Developing Resources for the Courtroom

Community Courts and Family Law

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The relationship between the courts and the community and, in particular, the need for collaboration between them have been frequent topics in both government and academic literature for the last 30 years. This interest in community justice may concentrate on juvenile law at one time, shift to civil litigation at another, or focus on criminal justice at still another. What has remained constant is recognition that the courts need working partnerships with their communities. The term "community court" has been used to describe various types of collaborative efforts between courts and the communities they serve.

Significant changes in social and economic structures have created demands on courts that promote ongoing movement toward community-focused programs. There were virtual explosions of experimentation with innovative community and court collaborative programs throughout the seventies and eighties, some successful and some not. In the last decade, however, a modern community court paradigm has emerged, primarily in the area of criminal justice. While preserving the traditional principles of community courts in setting goals and priorities on the basis of community input, the new community courts recognize the necessity for strategic planning based on social science research, advanced information systems, data collection, and quantitative evaluation. The partnership between law and social science has been tremendously enhanced by new technology, and the potential for courts to improve their services to the public has never been greater or more timely. [1]

This article describes modern community courts and provides some historical background. It also presents an example of a prototypic criminal justice community court, the Midtown Manhattan Community Court. Established in 1993, the Midtown Manhattan Community Court is perhaps the best known of the modern community courts. In addition, the article presents other criminal justice examples to demonstrate the variation in program experimentation.

Although the modern community courts seem to have their roots in the criminal justice arena, the authors postulate that the social and economic conditions giving rise to these courts [2] are also present in the civil arena and demand a similar paradigm shift in civil litigation. This is particularly evident in the family law courts. For this reason, family law courts have been, and should be, building upon the criminal justice model to provide social services to family law litigants. The article therefore presents examples of community courts dealing with family law issues. Finally, the article proposes a model for a modern family law community court.

WHAT IS A COMMUNITY COURT?

In the area of criminal justice, community courts are a part of a larger community justice system that includes community policing, [3] community prosecution [4] and defense, [5] and community corrections. [6] In civil law, community courts more frequently experiment with alternative dispute resolution services and may not even be part of the formal justice system. [7]

Most of the community court projects to date have been implemented in the area of criminal justice. There are many models of such community courts, but some features are common to all. A defining characteristic is the partnership between the criminal justice system and social services within the community. The purpose of this article is to examine how goals and techniques adopted in the criminal justice arena are applicable to a civil court—in particular, family law. The authors examine some of the

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societal forces influencing the development of community courts. Examples are given of several criminal justice community courts. Additionally, the application of the community court model to civil courts is discussed and examples given. The authors propose a community court model in family law and relate the goals of the model to those of unified family courts. ■

Although many models of community courts dealing with various legal issues are currently in operation, they share several common characteristics. First, they seek to establish a stable attachment between communities and courts by bringing together citizens and the justice system to solve local problems. In addition, these courts practice restorative justice, treat litigants on an individual basis, and use community resources in the adjudication of disputes. [8]

The principles of the modern criminal justice community courts are set out on the Community Justice Exchange Web site. [9] The principles are as follows:

1. Restoring the community. The first principle of community courts is to restore the community after a crime has been committed. The court recognizes that both the victim and the community suffer loss from crime. It uses punishment to pay back the community, combines punishment with help to the defendant, gives the community a voice in determining restorative sanctions, and makes social services at the court available to residents who need assistance.

2. Bridging the gap between communities and the courts. The second principle seeks to secure an attachment between the court and community by making the process of justice visible, making justice accessible, being proactive in working with the community to monitor problems, and reaching out to victims with assistance.

3. Knitting together a fractured criminal justice system. The third principle addresses the disorganization within the system itself. The community courts are central hubs in the justice process and can use their authority to link criminal justice agencies that too often have operated in isolation. The courts cannot "reinvent the wheel," so they need to reach out to community-based agencies for expertise in areas required for the successful operation of the court. Social services and justice professionals must work together to link litigants with services. The use of "comprehensive jurisdiction" also should be explored because litigants often have several cases in different courts. Under comprehensive jurisdiction, one judge hears several types of related matters (e.g., a juvenile dependency case and a domestic violence case related to the same family and same set of circumstances).

