

Ohio Family Court Bulletin

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Screening at Intake for Related Family Cases

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The family court movement is based on a select number of underlying principles. Foremost among these is the core belief that the best interest of children should be central to any judicial decisions made in court cases involving the family. Second is the belief that legal issues involving the family are best addressed in holistic fashion rather than in a segmented manner that focuses primarily, if not solely, on the specific matters before the court as contained in the filing documents. Third is the potential for different courts to make conflicting decisions on matters involving the family, particularly those pertaining to custody, visitation, support, and services. Much has been written of this potential and specific examples of decisions of different courts working at cross-purposes abound.

Each of the above principles, however, is grounded in the assumption that a certain percentage of families find themselves in multiple courts on different matters (sequentially or simultaneously) and that coordination and/or consolidation of these matters is necessary for the legal system to best address the root causes of these families' dysfunction. Key to this discussion is the belief that the percentage of such families is sufficiently large to warrant special action.

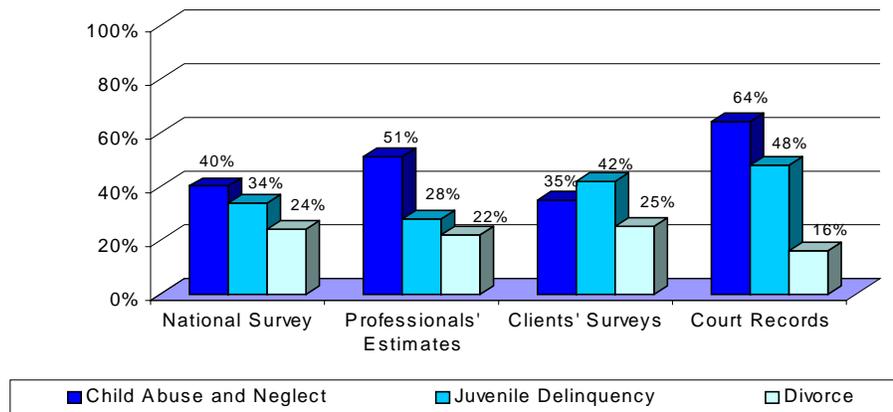
Arguments for a family court are based on assumptions that families come back to court frequently, that multiple cases can be coordinated to advantage, and that this frequency and benefit justify

the stress and upheaval likely to accompany reorganization to improve service delivery.¹

While much has been written on the need to coordinate family cases in the courts, research is limited supporting the fundamental premise that families come to court often on related matters. The only study to systematically document the frequency with which this occurs was conducted in 1992 by the National Center for State Courts in collaboration with the National Center for Juvenile Justice.² The study collected data on related family cases in three urban sites – Salt Lake County, Utah; Fairfax County, Virginia; and Hudson County, New Jersey. Multiple methodologies were employed, including interviews with knowledgeable court personnel, a survey of court litigants, and an extensive search of court records.³

The primary focus of the research was on estimating and documenting the frequency of related family cases for families involved in divorce, child abuse/neglect, and juvenile delinquency proceedings.⁴ In court record reviews across the three urban study sites, related family cases were most prevalent in a sample of abuse/neglect cases — 64% had other family case types involving the same family during the past five years. Delinquency was next with 48% having related family cases, followed by divorce with 16% (see Figure 1).

FIGURE 1
Proportion of Related Cases as Identified in 1992 NCSC Study
National Survey, Professional Estimates, Client Surveys, and Court Records



Source: Authors' adaptation of Table 15 from Rubin, H.T. and Flango, V.E. (1992). *Court Coordination of Family Cases*. Williamsburg, VA: National Center for State Courts.

Related Cases in Ohio's Family Court Pilots

In December 1999, NCJJ project staff initiated an exploratory study of dependency and delinquency case filings in the Mercer County Probate/Juvenile Court to assess the degree to which adult family members had prior/current court involvement in that county's General/Domestic Relations Division of the Court of Common Pleas or in Municipal Court. A similar study focusing solely on dependency cases was also conducted in Clermont County.

