

Unifying Juvenile and Family Matters in Marion County



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Executive Summary

The Marion Superior Court redesign has been seen by the Executive Committee as a timely opportunity for the implementation of best practices that can better serve families facing legal challenges through the court. The ability to design a family-centered court from the ground up has motivated the Court to push for bold and actionable recommendations based on current research and best practices, in order to implement a world-class Family Division. In response to this request from the Court, NCSC sets forth the following recommendations.

OPERATIONAL MODEL AND STRUCTURE

1. We recommend unifying juvenile, family and probate proceedings. There is evidence that Unified Family Courts result in more timely and improved outcomes for families. The court is urged to apply the five essential elements of a Unified Family Court: a specialized but co-equal court; comprehensive subject-matter jurisdiction; a case management and case processing system to meet families' legal and social needs; early identification (triage) of family and case needs; and a user-friendly court.
2. We recommend case management centered teams be applied to the One-Family, One-Judge concept in order to provide effective coordination of all the services described in the elements of a Unified Family Court. To encourage a comprehensive understanding of the family dynamics and reduce re-traumatization, it is recommended that only one judge or magistrate hear the case from beginning to end.
3. We recommend comprehensive subject-matter jurisdiction over all of the following matters: child protection orders, domestic relations, divorce (children), divorce (no children), reciprocal support, mental health, adoption, estate unsupervised, guardianships, protective orders, CHINS, delinquency, juvenile status, paternity, juvenile misc., juvenile termination of parental rights, estate supervised, estate miscellaneous, and trust.
4. We recommend One Family One Judge Teams in which all judicial officers have equal and full jurisdiction over matters heard by the Court. We recommend the court establish a lead judge and case manager for Domestic Relations; Child Support; Domestic Violence; Juvenile Delinquency; Child Welfare; Probate, Guardianships and Mental Health; and Trusts/Estates (if included). Each of these areas, while related, are sufficiently specialized as to require a higher degree of expertise. This can be a rotating assignment, but we would not recommend a judicial officer assume this leadership position without at least five years of experience in their designated area of law.
5. We do not recommend bundling criminal domestic violence cases with protection orders. Instead, we believe justice is best served by coordination and communication between the family and criminal courts handling the matters to ensure proper information-sharing.

SPECIAL CONSIDERATIONS FOR JUVENILE PROCEEDINGS: PROBATION AND DETENTION

6. We recommend that the probation officers share relevant and crucial information to help support the case plan goals of the probationers, just as any other agency involved with the family would share information and with a release of information if necessary.

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7. We recommend centralizing support services for a family division probation department so that families involved in any aspect of the court may access services. If they are funneled through probation, it may give the internal and external impression that an individual or family needs to be involved in probation to access services.
8. We recommend considering the safety of all youth and keeping them separated from adult inmates as much as possible. Youth should not be transported to court in a vehicle with an adult charged with or convicted of a crime, nor should they be made to sit in a holding room with an adult charged with or convicted of a crime.
9. We recommend that Marion County's juvenile detention facility continue using the Indiana Youth Assessment System (IYAS) to determine a youth's risk of reoffending pending adjudication if not detained and the youth's likelihood of appearing for a court hearing without secure detention in the interim.
10. We recommend that Marion County's juvenile detention intake continue to include a standardized mental health screening (such as the MAYSI-II, GAIN, or POSIT), a screening for suicide risk, and a documented protocol for addressing the needs of youth whose screen indicates the need for follow-up.
11. We recommend that youth in Marion County continue to be permitted to meet and speak by phone with their legal team at any time during waking hours, not limited to visitation hours. The detention facility should continue to have private rooms or areas available for the meeting that allows for confidentiality.
12. Aside from training on facility operations and protocols, we recommend that staff who work in the detention facility continue to be required to complete 20 hours per year of training in the legal rights of youth who are in detention; adolescent development; the impact of trauma; positive behavior management; de-escalation techniques, and conflict management; and responding to and reporting child abuse or neglect.
13. We recommend that Marion County continue to only use room confinement as a temporary response to behavior that threatens immediate harm to the youth or others, and never for discipline, punishment, administrative convenience, retaliation, or staffing shortages.

INFORMATION TECHNOLOGY

14. We recommend strongly that courts use one case management system for all departments and courts; in this case: Odyssey. Information-sharing is central to the tenets of a Unified Family Court. All courts – but especially courts hearing family-related matters – must have access to information originating in Marion County and other counties across the state to be effective. Odyssey is currently being used in all courts except the Juvenile Court. The functionalities of the juvenile system should be built into the Odyssey system.
15. We recommend that the various statutes that address records and confidentiality be consulted, and that a reference guide of the different standards be created for judicial officers, staff and court professionals and attorneys. We recommend using the Massachusetts Court Improvement Program's *Guide on the Disclosure of Confidential Information* as a template. The purpose of this guide is to inform the professionals working with children and families about confidentiality and protected information.

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CASEFLOW MANAGEMENT AND TRIAGE

16. We recommend applying a pathway approach, beginning with a standardized intake process based on case characteristics at case filing. Three primary pathways could include: streamlined, tailored services, and judicial/specialized.
17. We recommend a screening and intake process to identify case characteristics, as in Connecticut and Miami-Dade, Florida. A meaningful intake process greatly enhances a court's case management and case processing capabilities. Marion County should gather information on the various assessments used by the stakeholders (DRCB, Probation, social services, etc.) to consider the array of existing screening tools and processes to consider how the information could be helpful to an intake process.
18. We recommend that judges and magistrates generally be able to handle all cases and caseflow tracks. The team approach ensures that the same team of court administrative personnel and judicial officers reviews a family's case every time a family member files a matter with the court and during the entire court process.
19. We recommend One-Family, One-Judge case management teams in which the same judge hears all court cases involving a family every time the family comes to court. The judge then makes all orders related to that family, regardless of the case type. Marion County can take guidance from NCJFCJ's *Enhanced Resource Guidelines* and the *Court Performance Measures in Child Abuse and Neglect Cases: Technical Guide*.
20. We recommend that the Court incorporate paternity cases into the Family Division; families with paternity cases need access to the same services as other case types we have recommended be heard by the Unified Family Court.
21. We recommend consideration of a Case Management workshop as the Court advances in planning to establish case management strategies and a docketing plan. Marion County can view the workshop curriculum in the New York City Family Court, to help establish how dockets can be structured.

FAMILY COURT SERVICES AND FUNCTIONS

22. We recommend active and continuing oversight of family cases proportionate to case needs and case management performed by specially trained professional staff supported by effective case management technology. A model centered around the case management team is intended to permit judges to focus on tasks that will most benefit from their time and expertise while engaging the skills of staff to identify as soon as possible after filing which pathways and services are most appropriate to meet the families' needs.
23. We recommend that staffing design for a state-of-the-art Unified Family Court include dedicated positions for planning, coordinating, and providing services for self-represented litigants.

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ALTERNATIVE DISPUTE RESOLUTION

24. We recommend that the court offer a broad array of ADR options, through sliding scale or through access to volunteer services. Forms of ADR to consider at a minimum include family group conferencing, pre-hearing conference facilitations, specialized ADR (for cases involving intrafamilial violence), victim youth conference, and parenting coordinators.
25. We recommend that the court convene relevant stakeholders, both within and outside of the court system, to design the spectrum of ADR services that best meets the needs of each case type that will be handled in the family court and determine what resources exist or can be made available to effectuate the plan.
26. We recommend that the court meet with local bar and legal aid leaders to brainstorm ways in which their resources might help the court increase access to justice for litigants in the new family court. [SELF-HELP](#)
27. We recommend a three-pronged approach for providing resources to self-represented litigants: 1) provide legal assistance to the extent possible; 2) provide self-help resources that are easily understood and accessible in time and location and adequately prepare the litigant for the tasks required to pursue their cases; and 3) adapt court processes to be more user-friendly for nonlawyers.
28. We recommend that Marion County operate a self-help center to increase informed access to the legal system by providing education, information, legal forms, community referrals, and other support services to self-represented parties with family law matters.
29. We recommend referencing the Institute for the Advancement of the American Legal System's (IAALS) [Guidelines for Creating Effective Self-Help Information](#) for guidance on designing navigable and helpful resources for court system users.
30. We recommend that Marion County review the Massachusetts state court web site as a model for displaying public information on a combined family and probate court. It uses clear and concise language appropriate for the public and contains prominent guidance for self-help materials.
31. We recommend developing online and/or printed materials that explain the legal process in cases of juvenile delinquency and dependency matters to parents and youth in a manner that is in simple language and developmentally appropriate.
32. We recommend that Marion County evaluate the current value of DRCB services to litigants and the court and plan for its design in the family court of the future. As an arm of the court, it will be important that self-help messaging in the new court explain the DRCB process clearly and concisely.

BAR LEGAL ASSISTANCE

33. We recommend designating an overall coordinator whose primary responsibility is self-represented litigant services. This individual can also interface with volunteers.

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JUDICIAL ROLES, GOVERNANCE AND TRAINING

34. We recommend onboarding new judicial officers through a combination of on-site, multidisciplinary training, off-site workshops and seminars, and mentoring relationships among judicial officers.
35. We recommend that judges who handle domestic relations cases have regular training in diverse areas of the law including but not limited to criminal, civil, immigration, bankruptcy, military issues and tax law as well as practical techniques for effectively addressing the needs of self-represented parties.
36. We recommend that all judicial officers, court staff, and court-related professionals who interact directly with parties should receive training in recognizing the signs and dynamics of critical issues, including exposure to trauma, domestic violence, child abuse, and substance abuse.

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Introduction

Marion County seeks to be a state-of-the-art Unified Family Court. In 2017, the General Term of the Court approved moving to a three-division model including Civil, Criminal, and Family. This divisional restructuring will be completed in advance of the 2022 Court move to a new justice facility that is currently under design and construction. The goal of this project is to provide examples and short-term and long-term recommendations to help with the shift.

Marion County contracted with the Children, Families and Elders Team of the National Center for State Courts (NCSC) to assist Marion County in the creation of the Family Division operational model. The two main objectives of this project included, 1) to recommend how the Court can move forward with the implementation of a Family Division by building upon information already gathered by the Court, and 2) to advise on a family court model that will efficiently serve families facing legal challenges across the court system.

The current redesign of the Marion Circuit and Superior Courts presents the rare opportunity to implement the practices of a state-of-the-art Family Division that is not constrained by current practices. Currently, the Superior Court is divided into Civil, Criminal, Juvenile, and Probate divisions, and often results in limited shared information and conflicting orders. Current fragmentation and siloed processes also often result in requiring families to appear before many different officials across different courts, in different buildings, in order to resolve their issues.

The Executive Committee did not want the NCSC Team to be constrained by current practices. Thus, knowledge of existing functioning was limited to extensive and detailed background information presented to NCSC. The Court provided the NCSC Team with previously collected stakeholder feedback to use as a foundation of the recommendations for the new Family Division. Stakeholder feedback consisted of surveys and forums of groups and organizations like the Indianapolis Bar Association, Marion County Bar Association, Internal Marion Superior Court Presiding Judges, the Department of Child Services, public and private attorneys, and other stakeholders (Appendix 1). Marion County also provided information on confidentiality and public access included in the Marion County Local Court Rules.¹

The Court also made available the case filing information for 2018, which included a forecast for Family Law based case types. This report looked at the distribution of caseloads within Family Law and Civil Divisions and its impact on Judge assignments. Based on the caseload analysis, the report outlined considerations for the new Family Division, like the recommended number of Judges for the Family Division (Appendix 2).

Despite the emergence of empirical evidence on the application of many juvenile and family practices, no jurisdiction has been able to successfully implement all recommended practices to achieve a perfect court. Some courts have been able to implement best practices in areas like family engagement,

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selfhelp, unifying juvenile and family proceedings, and others, but courts still face challenges in adapting to

¹ Marion County Superior Court. (2019). Marion County Local Court Rules. Available:

<https://www.in.gov/judiciary/files/marion-local-rules.pdf>.

the pace of modern families and modern problems. For example, it is common for courts to separate the handling of juvenile and family matters within several different courts, often with overlapping jurisdiction; however, this practice can lead to problems such as conflicting or inconsistent orders, confusion on the part of litigants, inefficiency of both court and litigant time, and ineffective justice.

Beyond a recitation of best practices, the Marion County requested direct and concrete recommendations for how to create an ideal Unified Family Court. NCSC moves forth to presents these recommendations.

Methodology

The Children, Families and Elders Team within NCSC has combined experience in court case management involving juvenile, child welfare, elders and domestic relations, and has worked with courts and probation departments across the country to improve the administration of justice and governance.

NCSC provided recommendations on space design of the new facility in Marion County in 2017. Through the course of that project, NCSC met with multiple stakeholders, representatives of the Marion Circuit & Superior Court Judiciary and Court Administration Information Technology and toured the facilities.

As context for the requested recommendations, Marion County presented NCSC with a wealth of background information, included in the appendices. The NCSC team did not perform stakeholder interviews or conduct court observation, but was provided information about previous stakeholder meetings, and surveys conducted by

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Marion Circuit and Superior Court. Marion County did not want the NCSC Team to be constrained by current practices from making bold recommendations that would contribute to the effectiveness and efficiency of case management and provide an ideal array of services to families.

The NCSC Team canvassed the country for courts with identified best practices and wherever possible, co-located facilities.

The request to recommend existing examples of ideal practices was challenging in that the ideal has not yet been realized in any one court known to NCSC. The recommended best practices come from our knowledge working with courts as well as publications from national organizations and trade and law journals, drawing upon the limited empirical data that exists to the greatest extent possible. Our approach here is to offer what we consider as plausible and implementable practices for Marion County as well as next steps for implementation.

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Research on Unified Family Courts

DESCRIPTION OF RESEARCH STUDIES

While there is a good deal written about the logic behind Unified Family Courts and court professionals' perceptions of the practice, the collection of empirical research on Unified Family Courts is limited -- especially research that compares Unified Family Courts with business as usual. One of the best sources for empirical research on Unified Family Courts comes from Colorado. In 2000, Colorado randomly assigned a set of cases to be managed within the Unified Family Court, and then compared them to cases remaining in the traditional nonunified structure.² A few years later, Washington state piloted three different Unified Family Court models in three different counties. One of their sites (Snohomish County) applied randomized assignment in their evaluation.

DEMONSTRATED BENEFITS OF UNIFIED FAMILY COURTS

Research has generally found that a Unified Family Court model can help judges make better informed decisions. In Colorado's research, judges believed that the coordination of all cases relating to one family creates a more informed bench and better opportunities to respond to the needs of the cases. The evaluations in Colorado and Washington both found that cases were handled more efficiently in a Unified Family Court. In Colorado, the Unified Family Court handled more matters per hearing than the traditional court. Washington State found that the Unified Family Court model reduced redundant and/or conflicting judicial orders and had a positive effect on compliance with court-ordered services. In addition, Washington's study also found that out

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of home placement for children whose cases were in the Unified Family Court were shorter than for children whose cases were heard in the traditional juvenile court.

UNIFIED FAMILY COURTS NEEDS ACCORDING TO RESEARCH

The studies in Colorado and Washington also highlighted several critical components that must be in place for a Unified Family Court to be effective. Both studies emphasized the importance of judicial leadership in establishing effective procedures and maintaining commitment. There was also agreement that collaboration among all parties is necessary for resolving complex issues and establishing accountability. Recommendations from Washington's study in particular underscore the need for a strategy to promote greater litigant awareness and buy-in, and to effectively communicate to them that they are participating in a problem-solving court.

POTENTIAL THREATS TO SUCCESS ACCORDING TO RESEARCH

Studies on Unified Family Courts have identified a number of potential threats to their success. First, engagement of the Bar is critical; when attorneys are unaware of the intent of the practice or uneducated in court processes, families are at risk of not receiving the maximum intended benefits. Secondly, frequent judicial rotation can counteract the need for strong judicial leadership. In fact, despite the statewide push for Unified Family Courts in California, several counties have abandoned the

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² American Institutes for Research. (2002) Unified Family Court Evaluation Literature Review. Available:

<http://www.courtinfo.ca.gov/programs/cfcc/pdffiles/ufclitreview.pdf>

practice after experiencing judicial turnover. Third, courts have valued the support of a dedicated Unified Family Court coordinator and case managers. When these positions are under-resourced, the process does not work as efficiently. Finally, access to social services including treatment is central to the success of a Unified Family Court. A limited array of services or barriers to accessing services can offset the intentions of coordinated case management and minimize the impact on positive outcomes for families.

Recommendations for Juvenile and Family Proceedings in Marion County

OPERATIONAL MODEL AND STRUCTURE

1. Structure for Judges/Judicial Officers that includes a team approach

We recommend unifying juvenile, family and probate proceedings which includes guardianships, conservatorships and possibly estates.

Caring for Families in Court: An Essential Approach to

Family Justice describes the Unified Family Court model as “the ideal.”¹

Empirical data, though

¹ Babb, B. A. & Moran, J. (2019). *Caring for Families in Court: Essential Approach to Family Justice*. Routledge: New York, NY.

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Essential Elements of a Unified Family Court

- A specialized court structure that is either a separate court or a division or department of an existing court and is established at the same level and receive the same resources/support as a generalist court;
- Comprehensive subject-matter jurisdiction over the full range of family law cases, including juvenile delinquency and child welfare;
- A case management and case processing system that includes early and hand-on contact with each family law case and a judicial assignment system that results in the family appearing before one judge for the completion of the case, on case management team, or the same judge every time the family comes to court;
- An array of court-supplied or court-connected social service that meet litigants' nonlegal needs, particularly those that exacerbate family law problems; and
- A user-friendly court that is accessible to all family law litigants, including the large volume of self-represented litigants.

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scant in this area of law, provides some evidence that a Unified Family Court results in better outcomes for families.²

NCSC recommends that Marion County include some of the following elements³ in some or their terminology, for instance:

- A specialized but co-equal court is needed to provide funding for child, youth and family proceedings. “Judicial leadership plays an important role in communicating the importance of domestic relations [and other] cases and in helping courts secure adequate resources from other branches of government and organizations in the broader community.”⁴
- Comprehensive subject-matter jurisdiction expertise is needed because juvenile, family and probate cases “often present complicated emotional and non-legal issues, requiring the family court judge to have familiarity with theories and research in disciplines such as social work, psychology and dispute resolution. There is too much at stake to forgo this kind of comprehensive training.”⁵
- “The state courts have become societal reception centers, often the very first of a lifetime of escalating encounters with the State.”⁶ This is why NCSC recommends a case

² Babb, B. A. (2008). Reevaluating where we stand: A comprehensive survey of America’s family justice systems. 46 Family Court Review 230, 232.

³ Ibid.

⁴ Davis, A. (2019). Principle 10. Family Justice Initiative: Principles for Family Justice Reform. National Center for State Courts. Available: <https://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Children-andFamilies/Family-Justice-Initiative.aspx>

⁵ Knowlton, N.A. (2014). Modern Family Court Judge: Knowledge, Qualities & Skills for Success (Rep.) Institute for the Advancement of the American Legal System. as cited in Principle 9. Family Justice Initiative: Principles for Family Justice Reform.

⁶ Reprinted with permission from the New York State Bar Association Journal, November 1993, vol. 65, no. 7, published by the New York State Bar Association Albany, NY in the 2019 Historical Society of the New York Courts, Chief Judge Judith S. Kaye *In Her Own Words*.

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- management and case processing system to identify the family's pressing needs – both legal and social -- and efficiently get them the services and support they need so that cases are processed in a manner that respects the family's need for resolution and the limited resources of the court and legal system. Triage and case management help in this regard.
- It is increasingly true that meeting a families' legal needs requires meeting non-legal needs as well. "Access to justice requires innovation and moving past the idea that an attorney or a courtroom is the best or only solution for people. Partnering across legal, social services, medical and information providers to address the array of justice needs that people face may be the key to the early detection, diagnosis and intervention necessary to empower people to solve their problems before they find themselves in the legal system."⁷
-
- NCSC recommends that Marion County operate a self-help center because it can be said that a user-friendly court is a constitutional right. In addition to the right of selfrepresentation,⁸ courts have a constitutional obligation to provide adequate notice of what is at stake, a fair opportunity to present and to dispute evidence, relevant forms and information, and to provide express court findings. (Turner v. Roberts, 564 U.S. 431 (2011))

⁷ Alaska Court System Davis, Justice for All. Available: <http://www.courts.alaska.gov/jfa/index.htm> as cited in Principle 10. Family Justice Initiative: Principles for Family Justice Reform. National Center for State Courts. Available: <https://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Children-and-Families/Family-Justice-Initiative.aspx>

⁸ Faretta v. California, 422 U.S.806 (1975)

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The common denominator of the elements above is case management. Case management is critical if a court is to coordinate all the cases and services described above. For all these elements to work well together, we recommend case management centered teams be applied to the One-Family, One-Judge concept. Case management includes:

- Identifying children and family members involved in multiple proceedings
- Coordinating calendars and bundling proceedings where appropriate
- Helping families navigate court processes and systems of care
- Identifying legal and non-legal needs, including housing and food insecurity, educational needs, and treatment
- Making or assisting with referrals to court-connected and court-referred services
- Obtaining, compiling, and sharing appropriate information from the various agencies and courts involved with the family, including reports on compliance with court-ordered services

Case management in actions involving children and families often requires addressing short- and longterm issues as the case moves forward from the initial filing through the conclusion of the court process.

