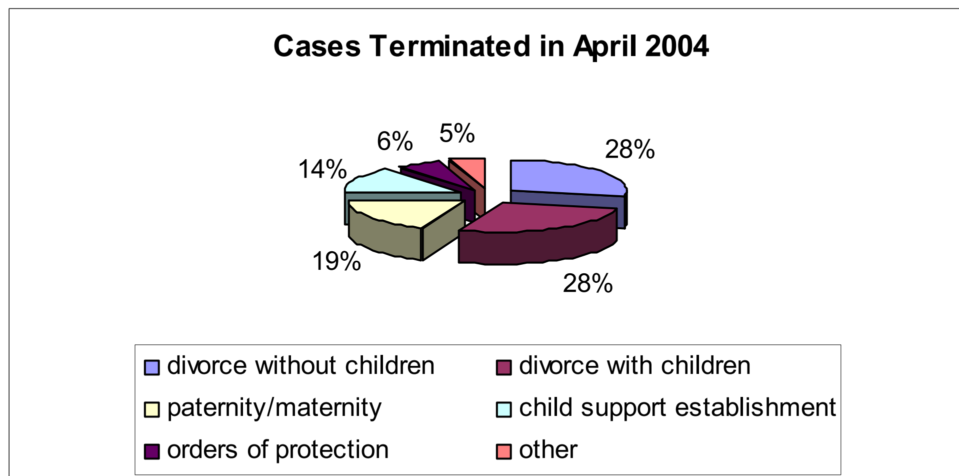
The Family Court Department is now undergoing a significant change in leadership. A new Presiding Judge, Judge Norman Davis, took office on July 1. A new Family Department Administrator, Mary Bucci, took office a few months ago. Judge Campbell, Presiding Judge of the Superior Court, has made improvement in the performance of the Family Court Department a major theme of his remaining tenure in office. The new leadership is looking to this study as a foundation for the programs that it plans to put into place.

Basic statistical data for the Department

88% of all cases in the Family Court Department involve one or more self represented litigants.[6]

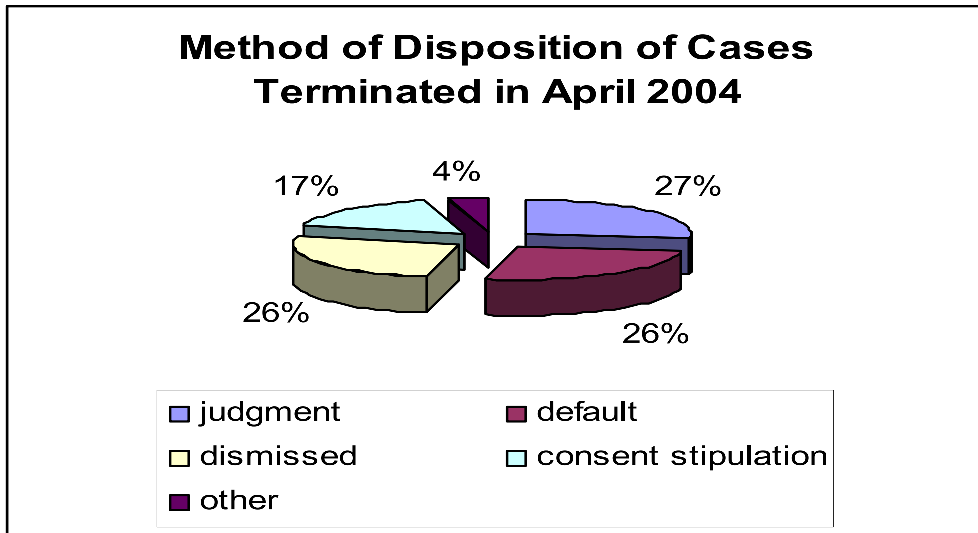
We have been provided by Trial Court Administration with data on the characteristics of cases disposed in April 2004. We believe that this data is reasonably representative of the types of cases resolved, the way in which they are resolved, and by whom they are resolved.

In April, the cases terminated fell into these basic categories. The chart is not complete because the court is not currently able reliably to distinguish post-decree cases from pre-decree cases.



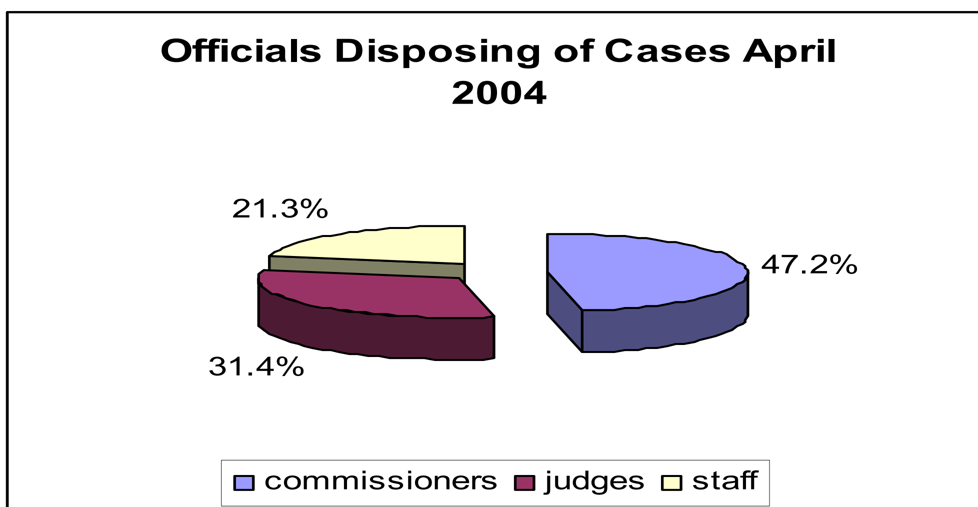
[6] This statistic was provided by the Self Service Center two years ago when Greacen Associates was conducting a study of business process re-engineering. The percentage is lower than the number computed a number of years (90%) in a groundbreaking study of self represented litigants in Maricopa County conducted by Bruce Sales for the American Bar Association.

The cases were resolved in these ways.



Forty-three percent of the cases are uncontested – defaults or consent stipulations. One quarter of the cases are dismissed – the cases categorized as dismissals include voluntary dismissals when parties reconcile their differences; however, the huge majority of dismissals are for failure to prosecute the case (including failure to effect service). The court dismisses all cases which are not ready for trial eight months from filing of the petition, unless a judge grants a motion allowing the case to continue on the inactive calendar for a further period of time. One quarter of family cases are decided on their merits by the court. This percentage is actually quite a bit higher than in civil or criminal cases – where 3% to 6% go to trial before the judge or a jury.

The cases were decided by judges, commissioners or staff as follows:



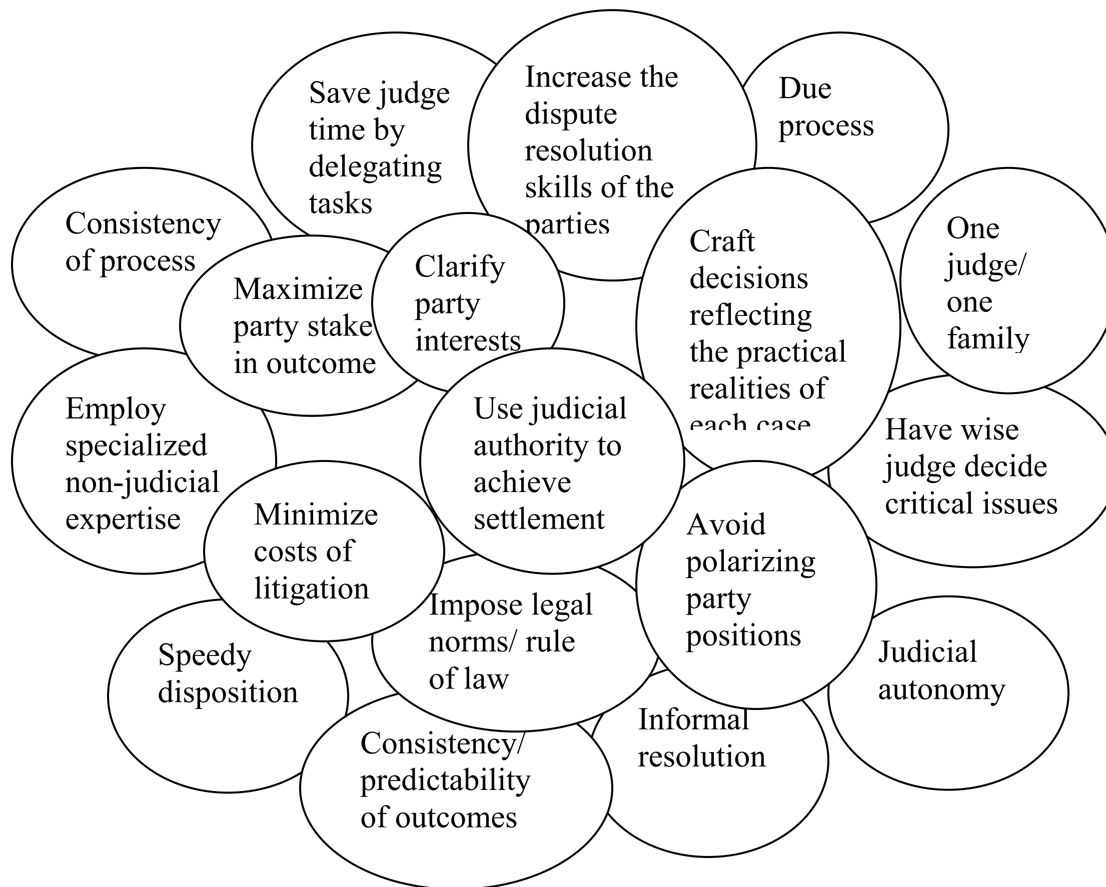
The bulk of the uncontested matters are disposed by the commissioners. The majority of the dismissals are performed by staff. The contested matters are resolved by the judges and commissioners. This chart does not, of course, reflect the total effort required to resolve the cases disposed by judges, commissioners and staff. The iCIS system automatically generates some of the dismissals done by staff. Contested matters resolved by judges are obviously more time intensive than uncontested matters resolved by commissioners.

Overarching issues facing the Family Court Department

We have identified eight overarching issues that, in our view, the Family Court Department has not resolved, or has not resolved appropriately.

Issue 1: Reconciling competing goals

The graphic below identifies eighteen valid and important goals of the Family Court Department. It does not include all of the goals, such as minimizing judicial burn out and enhancing the attractiveness of the family court assignment. It does not include decisional values such as protecting the best interests of children, ensuring the physical safety of abused spouses, and collecting child support monies owed to custodial parents and to the government. It includes only those goals that we have identified that bear on the way in which family court cases are handled.



These goals, while all laudable, are not consistent or are often in tension with each other. The table below identifies some of the conflicts.

One judge/one family	**VERSUS**	Speedy disposition
Due process	**VERSUS**	Informal resolution
Impose legal norms/rule of law; consistency/predictability of outcomes	**VERSUS**	Craft decisions reflecting the practical realities of each case
Have wise judge decide critical issues	**VERSUS**	Employ non-judicial expertise; save judge time by delegating tasks; maximize party stake in the outcome; increase the dispute resolution skills of the parties
Clarify party interests	**VERSUS**	Avoid polarizing party positions
Use judicial authority to achieve settlement	**VERSUS**	Employ non-judicial expertise; save judge time by delegating tasks
Increase the dispute resolution skills of the parties	**VERSUS**	Speedy disposition
Consistency of process	**VERSUS**	Judicial autonomy

For instance, in a "due process/rule of law/wise judge makes the decisions/use the judge's influence to achieve settlement" model, the judge would maintain control of the case, push the case to disposition as quickly as possible, using the pressure of a pending hearing on the merits to induce the parties to settle. In a "maximize the conflict resolution skills of the parties/maximize party stake in the outcome" model, the judge would refer most matters to court staff who would model conflict resolution processes for the parties, helping them to reach their own resolution of matters in dispute. A "one judge/one family" model is designed to achieve consistency of outcome and approach for one family, but necessarily leads to slower case resolution because of the unavailability of judicial division of labor approaches (i.e., the Department's decision several years ago to reassign all matters relating to temporary orders from commissioners to judges).

In some instances, it would be more accurate to state that these goals are in "tension" rather than in conflict. For instance, the court desires for the parties to clarify their interests early in the case so as to further settlement. If both spouses know, for instance, that both want the children to continue in private school, it will be easier to work out the division of custody and visitation. However, if the parties are pressed too early to take positions, the court may inadvertently precipitate greater conflict between them. The key here lies in the difference between "interests" and "positions." This is a pivotal distinction in the dispute resolution literature. If all judges, lawyers and court staff are clear in their understanding of this distinction, and understand how to steer the parties in the direction of clarifying "interests" rather than stating "positions," the court may greatly facilitate early and effective party dispute resolution. In that instance, the two goals are not in conflict at all.

The Maricopa County Family Court Department is not unique in facing these conflicting goals. It is perhaps unique in its identification of so many goals and its commitment to reach them all. The above analysis shows the difficulty of doing so.

How do courts deal with these conflicting goals? One way, which Maricopa County has chosen, is to leave the goal choices primarily to the discretion of each judge – to be decided as a matter of personal preference or convenience, judicial philosophy, or case-by-case decision making. This approach sacrifices altogether the values of consistency of process and consistency and predictability of outcomes, leads to wide variability in speed of disposition, and increases the cost of litigation as attorneys must know of and accommodate the preferences of every judge. This also assumes that the judges make conscious choices to prioritize the goals. However, a large number of the judges appear to not have made a conscious decision regarding goals priorities and it is unlikely that a new judge -- recently appointed to the bench and overwhelmed with the new subject matter – will be likely to make a conscious, mature choice. These judges are much more likely to make no choice at all. One adage that may apply here is "If everything is a priority, then nothing is a priority."

A second approach would be for the court to create a goal hierarchy – putting the goals in priority order for the entire Family Court Department. If, for instance, "one judge/one family" were the highest priority, many consequences would flow from that. Presumably, the judges would make fewer referrals to ancillary services, the court would accept longer average disposition times, and the length of judicial service in the Family Department would be extended so that judicial continuity would have real meaning in the context of specific cases. It would probably prove necessary to subdivide the speed of disposition goal into a number of subgoals – e.g., speed in the entry of temporary orders, speed in the entry of defaults, speed in merits dispositions, speed in resolving post-decree matters. Following the choice of goals for the Department, the judges could proceed to fashion a standard approach that would maximize the highest goals.

The Northwest Pilot Project is a successful example of the second approach. In this pilot the judges have selected early judicial intervention, targeted use of services and speedy disposition as the priority goals.

Issue 2: Better address the special requirements of case management in an environment dominated by self represented litigants (SRLs)

This is a department defined by the presence of, and the needs of, self represented litigants. Judges and staff in every other department of the Superior Court deal primarily with lawyers, not with citizens attempting to pursue their own cases. Effective handling of cases involving SRLs requires attention to three basic principles. The high percentage of dismissals for failure to prosecute shows that the court is not handling the cases effectively.

Many people interviewed, both in key management positions and in specific chambers, indicated that one of the biggest problems affecting the smooth operation of the court was litigant error. Some personnel were defensive in their responses to some questions saying "This is not *our* fault. It is the *litigant's* fault." However, the conversation around fault is counter-productive.

Confused litigants make everyone's jobs harder and results in highly frustrated individuals interacting with the court. These confused and frustrated litigants make the court process substantially more difficult and likely impact the high burn out level of court personnel. Better assistance in the court to reduce delay, litigant confusion and litigant error will substantially improve the work environment at the court.

The Navigator indicated that a large percent of her work involves receipt of a call from a litigant about why the process is taking so long or why the case was dismissed. She always begins by listening to the litigant's extreme frustration, and then reviews the

case, and ends her review to typically find (nine out of ten times) litigant, not court, error. This confusion typically happened months previously, but no court personnel identified the error to the litigant. In the Navigator's view, someone in the court system either knew that the litigant was making an error or should have known of the litigant error. However, the Navigator is typically the first person in the court to identify the litigant error and explain how the case got into the procedural posture it is in. She typically is the first court employee to explain the steps needed to move forward smoothly.

For example, litigants will file a pleading with a new address listed at the top of the pleading, assuming that the court will seek out this information and change its records. However, the court will only change a litigant address if the litigant files a separate pleading indicating a change of address. The litigant's not unreasonable assumption regarding court procedures causes him or her to fail to receive notice – which causes delay and confusion in the case.

Triaging the cases according to the capabilities of the litigants

The court must recognize the different circumstances presented by the following cases and litigants:

- simple uncontested cases – can be handled by self represented litigants who are given basic forms, instructions and information

- moderately complex matters, including contested issues – can be handled by sophisticated self represented litigants who are given basic forms, instructions and information

- moderately complex matters with unsophisticated litigants and highly complex matters – need the involvement of counsel. Staff and judicial officers must impress upon the litigants at every stage – "This matter is too complicated to be completed without a lawyer. Here are alternative ways to find one." The court cannot force a litigant to obtain counsel and will end up dealing with self represented litigants in some of these cases.

- any matter involving mentally ill, retarded, or otherwise incompetent persons – need the involvement of counsel or some other support service.

These distinctions are not difficult to make in practice. Staff of litigant assistance programs quickly get a sense of the litigants who grasp what they are being told and those who do not. Judges likewise quickly perceive the level of sophistication of self represented litigants based on preliminary interactions in chambers or in the courtroom.

Ensuring that the litigants have the information they need not only to initiate a case but to see it to conclusion

The court already provides forms required to initiate and defend all manner of family law matters. It provides descriptions of the procedures that a case will follow and the steps that the litigant must take at each stage. In contested matters, the court should consider providing information on the elements of the relief a party seeks and the types of evidence that could be used to establish each element.

The information must be provided in digestible chunks. Courts frequently provide litigants with full descriptions of the court process at their first contact with the court. The litigant needs only the information required to initiate a case or assert a defense to a claim. S/he will not absorb or retain more information than needed at that initial stage. At each subsequent stage in the case, the court should provide the next installment of information the litigant needs for that stage. Otherwise the information will not be retained, and the court's process will be frustrated, as well as the litigant's objective. Maricopa County does a good job with its forms in this regard.

Staff providing this information must take steps to ensure not only that the information has been imparted, but that it has been comprehended. A number of techniques are available for this including having the litigant summarize the next steps that will be required.

The information provided needs to alert litigants to the rights they have and the principal ways in which they may be forfeited. Many litigants chose to forfeit significant rights ("I just want him/her out of my life. I don't care about the [money] [house] [pension] [etc.].") The court cannot and should not prevent or thwart such decisions, if made knowingly and voluntarily. However, the court must ensure that the parties are aware of the rights involved. The court's forms already include many such warnings and advisals.

Proactively scheduling the necessary events in the life of a case

The rules of court have been drafted with the assumption that all litigants are represented by lawyers. In this context, it is possible to place the burden of initiating court action on the parties. Modern case management, however, has the court controlling the pace of all cases, even those involving attorneys on all sides. It is not workable to expect self represented parties to take the initiative to move cases forward. They will fail to take the necessary steps in a sufficiently large percentage of the cases that the court's as well as the parties' objectives are stymied.

Consequently courts must actively manage and schedule cases involving self represented litigants.

Issue 3: Providing a consistent judicial process and predictable outcomes for the litigants and their lawyers

As noted in the previous discussion of competing goals, the Family Court Department has given its judges the autonomy to establish their own individual calendaring and case management processes. The result is that lawyers encounter as many as 25 different day-to-day procedures in their family law practice in Maricopa County. The staff are also unable to provide self represented litigants with detailed guidance about court practices and procedures, because they differ from chamber to chamber.

We are also informed by lawyers that the judges apply different legal standards in their rulings. To a great extent this is inevitable and is a necessary consequence of the independence of the judiciary and the exercise of judicial discretion. However, on topics such as the application of the child support guidelines and the enforcement of court orders, it seems to us that lawyers and litigants should be able to expect consistency in the way in which they are applied.

Issue 4: Defining a proactive role for the court in moving cases through the process

One of the cornerstones of effective case management is the court's taking responsibility for moving each case through the court process at a pace the court determines to be appropriate for that case.

Despite Maricopa County Superior Court's sophistication in many areas, the Family Court Department still for the most part follows the principle that the parties are responsible for moving cases through the process. While there are individual judges who manage their cases proactively – notably the Northwest pilot project – they are the exception. Throughout the Department, it is the obligation of a party to file a "Motion to Set" or a "Motion for Order to Show Cause" to request a hearing or trial; the court sees its role as providing the requested hearing or trial within in a reasonable time after such a request has been made. If the parties do not seek resolution, the case will languish. As noted above, this approach has particularly dire consequences when self represented litigants are involved.

The Department does monitor family cases, identify those that languish, place them on an inactive calendar, and notify the parties that the case will be dismissed for

failure to prosecute if the parties do not take appropriate action. For a caseload consisting primarily of cases involving one or more self represented litigants, this is a formula for frustration – for the parties and for the court. The parties are required to take the initiative to get their cases resolved; as noted below the court places artificial restraints on its ability to give them the information they need to do so; and the court then dismisses their cases when they prove unable to navigate the process on their own.

On the other hand, the court gathers, reports and studies case aging data. The court as an institution demonstrates a concern that cases are languishing. But its procedures do not establish the practical mechanisms by which its individual judges take on an obligation to set the schedules in individual cases. It is a surprising paradox – one that the court will have to resolve before it can make any significant change.

Changing this approach will require a major shift in thinking for the judges, for their staff, and for the lawyers. It will also require the creation of reports and procedures by which the judges and their staff – or court administration assisting them – can monitor the progress of every case and proactively set deadlines and hearings to force the parties to resolve matters or litigate them to a prompt conclusion.

In our interviews and interactions with court administrators we have encountered strong opposition to the idea that the court should schedule any event in a case that will resolve itself through default, consent, or dismissal. This is one of the attitudes that must change for the court to move all of its cases to a speedy resolution. As noted above, over two thirds of all cases are ultimately resolved by default, consent, or dismissal. The data below show that these cases are not handled in a timely fashion; half of all defaults are not resolved within six months of filing; many dismissals represent the parties' inability to navigate the process. It is a contradiction in terms to say that the court will take a proactive role only in those cases in which the parties take the initiative to bring an issue before the court for resolution.

We also encountered the view that parties should never be forced into a divorce. The fact that a case is not proceeding to default or to a motion to set may reflect the parties' ambivalence about the divorce. The parties may have reconciled but do not wish to dismiss the divorce petition in case the reconciliation fails; they do not want to pay an additional filing fee if they have to reactivate the divorce. We agree that the court should not be forcing parties who are ambivalent to rush through a divorce. However, we disagree that most dismissals are in fact reconciliations; we believe that most of them represent failures of the litigants to be able to navigate the court process. The court has no data on this issue.[7] It does not require the parties in these situations to come to court

[7] If the court wished to obtain data concerning dismissals, it could obtain information from iCIS on the percentages of dismissed cases in which service was effected and in which an answer was filed. However, it could not learn about the parties' ambivalence to divorce or their attempts to reconcile without contacting the litigants themselves. In a previous study for the Maricopa County Superior Court we learned that the response rates of family case litigants to questionnaires or telephone interviews (continued on next page)

and therefore never has a way to determine whether a case involves a reconciliation or instead merely reflects the parties' inability to complete the process.

Issue 5: Defining an appropriate role for the court in guiding litigants through the process

Equally debilitating for the court is the approach that it has taken – very consciously – towards assisting self represented litigants. As an institution, the court has a deeply engrained ethic that it will provide forms and checklists for litigants, but that it will not give them individual guidance in their use. The court will not give any information beyond that contained in the standard materials in advance of any filing or action taken by a litigant, nor will it alert a litigant to an error or failure that s/he has made in the use of the forms. For instance, if a petitioner fails to take the steps necessary to accomplish service on the other party, the court will dismiss the case for failure to prosecute but will not provide individual assistance to the litigant to understand the alternative ways in which service might be accomplished.

This approach has two sources – a misunderstanding of the distinction between "legal advice" and "legal information" and a conscious choice at the time of the creation of the Self Service Center that the court would give litigants the tools to be able to handle their own cases, but not serve in a "paternalistic" role of any kind for litigants. This approach has been articulated as "empowering" litigants. The court will give them the tools they need to represent themselves, but hold them strictly accountable for the consequences of the decisions they make to represent themselves and how they choose to use the tools provided. Litigants perceive it more as "abandonment" and lack of caring or concern than as "empowerment."

We observed in the course of our interviews and observations innumerable instances in which court and clerk of court staff intoned the phrase, "I cannot give you legal advice," in response to a question seeking legal information, not advice. The court still has signs at the windows of the clerk of court and court administration stating that court staff may not give legal advice. The court has provided training in the difference between the two concepts – legal information and legal advice – but that training appears to have been so at odds with the prevailing court culture that it was wholly ineffective. The Self Service Center – although it was truly revolutionary in the US state and federal courts and inspired a rethinking of how courts respond to the growing desire of Americans to handle their own cases in general jurisdiction courts – has become stuck in a limited set of services because of this limited interpretation of the restrictions on the role of court staff.

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is so poor that the results are not reliable. The only way, in our view, to learn about this phenomenon is to bring the parties into court – as we propose in our recommendation for a universal initial case conference.