Neither of these two counties had developed intake screening procedures that would systematically search for current or prior court involvement of family members. However, both courts had expressed some interest in this area. The original Clermont proposal envisioned the screening at intake of all new civil protection matters that came before the court. Mercer County also discussed the feasibility of expanding their current family court pilot to allow for more systematic intake screening of new juvenile and domestic relations case filings.

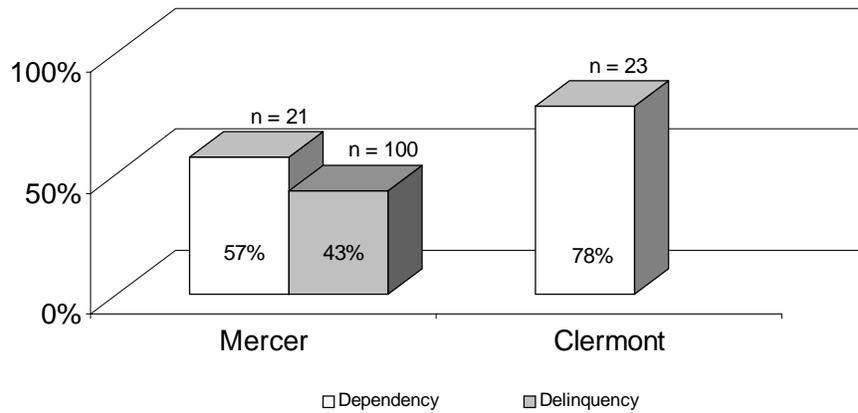
It appeared that name recognition and memory were the primary means for identifying other cases involving the same family members in both courts – particularly in Mercer County. It was suspected that a

significant number of family-related cases were being missed. A baseline frequency of 20% of families with related cases was established as the threshold that would be considered sufficient for these two courts to consider establishing specific protocols for systematic and consistent screening for related cases for all new dependency and delinquency case filings.

The study used data collected on a random sample of new delinquency and dependency cases filed with the Mercer County Probate/Juvenile Court in calendar year 1999. In Clermont County, a random sample was also drawn from all new dependency cases filed with the court in 1999. In all, a total of 100 delinquency cases and 21 dependency cases were included in the Mercer County study (a 30% sample of each case type). A total of 23 dependency cases were included in the Clermont County study (a 15% sample).

In each county, the names of adult family members were extracted from the probate/juvenile court's automated system and cross-referenced with case identifying information maintained in the automated systems of other courts in that county. These name searches extended to Mercer and Clermont County Municipal Courts as well as other divisions of these counties' Courts of Common Pleas.

FIGURE 2
Related Family Cases in the Clermont and
Mercer County Family Court Pilots



Source: National Center for Juvenile Justice, 2000.

The findings, while preliminary, were dramatic. In Mercer County, the analysis indicates that 57% of families appearing before the Probate/Juvenile Court on dependency matters and 43% of families appearing before the court on delinquency matters had a prior/current matter filed in the that county’s General Division and/or the Municipal Court (See Figure 2). In Clermont County, the screening process revealed that 78% of families before the court on a new dependency filing had a prior/current matter filed in the Domestic Relations and General Divisions of the Court of Common Pleas and/or the local Municipal Court. These levels are generally comparable to findings yielded from a National Center for State Courts study and greatly exceeded the estimates of professionals in these respective family court pilots.⁵

The Importance of Intake in Family Court

The responsibility of family courts to identify families and their related cases, both past and pending, begins at the point of intake. Accordingly, intake has been characterized as a “key” to the success of family courts.⁶ In addition to screening for related cases, intake also is the departure point for objectives commonly associated with family courts to:

- collect information to bring the appropriate resources to bear at the earliest possible point in a case;
- aggressively manage cases to early resolution;
- provide alternatives to the adversarial model where appropriate with opportunities for mediation, conciliation, arbitration, and diversion; and
- increase the public’s ability to access the courts in family matters.