4. Helping offenders deal with problems that lead to crime. Instead of focusing on case processing and punishment, community courts put problems first by formulating sentences that can help defendants change their lives and reduce criminal recidivism. Such sentencing strategies include different forms of restitution and participation by the defendant in programs like drug treatment, medical services, educational assistance, job training, batterers' intervention, mental health treatment, and other social services. In this way, the court becomes a gateway to treatment. Furthermore, these courts remain involved after disposition of the immediate case so the judge can monitor the defendant's progress and continue to make effective treatment orders.

5. Providing better information. In a community court, the staff makes every effort to give as much information to the judge as possible at the defendant's first appearance to facilitate effective, case-specific sanctions that match the needs of the defendant with available treatment or service programs. This information is simultaneously made available to the attorneys and social service staff as soon as it is obtained. The information system is used to enhance accountability by providing updates on the defendant's progress and compliance and by flagging developing problems.

6. Reflecting the community in the courthouse's design. The courthouse should be a physical expression of the community court's goals and values, reflecting a sense of respect for the legal process and for all who are involved, including defendants, victims, and the general public. The courthouse needs to have adequate space for social service workers, case managers, service workshops, treatment sessions, and classes. It also needs to be available for community use after business hours.

Though most community courts are neighborhood-based, some are citywide.[10] They tend to handle minor, quality-of-life crimes that traditional criminal justice has basically marginalized, such as loitering, turnstile jumping, panhandling, prostitution, shoplifting and other thefts, public urination, graffiti, and low-level drug possession. Citizens' concerns about these quality-of-life crimes frequently exceed their concerns about more serious violent crimes.[11] Some community courts are also attempting to address civil matters such as neighborhood disputes, health and safety code violations, property rented to drug dealers or otherwise turned into public nuisances, and landlord-tenant matters.[12]

THE HISTORICAL CONTEXT OF COMMUNITY JUSTICE

Collaboration between communities and the courts is not a new idea. In fact, this connection was traditional in preurbanized America. The changes in economic structure evidenced by massive migration of the population from small rural communities into increasingly large urban centers naturally led to a restructuring of the courts. Roscoe Pound observed that social and political changes were creating communities with "which our legal institutions had no experience."[13] As cities grew, so did the number of courts within them. New legal issues were being created, law was becoming more complex, professionalism and specialization became necessary, and the number of courts continued to proliferate. For example, in 1931 Chicago had 556 different courts. There was also rapidly developing concern in Chicago and other urban areas about the connection between the courts and local political corruption, and a belief that the problem resulted from the ever-expanding number of different courts popping up in a disorganized and overlapping array of jurisdictions. The solution was thought to be centralization of courts. In fact, it was the concern about the connection between the courts and local politics that motivated a reform movement that would remove the courts from the neighborhood level and eventually contribute greatly to their estrangement from the communities they served. Reform during and immediately after World War II focused on curbing expansion and centralizing courts in single "downtown" courthouses. As a result, Chicago today has a single court with one main courthouse and 10 satellite courts in various locations. Other urban areas had similar concerns, and the trend nationwide was to centralize court services.[14]

In a recent paper discussing American criminal justice from a systemic point of view, University of Maryland Professor Charles F. Wellford observes that a characteristic of the criminal justice process has been its disarray.[15] In fact, rather than a coordinated system, criminal justice has been a poorly coordinated collection of independent fiefdoms labeled police, courts, corrections, and so forth. He notes that progress in coordination and effectiveness has been made in recent years, citing such examples as drug courts and community courts where police, prosecutors, defense attorneys, judges, and treatment providers work together. From this viewpoint, it seems evident that the centralization of court management during the forties and fifties, which claimed efficiency and coordination as its justification, did not result in any effective collaboration between the court and other parts of the justice system.