The passive, detached role of the court with respect to self represented litigants is strikingly similar to its passive, detached role with respect to the pace of litigation. In fact, they converge. If self represented litigants do not take the steps necessary to move their cases to resolution, they are dismissed. The court bears the blame for the long time frames for resolving family cases, but is prevented by its own philosophy from taking the steps necessary to move them expeditiously. In both of these instances, the court must abandon its passivity and act aggressively in individual cases to impose appropriate time frames on litigants and to provide litigants with the information needed to navigate the process.

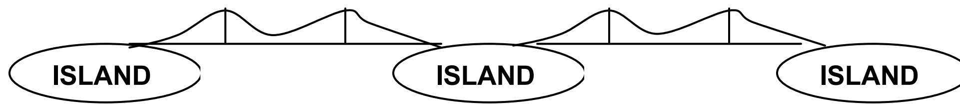
Issue 6: Integrating the different components and services of the Department

Our observations and interviews lead us to conclude that the individual judges, commissioners, and staff of the court and of the clerk of court perform with a high degree of competence and dedication and each of the ancillary services is well managed. Yet the process as a whole fails to meet the needs of the lawyers and litigants. How does this paradox arise and how can it be resolved?

The paradox arises from the compartmentalization of the department and its ancillary services. Each part of the process, including each judicial chamber, focuses its attention on the cases that fall within its purview. No one is paying attention to the performance of the system as a whole (apart from the monitoring by court administration of cases that languish for six months or more without action) and no one is responsible for the cases when they are in transit from one departmental entity to another.

For instance, each program is diligent in monitoring the timeliness of its internal process – how quickly cases get resolved once responsibility for the case has been lodged with the program. But no one is responsible for the time a case spends in transit from one program or entity to another. For instance, when a judge refers a case to Expedited Services, it may take weeks for the case file to be transferred from the judge's chamber to the Expedited Services intake. Once making the referral, the judge feels no further responsibility for the case. Until it reaches Expedited Services, that program has no responsibility for the case. One image that we have used to describe what we observe is a series of islands of excellence, connected by bridges. Each island is carefully managed

and performs well. But the bridges are not managed or carefully maintained.



Issue 7: Simplifying the process

A simple divorce requires the submission of nine different forms. The court's attempts to make the process easier consistently make it more complicated, by providing additional options that the litigants must understand and select among. Several years ago, the court created a special procedure for requesting a default judgment. The procedure was intended to make it easier for the parties to obtain this relief. Today that process is responsible for considerable delay. Parties may have their pleadings rejected multiple times. The same is true of the procedure created under Rule 55(b)(1)(ii) designed to make it possible for litigants to obtain a divorce without appearing in court. The paperwork associated with that procedure makes it more onerous than a court appearance would be.

Some of the complexity of the process has been created by the legislature acting from the same motive -- to provide simpler paths for litigants to follow. Overall, the Family Court Department suffers from the effect of unintended consequences. Because it has not regularly monitored the practical impact of its innovations, it is unaware that some of its attempts to be helpful have backfired.

Issue 8: Avoiding a compulsion to enforce technical requirements

As noted above, the court is blessed with excellent, dedicated staff. Paradoxically, they contribute to the difficulties of litigants attempting to navigate the process. Because of the care of staff to ensure that every requirement is met, applications will be rejected time and again. Because of the department's misunderstanding of the principle that staff cannot give legal advice, every rejection is accompanied by only the most cursory explanation of the defect(s) and what the party must do to remedy it(them).

We spoke with several judges who have a policy of identifying default cases that have been rejected more than once by staff, setting them for a hearing, waiving the requirements that the parties have not met or satisfying them by a statement on the

record, and issuing a divorce decree on the spot. These individual judges perceive the department to have become obsessed with its own rules and procedures, rather than with the interests of the parties in having their cases resolved.

Data collected for this study

The overarching issues set forth above are illuminated by the data gathered for this study.

Interview data

The data gathered during our interviews is summarized below.

Interviews with key administrative staff

Key staff members at the court either in administration or hired to look at the broader issues in the court, like the Navigator, all have remarkably similar views on the things that go well and the things that need improvement in the court. There is quite good clarity and insight about the overall issues at an upper management level.

Interestingly, we did not find this same overall understanding to be true at the various ancillary services units. In the interviews with the various ancillary services, the "people in the trenches" typically did not know much about other services and virtually nothing about the internal operations of the other services. The compartmentalization within the various components of the court is reflected in a myopic view that many court employees have - they are knowledgeable about their own department but not about the overall operation of the Family Court Department.

Key management generally agrees on the following:

Overall management issues for the court

- There is a need for greater leadership from the top down to enforce the priorities of the court. In the past, many inconsistent or inefficient things have been allowed to proceed, particularly in the different judicial departments, because the presiding judges are hesitant to interfere in the way judges in their department operate. They seem themselves as peers with, not supervisors of, other judges.

- The Family Court Department can benefit from a reengineering of all processes – from judicial case management to ancillary services. The upper management of

the court should set the policies and priorities of the court, then design the system to meet the priorities, then re-engineer all the processes.

- There is no standardization in the way that various chambers and staff units operate within the department. This makes the system very unpredictable.

- Compartmentalization in the court is a major problem. The compartmentalization and clustered nature of ancillary services is harmful to the court. The services should be restructured to provide a "whole service delivery system."

- Several concepts that have been successful in criminal and juvenile case management could be applied to family cases. For example, the court has achieved consistency in the way criminal cases are processed. Another example of an idea applied in the criminal court case context that could apply to families is to have a judicial "mentor" who reports to the presiding judge.

Judicial Rotation

- The attitude of the new judges to the family court rotation has improved since the court decided to have the family court rotation be the first rotation for newly appointed judges. The newly appointed judges are enthusiastic. They may also be more willing to adapt to a consistent case management framework than judges coming from a different judicial assignment.

- The ancillary services leadership reported strong negative impacts arising from the short judicial rotations and the assignment of the least experienced judges to the Family Court Department.

Information Technology

- The court has made substantial progress in implementing the first phase of the iCIS project – to get all court users using the same computer system and standardizing data entry. However, there is much more that can be done.

- Reporting/ tracking of overall court processes is in its infancy. There is very little in the way of reports that are available to help the court better manage its processes. Reports are not refined to accurately show the realities of the court. For example, all cases are assigned to a judge and the judges are credited with disposing of thousands of cases annually. However, in reality, a large majority of the cases are resolved through default, consents or dismissed administratively. The judges never touch many of those cases. The reports should accurately reflect the case load of each section of the court.

- Progress needs to be made on reporting. The court is spending too much time talking about reporting and not creating reports. The CTS Department is understaffed and does not have staff dedicated to reporting and tracking.

Case Processing

- Early agreements of the parties need to be memorialized.

- The instructions to self represented litigants need to be streamlined and made less overwhelming.

- The concept identified by Presiding Judge Norm Davis to create a standardized electronic form of final decree makes sense to many in top management. Completing the decree in parts as the litigants come to agreement or the court resolves issues also makes sense.

- There is confusion among court staff about the difference between legal information and legal advice. Staff is trained to tell self represented litigants "I can't give you legal advice." When there is any possibility – however remote – that the answer to the question is legal advice, the court personnel will respond with the "I can't give you legal advice." Key managers even describe the standard response as given in a robotic manner, which results in litigant confusion, frustration and escalation of the emotions of the litigant.

Specific Comments related to Ancillary Services

- The transfer of Expedited Services to Court Administration from the Clerk of Court's office is an excellent decision. Expedited Services and Court Administration had partially overlapping processes that were not cost effective that can now be streamlined.

- The role of the Attorney Case Manager is very good in theory, but how these employees are actually used is not clear and the potential help that the Attorney Case Managers could provide to the court has not been realized.

- Some of the services of Conciliation Services, like the dispute assessments, could be contracted out and not provided as an internal court service.

Interviews with attorneys

During this study, Greacen Associates worked with the state and local bar to obtain input from the family law bar. Staff at both the state and local level sent out

emails, including the questionnaires, to all practicing attorneys in the Maricopa area. Ten attorneys volunteered to be interviewed for this study.[8]

The attorneys were in close alignment on several issues and widely divergent on others. They tended to be more closely aligned on issues related to judicial management and much more divergent on how they liked various ancillary services.

The attorneys were aligned on the following issues:

- The judicial rotation system has significant negative impacts on the cases. The attorneys used very strong terminology when asked about the impact of judicial rotation. They used words like "horrible" (used three times), "very bad impact," "extreme frustration when the new judge goes down a new path," "lose all institutional knowledge," and "horrendous."

- The attorneys were universal in voicing their frustration with the fact that new judges are inexperienced, have to be taught the "ropes," make unwise or hasty decisions, and show surprise at common divorce legal practices or requests. One attorney spoke of a situation, which was later confirmed by a judge, that the previous judge who was going to rotate off the docket rescheduled his entire calendar months before his rotation ended and reset it on the new judge's calendar. There was apparently no oversight of this judge by the Presiding Judge or court management to identify and prevent this abdication of responsibility.

- Variability in judicial style and process has serious negative impact. The attorneys frequently described their inability to provide any reasonable expectations for their clients on how long or how complex the court process would be until the judge was assigned. Once the judge was assigned, they would have some certainly about the process – unless that judge was nearing rotation off the docket.

- The predictions as to time to disposition once the judge was known varied from a few months for some judges to longer than a year for others. One attorney talked about a common resolution technique with a difficult self represented litigant on the other side. If a litigant would not settle for a

[8] We wish to thank the members of the bar who took the time to meet with us or fill out our survey. We received information from the following people: Carol Soderquist, Fred Ruotolo, Jeffrey Leyton, Donna Heller, J. Vince Gonzalez, Alexander Nirenstein, Lisa Maggiore-Conner, Bruce Phillips, Jerome Allen Landau and Sandra Burt. Six of these attorneys practice in the same firm; they did not all express the same views. We very much appreciate the effort put forth by Nirenstein, Ruotolo & Gonzalez, PC, particularly in light of the apathy of the family bar as a whole to our study. Robert L. Schwartz and Steven D. Wolfson helped us with preliminary assessments of the problems facing the court. Other family law attorneys assisted us through casual conversations at the courthouse.

reasonable offer, she would allow the case to proceed for months, languishing in the system. After sufficient time had passed, she would reassert her early settlement offer since the other party would be sufficiently "worn down" by the court delays and would settle.

- Many of the lawyers argued strongly for a dedicated family court bench or, at a minimum, the selection of judges with family law backgrounds.

- All of the lawyers complained of delays in the system and cited examples where contested matters take a number of years to resolve and needless steps in the process. There were numerous complaints about return hearings as being wasted steps – bringing the parties and attorneys to the courthouse without accomplishing anything.

- All of the lawyers stated dissatisfaction with the Differentiated Case Management system. However, the court has already heard this complaint and no longer requires attorneys to attend these conferences. None of the attorneys were familiar with Attorney Case Managers.

- The attorneys spoke with universal approval of the Alternative Dispute Resolution system in which commissioners and volunteer lawyers provide settlement conference services prior to trial.

- Many lawyers indicated that child support worksheet guidelines varied from conference officer to conference officer, judge to judge. They strongly advocated a uniform application and approach from the entire court.

- Most lawyers mentioned improvements to the court process in recent years.

- The lawyers spoke frequently about frustrations with self represented litigants. A frequent complaint was that the judges do not hold the self represented litigant to same standard as lawyers.

The lawyers held widely divergent views on ancillary services:

- The most striking of the divergent views concerned Conciliation Services. One group of lawyers felt that the fact that the services were provided in-house at the court by non-licensed counselors was a distinct positive. They were more neutral because they were not swayed by the pressures to please the attorneys who might refer them business. Because they were not licensed in Arizona, the counselors did not have to worry about unwarranted complaints to the licensing board. A second group of attorneys posed the opposite view. They perceive that the experienced counselors are in private practice and should be used by the court on a contract basis. The fact that the

court counselors are not licensed leaves them unaccountable to any professional standards body.

- Some lawyers were very critical of Expedited Services – voicing the same frustrations as the minority of judges about the conference officers making quasi-judicial decisions. They stated that they objected to up to 40% of the decisions of Expedited Services and were almost always successful in their challenge (90% success rate when challenges were made). Other lawyers thought that Expedited Services provided a top notch service with very clear worksheets that provided clear rationale for the figures used.

Interviews with judicial officers

The judges currently sitting in the Family Court Department have a variety of views concerning the assignment. But only one of them expressed the outright hatred for the work that the lawyers believe exists generally. Most said they would not choose the assignment permanently and would prefer to be doing something else, but that they did not dread coming to work in the morning. A few judges are voluntarily extending their time in the assignment. One expressed the view, "It took me six months to a year to learn this assignment. I have finally gotten to the place that I am of value to the court and to the litigants doing this work. I will stay long enough to get a return on the investment made in me as a family judge."

Concerning the operation of the court and its ancillary services, there are a number of areas of agreement among the judges and some of disagreement.

The judges generally agree:

- That each judge operates differently, that more uniformity would be desirable, but that judges must not be forced into a straight jacket of process that is at odds with their own decision making styles and rhythms. For instance, no judge should be told to rule from the bench rather than take a case under advisement.

- That current court processes involve unnecessary delay.

- That the court's ancillary services are not well integrated with the judges' chambers or with each other. Some judges confessed to not understanding what the different units actually do.

- That the court process is unnecessarily complex and difficult for self represented litigants to navigate.

- That a two year rotation is appropriate and necessary to avoid judicial burn out and to maintain and expand a judge's intellectual development. Judges may choose to remain in the family assignment for an extended period but should not be forced to do so.

- That the paper files maintained by the Clerk of Court are very often incomplete.

While there is general agreement that the procedures followed by the judges should be more uniform, there is no agreement about what they should be.

- Most of the judges use and like return hearings; some dislike them and consider them a waste of time.

- Some believe that early temporary orders are important; others do not.

- Some believe that ancillary services are overused, waste time, and complicate the court's processes. Most support them as saving judicial time and helping the parties to achieve more consensual outcomes.

- Many believe that Conciliation Services are excellent. Some believe that it puts too much emphasis on confidentiality of mediation. Judges universally support the role of Conciliation Services in assisting them with interviews of young children in chambers.

- Most support the work done by Expedited Services. Some are extremely critical of its work products, believing that non-lawyers are making legal determinations and making them poorly.

- No one has a clear idea what the attorney case managers do or should do.

- There is broad support for the ADR settlement conferences, with only a few voices questioning the use of commissioner time for this purpose. That question is whether commissioners should use three hours settling a case that could be presented, argued and decided in the courtroom in one hour.

Litigant and lawyer satisfaction data

As noted earlier, survey forms were provided to litigants and lawyers in every court proceeding – before judges, commissioners, or an ancillary service – for a period of four weeks. The surveys provided to lawyers and litigants contained a variety of

questions.[9] The identical survey form was provided to participants in trials and hearings before judges and commissioners and in proceedings conducted by ancillary services. We therefore are able to compare litigant perceptions of those different processes.

The surveys were provided to the parties and their counsel. The surveys were confidential, and the court and staff never saw the responses. The parties and their counsel knew this prior to completing the form. They were provided with an envelope in which to seal the completed survey form. They were then placed in a box marked "Greacen Associates."

No one was forced to complete a survey. However, maximum participation was encouraged. The judge or other presiding officer instructed the litigants and lawyers that the survey was to be completed before they left the courtroom.

We compared survey response rates with court calendars early in the process to ensure that we were getting a high return rate. We concluded that the return rate was very high. One Conciliation Services staff member in Southeast refused to participate in the survey process; all other judges, commissioners, Conciliation Services, Expedited Services, DCM/ACM case managers, and ADR pro tem judges participated.

Attorney general staff were authorized to complete one form for an entire calendar of Title IV-D actions. Our general direction was not to include parties participating in hearings by phone. Some judges wanted those persons included; they were authorized to mail survey forms to such persons; we received a number of such surveys by mail at our home office in New Mexico.

We are pleased with the success of this "in-the-courtroom completion" method for collecting litigant and lawyer satisfaction data.

The data reported here masks the identity of the judges, commissioners, Clerk of Court, or court staff. They are identified by letters assigned in a completely random process. At the request of the court, the individual results will be provided to each judicial or other court officer, together with average ratings for persons in their same position and court-wide average ratings. This information is provided for purposes of improvement only and is not a public document.

The data is aggregated into three composites for most purposes in this report. The answers to four questions – about an official's fairness, the official's treatment of everyone the same, the official's treatment of the litigant with respect, and the official's caring about the litigant's case – are aggregated into a "fairness" score. The four elements are derived from the work of Professor Tom Tyler of New York University, the

[9] A copy of the questionnaire is contained in Appendix A.

pioneer in research about perceptions of procedural justice, and of Roger Warren, President of the National Center for State Courts.

The four fairness questions are also included in the composite for "today's proceeding." That composite includes all questions on page three of the survey form, except for the question concerning the litigant's rating of whether the outcome of the case was favorable to him or her. This information was gathered to gauge whether litigants who perceived that the judge ruled against him or her would give the judge would give the judge low ratings. That did not occur. The judicial ratings are consistently higher than the outcome ratings.

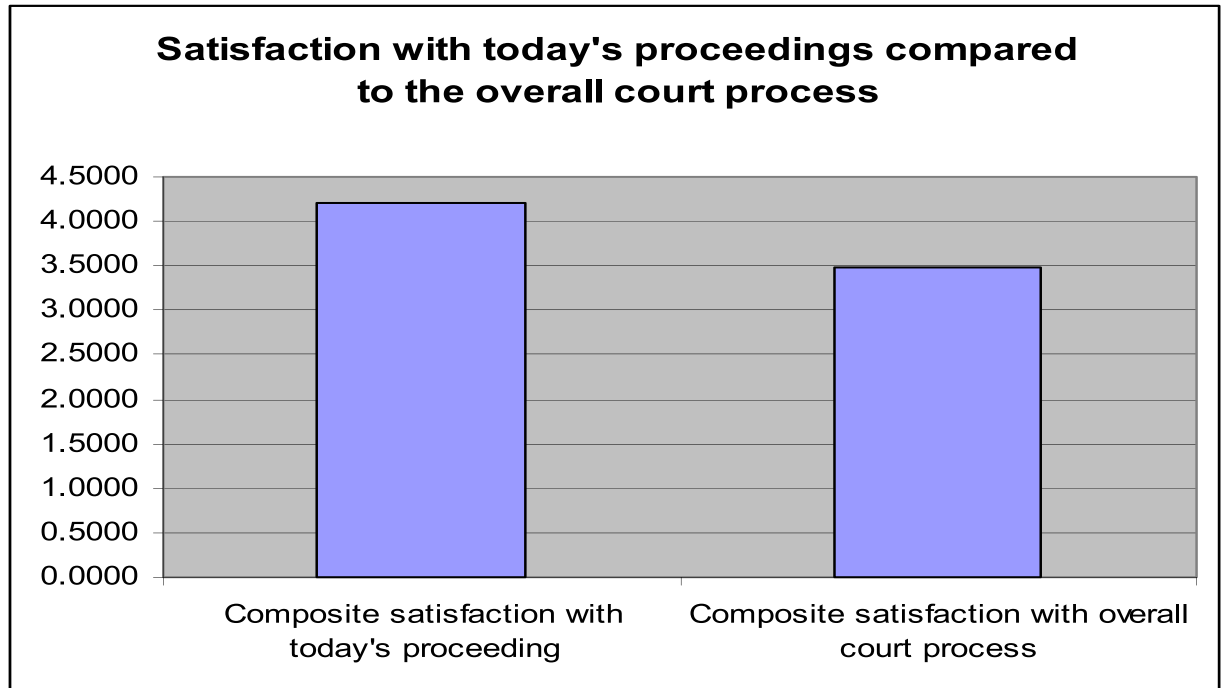
Finally, a third composite includes all but two of the questions from the second page of the questionnaire, seeking the litigant's or lawyer's views of the overall processing of his or her case. The two questions deleted relate to whether a judge should decide all issues in the case and whether the same judge should decide all issues. These are not relevant to the perceptions of how a case has actually been handled.

The surveys included two open ended questions – what aspects of the court process were most helpful and unhelpful in resolving your case. Those results are summarized separately.

The overall results are as follows:

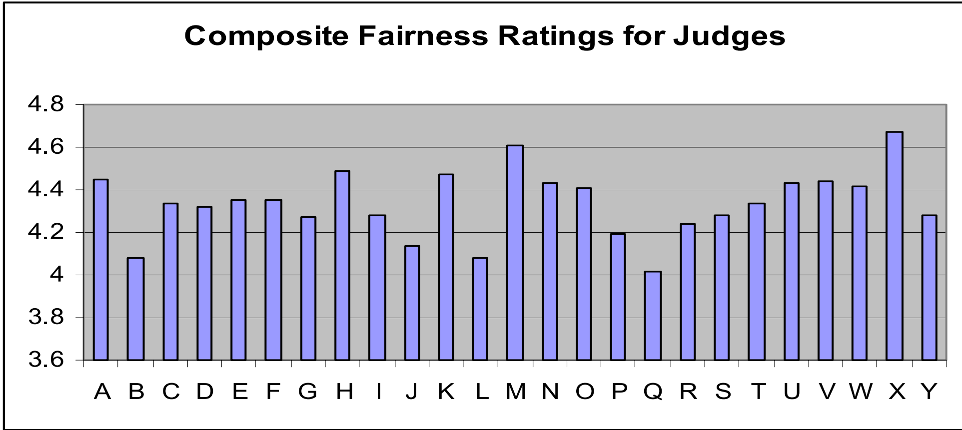
- The composite scores are relatively high for all judicial and non-judicial court officers – rarely falling below 4 on a 5 point scale for the ratings of the judicial proceeding conducted.

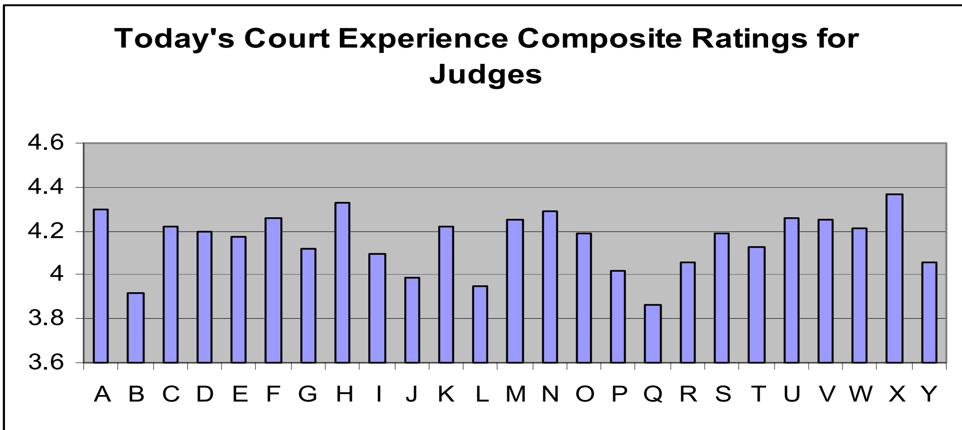
- Satisfaction with today's proceeding is considerably higher than satisfaction with the court's process as a whole. Satisfaction with the overall court process is only .48 points above the midpoint of 3.00.



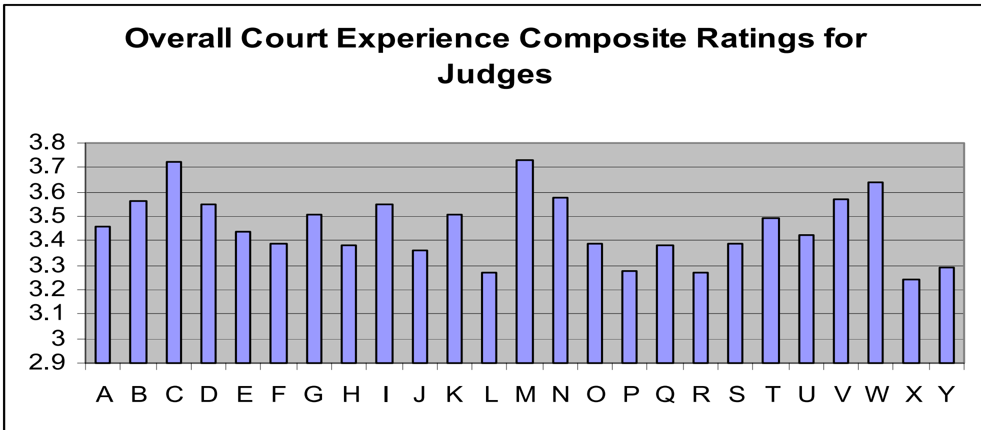
- There were seven average scores that fell below the midpoint (3.00). They were all reported by users of Conciliation Services and Expedited Services. These low scores were for both of these ancillary services on "My case has taken too long," "There are too many steps in the process," and "Each step resolves too little of my problem," and for Expedited Services on "I get different answers to the same question from different court employees."

- However, there is significant variation from judge to judge, commissioner to commissioner, conference officer to conference officer, etc. This variation shows that the survey does achieve one of its objectives – to discriminate between various levels of performance. The following tables show visually the differences among the judges. Similar variation exists for other positions.





A visual comparison of the first two charts shows consistency between the "fairness" composite rating and the "today's court experience" rating. That is, judges who do well on fairness do well on today's experience. Likewise, those who do poorly on one do poorly on the other. However, there is no consistency between those two ratings and the ratings for the overall court experience.