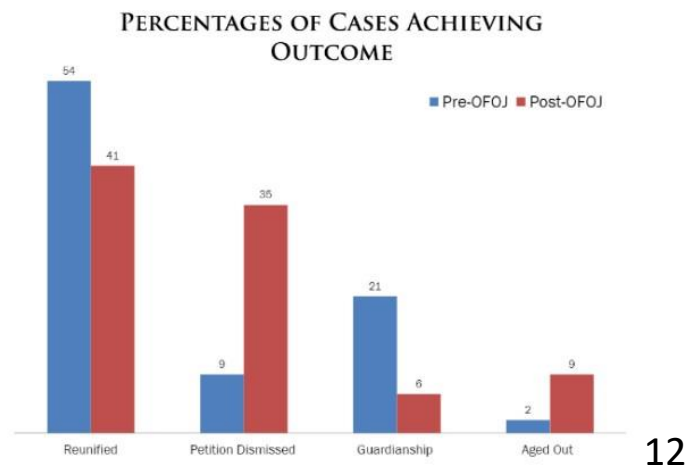
Issues that often require immediate attention include requests for restraining orders, parenting time, detention and placement, child and spousal support. It is important to hear these matters promptly in order to provide needed orders and to prevent litigation that can arise from uncertainty.

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NCSC also recommends One Family, One Judge as described by the National Center for Juvenile and Family Court Judges (NCJFCJ) because some courts that have implemented this model have experienced more timely case processing and an increase in the number of cases resulting in reunification. A study of Baltimore City Juvenile Court describes stakeholders' perceptions of how the One Family, One Judge model and judicial continuity enhances decision-making by allowing a judicial officer to become familiar with the case, the family, and their circumstances.⁹ The study also found that increases in the number of judicial officers hearing a case was associated with an increase in time to permanency and an increase in the number of continuances. The court experienced an increase in the number of petitions dismissed after implementing the One Family, One Judge model.

⁹ National Council of Juvenile and Family Court Judges. (2013). One Family, One Judge Evaluating a Resource Guidelines "Best Practice." Research Snapshot. Available: <https://www.ncjfcj.org/sites/default/files/One%20Family%20One%20Judge%20Snapshot.pdf>

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The One Family, One Judge model also prevents the family from having to tell their story many times to many different judicial officials, which can be traumatic.¹³ Juvenile, family, and guardianship cases often involve protection of vulnerable parties and require a great deal of court resources over a long period of time. To reduce re-traumatization and encourage a comprehensive understanding of the family dynamics, it is recommended that only one judge or magistrate hear the case from beginning to end. This is especially true for cases involving vulnerable youth and children. In child protection cases, more judicial officers mean longer times to permanency. While NCSC is aware of courts that employ magistrates to hear uncontested matters as part of the One Family, One Judge team concept, this is not our recommendation, for the reasons cited above as well as for case management and governance reasons provided in *Judicial Roles, Governance and Training* below.

Washington State applies these principles to their One Family, One Judge teams:

- Each family's case is heard by one judicial officer and served by one team.

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- Team members engage in on-going, cross-system training.
- Parties develop information sharing and decision-making agreements.
- Collaboration seeks to improve access to needed services and support.
- Judicial supervision includes the provision of services and child and parental participation in the case plan.
- Strength-based family and youth engagement is core to court and team interactions with families.

An example of a Unified Family Court is Allegheny County (Pittsburgh), Pennsylvania. In Allegheny County, there is one Administrative Judge who oversees delinquency, dependency, and domestic

¹² Ibid.

¹³ See also Summers, A. & Shdaimah, C. (2013). [One family, one judge, no continuances](#). *Juvenile and Family Court Journal*. Continuances are especially a challenge in time to adjudication. Relationship between the number of judicial officers per case and number of continuances; Summers, A. & Shdaimah, C. (2013). [Improving juvenile dependency case timeliness through use of the one family, one judge model](#). *Juvenile and Family Court Journal*. Implementation of OFOJ showed improved timeliness. Every additional judge increased time to permanency (case closure) by 31 days.

relations cases. Each department has a court administrator. All departments are co-located in the courthouse.

2. Case types to include in the family division

| Case Type Description | | Case Type Description | |
|-----------------------|-------------------------|-----------------------|-------|
| JQ | Child Protection Orders | JC | CHINS |

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| | | | |
|----|-----------------------|----|-------------------------------|
| DR | Domestic Relations | JD | Delinquency |
| DC | Divorce (children) | JS | Juvenile Status |
| DN | Divorce (no children) | JP | Paternity |
| RS | Reciprocal Support | JM | Juvenile Misc. |
| MH | Mental Health | JT | Juv. Term. of Parental Rights |
| AD | Adoption | ES | Estate Supervised |
| EU | Estate Unsupervised | EM | Estate Miscellaneous |
| GU | Guardianships | TR | Trust |
| PO | Protective Orders | | |

We recommend comprehensive subject-matter jurisdiction over all of the matters listed above. These are matters that are more likely than other case types to involve members of the same family. The Family Law Section of the Indianapolis Bar Association recently studied the issue and stated persuasively that “a consolidated Marion County Family Law Division will allow for all sections to work in harmony as a ‘problem-solving Court’ to promote comprehensive and consistent resolution of familial issues. Most importantly, this model will ensure resources and energy will not be duplicated.” Indeed, that is one of the core reasons to implement a Unified Family Court.

Of all of these case types, Estates and Trusts are not usually listed in the list of recommended case types for a Unified Family Court.¹⁰ However, Estates and Trusts are included successfully in other family court models as in the Massachusetts Probate and Family Court. This issue will likely need to continue to be studied in Marion County. NCSC as well as the ABA Probate Section can also offer more background so Marion County can come to a decision. Inclusion of these cases could

¹⁰ ABA Policy on Unified Family Courts, Adopted August 1994, in ABA Summit on Unified Family Courts: Exploring Solutions for Families, Women and Children in Crisis, May 14-18, 1998, p. xvi– xvii

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provide some diversity to judicial officers in the Unified Family Court. In Massachusetts for example, a complex litigation track has been designed for hearing contested estate cases, and the judicial officers have reported that this calendar is challenging and interesting. The nature of the cases is distinct enough that they could also be heard by the Civil Division. Without a specific policy reason for or against inclusion, we would recommend that the judicial officers currently presiding over these cases be invited to express preferences.

3. Should Marion County include criminal cases in domestic violence cases?

Some jurisdictions have integrated domestic violence courts to hear both civil and criminal issues, such as a criminal battery or child abuse case. There are a number of reasons to separate the hearing of criminal matters from a place designed to serve vulnerable parties, including security reasons, differences in the mission of the court, and practicalities such as whether or not jury boxes are part of the courtroom design. For these reasons, we do not recommend inclusion of these matters. In our opinion, justice is best served by coordination and communication between the family and criminal courts handling the matters to ensure proper information sharing. This avoids conflicting court orders

while maintaining the rehabilitative focus of the family court. “The case management team and the judges should coordinate proceedings to ensure consistency of orders, efficient scheduling of cases, and to maximize the use of services.”¹¹

¹¹ Florida Courts. One Judge/One Family vs. One Judge/One Team. Available:

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4. Protection Orders and/or adult guardianships that do not include family members

Repeating what was earlier stated, NCSC does recommend inclusion of minor guardianships of the person if not inclusion of all cases currently heard by the Probate Division. NCSC recommends that Protection orders that do not include family members be heard before the Civil Division.

5. Should the courts each see all the inclusive case types, or should there be any further specialization within the family division from one presiding judge to another?

Having consulted with NAPCO leadership,¹² we recommend that the Juvenile, Family and Probate Court see all case types as detailed above. We recommend that a lead judge and lead case manager be established for Domestic Relations; Child Support; Domestic Violence; Juvenile Delinquency; Child Welfare; Probate, Guardianships and Mental Health; and Trusts/Estates (if included) to be the principal expert in the handling of these matters. Each of these areas, while related, are sufficiently specialized as to require a higher degree of expertise. The lead judge and case manager for each area would be responsible for staying abreast of best practices and innovations within that specialization and then working through communication, training and partnership to diffuse those practices throughout the Court. While most courts do tend to assign judges to either a Family, Juvenile or Probate division, it is our opinion that having all judicial officers and staff conversant in all areas of law within the Unified Family Court

<https://www.flcourts.org/content/download/215921/1961472/ONE-JUDGE-ONE-FAMILY-VS.pdf> accessed December 10, 2019

¹² Interview with Gordon Griller, Executive Director of the National Association of Presiding Judges and Court Executive Officers and Patti Tobias, NAPCO Board Member, December 11, 2019.

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encourages a problem-solving climate, while providing needed variety for judicial officers and staff as well as maximum efficiency in case assignment. Organization in this manner is highly flexible and will allow for the most expedient handling of cases. This is addressed in greater detail in the Case Management and Judicial Officers sections below.

6. If there is a recommendation of specialization within the Family Division, do you have any recommendations on how that should affect the leadership of the division?

Above, NCSC recommends a lead judge and lead case manager be established for Domestic Relations;

Child Support; Domestic Violence; Juvenile Delinquency; Child Welfare; Probate, Guardianships and Mental Health; and Trusts/Estates (if included). This can be a rotating assignment, but we would not recommend a judicial officer assume this leadership position without at least five years of experience in their designated area of law.

Numerous judges across the country have told us that it takes at least five years to achieve expertise for these case types. The judicial officer assuming the lead position should

have significant experience in the designated area of law as criteria for selection for the post. In recognition that Marion County may not always have judges to choose from with at least five years of experience, Marion County should assign judges with as much experience as possible, or judges that have pursued study such as the Child Abuse and Neglect Institute offered by NCJFCJ as an example. In an ideal world, and consistent with *The Principles of Judicial Administration* (NCSC, 2012), we recommend that lead judges have a

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caseload that allows sufficient time for the responsibilities of court administration, which can be significant.

SPECIAL CONSIDERATIONS FOR JUVENILE PROCEEDINGS: PROBATION AND DETENTION

- 1. Adult and Juvenile Probation are currently not working together to serve families. Should they work together in any capacity? Should they share information when it would be beneficial for a family? How can the probation department best assist the family division, if at all? What services for the family division could be offered or funneled through the probation department? For instance, should DRCB fall under the probation department?**

When one family is being supervised by both adult and juvenile probation, we recommend that the probation officers share relevant and crucial information to help support the case plan goals of the probationers, just as any other agency involved with the family would share information and with a release of information if necessary. There is no published guidance on best practices for adult and juvenile probation collaboration. NCSC reached out to several jurisdictions with court-administered probation, and they did not have documented policies or practices for this situation.

Marion County is currently utilizing the Indiana Youth Assessment System (IYAS), which includes a family functioning domain. This domain usually includes both family history items and descriptions of current family functioning, and youth who score high in this domain may have case plan goals related to improving family circumstances such as discipline strategies and parental supervision. The importance of family engagement at all stages of a delinquency case cannot be

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understated.¹³ A partnership between the adult and juvenile probation officers may enhance compliance with these goals, contribute to family engagement, and improve case outcomes.

While there are not recognized published standards for how juvenile and adult probation departments should collaborate, there are several examples of how juvenile probation departments and child welfare agencies can and should work together. Lessons from partnerships between juvenile probation and

child welfare agencies may be beneficial to visit when considering how juvenile probation and adult probation interact in Marion County. For example, family-centered interventions, such as Functional Family Therapy and wraparound services, have produced positive outcomes for justice-involved youth, including less criminality among parents and older youth and reduced risks of subsequent child abuse and neglect.¹⁴ NCSC recommends that Marion County continue to utilize these services. Additionally, youth who are involved in multiple systems have benefitted from multi-disciplinary teams that include representatives from various agencies and professions to assist with case planning and

¹³ Annie E. Casey Foundation. (2018). Transforming Juvenile Probation: A Vision for Getting It Right. Available: <https://www.aecf.org/resources/transforming-juvenile-probation>. This document encourages family engagement in case planning and all stages of juvenile probation and describes the Foundation's vision for including families in juvenile probation case management as well as some examples from Pierce County, WA. See also National Center for Mental Health in Juvenile Justice's (now the National Center for Youth, Opportunity, and Justice) 2016 presentation: Family Involvement in the Juvenile Justice System. Available: <https://www.ncmhjj.com/wpcontent/uploads/2016/05/RF-Family-Engagement-FINAL.pdf>. The presentation outlines the benefits of family involvement, reviews guidance for families and juvenile justice systems, and provides an overview of the Pennsylvania Model for family involvement in Juvenile Justice.

¹⁴ Siegel, G., & Lord, R. (2004). When Systems Collide: Improving Court Practices and Programs in Dual Jurisdiction Cases. Pittsburgh, PA: National Center for Juvenile Justice.

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monitoring.¹⁵ Such strategies may also be applicable for families involved in both juvenile probation and adult probation.

Rather than funneling services through the general probation department, we recommend centralizing support services within a family court probation department so that family services are available to any part going through a court process. If the services are funneled through probation, it may give the internal and external impression that an individual or family needs to be involved in probation to access services. Alternatively, centralized services facilitate the use of supportive diversion and alternative responses. As a side matter, jurisdictions such as Massachusetts who have a probation department within their family court have expressed a disinclination for the term “probation” because it conjures a sense of punishment that is not in keeping with family court principles.

2. What requirements are necessary for sight-sound separation? Does that pertain to transportation to court? Does it also pertain to courthouse operations?

Sight and sound separation protection in the [Juvenile Justice and Delinquency Prevention Act](#) is intended to protect youth who are held in an adult jail or lock-up from threats, intimidation, or abuse. In the Juvenile Justice Reform Act of 2018 that reauthorized the JJDP Act, this protection and jail removal was extended to youth awaiting a trial in criminal court. Per the law, youth should only be held in adult jails or lock-ups under very specific situations, and if they are held in an adult jail or lock-up, they should not have any physical, clear visual, or verbal contact that is not brief and inadvertent with adult inmates.¹⁶ The law

¹⁵ Ibid.

¹⁶ Campaign for Youth Justice’s JJDP Act Fact Sheet Series: Core Protection: Jail Removal/Sight Sound Separation

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does not specifically ascribe sight and sound separation to transportation to court or courthouse operations.

While the law does not specifically pertain to transportation to court or courthouse operations, NCSC recommends considering the safety of all youth and keeping them separated from adult inmates as much as possible. Youth should not be transported to court in a vehicle with an adult charged with or convicted of a crime, nor should they be made to sit in a holding room with an adult charged with or convicted of a crime.

3. What do we need to consider for the construction of the detention center to comply with the Charles Grassley Juvenile Justice Act of 2018?

The Charles Grassley Juvenile Justice and Delinquency Prevention Program pertains to the policies and practices that drive decisions to detain youth, decisions where to detain youth, how to treat youth who are detained, and how youth who are detained should spend their time. There is an emphasis on not detaining status offenders and victims of exploitation and trafficking and on applying alternatives to secure detention.

4. Is it recommended to have a courtroom within the detention center?

NCSC could find no documented recommendations for or against this practice. NCSC reached out to National Partnership for Juvenile Services, a membership organization that focuses on services to juvenile justice involved youth, and they did not have a position. Many

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detention facilities have courtrooms within them, most often when the distance between the facility and the courthouse is a barrier to detention hearings happening within the required timeframe. Many courthouses that have a juvenile detention facility attached have a secure connection to the main courthouse rather than a separate courtroom in the detention facility. There is no published research on the impact that having a courtroom in the detention facility has on the number of hearings on a case. However, Magistrate Randi Boven of Broward County, Florida stated that attorneys in her jurisdiction have made due process claims related to youth cases being heard in the detention facility.

5. Any other concrete recommendations regarding the detention center (i.e., staffing, etc.). Is it recommended to have a courtroom within the detention center?

Several organizations have issued standards or recommendations for the staffing and practices of juvenile detention facilities, including the National Institute of Corrections (NIC),¹⁷ and Annie E. Casey's Juvenile Detention Alternative Initiative (JDAI).¹⁸ These organizations agree that staffing of a detention center should be in accordance with the Department of Justice PREA Standards¹⁹: a direct care staff ratio of 1:8 during resident waking hours and 1:16 during resident sleeping hours.

The various published standards also include recommendations for training of detention staff, intake and screening, and provision of

¹⁷ National Institute of Corrections, National Center for Youth in Custody, & National Partnership for Juvenile Services. (2014). Desktop Guide to Quality Practice for Working with Youth in Confinement. U.S. Department of Justice. Office of Juvenile Justice and Delinquency Prevention. Available: <https://nicic.gov/desktop-guide-qualitypractice-working-youth-confinement>

¹⁸ Annie E. Casey Foundation. (2014) A Guide to Juvenile Detention Reform, Juvenile Detention Facility Assessment, Standards Instrument. Available: <http://www.cclp.org/wp-content/uploads/2016/06/JDAI-Detention-FacilityAssessment-Standards.pdf>

¹⁹ See the [National PREA Resource Center](#)

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services. The standards themselves are far too comprehensive to include in this report; however, we offer several recommendations based on the standards here:

- NCSC recommends that Marion County’s juvenile detention facility continues to use the detention tool that is part of the Indiana Youth Assessment System (IYAS) to determine a

youth’s risk of reoffending pending adjudication if not detained and the youth’s likelihood of appearing for a court hearing without secure detention in the interim.

- NCSC recommends that Marion County’s juvenile detention continues to use a standardized mental health screening and a screening for suicide risk and that the detention facility has a documented protocol for addressing the needs of youth whose screen indicates the need for follow-up.
- NCSC recommends that detained youth in Marion County continue to be permitted to meet and speak by phone with their legal team at any time during waking hours, not limited to visitation hours. The detention facility should have private rooms or areas available for the meeting that allows for confidentiality.
- Aside from training on facility operations and protocols, NCSC recommends that staff who work in the detention facility continue training in the legal rights of youth who are in detention; adolescent development; the impact of trauma; positive behavior management; de-escalation techniques, and conflict management; and responding to and reporting child abuse or neglect. The detention facility should ensure that their documented policies and protocols support the best practices

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touted in the trainings, that trainings are evaluated for their effectiveness in conveying information, and that supervisors are knowledgeable about how to coach supervisees on related skills and techniques.

- NCSC recommends that staff continue to only use room confinement as a temporary response to behavior that threatens immediate harm to the youth or others, and never for discipline, punishment, administrative convenience, retaliation, or staffing shortages.

Both JDAI and Performance-based Standards, Inc.²⁰ (PbS) have systematized processes for assessing the extent to which a detention facilities operations and practices align with existing recommendations and will provide technical assistance to improve the quality of the operations and practices. NCSC recommends that the juvenile detention facility interface with either JDAI or PbS.

INFORMATION TECHNOLOGY

1. Information Sharing – Do you recommend continuing with Quest as a case management system for Juvenile, while the rest of the Court utilizes Odyssey?

We recommend strongly that courts use Odyssey as the one case management system for all departments and courts. Odyssey is currently being used in all courts except the Juvenile Court, and information sharing is of paramount importance in a Unified Family Court. A singular case management system is preferred because it facilitates efficient information sharing both within the court and

²⁰ Performance-based Standards, Inc is a data-driven improvement model that offers support and coaching in collecting, analyzing, and interpreting performance data on a regular basis. Participation in PbS also provides the opportunity to see how your facility is performing compared to other similarly sized facilities and access to training. See www.pbstandards.org for more information.

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among stakeholders inside and outside the jurisdiction involved in the case. Case management systems are the tools by which Unified Family Courts integrate all information relating to family members, court orders, cases and court-related services in a way that respects due process. When this information is shared without protections or when the information is unavailable or inaccessible, both courts and families

suffer. Courts need access to information originating in Marion County and other counties across the state to be effective.

While no case management system is perfect, Odyssey is highly configurable and can be adapted to perform a number of case management activities. Odyssey is also very adept at facilitating information exchange between courts as well as with attorneys or external partners. It is our understanding that Odyssey is being used in almost every other jurisdiction in Indiana.

We understand that Quest is preferred to Odyssey by some in its case management functionalities, like allowing access by attorneys and other Juvenile Court professionals. When other courts have been in this situation, they have been tempted to maintain two data systems. While the intent of this plan is compromise, it often results in difficulties as double data entry increases the likelihood of data entry errors and reduces data quality.

2. How should we handle cases that could be bundled together with different confidentiality standards? (i.e. CHINS and DR or Paternity)

It bears repeating that in a Unified Family Court, information sharing that meets with due process is essential for the court's functioning.

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The legal framework for information sharing is complex and can be confusing. The handling of cases with different confidentiality standards requires well-considered, clearly stated policies that draw from the confidentiality provisions for each area of law and that are communicated on an ongoing basis to all stakeholders. Additionally, some jurisdictions have addressed these issues by establishing court rules or entering into memoranda of understanding with related agencies regarding the exchange of information. Indiana Administrative Rule 9 provides excellent guidance with regards to documentation. The code for each area of law also needs to be consulted for guidance with records and in-person proceedings.

When case types with different confidentiality standards are bundled, the more stringent protections apply; however, both open proceedings and records can be managed separately. For example, if a CHINS case is bundled with a DR case, the bailiff can exclude non-public members during the CHINS portion of the hearing. With regards to records, protected information can be placed in a special file. The electronic record can include protections allowing access only for credentialed persons.

Once Marion County decides which case types will be heard by the Unified Family Court, we recommend that leadership consult the statutes that address records and confidentiality and develop a reference guide of the standards for judicial officers, court professionals, and attorneys. The Court must develop clear standards about what information may be shared and who is entitled to access to the information.

Again, because standards differ across case types, the more stringent standards should take precedence.

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Excellent examples of reference guides exist. California's *Unified Courts for Families Desk Book*²¹ provides all the considerations for protecting information when different case types are bundled.