In a paper reviewing factors affecting criminal justice over the last 30 years, Professor Todd Clear of Florida State University postulates that continuing social change from the sixties to the present has contributed to the current trends in community justice development. During these years, for example, the young males of the "baby boom" generation reached their most crime-prone ages. Indeed, the fact that the baby boomers were moving through their crime-prone years can explain much of the increase in the crime rate in the second half of the 20th century.[16] Some believe that this structural aspect served to overwhelm the crime-reform policies of the sixties that were set out in the report of the 1967 President's Commission on Law Enforcement and the Administration of Justice.[17]

Clear also notes the enormous changes in family structure that have occurred during this period.[18] There are more children being supported by only one parent, more teen pregnancies, and more children living in poverty. Combined with changes in urban ethnic makeup, demographics have been seriously altered for the population as a whole: "[T]he white, middle-class family with a working father and a homemaker mother is today a minority social unit."[19]

Clear further cites structural changes in the economy[20] as resulting in a bifurcated job market with high-wage professional jobs on one end and low-wage service-sector jobs on the other. The well-paid unskilled and semiskilled jobs have all but disappeared,[21] and the gap between the

poorest and richest Americans has steadily grown. The result is that relative poverty is at an all-time high. [22]

Finally, the remarkable change in the expression of public values and attitudes toward crime is noted. [23] In 1967, there was widespread belief that crime was a complex problem arising from entrenched social problems such as poverty and violence. [24] Solutions were thought to require answers as complex as the problems they sought to address, and programs needed to be carefully designed by professionals. [25] This view changed throughout the eighties to the belief that the causes of crime are less complex and are simply the result of the individual's failure to control his impulses and accept responsibility for his actions. [26] Solutions were now directed toward correction by punishment and incapacitation through incarceration. But the resulting increase in the prison population occurred at a time of sweeping tax cuts. Correctional institutions were being required to comply with court orders mandating standards for prison housing without the necessary funding, in turn fueling pressure for them to find "alternatives" to prison. Such alternatives initially included intensive supervision programs, electronically monitored home incarceration, and boot camps. [27] At the same time, judges and prosecutors were experiencing an explosion in the size of court dockets. Adding to this burden was an even greater jump in the size of the prison population occasioned by the war on drugs in the eighties. [28]

It is from these pressures on corrections and law enforcement that the current movement for change within the criminal justice system originated. It has grown from community corrections programs and community policing to all other areas of the criminal justice system, including the courts. This was a major impetus of the community court movement, which holds that individuals whose behavior can be managed outside prison should be handled with the help of a concerted effort by government and community social services. The use of prisons should be reserved for individuals who cannot reenter society for various reasons.

In the last two decades, centralized courts have been tremendously challenged by the numbers and types of cases reaching them. Problems of substance abuse, family violence, and poverty have been overwhelming for both private and governmental institutions. Courts cannot limit the flow of criminal and civil cases into the courtrooms. Caseload pressures have become acute and the issues more complex. Courts with the highest caseloads are in areas such as misdemeanor crime and family and juvenile law, which have traditionally attracted minimal judicial attention. [29] Often these cases are marginalized within central courthouses because of competition for resources. Furthermore, most of these cases benefit from specialized judicial expertise. Within the court itself, the precipitating force for change has come from individual judges who, dissatisfied with treatment services and lack of coordination, initiate innovative programs in collaboration with community service providers. The more comprehensive responses include drug courts, domestic violence courts, and community courts. [30]

MIDTOWN MANHATTAN COMMUNITY COURT

A well-known example of a functioning community court is the Midtown Manhattan Community Court. [31] Many other courts have used it as a model on which to base their own community court initiatives.