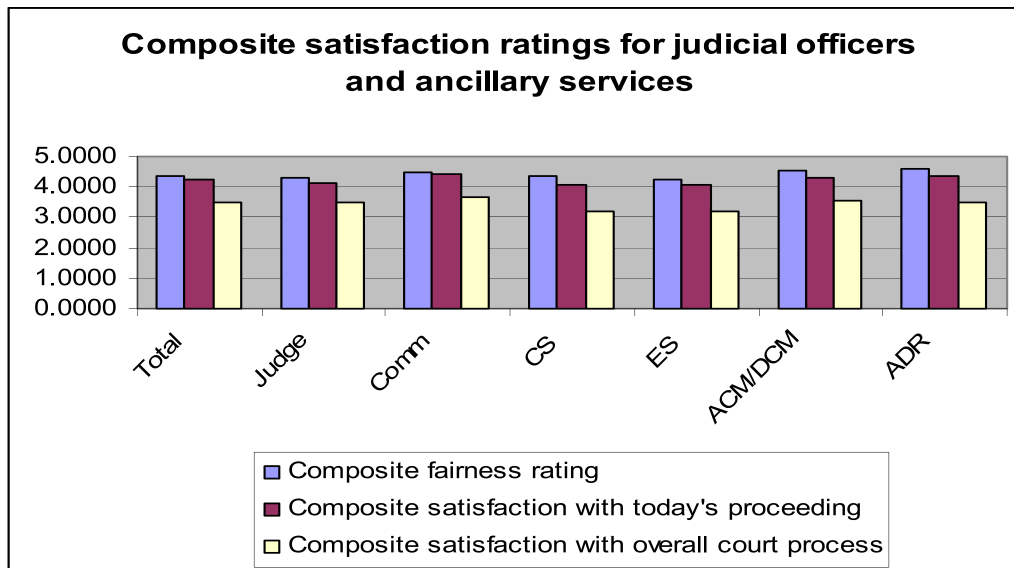


Appendix B sets forth the average scores for judges, commissioners, Conciliation Services staff, Expedited Services conference officers, ACM/DCM case managers, and ADR settlement facilitators on every question in the survey.

- While the differences between the different groups of presiding officers are not huge, the litigants and lawyers do rate them differently. Overall, ADR, DCM/ACM, and commissioners rate highest, the judges in the middle, and Conciliation and Expedited Services trailing. The different presiding officers are ranked differently on the different composite scores. For the fairness rating, ADR had the highest rating, followed by DCM/ACM case managers and commissioners; Expedited Services was lowest. For today's proceeding composite, the commissioners had the highest score while Expedited Services had the lowest. For the overall court process composite, the commissioners were highest while Conciliation Services was the lowest. The differences are more marked for the "overall court process" composite than for the other two composite ratings. The results for all six groups are set forth below and then shown graphically.

Average Composite Satisfaction Scores for All Six Presiding Officer Groups

Composite rating	All groups	Judges	Commissioners	Conciliation Services	Expedited Services	DCM/ACM	ADR
Fairness	4.37	4.31	4.50	4.33	4.25	4.51	4.61
Satisfaction with today's proceeding	4.22	4.14	4.41	4.10	4.05	4.31	4.35
Satisfaction with overall court process	3.48	3.48	3.69	3.20	3.21	3.52	3.52



- The most helpful aspects of the court process identified in the open ended questions are:

Things Identified as Most Helpful to Litigants

Court Process	Percentage of responses
An action by a judge	30%
Conciliation Services mediation	18%
An action by a commissioner	14%
The Self Service Center	11%
The court process	9%
Court staff	5%
Other	13%

- The most unhelpful aspects of the court process identified in the open ended questions are:

Things Identified as Least Helpful to Litigants

Court Process	Percentage of responses
Delay in getting action taken	44%
Paperwork	12%
Confusion	9%
The necessity to return to court numerous times	5%
Delay at the hearing itself	4%
Too little time taken by the court at a hearing	4%
An action by a judge	4%
Other	18%

We also administered surveys to persons using the Self Service Center at all three court facilities. Some of the questions asked were comparable to those posed to persons in hearings, trials, conferences, settlement conferences, etc. Surprisingly, the ratings were lower for the Self Service Center than for the groups as a whole.

Question	Average rating for all other groups	Average rating for Self Service Center
Did court staff treat you with respect?	4.52	4.41
Did the [presiding officer][court staff] care about your case?	4.27	3.78
Did the [presiding officer][court staff] treat everyone the same?	4.36	3.95
Did the [presiding officer][court staff] treat you fairly?	4.34	4.37
How satisfied were you with your experience today?	3.88	3.95
Did you understand the words used today?	4.38	4.27
Did the [presiding officer][court staff] have the knowledge and skills needed?	4.33	4.1

We asked similar questions about the experiences of the users of the Self Service Centers with the overall court process. The ratings were a full point lower for the SSC patrons than for the litigants and lawyers leaving court experiences. This is counter-intuitive; one would expect that large numbers of Self Service Center users would be preparing to initiate an action and would not yet have experienced delay, inability to obtain help, or different answers to the same question. The lowest rating was for "too many steps in the process."

iCIS reports prepared by Court Technology Services

One of the major components of the Greacen Associates study was to conduct a review of various aspects of the management of cases in the Family Court Department. After consulting with court staff, we concluded that we could rely on reports from the iCIS case management information system for the required data. We compared a number of paper case files with the data contained in iCIS for those cases. We concluded that iCIS contains more and better information than the paper case files. There are many data entries, particular for calendared events, which do not appear in any document in the case file. Consequently, we chose not to conduct data gathering by hand-recording data found in a review of selected paper case files.

We decided to rely on computer-generated reports on a large number of cases, rather than a hard file review of a few cases. Court Technology Services provided the data programmers to create the reports for this project.

Our decision to use computer generated reports had mixed results. In our experience nation-wide there is often a distinct difference between what a data system

should be able to provide in terms of data reporting and what the system actually can provide given the data entered. This proved to be the case in Maricopa County.

On those reports in which the data was consistently entered so that retrieval was possible, the data reports are based on large numbers of cases and provide strong certainty that the data is not influenced greatly by individual case aberrations. The data reports were successfully generated to provide information on the following:

- Number of judicial officers,
- Number of ancillary services provided in a case if one service was provided,
- Time from request for trial to trial,
- Time from motion for temporary orders to temporary orders hearing , and
- Time to issue a default judgment.

The data reports all used the same data set, those family cases which terminated in the 18 month period from June 1, 2002 to November 30, 2003. The data set included cases in the following subcategories – dissolution with children, dissolution without children, paternity/maternity, establish support, and voluntary paternity. This included the great bulk of all family cases.[10] The number of cases in each report varied based on how many cases in the data set met the criteria of the specific report.

It is important to note two key points from our data review and reporting.

First, as to our data, the reports provide *good broad overviews* of the information requested. Court Technology Services worked with us for a few months on several data requests while maintaining all of the other projects for the court. In our view, these reports are *not* refined, carefully crafted reports that are programmed to cull out idiosyncratic issues that might impact the data results. For example, given the short time frames to prepare the data reports, the CTS programmers were not able to identify in the report of the judicial officers in a case how many judicial officers were involved in the initial divorce proceeding and how many were involved in a post decree matter in the same case. There is a difference between an initial divorce case that was heard by five different judicial officers and a case that has returned to the court five different times over a ten year period and handled by five different judges.

Next, it is clear to us that the roll out of iCIS to all court departments has made substantial progress towards moving the court to familiarity and ease with a common

[10] The following case types were excluded: Initiating, responding, change of venue, UIFSA New DR number, interstate wage assignment, DR transfer, legal separation, annulment, custody, order of protection, foreign judgment, foreign judgment for custody, enforce child custody determination, other, grandparents case new DR#, registry of custody, non-parent-new, op-appeal, petitioner first order CVS, tribal judgments, post decree 7/87. Based on our discussions with Court Technology Services staff, we concluded that these case types were sufficiently unusual that their inclusion could create data anomalies without adding analytical value.

case management system in a very short period of time. But the data reporting capabilities of the court are at a very early stage in their development. The problems that arise in generating these sorts of management reports have to do with the way in which court staff enter data into the system, not in the report generating capabilities of the system. Chambers staff do not find it necessary for their day-to-day work to use data codes that are identical to the codes used by other chambers. They can understand their own data, and that of other chambers, well enough for case management purposes, without instituting uniform practices. But court wide statistical reports require a high level of consistency in data entry. The court has not yet addressed this issue in a serious way. This is not unusual. All courts go through this same cycle – put in the system first, train everyone to use it, then develop common coding systems, and finally institute data auditing processes to enforce consistent use of the codes.

The data reports were unsuccessful in generating the following information:

- Time from answer to first initial court action,
- Time needed to refer a case to an ancillary service, provide the service and return the case to the court, and
- Results of judicial action on objections to ancillary services recommendations.

The data reports were unsuccessful on these three reports because of the way that data is entered into the system. For example, the computer system is able to pull the first event in a case following an answer. However, in a large number of these cases, the first event is a filing by a litigant rather than an action by the court. We were interested in a report of *judicial* action only, not additional filings; the resulting data was therefore not useful for our purposes.

On the time required for an ancillary service, there were numerous problems with the data that made it impossible for an accurate report to be created. First, the data is not consistently entered from one ancillary service to another. Next, because Expedited Services operated on a different data base until a few months ago, its data was difficult to obtain and not necessarily compatible with the iCIS data. Finally, due to the way that cases flow through the system, there was not a set starting and ending point in the case that was related to the ancillary service. There was no set of filed documents, for instance, that would consistently indicate when a case was referred to an ancillary service and when it returned. If a case settled, there would be no ancillary services report – merely a consent stipulation. There is not a consistent entry showing any of the following steps:

- referral to the ancillary service,
- receipt by the ancillary service,
- the actual services provided in the ancillary service,
- the result of the service,
- the time the case was referred back to the court,

- objection to the service's report, or
- the time of the first judicial action on the topic following referral back from the court.

In order to create reports on ancillary services time frames the court will need to standardize the processes of referral and return to the court in a systematic way, train staff to use these new codes, and begin looking at data from this point forward. Instead, we recommend that the staff be reorganized in a way to eliminate the separate units, making further data gathering of this sort unnecessary.

The Supreme Court was interested to know the percentage of ancillary services reports disapproved by the judge upon the filing of an objection. However, this data is not consistently entered. Objections to Expedited Services reports are most likely to be in written form. Objections to the Conciliation Services' report, however, tend to be handled by contradictory testimony and argument during a trial. We learned that the court does not necessarily enter an objection with a standard docket entry code. Nor do judges' chambers schedule "Hearings on objections to Expedited Services report." This issue will usually be considered at the time of the next hearing of any kind already scheduled. Or it will be labeled a "status" or "review" hearing. The judge's actions on an objection are not separately entered into iCIS either. They are likely to appear in the text of minute entries, which are not accessible as case management data.

Consequently, the data we have on objections to Expedited Services reports and recommendations comes from its own internal tracking system.

Here are the results of the iCIS reports.

Number of judicial officers per case

Fewer than half of all Family Court Department cases are resolved by one judicial officer. The highest number reported by iCIS was 23 judges in one case. The average is 2.45 judicial officers per case.

Judicial Officers Per Case

Number of judges	Number of cases	Percentage of total
20 or more	2	0.01%
15 to 19	5	0.03%
10 to 14	166	0.94%
5 to 9	2266	12.90%
4	1370	7.80%
3	2111	12.02%
2	3525	20.06%
1	8124	46.24%

In response to the questions in the litigant satisfaction survey, the average rating for "I want the same judge to decide everything about my case" was 3.71 on a 5 point scale. This was a comparatively high rating for the series of questions about the overall court experience and significantly higher than the average answer to the companion question – "I want a judge to decide everything about my case" – which was only 3.09. However, the score is only .71 points above the midpoint, indicating that the one-judge one-family model is not the highest priority for litigants.

Number of ancillary services provided in a case

The data shows that if a case is referred to an ancillary service, over half will be referred to more than one. The average is 1.9 services.

Number of ancillary services in a case when ancillary services are used

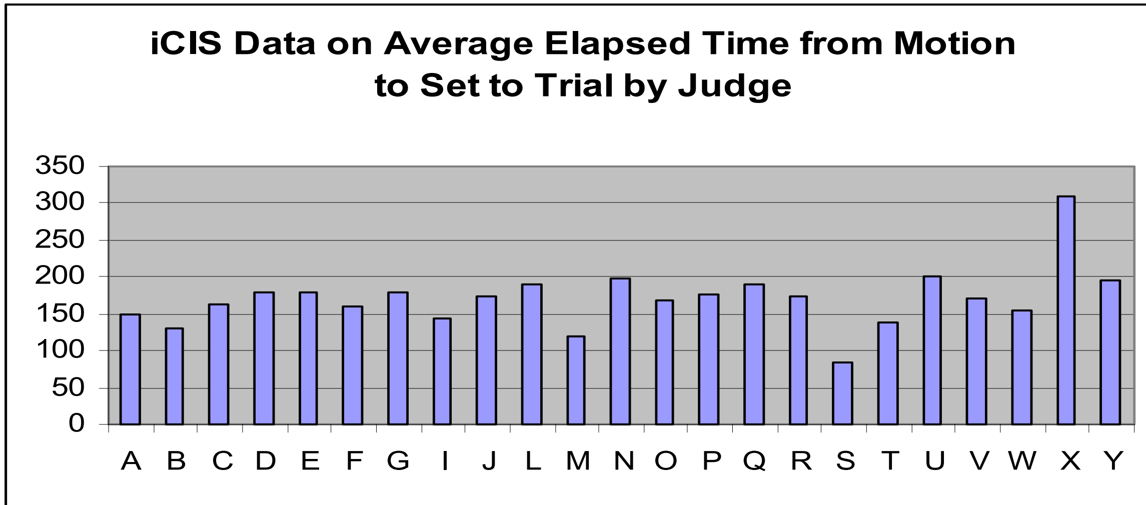
Number of services	Number of cases	Percentage of total
10	1	0.0%
9	2	0.1%
8	5	0.1%
7	11	0.3%
6	31	0.8%
5	66	1.8%
4	216	5.8%
3	505	13.5%
2	1177	31.4%
1	1736	46.3%

Time from request for trial to trial

The table below sets forth the range of average elapsed times from filing of a motion to set to the date of trial. The data is provided only for current judges who had sufficient data in the iCIS report to warrant reporting.

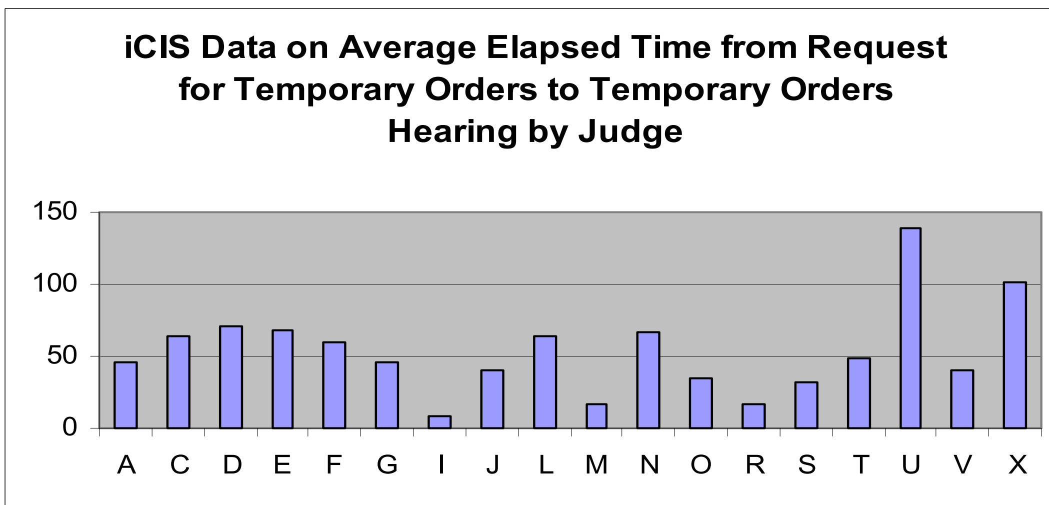
The court uses a restricted definition of trial to refer only to hearings set following a motion to set. Consequently, this data excludes evidentiary hearings of all other kinds. However, we believe that the data is representative. The Department-wide average time is 166.4 days – or roughly five and a half months. The individual times vary from a high of over 308.5 days to a low of 84.2 days – or from ten months to less than three months.

The data suggests not only that the Family Court Department suffers from substantially delayed calendars but also that the individual calendaring practices of the judges vary widely and have clear consequences for the speed with which cases assigned to them are resolved. The speed with which your case is heard in Maricopa County is highly dependent on the judge to whom it is assigned.



Time from motion for temporary orders to temporary orders hearing

The iCIS data also shows a wide variation in the average time required for a judge to hold a hearing on a request for temporary orders. The table below shows average times for those judges for whom sufficient cases were reported in the iCIS report. Some judges do not hold temporary orders hearings, combining them instead with other hearings or eliminating the temporary orders altogether and seeking quick complete total disposition instead as in Northwest. The average time Department wide is 51.3 days. The average time varies from a low of 8 days to a high of 138 days. Again, the speed with which temporary relief is available in the Family Court Department depends on the luck of the draw.



We collected additional data on the time required for a hearing on temporary orders. During the interviews with judicial assistants, we asked for the next available date for scheduling a temporary order hearing.[11] The times reported were substantially shorter than the data provided from iCIS. A statistical comparison of the two data sets shows that there is significant correlation between them – i.e., longer setting times reported by the judicial assistants predict longer actual times to a hearing on temporary orders. However, the actual times reported are so different that we conclude that this process of asking for hypothetical next hearing dates is not a valid method of obtaining accurate data on the length of time from request to actual hearing. The data is not realistic. It may merely show when a judge had time that freed up in the calendar at a particular moment. This way of determining time required to obtain a hearing fails to take into account the difficulty of obtaining attorney and party agreement to an available date and assumes that the hearing will actually occur on the date originally scheduled.

Time to issue a default judgment

Our iCIS data report contained 13,000 default cases. Of those, barely 50% are decided within six months of filing of the divorce petition. Seven percent took over one year. If the court were to resolve its default cases within six months of the filing of the petition, it would increase its compliance with the Supreme Court's six month time standard by 13 percentage points, from 48% to 61%.

Some of the older cases can be explained by the court's data entry procedures. A case can be closed as a default even though an answer was filed and litigation took place, if one of the parties thereafter failed to appear or to respond to filings as required.[12] Therefore, every case classified by the court as a default is not what most court observers would consider a default.

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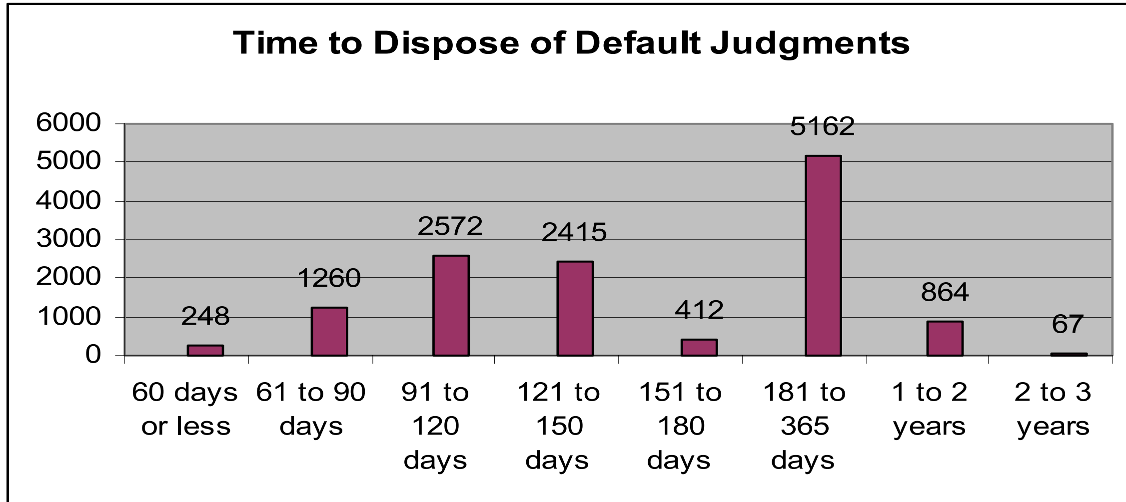
[11] We also inquired about the next available date for a 3 hour evidentiary hearing and for a hearing on a post decree matter.

[12] We are also told that court staff may use the default code when a case, once contested, is settled. It is also possible for staff to use the code for stipulated consent in this situation.



Time to disposition

We report time to disposition data based on the official reports of the Family Court Department, prepared by the statistician for Trial Court Administration.

Court wide performance in comparison to Supreme Court time standards

In terms of the Supreme Court's time standards, the court is not performing satisfactorily. The Supreme Court requires that 90% of all family cases be disposed within three months, 95% within six months, and 99% within one year. The court does not maintain data on the percentage of cases disposed within three months. It barely attains half of the Supreme Court expectation for cases resolved within six months and falls significantly short of the mark for twelve months as well.

	Percentage of cases resolved within 3 months	Percentage of cases resolved within 6 months	Percentage of cases resolved within 12 months
Supreme Court standard	**90%**	**95%**	**99%**
Family Department performance	**?**	**48%**	**86%**

The Supreme Court's time standards were adopted in 1991; they have not been made a part of the court's official administrative orders; they have not been reviewed since their adoption. Neither the Administrative Office of the Courts nor the trial courts

are fully aware of their specific provisions, their aspirational or binding nature, or the ability of individual trial courts to deviate from them in setting their own standards. In our recommendations to the Arizona Supreme Court we suggest that the Court revisit these issues. We also conclude that the current family law time standards are not workable and should be revised. Finally, we suggest that the Supreme Court invite the Maricopa Superior Court to propose "interim" time standards for family cases for the next two calendar years so that the court will have a clear case processing target while the Supreme Court's review is underway.

Comparison to other jurisdictions

When the court is compared with other large urban courts, however, it does not perform that poorly on the 12 month standard. The data in the following table is drawn from three sources – a 1992 study conducted by the National Center for State Courts, a 1997 report for the Clark County Nevada Family Court, and a 2002 report prepared by the Administrative Office of the Courts in Maryland. While some of this data is substantially out of date, we believe that it nonetheless provides a fair picture of the processing of family law cases nationwide. There has been no more recent comprehensive study of family case disposition times. As a whole, the nation's courts have not made striking improvements in disposition times over the past ten years. And the more recent data is not significantly better than that gathered twelve years ago.

The data reported below does not indicate whether these jurisdictions have a "waiting period" within which no judicial action may take place, and, if so, its length.

In this comparison, Maricopa County ranks 14th among 23 courts in the twelve month analysis and is only two percentage points below the overall average. It ranks 13th among 18 courts in terms of its performance over the first six months of the life of a case, and is a full twelve percentage points below the average on that measure.

Domestic Relations Cases Time To Disposition Comparison
Ranked by Twelve Month Disposition Data[13]

		Within 6 mo.		Within 1 Year
1	Dayton, Ohio	1992	92%	99%
2	Atlanta, Georgia	1992	88%	98%
3	Detroit, Michigan	1992	45%	96%
4	Clark County, Nevada	1992	84%	93.50%
5	Tucson, Arizona	1992	74%	93%
6	Des Moines, Iowa	1992	51%	91%
7	Montgomery County, Maryland	2002	na	91%
8	Colorado Springs, CO	1992	56%	90%
9	Baltimore County, Maryland	2002	na	90%
10	Cleveland, Ohio	1992	73%	89%
11	Houston, Texas	1992	66%	89%
12	Washington, D.C.	1992	64%	87%
	AVERAGE		59%	88%
13	Anne Arundel, Maryland	2002	na	86%
14	**Maricopa County, AZ**	**April, May and June, 2004**	**48%**	**86%**
15	St. Paul, Minnesota	1992	70%	85%
16	Seattle, Washington	1992	61%	85%
17	Boston, Mass.	1992	45%	85%
18	Hartford, Conn.	1992	49%	84%
19	San Diego, CA.	1992	33%	82%
20	Oakland, CA	1992	45%	81%
21	Providence, RI	1992	23%	74%
22	Baltimore City, Maryland	2002	na	74%
23	Prince George's County, Maryland	2002	na	71%

[13] The data for this chart was compiled from four sources.

1) Information provided by the Maricopa Family Court to Greacen Associates in July, 2004.
2) *The Eighth Judicial District Court of Nevada Family Division , Organizational and Operations Analysis Report* prepared in September, 1997 by Dan L. Wiley and Associates, Inc..
3) National Center for State Courts, *Divorce Courts, Case Management, Case Characteristics and the Pace of Litigation in 16 Urban Jurisdictions* (1992)
4) The Maryland 2002 Caseflow Assessment prepared September 3, 2003.