Similarly, the Massachusetts Court Improvement Program created a comprehensive guide: *Guide on the*

Disclosure of Confidential Information that we recommend as a template.²² The purpose of this guide is to inform the professionals working with children and families about confidentiality and privilege laws, “thus promoting adherence to the law when making decisions about the disclosure of information and minimizing any unintended negative consequences.” It deals with both in-person hearings and documents. The guide reviews federal laws to be considered, such as HIPAA, and provides definitions such as “personally identifiable information.” It also provides a grid to be used as a quick reference on the specific rules of disclosure for each area of law, as this demonstrates:

²¹ Judicial Council of California, Administrative Office of the Courts, Center for Families, Children, and the Courts. (2004). *Unified Courts for Families Deskbook: A Guide for California Courts on Unifying and Coordinating Family and Juvenile Law Matters*. Available: <https://www.courts.ca.gov/documents/UCFdeskbook.pdf> (accessed December 18, 2019)

²² Massachusetts Court Improvement Program, Massachusetts Court System. (2018). *Guide on the Disclosure of Confidential Information: For Professionals in Massachusetts Working with Children, Youth, and Families*. Available: <https://www.mass.gov/handbook/guide-on-the-disclosure-of-confidential-information> (accessed December 18, 2019)

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Disclosure of Confidential Information Quick Reference Grid

| Agency or Department | Common Requests for Records or Information | General Rules for Disclosure <i>Consult Specific Sections of the Guide or Legal Counsel for More Information</i> |
|---|--|--|
| Department of Children and Families (DCF) | <ul style="list-style-type: none"> • Verification of open or previously open agency case • Current worker's name & contact info • Current placement • 51A and 51B reports • Service and treatment history • Screenings and assessments • Placement and family history, reason for agency involvement • School or medical information | <p><u>General Rule:</u> Information held by DCF is confidential and is not subject to public disclosure without a signed release or court order (G.L. c. 66A).</p> <p><u>Some Limited Exceptions:</u></p> <ul style="list-style-type: none"> • When DCF is a party to a court proceeding, providing the entire file to: attorney for a party; Juvenile Court Investigator; court-appointed guardian ad litem; Probation Officer for case, subject to redactions. (110 CMR 12.09). • When DCF has custody some information about the child is available to: child's delinquency attorney (110 CMR 12.10), DYS when child is committed or detained (110 CMR 12.15 ; G.L. c. 119, §69A), service providers and school personnel (110 CMR 12.06) • DCF must provide certain serious child abuse reports to the district attorney and police (110 CMR 4.50-51; G.L. c 119, §51B(k)). |

CASEFLOW MANAGEMENT AND TRIAGE

1. How should the case types flow through the Family Division? (i.e. uncontested divorce takes a different track versus complex family matters that require more outside efforts for resolution and court hearing time)

We recommend an approach where cases are set on a specific pathway at filing based on an array of case characteristics and using a standardized intake process. Studies show that a triage or pathway approach can speed time to disposition, maximize limited court resources, and improve party, judicial officer and employee satisfaction.

NCSC experience with triage in Juvenile, Domestic Relations and Child Welfare has pointed to at least three pathways. The descriptions below are largely taken from the Family Justice Initiative Principles, but are generalized here for application to Juvenile and Child Welfare:

- A **Streamlined Pathway** is appropriate for cases that require minimal court resources and little exercise of judicial discretion, and that benefit from swift resolution. Most cases likely fit within this category and are cases in which the parties are able to come

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to some form of agreement, with or without formal mediation. Examples include divorces in which parties generally agree;

delinquency charges resolved by a plea in abeyance or diversion; child welfare or guardianship petitions that are uncontested and result in a standard oversight plan.

- A **Tailored Services Pathway** is appropriate for cases that require more than minimal resources and may present greater opportunities for problem solving between parties. Examples include divorces in which parties can get to a mediated solution; a delinquency case with a treatment plan such as participation in a treatment court; child welfare petitions that require mediation and/or trial and a more intensive treatment plan. This pathway may represent between 15% or more of the caseload, depending on case type.
- The **Judicial/Specialized Pathway** is appropriate for cases that necessitate substantial courtbased or community services and resources to reach resolution. This track is appropriate for cases requiring intensive court facilitation and supervision. This pathway may represent 5-15% of the caseload. Examples include more complex issues such as co-occurring mental health and substance abuse needs, high risk of out-of-home placement, and/or intrafamilial violence.

If the court wishes to implement a pathway approach for the Unified Family Court, the court should establish pathways for each of the case types that will be heard by the court and then determine case characteristics for each. [A Model Process for Family Justice Initiative Pathways, 2019](#) articulates a triage process for Domestic Relations

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cases that involves reviewing information about the case, like type of proceeding, facts about the family, presence/absence of complex factors, degree of conflict, and parties' requests according to a standardized instrument. Examples of domestic and juvenile pathways have been applied in Colorado, Connecticut, Florida, Maryland, Massachusetts, Ohio, Washington State and other jurisdictions. For example, counties within Maryland publish their case management plans for family proceedings online, many including seven different tracks.

Following the example of Maryland counties or other jurisdictions, court leadership should collaborate as a team and with other court divisions to develop and publish a Caseflow Management Plan for each case type to be heard and make it readily available to judges, court staff, the clerk's office, the Bar, the Department of Human Services (DHS), and other system partners. Such a published plan would provide details about case processing techniques that govern the court processes, including, but not limited to, goals, case assignment and docketing procedures, time standards, continuance policies, and expectations of all parties in reducing needless delay. Basic caseflow management principles apply to all case types: control of the progress from beginning to end, only schedule meaningful events, have a written continuance policy, and have a written caseflow management plan. The Court may also want to consider telephone or paper appearances, add-ons, change of venue cases, and attorney team calendaring. The Court will also have to decide what procedures will determine how cases shall be bundled together. Here is an example of a decision tree to decide when cases should be bundled:

The following are factors that might be considered:

- How related are the factual and legal issues of the cases?
- Are all or most of the parties the same?
- At what stage of development are the cases? If they are at significantly different stages, will there be any benefit to coordination? How far back in time should the search for related cases go?
- Is this a one-time event that will be resolved in one or two visits to court?
- Will coordination prevent conflicting orders and hearings? Will coordination avoid duplication of services?
- Is there a risk of unfair prejudice to a litigant from the information shared?
- Should the court include closed cases? Closed cases may provide the court with important information about existing orders.

2. Do you recommend an intake filing, such as Miami-Dade's coversheet or other screening tools? <http://www.miami-dadeclerk.com/library/family/005-Web.pdf>

We do recommend a screening and intake process using standardized screening questions to identify case characteristics. Alaska has clearly articulated a screening process that we recommend to Marion County because it is simple to administer, provides clear guidance, and has been studied and proven effective for domestic relations.

A meaningful intake process greatly enhances a court's case management and case processing capabilities. Triage facilitates the

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allocation of resources which include judge time as well as services to meet both the legal and nonlegal needs of the family. Intake should include identification of related family cases. “Active case screening at intake to determine related cases should also involve reviewing databases, checking with jails, and asking the petitioner whether he has any other family law cases currently active or already closed. An additional, often more successful, method for identifying related cases is through referral from other judicial officers, family law facilitators, other court-based self-help attorneys, custody mediators, private attorneys, court clerks, prosecutors and defense attorneys, the probation department, CASA volunteers, or family members themselves. Bench officers, family law facilitators, custody mediators, and other court staff should be encouraged to ask family members repeatedly and regularly about whether they have other court cases. This includes cases in other counties that may need to be coordinated.”²³ The Miami cover sheet presented appears to identify case type and related cases. It does not appear to be overly burdensome. Nevertheless, it represents

another form that parties may have to complete, and it is unclear why this same information could not be obtained from the case file by court employees.

Intake should occur as soon as possible with “active, hands-on participation from court personnel.”²⁴ Intake should also include

²³ Judicial Council of California, Administrative Office of the Courts, Center for Families, Children, and the Courts. (2004). Unified Courts for Families Deskbook: A Guide for California Courts on Unifying and Coordinating Family and Juvenile Law Matters. Available: <https://www.courts.ca.gov/documents/UCFdeskbook.pdf> (accessed December 18, 2019) (Accessed December 18, 2019)

²⁴ Babb, B. A. & Moran, J. (2019). *Caring for Families in Court: Essential Approach to Family Justice*. Routledge: New York, NY. (p. 24) ²⁹ Ibid.

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assignment to a case coordinator or case manager, additional screening to identify service needs, and referral to service providers. In our experience, courts often underutilize information about family needs. The court has access to information from assessments completed by social workers, probation, domestic relations service providers, and other service providers. Each of these assessments contains valuable information and also has its own privacy protections. We recommend that Marion County gather together information regarding the various assessments used by stakeholders (i.e., DRCB, probation, social services, etc.) to consider how the information could be used in an intake process. This information would inform the creation of the Confidentiality guide recommended above. It would also contribute to the most effective utilization of judicial time and resources while reducing burden on families.

Intake services should include the following tasks:

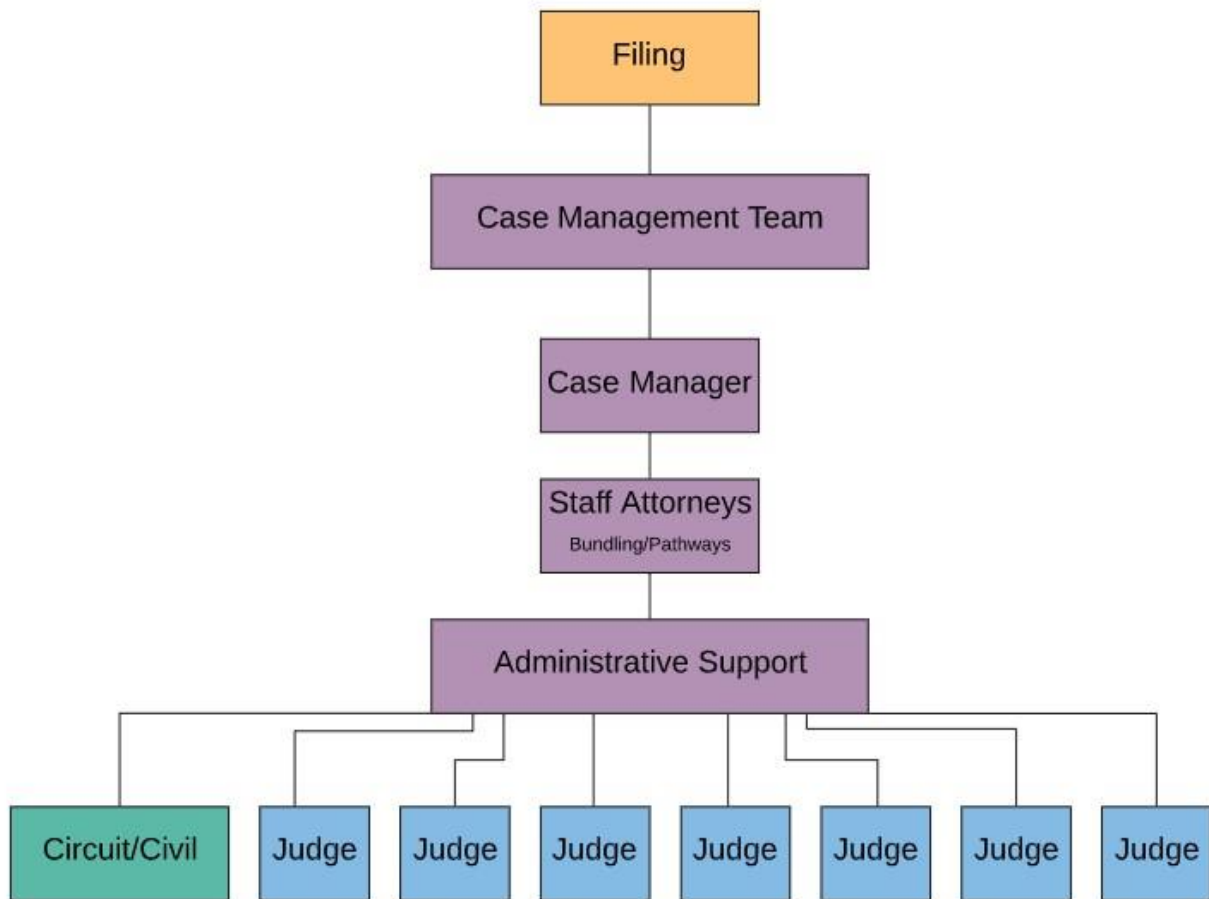
- Establish a physical case file
- Assign the case to a judge/team
- Establish a case record in the case management system
- Conduct a search for other cases involving the client
- Complete a case summary sheet or equivalent and attach to file
- Conduct an assessment of the case characteristics to assign the case to a pathway
- Assign the case to a case coordinator or manager
- Conduct an assessment of the case for service referral purposes
- Interview litigants or their representatives for case management and service needs assessments
- Make referrals to appropriate service providers, including legal services

3. If you recommend different case-flow structures, should different judicial officers (Judges/magistrates) be assigned to each structure or should they each generally be able to handle all cases and caseload tracks?

We recommend that judges and magistrates generally be able to handle all cases and caseload tracks. The “team approach ensures that the same team of court administrative personnel, which may include quasi-judicial officers reviews a family’s case every time a family member files a matter with the court and during the entire court process. This technique promotes consistency in case processing but avoids the overfamiliarity.”²⁹

An ideal One Family, One Judge Team is centered on case management through a Case Manager overseeing the cases. The Case Management Team also includes judicial officers, law clerks, staff attorneys and administrative support. For maximum efficiency, we recommend centralized case calendaring and random assignment of cases to allow for a balance between less and more demanding

cases. In this section, when we refer to Case Manager, we also intend to include the Case Manager’s designees such as staff attorneys and administrative personnel.



After Intake, the case should be sent to the Case Manager to review the identified Pathway. The Case Manager should approve the Pathway and establish an individualized case management plan, ensuring that the parties and judicial officers are aware of the case management plan and how to access services. The Case Manager or their designee would notify the assigned judge when a new case related to a family or an issue within an existing case arises. The Case Manager in ensuring management of cases in accordance with Pathways and case management plans, the Case Manager should supervise the bank of administrative support and staff attorneys/law clerks, rather than each judicial officer supervising individual judicial assistants.

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Marion County should review the current stage of facility design and determine if it is possible to have team members' offices closely located rather than spread throughout the facility, to facilitate collaboration. It is also helpful to be located near interdisciplinary professionals such as probation, mental health, social services and others.

The NCSC team understands that the number of judge assignment will be largely dependent on the Weighted Caseload Numbers. The judicial officers: magistrates and judges should have as much flexibility in jurisdiction as possible. This is maximally efficient, allowing judicial officers to back each other up and encourages collegiality and a wide knowledge base among all of the judges. Having one judicial officer preside over a case from beginning to end encourages effective management of the case. When contested issues are sent to another court, other courts have experienced the effect of all the problematic cases being referred out of the originating court.

4. What would your recommendation be about how to handle the paternity cases? Should they be incorporated in the family division, or continue how they are?

Because families in paternity cases need access to the same services as the other case types we have recommended to be heard by the Unified Family Court, we recommend that paternity cases be incorporated into the Family Division in a way that conforms with Constitutional requirements. This could be as simple as co-location and coordination of events. The NCSC team is not aware of courts that hear paternity cases outside of the court where other divorce and dissolution cases are heard. It is common to see IV-D courts run independently, with their own judicial officers, staff and dockets as a condition of IV-D reimbursement.

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FAMILY COURT SERVICES AND FUNCTIONS

1. What professional staffing would be necessary to support a Family Division? Please include job descriptions for case managers, intake, supervision, etc.? Should case managers/POs/etc. be assigned to each team?

In February 2018, the Conference of Chief Justices (CCJ) endorsed the Family Justice Initiative recommendations that envision a family justice system where courts provide the information to parties to make decisions concerning the management of their case. In the Family Justice Initiative's vision, the court provides staff or automated tools that serve as navigators to proactively guide litigants through each stage of the process and provide appropriate resources and assistance along the way. The staff attorneys shown in the diagram above could serve this function. It also envisions active and continuing oversight of family cases proportionate to case needs and case management performed by specially trained professional staff and supported by effective case technology. A model centered around the case management team is intended to permit judges to focus on tasks that require judicial training and expertise while engaging the skills of staff to identify as soon as possible after filing which pathways and services are most appropriate to meet the families' needs.

This staffing model represents a significant departure from the way that most courts are currently staffed. As requested, we provide a list of the types of professionals that are emerging in case management teams. NCSC maintains a collection of sample court job descriptions on its web

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site,²⁵ including several that are directly relevant to case coordination in a Unified Family Court, such as

Director of Family Court Services (mediation), Unified Family Court Coordinator, Family Court Facilitator/Self-Help Center Attorney, and Unified Family Court Program Manager. We provide several descriptions of Case Manager and a Family Court Facilitator/Staff Attorney description here; however,

the job descriptions are comprehensive and diverse enough that we encourage Marion County to review

the examples provided online at: <https://www.ncsc.org/Topics/Human-Resources/JobDescriptions/Specialized-and-Problem-Solving-Courts/Family.aspx>.

²⁵ <https://www.ncsc.org/Topics/Human-Resources/Job-Descriptions/Specialized-and-Problem-SolvingCourts/Family.aspx>

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ASSOCIATE DIRECTOR OF FAMILY SUPPORT SERVICES

Prince George's County Circuit Court, Family Division, Upper Marlboro, MD.

Duties: The incumbent, under the direction of the Director of the Family Division performs at an advanced level by providing assessment, information and referral to court and community resources for parties seeking advice and assistance with social issues in actual or potential family law cases. Provides follow up on referrals to aid in the determination of necessary development of community serves. Cooperates and coordinates efforts with other components of the Family Division. Performs Adoption and Custody Investigator duties which include receiving and tracking investigations in court ordered adoption and custody evaluations. Conducts investigative interviews of parties involved, assesses home conditions, prepares written reports, and consults with court officials and testifies in court. Provides assessment, information, and referral to court and community resources for family members seeking advice and assistance with social issues in actual or potential family law cases. Assesses need for emergency action by the court and provides intervention and/or recommendations to the court when ordered or requested by a judge or master. Follows up on referrals to determine case outcome (when appropriate) and /or documents needed for development of additional community resources. Provides supervision of Family Support Services support staff. Performs other tasks and duties that may not be specially listed in the class specification but are within the general occupational category.

Qualifications: Applicant must have a Master's degree in human services field. (Licensure in the State of Maryland maybe required during post-employment.) A minimum of five (5) years' experience in administration of human services programs dealing with families in crisis and be a Court approved Child Access Mediator. Have extensive knowledge of community resources and Maryland Court organization and its operation requirements. Have comprehensive knowledge of the administrative and operation management of court directives and policies as it relates to duties of the Family Support Services programs. Have experience in designing and maintaining program and staff management. Ability to interview and assess human service needs of a diverse population of individuals seeking assistance from the court on family law-related issues. Have excellent organizational and record keeping skills and ability to interact professionally with court, public officials, co-workers and colleagues. Possess excellent communication skills. Ability to speak Spanish is a plus. Applicants are subject to background check.

Salary: \$57,816 - \$85,000

UNIFIED FAMILY COURT PROGRAM MANAGER

Unified Family Court/Complex Litigation Division

Summary: In accordance with a mandate issued by the Florida Supreme Court in May 2001, the Unified Family Court was established as a mechanism to provide a comprehensive, coordinated approach to handling these complex matters ("one family, one judge"), with the overall purpose of promoting judicial economy, ensuring consistent rulings, and eliminating duplication of resources. Supervision for the Program Manager is under the Division Director, who is responsible for the identification, coordination, and transfer of all related cases pursuant to the circuit's Administrative Order, and for carrying out the vision of the circuit's UFC model.

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Duties: Handle daily operational issues as they arise relating to UFC, including the transfer of cases, and the coordination of cases between the multiple system partners and users; Handle inquiries and notifications of related cases from the judiciary, court staff, litigants, and attorneys for possible transfer and coordination of qualifying UFC cases; Review daily UFC Reports and Notifications of Related Cases in order to identify cases for coordination and possible transfer to UFC; Prepare orders for transfer, and provide summary information on related case histories and activity; Coordinate active/pending and related closed cases so as to avoid the issuance of conflicting court orders; Act as liaison between the multiple court divisions which have related matters either closed or pending; Provide judicial support, coordinate court calendars, provide resources and service delivery, and other related duties; Conduct case management of UFC caseloads, measuring status and outcomes; Analyze activity reports for the purpose of efficient and effective case management; Track, compile, and analyze statistical data and measure trends in the form of reports; Facilitate front-end outreach for filing of UFC cases through the legal community, Daily Business Review, Court Website, etc.; Research best practices in other jurisdictions for local adaptation and implementation and other such related administrative work as necessary to support the operations of the UFC and the UFC Advisory Board (FLAG). Perform related work as required.

Qualifications: Graduation from a four-year college or university with a bachelor's degree in public administration, psychology or a related field; graduation from an accredited law school and Juris Doctorate degree preferred. Five years of professional experience in the court system with dependency/delinquency/family law/domestic violence issues or comparable agency; substantial dependency experience preferred.

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DIRECTOR OF FAMILY COURT SERVICES

Superior Court, County of Tulare, Visalia, CA.

Summary: To administer the activities of the Family Court Services Unit of the Superior Court, to supervise all of its personnel; to perform direct services for the Court in mediation; and to liaison with a variety of agencies on behalf of the Superior Court and the Family Court Services.