The Midtown Community Court was launched in 1993. A system of neighborhood magistrate courts had existed prior to the centralization of the city's courts in 1962, so the concept was not new to New York's justice leaders. [32] The decision to establish this community court resulted from problems identified by community members who were interested in addressing a variety of quality-of-life crimes [33] in the Times Square area and surrounding neighborhoods. The project brought together planning staff from the New York State Unified Court System, the City of New York, and the Fund for the City of New York. [34] The planners believed (1) that the focus of the centralized courts on serious crime results in insufficient attention to these minor crimes; (2) that community members and justice officials share frustration about the situation; (3) that the community feels isolated from the centralized court; and (4) that the community has a stake in addressing these quality-of-life crimes. [35]

It was decided to house the court in the old Magistrate's Court building next to the Midtown North Police Station. Funding from private foundations, corporations, and the city was obtained to renovate the building. The Midtown Community Courthouse is self-contained. In addition to a courtroom, it has a social services center, a community service program, and an innovative technology system.

OPERATION

Upon arrest in the Midtown Community Court district, a defendant is taken to the community courthouse for booking. [36] Defendants are housed in holding cells secured by glass rather than metal bars. The cells have computer monitors that show the status of pending cases, pay phones, and drinking fountains. While in custody, and prior to arraignment, each defendant is interviewed by the court's pretrial agency. Defendants are asked about substance abuse, general health, housing, employment, and

other potential problems, and whether they need help with any of these issues. The information is recorded by the interviewers on laptop computers and then downloaded into the court's main network. If the defendant requests such assistance during the pretrial interview, he or she is assigned a counselor who will make an assessment of treatment and/or case management needs. Results of such assessments are added into the court's computer for use by the judge, attorneys, and other staff.

Also prior to the arraignment, a resource coordinator reviews all available information about the case. This includes the assessment information, rap sheet, complaint, compliance history, and any other relevant information. A summary is prepared for the judge and a sentencing recommendation is made. All information is available on a computer screen that can be accessed simultaneously by the judge and attorneys.

The Midtown Community Court is an arraignment court. If the defendant, with assistance of counsel, pleads not guilty, the case is sent to the downtown criminal court. If the defendant pleads guilty, the sentence is determined immediately. The defendant is usually sentenced to perform community service or to obtain treatment for substance abuse or other problems. Orders for community service are usually carried out quickly; some can be completed on the same day as the arraignment. Workdays are six hours, and a sentence of up to 10 days of service may be imposed.

Examples of community service are painting over graffiti, cleaning out tree beds, sorting donated clothes at drop-off points, assembling bulk mailings for neighborhood organizations, and performing sanitation duties. Community service projects are designed from requests made by community boards and neighborhood associations. The Midtown Community Court is supported by a community omsbudswoman who attends community meetings and discusses problems and possible ways the court can be helpful. She provides the court with input from the discussions with community groups and gets news into the community about the court's accomplishments.

Once sentence is imposed, the defendant is taken to the sixth floor, where all the social services at the court are located: short-term drug treatment, long-term substance abuse treatment groups, housing assistance, health-care services, English as a Second Language classes, GED classes, and job training. The first stop is a health screening conducted on-site by the New York Department of Public Health. The defendant is then assigned to and meets with a counselor. The counselor schedules community service, arranges appointments for social services, and informs the defendant of other available services.

Case managers monitor compliance with court orders for community service and treatment. The case managers track progress and compliance and record information daily about attendance, drug test results, or other relevant data. The information is recorded into the computer system, which produces a compliance screen available to the judge and the attorneys. The police also have a link to the court's computer so they can see the outcome of any case and the offender's progress with his or her sentence. This provides the officers with feedback about their own work and allows a rapid response to a defendant's failure to comply with the court orders.

The computer screens available to the judge provide a file on the defendant that includes a great deal of information. In addition to the pretrial interview and assessment, the rap sheet, complaint, and compliance data, the system provides a Court Technology Screen that summarizes a defendant's past community court cases, sentencing for each one, and compliance history.

The court also conducts a community outreach program in which social workers ride with the local police to contact homeless and other individuals in need and refer them to appropriate shelters or other services. It is hoped that these ride-along activities will serve as successful interventions with problems that could lead to criminal matters if left unaddressed.