The six months rankings are shown on the following table:

Domestic Relations Cases
Time To Disposition Comparison
Ranked by Six Month Disposition Data

		Within 6 mo.		Within 1 Year
1	Dayton, Ohio	1992	92%	99%
2	Atlanta, Georgia	1992	88%	98%
3	Clark County, Nevada	1992	84%	93.50%
4	Tucson, Arizona	1992	74%	93%
5	Cleveland, Ohio	1992	73%	89%
6	St. Paul, Minnesota	1992	70%	85%
7	Houston, Texas	1992	66%	89%
8	Washington, D.C.	1992	64%	87%
9	Seattle, Washington	1992	61%	85%
	AVERAGE		59%	
10	Colorado Springs, CO	1992	56%	90%
11	Des Moines, Iowa	1992	51%	91%
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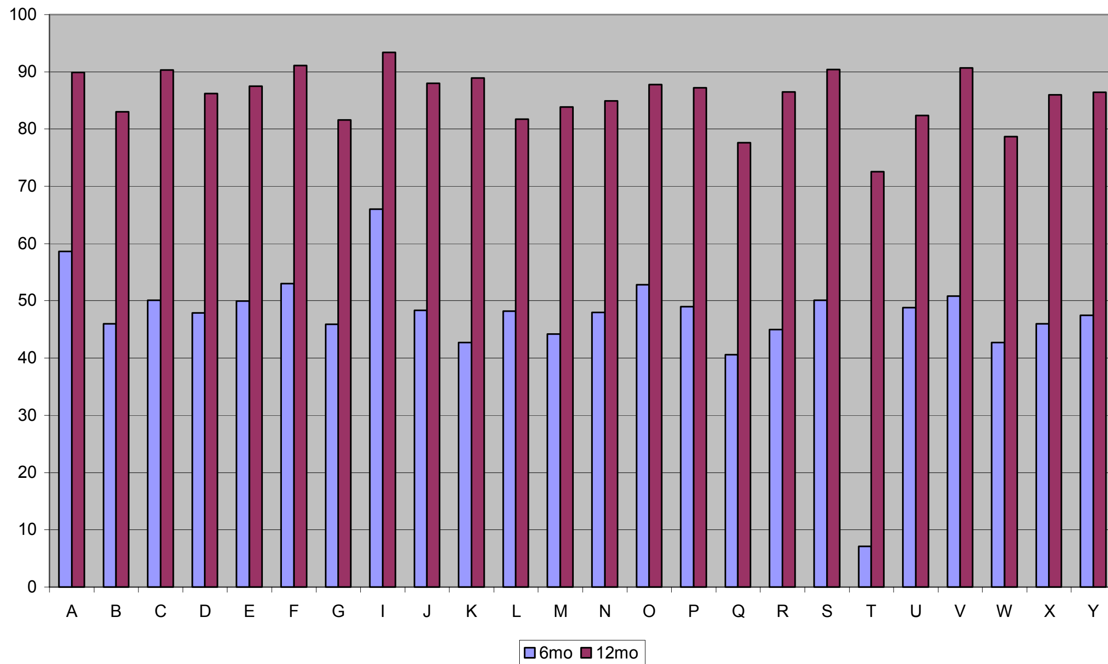
18	Providence, RI	1992	23%	74%

Time to Disposition by Judge

The Family Court Department has recently begun reporting time to disposition by individual judge. We aggregated the data for the three monthly reports that the court has prepared to date – for April, May and June of 2004. The data shows some variation from judge to judge, with one aberration of fewer than 10% of cases resolved within six months. The reader should keep in mind that judges inherit their docket from judges who have served in their assignment previously. They manage it for only two years. Time to disposition data, in particular, reflects case management practices in the past. In fact, a judge who was doing a particularly good job of disposing of a backlog of old, inherited cases would have the poorest showing on this measure. Therefore we question the utility

of this data in measuring the performance of the currently assigned judges. This data is of potential benefit for individual judges in the management of their own caseloads, but not as a means of comparing the performance of different judges. We also note that while all of the dispositions are attributed to the judge to whom the case is assigned, most of the cases (as noted above) are actually handled by the commissioners or the Court Administration staff. For these reasons, we did not use this data in our analysis of calendaring and case management practices reported below.



Processing of cases filed in or referred to Expedited Services

The only data that we have been able to obtain on this issue comes from Expedited Services itself. We have no reason to doubt the accuracy of this data.

In December 2003 Expedited Services received 5077 cases in the court's three locations. It held 397 conferences. It completed 363 reports and had 34 cases in which conferences had been held in which reports had not yet been prepared at the time of the snapshot.

Expedited Services Workload
December 2003

	Downtown	Southeast	Northwest	Total
Cases received	354	120	33	507
Conferences held	269	97	31	397
Cases completed	243	92	28	363
Reports pending	26	5	3	34

Median times from receipt of cases to hearing are shown below. The longest times reported in individual cases are a total of 54 days in Downtown, 57 days in Southeast, and 48 days in Northwest. The program did not at the time we obtained this data have data for the elapsed time from holding the hearing to completion of the report nor total time from referral to completion of the report. It seems fair to say, though, that half the cases are processed within roughly one month in Northwest and within a month and a half in Downtown. The longest cases are probably taking roughly two months for completion in all locations.

Median Times for Expedited Services (in days)
December 2003

	Downtown	Southeast	Northwest
From case receipt to scheduling	1	1	1
From scheduling to hearing	40	34	28

The rate of objection to Expedited Services recommendations appears to remain at roughly one in ten.

Rates of Objections to Expedited Services Reports

	Conferences Held	Objections	Objection Rate
Calendar year 2003	5427	584	10.8%
Calendar year 2004, through 3/5/04	1087	108	9.9%

Processing Title IV-D Child Support Cases

We interviewed local lawyers who litigate in Maricopa County Family Court Department, including the most frequent user of the court system, the Arizona Attorney General's Child Support Enforcement Division (CSED). The Attorney General's Office

is responsible for more filings in the family court than any other individual or entity. All of these cases are related to child support establishment, modification or collection of arrearages. The challenges for the Attorney General's office in managing these cases are challenges of managing high volume case loads. In this environment, small issues – multiplied by numerous cases – have significant impacts.

All Title IV-D child support cases filed by the Attorney General's office go to commissioners (referred to here as the "Commissioner track."). However, if the Attorney General's office was *not* the party who filed an action, the cases do not go to commissioners for hearing. Many of the latter cases are filed directly with Expedited Services. Others go instead through the standard judicial litigation track where they are usually referred to Expedited Services. (The direct referral and judicial referral cases are referred to here as the "Expedited Services track.") These Expedited Services cases represent a small minority of the entire case load of the Attorney General's office.

The Attorney General's office believes that the cases that are heard by the commissioners are processed substantially faster, and result in more sound judicial decisions than the cases that are heard by a conference officer at Expedited Services and then approved or modified by a judicial officer. The Attorney General's office has a very good operating relationship with Court Administration related to the processing of cases before commissioners.

One extremely important part of the Commissioner track system is the mediation system established, which resolves approximately 80-85% of the cases. On the day of the hearing, the parties to these cases are directed to report to the office of the Child Support Enforcement Division in the courthouse. There they meet with CSED attorneys who attempt to reach a consensual agreement on establishment of or payment of already established child support amounts. When agreements are reached, the parties and the attorney take the case to the commissioner where the agreement is put on the record in open court. In the 15 to 20% of the cases when agreement is not reached, the parties proceed as well to the commissioner, who decides the case following a short hearing.

CSED cases are assigned to attorneys on a geographical basis. Cases for geographical regions are consistently heard on the same day of the week, so the attorneys and commissioners are assigned to the same calendars for extended periods of time. Consequently, they become thoroughly acquainted with each other's procedures and work efficiently together.

Together with the court, CSED has also established structured "blow out days" designed to keep the backlog of cases at a minimum. During these periodic "blow out days," the commissioners and Attorney General staff work over a concentrated period of days, scheduled approximately quarterly, to hear cases that have been backlogged.

The Attorney General's office strongly advocated to us during this study that the Expedited Services conference officers be transferred to Court Administration. They are pleased with the voluntary agreement between the Clerk of Court and Court Administration to achieve this goal.

Additionally, the Attorney General's office believes that all cases involving the Attorney General's office should be heard through the Commissioner track only and operated under the case management system they have established with Court Administration. They do not want to have any cases sent through the Expedited Services track. The Expedited Services cases do not use the highly successful mediation program that is used on hearing days for commissioner cases. This means that almost all of the cases scheduled in front of an Expedited Services conference officer actually result in a conference rather than a settlement. The Attorney General's office also believes that the Expedited Services cases go more slowly through the system – both because of delay issues in Expedited Services and because of fact that there is an extra step in each Expedited Services case to get a judicial officer to review the decision of the conference officer. While the number of cases on the Expedited Services track is small, the frustrations of the Attorney General's office working within the Expedited Services system are substantial.

For a one month period of time (May 10 - June 4, 2004), the Arizona Attorney General's office completed a survey prepared jointly by the Assistant Attorney General and Greacen Associates, LLC to study all cases in which the Attorney General appeared before Expedited Services and commissioners. It is important to note that none of the cases *resolved by agreement* and put on the record in front of a Commissioner are included as part of this study. This study compared those cases that *are litigated* in front of a commissioner and those that are litigated in front of an Expedited Services conference officer.

This study showed that the Expedited Services recommendations are reviewed by a Commissioner over 70% of the time. Only 29% of the cases were reviewed by a judge during this study. This means that typically the same judicial officers (the Commissioners) are involved in cases on both the Commissioner and the Expedited Services tracks, but the successful case resolution system developed by the Attorney General and the Commissioners is only used in Commissioner cases. Specifically, the Attorney General is not afforded the opportunity to meet with the parties, obtain a settlement and immediately record this agreement on the record during Expedited Services cases.

The study looked at a range of procedural questions beginning with the timeliness of notice, to the start time of hearings to the time to obtain a final order related to child support. The summary results of the survey are attached as Appendix C.

In our view, the survey results from the initial stages of the case – from notice up through the receipt of the initial order by the parties - show no substantial difference in efficiency between Expedited Services cases and Commissioner cases. Both systems show good results in some areas and could improve in several areas.

Both systems are efficient in sending out notice of hearings to parties – over 90% of the time the Attorney General's office had notice of a hearing more than a week in advance. Both show little delay in finalizing the order.

Both show a large percentage of cases in which the actual hearings/conferences are delayed past the time they were scheduled to start: 71% of Expedited Services conferences and 44% of commissioner cases. If a case is delayed, it is delayed on average 29.5 minutes. Given the high volume of cases of this type, this delay is significant in both systems. Both systems also reflect a large delay in sending out the court order in contested cases. 46% of the time an order executed by a Commissioner in a contested matter on the Commissioner tract is received by the Attorney General's office more than 10 days after issuance. 76% of the time an order issued through the Expedited Hearing Officer track is received more than 10 days after issuance. However, the court has begun sending minute entries via email which eliminates the time delay occurring from mailing. This should eliminate the delay in cases in which a minute entry is completed timely.

Because the study was completed in June, 2004, 20% of the Commissioner cases and 29% of the Expedited Services cases have not reached conclusion as of the date of this report. Therefore, we are unable to accurately calculate the total time to disposition in each system and compare the result. However, the Attorney General's office will tabulate the time to disposition data on December 31, 2004 and provide this information to Greacen Associates, LLC and the court at that time.

Answers to specific questions posed by the Arizona Supreme Court and the Maricopa County Superior Court

The Supreme Court posed a number of questions in the contract for this study. The Maricopa County Superior Court added some additional queries of its own. We provide the answers in the table that follows:

QUESTIONS ASKED OF GREACEN ASSOCIATES AND SHORT ANSWERS

QUESTION ASKED	*SHORT ANSWER*	*OBSERVATION/ NOTES*
OVERALL QUESTIONS ON FAMILY COURT PROGRAMS		
Are the programs and services that have been developed streamlined and efficient or do they result in confusion, delay and cost increases to litigants?	Generally, we believe that the individual ancillary services operate efficiently and produce quality products. However, the way in which they are used in the downtown facility produces significant delay for litigants. An average of two ancillary services per case is not warranted; ancillary services are overused. In Northwest and in the Southeast pilot project involving Conciliation Services, much of the delay has been removed. In all locations, though, there is no one who is responsible for guiding a case through the whole process or who is monitoring the progress to, through, and back from the ancillary services. Except in the Northwest pilot project, judges, court staff, clerks, support service and ancillary services all typically focus on their part of the case and do not concern themselves with the overall management of the case. The system resulting from myriad separate service organizations is highly complex. Many of the judges and commissioners confess to lack of understanding of the role and functions of all the services. Through the litigant survey of over 4750 litigants, out of twenty five questions asked the five questions with the lowest ratings – showing most frustration by the litigants – are all related to compartmentalization of the court process. The five questions with the lowest rankings are: • There are too many steps in the process;	Information on this question was gathered through all phases of the Greacen Associates project: • Interviews, • Litigant surveys, • Data reports, • Observations.

	• Each step of the process resolves too little of my problem; • My case has taken too long; • I get different answers to the same question from different court employees; and • My case has been delayed getting from one step in the process to another.	
Do the Family Court Programs overlap? Do the services overlap?	Yes. Expedited Services, Conciliation Services, and ADR all deal with custody and visitation. Conciliation Services usually works out initial parenting plans, but can become involved in petitions to modify existing custody and visitation orders. Expedited Services hears cases to enforce existing orders and often hears – and refers to the judges – requests that custody and visitation orders be modified. This practice is the source of criticism, because the parties then expect the court to act on a modification request that has not been made in writing and served on the other party. A Title IV-D child support case can be heard either in Expedited Services or before a commissioner; the procedures in the different venues are different. ADR settlement conferences can deal with all issues in a case, including custody, visitation, and child support; they generally occur late in the process immediately before trial. Staff of the ancillary services programs profess clear understanding of the boundaries between and among them. But even the judges and commissioners are not clear about them.	Information on this question was gathered through all phases of the Greacen Associates project: • Interviews, • Litigant surveys, • Data reports, • Observations.
Are Family Court Programs too piecemeal?	Yes. Cases have too many component parts with no central guiding mechanism. Each component part of the system operates independently and without regard to the overall processing of the case. There are two notable exceptions. The Northwest pilot project makes the judge responsible for moving cases through the system. The second Southeast pilot project is attempting to focus the services of the different staff units simultaneously on a case	Information on this question was gathered through all phases of the Greacen Associates project: • Interviews, • Litigant surveys, • Data reports, • Observations.

	to eliminate the piecemeal approach.	
What model would be the most effective?	We recommend an expanded model that combines the NW court pilot project and the second SE family court services pilot project. We also suggest that the court create small teams of judges, commissioners and Family Court Programs employees that work together on caseloads, with an emphasis on getting cases resolved the first day they come into the courthouse.	*See* the recommendation section of the report
Are the policies and practices of the Family Court Programs consistent with the statutes and rules of procedure?	Yes. We have become aware of one practice that is questionable. Expedited Services has, on occasion, referred an oral request for modification of custody or visitation to a judge for resolution. The court has no jurisdiction to act on such a matter until a motion has been filed and served on the opposing party. A second practice for which Expedited Services has been criticized – attribution of income to an unemployed spouse – is specifically authorized by the child support guidelines.	Information on this question was gathered through the following phases of the Greacen Associates project: • Review of Family Court Programs materials • Interviews.
Are family court employees adequately trained and have sufficient education?	Most people believe that the educational requirements for each job are set at a satisfactory level. We recommend that the Attorney Case Manager position, if a clear and consistent role can be created for it, be upgraded to a practicing attorney. Several positions in the Family Court Department are designed to rotate frequently based on institutionalized rotation systems. New judges begin their judicial practice in the Family Court Division and stay for a two year period of time. The ACM position is designed more like a clerkship than a permanent position. These institutionalized rotations put a large strain on the system. Several people internal to the court indicated that the counselors at Conciliation Services should have additional peer review or management supervision to ensure that counseling biases are kept in check.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews.

Are there procedures in place to address litigant complaints regarding Family Court Programs?	The court could provide better mechanisms for litigant complaints. The creation of the Court Navigator position has been an excellent improvement to the system.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews.
What is the role of witnesses in Family Court Program conferences?	Witnesses play virtually no part in Family Court Programs. According to the Plan incorporated in Local Rule 6.14, they are allowed in Expedited Services conferences. As a practical matter they are not present at either Expedited Services or ADR settlement conferences. They are not allowed in Conciliation Services mediations. Conciliation Services dispute assessment counselors are able to interview people other than the parties during a dispute assessment. Litigants commonly complain that this investigation is insufficient. However, cases referred for a dispute assessment typically have the highest level of conflict of any in the court, and these litigants tend to be unhappy with the entire process.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews. • Observations
How do Family Court Programs handle exhibits and maintain the nonpublic working files?	Ancillary services programs do maintain their own internal files on cases. Expedited Services tape records its conferences. However none of the ancillary services proceed as if they were court hearings, with marked exhibits and the creation of a record sufficient for review by an appellate body. Rather, they are intended to be alternative dispute resolution processes, with review by de novo consideration of contested matters by the judge. In Conciliation Services, an officer will record information in a dispute assessment, but the assessment will not be accompanied by copies of the source documents from which the material was obtained. Parties may produce evidence in court to contradict or discredit the findings and recommendations in these reports.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews. • Observations

Do Family Court program officers meet due process requirements?	Yes.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews. • Observations
Do the environment in Family Court Programs promote satisfactory results and fair and impartial outcomes?	Overall, yes. Staff at Expedited Services and Conciliation Services in the downtown courthouse complain about the small size of the meeting spaces. However, we did not observe that the physical environment impeded a satisfactory, fair and impartial outcome, even when additional bodies were added to the proceeding.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews • Observations
Is an opt-out of Family Court Programs possible?	Yes, with court approval. But self represented litigants are generally unaware of this fact.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews.
What information and materials are available to litigants from all Family Court Programs?	All Family Court Services have informational packets for litigants. However, due to the numerous, compartmentalized programs, many litigants and lawyers are confused about the role of each program. The Self Service Center is the source of most forms and information for family law cases.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews; • Document review.
Is there data to measure the percentages of cases objecting to Family Court Programs' recommendations and interim orders?	Generally no. The data entered into iCIS is insufficient to derive an accurate report on this data for all ancillary services. There are some hand-collected reports on objection rates maintained by Expedited Services.	Information on this question was gathered through the following phases of the Greacen Associates project:

		• Interviews; • Data reports.
Is there data to measure the number of cases requesting and receiving hearings after objecting to a Family Court Program's recommendation?	Generally no. The data entered into iCIS is insufficient to derive an accurate report on this data. There are some hand-collected reports on objection rates in Expedited Services. Most judges look carefully at objections to Family Court Programs' recommendations. By the court's local rule, an objection to an Expedited Services report must be the subject of a hearing, if a hearing is requested. But the hearing need not be confined to that matter. Attorneys and judges report that objections to Expedited Services are resolved typically through either a hearing or written minute order specifically related to the issue. Objections to Conciliation Services are typically collapsed into the trial or another hearing and not handled separately.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews; • Data reports.
Is there data to measure the elapsed time required for completion of a Family Court process?	No. The data entered into iCIS is insufficient to derive an accurate report on this data. The ancillary services maintain records of the time that elapses from their receipt of a referral to their issuance of a report. However, there is no record of the time required for the referral to reach the program or for the report to reach the judge. Nor is there any report on the cumulative time taken in referrals to multiple ancillary services.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews; • Data reports.
QUESTIONS SPECIFICALLY RELATED TO EXPEDITED SERVICES		
Is it appropriately housed within the Clerk of Court's office?	This issue has been resolved through a voluntary agreement between the Clerk of Court's office and Court Administration, proposed by the Clerk of Court. Expedited Services came under the purview of Court Administration in July 2004.	Information on this question was gathered through the following phases of the Greacen Associates project:

		• Interviews; • Information from the Court.
Is the scope and authority of Expedited Services too great?	In some limited regards, yes. Expedited Services best operates as an ancillary service that is utilized *after* judicial decision of the legal issues related to child support. There are some mechanisms where Expedited Services can hear a child support matter prior to judicial review. Some judges believe that Expedited Services acts in a quasi-judicial role in these circumstances, and that it is an inappropriate role for an non-lawyer. With Expedited Services now being operated by Court Administration and reporting directly to the Presiding Judge, this issue will be resolved.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews.
Overall, does the program appear to be achieving the goals of the Family Court?	Yes.	Information on this question was gathered through all phases of the Greacen Associates project: • Interviews, • Litigant surveys, • Observations .
Does it expedite things?	There is a difference of opinion on this issue. Supporters of Expedited Services, including several members of the bar, believe that Expedited Services clearly expedites the process and makes judicial time more efficient. Several of the active case managers in the court find that the time needed to refer the cases out to Expedited Services slows the process and that the time saved in avoiding the need for a judge to compute child support on the bench is not substantial.	Information on this question was gathered through all phases of the Greacen Associates project: • Interviews, • Litigant surveys, • Observations.
Are Expedited Services staff adequately trained and have sufficient	Yes. There could be more extensive training of staff prior to the conference officer handling case loads on his or her own.	Information on this question was gathered through the

education?		following phases of the Greacen Associates project: • Interviews.
Are there procedures in place to address litigant complaints regarding Expedited Services?	There are procedures in place to address litigant complaints. However, there is some question about the ability of this review to really address issues at Expedited Services. The Court Navigator indicated that approximately 1/3 of the complaints received by that office relate to Expedited Services. While staff at Expedited Services are responsive to individual inquiries from the Court Navigator, the complaints related to delay or lack of communication continue with some frequency. The greatest drawback we observed was the lack of effective communication between the judges and Expedited Services. Judges had numerous complaints – about the length and complexity of reports, about the calculation of attributed income, and about the referral of custody modification requests for which no written pleading had been filed. It did not appear to us that these concerns had been communicated to Expedited Services. Alternatively, Expedited Services – faced with contradictory requests from different judges (e.g., one judge asking for more information in the report and another criticizing its length) – and no clear way to obtain direction that represented a consensus of the judges – makes its own best judgments about how to proceed. The transfer of Expedited Services to Trial Court Administration may improve this situation; however improvement will depend upon the ability of the Department to implement an effective policy-setting and governance process that will produce consensus guidance.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews.
What is the role of witnesses in conferences?	Witnesses are allowed but as a practical matter are not involved.	Information on this question was gathered through the

		following phases of the Greacen Associates project: • Interviews.
How does Expedited Services handle exhibits and maintain the nonpublic working files?	Expedited Services maintains exhibits submitted to it in its nonpublic files. It is not clear to us that this process is worthwhile, since exhibits are not consistently obtained from the parties and the review of objections to Expedited Services reports is *de novo*. It is also not clear to us that the process currently used – obtaining the judge's signature on an Expedited Services report before it is provided to the parties – is worthwhile. The judge has minimal information at hand to perform a meaningful review. It would save time to provide the report directly to the parties, with either party having the right to file an objection as at present. The revised process that we recommend would eliminate the two stage review in most cases – bringing the parties immediately into court to confirm or contest a staff child support calculation.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews.
Do Expedited Services officers meet due process requirements?	Overall, yes. There is a concern among a minority of judges that Expedited Services is not ensuring that proper personal service was given prior to recommending a warrant in a contempt proceeding. We also heard concern about unreasonably high "purge" recommendations – the amount of money that a person arrested on a nonsupport warrant would have to post in order to be released on bail.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews.
Does the environment at Expedited Services and the conference process promote satisfactory results and a fair and impartial outcome?	Yes. There was general consensus that the offices are small but they are nonetheless adequate to their purpose.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews.
Is an opt-out of	Yes, by judicial approval. But this option is	Information on this

Expedited Services possible?	not well known to self represented litigants.	question was gathered through the following phases of the Greacen Associates project: • Interviews.
Is there data to measure the percentages of cases objecting to Expedited Services recommendations and interim orders?	Yes. Expedited Services reports that objections are filed in roughly 10% of their cases.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews; • Data reports.
Is there data to measure the number of cases requesting and receiving hearings after objecting to an Expedited Services recommendation?	No. The data entered into iCIS is insufficient to derive an accurate report on this data. All judges allow objections and hear the evidence on the objection if a hearing is requested. To all intents and purposes it is a *de novo* hearing on that part of the report to which objection is made.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews; • Data reports.
Is there data to measure the elapsed time required for completion of an Expedited Services process?	Not at the time data was provided to us. Expedited Services provided us with data on the time from receipt of a case to scheduling and the time from scheduling to holding a hearing. It did not yet have data available on the time from the hearing to completion of the report or the overall time from receipt to report completion. This time does not include time "in transit" from and to judges' chambers. The data entered into iCIS is not consistent enough to supply this information for any or all ancillary services.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews; • Data reports.
QUESTIONS ON THE CASE MANAGEMENT SYSTEM:		

How efficiently and effectively is the automation system working?	The iCIS automated case management system is extremely efficient and effective. The system can contribute to more efficiencies over time. The system is a substantial improvement for the court. The On Base system operated by the Clerk of Court for imaging all filings is also extremely impressive. Judges and staff report efficiencies arising out of the ability to review documents on the computer. On Base would be of even greater value if scanning and entry of documents were more current.	Information on this question was gathered through all phases of the Greacen Associates project: • Interviews, • Data reports, • Observations.
Does the current case management system serve to expedite the process and reduce costly time delays?	Yes and it can do more.	Information on this question was gathered through all phases of the Greacen Associates project: • Interviews, • Data reports, • Observations.
Does the current case management system allow for the provision of timely notice to litigants?	Yes. There is general consensus that timely notice is consistently given. During the internal survey conducted by the Attorney General's office on child support cases, the records review showed that notice was received by the Attorney General more than one week prior to the hearing at least 93% of the time. The primary issue relating to notice is the constant challenge of obtaining current litigant addresses in the system. This is not a technical issue, but one that needs to be addressed by the court. There presently is one method for changing the address of a party that requires that the litigant provide a written document to the court clerk. Many more people should be authorized to make address changes and it should be simplified to the greatest extent possible. The possibility that a litigant might file a fraudulent change of address to frustrate case processing has no bearing on how many different persons should have authority to make address	Information on this question was gathered through all phases of the Greacen Associates project: • Interviews, • Data reports, • Attorney General Survey' • Observations.