Duties: Plan, implement and administer the Family Court Services Unit; Serve as liaison in Family Court Services at committee meetings with state organizations and programs; Provide for the development and maintenance of uniform courtside procedures for the administration of Family Court Services; Train and supervise Family Court Mediators and support staff; Maintain management information concerning workload and caseflow, and prepare reports as necessary; Consult with and make budget recommendations to the Court Executive Officer; Maintain current knowledge with respect to relevant clinical and mediation literature and changes in domestic relations law; Review and analyze legislation pertaining to divorce, child custody, and juvenile dependency issues; Mediate disputes concerning parenting arrangements in cases involving divorce, separation, paternity, guardianships and temporary restraining orders; Attend meetings, participating in staff training, and representing the office at various organizations and programs; Interview and make recommendations for pre-age marriages; Interview, investigate, and make recommendations in Custody Evaluations, Guardianships, and Step-Parent Adoptions; Keep records and maintains statistical information regarding services provided; Serve as informational resource regarding divorce related matters to the public, attorneys, and agencies who seek assistance or counsel; Conduct education classes for the public dealing with the issues of divorce, separation, child custody, visitation and child

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development; Perform other duties as assigned by the Presiding Superior Court Judge, Family Law Judge, Juvenile Court Judge, and the Superior Court Executive Officer; Coordinate with the systems support analyst in maintaining the integrity and function of the Family Court Services computer network and database management system; Oversee supervision of Family Court Services staff including interviewing, work product assessment, work assignment, discipline, including the development and implementation of correction plans to change problem behavior, and writing performance evaluations; Prepare personnel data forms, status changes and other personnel related materials for the staff assigned to the Family Court Service unit; Attend staff and

other work-related meetings, workshops, seminars, and other continuing education opportunities to implement policies.

Qualifications: The combination of education and experience listed as follows are the minimum qualifications: Graduation from an accredited college or university and a Master's Degree in social work, psychology, marriage, family and child counseling AND Four years' experience in family and divorce counseling or psychotherapy which includes one year of lead work.

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FAMILY LAW FACILITATOR/SELF-HELP CENTER ATTORNEY

Superior Court, County of Kings, Hanford, CA.

Summary: This is a Family Law Facilitator / Self Help Center Attorney position under the general direction of the Presiding Judge or Court Executive Officer. This professional level position is responsible for the oversight and day-to-day operation of programs providing legal services to litigants not represented by counsel. The incumbent is responsible for all the work undertaken by the Family Law Facilitator's Office and the Self Help Center. This is a Full-time position that prohibits private practice during the incumbent's tenure due to the nature and responsibility of this specific assignment. The Family Law Facilitator provides services mandated by Family Code 10000-10012. As the Family Law Facilitator, the incumbent facilitates and expedites family law proceedings related to child support, spousal support, paternity establishment and disestablishment, and health care insurance and expenses. As the Staff Attorney for the Self-Help Center, the incumbent facilitates and expedites proceedings related to dissolution, legal separation, nullity, parentage, child custody and visitation, property division, step-parent adoption, domestic violence restraining orders, probate guardianships, and answers to limited civil actions, unlawful detainers, small claims, and conservatorships. The incumbent also recommends, develops, implements and coordinates all aspects of the Court's public access and outreach efforts.

Duties: Develop, plan, implement and administer a Family Law Facilitator Program pursuant to Family Code Section 10000 et seq. Responsible for the overall development, planning, implementation and administration of programs designed to provide support services to self represented litigants in various areas of family law (including guardianship and step-parent adoption) and (to a lesser extent) in limited civil actions. Meet with Court officials, community-based legal service organizations, and others to assess the need for and identify services that will assist the Court in resolving all manner of family law disputes and improve Court access for financially disadvantaged litigants. Develop and provide direct services to clients referred by the Court or seeking assistance, including: Meet with litigants to mediate issues of child support, spousal support, and maintenance of health insurance. Prepare support schedules based on statutory child support guidelines and local rules governing the establishment of temporary spousal support. Draft stipulations and orders addressing issues agreed to by the self represented litigants, including marital status termination, paternity establishment, child support, spousal support, property division, and establishment of guardianship. Pre-hearing calendar file review; preparation of support schedules prior to and/or at hearings; and, preparation of recommendations to the court regarding whether matters are ready for hearing. Prepare formal orders and judgments consistent with the Court's announced order in cases where both parties are unrepresented. Develop, plan, implement and administer self-help grant programs. Assist the Court with research, providing information and direction to litigants, and assisting the Court in being responsive to the litigants' needs so that litigants are assured of obtaining meaningful access to Family Court. Develop programs for the Bar Association and community outreach. Develop, train, and oversee staff and volunteers as needed. Assists the Family Law Department as directed. Maintain records and prepare monthly and quarterly narrative and statistical reports to the Court Executive Officer and to the Administrative Office of the Courts, that shall include budget reports, a summary of project activity during the period covered, the number of clients served, the types of services rendered, and any other information required by the Court or the Administrative Office of the Courts. Seek funding for and assist in the development of innovative programs and community outreach that will assist self-represented and financially disadvantaged litigants in gaining meaningful access to the Court.

Qualifications: **Education:** Requires achievement of Juris Doctorate Degree and active membership in the California State Bar. **Experience:** Minimum of 5 years of post-Bar membership practice of law, including substantial family law litigation and/or mediation experience. **Substitution:** Additional experience, skill, or background appropriate to the community may be substituted to fulfill the experience requirement as determined by the Presiding Judge or Court Executive Officer. Knowledge of Family Law software programs in California. Bilingual in conversational Spanish.

Broward County's (Florida) Unified Family Court has traditional staffing positions. The court is organized such that dependency court is prioritized and case managers are assigned to judicial or magistrate divisions. Therefore, if a family has a dependency case and a divorce and/or DV protective order and/or delinquency, it is heard by a dependency judge and managed by a dependency court case manager. If there is a DR case, and no dependency case, it is heard by a family court judge or magistrate and assigned a family court case manager. Currently, there are 12 family court case management positions and one administrative support staff. They cover eight judges, four general magistrates, and two hearing officers. There are five dependency case

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manager positions, one community coordinator, and one part time support staff. They cover six judges and two general magistrates.

Courts have adapted to the changing needs of families by adding staff positions to provide additional support and coordination. Several states, including Alaska,²⁶ Colorado,²⁷ and Idaho,²⁸ have included **parenting coordinators** to help work through disputes regarding the parenting plan for custody or visitation. Parenting coordinators are impartial mental health or legal professionals who do not change the main parenting plan but solves problems that arise without the need to file motions and appear in court hearings. Most parenting coordinators are trained in family mediation and have experience with high conflict or litigating parents.

Allegheny County (Pennsylvania) organizes their Family Division in three departments: Adult (I.e., divorce and child support), Juvenile (I.e., delinquency cases and juvenile probation), and Children's Court (I.e., dependency, custody, adoptions, protection orders). There is an administrative judge who oversees the whole division, and judges are categorized as "mainly juvenile" and "mainly adult," although they can hear any case in the division. Each department has a court administrator. The Family Division also has an **Assistant Administrator of Cross-Systems Initiatives** who focuses on opportunities where two or more departments work together or in partnership with related systems. Additionally, the juvenile department has a full-time **Juvenile Justice Planner** who acts as a research analyst and encourages the use of data to inform operational decisions.

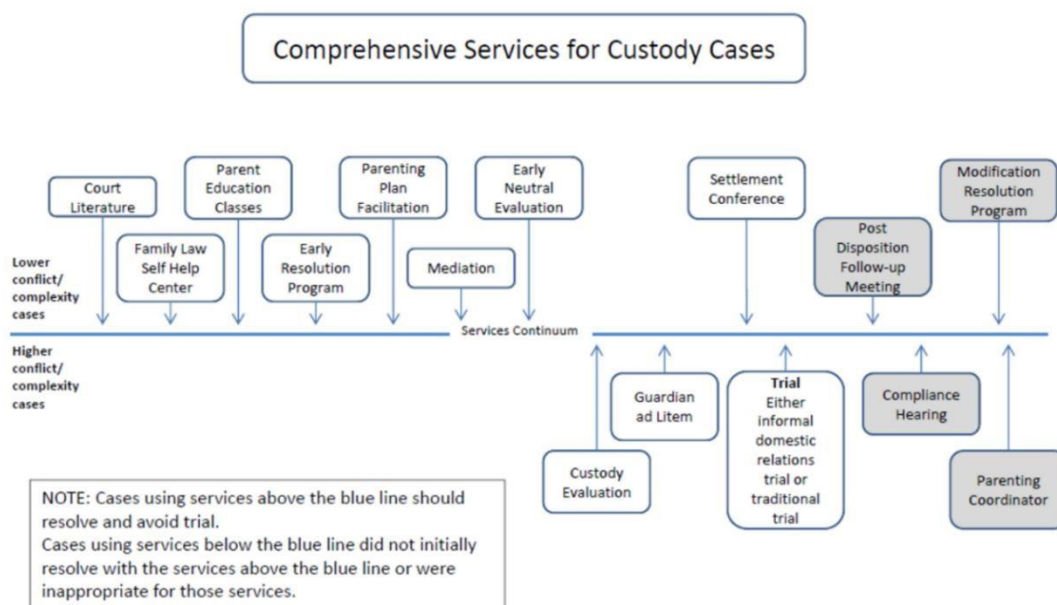
²⁶ <http://www.courts.alaska.gov/shc/family/parenting-coordination.htm#who>

²⁷ https://www.courts.state.co.us/userfiles/File/Administration/Policy_and_Program/ODR/documents/PC%20Guidelines.doc

²⁸ <https://isc.idaho.gov/irflp716>

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In considering how to provide services for families, it may be helpful to consider this continuum that Alaska uses for separating parties. The value of this model is that services begin on the minimal end but intensify as needs present themselves. While designed for divorce, the concept can be extended to other case types. This graphic is also helpful in considering how to assist self-represented parties and how to offer ADR services.



2. Staffing for Self-Represented Litigant Services

We recommend that staffing design for a state-of-the-art Unified Family Court include dedicated positions for planning, coordinating, and providing services for self-represented litigants. In addition, a staffed information desk and/or an interactive kiosk near the entrance provides an immediate connection to self-represented litigants and the public.

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With regards to requirements for staffing, the previously mentioned link to the NCSC job description page for family courts²⁹ contains a California court position for Family Law Facilitator/Self-Help Center Attorney. Pima County, Arizona has one Law Librarian to staff their law library and assist with referrals to legal services. Cuyahoga County, Ohio has one former magistrate overseeing and coordinating four full-time staff persons who previously served as court administrative staff. The success of the assistance provided has led to greater demand. Another example of a non-attorney position to assist selfrepresented litigants include Idaho's Court Assistance Officer.³⁰

In 2013, the Colorado Judicial Branch created the Self-Represented Litigant Coordinator (Sherlock) program.³¹ The Sherlocks, one operating in courthouses in each of Colorado's judicial districts, assist litigants with information on court procedures, forms, and resources offered by the court and outside organizations. The success of this position has led to increased demand for services, as shown by these statistics published by the Colorado Judicial Branch³²:

²⁹ <https://www.ncsc.org/Topics/Human-Resources/Job-Descriptions/Specialized-and-Problem-SolvingCourts/Family.aspx>

³⁰ <https://nationalcenterforstatecourts.app.box.com/file/541332281329>

³¹ <https://www.its.courts.state.co.us/mosaic/careersJobDescriptionDetail?selJob=2575>

³² https://www.courts.state.co.us/Self_Help/information.cfm

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SELF-REPRESENTED LITIGANT COORDINATORS: The [Statewide List of Sherlocks](#) provides the address and also contact information for the Self-Represented Litigant Coordinator (Sherlock) for every county in the state of Colorado. Every district has a Self-Help Center that is staffed by one or more "Sherlock". They provide assistance to people needing help navigating through the court system.

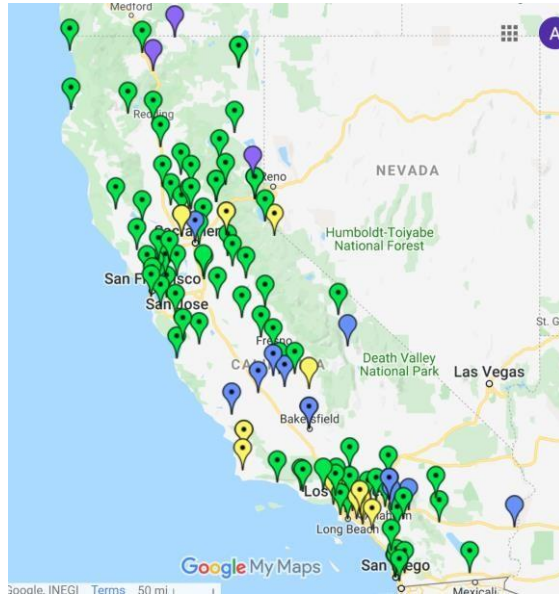
[Chief Justice Directive 13-01](#) provides information on what a Sherlock can and cannot do.

STATISTICS: Self-Represented Litigant Coordinators (commonly referred to as Sherlocks) are keeping statistics of the number of contacts they have in the Self Help Centers across the state.

| | |
|------|---------|
| 2017 | 175,162 |
| 2016 | 148,601 |
| 2015 | 125,546 |
| 2014 | 95,167 |

The Family Law Facilitators programs in California, as in Colorado, provides for minimum staffing in each jurisdiction. The California Family Law Facilitator program was originally conceived as a self-help service for parties in IV-D child support cases. Many counties have expanded the service using state funding to include assistance in other types of family law cases. Their website provides an interactive map of all Self-Help service centers:

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NCSC Access to Justice expert Danielle Hirsch confirmed that a national workload model for Self-Help services does not currently exist. Aside from Miami, Florida, the NCSC Team is unaware of a jurisdiction that has established a staffing model. The challenge that most courts face in staffing Self-Help is that the better the service provided, the more services (and staffing) are needed. Courts across the country express that Self-Help is a rapidly growing need, despite (and maybe even because of) increased staffing. It may be that no court can meet the real need for helping people who do not have the means to hire an attorney to oversee their case from start to finish and that attorneys should be invited to contribute to alternative representation models.

With regards to staffing services, Marion County is currently engaged in a staff workload study that may shed light. NCSC is also considering working towards a validated national methodology for Self-Help staffing needs. In the meantime, we recommend that at least one full-time dedicated Coordinator be established to maximize resources to the greatest extent. This person should also work with the Bar and

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other community partners to consider Unbundled legal services and flat fee representation.

ALTERNATIVE DISPUTE RESOLUTION

“As a matter of general principle, family court judges and family law practitioners almost universally agree that family legal disputes are resolved more effectively through some form of alternative dispute resolution (ADR), rather than through the traditional adversarial process.”³³ NCSC recommends a broad array of ADR options be offered at the court and through sliding scale or through access to volunteer

services. In addition to ADR, “other services can include parent education programs, children’s programs, supervised visitation, substance abuse services, counseling, domestic violence services, neutral visitation drop-off sites, and assistances for SRLs, to name but a few options.”³⁴

1. What ADR options should we offer?

Many forms of alternative dispute resolution are being applied in both juvenile and family contexts and we recommend consideration of all of these:

Juvenile and child protection

Family group conferencing: This research-based child and family-centered approach may be used at any stage of the child welfare process, including as a voluntary referral. Family Group Conferencing

³³ Babb, B. A. & Moran, J. (2019). *Caring for Families in Court: Essential Approach to Family Justice*. Routledge: New York, NY. (p. 24)

³⁴ Ibid. P. 29.

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(FGC) Coordinators proficient in working with complex family dynamics in children and youth matters individually meet with, prepare, and engage family, extended family, and a network of others to create a meaningful and accountable family plan. Private family time is an essential component of the decision making process. A key to the success of implementing the FGC model is the buy-in of the bench and child welfare agency to the notion that families can make the best decisions to meet their own needs. For more information, see the Child Welfare Information Gateway page on Family Group DecisionMaking.³⁵

Pre-hearing conference facilitation: Scheduled by the Court immediately preceding hearings, knowledgeable child and youth facilitators assist in facilitating a brief (30-45 minute) conference to address key preliminary safety and permanency issues with parents, probation, child welfare, attorneys, and guardian ad litem. These can also be scheduled before permanency hearings to confront critical progress, permanency decisions, and action steps for the future of the child or youth. These preconference hearings are utilized in Pima County, Arizona and have been demonstrated to assist in child, youth and family engagement.

Child dependency mediation: Mediation has been used and studied as a tool to settle issues outside of the adversary system in juvenile dependency cases in many jurisdictions. In some courts, it is used primarily at the permanency stage of the case; in others, mediation is available to settle issues at any stage of the case. The State of Utah makes mediation available statewide for any stage of a dependency

³⁵ <https://www.childwelfare.gov/topics/famcentered/decisions/>

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case. A variety of resources are available on the Child Welfare Information Gateway page on mediation.³⁶

Victim Youth Conference is one example of a restorative justice practice and is a dialogue between a youth, victim (or victim surrogate), family and other support persons who come together to discuss how the crime affected each of them. This allows the victim to express themselves to the youth, and the youth to understand the full impact of their behavior. Marion County has used a variation of Family Group Conferencing in a restorative justice program for young, non-violent first offenders. For more

tools on restorative justice, see the Office of Juvenile Justice and Delinquency Prevention (OJJDP) page on Restorative Justice.³⁷

Family Law

In family law cases, mediation can be used upon filing to help parties narrow the issues. It is most helpful with co-parents to help them understand the impact of conflict on children and how to avoid problematic behaviors. ADR processes include parenting coordinators to help with parenting-time and exchange, decision-makers to help with repetitive conflicts and even parenting-time apps to assist the decision-making process. NCSC is aware of several courts that are innovating mediation methods to work with parties with a high degree of conflict in which parties participate in a session with a highly experienced mediator trained in spotting power imbalances, coercion,

³⁶ <https://www.childwelfare.gov/topics/permanency/planning/mediation/>

³⁷ <https://www.ojjdp.gov/mpg/Topic/Details/73>

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or manipulation. Some jurisdictions have developed mediation models that can be used even in cases where mediation has traditionally been rejected, such as those with a history of family violence. Staggered arrival and departure times, separate waiting areas, and a shuttle or caucus mediation model, for example, can expand the cases in which mediation may be successful.

While mediation is the most common form of ADR, some jurisdictions use other models. In collaborative divorce, for example, each party has an attorney, and they attempt to reach an agreement. If no agreement is reached, the attorneys do not represent them in court. In early neutral evaluation, a neutral third party or team assists the parties in evaluating the merits of their positions, with a goal of realistic self-assessment and enhancing the possibility of settlement.³⁸

The same types of mediation can be helpful to resolve guardianship or conservatorship cases, should these be included in the Unified Family Court.

2. How should we structure our court-sponsored ADR options?

A well-designed, robust set of ADR tools can be of great benefit to a Unified Family Court. More cases can settle outside of the adversarial system, reserving judicial time and resources for cases where it is absolutely necessary. ADR engages families in reaching their own decisions and can reduce their stress in dealing with the courts and other litigants. We recommend that the court take the opportunity to convene relevant stakeholders, both within and outside of the court system, to design the spectrum of ADR services that best meets the needs in every case type that will be handled in the family court and

³⁸ Zang, A., Kay, A., & Sickmund, M. (2018). Family Justice Initiative: What State Statutes Tell Us about the Landscape of Domestic Relations. National Council of Juvenile and Family Court Judges: Reno, NV.

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determine what resources exist or can be made available to effectuate the plan. One approach might be to form subcommittees led by judicial officers for each case type to study which ADR tools are most desired and then come together to discuss possible resources and opportunities for synergy and coordination.

3. How to utilize online or lawyers from the community?

The Indiana judicial branch web site has a link to one model for using online volunteer lawyers. In some other jurisdictions (e.g., Omaha, NE), the court uses volunteer lawyers to staff a self-help center in the

courthouse. In addition, the law school at Creighton University in Omaha has a legal clinic that provides assistance to some family law litigants. We recommend that the court meet with local bar and legal aid leaders to brainstorm ways in which their resources might help the court increase access to justice for litigants in the new family court. As noted below, providing some legal assistance is the first prong of the recommended approach to developing a self-help program for unrepresented litigants.

SELF-HELP

In the context of a Unified Family Court, the need for self-help resources to ensure access to justice may vary by case type, depending on state statutes and local practice. For example, self-represented litigants are typically the rule rather than the exception in private dissolution and custody proceedings, with at least 70% of cases involving at least one self-represented litigant (nearly 90% in some jurisdictions).³⁹ Family

³⁹ National Center for State Courts. (2018). Family Justice Initiative: The Landscape of Domestic Relations Cases in State Courts. Available: <https://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Children-and-Families/Family-Justice-Initiative/Report-and-Recommendations.aspx>

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court processes should recognize and adapt to this trend, which is unlikely to change in the near future. A three-pronged approach, developed through the Family Justice Initiative, shows the most promise.

- (1) Provide some legal assistance. Offer unbundled legal services and expand the availability of clinics, ask-a-lawyer, or other similar events can allow more litigants to obtain some guidance about the law governing their case, possible strategies and arguments to use, and information about local procedures and requirements (like a parenting class or mandatory mediation). Some providers are trying out some more technological solutions, like remote legal consultations using video communication such as the LIFT program in New York.⁴⁰ Introductory courses to family court proceedings show promise and may help engage families.
- (2) Provide self-help resources that are easily understood, accessible in time and location, and adequately prepare the litigant for the tasks required to pursue their cases (which could include preparation of paperwork, participation in mediation or custody evaluation, and selfrepresentation at a court hearing, including the admission of evidence and questioning of witnesses). Forms are not enough. Family court facilitators or navigators, available at convenient times and locations that are accessible for most litigants can help litigants prepare and manage their cases while helping the court to operate efficiently by avoiding multiple incorrect filings or missed procedural requirements. Plain language guides and instructions, in the languages present in the jurisdiction and tailored to local practice, can be very helpful.