INITIAL CONCERNS

As with all government projects, cost is always a concern. There were two initial concerns regarding the cost of the Midtown Community Court. The first was that this community court model would be more costly than the centralized model. This proved to be true; however, the court appears to more than pay for itself through savings in incarceration costs and the value of equivalent community service sentences. The second concern was that less-affluent neighborhoods would not have the private funding base to initiate similar projects, and that the Midtown project would become a model for elite areas. This concern has been addressed in part by the development of the Red Hook Justice Center in Brooklyn, an area far less affluent than the Times Square area. The Red Hook Justice Center was financed initially by funds from the New York Housing Authority, the Schubert Foundation, the Fund for the City of New York, and the Scherman Foundation. With the addition of funds from the Bureau of Justice Assistance, the City of New York provided the remainder of the funding to start the court. [37] The Red Hook Justice Center began hearing cases in April 2000. [38]

Another initial concern was that defendants would plead not guilty to have their cases moved to the Downtown Court, where they could expect their sentence to

include credit for time served and to be released without the requirement of community service. The evaluation research, however, found no significant difference in overall continuance rates between the Midtown Community Court and the Downtown Court, and defendants did not appear to be forum-shopping in that manner.

Attorneys also raised concerns about the confidentiality of prearraignment interviews. During the interview, the defendant could make potentially incriminating statements. Another concern was that the resource coordinator would make sentencing recommendations and therefore might influence judicial decision making. It seems, however, that these concerns have calmed over time and that defense attorneys have seen that the value of the court's services to their clients outweighs their concerns about confidentiality.[39]

EVALUATION

The National Institute of Justice and the State Justice Institute conducted an 18-month evaluation of the Midtown Community Court. The goals were to document its evolution and to examine its impacts and implications for other jurisdictions.[40] This evaluation showed that cases moved faster at Midtown. The time between arrest and arraignment averaged 18 hours as opposed to an average of 30 hours in the Downtown Court. This arrest-to-arraignment time reduction was estimated to save between $60 to $150 per day per prisoner in custody costs.[41] By the end of the research period, the court was averaging 60 arraignments per day.[42]

The evaluation also noted that the efficiency in implementing the community service sentence was striking and that the benefit to the community was significant. Community service was begun on the same day or next day in 40 percent of cases. The community service work completed by defendants contributed $280,000 in equivalent value.[43] Another $57,000 worth of work preparing bulk mailings on-site at the courthouse was done for local nonprofit agencies.[44]

In the Downtown Court, where cases like the ones handled at Midtown commonly resulted in sentences for time served, community service orders, if any, were ignored by defendants without much risk of sanction. The Midtown Court gave significantly higher numbers of sentences for community and social services.[45] The compliance rate at Midtown was 75 percent, while the Downtown rate was 50 percent. Furthermore, of those sentenced to social services at the Midtown Court, 16 percent remained in their treatment programs voluntarily once their sentences were completed.[46]

There also is evidence that serious crimes decreased because the Midtown Community Court effectively dealt with minor criminal matters.[47] Over the first 18 months of the community court, arrests for prostitution dropped by 56 percent, unlicensed vending arrests decreased by 24 percent, and graffiti was noticeably less along the commercial strip.[48] Between 1993 and 1994, reports of robbery, grand larceny, and assault declined by 25 percent. Burglary reports decreased by 15 percent, reports of grand larceny against the person dropped by 18 percent, murder by 75 percent.[49] By the end of the evaluation, it was clear that the Midtown Community Court Project had both achieved its operational goals and had substantial positive impact in four areas: case outcomes, compliance with immediate sanctions, community conditions, and community attitudes.[50]

OTHER COMMUNITY COURT MODELS

In several other cities, courts and communities have collaborated to address various aspects of public safety. Each develops the community court in a fruitful direction.