	corrections.	
Are files transferred between the Superior Court and the Clerk of Court in a timely manner?	Yes. Files are provided within a day or two of a request. However, the files usually do not contain all pleadings filed to date.[14] The delays in the scanning process for On Base lead to even longer delays in the filing of the original documents in the paper file. Most judges now require the parties to file additional copies of pleadings directly with the chambers in advance of a hearing. Lack of currency of paper files was a consistent theme in our judge interviews in all court locations. We provided Trial Court Administration with a methodology for determining the actual currency of docketing, imaging and filing; it is available for use if the court wishes to monitor the performance of the Clerk of Court more closely.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews.
Are minute entries updated by the Clerk of Court in a timely manner?	Yes. Every judge reported that his or her current clerk is preparing minute entries in a timely fashion. However, quite a few contrasted the performance of the current clerk with that of former clerks. It appears that the Clerk of Court is conducting careful supervision of these staff and replacing those who are not performing adequately.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews.
Is it possible to encourage the Family Court judges to utilize the calendaring system available to them in a more efficient way?	Yes. While substantial and important improvements have been made to the automated court system, the court can utilize its abilities to a much larger extent. The judicial assistants are maintaining their calendars in paper form and entering the information into iCIS as a form of electronic record keeping for the sharing and printing of calendars. The system is not being used for scheduling decisions – e.g., to locate the next available date for a hearing.	Information on this question was gathered through the following phases of the Greacen Associates project: • Interviews.
Are there efficiencies that can be achieved by	Yes. While substantial and important improvements have been made to the	Information on this question was

[14] The Clerk of Court reports that recent changes have been made in its processes to address this issue.

utilizing the full power of the computer case management system?	automated court system, the court can make greater use of its abilities. One area where the court automation system can provide more assistance to the court is in the area of reporting. The use of reports to manage the court is in its early stages. The court needs to recognize that improvements in reporting will depend on its willingness to exercise discipline in the consistency of data entry from chambers to chambers and in the willingness of staff to make data entries that they do not need for day-to-day case tracking for the sole purpose of producing more useful reports. For example, the Cal-Acti report that is reviewed by judicial staff contains numerous cases that are handled administratively and never seen by a judge. These administrative cases should be separated from the active judicial cases to better show the judicial case load. The new Family Court Administrator is making this type of report improvement a priority. Additional needed improvements that we recommend are accurately differentiating pre and post decree cases and eliminating "inactive" dockets.	gathered through the following phases of the Greacen Associates project: • Interviews.
QUESTIONS REGARDING TIMELINESS OF JUDICIAL ACTION		
Are hearings before the judges and commissioners timely?	It varies greatly depending on the judge. However, overall, the answer is "no," as shown by the data reported above and the case management analysis that follows.	Information on this question was gathered through all phases of the Greacen Associates project: • Interviews, • Litigant surveys, • Data reports, • Observations.
Are default judgments entered in a timely	No. However the court has recently implemented a new pilot project called "Walk	Information on this question was

manner?	in Default" that is targeted at correcting this deficiency. Improvements in this area will improve the time to disposition statistics considerably.	gathered through all phases of the Greacen Associates project: • Interviews, • Data reports, • Observations.
Is there data available on the court-wide processing to develop a baseline against which to assess Family Court Programs?	At a very general level, yes. At a level that provides accurate, refined data, no. The data reported in this study can serve as a generalize baseline for the court as a whole and for the individual judges for whom data is available. However, the iCIS management reports cannot be accurate and complete until data is entered consistently by all staff throughout the court and the Clerk of Court and the reports are refined. The litigant and lawyer satisfaction data collected can serve as a useful baseline for judges to use in improving their performance.	Information on this question was gathered through all phases of the Greacen Associates project: • Interviews, • Litigant surveys, • Data reports, • Observations.
Does the data show a difference among the court's three locations?	Yes. The data show that good judicial case managers exist at all three court locations. However, *every* judge in Northwest courthouse (all of whom operate under the NW pilot project) are among the top seven judicial case managers in the case management analysis below. Four of the seven judges who rank the highest in case management operate under the Northwest model.	Information on this question was gathered through all phases of the Greacen Associates project: • Interviews, • Litigant surveys, • Data reports, • Observations.

Case management

We conducted interviews with every judicial assistant, learning the case management and calendaring practices of every one of the 25 sitting judges. As the interviews progressed, we asked more and different questions. As a result, we do not have all of the data for all of the judges. These are the case management factors that we reviewed:

- continuance policy
- hours on the bench per day
- days per month blocked (time during which hearings are not set routinely)
- policy on oversetting the calendar
- policy on use of return hearings
- policy on referrals to ancillary services
- policy on setting a follow up hearing at the same time as making a referral
- setting of default cases for hearing if the parties move to continue the case on the inactive calendar
- special practices, and
- aggressive use of Cal-Acti reports

The general model

Every judge follows his or her own scheduling and case management practices. There is a generally followed model; there are some striking departures from it; there is a competing model from the Northwest pilot project. Overall, we conclude that the general model is the slowest and the alternatives tend to work better. The Northwest model shows great promise. Other individual judges have effective case management models as well.

The general model can be described as follows:

- The court awaits initiative by a party before taking action on a case.

- When a party files a motion for temporary orders or a post decree motion to modify custody, visitation or child support, or a request for an order to show cause why the court should not hold a party in contempt for failing to abide by a court order, the court sets a "return" hearing, usually fifteen minutes in length. At the return hearing, the judge determines the nature of the issues in dispute, settles or decides the matter, refers the case to an ancillary service, or sets the matter for a full evidentiary hearing at a later date. The rationale for a "return" hearing is that the court is not able to make accurate scheduling decisions without inquiring into the facts and issues of the case, which are not apparent from the papers before the court. To set all matters for evidentiary hearings of a standard length would waste court time if the time required were overestimated or waste the time of the parties if the time were underestimated and all the cases set could not be heard.

- When a party files a motion to set for trial, the court sets a comprehensive pretrial conference (CPTC), again usually fifteen minutes in length. At the CPTC, the judge may refer the case to an ancillary service or set it for

trial at a later date. Usually, when the court refers a case to an ancillary service, the judge will schedule a trial, or at least a status hearing, at the next available date, so that the judge will not lose control of the case. This is not a universal practice, with some judges consulting the lawyers before doing so and leaving the matter unscheduled if so requested by counsel. The rationale for a CPTC is to provide an opportunity to settle, (perhaps for the first time) give the judge an opportunity to assess the appropriateness of referral for an ancillary service, resolve discovery disputes, identify and limit the issues for trial, make a realistic estimate of the time required for trial, and confirm a trial date.

- Judges make heavy use of ancillary services, routinely referring cases that fall within their purview – custody disputes and parenting time mediations to Conciliation Services, child support matters to Expedited Services, and property disputes to ADR.

- Emergency petitions are reviewed by the judge or by the judge's staff (or in Southeast by the Attorney Case Manager). Cases are rarely viewed by the judges as constituting true emergencies. If they are, they are set for hearing within ten days, providing an opportunity for service on the opposing party. If not, they are set for the next available hearing date.

- Judges set review hearings in cases with high conflict – usually involving custody of children or fitness of a parent – to bring the parties back into court to determine whether the court's orders are "working out." These matters are set for a time deemed appropriate by the judge for the particular case – generally from 15 to 30 minutes.

- One particular type of review hearing is a non-compliance docket. Judges set aside one day per month for noncompliance hearings – cases in which non-custodial parents are not paying child support. These cases are set on a trailing docket (all calendared for the same starting time, e.g., 9:00 am or 2:00 pm) and heard in the order they appear on the calendar. This is the only general use of a calendar without specifically set times for hearings. Several judges utilize this practice for a substantive purpose – to require the parties failing to pay child support to watch the proceedings in other such cases to realize the potential consequences of flouting the court's orders.

- Another specialized setting is for cases requiring an interpreter. Each judge is allotted Spanish language interpreter services for the same time periods each week. Staff schedule all matters requiring interpretation during those time periods. It therefore constitutes a special type of calendar.

- Judges freely allow continuances – routinely granting (or authorizing their JAs to grant) continuance requests to which the other side has consented and being generously disposed to granting even contested continuance motions.

- Chambers do not involve themselves in default cases; those are the responsibility of court administration and the commissioners.

- Judges generally hear shorter matters – return and review hearings and short causes – in the morning, saving the afternoon for evidentiary hearings and trials.

- Judges do not allow oversetting of their calendars. Each matter is scheduled for its own time slot, and no other matter may be scheduled in that time slot. A judge will accommodate an emergency matter by hearing it early in the morning, during lunch, or at the end of the day. If a scheduled hearing vacates sufficiently in advance of the hearing date for notice to the parties, the JA replaces it with another matter. Whenever matters fail to materialize at the last minute, or in the days just before the hearing date, the judge has unused calendar time. That time is not wasted; the judge can use it for handling matters under advisement or review and signing of routine paper work.

Some judges make more use of the option of telephonic hearings than others – allowing for a hearing to take place by conference telephone call, saving the parties the time and expense of traveling to the courthouse. This option is more likely to be provided for attorneys than for self represented litigants.

Variations from the general model

There are several variations to the general model. Some judges do not use return hearings, choosing instead to set matters as evidentiary hearings; a few judges use return hearings for post decree matters but not for temporary orders. A few judges do not set hearings for requests for temporary orders, deferring them until trial. They take the view that it is better for all involved to reduce the time required to get a final resolution by eliminating interlocutory hearings. Some judges do not use review or status hearings, leaving it to the parties to come back into court if they wish further judicial involvement. Some judges refuse to grant continuances. A very few overset their calendars, predicting that some matters will vacate before or on the day of the trial or hearing. Some judges give preference in calendaring to pre-decree over post-decree cases. One gives scheduling preference to cases involving children. Some judges take an active interest in

default cases assigned to them, setting them for hearing if they are languishing in the standard default process.

Two of the judges have a "buddy system" in which they hold settlement conferences in each other's cases, or transfer cases that they have unsuccessfully tried to settle to the "buddy" for trial. This eliminates the need to refer cases to ADR and, in many cases, to Conciliation Services.

Some judges make limited use of ancillary services, referring cases only when they conclude that the benefits of the service outweigh the time required to obtain them. These judges have the child support calculators on their benches and use them during hearings to prepare child support orders, reducing their use of Expedited Services.[15] They are likely to attempt to resolve custody matters themselves, in open court or in chambers, or by identifying issues and instructing the parties to leave the courtroom to discuss the matters in dispute between themselves and return to the courtroom to report on their progress.

The Northwest pilot project described above involves proactive judicial management of cases. A "settlement management conference" (SMC) is set for all cases when a party first seeks judicial action. The parties are required by the court to meet and confer in advance of the SMC and to set forth their positions on all matters in dispute. During the SMC, which is set for 30 to 60 minutes, the judge reviews the issues in dispute, settles the case (we are told, in 40% of the cases in which SMCs are held), refers the case for ancillary services, or sets dates for future events, such as a comprehensive pretrial conference and trial.

Analysis of case management practices

On a spreadsheet we arrayed all of the case management characteristics data and compared it to data on timeliness and to data on litigant satisfaction. The timeliness data came from three sources – interview data on the next available dates for various types of hearings on the judge's calendar, iCIS data on time from a motion to set to the time of trial and from request for temporary orders to a temporary orders hearing, and Family Department reports on the percentage of cases disposed within 6 months and within 12 months. Our objective was to seek correlations between timeliness and user satisfaction and various case management characteristics.

The three sources of timeliness data bear no resemblance to each other. While there was a statistical correlation between the calendaring date availability as reported by

[15] Some judges use this capability to settle disputes over the details of child support – such as disputes over income or the cost of child care. The judge will run the guidelines calculation for the two amounts advocated by the parties, demonstrating the minimal impact of the factual dispute over the ultimate outcome. Settlement quickly ensues.

the JAs and the actual time to temporary orders hearing reported from iCIS, the actual values were very different. Likewise, there was no correlation between the time to disposition data and the time to hearing or trial data.

We chose to rely on the time to hearing and trial data from iCIS as the most reliable indicator. The JA reports of next available hearing date were (with a few exceptions) very different from the iCIS reports. The discrepancies may be explained by their being "snapshots" of the calendar at an arbitrary moment in time, by their being subject to aberrations – e.g., a judge with far off setting dates might have a close in calendar spot available because of the recent settlement of a case, or by their not reflecting the realities of scheduling difficulties arising from conflicts on lawyers' calendars or continuances. Similarly, we concluded that the data on time to disposition does not necessarily reflect the case management practices of the judge currently assigned to the calendar; it is more the result of the practices of the judges who have gone before the current judge. Also, the time to disposition data includes defaults and stipulations in cases assigned to the judge, over which the judge (with rare exceptions) exercises no control.

We ranked the judges on timeliness based on the iCIS time to temporary hearing and time to trial data, and compared their case management characteristics with the rankings. The results were quite striking:

- the fastest judges have the most restrictive continuance policies, overset their calendars, use return hearings least frequently, make targeted use of ancillary services, are more likely to take up default cases that are lingering, and have a special practice, such as use of settlement management conferences or a buddy system with another judge for settlement conferences. These characteristics are present for six of the seven most timely judges.

- Time on the bench and days blocked appear irrelevant. Times on the bench ranged from 5.5 to 7 hours per day and blocked time varied from 0 to 5 days per month. However, it appears that the efficiency of the way the judge works is far more important than the number of hours s/he sits on the bench.

- The slowest judges consistently pay little attention to the Cal-Acti reports; the fastest judges, however, may or may not pay close attention to them. Ignoring case status reports, therefore, is likely to contribute to poorer case management, but some very good case managers also ignore them.

We conducted correlation analyses among the various time to hearing, time to trial, time to disposition, and satisfaction composite scores. The only very high correlations are trivial in importance. The "fairness" composite is highly correlated with

the "today's court experience" composite, of which it is a part. The 6 and 12 month time to disposition numbers are highly related to each other. The two iCIS time calculations – for time to hearing on temporary orders and for time to trial – are correlated. The judicial assistant's projected date for a temporary hearing correlates highly with the projected date for a three hour evidentiary hearing. We found a weak correlation between the iCIS timeliness of trial data and the overall court experience composite. We also found a weak correlation between the two sources of data on timeliness to a hearing on temporary orders.

We found no correlation between any of the timeliness data and the "fairness" or "today's court experience" composite scores. Success in case management is not related to successful courtroom demeanor. This is true in both directions: There is no evidence that strong case management will lead to higher litigant satisfaction ratings for a judge's performance in the courtroom. On the other hand there is no basis for judges to feel concerned that a strong case management stance will produce lower litigant or lawyer satisfaction ratings. Case management and judicial demeanor appear to be separate, unrelated skill sets. We note that there is a weak correlation between the speed with which a judge provides a date for trial with the "overall court experience" composite. There is no correlation between the percentage of cases resolved within six and twelve months and the litigant satisfaction scores.

We make the following observation about the "general model" and why it seems to fall short in practice. The model is based on the assumption that effective case scheduling requires the case by case exercise of judicial discretion. The "return" hearing epitomizes this approach; in order to make the "right" scheduling decision, the judge must learn a great deal about the facts and issues of the case. It is worth the time of the parties, their lawyers, the judge and the courtroom personnel to hold a hearing to make this scheduling determination. The resulting scheduling decision is then accorded great respect; exactly the assigned time is allocated for the matter; most JAs would not think of "overbooking" a calendar.

Based upon the above analysis, we recommend that the court abandon the prevailing general model and adopt one with the characteristics identified as most important:

- proactive case management
- a strict continuance policy
- targeted use of ancillary services
- no use of return hearings, and
- oversetting of calendars to reflect the statistically predictable vacation of court settings.

This resulting model could best be characterized as a calendar created through the use of generalized expectations about the times that hearings are likely to take and the

likelihood that settings will vacate due to settlements. We propose a general calendaring process in the recommendations that appear later in this report.

Materials provided by the court

It is clear from the survey data that the litigants find the Maricopa County paperwork daunting. It is also clear from the judge, commissioner, and staff interviews that they agree.

We have reviewed a variety of brochures provided by various court services. They all appear straightforward and helpful. For the most part, they do not go into detail about the services available or the procedures followed.

We believe that the Plan under which Expedited Services operates, Local Rule 6.14, is extremely difficult to understand, even for lawyers.

The difficulty of explaining the processes clearly is exacerbated by the number of alternative processes available. There are at least five different ways to establish child support – by filing a basic petition for divorce, by filing an Expedited Services petition, by having the Attorney General file a case on your behalf, by the court's automatic entry of a temporary support order, of by filing a motion for temporary orders in a divorce, legal separation or annulment case.

We have reviewed the forms and instructions provided by the Self Service Center. We agree with the comments of some judges and staff that the time has come for a comprehensive review of these materials. We would summarize our observations as follows:

- the materials are too bulky and complicated for most self represented litigants;

- instructions are too detailed in areas not needing explanation; the reader is put off by irrelevancies and may not read further into the document to find the really important material;

- in general, the court requires too many forms and too much information.

Recommendations to the Arizona Supreme Court

The remainder of this report consists of recommendations to address the issues we have identified above. The first five recommendations are addressed to the Arizona Supreme Court.

Adopt authoritative distinctions between legal information and legal advice for the guidance of court staff

A number of states, including three bordering Arizona – California, New Mexico, and Utah – have adopted policy statements distinguishing for court staff what constitutes legal information from what constitutes legal advice. Invariably, these definitions empower court staff to provide vastly increased amounts of information to self represented litigants.

As noted above, we observed repeated instances – in the Clerk of Court's office, in Trial Court Administration, and in judges' chambers – where staff refused to provide information that they could give – information that they as staff understand thoroughly, that self represented parties need to move their cases along, and that would not constitute the giving of legal advice.

We urge the Supreme Court to review the policies adopted by other states and adopt one appropriate to Arizona. Appendix D is a pamphlet prepared by the California Judicial Council entitled "May I Help You?" to provide practical guidance and examples for court staff. The California Administrative Office of the Courts has provided statewide training concerning this topic, in the form of a series of satellite broadcasts and distribution of a training videotape useable for current and newly hired staff.

Provide training to the Judicial Selection Commissions regarding the judicial needs of the Family Court Department

Our interviews with the judges showed that while the assignment is viewed as a hardship, there was only one who expressed extreme distaste for it. Ironically, this judge scored lowest on the satisfaction survey composite results for "fairness" and "today's proceeding." On the other end of the scale, the one sitting judge who comes from a family law background scored very highly on all three composite satisfaction scores and is one of the best family case managers.

While this is scant evidence – only two almost anecdotal facts – it nonetheless provides empirical weight to the observations of practitioners in Arizona and elsewhere that the best family court judges are the ones who want to be in that assignment. It bolsters the observation that judges who hate the assignment do not perform well.

The current Arizona judicial selection process has not produced the judges needed for the family law assignment. Very few family law practitioners are recommended for appointment to the bench. We are told that this arises from a consensus within the selection committees that jury trial experience is a prerequisite for recommendation of a

person to serve as a Superior Court judge. Family cases are tried to a judge, not a jury and few family law practitioners have the requisite jury trial experience.

The importance of jury trial experience for a Superior Court judge is overvalued. A recent national study found that in criminal and general civil cases the absolute numbers of jury trials has fallen over the past decade by 15% for felony cases and 44% for general civil cases.[16] Changes in jury trial rates, from 23 states for criminal cases and 22 for civil cases, are shown in the following table:

Case Type	Felony Cases		General Civil Cases	
	1976	2002	1992	2002
Jury trials	**5.2%**	**2.2%**	**1.8%**	**1.3%**
Bench trials	**3.7%**	**1.0%**	**4.3%**	**4.3%**

In fact, the Superior Court bench in Maricopa County, Arizona today needs 25 judges with a knowledge of family law, an understanding of the dynamics of family cases, the personal temperament needed to preside over these often highly emotional matters, and a desire to remain in the family law assignment for a long period of time, if not for an entire career. The current process is not producing them. It is producing judges who at best tolerate a two year assignment to family cases as the initiation ritual required for a Superior Court career presiding over criminal, civil or juvenile cases.

The Supreme Court needs to educate the Judicial Selection Commissions to this reality and to do so in such a public way that senior, qualified family law practitioners will understand that they are needed on the bench and that there is reason for them to apply for vacant positions.

As noted above, litigants expressed a preference for having the same judge decide everything about their case. There are important reasons to increase the tenure of judges serving in this assignment – the need for continuity of attention to cases that return to court over an extended period of time, the need for experience in the law, science, art, and management of family cases, and the need for stability and consistency in the staffing of this important judicial assignment. The only realistic way to accomplish longer tenures is through recruitment of judges who seek a judicial career in family court.

We recommend that the Supreme Court develop a formal educational process, including a Supreme Court policy statement concerning the importance of committed and well qualified family law judges, for Judicial Selection Commission members. When the position for which they are interviewing is a family court department assignment, Commission members should be urged to seek otherwise well qualified individuals with experience in the practice of family law and with an interest in a career as a family law

[16] Jury News; The Vanishing Trial?, The Court Manager Vol 19 Issue 2, at 50 (Williamsburg, VA 2004).

judge. No judge would be held to that expectation if over time s/he felt the need for rotation to another assignment. The judicial selection commission would not be bound to recommend a family law practitioner for such a position, if it concluded that no applicant with that background was suitable for appointment.

No changes in law would be required to implement this process. In fact, it might be tried experimentally only for Maricopa County for a set period of time – for instance, five years – and re-evaluated thereafter.

This process is followed in New Mexico, with good results. The family division in the Second Judicial District in Bernalillo County (Albuquerque) is composed largely of former family law practitioners who have been selected for that assignment. They have made many innovations and are regarded as a professional and competent division within the court. A family court judge remains eligible for rotation to another assignment, and one has taken advantage of that opportunity. But the bench has remained quite stable over an extended period of years.

Revisit the current disposition time standards and require the Maricopa County Superior Court to propose interim time standards for family cases to be in effect for its caseload for the next two calendar years

As noted above, the Supreme Court's time standards were adopted in 1991, but have not been made a part of the court's formal administrative orders. The current standards are clearly based upon the standards promulgated by the American Bar Association. However, they are different from the ABA standards in significant regards. The table below contrasts the current Arizona standards with those of the ABA.

Arizona versus American Bar Association Time Standards
Domestic Relations Cases

Standard	Disposed within 3 months	Disposed within 6 months	Disposed within 12 months
ABA	90%	98%	100%
Arizona	90%	95%	98%

The Arizona Supreme Court obviously concluded in 1991 that it was not reasonable to expect all domestic relations cases to be completed within one year. Two percent could be expected to remain pending past that time.

The Arizona time standards appear on a two page table dated November 15, 1991. They are prefaced by a two page introduction dated May 31, 1991. That introduction

recites that the time standards arise from a 1989 recommendation from the Commission on the Courts. The preface characterizes the standards as "aspirational, not compulsory or mandatory." The document contemplates that individual Superior Courts will adopt time standards of their own, derived from, but not necessarily the same as, the statewide standards. The preface refers to "standards and time goals" already adopted by the Maricopa County Superior Court. Another sentence in the document suggests alternatives the Supreme Court might take to implement the time standards, suggesting to us that the contemplated implementation process has never taken place. We recommend that the Supreme Court, with the assistance of the Administrative Office of the Courts, review and clarify the overall status of the current time standards – how the court intends them to be implemented as well as their specific content.

Based upon our analysis of the flow of cases within the Maricopa County Superior Court Family Court Department, we conclude that the current domestic relations time standards are unreachable and unworkable. ARS § 25-329 prohibits a court from "consider[ing] a submission of a motion supported by affidavit or hold[ing] a trial or hearing on an application for a decree of dissolution of marriage or legal separation until sixty days after the date of service of process or the date of acceptance of process." Note that the sixty day period commences upon the completion of service. Under Rule 4(i) of the Rules of Civil Procedure, service may be effected within 120 days of issuance of the summons. It is typically completed within a week or two but may take much longer if the parties have been separated for a long period and are no longer in regular contact. Therefore, the waiting period is necessarily longer than 60 days from the filing of the petition – the time that triggers the Arizona Supreme Court time to disposition standard. The effect of the first part of the standard – to dispose of 90% of domestic relations cases within 3 months – therefore requires the Superior Courts to resolve 90% of all domestic relations cases within a week or two of the first date on which they are allowed by law to hold a hearing on a decree of dissolution of marriage. That is clearly unworkable.

The requirements to dispose of 95% of all cases within 6 months and 98% within 12 months do not encounter the same problem statutory waiting period problem, but nonetheless deserve to be re-examined.

For instance, the introduction notes that 43% of all family cases are uncontested – resolved by default or stipulation. We are not aware of any reason why these cases, with rare exceptions, could not be resolved within six months of filing. An additional 26% of the family filings are dismissed. Local Rule 6.8(g) provides that family cases in which a Motion to Set and Certificate of Readiness have not been filed within six months shall be placed on the inactive calendar created pursuant to Rule 38.1 of the Rules of Civil Procedure; cases remaining on the inactive calendar for two months will be dismissed unless a judge grants a motion to continue the case on the inactive calendar. Consequently, there is no reason why most dismissals do not take place within 8 months. Rule 38.1 allows the Maricopa County presiding judge to shorten the time for placing cases on the inactive calendar to 4 months, enabling dismissals to be completed within 6

months. Following this reasoning, it should be possible for the Maricopa Family Court Department to dispose of 65% to 70% of all cases within six months, without resolving a single contested case on its merits. If half of all merits cases were resolved within 6 months, the court could resolve 80% to 85% of all cases within that time frame. If a third of all merits cases were resolved within 6 months, the court could resolve 75% to 80% of all cases within that period. But it does not appear likely that the court could dispose of the currently required 95% within that time.