⁴⁰ <https://www.liftonline.org/>

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Online guided interviews, with the responses inserted into the appropriate places on court paperwork, have been found to be much more useful for litigants than simply providing a packet of forms. We recommend that Marion County take the opportunity it has to design the court facilities with dedicated space and staffing for self-help resources.

- (3) To the extent possible within the bounds of due process, adapt court processes to be more user friendly for non-lawyers. Court processes were designed to meet the needs of judges, court staff, and trained lawyers. When most litigants are not represented, however, these processes are confusing and stressful, and they do not typically result in fair outcomes, which in family

court can result in harm to children and families. Courts should engage in thoughtful reflection about how it could make its processes more transparent and easier to navigate, implementing procedural justice principles to ensure litigants have a voice, understand the proceedings, and trust the court's fairness and impartiality. Some courts are piloting informal hearings, with eased rules of procedure and evidence, and many jurisdictions have revised their judicial canons to clarify what a judge may ethically do to facilitate self-represented litigants' participation to ensure a just outcome and a fair and efficient process. There are many different models for this, and while some research indicates

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which types of assistance litigants perceive as most useful, none has been done on what actually improves outcomes.⁴¹

The “Family Court Self-Help Program” in Miami-Dade County, Florida represents an advanced program model. The project was initiated in 1994 through a coalition of the Eleventh Judicial Circuit and the Dade County Bar's Legal Aid Society to increase access to the Court for the many pro se parties involved in Family Court. The program provides packets containing all forms necessary for divorce and other family court matters, for a fee. In accordance with limits set by the Supreme Court of Florida, litigants are assisted in the use of their packets, forms are reviewed for completeness and instructions on court procedures are provided. By reducing delays caused by insufficient filings, the Self-Help Program also assists judges and other court personnel through the efficient management of family cases. This Center has analytics on use of their center, persons served and what type of assistance and uses a data-driven process for determining staffing patterns to reduce wait times.⁴²

We recommend referencing a new tool for designing an overall self-help program, the Institute for the Advancement of the American Legal System’s (IAALS) *Guidelines for Creating Effective Self-Help Information*.⁴³ This document provides

⁴¹ Zang, A., Kay, A., & Sickmund, M. (2018). Family Justice Initiative: What State Statutes Tell Us about the Landscape of Domestic Relations. National Council of Juvenile and Family Court Judges: Reno, NV.

⁴² Eleventh Judicial Circuit of Florida. Family Court Self-help Program (Online). Available:

<https://www.jud11.flcourts.org/Family-Court-Self-Help-Program>

⁴³

https://iaals.du.edu/sites/default/files/documents/publications/guidelines_for_creating_effective_selfhelp_information.pdf

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guidance for designing navigable and helpful resources for court system users.

Like domestic relations cases, probate guardianship and estate cases are likely to rise in volume in the coming years and often involve self-represented litigants. Although the Massachusetts state court system has a separate juvenile court, the state has combined family proceedings, including domestic relations and probate matters in a unified court. The court's web site⁴⁴ uses clear and concise language appropriate for the public and contains prominent guidance to self-help materials. We recommend that Marion County review the web site as a model for displaying public information on a combined family and probate court. NCSC will further investigate contacts in Massachusetts for a possible site visit if desired.

Other court web sites with exemplary self-help information

on probate matters include: • The District of Columbia

Probate Court⁴⁵

-
- The Nevada Guardianship Compliance Office⁴⁶
 - Maryland Courts guardianship orientation videos⁴⁷

Indigent parties in juvenile delinquency and CHINS cases are generally entitled to legal counsel to one degree or another (except for children who are the subject of CHINS proceedings), so self-help resources may be a lower priority in those areas. Nevertheless, appointed counsel

⁴⁴ <https://www.mass.gov/orgs/probate-and-family-court>

⁴⁵ <https://www.dccourts.gov/superior-court/probate-division>

⁴⁶ [https://nvcourts.gov/AOC/Programs and Services/Guardianship Compliance/Overview/](https://nvcourts.gov/AOC/Programs_and_Services/Guardianship_Compliance/Overview/)

⁴⁷ <https://mdcourts.gov/family/guardianship/courtappointedguardians>

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often has limited time outside of the courtroom to explain to clients what has taken place and what to expect. Clients are also frequently under stress in the courthouse that interferes with their ability to comprehend explanations by judges or attorneys. For those reasons, many courts have developed simple-language and developmentally appropriate materials to describe the court process to young people, such as comic books or videos. For example, California has adopted a number of pamphlets that explain general juvenile court procedures for parents and children. A recently adopted form is for parents whose children are subjects of delinquency proceedings.⁴⁸

Services for self-represented litigants in the Unified Family Court is not just a benefit for the public that facilitates access to the justice system – it also leads to more efficient and effective court processes for judges and court staff through better-prepared cases, reduced need for continuances, and increased settlements.

1. How should this intersect with DRCB?

Pursuant to Indiana statute, the DRCB’s duties for parties referred for counseling or mediation include “interview[ing] and counsel[ing] each party or confer[ring] with both parties jointly for the purpose of reconciling the differences between the parties and making recommendations to the judge....”

The same clients will be assisted by self-help and DRCB. The confidentiality guide that was recommended above would also prove helpful in determining how to share information between selfhelp and DRCB. Self-help should explain the DRCB and the services that they provide clearly and concisely to self-represented litigants.

⁴⁸ <https://www.courts.ca.gov/documents/jv060info.pdf>

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As an arm of the court, Marion County has the opportunity to evaluate the current value of DRCB services to litigants and the court and plan for its design in the family court of the future. The Association of Family and Conciliation Courts' Model Standards of Practice for Family and Divorce Mediation⁴⁹ may be a useful reference in this effort.

2. How can we structure or utilize an internal “ask a lawyer” service?

The Indiana Judicial Branch web site⁵⁰ contains a link to the Indiana Free Legal Answers web site, a collaboration between the Indiana State Bar foundation and the American Bar Association. Registered users can post questions and get brief legal responses from volunteer attorneys. Discussions with the

local bar and Legal Aid, as recommended above, may lead to helpful input on how to maximize the utility of this platform, or an alternative process, for the Unified Family Court in Marion County.

Should Marion County wish to design its own Ask-a-Lawyer service, there are various models in existence to emulate. The Utah Courts' Online Court Assistance Program⁵¹ provides online resources for self-represented litigants that includes computer-assisted entry and review of completed court forms. A Staff Attorney is also available to answer a legal hotline during working hours and to help parties navigate

⁴⁹ <https://www.afccnet.org/Portals/0/PublicDocuments/CEFCP/ModelStandardsOfPracticeForFamilyAndDivorceMediation.pdf>

⁵⁰ <https://www.in.gov/judiciary/selfservice/2353.htm>

⁵¹ <https://www.utcourts.gov/ocap/>

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processes. Nebraska has employed a similar strategy, using remote court staff from across the state to assist busy urban areas.

BAR LEGAL ASSISTANCE

- 1. How to include the recently discovered resource with Indiana Legal Aid Society or attorneys from the Bar Association, to engage their assistance with identifying and representing parties who require financial assistance?**

The scope of their representation is limited to uncontested family matters. Willingness to facilitate initial assessments.

This question refers to the Indiana Legal Aid Society's (ILAS) recent outreach to Marion County to offer assistance with initial assessments and to be a resource to pro se litigants with simplified domestic relations filings. Marion County asked for recommendations about a structure to integrate ILAS and perhaps other legal services agencies who might be willing to do more complex family law matters. The best example that we have seen of this is articulated in detail in *Faster, Cheaper and As Satisfying: An Evaluation of Alaska's Early Resolution Triage Program*.⁵²

As set forth in this report, in Alaska's Early Resolution Program (ERP), a staff attorney who is a court employee conducts a triage process with every newly filed contested divorce and custody case involving two SRLs. The attorney screens the case to determine suitability for the program based on the file contents and the parties' court case histories according to screening criteria. If accepted into the program, the staff attorney assigns either volunteer unbundled attorneys, a mediator, or a

⁵² Marz, S. (2016). *Faster, Cheaper, and As Satisfying: An Evaluation of Alaska's Early Resolution Triage Program*. Available at:

<https://www.ncsc.org/~media/Files/PDF/Education%20and%20Careers/CEDP%20Papers/2016/Faster%20Cheaper%20as%20SatisfyingAn%20Evaluation%20of%20Alaskas%20Early%20Resolution%20Triage%20Program.ashx>

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settlement judge to help resolve the case. Up to eight cases are scheduled for the same hearing time within a few weeks of the case initiation, and the parties work at the courthouse with the assigned legal resource to try to resolve the disputes. Approximately 80% of the parties leave the courtroom with all issues resolved and final paperwork in hand. Other findings detailed in the report are that these cases resolved more quickly, parties are happier, and the agreements are as lasting or more lasting than business-as-usual cases. We recommend that Marion County share this report with the Indiana Legal Aid Society to determine interest in participating in such a program. The Alaska attorneys participating in the program have expressed a high degree of satisfaction. These attorneys receive credit towards their pro bono requirements as well as referrals of clients.

2. Can it also be utilized for all other case types outside of the Family Division?

We strongly recommend considering providing self-help services for housing and other minor legal issues. Within the last two years, the federal Children's Bureau has provided extensive documentation of child welfare cases resulting because parents were facing eviction or bankruptcy. Providing assistance with these issues may both be eligible for federal reimbursement and help prevent child welfare petitions from being filed and keep families together.

The self-help center in Douglas County (Omaha), Nebraska addresses all case types using a mix of staff and volunteer attorneys, partly because

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all judges sit in courts of general jurisdiction. They strive to provide guidance on common topics through handbooks and other “off the shelf” resources. There is clearly a trade-off between being able to match litigants’ needs with attorneys possessing specialized expertise and the possibility that a self-represented litigant with a complex family law situation may be trying to get information from a real estate specialist. As is true in most jurisdictions, the local bar association is willing to assist in designing a referral system to address more complex issues.

3. Should we utilize a “pro se coordinator”?

Yes. As set forth in Staffing for Self-Help above, Pro Se Coordinators are essential to coordinate volunteer services and maintain statistics to describe the utilization of the program, such as numbers of persons served or time spent with each person. Colorado provides one of the best examples of a description of pro se coordinators, who they call “Sherlocks,” and which refers to Self-help Resource Coordinators. Every district in Colorado has a Self-help Center that is staffed by one or more “Sherlocks,” who are staff attorneys that provide assistance to people needing help navigating through the court system.

Colorado Chief Justice Directive 13-01⁵³ is recommended reading for a court system considering the establishment of a full-scale self-help program. This directive provides a list of essential functions for the position and describes the role of volunteers in a Self-Help program. It also provides an explanation of how far court staff can go in providing

⁵³ https://www.courts.state.co.us/Courts/Supreme_Court/Directives/13-01.pdf ⁵⁹

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legal assistance, without committing unauthorized practice of law, which is an issue for all courts.

JUDICIAL ROLES, GOVERNANCE AND TRAINING

1. How many Judges vs. Commissioners/Magistrates?

The NCSC has reviewed and appended the February 2019 memo referencing judicial need which recommends 27 judicial officers.⁵⁹ This calculation includes conservatorship and guardianship cases.

The NCSC Team recommends that judges, commissioners and magistrates have equal jurisdiction and authority to hear cases and motions. Some courts make a distinction by rule or statute to limit judicial officers to non-contested hearings, for example. This limits judicial efficiency. The NCSC

recommendation is that judges, commissioners and magistrates all have the same jurisdictional authority.

2. How should dockets be structured?

The docket depends on the volume and the types of hearings that must be scheduled. There are a lot of hearings, some which are time limited. Common events include preliminary proceedings, hearings and motions, trial, disposition, post-judgement activity and case-related administration.

Docketing depends on the cases that will be heard, the judicial philosophy of hearing cases, and space such as what type of facilities will be available for various proceedings. That said, NCSC can provide a sample curriculum for a Case Management workshop that helps to

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establish how dockets will be structured. Here are examples are from a recent New York City Family Court workshop where judges were asked to provide their ideas and practices for handling a massive caseload:

- *Early in the case, the judge hearing the case should assess what a case requires for resolution and establish a case management plan for resolution by putting in place processes and orders to avoid unscheduled returns to court. When the case comes before the court, all parties should consult the case management plan. “The last thing you want to hear from a judge is ‘what are we on for today?’” Judges should “address the parties and counsel directly and ask them what they need.” Based on that input, judges can calendar hearings and conferences in advance and issue scheduling and discovery orders. The orders should be strictly enforced.*
- *The judge should be in control of the case and the calendar.*
- *Judges should schedule cases in thirteen 30-minute time slots a day for appearances and conferences to have a realistic amount of time to handle matters thoroughly and conclusively.*
- *Time of day should be considered in calendaring cases, such as setting aside the mornings for conferencing and dedicating the afternoons for trial time. If scheduled trials get resolved, the jurist can handle emergencies and other matters.*
- *It may be helpful to group cases such as those involving preliminary conferences, settlement conferences, and trials. Referring frequently to relevant Time Standards helps the judicial officer ensure that the case is on track. It was also recommended that a judicial officer keep a light calendar for*

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three-four days after Intake to allow for return of process and emergency hearings.

- The granting of unnecessary adjournments should be discouraged. Establishing and holding to a no-adjournments policy is not easy but encourages more orderly proceedings over time.*
- Judges must leverage the abilities of the court attorneys to narrow the issues and coordinate attorney calendars rather than take up limited and valuable court time to do so.⁵⁴*

3. What training/experience should be considered when assigning Judges to the Family Division and/or onboarding a new Judge?

Ideal assignments to the Family Division include judicial officers who are willing to commit several years to the role and who are amenable to reframing the typical adversarial nature of the law into an opportunity for problem-solving with the family. “Without adequate specialized judicial education, at best a family court judge gains expertise over time, through hands-on experience or self-education; at worst, outcomes, families, and communities are negatively impacted.”⁵⁵

Onboarding a new judge can involve a combination of on-site multi-disciplinary training, off-site workshops and seminars, and mentoring

⁵⁴ NCSC, March 2019. New York City Family Court Case and Calendar Management Seminar

⁵⁵ Knowlton, N.A. (2014). Modern Family Court Judge: Knowledge, Qualities, & Skills for Success (Rep.). Institute for the Advancement of the Legal System. Available: <http://iaals.du.edu/publications/modern-family-court-judgeknowledge-qualities-skills-success>

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relationships among judges. New judges can be assigned a mentor prior to the judicial officer taking the bench. Mentoring relationships are more likely to be effective when they are formalized and incentivized.

Training of judicial officers – and truly, all court professionals in the family court – should be on-going throughout their appointment. Many courts have a one to two-day orientation for Unified Family Court judges that is repeated yearly (e.g., King County, Washington is an example) and follow through regularly scheduled trainings (e.g., the District of Columbia has mandatory monthly trainings). All family court professionals should receive cross-training in juvenile and family law that includes prevailing laws and effective court practices, cultural competence, and gender and identity fairness.⁵⁶ The Family Justice Initiative also recommends that judges who handle domestic relations cases should have regular training in diverse areas of the law including but not limited to criminal, civil, immigration, bankruptcy, military issues and tax law as well as practical techniques for effectively addressing the needs of self-represented parties.⁵⁷ Understanding how best to navigate cases with self-represented parties, especially those involving one represented party and one self-represented party, is particularly important. Court and clerk's staff can also benefit from training in how to provide appropriate help to self-represented

⁵⁶ National Council of Juvenile and Family Court Judges. (2016). Enhanced Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases. Office of Juvenile Justice and Delinquency Prevention. Available: [ncjfcj.org/sites/default/files/%20NCJFCJ%20Enhanced%20Resource%20Guidelines%202005-2016.pdf](https://www.ncjfcj.org/sites/default/files/%20NCJFCJ%20Enhanced%20Resource%20Guidelines%202005-2016.pdf)

⁵⁷ Davis, A. (2019). Principle 9. Family Justice Initiative: Principles for Family Justice Reform. National Center for State Courts. Available: <https://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Children-and-Families/Family-Justice-Initiative/Report-and-Recommendations.aspx>

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parties. Specifically, navigating the line between legal information and legal advice is important for clerks and other staff who routinely interact with family court self-represented parties.⁵⁸

All judges, court staff, and court-related professionals who interact directly with parties should receive training in recognizing the signs and dynamics of critical issues, including domestic violence, child abuse, and substance abuse. This includes training in understanding the effects of trauma and how they may present in typical court and court-related processes (e.g., mediation and parental education programs), as well as reasonable measures that can be taken to promote a trauma-responsive process and environment.⁵⁹

Specific recommended training topics include:

- Child and adolescent development
- Family dynamics
- Identifying and addressing substance abuse and mental health issues
- Signs and impact of child abuse and neglect
- Trauma-responsive strategies
- Strategies for engaging children in court
- Signs and impact of domestic violence

⁵⁸ Ibid.

⁵⁹ Marsh, S.C., & Bickett, M.K. (2015). Trauma-Informed Courts and the Role of the Judge. (Online). National Council of Juvenile and Family Court Judges. Available: <https://www.ncjfcj.org/trauma-informed-courts-and-rolejudge>

Trauma-informed means taking into account the whole person, their past trauma and the resulting coping mechanisms when attempting to understand their behaviors. Trauma-informed courts take active steps to avoid stressing or re-traumatizing parties in court to resolve family issues whether or not trauma is actually present. Specifically, universal precautions in the context of administration of justice should support the core conditions of healing from trauma or adverse experiences and reduce unnecessary environmental stress.

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- Relevant federal laws including Families First Act and Indian Child Welfare Act (ICWA)
- Knowledge of the supportive and treatment services available to families, including evidencebased programs and the standards for each
- Theories and research in effective dispute resolution

Judges must appreciate and understand the social settings within which family members function, including problems that deeply affect a family's life, such as substance abuse and family violence. They can acquire such training through mandatory interdisciplinary education. The result is "family law decisionmaking...that more effectively promote[s] the well-being of families and children—a therapeutic outcome." Specifically, interdisciplinary training of judges and attorneys must prepare them "to know what questions to ask professionals from other fields, how to frame those questions to help clarify their understanding of specialized issues, and how to interpret the responses they receive in applying the legal analysis that ultimately governs a court's decision."⁶⁰

To be trauma-informed, court-related professionals must realize the widespread impact of trauma and understand potential paths for recovery and be able to recognize signs and symptoms in clients, families, staff, and others involved with system. To be trauma-responsive, courts should endeavor to integrate knowledge about

⁶⁰ Ross, C.J. (1998). The failure of fragmentation: The promise of a system of unified family courts, 32. Family Law Quarterly 3, 30.

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trauma into policies, procedures, and practices and seek to actively resist retraumatization.⁶⁷

4. Can you recommend conferences or other educational opportunities?

Existing Training Opportunities

The highly complex and emotional nature of child and family law matters in the courts requires that judges, attorneys, and service providers receive extensive and continuing training and education. There are several national organizations that provide on-site training and technical assistance as well as offsite trainings experiences: the American Bar Association, the Association of Family and Conciliation Courts, the National Council of Juvenile and Family Court Judges, and the American Academy of Matrimonial Lawyers, for example. Here is an example of upcoming trainings of interest.

The **Association of Family and Conciliation Courts** holds an annual conference (the next is May 2020 in New Orleans) as well as regional conferences and topical symposiums (the Symposium on Child Custody is in Las Vegas in October 2020). In addition, the association provides entrée to a wide range of trainings and webinars targeted for judicial officers.

The **Capacity Building Center for Courts**, funded by the Children's Bureau, holds a wide range of workshops related to child welfare cases. While many of their training opportunities are specifically focused on supporting Court Improvement Professionals, they recently began facilitating a two-day Judicial Academy focused on reasonable efforts findings. Upcoming dates are yet to be determined and will be announced through the state CIP.

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The **Center for Juvenile Justice Reform** at Georgetown University offers a wide range of certificate programs for multi-disciplinary teams. Past certificate programs of relevance to Unified Family Courts include information sharing and multi-system integration. The Center is also planning a certificate for Youth in Custody that may be of interest to the detention facility administration.

⁶⁷ Substance Abuse and Mental Health Services Administration. (2013). *Essential Components of Trauma-Informed Judicial Practice*, Available at https://www.nasmhpd.org/sites/default/files/DRAFT_Essential_Components_of_Trauma_Informed_Judicial_Practice.pdf. “A trauma-informed approach to services or intervention acknowledges the prevalence and impact of trauma and attempts to create a sense of safety for all participants, whether or not they have a trauma-related diagnosis. Becoming trauma-informed requires re-examining policies and procedures that may result in participants feeling loss of control in specific situations, training staff to be welcoming and non-judgmental, and modifying physical environments. The goal is to fully engage participants by minimizing perceived threats, avoiding re-traumatization, and supporting recovery. There is often little or no cost involved in implementing traumainformed principles, policies, and practices.” See also Substance Abuse and Mental Health Services Administration.

(2014) *Concept of Trauma and Guidance for a Trauma-Informed Approach*. HHS Publication No. (SMA) 14-4884.

Rockville, MD: Substance Abuse and Mental Health Services Administration. Available at

https://www.nasmhpd.org/sites/default/files/SAMHSA_Concept_of_Trauma_and_Guidance.pdf

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The six key principles of the trauma-informed approach outlined in the document are: 1. safety; 2. trustworthiness and transparency; 3. peer support; 4. collaboration and mutuality; 5. empowerment, voice and choice; 6. cultural historical, and gender issues.

The **National Association for Court Management** holds two meetings per year. This year the mid-year conference is in Charlotte, NC in February and the annual conference is in New Orleans, LA in July. The sessions offered at the conferences run the gamut of court work, however, often include innovative and practical examples in the area of family law.