HARTFORD COMMUNITY COURT, CONNECTICUT

The Hartford Community Court[51] encompasses all of Hartford's 17 neighborhoods. Funding for the court comes from the Connecticut Court Administration, the Comprehensive Communities Program (an initiative funded by the Department of Justice), and the Hartford Mayor's Office. The community court handles public nuisance complaints and misdemeanors. Defendants appear for arraignment within 48 hours of arrest. The Hartford Community Court differs from the Midtown Manhattan Community Court in that it is a citywide project.

As in the Midtown Community Court, most sentences are for community service, social services, or a combination of both. Sentences for community service are often carried out on the same day as sentencing. Each of the 17 neighborhoods has a citizen problem-solving committee that decides what the community service projects should be. The community service projects are part of a program in which supervisors work alongside the defendants on a project.[52]

Once sentenced, defendants meet with a court caseworker to link with social services assistance providers.[53] The Capital Region Mental Health Center Jail Diversion Team is able to provide immediate access to substance abuse treatment and can assist with access to psychiatric treatment.[54] The State Department of Social Services and Hartford Department of Human Services provide a liaison to the community court for job and educational assistance.[55] They also provide a job specialist on-site for

defendants. Substance abuse education groups are held in both Spanish and English. Each week an HIV/AIDS education group provides testing. [56] In addition, the Hartford Area Mediation Program accepts referrals from the community court. [57] Examples of recent disputes referred to mediation are a disagreement about pay between a babysitter and a customer, an argument between a parent and a school staff person, and a scuffle between two Hartford High School students. [58]

NEW JERSEY JUVENILE CONFERENCE COMMITTEES

The New Jersey Juvenile Conference Committee system [59] is a statewide program in which citizen committees meet with young offenders, their families, victims, and other concerned parties to discuss the offense and recommend a plan for the child. There are 330 such committees.

The goal of the committee system is to prevent further misconduct by encouraging appropriate, effective intervention in the child's own neighborhood. Cases are given sufficient individual attention to allow consideration of the child's home, school, health, and other aspects of his or her environment in the development of a plan for the child. By so doing the committee tailors the plan to meet the needs of the child and his or her family. The family court presiding judge in each county appoints the committee members. The court provides a coordinator for each county, but the resident members run the committees. A judge must endorse the decisions of the committee. Participation in the program is voluntary, and compliance with committee decisions can be reviewed for up to nine months.

There are four particularly significant aspects of this program: (1) the committees have significant operational autonomy; (2) they practice therapeutic jurisprudence and restorative justice; [60] (3) the court provides mandatory training in interviewing, assessment, and mediation to committee members; and (4) pursuant to court rule, each committee must reflect the racial and ethnic demographics of the areas in which they operate. [61]

NEIGHBORHOOD ENVIRONMENTAL COURT, WICHITA, KANSAS

The mobile Wichita Neighborhood Environmental Court[62] works to build partnerships between community members and the court and to see that environmental violations receive the attention they deserve. The court consists of a judge, prosecutor, and clerk, [63] and travels among four police stations. The court was developed in response to citizen concerns about neighborhood safety. Court is held in the evening at neighborhood locations to increase community access. The court handles cases involving environmental, traffic, building, fire, and zoning code violations, and other nuisances. Through the Comprehensive Communities Grant Program, [64] the Neighborhood Environmental Court now also includes a drug court that provides intensive probation and treatment for repeat drug and alcohol offenders. [65]

FAMILY LAW COURTS

The economic, social, and political factors that have led to the current development of community court initiatives in criminal justice are similar to those currently pressuring the family law court system for innovative community-focused planning. Historically, organization and specialization by subject matter has been part of the response of the court to the volume and complexity of legal issues occasioned by the urbanization of America. [66] In Chicago, for example, the first juvenile court in the country was implemented in 1899. The first family court appeared in 1914 in Cincinnati.[67] In the years that have followed, the courts have handled family law matters in so many different ways that the term "family court" has no one meaning. [68]