On the other hand, the target for disposing of 98% of family cases within 12 months is, in our view, a reachable one. Given the complexity of some divorce actions and high conflict divorces, we believe that a target for disposing of 100% of family cases with 12 months – which is the ABA standard – is not practical. However, we would advocate setting an outside time limit for completion of even the most complicated, conflicted divorce.

Despite the above analysis, we recommend that the Supreme Court review the content of the current domestic relations standards in light of other standards in place throughout the nation as well as input from Arizona judges, administrators, lawyers and citizens. Appendix E contains all of the current state and national time standards for domestic relations cases. Standards are in place for twenty-eight states (including Arizona). The standards follow one of three models.

- The American Bar Association's approach is to lump all types of domestic relations cases together and requiring that certain percentages of them be resolved within certain time periods.

- The Conference of State Court Administrators distinguished contested from uncontested cases, setting different time targets for those two types of cases (three and six months respectively).[17]

- The final model (exemplified by Alaska, Colorado, Michigan, Minnesota, and New Jersey) differentiates family cases by case type – setting different standards for different types of cases (e.g., pre and post decree, divorces with and without children) or identifying particular case types, such as child support enforcement, child custody, paternity, or the setting of initial temporary orders, for more stringent timeliness requirements.

States characterize their standards as voluntary or mandatory. The nature of the standard does not appear to have a consistent relationship to the length of time prescribed – short time standards are as likely to be mandatory as long ones and vice versa.

[17] The Conference of State Court Administrator standards were adopted in 1983 but are no longer advocated by COSCA. They nonetheless provide an important model – one that has been followed in a number of states.

Twenty-three of the states prescribe a standard for disposition of all cases (100%); Arizona is one of only five states that leaves some percentage of cases without a standard disposition time period.

The table below arrays all of the current domestic relations standards, with a few exceptions,[18] by time period. There are no generally applicable standards shorter than three months and only five states have standards for domestic relations matters that extend beyond twelve months. The National Center for State Courts data does not indicate whether these states have a "waiting period" or, if so, its length.[19]

Time Standards Summary

Time period	Case type/category	Jurisdiction	Nature of standard
1 month	100% initial temporary order	Colorado	Voluntary
	100% contempt citations	Colorado	Voluntary
1 ½ months	100% paternity and support	District of Columbia	Mandatory
2 months	100% maintenance, support and custody requiring 2 hours court time or less	Colorado	Voluntary
	100% non-dissolution	New Jersey	Mandatory
3 months	100% general	North Dakota	Mandatory
	100% uncontested	COSCA[20]	Advisory
		Florida	Voluntary
		Texas	Voluntary
		West Virginia	Mandatory
	100% child custody	Michigan	Mandatory
	100% child support enforcement	Idaho	Voluntary
	90% general	ABA	Advisory
	90% general	Arizona	Voluntary
	90% divorce without children	Michigan	Mandatory

[18] Time standards for domestic violence cases have been excluded; they are usually set by statute. Time standards for family case types not included within the Family Court Department (such as abuse and neglect cases) are also excluded. Time standards that begin from the request for a hearing or trial, rather than from the filing of the case, are excluded, except when that approach is clearly appropriate (for example, for requests for initial temporary orders).
[19] After considering the matter, we do not believe that the Arizona "waiting period" distinguishes Arizona in any substantial way from other states for purposes of time standards in family cases. Every state has its own time periods for service of process and filing an answer; they often depend on the location of the defendant (in state/out of state/in foreign country). We are not aware that other states have used these differences in setting their time standards.
[20] 1983 time standards are no longer advocated by COSCA

	90% paternity	Michigan	Mandatory
	75% custody/child support	Alaska	Voluntary
4 months	100% general	Kansas	Voluntary
		Louisiana	Voluntary
	100% uncontested	Iowa	Voluntary
	90% custody/child support	Alaska	Voluntary
	50% general	Missouri	Mandatory
6 months	100% general	Idaho	Voluntary
	100% contested	COSCA[13]	Advisory
		Florida	Voluntary
		Texas	Voluntary
		West Virginia	Mandatory
	100% non-contested divorce	Colorado	Voluntary
	100% uncontested	Mississippi	Voluntary
	100% reopened dissolution	New Jersey	Mandatory
	100% maintenance, support and custody requiring ½ day court time	Colorado	Voluntary
	100% non-divorce family	Wisconsin	Voluntary
	98% general	ABA	Advisory
	98% custody/child support	Alaska	Voluntary
	98% paternity	Michigan	Mandatory
	95% general	Arizona	Voluntary
	90% general	Alabama	Mandatory
	90% support	Minnesota	Mandatory
	80% uncontested	Vermont	Mandatory
8 months	100% contested	Iowa	Voluntary
	90% divorce with children	Michigan	Mandatory
	90% general	Missouri	Mandatory
		Washington	Voluntary
9 months	100% general	Nebraska	Voluntary
		South Carolina	Voluntary
	98% divorce without children	Michigan	Mandatory
	98% support	Minnesota	Mandatory
	90% general	Oregon	Voluntary
	75% divorce	Alaska	Voluntary
10 months	98% general	Washington	Voluntary
	98% divorce with children	Michigan	Mandatory
12 months	100% general	ABA	Advisory
		Oregon	Voluntary
	100% general matrimonial	New York	Mandatory
	100% new dissolution	New Jersey	Mandatory

	100% contested actions	Colorado	Voluntary
		Mississippi	Voluntary
		Rhode Island	Voluntary
	100% divorce with or without children	Michigan	Mandatory
		Wisconsin	Voluntary
	100% paternity	Michigan	Mandatory
	99% general	Arizona	Voluntary
	99% support	Minnesota	Mandatory
	98% general	Alabama	Mandatory
		Missouri	Mandatory
	90% dissolution	Minnesota	Mandatory
	90% divorce	Alaska	Voluntary
	80% contested	Vermont	Mandatory
14 months	100% general	Washington	Voluntary
18 months	100% general	Alabama	Mandatory
		Ohio	Mandatory
	98% dissolution	Minnesota	Mandatory
	98% divorce	Alaska	Voluntary
24 months	99% dissolution	Minnesota	Mandatory

Because we conclude that the current Arizona standards are not workable – at least in part – we recommend that the Supreme Court review the current time standards and the process by which they are to be implemented. We also recommend that the Court invite the Maricopa County Superior Court to propose “interim” time standards that would apply to its family caseload for calendar years 2005 and 2006. We urge the Supreme Court to retain final approval authority for such standards so that it can ensure that these interim standards are sufficiently stringent to guarantee the timeliness sought by litigants, lawyers and the judges and staff of the Maricopa County Family Court Department. The Supreme Court could monitor the Maricopa court’s experience with these interim time standards and use it in setting final family case time standards at the end of its review process.

We recommend to both courts the use of the more highly differentiated time standards used in Alaska, Colorado, Michigan, Minnesota and New Jersey. In fact, we suggest that the Family Court Department consider separate standards for

- defaults and consents,
- dismissals (differentiating cases involving reconciliation),
- highly contested divorces (perhaps with and without children),
- less highly contested divorces (perhaps with and without children),
- child support establishment,

- child support enforcement,
- establishment of initial temporary orders,
- emergency post decree matters, and
- all other post decree matters.

The approach appeals to us because it represents the logical analysis needed to construct any broader time to disposition measures. For instance, how would one determine what proportion of family cases should be resolved within four months, six months, nine months or twelve months? By going through the individual case types one would compile the percentages of cases of each type that can reasonably be expected to be completed within each time frame. If one went through that detailed analysis, why discard that information in constructing the standards ultimately promulgated? Of course, the more detailed the differentiations among case types, the more detailed the court must be in differentiating case types in its case management information system and the more complex its reporting system would become.

An alternative approach would be to assign timeliness expectations for the various "tracks" that we recommend below – e.g., 50% of Track 1 cases (contested pre decree cases obviously incapable of resolution on the day of first appearance) resolved within six months of filing, 75% within nine months, 99% within twelve months, and 100% within 18 months.

Revise current Rule 38.1 of the Rules of Civil Procedure to eliminate the practice of maintaining active and inactive civil calendars

Rule 38.1 of the Rules of Civil Procedure requires a party to file a Motion to Set and Certificate of Readiness. Ten days thereafter, if a Controverting Certificate has not been served, the court will place the case upon "the Active Calendar," where the case remains in its chronological order until it is disposed. Cases in which such a motion is not filed within nine months of commencement of the case are to be placed on "the Inactive Calendar." (A presiding judge can reduce the time period for domestic relations cases from nine months to as few as four months.) Cases on the Inactive Calendar for more than two months shall be dismissed without prejudice for lack of prosecution. The court shall notify the parties that the case has been placed on the Inactive Calendar; no further notice is required prior to dismissal. The court may on motion continue the case on the Inactive Calendar for a specified period of time.

The purpose and effect of this rule are entirely appropriate. Most states have similar mechanisms for purging their calendars of inactive cases. The part of the rule that we – and others – find confusing is the creation of "Active" and "Inactive" calendars as the mechanism for putting a purging process into effect. The court obviously has an

inventory of cases that precedes the assignment of a case to the "Active" or "Inactive" calendar. For most court administrators, that would also be considered a "calendar." So, every Superior Court must maintain three lists of pending civil cases – Active, Inactive, and "other" or "basic."

The maintenance of multiple calendars is difficult for court staff to understand, more difficult for self represented litigants to understand, and difficult for automated systems to accommodate. It also invites the court and its staff to lose track of cases on the less important of its various calendars. For instance, an "Inactive Calendar" is almost by definition worthy of less attention than an "Active" one.

Consequently, we suggest that the Supreme Court redraft Rule 38.1 to eliminate the language concerning "Active" and "Inactive" calendars. The rule can merely state that the court will notify parties in cases in which no Motion to Set has been filed nine months after the case's commencement that the court will dismiss the case for lack of prosecution in 60 days unless the parties take corrective action.

The Supreme Court currently has a Family Court Rules Committee engaged in drafting rules of procedure for family law matters. The Supreme Court might wish to suggest this change to that committee for experimentation in family cases, where self represented litigants abound, before amending the Rules of Civil Procedure themselves.

Provide Judge Campbell with written directions to improve the performance of the Family Court Department

The Chief Justice has on two previous occasions provided explicit direction to Judge Campbell to take action to improve the performance of the courts in Maricopa County. The first directive pertained to the timely disposition of felony criminal cases and led to extensive revision in the organization of the Criminal Department and in the management of criminal cases. Timeliness of felony dispositions improved dramatically. The second directive addressed the oversight of the Justice and City Courts in Maricopa County. It resulted in a reorganization of the structure of court administration for the county and new judicial and administrative leadership for the limited jurisdiction courts.

Having a written directive from the Supreme Court gives the Presiding Judge additional authority with the judges of the court to institute reforms which they would not otherwise embrace as eagerly or as quickly.

We believe that the reforms necessary for the Family Court Department warrant a similar directive.

Recommendations to the Maricopa County Superior Court

The remaining recommendations are addressed to the Maricopa County Superior Court.

We urge the Arizona Supreme Court not to include these specific recommendations in the letter to Judge Campbell that we recommend above. These recommendations are in fact suggestions from outside consultants – consultants knowledgeable about the court but nonetheless outsiders lacking full appreciation of the practical obstacles that may exist to implementation of the following recommendations as they are written. We believe that the leadership of the court, and that of the Family Court Department, are fully committed to serious reforms and should be accorded the flexibility to craft them according to their best judgment.

We preface these specific recommendations with the following statements expressing the overall perspective from which they arise:

- the Family Court Department must adopt a general overall approach to the calendaring and management of family cases so that the citizenry of Maricopa County receives reasonably consistent procedural and substantive justice from the court;

- insistence on a consistent overall judicial approach to calendaring and management of family cases need not trench upon a judge's autonomy in deciding the cases assigned to her or him;

- the overall approach must contain the series of elements defined in the case management analysis reported above, to wit:

    - proactive case management from the commencement of a case
    - a strict continuance policy
    - targeted use of ancillary services
    - no use of return hearings, and
    - oversetting of calendars to reflect the statistically predictable vacation of court settings;

- proactive case management applies to every case filed, whether or not an answer has been filed and whether or not a party comes to the court seeking immediate relief;

- the court should dispense with multiple options for attaining relief and multiple pathways through the family law process; it should concentrate

on creating a "single, simple process" for all matters. While the issues to the resolved and the relief to be accorded will differ, and the complexity of the process will reflect the complexity of the case, nonetheless all cases will follow the same initial steps (which will result in the resolution of most of them and will not harm those that are not resolved);

- while the performance of ancillary services structured as separate units might be improved by imposing upon it an aggressive case monitoring function originating in the judges' chambers, we believe that structure to be fundamentally flawed. So long as the services remain as separate units they will necessarily continue to

    - view the cases they handle from the perspective of their discipline or role rather than from the perspective of the court's overall objectives and

    - maintain their own queues of pending matters, which, while they may be shortened by more disciplined use of their services, will never disappear; and

  On the other hand, staff will perform more effectively in a team environment, answering directly to a small group of judges, and working together to address all of the needs of the litigants in the cases that appear in court on any particular day;

- a major focus of the Department should be on the resolution of most of the family cases on the first day the litigants appear in the courthouse. The possibility of resolving their case without needing to return to court has proven, in Maricopa County and elsewhere, to be a powerful incentive for settlement of contested issues; and

- the Family Court Department should not retreat from its commitment to the use of non-adversarial dispute resolution mechanisms for addressing family law matters. Rather it should use them more discriminately and should combine the commitment to non-adversarial dispute resolution with an equally strong commitment to timely resolution of family court cases.

With these overall principles in mind, we offer the following suggestions to the court.

Pre decree cases

Adopt a new, comprehensive early intervention strategy

The overall vision of the recommended pre decree case process includes these characteristics:

- court assumption of control over the pace of the case from the date of filing of the petition

- maximum coordinated effort of judges and staff to resolve as many cases as possible on the day of the first appearance of the party or parties in court

- evaluation by the staff of each case before it is referred to the court

- use of the opportunity to resolve the case today as an incentive for the parties to resolve issues in dispute, leading to the completion of all simple and most moderately complex cases on the day of the initial court appearance

- active assistance by court staff of parties in resolving issues in dispute and in preparing or revising necessary paperwork

- the purposeful planning of the progress of complicated and highly contested cases

This vision is informed by the Northwest pilot project, both of the Southeast pilot projects, and the case management process used in Prince Georges County, Maryland. In Prince Georges County, court staff and judges work in the team fashion proposed here. The parties – whether or not they are represented by counsel – begin with a conference with a staff person, resolve whatever can be resolved, and proceed to a hearing before a master (the equivalent of a commissioner in Arizona). The possibility of being able to resolve the case without the need for further visits to court serves as a powerful incentive to settle outstanding issues. The Northwest pilot project has had the same experience, where the attorney case manager plays the staff role.

The proposed process differs from the Northwest pilot project by addressing every case after the 60 day waiting period has run, whether or not an answer has been filed and whether or not a party seeks judicial action. The process will bring the parties in default and stipulated cases into the court – with instructions concerning exactly what to bring with them – so that they are resolved promptly by the same process used for contested cases. We recommend dispensing with the Rule 55 (b)(1)(ii) process in furtherance of the "single, simple process" approach.

This process will require teamwork among groups of judges and associated staff, as explained further below.

Specifically, the early intervention process could proceed as follows:

1. For pre decree cases, enter a standard order setting the date of the initial case conference, requiring parties to

- meet and confer
- discuss temporary arrangements
- exchange written proposals for property division
- if they have children
  - attend a parenting education program
  - discuss their parenting plan and prepare a draft plan or plans noting unresolved issues
  - assemble the data required for calculating child support

Invite the parties to visit the Self Help Center for help in complying with the terms of this order.

2. Hold the initial case conference soon after the 75th day following the filing of the petition. This will accommodate the 60 day rule in most instances and identify cases in which service has not been accomplished. While the court cannot, under ARS § 25-329, hold a hearing in such a case, court staff can work with the petitioner to explore alternative methods of service.

- the parties will initially meet with a staff member who will review the materials they have brought, assess the issues, prepare a very brief "on line" form identifying the issues, and determine the course of the case will take that day:

  <u>Track 1</u>[21] – the case is too complex or conflicted for resolution today. The case is referred directly to the judge assigned to the case for an initial case conference in which the judge will

  - make her or his assessment of the case,

[21] We recognize that by using the term "track" we are using the language of differentiated case management, a process deemed fundamentally flawed by many Maricopa County family judges based on the court's earlier experience with its DCM program. However, those judges are mistaken in their view that DCM is fundamentally flawed. Differentiated case management is used with great success in many family courts and departments. Greacen Associates has recently observed it in practice in the courts of Maryland. It merely means that the court will treat different cases differently and will use a convenient shorthand – a track number – to refer to those different processes.

- attempt to settle or limit the issues in dispute,

- decide on the suitability of a referral for services,

- enter temporary orders, and

- schedule the next event before the judge and additional future events in the case if appropriate.[22]

Referrals are made to a member of the judge/staff team, to be scheduled before leaving the courthouse. The time of staff members is divided among service to persons coming into court for the initial case conference and those returning for referral appointments.

Track 2 – the case is capable of resolution today. The staff person either begins to provide the services needed to effect that resolution or refers the case to another staff member with specialized skills in the issues in dispute.[23] For instance, a former Conciliation Services staff member would be most appropriate for a conflicted custody issue. A former Expedited Services staff member would be appropriate for a child support calculation. (As an aside, we observe that the custody and child support issues are so often intertwined – in that the parties fence about custody in order to improve their positions with respect to child support – that it may prove beneficial to conduct both custody mediation and child support calculations simultaneously, with the child support calculations being done to provide practical "what if" projections.)

As each issue is resolved, it is entered into the E-decree form, building toward a decree that the judge can review and adopt. It may prove worthwhile for the parties to see more than one staff person to take advantage of multiple skills. When all issues are resolved, the matter is taken before a duty judge or commissioner for entry of the decree; in this instance, whether the case comes before the judge to whom the case was originally assigned is not material since all issues have been resolved.

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[22] Greacen Associates encountered an interesting process in Montgomery County, Maryland. The court bifurcates all highly contested divorce cases, refusing to consider any issues relating to property division until custody has been resolved. The judges perceived that some parents, particularly men, were using the threat of a custody fight to extort unfair property settlement concessions from the other party. The bifurcation, they believe, has ended this problem and the additional time required for complete resolution of the case is offset by the increased fairness of the process.

[23] This is the process envisioned in the Southeast pilot project II.

If all issues do not resolve, the case converts to Track 1, a staff member takes the parties before the assigned judge and reports orally on the status of the case, and the judge proceeds as in a Track 1 case.

Track 3 – the case is uncontested and will be resolved today. In this case, the only issue is the completeness of the paperwork required for entry of a default or stipulated decree. If the paperwork is in order, the case is referred to the duty judge or commissioner, who reviews the case and enters a decree if appropriate or refers the case back to staff for further work. If the paperwork is not in order, the staff work with the parties to remedy defects, including instructing a party to return home to find and bring back to court documents necessary for resolution of the case that day.

Include default and stipulated cases and requests for deferral or waiver of fees within the initial case conference process

There is no reason not to include default and stipulated cases in this process. The court currently devotes the time of its staff to processing them; the same or less time will be consumed by treating them in the course of the initial case conference approach.

The court may wish to retain the "default on demand" process as well if a party wants to advance the date of a decree by a few weeks. Consistent with the "single, simple process" approach we champion, we would recommend against doing so however. The maintenance of alternative processes requires duplicate staffing and additional communications to the parties concerning available alternatives and should be avoided whenever possible.

The process we propose accomplishes all of the objectives of the "default on demand" approach in the sense that it is early in the process and serves to facilitate the immediate granting of a decree whenever possible.

Likewise the same triage and staff review process can be applied to all other case types. The team may choose to direct these cases primarily to the commissioner, with the duty judge handling overflows. The handling of ex parte domestic violence order of protection petitions needs to be thought through carefully. It might be appropriate for the Domestic Violence Prevention Center to refer all such cases to the team to which they are already assigned, where they would be handled by the commissioner. It might not be necessary for these cases to go through an additional staff screening process before being presented to the commissioner.

Provide a consistent process across all teams for Title IV D cases

As explained later, it will be necessary to provide the Attorney General's office with a consistent process for handling all Title IV D cases, even though they are assigned to different teams. Some of these cases – such as establishment of paternity – are properly classified as pre decree cases.

Post decree cases

Institute a significantly increased filing fee

We have obtained an overall impression from our interviews that a large proportion of post decree cases can be characterized as unnecessary actions by one or both of the parties to re-involve the court in matters that the parties should be able to resolve by themselves.

This is, of course, not universally the case. Relocation cases, domestic violence, and dramatic changes in the circumstances of a parent (such as substance abuse, accident or illness, or loss of employment) may present circumstances beyond the ability of reasonable people to resolve. And child support enforcement remains a core responsibility of the court.

However, if the characterization is apt, it would be appropriate for the court to create a substantial filing fee for post decree matters with exceptions, such as child support enforcement and orders of protection. Assigning a monetary cost to repeated access to the court could serve as an added incentive for the parties to resolve more matters without resorting to the court.

It might also be appropriate for the court to give higher priority to pre decree cases – in which the parties have not yet had a complete serving of the court's repast – than to post decree matters – where the parties are returning to the table for a second or third helping.

Use the initial case conference process

The initial case conference process described for pre decree cases could work with equally positive results for post decree cases. Child support and custody modification requests, in circumstances that do not involve high conflict, can be resolved in the course of a court day.

For ease of management, the court might designate additional tracks for these cases:

Track 4 – high conflict post decree cases. These cases would be referred directly to the judge assigned to the case (with the hope that in some instances this judge would have prior familiarity with the parties and the case). The judge would proceed as with Track 1 cases.

We urge the Family Court Department to pay particular attention to these high conflict post decree cases. We observe, from discussions in Phoenix and in other courts in the course of the past year, that courts everywhere are struggling with these cases. They are small in number, but they consume a grossly disproportionate amount of the court's time and resources. They bedevil the judges who must hear and dispose of the issues raised, but, perhaps more significantly, they plague the court and chambers staff, who receive the same disproportionate mail and telephone attention from these judicial "frequent fliers."

Some courts are assigning these cases to private attorneys or mental health professionals with appointments as special masters to hear and make binding decisions on these matters. Section 25-101 of the Arizona Revised Statutes and Maricopa County Superior Court Local Rule 6.12 provide for the appointment of "Family Court Advisors" for this purpose. Unfortunately, these experts often find the cases and the individuals involved to be unbearable and resign the positions.

The Family Court Department might deem this issue worthy of the attention of a special committee of judges and practitioners. By monitoring a group of these high conflict post decree cases, the committee might be able to discern some lessons that could inform the Department's practices for the future.

Track 5 – post decree cases that can be resolved today. These cases are treated similarly to Track 2 cases.

Track 6 – child support enforcement cases, which can be handled today but are unique in the involvement of the Attorney General's office in a larger proportion of them.

Track 7 – the current noncompliance calendar process for chronic nonpayers.

Track 8 – true emergencies, which may be referred to a duty judge for immediate action, but necessarily will be set for hearing on very short 5 or 10 day notice.

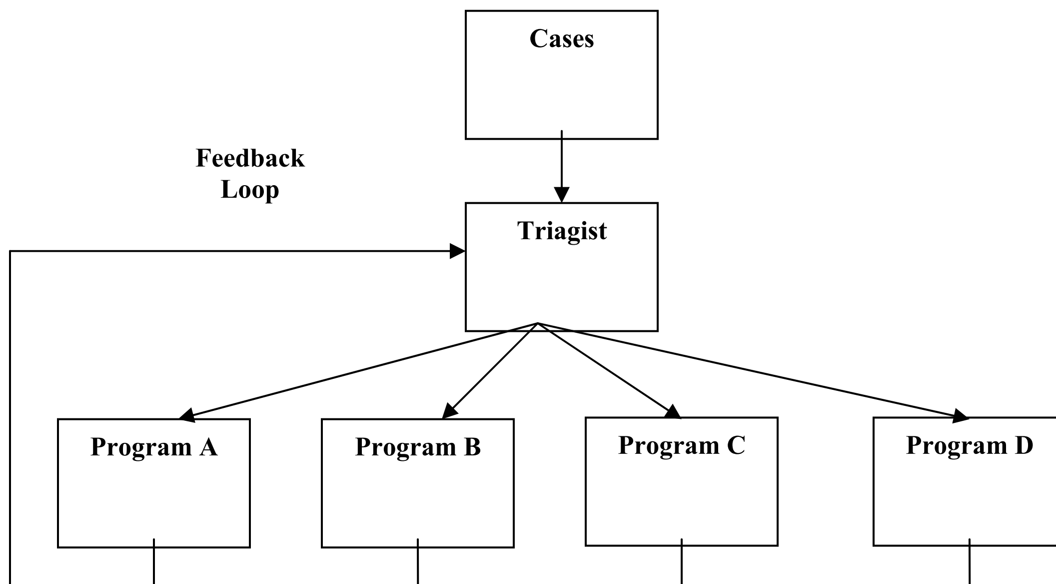
Consider assigning post decree cases to calendars different from pre decree calendars

In line with the earlier comment about the possibility of assigning higher priority to pre decree cases, the court might wish to limit its calendars for post decree matters to a specified number of days or half days per week (for instance, two days), or in some other way ensure structurally that more resources are being devoted to original divorce decrees than to modifications and other post decree disputes.