The Challenge of Screening for Related Family Cases at Intake

Family courts face a number of challenges as they establish procedures to screen for related cases at intake. A wide range of definitional, technological, organizational, and legal issues must be addressed including:

- How is “family” defined in the community – specifically, does the definition extend to stepparents and other types of surrogate parents, including live-in partners and guardians?
- What types of cases should be screened for – that is, is it important for the court to have knowledge of prior/current criminal and civil

cases as well as prior/current divorce, custody, child support, civil/criminal protection orders, dependency, and delinquency matters involving the family?

- To what degree can these searches for other court involvement be automated? How much of this needs to be done manually? What resources are available to accomplish this?
- How should this information be organized and made available to the court and the litigants?
- Do rules of discovery/introduction of evidence pose any challenges to how information on related cases is presented to the court and how it is used?
- To what extent is the searching for prior/current legal history impacted by confidentiality and privacy concerns?
- How can current/prior involvement in other Ohio counties or states be identified?

The answers to these questions are not always straightforward or clear. For example, the court and the local bar may have differing opinions regarding what information is relevant and how legal precepts governing confidentiality and discovery apply. Access to summaries of assessments and services ordered in past cases may also be restricted in some instances. The mental health community may have specific concerns in this regard. Irrespective of how these issues are addressed, personnel and technological limitations may hinder the ability of the court to complete these searches. In varying degrees, the resolution of these issues will vary by locality even within the same state.

Conclusion

Advocates of family courts contend that cases involving children are dramatically different from standard court proceedings; therefore, information regarding the court involvement of all family members should be available to judges and other court officials. Access to such information could play an important role in judicial decisions involving a victimized child (for example, preventing a judge from awarding custody to a parent who has a court history of domestic violence).

NCJJ project staff anticipates that the development and refinement of procedures for screening for other court involvement will remain a high priority for a number of the county-based family court pilot sites. Screening procedures have already been implemented in Fayette County to screen for other court involvement when new juvenile and domestic relations cases are filed with the court.

In support of the efforts of Fayette and the other counties, NCJJ will expand its study of related cases to the other pilot sites and examine the frequency with which families coming to court on divorce and custody/support/visitation matters have prior/current cases in other courts in their respective counties. These data will be collected during the coming months and findings from this effort will be included in the final report.

Endnotes

¹ Rubin, H.T. and Flango, V.E. (1992). *Court Coordination of Family Cases*. Williamsburg, VA: National Center for State Courts, page 9.

² *ibid.*

³ In addition to completion of site work in the three selected counties, the authors also conducted a survey of court personnel from 150 court locations.

⁴ Related family cases were defined as involvement of one or more family members with one or more of the three above case types – not recidivism, or the repeated involvement of the same individual in the same type of case. *ibid.*, pg. 3

⁵ While findings from these studies are generally comparable, a word of caution is appropriate. These studies use somewhat different definitions of related family cases. The Mercer and Clermont County studies focus on adult family members and the frequency with which adult family members of children named in delinquency or dependency filings in juvenile court have current or past cases in other courts or court divisions within their respective counties including criminal and civil cases. The frequency with which families were involved in both delinquency and dependency filings in the same (juvenile) court were not examined. The 1992 NCSC study while limiting their search to related juvenile and domestic relations filings also included in their related cases percentages instances in which a family involved in a delinquency filing also had a prior/current dependency case. The reverse, families involved in dependency case filings with a prior/current delinquency case filing, were also included in these statistics.

⁶ Hurst, E.H. and Kuhn, J.A. (1993). *A Family Department for the District Courts of Kansas: Recommendations for Implementation*. Reno, NV: National Council of Juvenile and Family Court Judges.

Project Updates

Clermont County Domestic Relations Court in Partnership with the Clermont County Probate/Juvenile Court

To help systematize the screening for related family cases, the two courts are working with a software vendor to build an interface between the information systems of the separate Probate/Juvenile and Domestic Relations Divisions. If successful, the interface may eventually be considered for all divisions of the Common Pleas Court as well as the Municipal Court, enabling the courts to screen at case intake for prior or pending history across all courts.

The Domestic Relations and Probate/Juvenile Courts have also partnered to organize a cadre of trained mediators to whom both courts will refer cases. The courts have identified eight mediators, each with a special range of expertise and case types they will accept. The Probate/Juvenile Division began referring custody and visitation cases to these mediators in early June.