It has been since the end of the Second World War that the most staggering changes affecting the courts and families have occurred. Just as the "baby boom" generation moved through their most crime-prone ages between 1960 and the present, [69] they also reached the age of parentage. The divorce rate quadrupled between 1960 and 1985.[70] Births outside of marriage increased from 5 percent in 1960 to 22 percent in 1985 and have continued to increase. [71] The National Center for State Courts has determined that family law cases are the largest and fastest-growing segment of state courts' civil caseload, [72] about 35 percent of the total number of civil cases handled by the majority of American courts, [73] and that in 53 percent of such cases at least one person appeared without assistance of counsel. [74] A report from the State Bar of California states that in 67 percent of family law cases at least one party appears pro se. [75] The court system is ill prepared, insufficiently funded and staffed, and incapable of handling the needs, difficulties, and disputes of those who want and need access. If the courts and the community do not make an organized, concerted effort to address the multiple needs of these families, society will fail to serve them and let them slip through the cracks.

The changes in the economy that have affected the criminal justice courts have had similar effects on family law courts. First, the economic resources available to families have declined as relative poverty has increased. [76] This gap between the "haves" and "have-nots" has been particularly pronounced in California with its high-tech

economy.[77] Poverty decreases access to services within the society, including legal services; increases the difficulty of keeping children safe;[78] and adds to the number of people seeking help from the family law courts. In California, for example, the Family Law Facilitator Program, a mandated court-based service for pro se litigants with regard to child support and other family law issues, helps approximately 28,000 customers per month.[79]

Second, the number of women entering the workforce has increased enormously. In 1960, 19 percent of married mothers with children under the age of 6 worked outside the home;[80] in 1986, 54 percent.[81] Even though more women are in the labor force, many are working at low-wage service and clerical jobs that have replaced those well-paid unskilled and semiskilled jobs that have disappeared from the national economy.[82] With the additional pressure of providing child care during work hours, the economic disadvantages for single parents can be particularly harsh.[83] The issue of child support has become increasingly important for both custodial and noncustodial parents. For example, in San Diego County, California, 21,341 cases were calendared for hearing in the child support enforcement courts in 1999.[84] Recent demographic data collected by the California Family Law Facilitators of 21 counties, describing 35,688 customers, indicate that 64 percent report they are employed, and 68 percent report a gross monthly income of under $1,500 per month.[85] Most young families cannot afford to own their own homes and many lack health insurance.[86] These economic pressures result in more litigants at court who have limited access to attorneys and limited information about court procedures or community resources to assist with problems outside the court setting. Because of job requirements, families tend to be more mobile, and parents have less time to spend with their children and are more socially isolated from friends, relatives, and neighbors.[87] This tends to foster reliance on social services to address needs formerly met by extended family, friends, and neighbors, and on the court to resolve their problems and serve as a gateway for other services. Additionally, along with the high divorce rate is a corresponding high rate of remarriage and resulting blended families. Parents may find themselves involved in multiple family law cases involving several parties and complex issues.

Third, the demographics of ethnicity have also changed greatly. In 1970, Whites accounted for 75 percent of the California population.[88] By 1980, that population was only 66.6 percent of the total and in 1990 was at 60 percent. Projections are that, in 2020, Whites will be 40.6 percent of California's total population.[89] By then the Asian population is expected to increase ninefold, the Hispanic population to grow by a factor of six, and the African-American population to double.[90] The court is being challenged to meet the need for access by an increasingly culturally diverse community. For example, California Family Law Facilitators in 21 counties report that 20 percent of their customers are Spanish speaking. Facilitators in 17 counties reported that at least 5 percent of their customers speak languages other than English, including Southeast Asian languages, Mandarin, Cantonese, Japanese, Togan, Samoan, Tagalog, Russian, Armenian, and American Sign Language.[91]