The **National Council of Juvenile and Family Court Judges** holds two conferences per year: a juvenile justice focused conference in spring (this year in March in Pittsburgh, PA) and a conference for juvenile and family court judges in the summer (this year in July in Reno, NV).

NCJFCJ also regularly facilitates the Child Abuse and Neglect Institute (CANI), a week long comprehensive curriculum for judges who hear dependency cases. Many jurisdictions support NCJFCJ membership for their judges which comes with knowledge of training institutes with more specific foci as well as opportunities to participate in system improvement initiatives.

The **National Judicial College**, located in Reno, NV offers online and in-person trainings for judges.

Upcoming trainings of interest include Managing Challenging Family Law Cases, in Reno, NV, in October 2020 and Best Practices in Handling Cases with Self-Represented Litigants, in New Orleans, LA, in November 2020.

We appreciate this opportunity to provide broad and comprehensive recommendations for unifying juvenile and family matters in Marion

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County. We are enthusiastic about Marion County's approach. The NCSC Team hopes to be able to provide additional support as Marion County decides upon a course of action and specific areas for implementation.

Appendix 1

Marion Superior Court Document Guide

[Marion Superior Court Request for Services:](#)

Original request for proposal asking for assistance moving forward with the creation of the Family Division. Provides links to the internal and external surveys that Marion has conducted.

| |
|---|
| Indianapolis Bar Association Family Law Section |
| Marion County Bar Association |
| Attorney ID Badges Listserv (attorneys who receive security clearance to the courthouse through the Court received this survey) |
| Internal Marion Superior Court Presiding Judges |

The Court has conducted the following forums (links to watch are attached to this request when available):

- [Indianapolis Bar Association Family Law Section \(judges participated in discussion\)](#)
- Indianapolis Bar Association Family Law Section (judges excluded)-
No link available

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- [Indianapolis Bar Association Probate Section \(judges participated in discussion\)](#)
- Upcoming: Juvenile Court Forum (including bar associations, Department of Child Services, public and private attorneys and other stakeholders) (juvenile judges excluded)

The Court has also reviewed its [current case filings as well as future case filing projections to evaluate judicial officer utilization in consideration of the State of Indiana's Weighted Caseload requirements.](#)

[Notes from the Open Forum Judges Gooden and Welch held at Juvenile Court on May 22, 2019:](#)

MCPDA (Marion County Public Defender Agency) Attorneys, DCS Attorneys, Indiana Office of Court Services, Child Advocates asking questions on topics including: Mixing cases impact on dockets, timing and scheduling making people wait for hours, conflicting orders, proposal of a night docket for employed parents.

[The initial Civil/Family Court Operations Sub-Committee Task List:](#)

Outlines the Civil/Family Division Sub-Committee general mission and lists specific priorities and deadlines of the sub-committee. Gives examples of possible case types, and considerations for the court model of the Family Division.

[The former chair of the sub-committee's proposal to the task list:](#)

Outlines the general consensus of the sub-committee regarding the inclusion of case types by the subcommittee but has not been adopted. Lists models of operation of the Family Division to consider, estimate of judges needed, space allocation, and staffing needs. Operational models referenced include: One Judge/One Family, One Judicial

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Team/One Family, One Judicial Team/Multiple Families, One Judicial Officer/One Family, One File/One Family.

[Indiana Statute IC 33-33-49-14:](#)

The Statute needs to be changed in regard to court divisions. Current language reads:

(c) The court shall, by rules of the court, divide the work of the court into various divisions, including but not limited to the following: (1) Civil (2) Criminal (3) Probate (4) Juvenile (d) The work of each division shall be allocated by the rules of the court.

[Floorplans for floors 1-3 of the new Justice Facility:](#)

Family Division floorplans

[Informational handout about the Domestic Relations Counseling Bureau-Resource Center \(DRCB\)/Family Court Project \(FCP\):](#)

Overview of the CRCB mission and programing. This document also outlines the eligibility criteria and current services offered by the Family Court Project, and associated prices of services. Services listed include: Home site visits, The Access Program- Parenting time facilitation, service referrals, bundling, information sharing, mediation services, initial assessments. This document also lists the DRCB staff. Information on the Indiana Bar Association's Modest Means Referral Program: Pro se litigants with some ability to pay are often referred to this program as an option for obtaining counsel.

[Rules and Regulations](#)

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[Pamphlet – Referrals made through three practice area panels: Criminal, Family, Bankruptcy Law.](#)

[Program Turnover Form](#)

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Appendix 2

Memo



MARION SUPERIOR COURT



To: Family Law Review Committee (Hon. P.J. Dietrick (Chair), Hon. Mark Jones, Hon. Cynthia Ayers, Hon. Gary Miller, Hon. John Chavis, EC liaisons - Hon. Alicia Gooden, Hon. Heather Welch, Staff-Polly Beeson, Leigh Carpenter)

CC: Marion Superior Court Executive Committee Judges (Hon. Heather Welch, Hon. Christina Klineman, Hon. Amy Jones, Hon. Alicia Gooden), Hon. James Joven (Civil Term Chair), Court Administrator Emily VanOsdol

From: Amitav Thamba, Court Administration

Re: Analysis of 2018 Civil Division Case filings and predictive case filing forecasting for Family Law based case types Date: February 28, 2019

Background

Court Administration was asked to review current 2018 year filings, and then create a document outlining options to handle the distribution of the caseloads within the Family Law and Civil Divisions and its impact on Judicial Officer assignments. Based on the Marion County Weighted Caseload Plan submission, there are several decision areas for the Judges of Marion County to consider for the new Family Law and Civil Divisions.



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The document assumes that the case filings in 2018 will be the base filings for future years to predict the **judicial need**. For forecast purposes, we took the case filings for 2016 and 2017 into consideration as well.

This document provides the data and analysis based on 2018 Net Case filings in Marion County for all Civil and Juvenile courts. The trend analysis and prediction charts are using data of case filings for the years 2016, 2017 and 2018 and are extrapolated to the year 2023.

This document does not discuss the reasoning behind caseloads that would / could be in the Family Law Division. For 2018, the new case filings for Family Law and General Civil jurisdiction related case types are as shown on the next page.

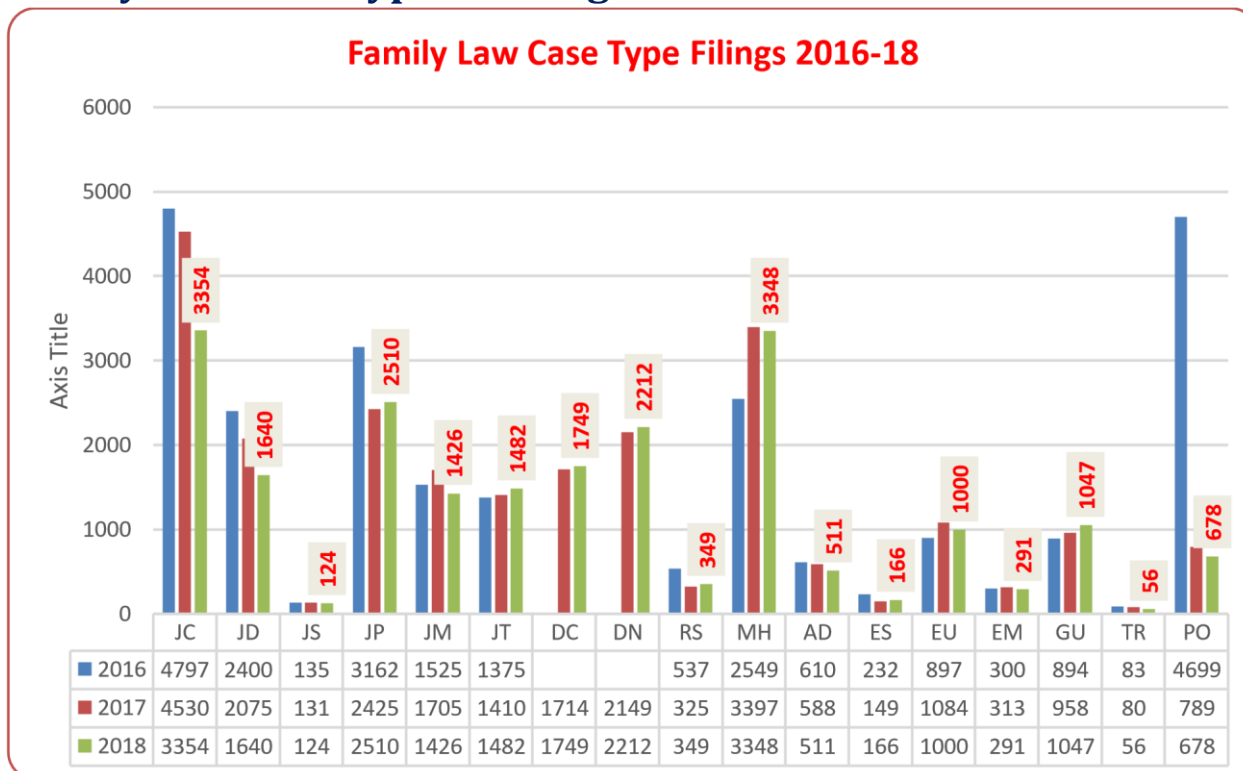
| Case Filings by Case Type 2018 | | | |
|--|---------|-------|---------|
| Court Code | Weights | Total | Minutes |
| JC - Juvenile Chins | 176 | 3354 | 590304 |
| JD - Juvenile Delinquency | 91 | 1640 | 149240 |
| JS - Juvenile Status | 17 | 124 | 2108 |
| JP - Juvenile Paternity | 146 | 2510 | 366460 |
| JM - Juvenile Miscellaneous | 8 | 1426 | 11408 |
| JT - Juvenile Termination of Parental Rights | 124 | 1482 | 183768 |
| JQ - Child Protection Orders | 28 | 0 | 0 |
| DR - Domestic Relations | 185 | 0 | 0 |
| DC - Domestic Relations with children | 259 | 1749 | 452991 |
| DN - Domestic Relations without children | 39 | 2212 | 86268 |
| RS - Reciprocal Support | 37 | 349 | 12913 |
| MH - Mental Health | 21 | 3348 | 70308 |
| AD - Adoptions | 49 | 511 | 25039 |
| ES - Estate Supervised | 50 | 166 | 8300 |
| EU - Estate Unsupervised | 44 | 1000 | 44000 |
| EM - Estate Miscellaneous | 9 | 291 | 2619 |
| GU - Guardianships | 93 | 1047 | 97371 |
| TR - Trust | 126 | 56 | 7056 |
| PO - Order of Protection | 28 | 678 | 18984 |
| Total | | 11510 | 2129137 |



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| General Civil Case Type Case Filings 2018 | | | |
|---|---------|-------|---------|
| Court Code | Weights | Total | Minutes |
| PL / CP - Civil Plenary | 121 | 2249 | 272129 |
| MF - Mortgage Foreclosure | 24 | 2237 | 53688 |
| CC - Civil Collections | 16 | 15194 | 243104 |
| CT - Civil Tort | 148 | 4154 | 614792 |
| MI - Civil Miscellaneous | 32 | 2471 | 79072 |
| TS - Tax Sales | 128 | 1 | 128 |
| TP - Petition for Tax Deed | 21 | 102 | 2142 |
| Total | | 26408 | 1265055 |

Family Law Case Types – Filings from 2016 to 2018





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The chart above shows Family Law caseloads from 2016 to 2018. We are seeing caseloads related to primary Juvenile caseloads dropping an aggregate of **8 percent**.

NOTE : For PO – Orders of Protection case type – the numbers represented here outline only the case filings in the Civil Division courts. They do not include the other **4637** cases filed in courts G16 and G17. It would be beneficial to consider taking all the PO case filings into the Family Law Division.

There are undoubtedly multiple factors influencing this downward trend. Increasingly scarce resources in the public sector, such as tighter law enforcement budgets during the recent economic crisis, may have reduced the level of enforcement that was available to apprehend and prosecute delinquent offenders. Similar budget pressure may be limiting the ability of child protective services offices from identifying and adjudicating abuse and neglect cases. Another likely contributor to these noticeable declines is Marion County's increased deployment of evidence-based programming for troubled youths and the use of diversions designed to limit entry of juvenile offenders into the judicial system.

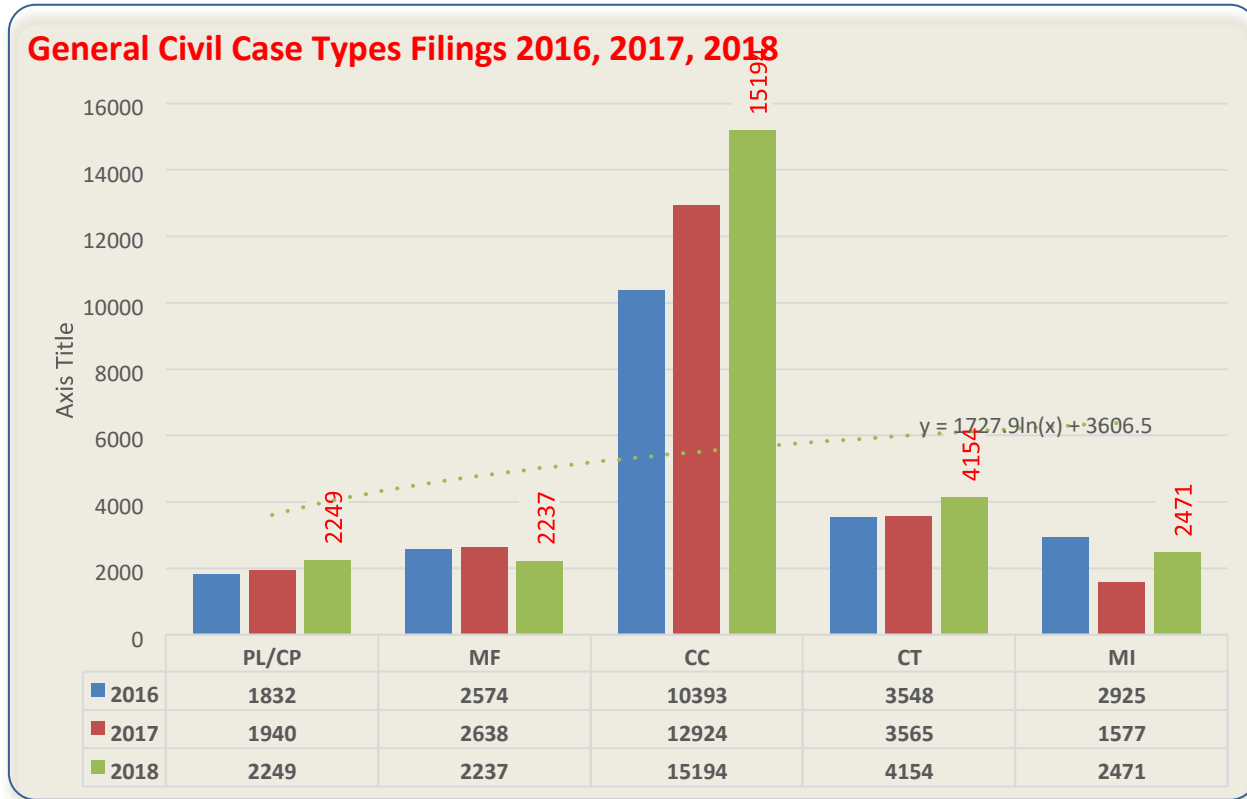


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General Civil Jurisdiction Case Types – Filings from 2016 to 2018



The chart above shows General Jurisdiction case filings from 2016 to 2018. There are undoubtedly factors that could influence general jurisdiction civil filings, but we are seeing case filings that are relatively in the same trend and project that this will remain the same for the next 3-5 years.

Analysis

The current Judicial Officers (Judges, Magistrates and Commissioners) assigned across the Civil Division courts is as shown below.

| | C01 | D01 | D02 | D03 | D04 | D05 | D06 | D07 | D08 | D09 | D10 | D11 | D12 | D13 | D14 | D15 |
|------------------------------|-------|-----|------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| Current JO Officers assigned | 45.56 | 8.5 | 1.87 | 1.67 | 1.67 | 2.37 | 1.67 | 1.67 | 1.57 | 3.20 | 6.31 | 1.67 | 1.67 | 2.07 | 1.67 | 6.31 |

Currently there are a total of **45.56** Judicial Officers assigned and separating out the minutes by division shows -



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| | Cases | Minutes | JO Need |
|---------------|-------|---------|---------|
| Family Law | 21943 | 2129137 | 27.40 |
| General Civil | 26408 | 1265055 | 16.3 |
| Total | 48351 | 3394192 | 43.7 |

Number analysis for Judicial Officer assignment to 2 divisions

Based on the number of minutes needed from case filings, the recommended number of Judges for the Family Law and the General Civil divisions are as shown below –

| | | |
|------------------------------|-----|-------|
| Current JO Officers assigned | | 45.56 |
| Family Div suggested | 59% | 27.07 |
| General Civil Jurisdiction | 41% | 18.49 |

With the above numbers applied to each current existing court, the assignments of Judges for each court is as shown below

| | | C01 | D01 | D02 | D03 | D04 | D05 | D06 | D07 | D08 | D09 | D10 | D11 | D12 | D13 | D14 | D15 |
|------------------------------|-------|-----|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| Current JO Officers assigned | 45.56 | 8.5 | 1.87 | 1.67 | 1.67 | 2.37 | 1.67 | 1.67 | 1.57 | 3.20 | 6.31 | 1.67 | 1.67 | 2.07 | 1.67 | 1.67 | 6.31 |
| Family Div suggested | 59% | 6 | 0.40 | 0.40 | 0.40 | 0.50 | 0.40 | 0.40 | 0.40 | 3.20 | 6.31 | 0.40 | 0.40 | 0.75 | 0.40 | 0.40 | 6.31 |
| General Civil Jurisdiction | 41% | 2.5 | 1.47 | 1.27 | 1.27 | 1.87 | 1.27 | 1.27 | 1.17 | 0 | 0 | 1.27 | 1.27 | 1.32 | 1.27 | 1.27 | 0 |

| | | C01 | D01 | D02 | D03 | D04 | D05 | D06 | D07 |
|------------------------------|-------|-----|------|------|------|------|------|------|------|
| Current JO Officers assigned | 45.56 | 8.5 | 1.87 | 1.67 | 1.67 | 2.37 | 1.67 | 1.67 | 1.57 |
| Family Div suggested | 59% | 6 | 0.40 | 0.40 | 0.40 | 0.50 | 0.40 | 0.40 | 0.40 |
| General Civil Jurisdiction | 41% | 2.5 | 1.47 | 1.27 | 1.27 | 1.87 | 1.27 | 1.27 | 1.17 |

| | | D08 | D09 | D10 | D11 | D12 | D13 | D14 | D15 |
|------------------------------|-------|------|------|------|------|------|------|------|------|
| Current JO Officers assigned | 45.56 | 3.20 | 6.31 | 1.67 | 1.67 | 2.07 | 1.67 | 1.67 | 6.31 |
| Family Div suggested | 59% | 3.20 | 6.31 | 0.40 | 0.40 | 0.75 | 0.40 | 0.40 | 6.31 |
| General Civil Jurisdiction | 41% | 0 | 0 | 1.27 | 1.27 | 1.32 | 1.27 | 1.27 | 0 |

Courts D08, D09, D15 by the nature of the filings that take place have been denoted as the initial group with all the

Judges transitioning into the **Family Div suggested**. Also in the calculations, as there is a significant number of



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Juvenile Paternity case filings in C01, a number of judicial officers from C01 are counted in the calculations for judicial officers assigned to the Family Law Division.

Based on current case filings, these numbers should hold true for the next 3-5 years thru 2023.

Other Information: Trend and Forecast Analysis for 2 Case Types in Juvenile case filings

Based on the new case filings in the existing courts, the filings for Juvenile Chins (JC) cases, Juvenile Paternity and the Juvenile Delinquency (JD) cases were studied and used to create a predictive analysis based on past and current year filings. These findings are provided in this document and are the basis of the recommendation of options for Family Law Division judicial officer allocation.

Juvenile Chins (JC) Filings and Trend Analysis



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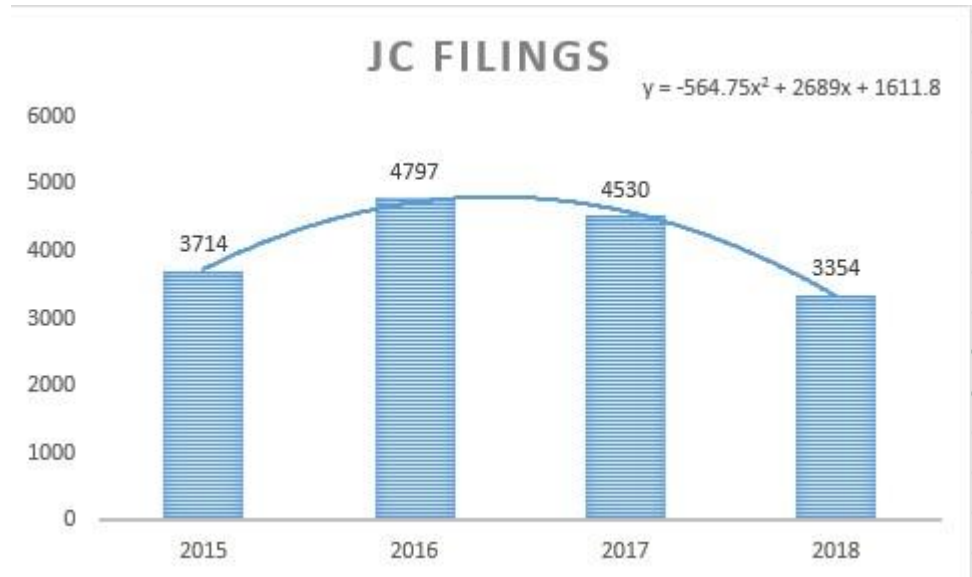
The Chart shows the trend of new case filings in JC cases over the last 3 years along with the current 2018 case filings.