Improve the Department's use of ancillary services by targeting referrals

"Triage" is a medical term used in army hospitals, emergency rooms, and disaster response situations. It is the sorting process – usually done by highly trained nurses – that separates the hopeless cases (to be ignored), from the less critical cases (to be placed in a waiting queue), from the critical cases (where immediate doctor attention may save a life). Applied to the court setting, the "triage" principle applies to referrals to specialized staff services. (Note that our recommendations would have those services provided by members of the judge/staff team, not by a separate ancillary services department.)

The following is a diagram of an effective court triage, or services referral, process:



The critical success factors for effective court triage are:

- the use of clear, objectively observable criteria for referral for services and for referral to a particular service,

- making judicial decisions on critical issues that will increase the likelihood of success of the staff service,

- an effective feedback loop between the service providers and the person making the referral to identify the cases that were successful and unsuccessful, and

- refinement of the referral criteria and critical judicial decisions through effective and ongoing communication among the triagists and the service providers.

For the Family Court Department to improve its use of staff services will require the sort of Department wide discipline shown by the Northwest judges in deciding whether referral is worth the attendant delay in a particular case, what judicial decisions are necessary for the staff service to succeed, the timing of the referral, setting a short deadline for completion of the process, and candid discussions among the judges and staff about which cases should and should not be referred. We encourage the judges to obtain the staff's initial assessment of the value of a referral before making the final referral decision. The staff assessment would be made during the initial case conference on the first day the party or parties appeared in the courthouse.

We believe that all judges should become comfortable with the use of the child support calculator and be able to use it during court hearings and chambers conferences. However, this should not preclude staff from performing the calculations for the judge in advance of a hearing or conference. Having a "trail balance" for the judge and the parties will expedite the resolution of any outstanding issues at the hearing or conference.

Practice good case management for all cases not resolved on the first court appearance

These practices include:

- a very strict no continuance policy – matters take place when they are scheduled and the lawyers and the parties can rely upon it

- monitoring by each chambers (or judge/staff team as described below) of the progress of all cases assigned according to their age and the time since the last court appearance or action

- proactive case management in the sense of following up with parties or attorneys in cases that are languishing

- oversetting calendars to ensure that a full calendar of matters is heard each day

Organize judicial and staff teams to facilitate effective calendaring and case management

The court has used judicial teams with great effectiveness in the management of criminal cases. The Family Court Department is already divided into teams for some purposes, such as the supervision of attorney case managers. In our opinion, close cooperation among judges, as exemplified by the "buddy system" now in place between two judges, will produce better results and provide each judge with fall back resources that will make the oversetting of calendars less risky.

Our vision is of a broader team concept – of a group of judicial officers working in tandem with a multi-skilled group of court staff drawn from the current ancillary services units. The ancillary services units would cease to exist.[24] Their members would be assigned to the different judge teams.

1. Create teams of roughly four judges, one commissioner, and a staff component including former DCM/ACM case managers, Conciliation Services, Expedited Services, and Court Administration staff. ADR would remain a distinct unit because it provides settlement facilitation to a broader range of cases than family law.

To the extent possible, co-locate the courtrooms, chambers and staff offices of the team. If full co-location is not possible, ensure that staff are co-located.

Assign a judge as lead judge for the team. This judge should be chosen for leadership skills. S/he should have a deep appreciation of case management principles.

Assign a staff person to serve as assistant family court administrator to lead the staff of each team. This person would be responsible for working with the judges and staff to develop standard procedures, to ensure that the roles and responsibilities of all team members are clear, and to design and implement a process for reassigning cases when all of the cases on one judge's overset calendar actually need to be heard.

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[24] It is possible that a residual staff coordinator could be retained to facilitate training and skills enhancement for staff from a particular discipline, such as counselors, attorneys and social workers. These coordinators might play a continuing role in staff evaluations, ensuring a place for the reinforcement of professional identities and values.

2. Establish four teams downtown, two teams in Southeast, and one team in Northwest. The Northwest team is already in full operation.

3. Maintain individual calendars but significantly overset them (initially by 25% but increase the overset over time as experience dictates). This recommendation is not that the Family Court Department convert to a master calendar system. The interest in having a judge follow a case from beginning to end is significant. We merely suggest that the judges work cooperatively together to take on responsibilities for the team as a whole, such as serving as duty judge one day a week and in taking on overset cases when needed to help out a colleague.

4. Develop a Department wide process for dealing with judicial disqualifications. The court will need to create a process by which a party can exercise the right to disqualify one judge in the course of a case. This will create complications, but they should not be severe, for these reasons: If the process is clear and efficient, a party or lawyer will not be able to obtain a continuance through the exercise of his right to challenge a judge. If the authority to reassign cases is delegated from the Family Court Presiding Judge to the lead judge for each team, or even to the assistant family court administrator, the team can assign the case immediately to another team member. Further, self represented litigants are not as cognizant of the right to disqualify a judge, nor have they developed biases against particular judges.

5. Build calendars for judicial and non judicial staff around the initial case conferences. It may be possible for judges to schedule longer hearings and trials in the mornings while staff are "working up" cases for initial case conferences in the afternoon. Conversely, staff appointments for more lengthy referrals could be held in the afternoons, after they have completed their work on initial case conferences in the morning.

6. Presume that commissioners will continue to handle domestic violence ex parte orders and Title IV-D child support cases. However, each team should have the freedom to reassign commissioners to duties as proves most conducive to the work of the team as a whole.

Expand the amount of one-on-one service provided to self represented litigants in the Self Service Center, in the new judge/staff teams, and in the Department as a whole

The staff of the Self Service Center will need to be increased to provide more one-on-one assistance to litigants preparing for their initial case conference. Staff from the Department teams might be deputed to serve for part of a day each week in the Self Service Center. This would be a means for further breaking down the divisions that currently exist among staff units.

The Self Service Center might also experiment with providing this service by telephone. The Family Law Self Help Center for Alaska provides its services exclusively by telephone and internet. It receives very high ratings from users, judges and lawyers.

Much more one-on-one service will also be provided by the staff in the judge/staff teams as they provide parties with the papers they need to resolve their case on the day of their first appearance.

Develop an implementation plan for transition to the new process

We recommend that the court experiment with these recommendations with a single judge/commissioner/staff team. It would be useful to assign judges with the most current calendars to the experiment so as to have the most flexibility in conducting the experiment without disrupting current calendar settings. For this reason it may be necessary to postpone implementation of even an experimental team for a number of months. However, those months could well be used in thinking through the details of how the team would function.

General implementation would have to be planned for a time sufficiently in the future so that judges can block their calendars in advance for initial case management conferences and duty judge assignments.

Create a governance structure for the Department

To develop a consensus process for the handling of family law matters, it will be necessary for the Family Court Department to develop a more sophisticated governance structure than it now uses. The Department's judges hold a monthly bench meeting during lunch. The meeting is attended by key staff as well. A number of the judges from Southeast and Northwest participate by videoconference. However, attendance is far from universal. The Department does have a number of committees. A Calendar Improvement Committee has been meeting for over a year. We have already mentioned the work of the "Default on Demand" Committee.

We recommend that a more formal governance structure be formed. Without one, it is altogether possible that the judge/staff teams we propose could become as disconnected as the current ancillary services and chambers are today.

Create a management committee

We suggest that the new Presiding Judge of the Department create a management committee of a small group of judges to design a consistent procedure for all the judges of the Family Court Department. We suggest that it include the Presiding Judge, the Department's Court Administrator, and the lead judges and assistant family court administrators for each judge/staff team. The group would formulate and refine a standard case management process and the monitor its progress. Its members would meet with the other judges of their teams to insure immediate communication and feedback. The monthly bench meetings might continue as an opportunity for all of the judges to be able to express their views directly and not through their representative on the management committee.

Create a policy committee

As noted above, one of the major complaints of the lawyers is the inconsistency in legal rulings from judge to judge. While there is no possibility, or desirability, of eliminating variation in rulings from judge to judge, there are some areas in which the Department might helpfully develop common approaches. For instance, the purpose of the child support guidelines is uniform treatment of like cases. Ensuring that the judges follow common interpretations of those guidelines is necessary to accomplish that purpose. We encountered quite different views, for instance, concerning attribution of income under Section 4e of the Arizona Child Support Guidelines (the appendix following ARS § 25-230).

Policy positions of the Department could not bind individual judges. But, based on our interviews, we believe that a large majority of the judges would voluntarily follow sensible consensus approaches to common situations.

While it is not clear how successful a committee could be in articulating common policy approaches, we suggest that the Department experiment with the concept. A committee might include the Presiding Judge and Department Court Administrator, a small group of respected judges, a commissioner, and an attorney case manager who could serve as the group's scribe.

Provide case management training for all newly appointed Family Court Department judges

The Department's substantive training program for newly appointed judges is widely praised by the judges and staff. We suggest that it be expanded to include the basic principles of case management and in depth introduction to the Department wide case management process.

Take action to lessen the impact of the judicial rotation system

It is clear that the judicial rotation policy of the court has a major, negative impact on the processing of family cases at the present time. It is equally clear that the problem is exacerbated by the expectation that every judge will devise his or her own approach to calendaring and case management. When a new judge rotated into the Northwest court recently, she adopted the Northwest pilot project model and her rotation into the position seems to have had less impact. Ideally, if there is a well functioning standard system, and if that system calls for judge/staff teams with significant interaction on a daily basis, judge and staff members can rotate in and out of the teams with less impact on the system than at present.

The court's leadership should look to see how well the team concept works under the recommendations given here. The more successfully the team concept is implemented, the less negative impact the current two year judicial rotation will have. If the Supreme Court is successful in recruiting competent family law practitioners to sit on the family bench, this will also lessen the impact of judicial rotation (because these judges presumably will not rotate).

An additional issue with the current process of assigning newly appointed judges to the Family Court Department is the disappearance of senior, experienced judges in the assignment to provide guidance for the junior judges. There are very few senior judges in the Department today; as they end their current rotations the Department will suffer from a lack of experience and leadership if they are replaced with additional newly appointed judges. The court's leadership needs to pay close attention to this problem.

If the court does not successfully address the impact of judicial rotation in other ways, the court leadership should extend the rotation period to at least three years. A two year rotation is simply not sufficient for a new judge to learn the current system and thereafter provide a sufficient period of proficient service prior to moving on to a different assignment.

Provide case management training/coaching for inefficient case managers

We encountered some judges who clearly understand and practice sound case management principles. We also observed that some of the judges are quite unaware of them. When we interviewed judicial assistants, we observed that in some chambers the phones ring constantly with lawyers and litigants inquiring about their cases. In others the phones did not ring during the entire interview. The latter chambers are well

managed; the cases are tended; the parties know where they stand and what to expect; they do not need to call to find out. The former chambers exhibit the classic symptoms of poor management – many customer complaints that make it hard to focus attention on solving the underlying problems. We encountered one judicial assistant who did not understand how to read the court's monthly statistical reports – perceiving that her judge was performing at the top of the Department when the data indicated the opposite.

The Department needs to provide hands on coaching for the judges and staff who are failing as case managers. It is unlikely that a course in case management would make sufficient difference, because the failing judges are not likely to be able to apply the principles to their own situations. What is needed is almost a mentor – mentee relationship with a strong case manager. The Department Court Administrator may be able to help as well. It will be important that this assistance is provided in a private way so as not to embarrass the judges needing and receiving this help.

Improve timeliness of imaging and entry of documents into case files

The universal reporting of long delays in the appearance of images of docketed filings in On Base and the incompleteness of paper case files, convince us that the Clerk of Court faces major challenges in attaining and maintaining currency in these activities for the Family Court Department. The Clerk reports that, since this study was conducted, his office has implemented an expedited indexing process to address this problem.

To the extent that the transfer of Expedited Services frees up his time and the time of his senior managers to devote to improving the performance of their core functions, it may prove to have been a very wise management action on his part.

However, his office will continue to be overburdened until the court and the Clerk of Court agree to dispense with the maintenance of paper case files.

As soon as possible, eliminate the maintenance of paper case files by the Clerk of Court in family cases filed since 2002

The objectives of an electronic documents process such as the On Base system implemented by the Clerk of Court are several – immediate access to documents for judges, court staff and lawyers; reduced time for resolution of cases; greater security for court records; and reduced costs for litigants and the court. However, the latter objective can only be achieved for the court when the judges agree to use the electronic case records exclusively – dispensing with the maintenance of traditional paper case files.

The Family Court Department and the Clerk of Court should begin discussing immediately how the Department can begin dispensing altogether with the paper case files in cases initiated since 2002. We have already noted that the iCIS system contains more information than the case file. Combined with On Base, the two systems provide access to all documents in cases filed since the On Base system was implemented. Judges who want paper copies of filed documents for use on the bench or in chambers can print them from On Base (or have their staff print them).

If the court would agree that the Clerk of Court no longer had to maintain paper files in post 2002 cases, he could devote a good deal of the resources currently going into maintaining the paper files (and pulling them at the request of a judge, delivering them to chambers, retrieving them, and reshelving them) to improving the coverage of the imaging process.

The only paper case files that would be required would be the pre-2002 cases, which have not been imaged. With the burden of maintaining post-2002 paper case files lifted from the Clerk's staff, the Clerk could assign staff to the imaging of pre-2002 cases, on an as needed basis. Soon the Family Court Department would have all active cases in electronic form.

The Family Court Department could lead the way within the court in dispensing with paper case files.

Reassess the role of attorney case managers

The current state of the attorney case manager program can best be described as a good idea whose time has not yet arrived. The Department has a general idea that it would be beneficial to have more staff lawyers available to assist the judges. But that general idea has not yet been translated into a clear role. That could be one of the early challenges of the proposed Management Committee.

The current attorney case managers are very junior lawyers, most of whom have not yet passed the bar. There appears to be relatively high turnover in the position. We recommend that the court look instead for more seasoned family law practitioners to fill these positions (at somewhat higher compensation). In our experience, there are many lawyers who have become disillusioned with the practice of law and are looking for a different way to put their legal training to use for the betterment of their communities.

If the court were to actively recruit lawyers who expressed an interest in a career in court administration, or possibly a future position as a judicial officer, it could attract

persons who could make a greater contribution immediately and who would be willing to continue that contribution over a long period of time.[25]

Resolve the case management concerns of the Attorney General's Child Support Enforcement Division

The Department should make the resolution of case management concerns with the Attorney General's office a priority. Not only should the court look at the stated desire of the Attorney General's office to use only commissioners to handle their cases, but look to reducing the delays associated with child support hearings of all kinds.

If the Department implements the judge/staff team concept that we recommend, it will need to find a way to maintain consistency in the way in which the teams handle Title IV D cases.

Improve the use of the iCIS system

All of our recommendations for improvements in the automation programs supporting the Family Court Department relate not to iCIS but to the way in which it is used. The system itself is impressive. When combined with the Clerk of Court's On Base process, the court is in a position to have world class automation support. However, the court itself must devote the effort required to improve the way in which the iCIS system is used before it can begin to derive all of the potential of the system. The Maricopa County Family Court Department's situation is not unique; in fact it is the common experience. Every court has to go through a maturation process in its use of automation.

Identify post-decree cases

The highest priority has to be to put in place a standard, consistent process for differentiating pre and post decree cases.

Eliminate active and inactive calendars

We have recommended to the Supreme Court that it amend Rule 38.1 of the Rules of Civil Procedure to eliminate the "active" and "inactive" calendars required by it.

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[25] We are mindful of a very bright bankruptcy attorney who chose to become the law clerk to a newly appointed bankruptcy judge in New Mexico. He is supremely happy in the new role, and the judge is blessed with a knowledgeable, capable legal assistant.

Standardize the use of data entry codes and make refined case management a priority for the court as a whole

Our descriptions of the problems with the iCIS reports generated for our use in this study point to the need for the court to begin to exercise discipline in the way in which data is entered into the iCIS system. Just as the court can no longer afford to maintain 25 different calendar and case management processes, so too it can no longer tolerate hundreds of different ways to enter data into iCIS (including the practices of various staff in the judge's chambers, Trial Court Administration and the office of the Clerk of Court).

The Administrative Office of the Courts has underway a project using an outside consultant and an advisory committee of court administrators and Clerk of Court staff to develop a standardized coding structure to address this same issue on a statewide basis – creating code sets that will be used in all Superior Courts so that the state will have consistent data in areas deemed of critical importance. The Maricopa County Superior Court could mirror that process on the local level. The statewide codes will not be comprehensive enough to address all of the court's case management reporting needs; but the court could use the examples of that process to extend it further for the court's own purposes.

It is important for the court to have reports that are useful as management tools. The court has been talking about making these reports a reality for quite some time. The court should support Court Technology Services by making this effort a high priority. It should also be prepared to devote ongoing resources to maintenance of a "clean" database. The need for data auditing and correction is, like the need to wash the dishes, an unending one.

Appendices

A. Survey questionnaire

B. Average scores on all questions for judges, commissioners, Conciliation Services officers, Expedited Services conference officers, DCM/ACM case managers, and ADR judge pro tems

C. Summary data from Attorney General survey

D. "May I Help You," California Judicial Council

E. Time Standards Governing Domestic Relations Cases

Confidential Survey
Maricopa County Superior Court Family Department

At the request of the Arizona Supreme Court, Greacen Associates, LLC is gathering information on the family court and its programs. Your feedback will help us to better understand the services provided to the public and to make recommendations for improvement. **The information you provide is completely confidential; it will be provided only to Greacen Associates. It will not be available to any court official or staff member; therefore, the information you provide cannot be used in deciding your case.** Because this survey form does not include your name or case number it will be impossible for the information you provide to be related to you personally.

When you have completed the survey, please place it in the envelope provided, seal the envelope, and deposit the envelope in the Greacen Associates, LLC box by the door. Thank you.

Please fill in the bubble next to the statement that best describes you so that the court can make sure that it is serving everyone.

*If you are a lawyer representing a litigant, you **do not** need to complete this page of the survey.*

Sex

O Male
O Female

Age

O under 18
O 18-24
O 25-34
O 35-44
O 45-54
O 55-64
O 65 and over

How many children under 19 live in your household?

O 0
O 1
O 2
O 3
O 4
O 5 or more

Total monthly household income (this includes all income sources including child support) before taxes:

O $500 or less
O $501 to $1,000
O $1,001 to $1,500
O $1,501 to $2,000
O $2,001 to $2,500
O $2,501 to $3,000
O $3,001 to $3,500
O $3,501 to $4,000
O $4,001 to $5,000
O $5,001 to $6,000
O $6,001 to $7,000
O $7,001 to $8,000
O above $8,001

Highest level of schooling completed

O 4th grade or below
O 5th to 8th grade
O 9th to 11th grade
O High school /GED
O Some college
O Associates degree
O Bachelors degree
O Graduate degree

Race. Check all that apply to you

O White
O Black/African American
O American Indian or Alaska Native
O Asian Indian
O Chinese
O Filipino
O Japanese
O Korean
O Vietnamese
O Native Hawaiian
O Guamanian or Chamorro
O Samoan
O Other Pacific Islands _______
O Other Asian _______
O Some other race

Are you Spanish/Hispanic/Latino?

O No
O Yes - Mexican, Mexican American, Chicano
O Yes – Puerto Rican
O Yes – Cuban
O Yes – Other Spanish/Hispanic/ Latino

____

Primary language other than English

____

Which aspect of the entire court process has been the most *helpful* to you overall?

Which aspect of the entire court process has been the most *frustrating* to you overall?

Please fill in the bubble under the statement that best describes you or your experience.

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Don't Know
A judge has been biased or unfair towards one party in my case.	O	O	O	O	O	O
Another court official has been biased or unfair towards one party in my case.	O	O	O	O	O	O
My case has taken too long.	O	O	O	O	O	O
My case has been delayed getting from one step in the process to another.	O	O	O	O	O	O
There are too many steps in the process.	O	O	O	O	O	O
Each step in the process resolves too little of my problem.	O	O	O	O	O	O
I understand the court process and how it works.	O	O	O	O	O	O
I understand what each step in the process is intended to do.	O	O	O	O	O	O
I always get an answer when I ask a question.	O	O	O	O	O	O
I get different answers to the same question from different court employees.	O	O	O	O	O	O
I know exactly what will be required of me next.	O	O	O	O	O	O
I know where to get help with what I need to do next.	O	O	O	O	O	O
I want a judge to decide everything about my case.	O	O	O	O	O	O
I want the same judge to decide everything about my case.	O	O	O	O	O	O

In Today's Proceeding

My role has been:

- O Litigant representing myself
- O Litigant represented by a lawyer
- O Lawyer

The Presiding Officer was a:

- O Judge
- O Commissioner
- O Case manager
- O Conciliation Service mediator/ evaluator
- O Expedited Service conference officer
- O Alternative Dispute Resolution mediator
- O Don't know

	Extremely 5	4	3	2	Not at all 1	Don't know
How satisfied were you with your court experience today?	O	O	O	O	O	O
Did the Presiding Officer treat you with respect?	O	O	O	O	O	O
Did the Presiding Officer's staff treat you with respect?	O	O	O	O	O	O
Did the Presiding Officer care about your case?	O	O	O	O	O	O
Did the Presiding Officer treat everyone in the same way?	O	O	O	O	O	O
Did the Presiding Officer treat you fairly?	O	O	O	O	O	O
Did you receive timely notice of today's proceeding?	O	O	O	O	O	O
Did today's proceeding go as you expected it would?	O	O	O	O	O	O
Was the outcome of the case favorable to you?	O	O	O	O	O	O
Did you feel you were able to tell the Presiding Officer everything you thought he/she should know in order to make a decision?	O	O	O	O	O	O
Did you understand the words used by the Presiding Officer today?	O	O	O	O	O	O
Did the Presiding Officer have the knowledge and skills needed to resolve your case?	O	O	O	O	O	O
Do you feel your case is closer to being resolved than when you came to court today?	O	O	O	O	O	O

Average Satisfaction Scores by Category of Presiding Officer

	Total	Judge	Comm	CS	ES	ACM/DCM	ADR
Did the presiding officer treat you with respect	4.5300	4.4700	4.6300	4.5200	4.4500	4.6800	4.7143
Did the presiding officer care about your case	4.2700	4.2200	4.4100	4.2600	4.0500	4.4100	4.6613
Did the presiding officer treat everyone in the same way	4.3600	4.3000	4.4900	4.3200	4.2300	4.5200	4.6129
Did the presiding officer treat you fairly	4.3400	4.2700	4.4900	4.2500	4.2400	4.4700	4.5079
How satisfied were you with your court experience today	3.8800	3.8000	4.1700	3.6300	3.5800	3.9700	4.0328
Did the presiding officer's staff treat you with respect	4.5200	4.5000	4.6200	4.4000	4.3900	4.4700	4.7333
Did you recieve timely notice of today's proceeding	4.3400	4.3000	4.4300	4.3900	4.1400	4.5000	4.5645
Did today's proceeding go as you expected it would	3.8400	3.6900	4.1900	3.6600	3.6000	3.9500	3.6032
Did you feel you were able to tell the Presiding Officer everything you thought he/she should know in order to make a decision	3.9400	3.7300	4.2900	3.7800	3.8700	4.0700	4.0469
Did you understand the words used by the Presiding Officer today	4.3800	4.3000	4.5300	4.3600	4.2900	4.4000	4.5000
Did the Presiding Officer have the knowledge and skills needed to resolve your case	4.3300	4.2600	4.5300	4.1800	4.1200	4.3900	4.4127
Do you feel your case is closer to being resolved than when you came to court today	3.9300	3.8700	4.2800	3.4400	3.6000	3.9700	3.8571
A judge has been biased or unfair towards one party in my case	3.8700	3.8700	4.1300	3.4900	3.3900	3.7800	4.0833
Another court official has been biased or unfair towards one party in my case	3.9700	3.9900	4.2000	3.6500	3.5900	4.0200	3.9828
My case has taken too long	3.2000	3.1600	3.5500	2.7200	2.8300	3.2800	3.0690
My case has been delayed getting from one step in the process to another	3.3500	3.2800	3.6700	3.0300	3.0400	3.5200	3.2182
There are too many steps in the process	3.0700	3.0300	3.3900	2.6800	2.6900	3.0400	2.9344
Each step in the process resolves too little of my problem	3.1500	3.0400	3.5000	2.9000	2.8400	3.3300	3.0847
I understand the court process and how it works	3.6700	3.7400	3.6700	3.4500	3.5800	3.3100	3.9180
I understand what each step in the process is intended to do	3.7100	3.7500	3.7500	3.4700	3.6300	3.5600	3.8361
I always get an answer when I ask a question	3.5600	3.5500	3.6800	3.3000	3.4000	3.7700	3.5968
I get different answers to the same question from different court employees	3.2600	3.2100	3.4500	3.1500	2.9700	3.6400	3.2203
I know exactly what will be required of me next	3.5500	3.5900	3.6300	3.2400	3.3700	3.7100	3.6935
I know where to get help with what I need to do next	3.5700	3.6000	3.6500	3.3100	3.3600	3.6800	3.7213
Was the outcome of the case favorable to you	3.7200	3.5000	4.2700	3.3700	3.3400	3.6500	3.4500
Composite fairness rating	4.3737	4.3107	4.5027	4.3339	4.2480	4.5130	4.6068
Composite satisfaction with today's proceeding	4.2163	4.1376	4.4145	4.0970	4.0502	4.3088	4.3504
Composite satisfaction with overall court process	3.4846	3.4785	3.6850	3.1967	3.2131	3.5203	3.5170

Expedited Services vs. Commissioner Comparison

For a one month period of time (May 10 - June 4, 2004), the Arizona Attorney General's office conducted a survey prepared by Greacen Associates to study all cases in which the AG appeared before Expedited Services and Commissioners. The following is a summary of the data from that survey.