Lastly, the Probate/Juvenile Court in conjunction with the Clermont Recovery Center have received funding from the Ohio Department of Alcohol and Drug Addiction Services to continue its juvenile drug court program.

Delaware County Juvenile Court

This past February, the Delaware County Juvenile Court was awarded a grant from the Supreme Court of Ohio and Ohio Department of Job and Family Services' Family Court Feasibility Study. The grant provides funding for the court to hire a full-time family assessor. This individual provides in-house screening and assessment services for families involved in juvenile court matters. Most families referred for these services are before the court on a dependency complaint alleging child abuse or neglect. A number of cases on the family assessor's caseload are dependency cases that have been assigned to the new family drug court. Some referrals, however,

have originated from juvenile probation and from the juvenile court magistrate presiding over custody matters.

In new cases recently filed with the court, the family assessor will typically conduct a broad assessment to identify family service needs and to assist in lining up appropriate services. For older cases in which permanency issues are lingering, this individual will become involved in hopes of identifying any diagnostic gaps and additional services that may be needed as a result. In either case, the family assessor will conduct a home visit after receiving the case and confer with the family's caseworker and service providers to discuss service needs and objectives. The assessor may also attend court hearings on the case and, for a limited time, monitor case progress.

Fayette County Probate/Juvenile Court in partnership with the Fayette County Common Pleas Court and the Fayette County Municipal Court

A basic tenet of a unified family court is the goal that all matters involving parties with a significant domestic relationship (i.e., children and their families) be heard by one judge. Although Fayette County is not at this time implementing a "one family / one judge" model, the need for coordination of cases across the two local county courts and one municipal court has been identified as a goal. A second goal of the pilot effort is for the family court to more fully utilize diversion and mediation as alternative to court hearings. Both of these goals require that the family court effectively screen all new case filings at intake.

In response to these issues, the Fayette County Family Court has hired an intake coordinator to screen all new filings to determine if the juvenile and/or their family have cases active, pending, or closed in the past three years – in either the Probate/Juvenile Court, the Court of Common Pleas/General Division, or the Municipal Court. Where case overlap is identified, the intake coordinator contacts the judge(s) involved to facilitate coordination of case disposition and to provide relevant background information regarding the juvenile and their family.

The intake coordinator screens new cases to determine eligibility of juveniles and their families for diversion or mediation and makes referrals as appropriate. The intake coordinator also tracks the outcome of these cases and, where these interventions do not prove effective, re-files the case in accordance to established protocol. Lastly, the intake coordinator is currently working with the court's computer manager to develop an automated name/family index, drawing data from all three court information systems, to assist in the work of intake screening. This effort is also supported by funds from the Family Court Feasibility Study.

Lorain County Domestic Relations Division and Juvenile Branch

NCJJ staff recently completed a review of the Lorain County Domestic Relations Court's processing of children services (dependency) caseload. The findings of the study were released in April 2000 and indicate that the court has had considerable success processing children services cases in a timely manner. On average, the court made a finding on a child abuse or neglect complaint within 42 days – well under the statute requirement of 60 days. Additionally, the court routinely makes permanency decisions within prescribed timelines and closes approximately two-thirds of its cases within 12 months of the initial filing. The review included recommendations to further strengthen the court process, including recommendations to expand initial hearings and to increase court oversight of post-disposition case progress.

The Lorain County Domestic Relations Court continues to make considerable strides in achieving its family court pilot project objectives. These include: 1) expanding the range of mediation services offered by its Family Court Services Department– most recently for post-decree matters in divorces; 2) front-loading divorces, including the scheduling of client/attorney case management conferences 8-10 weeks from filing; and 3) developing a parent education video and seminar to encourage child access and visitation in paternity cases.

The court has also successfully pursued additional grant monies from the Ohio Department of Alcohol and Drug Addiction Services and the Family Court

Feasibility Study to allow for the development of a juvenile drug court for delinquent youth with serious substance abuse problems and a family drug court for substance abusing parents referred to the court on a child protection matter. Both drug courts began accepting cases in late February.