Based on new case filings, the forecasted numbers for JC Cases are predicted to be in the range displayed in the

table above.⁶¹ For all the forecasting, we have used a 95% **confidence interval** which is wider, and is therefore more accurate.⁶²

This forecast takes into account a general 15% reduction of filings, but also allows for a higher rate of filings and provides 3 distinct forecast values –

- FORECAST (JC) – the numbers for the equivalent years in this column (with a 99% forecast accuracy rate) predict what we feel the filings will be in years 2019 thru 2021
- LOWER CONFIDENCE BOUND (JC) – the numbers in this column provide to a 99% accuracy what we feel could be new case filings using the lower boundary for filings



⁶¹ statistical confidence in the estimates are stated at 99% accuracy based on current and past new case filing trends. These cannot be mathematically verified for a confidence level. Although statistical confidence would be greater if a probability sampling design were used, the cost of such an effort has long been considered prohibitive.

⁶² Narrow confidence interval – higher accuracy? <https://support.microsoft.com/en-us/help/828124/description-of-the-confidencestatistical-functions-in-excel>
<https://stats.stackexchange.com/questions/16164/narrow-confidence-interval-higher-accuracy>



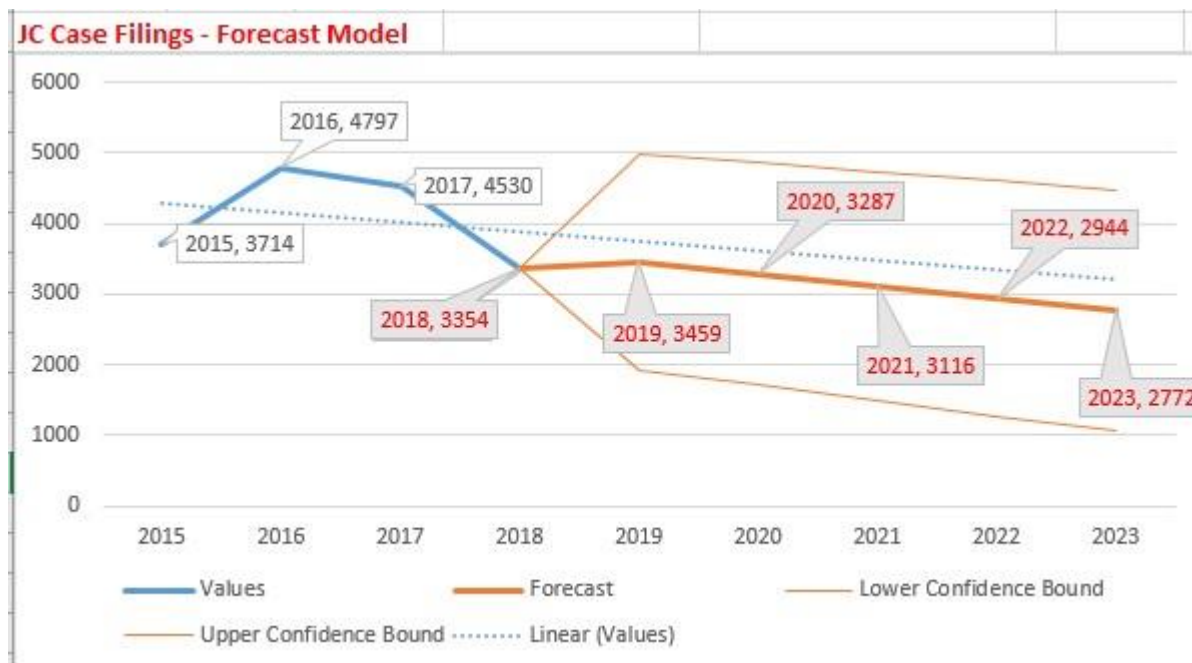
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- UPPER CONFIDENCE BOUND (JC) – similar to the LOWER BOUND, the values in this column reflect with a 99% accuracy, what we feel could be new case filings for the years 2019 to 2021 using a higher % of filings.

These are shown in the chart below.

| YEAR | Values | Forecast | Lower Confidence | Upper Confidence Bound | Statistic | Value |
|------|--------|----------|------------------|------------------------|-----------|--------|
| 2015 | 3714 | | | | Alpha | 0.25 |
| 2016 | 4797 | | | | Beta | 0.00 |
| 2017 | 4530 | | | | Gamma | 0.00 |
| 2018 | 3354 | 3354 | 3354 | 3354 | MASE | 0.73 |
| 2019 | | 3459 | 1930 | 4988 | SMAPE | 0.15 |
| 2020 | | 3287 | 1711 | 4863 | MAE | 618.25 |
| 2021 | | 3116 | 1493 | 4738 | RMSE | 779.94 |
| 2022 | | 2944 | 1276 | 4612 | | |
| 2023 | | 2772 | 1060 | 4485 | | |

The chart below graphically depicts these predictive (forecast) new case filings for JC Cases.





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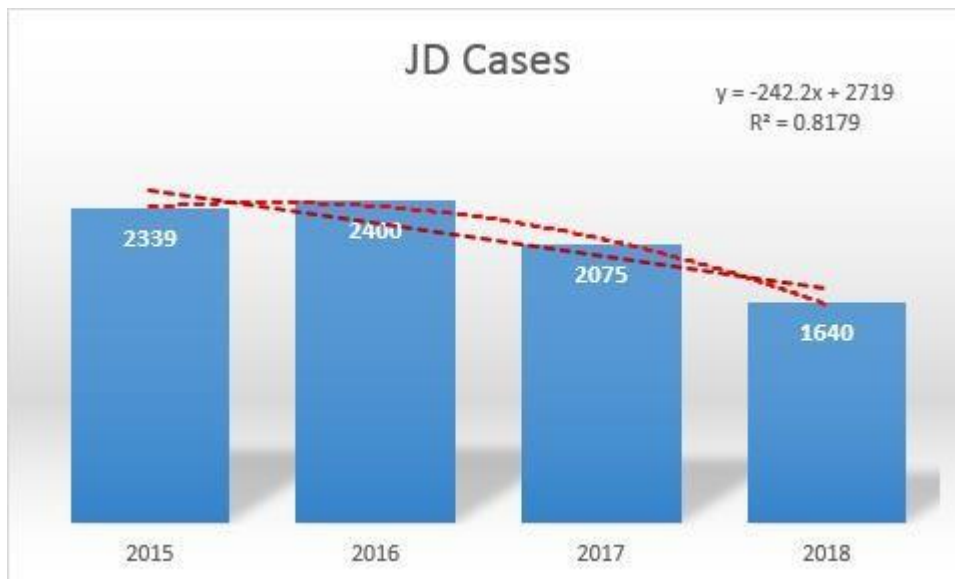
Unifying Juvenile and Family Matters in Marion County

The Chart shows the trend of new case filings in JD cases over the last 3 years along with the current 2018 case filings.

Similar to the calculations done for the JC cases, based on new case filings, the forecasted numbers for

JD Cases are predicted to be in the range displayed in the table above. For all the forecasting, we have used a 95% **confidence interval** which is wider, and is therefore more accurate.

These are shown in the chart below.

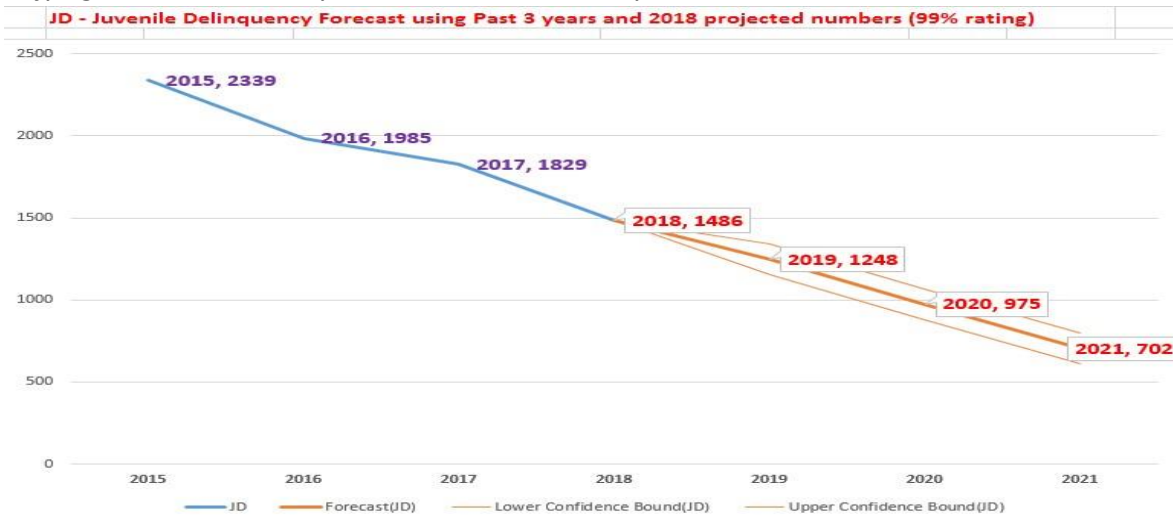


| YEAR | JD | Forecast(JD) | Lower Confidence Bound(JD) | Upper Confidence Bound(JD) |
|------|------|--------------|----------------------------|----------------------------|
| 2015 | 2339 | | | |
| 2016 | 1985 | | | |
| 2017 | 1829 | | | |
| 2018 | 1486 | 1486 | 1486 | 1486 |
| 2019 | | 1248 | 1154 | 1341 |
| 2020 | | 975 | 882 | 1069 |
| 2021 | | 702 | 609 | 796 |

The chart below graphically depicts these predictive (forecast) new case filings for JD Cases.

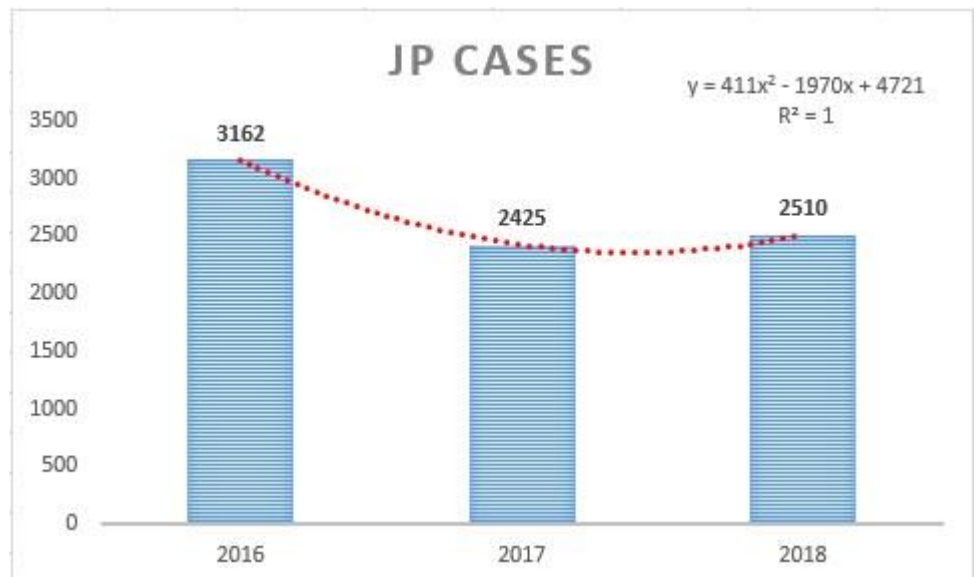


Unifying Juvenile and Family Matters in Marion County



The Chart shows the trend of new case filings in JP cases over the last 3 years along with the current 2018 case filings.

Similar to the calculations done for the JC cases, based on new case filings, the forecasted numbers for



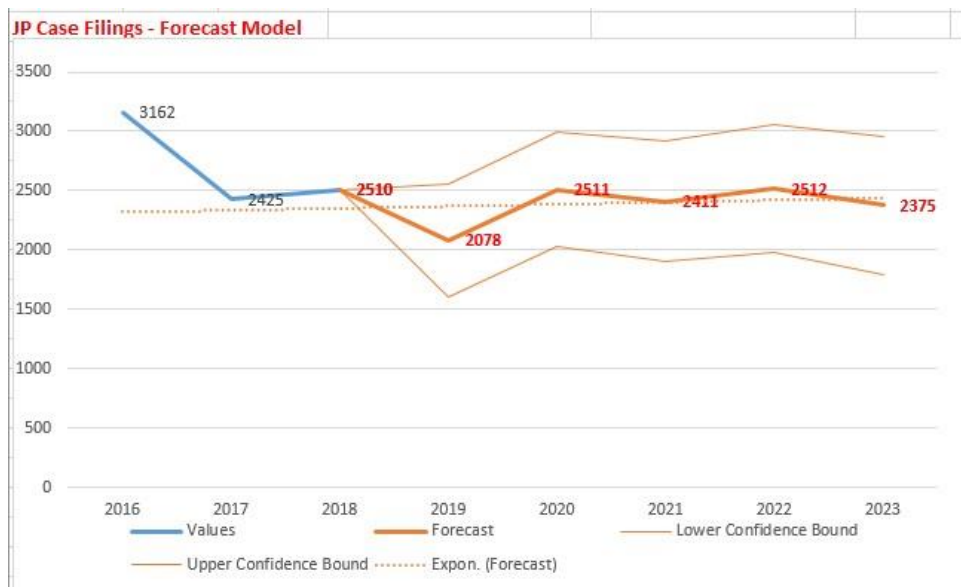
JD Cases are predicted to be in the range displayed in the table above. For all the forecasting, we have used a 95% **confidence interval** which is wider, and is therefore more accurate.

These are shown in the chart below.



Unifying Juvenile and Family Matters in Marion County

| Timeline | Values | Forecast | Lower Confidence Bound | Upper Confidence Bound |
|----------|--------|----------|------------------------|------------------------|
| 2016 | 3162 | | | |
| 2017 | 2425 | | | |
| 2018 | 2510 | 2510 | 2510 | 2510 |
| 2019 | | 2078 | 1604 | 2552 |
| 2020 | | 2511 | 2028 | 2994 |
| 2021 | | 2411 | 1907 | 2915 |
| 2022 | | 2512 | 1974 | 3050 |
| 2023 | | 2375 | 1788 | 2962 |



Since 1996, Indiana has utilized a weighted caseload measurement system (WCMS) to establish a uniform statewide method for comparing trial court caseloads. The system is necessary as it provides an objective method of determining the adequate resources needed to effectively manage the caseloads around the state. The development of the weighting system began in 1993 when the Judicial Administration Committee of the Indiana Judicial Conference, the Indiana Supreme Court, the former Division of State Court Administration, and an independent consultant began a twoyear study to design a system for measuring trial court caseloads. Subsequent studies have been completed in 2002, 2009,



Unifying Juvenile and Family Matters in Marion County

with the most recent Indiana Caseload Assessment Plan to Utilize Resources Efficiently (CAPTURE) report being published in 2016.

The basic premise of a caseload assessment system is that all case types are not equal and each case type requires a different amount of time to complete from initial filing up through the final disposition of the case. To establish the “weight” each particular case type should be given, it first has to be determined the *average* amount of time in minutes each case type takes to complete. During the most recent weighted caseload assessment study, thirty-nine case categories were examined,

Specifically, the weighted caseload assessment studies have asked judicial officers to track the time they spent on caserelated activities such as prejudgment hearings, trial preparation, plea/admissions, bench trials, settlements, jury trials, opinions, orders, sentencing/disposition, post judgment hearings, and research. As part of the weighted caseload assessment studies completed in 1996, 2002 and 2009 only a sample of judicial officers from around the state were asked to participate in the study. During the most recent study completed in 2016, every judicial officer in the state was asked to participate and 472 of the 475 judicial officers kept track of their time.

Indiana Trial Courts Weighted Caseload Allocation and Plans

Indiana adopted a weighted caseload measurement system to establish a uniform statewide method for comparing trial court caseloads. Because the weighted caseload measures are based on new filing data, the factors take into account cases which are dismissed, cases in which guilty pleas/admissions are made, as well as cases in which repeated re-docketed hearings are held.



Unifying Juvenile and Family Matters in Marion County

Administrative Rule 1(E) requires the judges of the courts of record in each county to develop and implement through a local rule a caseload allocation plan for the county that ensures the even distribution of judicial caseloads among the judges of the courts of record in the county.

The judges of the courts of record in each judicial district (established by Administrative Rule 3) may adopt a local rule to develop a district caseload allocation plan that allows for the efficient adjudication of cases within the district.

Weighted Caseload Allocation Plans are evaluated by applying the distribution of cases defined in the county or district caseload allocation plan to the new filings reported by the courts of record within the county or district during the

³ 2017 Weighted Caseload Measures by County and Court -

<https://www.in.gov/judiciary/iocs/files/courtmgmt-2017-weightedcaseload-measures.pdf>



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preceding year. This identifies the judicial “need” of the court represented by the court’s caseload. If applicable, additional judicial resources, such as the use of a magistrate or commissioner, are then factored in for the appropriate court(s). This judicial resources number represents the “have” of the court. The “need” figure is divided by the “have” figure in order to produce an estimate of the weighted caseload utilization in each court, county and district. The utilization variance is calculated by subtracting the lowest utilization in the county from the highest utilization in the county.

What does “NEED” “HAVE” and “UTIL” mean?

The WCL data is organized in three columns. The “NEED” column indicates the number of judicial officers that are needed in the court for the number of new cases filed in that court during the calendar year. This number is derived by dividing the total number of minutes for all the filed cases by the total number of minutes available to the judicial officers in that court for case related activity. The “HAVE” column indicates the number of regularly assigned judicial officers serving the court during the year. These include state paid judges and magistrates and locally paid commissioners. The “UTIL”, meaning “utilization”, is the relationship between the number of cases filed and the number of judicial officers available to hear them.

What is “Relative Severity of Need?”⁴

The 2017 weighted caseload data indicates that the state average utilization is 1.07. This means, on average, each court is carrying a caseload that would take 1.07 judges to handle or, conversely, each court has 7% more cases than it could process under the WCL standard. This also means that, in order to bring every court to 1.0 utilization, the state needs 39 additional judicial officers. Given the

fact that there is a statewide need for more judges, how can we determine where the need is most serious?

The “relative severity of need” concept provides a relative comparison of the need for new judges in each county. The “Severity of Need” table reflects the counties’ WCL need sorted by largest to smallest.

This concept is best illustrated by an example: if the report indicates County A and County B each need two additional judges, at first glance their need may appear to be identical. Because of the number of judicial officers already working in a county, however, the severity of need may vary significantly. If County A already has 10 judicial officers and needs two judges, it means that each of the 10 judicial officers has to carry an additional 20% caseload. On the other hand, if County B only has two judicial officers and needs two more, it means that each of its existing judges is already handling a 200% caseload. Obviously, the “relative severity” of County B’s need for new judges is far greater than the need for County A.

What sort of information does the “Temporary Adjusted Weighted Caseload” report present?⁵

⁴ 2017 Weighted Caseload Measures by County “Severity of Need” – amended 4-26-18 - <https://www.in.gov/judiciary/iocs/files/courtmgmt-2017-severity-of-need.pdf>

⁵ 2017 Temporary adjusted weighted caseload measures – amended 4-26-18 - <https://www.in.gov/judiciary/iocs/files/courtmgmt-2017-temporary-adjusted-weighted-caseload-measures.pdf>

The Indiana WCL measures system is intended to apply only to new case filings, and the annual judicial reports and reports on severity of need reflect statistics



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based solely on the number of new cases filed in each court. However, each year, the baseline utilization figures shift during the year due to the transfer of cases and/or transfer of judicial time. This may happen because of conflicts, change of venue from the judge or county, amended caseload allocation plans, senior and other temporary judge service, etc.

Thus, we have calculated the temporary, adjusted weighted caseload utilization figures. These temporary, adjusted statistics have been calculated by:

- Adding to the court's total minutes the cases in which the reporting judge assumed jurisdiction as a special judge in other courts
- Adding to the court's total minutes the venued in and transferred in cases
- Subtracting from the court's total minutes the number of cases in which another judge assumed jurisdiction as a special judge in the reporting court
- Subtracting from the court's total minutes the venued out and transferred out cases
- Adding to the reporting court's total minutes the time that Senior Judges serve in the reporting court

The information in the "Temporary Adjusted Weighted Caseload Report" does not change the fundamental filing patterns in the trial courts. It reflects some of the ways that courts shift caseloads and resources, sometimes in order to deal with uneven caseloads. Because these shifts are temporary, they should only be used as an additional reference and not as the baseline for weighted caseload statistics. The temporary data is reported so that courts could see how the shifting of caseloads and judicial officer resources actually played out in 2015.

Administrative Rule 1

Administrative Rule 1 requires the Indiana Office of Judicial Administration to publish the WCL report by April 15 of each year. The WCL report is based on the prior year's statistics. Administrative Rule 1 (E) requires the courts of record in a county to develop and implement caseload allocation plans (CAP) that ensure an even distribution of judicial workload among the courts in the county.

Appendix 3

Marion Superior Court Open Forum – Juvenile

Court May 22, 2019, 3:00 p.m.