Number of cases in study

ES	Comm
48	171

Was this a second conference?

ES		Comm	
Y	35%	Y	54%
N	65%	N	46%

19% more likely to be a second conference at Commissioner level

At the event, did it appear to the AG's office that the child support issue was resolved by this event?

(Order was to issue or case was resolved on procedural grounds.)

ES		Comm	
Y	40%	Y	49%
N	60%	N	51%

A case is 9% more likely to be resolved at the Commissioner level

However, neither process resolved the child support issue in more than half the cases

Did the event start on time?

(1 ES case and 1 Commissioner case started early.)

ES	Start on time?	Officer ready?	Comm	Start on time?	Officer ready?
Y	29%	27%	Y	56%	61%
N	71%	73%	N	44%	39%

30% more likely that a case before a Commissioner would begin on time

In almost 1/2 of the cases, the event did not start on time.

If the event began late, how long did the parties wait?

ES		Comm	
0-10 minutes	43%	0-10 minutes	37%
10-20 minutes	35%	10-20 minutes	15%
20-30 minutes	13%	20-30 minutes	13%
30-60 minutes	9%	30-60 minutes	30%
more than 60		more than 60	5%

On average the parties waited 33 minutes for a delayed Commissioner case and 20 minutes for a delayed ES case.

5427 total ES cases annually
3853 (71%)
1284 hours per year
32 work weeks of wasted time per year

1116 Commissioner cases per month
491(44%)
270 hours per month/ 3240 per year
81 works weeks of wasted time per year

How much notice of a hearing did the AG's office receive?

	ES	Comm
1 week or more of notice	93%	96%
Less than one week	7%	4%

How much time did the AG's presentation take compared to the total event time?

ES		Comm	
Close match	47%	Close match	75%
Not close match	53%	Not close match	25%

Time to Issuance of Initial Order

This data is incomplete since it does not include cases in which no resolution has been reached.

This data does show that in standard cases in which nothing unusual is required ("plain vanilla" cases), the orders are issued quickly

	ES	Comm
Issued in 10 days or less	85%	97%

Number of days from order issuance to receipt by AG

	ES	Comm	
Received in 10 days or less	24%	52%	
Received in 11 days more	76%	47%	1% other

Deciding Officer in ES cases

Comm	Judge
71%	29%

Time to Final Disposition

Data incomplete due to large number of cases that have not yet concluded. The AG will provide final data after 12/31/04.

May I help you?

Legal Advice vs. Legal Information

A Resource Guide for Court Clerks

JUDICIAL COUNCIL 1926

JUDICIAL COUNCIL OF CALIFORNIA • ADMINISTRATIVE OFFICE OF THE COURTS
ACCESS AND FAIRNESS ADVISORY COMMITTEE

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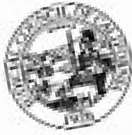

WELCOME TO THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF

WE ARE HAPPY TO HELP YOU IF WE CAN. HOWEVER, WE ARE ALLOWED TO HELP YOU ONLY IN CERTAIN WAYS, SINCE WE MUST BE FAIR TO EVERYONE.

This is a list of some things the court staff can and cannot do for you.

We can explain and answer questions about how the court works.

We can provide you with the number of the local lawyer referral service, legal services program, family law facilitator program, and other services where you can get legal information.

We can give you general information about court rules, procedures, and practices.

We can provide court schedules and information on how to get a case scheduled.

We can provide you information from your case file.

We can provide you with court forms and instructions that are available.

We can usually answer questions about court deadlines and how to compute them.

We cannot tell you whether or not you should bring your case to court.

We cannot tell you what words to use in your court papers. (However, we can check your papers for completeness. For example, we check for signatures, notarization, correct county name, correct case number, and presence of attachments.)

We cannot tell you what to say in court.

We cannot give you an opinion about what will happen if you bring your case to court.

We cannot talk to the judge for you.

We cannot let you talk to the judge outside of court.

We cannot change an order signed by a judge.

Since court staff may not know the answers to all questions about court rules, procedures, and practices, and because we don't want to give you wrong information, we have been instructed not to answer questions if we do not know the correct answers. For additional information, please contact a lawyer or your local law library, or check the California Courts Self-Help Center Web site at www.courtinfo.ca.gov/selfhelp.

Court Clerks Office: signage

Form Approved for Optional Use
Judicial Council of California
MC-800 [New January 1, 2005]

INTRODUCTION

In recent years, courts throughout the country have identified an increase in the number of cases filed by individuals without the assistance of counsel. Because court users are unfamiliar with legal processes, they often look to you, court staff, for answers to questions about the legal system.

The Code of Ethics for the Court Employees of California requires you to "furnish accurate information as requested in a competent, cooperative, and timely manner" but to avoid "giving legal advice." You may already know that you are not supposed to give "legal advice" to court users. However, you may not know exactly what that term means and thus may be unsure of yourself in an important area of your daily work. As a result, when people ask questions where the line between legal information and legal advice is blurry, you may avoid giving appropriate information about court procedures because you don't want to violate the Code of Ethics. Meanwhile, court users don't get the information they need and may become frustrated; more significantly, if they don't follow the right procedure, they may be denied access to the courts.

In an effort to address these concerns, the Judicial Council of California recently approved form MC-800, *Court Clerks Office: Signage,* for display in court clerks' offices throughout the state. The form is designed for posting at the clerk's counter or public window at each court location so that court users can read and understand the guidelines that you are required to follow.

This handbook is a quick and easy reference. It is specifically intended for the use of court staff who provide telephone and counter assistance as a major part of their job duties. It is recommended that you keep it in a place where it is easily accessible while you perform these tasks.

Of course, this handbook and the guidelines cannot anticipate all the possible questions that court users may ask. When new questions arise, consult your supervisor. Keep in mind, too, that many court users would benefit from legal counsel. When you are uncertain whether you are being asked to give legal advice, do not hesitate to suggest that they consult an attorney.

YOU CAN EXPLAIN AND ANSWER QUESTIONS ABOUT HOW THE COURT WORKS AND GIVE GENERAL INFORMATION ABOUT COURT RULES, PROCEDURES, AND PRACTICES.

You have an obligation to explain court processes and procedures to court users. Certainly they will find sample pleadings and information packets useful, but you will also need to answer individual questions.

What happens at the arraignment?
At this hearing people are told about the charges that have been filed against them. They are also informed of their rights, including the right to an attorney, and bail is usually discussed.

You also have an obligation to inform litigants and potential litigants about how to bring their problems before the court for resolution. This includes referring them to applicable state and local court rules, explaining how to file a lawsuit or request a hearing, explaining court requirements for documents requesting relief, and supplying sample forms. If there are court-based self-help centers in the county, you should inform litigants of their availability. The fact that such information may help a litigant does not mean it is improper. Instead, providing this kind of information is an important part of your responsibility to provide service to the public.

How do I get out of jury duty?
On the back of the jury summons you can find a list of the reasons for which the court may excuse you from jury service.

One good way to tell whether it is all right to answer a question is to ask yourself whether the information requested will help someone figure out how to do something. Most of these questions contain the words "Can I?" or "How do I?" Telling someone how to do something is almost always appropriate.

How do I evict my tenant?
If you are going to represent yourself, I can get you the packet of forms you need. You can also get information about evictions at our law library or from the Online Self-Help Center, located at ***www.courtinfo.ca.gov/selfhelp****.*

DO NOT TELL A LITIGANT WHETHER A CASE SHOULD BE BROUGHT TO COURT OR GIVE AN OPINION ABOUT THE PROBABLE OUTCOME.

Analyzing a litigant's particular fact situation and advising him or her to take a certain course of action based on the applicable law is a job for a lawyer, not for court staff. Advising a party what to do, rather than how to do something that party has already chosen to do, is not permitted.

Even though you may have processed hundreds of similar types of cases, you are not in a position to know what is in a litigant's best interest. Only litigants or their attorneys can make that determination. Your role is to provide information about the court's systems and procedures so that a litigant can know enough to make his or her own decision about how to proceed with a case.

My friend's dog bit me. Should I sue him?
You need to decide that for yourself. You may want to talk to a lawyer to help you make that decision. If you decide to file a lawsuit on your own, I can give you a packet of information on how to file a civil action, along with the necessary forms.

What sentence will I get if I plead guilty?
I cannot predict what the judge will do. The judge will decide what sentence to impose based on the facts and the law that apply to your case.

Most of the questions that ask whether to take a particular course of action contain the words "Should I?" So whenever you hear the word "should," the court user may be asking for advice that you cannot provide.

Even though you cannot answer these types of questions directly, there are a lot of ways that you can still help the court user. In many cases, you can point out various options that the person can consider in making his or her decision. You can also provide information about legal services, such as the local bar association or legal aid society, but you should not make a referral to private attorneys or a private agency. You can also refer the person to the California Courts Online Self-Help Center (***www.courtinfo.ca.gov/selfhelp***) and to any court-based self-help center in the county.

Should I get a lawyer?
You are not required to have a lawyer to file papers or to participate in a case in court. I cannot advise you whether you should hire a lawyer in your case. Only you can make that decision. Here is a list of organizations in this area that you can call for free or low-cost legal help if you qualify.

PLEASE PROVIDE COURT USERS WITH INFORMATION FROM THEIR CASE FILES, AS WELL AS COURT FORMS AND INSTRUCTIONS.

You can provide case information to a court user that is public, including the material in most court files. Court files can be very difficult for many people to read and understand, so you may need to provide assistance. It is always appropriate to answer questions about the court procedures and legal terms reflected in public court files and to assist the court user in finding the specific information he or she is seeking.

I want to see my daughter more than the old court order allows. How do I get more time with my daughter?

It sounds like you want to obtain an order from the court modifying your present custody order. Here is an Order to Show Cause *form that is usually used to bring that issue before the court, as well as a packet of information on how to fill it out.*

Some court files contain confidential information that should never be disclosed. There are many reasons that material in court files may be designated as confidential, including safety and privacy concerns. Disclosure of confidential information could also give an unfair advantage to one side of a case. If you are not sure whether a record is considered public or confidential in your court, check with your supervisor.

It says "relief requested" next to this blank on the form. What do I put there?

I can't tell you what words to use, but you should write in your own words what you want the court to do. If you have any question about the kind of remedies that may be available in your case, you should consult an attorney.

Providing court forms and, when available, written instructions on how to fill out those forms is an important part of a clerk's job. Often court users will not know what forms to request in order to bring their matters before the court. When this happens, you should identify and provide forms that may meet the court user's needs.

Court forms can be confusing, so people frequently ask for help in filling them out. If a court user cannot figure out how to fill out a required form, he or she may be denied access to the court. You can answer questions about how to complete court forms, including where to write in particular types of information and what unfamiliar legal terms mean. You cannot, however, advise a court user on how he or she should phrase responses on a form.

Can I see the* Kramer *adoption file?

I'm sorry. Adoption files are confidential and may not be viewed by the public.

DO NOT TELL A LITIGANT WHAT WORDS TO USE IN COURT PAPERS OR WHAT TO SAY IN COURT.

You can always answer questions about how to complete court papers and forms. You cannot, however, tell a court user what words to put on the forms. You threaten the court's impartiality if you fill out a form for a court user using your own words. If someone asks you what to say in a form, you should tell the person to use his or her own words to state the information requested.

Would you look over this form and tell me if I did it right?

You have provided all the required information. I cannot tell you whether the information you provided is correct; only you can know that.

You can also check a court user's papers for completeness. This includes checking to make sure that he or she has completed each line that is required to be filled in. Also, you can check for such things as signatures, notarization, correct county name and case number, and the presence of attachments. If the form is incomplete, you should inform the person completing the form of the specific problem and how to fix it.

My form got sent back to me from the court because it was incomplete. What is wrong with it?

It looks like you did not include all the information requested on the back of the form. Once you have filled that out, I'll be happy to file the form for you.

What should I say to the judge when he calls my case?

I can't tell you what arguments to make in court. You will need to decide that for yourself. Here is a handout on effective ways to present your case in court. You can also view a videotape on this subject at our law library.

Sometimes a court user will be unable to fill out a form without assistance because of a disability or illiteracy. In these limited situations, you may fill out a form for a court user, writing down the specific words that the he or she provides. The fact that you provided such assistance should be noted on the form itself.

I have a disability that prevents me from filling out this form. Would you fill it out for me?

In that case I can fill out the form for you, but you have to tell me what information to put down. I will write down whatever you say and read it back to you to make sure what I have written is correct.

Litigants often ask what they should say in court. You cannot give advice about specific arguments a person should make while in court or tell people what you think would be the best way to handle a court appearance. You can give out general information about appropriate courtroom behavior. Many courts have informational packets on how to prepare for court hearings that you can give to the litigant.

YOU CANNOT TALK TO A JUDGE ON BEHALF OF A LITIGANT OR ALLOW THAT PERSON TO TALK TO THE JUDGE OUTSIDE OF COURT.

You should always remember the basic principle that neither parties nor attorneys may communicate with the judge ex parte. Be sure that you do not violate this restriction by carrying a message from a party to a judge or by speaking to a judge on behalf of a litigant. To do so could give one side in a case an unfair advantage.

> ***I want to see the judge. Where is the office?***
> *The judge only talks with all parties to a case at the same time. You would not want the judge to be talking to the other side about this case if you were not present. The judge will speak to you at your hearing.*

Many self-represented litigants feel that they have a right to see the judge in the judge's chambers to explain their situations and problems. When a litigant asks to meet with the judge, you should explain that the judge can see a party only at the hearing or trial, when the other side is also present. While you are explaining this rule, it sometimes helps to ask litigants how they would feel if the judge had a private meeting with the other side in their case. You can also explain procedures, such as a motion, that would allow the litigant to properly bring his or her concerns to the court's attention.

> ***What is an "ex parte"?***
> *It is a Latin term that refers to one-sided contact with the court. In most cases ex parte contacts with the court are not allowed.*

Some courts delegate certain decisions to clerk's offices, especially on procedural matters and on cost and fee awards. You should avoid ex parte contacts while making such decisions. Be sure that you have heard from both sides before deciding an issue and avoid even the appearance of giving one party an advantage in the process.

> ***I know that I can't talk to the judge. But you're nice—could you please take her this message for me?***
> *I'm sorry, I can't do that for you. It wouldn't be fair for me to present your concerns to the judge when the other side in your case is not there. But I can help you schedule a hearing with the judge so that both sides in your case can be present.*

YOU SHOULD PROVIDE COURT USERS WITH SCHEDULES AND INFORMATION ON HOW TO GET A CASE SCHEDULED. YOU CAN ALSO ANSWER MOST QUESTIONS ABOUT COURT DEADLINES AND HOW TO COMPUTE THEM.

You can always give out information on court calendar settings and tell court users how to get matters placed on calendar. This is one of the most important things you can do to make sure people have access to the courts. When court users cannot figure out how to get a case scheduled for hearing, they cannot even begin the process of getting a judge to decide the case.

It is often helpful to provide court users with written court schedules and information packets dealing with how to get a case set for hearing. Many courts now have this information on their court Web site, and there is a good general discussion of this topic in the Online Self-Help Center, at ***www.courtinfo.ca.gov/selfhelp***.

> ***When do I have to file my opposition papers on this motion?***
>
> *Unless the court has ordered otherwise, the law requires that all papers opposing this kind of motion must be filed and served on the opposing party 10 calendar days before the hearing. If you like, I can give you a handout on motion filing deadlines and how to calculate them.*

Providing assistance with court deadlines is a little more complicated. You can help court users calculate routine filing deadlines associated with most court hearings. Court rules state when weekends and holidays are included and when they are excluded in counting the number of days. Court staff should help court users correctly apply these rules. Remember, if you are not sure what the filing deadline is on a particular matter, it is always appropriate to say, "I don't know."

> ***What is the last day I can file my lawsuit?***
>
> *The time for filing your case can vary depending on the particular facts involved. Determining the last day for filing a lawsuit is very difficult to do. You should consult a lawyer to help you figure this out.*

On the other hand, you should not attempt to explain the statute of limitations to court users. Those rules are very complicated, and it would be very easy to give incorrect or misleading information.

When it comes to court deadlines, a good rule to remember is that if you can reject a document as untimely, then you can assist a court user in understanding why it was untimely. You can also explain how to calculate the deadline for filing that type of document in advance so it can be filed in a timely way.

> ***I figured out that I have to file my papers 10 days before the hearing, but that day falls on a holiday when the court is closed. What do I do?***
>
> *Your situation falls within an exception to the 10-day rule. You must file and serve your papers by the end of court business on the next day that the court is open following the holiday.*

YOU CAN PROVIDE PHONE NUMBERS FOR THE LOCAL BAR ASSOCIATION REFERRAL SERVICE, LEGAL SERVICES PROGRAM, FAMILY LAW FACILITATOR PROGRAM, AND OTHER LEGAL INFORMATION SERVICES.

It is the policy of the California courts to encourage litigants to use lawyers because court cases often involve legal issues beyond the understanding of the ordinary person. You can always make general referrals to associations and public agencies that provide legal services or information. A good place to start is with the local bar association referral service. You should explain that although this is a free service, the lawyer will charge a fee. You can also provide information regarding other public legal services programs that may meet the needs of court users and refer them to any court-based self-help center in the county.

How do I get my ex to pay child support?

You can start by visiting the family law facilitator in Room 210. You can talk to the family law facilitator for free. The facilitator is an attorney who works for the court and helps people with support issues. He or she can help you fill out the forms and understand more about your case and what your options are.

Since court clerks must remain neutral and impartial at all times, you cannot make referrals to a specific lawyer, law firm, or paralegal service.

Many courts have prepared handouts that include contact information for local legal services organizations. Such written materials are very useful to court users and can provide you with a handy list of appropriate referral organizations.

I need a good lawyer. Who is the best?

I can't refer you to an individual lawyer because the court must always remain neutral in all matters. I can give you information on the local bar association's lawyer referral service if you want help in finding a lawyer who specializes in your kind of case. You might also want to check out the Web site for the State Bar of California, ***www.calbar.ca.gov****, which includes a section on ways to find a good lawyer.*

You can also tell court users that they can ask friends or colleagues for the name of a lawyer or even find one by checking the yellow pages of the phone book. Many of them are surprised to learn that lawyers will often give an initial consultation at no cost and that some will agree to provide limited representation—giving advice or preparing particular papers—at a reduced fee.

Could you check to see if there are any liens on my property?

We don't have those kinds of records in this office. You can find that information at the County Recorder's office. It's located only a few blocks from here. Let me show you how to get there on this map of local government buildings.

Sometimes people call the court when they don't know whom else to call about their problems. Keep a list of contact numbers for local government agencies and departments so you can point people in the right direction.

Appendix E

Time Standards Governing Domestic Relations Cases[1]

Source	Nature of Standard	Domestic Relations Standards
American Bar Association	**Advisory**	**General: Filing to trial, settlement, or conclusion** **90% within 3 months** **98% within 6 months** **100% within 1 year**
Conference of State Court Administrators	**Advisory**[2]	**Uncontested:** **Filing to trial, settlement or conclusion** **100% within 3 months** **Contested:** **Filing to trial, settlement or conclusion** **100% within 6 months**
Alabama	**Mandatory**	**General: Filing to disposition** **90% within 6 months** **98% within 12 months** **100% within 18 months**
Alaska	**Voluntary**	**Divorce: Complaint to judgment** **75% within 270 days** **90% within 365 days** **98% within 540 days** **Custody/child support (post-judgment motion):** **75% within 90 days** **90% within 120 days** **98% within 180 days**
Arizona	**Voluntary**	**General: Filing to termination** **90% within 3 months** **95% within 6 months** **99% within 12 months** **DV Orders of Protection:** **Hearing on contested O.P.** **99% within 10 days**
Colorado	**Voluntary**	**Non-contested divorce:** **Date jurisdiction attaches to all parties to conclusion** **100% within 6 months**

[1] Data taken from Heather Dodge and Kenneth Pankey, Case Processing Time Standards in State Courts, 2002-03, National Center for State Courts, Knowledge and Information Services, last modified June 23, 2003, available on NCSC homepage.

[2] These standards were adopted in 1983 but are no longer advocated by COSCA.

		Contested actions: **Date jurisdiction attaches to all parties to conclusion** **100% within 12 months** **Initial temporary order:** **From setting date to hearing** **100% within 4 weeks** **Contempt citations:** **From setting date to hearing** **100% within 4 weeks** **Maintenance, support and custody:** **Less than 2 hours court time** **100% within 2 months** **½ day of court time** **100% within 6 months**
District of Columbia	**Mandatory**	**Abuse and neglect:** **From removal from home to adjudication** **100% within 105 days** **Permanency hearing:** **Removal from home to hearing** **100% within 12-14 months** **Paternity and support:** **Filing to hearing** **100% within 45 days**
Florida	**Voluntary**	**Uncontested:** **Filing to disposition** **100% within 90 days** **Contested:** **Filing to disposition** **100% within 180 days**
Idaho	**Voluntary**	**General: Complaint to disposition** **100% within 180 days** **Child Support Enforcement:** **Filing to trial** **100% within 60 days** **Filing to disposition** **100% within 90 days**
Iowa	**Voluntary**	**Uncontested:** **Filing to disposition** **100% within 4 months** **Contested:** **Filing to disposition** **100% within 8 months**
Kansas	**Voluntary**	**General:** **Filing to termination**

		100% within 4 months
Louisiana	**Voluntary**	**General:** Filing to termination 100% within 4 months
Massachusetts	**Mandatory**	**Probate and family** **Uncontested:** Request for trial to trial 100% within 1 month **Contested:** Request for trial to trial 100% within 1 month
Michigan	**Mandatory**	**Divorce without children:** Filing to conclusion 90% within 91 days 98% within 9 months 100% within 12 months **Divorce with children:** Filing to conclusion 90% within 8 months 98% within 10 months 100% within 12 months **Paternity:** Date of service to conclusion 90% within 3 months 98% within 6 months 100% within 12 months **Initiating interstate:** Filing to conclusion 100% within 24 hours **Responding interstate:** Filing to conclusion 90% within 91 days 98% within 6months 100% within 12 months **Child custody** Notice of request or hearing to Conclusion 100% within 91 days
Minnesota	**Mandatory**	**Dissolution:** Filing to disposition 90% within 12 months 98% within 18 months 99% within 24 months **Support:** Filing to disposition 90% within 6 months

		98% within 9 months **99% within 12 months** **Adoption:** **Filing to disposition** **90% within 4 months** **98% within 6 months** **99% within 12 months** **Other family:** **Filing to disposition** **90% within 12 months** **98% within 18 months** **99% within 24 months** **Abuse:** **Filing to disposition** **90% within 2 months** **98% within 3 months** **99% within 4 months**
Mississippi	**Voluntary**	**Uncontested:** **Filing of complaint to conclusion** **100% within 180 days** **Contested:** **Filing of complaint to conclusion** **100% within 1 year**
Missouri	**Mandatory**	**General: Filing to disposition** **50% within 4 months** **90% within 8 months** **98% within 12 months**
Nebraska	**Voluntary**	**District: Filing to judgment** **100% within 9 months**
New Jersey	**Mandatory**	**New Dissolution:** **Filing to disposition** **100% within 12 months** **Reopened Dissolution:** **Filing to disposition** **100% within 6 months** **Non Dissolution:** **Filing to disposition** **100% within 60 days** **Domestic Violence:** **Filing to disposition** **100% within 1 month**
New York	**Mandatory**	**Matrimonial** **General:** **Filing with court to trial readiness** **100% within 6 months** **Trial readiness certificate to**

		disposition 100% within 6 months **Total time:** Filing to disposition 100% within 12 months
North Dakota	**Mandatory**	**General:** Filing to order 100% within 90 days
Ohio	**Mandatory**	**General:** Filing to termination 100% within 1 to 18 months
Oregon	**Voluntary**	**General:** Filing to conclusion [settled, tried or otherwise] 90% within 9 months 100% within 1 year
Rhode Island	**Voluntary**	**Contested:** Assignment to calendar to disposition 100% within 1 year
South Carolina	**Voluntary**	**General:** Filing to final disposition 100% within 270 days
Texas	**Voluntary**	**Uncontested:** Appearance date to trial 100% within 3 months **Contested:** Appearance rate to trial 100% within 6 months
Vermont	**Mandatory**	**Uncontested:** Filing to disposition 80% within 6 months **Contested:** Filing to disposition 80% within 1 year
Washington	**Voluntary**	**General:** Filing to resolution 90% within 8 months 98% within 10 months 100% within 14 months
West Virginia	**Mandatory**	**Uncontested:** Filing to disposition 100% within 3 months **Contested:** Filing to disposition 100% within 6 months
Wisconsin	**Voluntary**	**Divorce:** Filing to disposition 100% within 12 months **Other family:** Filing to disposition 100% within 6 months