Mercer County Common Pleas Court, Probate/ Juvenile and General/Domestic Relations Divisions

As part of the family court grant, 25 attorneys, social workers and other interested professionals completed both the 16-hour and 40-hour mediation course in family law. These courses were taught by two well-known Ohio mediators. The General/Domestic Relations Division judge assisted as a facilitator as did the family law magistrate. The participants were not charged for the program, but they do have an obligation to mediate for the court in the future at no charge. Due to the interest in this area and the success of mediation, another set of courses is being planned for this fall.

The Mercer County Probate/Juvenile and General/Domestic Relations Divisions' judges are preparing a joint rule of court that will formalize the family court concept for Mercer County. This rule will include many of the successful programs instituted by the courts as a result of the cooperative position taken by the two judges. The court rule will include parent education, formal mediation, and the court's unique Seek Work Program.

*Changes to Federal Child Welfare Regulations
Affecting Juvenile Courts*

The Department of Health and Human Services (HHS), Administration for Children and Families, issued *Federal Register* Volume 65, Number 16 on January 25, 2000, with an effective date of March 27, 2000. The final rule amends existing Child and Family Services regulations governing the state's conformity with state plans under Titles IV-E and IV-B and implements provisions of the Adoption and Safe Families Act (ASFA) of 1997 (P.L. 105-89). The Ohio Department of Job and Family Services (ODJFS) has promulgated Administrative Code rules that became effective June 13, 2000, in order for Ohio's child welfare agencies to implement these changes and comply with the federal regulations.

The final rule requires that public children services agencies (PCSAs) comply with a number of requirements that are predicated on decisions made by the juvenile court including:

- Section 1356.21(b)(1) requires PCSAs to obtain a judicial determination that reasonable efforts were made or were not required to prevent the child's removal from the home. This determination must be made no later than 60 days from the date the child is removed from the home. **If this determination is not made within the required time frame, the child is not eligible for the Title IV-E foster care maintenance payments reimbursement program for the duration of that stay in foster care.**
- Section 1356.21(b)(2) requires PCSAs to obtain a judicial determination that the agency made reasonable efforts to finalize the permanency plan that is in effect within 12 months of the date the child is considered to have entered foster care. This determination must be obtained every 12 months thereafter while the child is in foster care. **The child becomes ineligible for Title IV-E foster care maintenance payment reimbursement until such a judicial determination is made. HHS will not take adverse action**

against states who cannot comply with this requirement until March 27, 2001.

- Section 1356.21(d) requires that if the judicial determinations of best interest and reasonable efforts are not contained in the required court orders, a transcript of the court proceedings is the only other acceptable form of documentation. Neither affidavits nor *nunc pro tunc* orders will be accepted as verification of these judicial determinations. **As explained in the previous requirements, the child will not be eligible for Title IV-E foster care maintenance payment reimbursement without the appropriate judicial determinations.**
- Section 1356.21(g)(3) stipulates that Title IV-E foster care maintenance payment reimbursement is not available for a child when a court orders a placement with a specific foster care provider and places that child in the custody of a PCSA. **The federal policy indicates that if the court orders placement with a specific foster care provider upon giving custody of the child to the PCSA, it has assumed the PCSA's placement responsibility, and, although the PCSA will be responsible for the placement costs, the agency will not be able to claim Title IV-E foster care maintenance reimbursement for these costs. Although this provision of the regulation is currently in effect, states have requested further classification of the requirement by HHS. ODJFS will provide additional information when it is received.**

If you have any questions, please contact Ohio Department of Job and Family Services, Office for Children and Families, Bureau of Title IV-E Plan Administration at 614-466-1213.



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The Ohio Family Court Feasibility Study refers to a constellation of activities jointly administered by the Supreme Court of Ohio and the Ohio Department of Job and Family Services to improve both the interaction between child welfare and judicial systems, and the effectiveness of the intervention in cases involving families where judicial action is required. This study is supported by a blend of federal Court Improvement and Children's Justice Act grant funds.

NCJJ is a non-profit organization that conducts research (statistical, legal, and applied) on a broad range of juvenile justice topics and provides technical assistance to the field.

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