Marion Juvenile Court Annex Gymnasium

Hosts:

The Honorable Heather Welch

The Honorable Alicia Gooden

Attendance:

Rachel Roman-Lagunas, MCPDA

Leon Keith, MCPO

Cindy Booth, Child Advocates

Jill Johnson, MCPDA

Kristen Keegan, MCDPA

Dan Schroeder, MCPDA

Kate Bacon, MCPDA

Shannon Howard-Chastain,
MCPDA

Robert Newell, MCPDA

David Jansen, Probation

Kathryn Miller CBHR-Nonprofit

Ryan Haste, Probation

Pamela Suchedi, MCPDA

Tanisha Meyers, Probation

Kevin Riley, Probation

Rachel Fisher, Lutherwood



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| | |
|--|----------------------------------|
| Julia Stevens, MCPDA | Hal Thurston, MCPDA |
| Mary Margaret Montgomery, Child Advocates | Andrea Marsh, MCPDA |
| Justin Tillis, DCS | Jim Dalton, Damar |
| Adrienne Reed, Damar | Angel Knapp, Damar |
| Nicole Goodson, Kids' Voice | Lindsay Faulkenberg, Kids' Voice |
| Mike Commons, IOCS | Libby Whitaker, Kids' Voice |
| Virginia Lawrence, MCPDA | Heather Edmands, MCPDA |
| Hae Lee Cho, MCPDA | Angela Roach, MCPDA |
| Beth Dickerson, DCS | Amanda Resler, DCS |
| Damita Jefferson, Probation | Chris Ball, Probation |
| Kay Knorr, Probation | Catina Anderson, DCS |
| Toby Gill, Child Advocates | Peggy Surbey, DCS |
| Ashley Kincaid, MCPDA | Brent Pierce, MCPDA |
| Eric Sommers, MCPDA | Carolyn Nichols, MCPDA |
| Robert Shive, Private Attorney | Koren Hamang, DCS |
| Josh Abel, Nina Mason Pulliam | Cary Haley Wong, Child Advocates |

Introductions:

Judge Welch provided an introduction about the efforts to create a Unified Family Court and the 2017 General Term vote to move to a three-division model in light of the impending move to the new Justice Facility. She provided a brief overview of the layout of the Justice Facility.

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Judge Gooden indicated that they had met with Judges Moores and Jones and stakeholders to determine that with planning they had accounted for the space allocation for current juvenile operations. The hope is to operate under a more efficient model. The judges are working with Bar Association representatives to capture the representation of the bar.

- *Someone from MCPDA:* If CHINS cases and divorce cases are going to be mixed together, how will that impact our dockets? Will I need to be in court all day now?
 - o A: There has not been any decision about that, however the goal is to make things easier for the participants.
- *Attorney from DCS:* Request made for case managers to meet with family, as well as waiting areas separate from family members because they had security concerns.
 - o A: Judge Welch provided a better explanation about the conference rooms, meeting rooms, and upgraded technology in the new building.
 - o The DCS attorney raised further concerns about the case manager having privacy from the families while waiting on hearings.
 - o A: Judge Welch suggested that DCS look into getting space in the Professional Building on the campus. o A: Judge Welch noted that docket structures may also change in the future for efficiencies.
- *Someone from MCPDA:* 3 things: 1) Timing & scheduling: It is critical that we stop the practice of bringing people in to court at 8:30 and making them wait for their case to be called at noon. 2)

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Please review the policy about families not permitted to bring their cell phones into the juvenile courthouse. This creates transportation problems, and potential problems with cases by being able to provide information about treatment providers and appointments to their attorneys at their hearing. 3) Public defenders need more confidential meeting space. 4) Concerned about location of the detention center and she requested that children continue to not be shackled when transported.

- A: Judge Welch explained that the proposed concept now is that simple juvenile delinquency hearings would take place at a hearing room in the detention center. More significant hearings, like fact findings would take place at the Justice Center.
- Judge Welch declined a request to describe the MCJ facility and direct to Sheriff Forrestal.
- *Attorney from MCPDA:* 1) Reiterating request to review cell phone policy. 2) Consideration about protective orders. When people are ordered not to have contact under a criminal case and then ordered to sit next to one another in the waiting area at juvenile and sit next to one another for a CHINS hearing.
- *Dan Schroeder, MCPDA:* He proposed a night court docket for the parents who are at risk of losing employment by attending hearings for juvenile delinquency hearings.
 - A: Judge Gooden asked which case types would be best for that docket because she'd received other requests for the same.
 - Dan: He wouldn't speak on CHINS, and would only recommend JD cases for the docket.

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- *Attorney from MCPDA:* Questions about where to get the building plans and wanted more input. Night court is not feasible for young moms with small kids. She had concerns about the location of the Justice Center because it is not centralized, as well as public transportation, and parking. She believed the landscape and green space at the current juvenile complex was beautiful and had concerns about the amount of green space in the new building. She had concerns about the drug testing. She recommended videos for the adults about rights, etc. She had concerns about what was going to happen with the building after it is vacated. She raised a question about
 - A: Judge Gooden asked people to reach out to John Kautzman and Lindsay Faulkenberg, regardless if they are IndyBar members so that they can filter through. Judge Welch assured about the green space and the Mayor's intention with the usable outdoor space.
- *Peggy Surbey, DCS:* Will there be a steering committee? Perhaps there could be a shuttle service for the parking lot to assist with the safety of the case managers and parties getting to their cars following hearings.
 - A: Judge Gooden discussed who was working on the project.
- *Mike Commons, Indiana Office of Court Services:* He presented procedural issues that could be considered, but not really a question.
 - A: Judge Welch referenced the family law surveys and the additional hurdles of combining various cases with different statutory deadlines. She said there are only 200-300 families that would be impacted.

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- *Mary Margaret Montgomery, Child Advocates:* She hopes that from the family standpoint, each family stays with the same judge to build the history. She raised concerns about the environmental things she had heard “through the rumor mill.”
 - A: Judge Welch addressed the environmental issue. Because the city provided about 1000 documents of environmental studies, the Executive Committee chose to hire an independent environmental expert. She cautioned people from listening to inaccurate information. She also reiterated that the Judges want to have a place where people can come and be safe.
 - You won’t necessarily be in the same space every time you come to court and you will need kiosks to figure out where your case will be heard. The information will be confidential.
- What happens when technology goes down?
 - A: Judge Welch said the court system has live employees and telephone systems.
 - A: Judge Gooden mentioned the site visits and conference visits for IT and innovation.
- *Carey Haley Wong, Child Advocates:* Thank you to EC, Lindsay, and Rob for all of the work putting in to building a new and efficient space for the juvenile court. As long as the things are available in the future that currently keep the wheels turning now (drug screens, paternity establishments, mediations, etc.) just to recognize that these cases are a little different than divorces.
 - A: Judge Welch state that at a recent judges’ retreat, they had a number one goal of access to the courts for litigants.

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- A: Judge Gooden stated that the conversations will be ongoing over the next two years while the process develops. Please provide information to one of the EC members, Judge Dietrick, Lindsay, or Rob.
- A: Judge Welch discussed what she learned at the Civil Justice Initiative...for instance that most people use apps for their phones and that might be something we could utilize.
- *Heather Edmands, MCPDA*: Perhaps there is a better way to manage the waiting game of court hearings so clients don't perpetually wait for hours?
- ???: When are we moving?
 - A: Judge Welch: Likely March 2022
- *Dan Schroeder, MCPDA*: When will the plans be due? ○ A: May 31, 2019 for significant structural changes

Conclusion and Thank You for Participation – Judge Welch

Appendix 4

Civil/Family Division Sub-Committee Topics

General mission: Work in conjunction with weighted caseload committee to determine a best path forward for the civil and family courts in the 2022 move to the new justice center. Determine if any modifications to the current structure can and should be made now to ease the 2022 transition. Work with the court personnel committee, as

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well as Circuit Court, to determine appropriate staffing levels and supervision models.

Members: P.J. Dietrick (Chair), Cynthia Ayers, John Chavis, Mark Jones, Gary Miller; EC liaison – Alicia Gooden/Heather Welch

THINGS THAT HAVE ALREADY BEEN DECIDED:

- ✦ The superior court will consist of a 3-court operational model: civil, criminal and family
- ✦ Civil court judges, magistrates, and staff will be colocated on the top two floors of the building. Family division judges, magistrates and staff will be colocated on floor 1 – 3. Circuit court, magistrate's office and staff on floor 3.
- ✦ Civil cases will be heard on floors 4-9
- ✦ Family division cases will be heard on floors 1 - 3
- ✦ Generally, the family division floors (in total) consist of 2 courtrooms approximately 1400 sf each, and 24 hearing rooms between 750 – 900 sf each
- ✦ Drcb/fcp likely on floor 2
- ✦ Circuit court has 1 large courtroom and 1 small hearing room

THINGS THAT HAVE NOT BEEN DECIDED RELATIVE TO THE ABOVE:

- ✦ Which case types make up the family division?
- ✦ Which case types make up the civil division?
- ✦ How many elected judges are necessary for the family division?
How many judicial officers?

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- † Exact layout of these modules within the guidelines accepted by the General Term as to overall need of the number of hearing rooms.

PRIORITY LIST and DEADLINES

1. **PRIORITY #1:** What is our operational model? Is it one family/one court? What happens with paternity cases? Do we include divorces without children? Do all judges/JOs hear all case types? How do we gain judges in the family division?

WORK WITH CAPTURE

(Rothenberg/Amitav) ON THIS

- a. Immediate need for survey of all colleagues and of the family law bar relative to the above
- b. Need numbers of all case types and judicial officer time from Amitav
- c. See additional thoughts on family division addendum page.

DEADLINE FOR PRIORITY #1: MAY 15, 2019

2. **PRIORITY #2:** How does the family division model affect the civil division? What does it do to the number of pure civil cases? How does that affect judicial officer time for judges? If

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paternity cases are absorbed by family division, how does this affect CAPTURE for Civil and Circuit court?

- a. Need survey of civil judges for their input
- b. Any current civil (or criminal) judges have interest in hearing family law cases?
- c. Is there a desire/need for consolidated dockets of any kind? For example, a collections docket?

DEADLINE FOR PRIORITY #2: MAY 15, 2019

3. **PRIORITY #3:** Space Allocation within our current “modules.”

Do changes in our operational models between civil and family division change the overall number of courtrooms needed?

Also -

- a. Should hearing rooms be situated differently for family cases?
- b. Evidence lockers – a location for court reporters/staff to store exhibits overnight; this is a must for criminal cases, are they needed for civil/family cases?
- c. Attorney/Client Hearing Rooms
- d. Attorney access to in-custody clients or juveniles
- e. Advocate Space (for POs, juvenile cases)
- f. Robing rooms/bathrooms/deliberation rooms
- g. SRLs self-service center

DEADLINE FOR PRIORITY #3: MAY 15, 2019

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4. **PRIORITY #4:** What type of staffing model do we need once #1 and #2 are decided?

Examples (not meant to be exhaustive).

- a. Are family/civil division staff separate?
- b. Each judge retains their own staff and that staff only works on that Judge's cases?
- c. Staff is pooled by type of division and works on all cases within that division?
- d. All staff is cross trained and can work on any type of case?
- e. Number of staff needed overall, and what roles do they play?

DEADLINE FOR PRIORITY #4: JULY 31, 2019

5. **PRIORITY #5:** How are judges' offices arranged in light of the operational model?

- a. All Judges within each division grouped together
- b. Family division judges on floors 1 – 3 and civil division judges intermixed with criminal judges? Or civil division judges separate but on same floor?

DEADLINE FOR PRIORITY #5: AUGUST 31, 2018

OTHER CONSIDERATIONS:

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- How do these decisions get made? (Surveys?) ○ Input from the Family Law and Litigation Sections of the Bar Associations – ○ Input from the PD and Prosecutor (for CHINS, TPR, and IV-D cases) ○ Input from the Civil Term
- How do we utilize our hearing rooms?
 - Judges work together on their needs? ○ 12th floor handles it?
 - On-line sign up?
- If changes are made to the existing model – what can we begin to implement sooner rather than later to prepare for our ultimate move?

FAMILY DIVISION ADDENDUM

- **Possible case types – need current numbers from Amitav** ○ DC
 - DR – pros and cons of including divorces w/o kid?Where does Bar stand on this? What's the impact on civil

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courts? Leave “pro se” divorces in civil but when 2 attorneys they fall within family division? Have an “opt-in” process?

- JP – are they absorbed from Circuit? Stay within Circuit but part of Division? Logistics with all of this?
 - CHINS ○ TPR ○ GU ○ AD ○ POs ○ Any DV cases? Any other criminal cases with companion family case? ○ JDs? Only JDs with companion family case?
 - Need survey of family law section and schedule brainstorming session
- **Judges/Judicial Officers** ○ How many judges are needed?
Number of JOs?
 - Currently have 2 full-time judges (juvenile), 7 full-time magistrates through paternity, roughly 5 full-time magistrates at juvenile, 7 magistrates/commissioners (not hearing Family law full-time) at CCB, 1 probate judicial officer; most civil judges have at least a few family law cases that they hear
 - The number of total judicial officers could change for the family division b/c theoretically it will be more efficient and they will be hearing cases full-time
 - Shared magistrates/commissioners? Do they work for everyone or just one judge?
 - Any current judges have interest in transitioning to Family division? How do we increase that number of judges? Could some civil judges hear only family law cases on

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certain days/sessions as part of division? Other creative thoughts?

- Need survey of our colleagues

- **Operations/Processes – Some to be decided now/some can wait until model is defined and then interested Judges can work on**
 - Are case types broken into silos? Do judicial officers hear certain cases types? ○ One judge/one family? Every judicial officer is cross-trained on all case types?
 - Centralized scheduler/scheduling system (talk with Amitav about technological possibilities)
 - Process from filing to final hearing (AAG/CJA/HAW have worked on this previously)
 - What services are we lacking? Have DRCB and FCP – what needs to be expanded? What is available for CHINS/TPRs that we should tap into? No duplication of services – need to be efficient! What will be available at assessment center? Need for additional GALs?
 - Mediation/arbitration programs? ○ What funding sources can we look to? Legislature? Grants? Supreme Court? ○ IV-D cases/reimbursement – how is this incorporated?
 - Local rule changes?

Appendix 5

Courts with Identified Best Practices

*****Allegheny County Family Division (Pittsburgh), PA**

There is one Administrative Judge who oversees delinquency, dependency, and domestic relations cases. Each department has a court administrator. All departments are co-located.

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Multnomah County Circuit Court (Portland), OR

The Juvenile Division of the Multnomah County Circuit Court handles dependency and delinquency cases. Domestic Relations cases are handled in the Family Law Division of the Circuit Court. There are multiple locations.

Maricopa (Phoenix) and Pima (Tucson) Counties, AZ

The Arizona Superior Court in Pima County has a Family Law Bench and a Juvenile Court Bench. The Juvenile Court oversees both dependency and delinquency.

Pierce County (Tacoma), WA

Pierce County Superior Court sees delinquency and dependency cases in the Juvenile Court, custody proceedings in the Family Court, and divorce in Civil Court. The Juvenile Court has its own facility.

Seventeenth Judicial Circuit (Broward County), Fort Lauderdale, FL

As in other circuits in Florida, the Broward Unified Family Court judges hear all delinquency and dependency cases and identified interconnected cases involving domestic relations issues, including domestic violence. They have discussed inclusion of related criminal cases. Broward recently build a new courthouse with a criminal wing connected by walkways. The juvenile detention facility is a 10minute drive away but youth are brought to court for first appearances. Magistrate Randi Boven is available for consultation.

PROJECT ONE COURTS

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Jefferson County Family Court, (Louisville), KY

The Family Court has jurisdiction over domestic relations, dependency, and status offense cases; however, the delinquency cases are heard in the Juvenile Court.

Milwaukee County Circuit Court, (Milwaukee), WI

Milwaukee's Children's Court has jurisdiction over delinquency and dependency matters. Domestic relations matters are heard in the Family Court.

North Okaloosa County Unified Family Court, (Crestview), FL

North Okaloosa County is part of the First Judicial Circuit of Florida. They have unified all domestic relations, dependency, and delinquency, and are in one courthouse. All of Okaloosa County, however, has a population of only 200,000.

Orleans Parish Juvenile Court, (New Orleans), LA

The Orleans Parish Juvenile Court handles child protection cases and delinquency cases. Domestic relations is in the Family Court.

*****Sixth Judicial Circuit Court (Pasco & Pinellas Counties), Dade City, FL**

The Unified Family Court judges hear all delinquency and dependency cases and identified interconnected cases involving domestic relations issues, including domestic violence. They are designed to be One

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family, one judge and are section of the Family Division. They are co-located in Pinellas County. Pinellas County has a population of 975,000.

Second Judicial District Court, Family Division (Washoe County), Reno, NV

The Family Division in Washoe County used to be co-located, but due to increases in population, it is now fragmented into multiple locations.

NCJFCJ MODEL COURTS WITH UNIFIED FAMILY COURTS

Clark County District Court (Las Vegas), NV

The Family Court Division hears domestic relations and abuse and neglect cases, and the Juvenile Division hears delinquency cases. However, there are 20 judges that oversee all family and juvenile cases. They are spread between multiple locations.

Circuit Court for Baltimore City, (Baltimore), MD

The Juvenile Court has jurisdiction over delinquency, child welfare, and guardianship/adoption. Domestic relations cases are heard in the Family Division.

*****Essex County (Newark), New Jersey**

In New Jersey, the Family Division is responsible for all matters that arise out family relations, including domestic relations, dependency, and delinquency.

*****First Circuit Court Family Court (Honolulu), HI**

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The Family Court in Hawaii hears all matters involving children (i.e., delinquency, status offenses, abuse, and neglect) as well as domestic relations and domestic violence cases.

Forrest County (Hattiesburg), MS

In Mississippi, youth courts have exclusive jurisdiction in actions involving abused children, while chancery courts have jurisdiction over divorce and custody actions, including those in which abuse or neglect is alleged.

Hamilton County Juvenile Court (Cincinnati), OH

The Hamilton County Juvenile Court has jurisdiction over delinquency and dependency matters; divorce and related matters are heard in the Domestic Relations Division of the Hamilton County Court of Common Pleas.

***** Mecklenburg County Family Court (Charlotte), NC**

District court judges designated as family court judges hear cases involving juvenile delinquency; abuse, neglect, and dependency; termination of parental rights; domestic violence; child custody and visitation rights; and divorce and related issues. North Carolina is touted as having strong alternative dispute resolution programs.

***** Prince George's County, Maryland**

The Family Division of the Circuit Court hears domestic relations, delinquency, and dependency cases.

Salt Lake City, Utah

The District Court oversees domestic relations, and delinquency and dependency cases are heard in Juvenile Court in the same building. This is true of other judicial districts across the state. Utah was an early implementer of Functional Family Therapy. Utah is undergoing

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consideration of their domestic relations case management practices to integrate triage concepts.

San Jose, California

The Juvenile Division of the Superior Court oversees delinquency and dependency, while domestic relations are heard in the Family Division. They are held in two different locations. Family Division and dependency cases are heard in the Family Justice Center, and delinquency cases are heard in the courthouse.

*****Washington, D.C.**

The Family Court Operations Division oversees delinquency, dependency, and divorce. There is a domestic relations branch and a juvenile and dependency branch.

Appendix 6

NCSC Child, Family and Elders Team

Alicia Davis, J.D., is a Principal Court Management Consultant at NCSC and has dedicated her career to achieving efficient processes and

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effective outcomes for state-court litigants and staff, primarily for the benefit of children, families and vulnerable populations. Ms. Davis brought her extensive court management and administrative experience from the Colorado and Utah state systems to NCSC's national platform in 2011. Since then, Ms. Davis has overseen court-improvement projects in almost every state as well as throughout Latin America and the Caribbean. She is an expert in highperformance court frameworks, having conducted operational assessments and designed new operating processes for numerous judicial sector institutions. Ms. Davis is also a sought-after educator, with extensive experience training judges, court staff of all levels, and other stakeholders.

Teri Deal, M.Ed., is a researcher and educator who has concentrated on juvenile justice issues for the past decade. Ms. Deal's expertise spans the research and analysis spectrum, from developing assessment tools to gathering and interpreting data to reporting findings -- for live audiences, in print, and through technology platforms. Ms. Deal, who possesses a master's degree in education and is a Ph.D. candidate, supports courts in every phase of their process improvements, beginning with detailed research to identify solutions, and culminating in the education of judges and stakeholders who implement change.

Nora Sydow, J.D., is an attorney and Principal Court Management Consultant at NCSC. Her project management achievements include implementing novel programs and educating judges, court administrators, and other interested parties on an array of newly emerging issues. Ms. Sydow has researched, written and educated on electronic communication's and social media's impact on the courts. Ms. Sydow has monitored and consulted on state courts' evolving use of electronic information systems to drive efficiency.

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Miguel Trujillo, MPP, is a Program Specialist at NCSC and approaches his work from a public policy perspective, Mr. Trujillo brings modern research methodologies to the Children and Families Team. Mr. Trujillo blends qualitative and quantitative information-gathering approaches – from statistical analysis to focus group study – ensuring that solutions are built to achieve measurable outcomes for courts.

Christopher Wu, J.D., is a Principal Court Management Consultant at NCSC and has a career that has taken him from the trenches of child and family advocacy to the highest leadership echelons as a coalition-builder and policy expert. As an attorney and executive with Legal Services for Children, Inc., Mr. Wu saw how court processes unfold through clients' eyes. Mr. Wu then co-founded and served for nearly 20 years with the Center for Families, Children and the Courts. While at CFCC, he led the California Blue Ribbon Commission on Children in Foster Care and managed the state's annual Beyond the Bench convention of over 1000 judicial officers, attorneys, child welfare staff, Court-Appointed Special Advocates, and others child welfare stakeholders. Since 2013, first with the Casey Foundation and now as an NCSC Principal Court Management Consultant, Mr. Wu has guided court systems throughout the U.S. to shape and implement policies beneficial to children, families, judges and court staff.