Fourth, in recent years, family disputes have become more contentious.[92] For example, child support enforcement procedures are cited as contributing to an increase in animosity between parents.[93] The problems presented to the courts involve allegations of domestic violence, child abuse, substance abuse, and other behavioral problems[94] that appear intractable within the current family law system. While such issues have always been in the courts, the numbers of cases and the severity and multiplicity of issues have increased dramatically, straining the ability of the courts to deal effectively with these families. Indeed, even as the numbers of new filings in family law have leveled out or decreased in some geographic areas, the number of hearings required to resolve cases has continued to increase.[95] Family law cases are often highly complex, requiring multiple proceedings and intensive participation by ancillary service providers.[96] For example, in 1998, Alameda County, California, which has a population of approximately 1.4 million, had over 32,000 family law matters set for hearing.[97] The ever-growing demand on the resources of the family law courts has come during a time of tax cuts and shrinking fiscal resources available to the public-service sector.[98]

Finally, from a systemic viewpoint, a prominent characteristic of the majority of family law courts, just as in criminal justice,[99] is its disarray. There is lack of coordination among the various parts of the family justice system and fragmentation of issues related to families.[100] Frequently the legal issues related to a family enter the California court system in a variety of ways. Cases of child abuse and neglect are heard in juvenile dependency courts and sometimes in criminal courts as well. Guardianships of children may be part of a juvenile dependency case or, if filed by a private party, part of a probate or family law case. Child support commissioners hear actions filed by the local child support agencies. Divorce, establishment of paternity, legal separation, and nullity are heard in family law courts. Important issues filed within those cases include custody, visitation, support, property division, and restraining orders. If a request for a restraining order is filed under a separate civil domestic violence case, it may be heard in a civil domestic violence court. If the

defendant has been arrested, the criminal domestic violence case will take place in a criminal court. [101] According to California Superior Court Judge Donna Petre, "[e]ach of these departments has minimal knowledge of the decisions of the other, even if the decisions involve the same family and children. The larger the court, the more the problem is compounded. In large courts, each of these departments may not be just in separate courts, but in different facilities miles away from one another with no technological contact." [102] When this is the case, the social service providers may be the only commonality and touchstone for the family facing this legal maze. Coordination of services, court appearances, and information are essential to the family's ability to successfully address the problems that have brought them to the court.

There are also ancillary government agencies that work with these various parts of the courts. At present, most California courts do not have a system of coordination among these various entities. Children's Protective Services, the Department of Social Services, dependency mediation services, and the Court-Appointed Special Advocate (CASA) program work with the juvenile courts. Probate investigators work with the probate court. Family court services and family law facilitators work with the family, child support, and civil domestic violence courts. Law enforcement, pretrial services, prosecutors and defense attorneys, probation, and drug court services work with the criminal court. In conjunction with these government agencies, community-based organizations routinely provide court-ordered social services to litigants. Examples are mental health service providers, substance abuse and batterers' treatment providers, parent education providers, child custody evaluators, co-parenting counselors, domestic violence shelters, supervised visitation programs, and drug-testing facilities.

The family law caseload exploded in the 1970s. Although this growth was already occurring, it substantially increased during the years following the passage of California's "no-fault" divorce statute. [103] While many attribute the increase in the divorce rate to implementation of "no-fault" divorce, [104] others recognize that such trends appear in varying degrees in every developed country, and therefore appear to be part of much broader social and economic change, specifically industrialization and urbanization. [105] Whatever the cause, the effect on the family law court has been an unprecedented demand on its resources.

During the eighties, the response to these demands was mainly to seek nonjudicial solutions, especially alternative dispute resolution techniques, primarily mediation. By 1981, California passed the first mandatory mediation statute, requiring all parents in dispute over child custody to participate in mediation, and by 1998 all but six states had similar statutes. [106] From the late seventies through the eighties, the trend in limited civil litigation [107] as a whole was criticism of legal formalism and the adversary system. Experimentation with non-court-based programs such as community boards, neighborhood justice centers, and other informal alternative dispute resolution programs abounded. [108] In the last decade, however, the focus in family law has moved back toward the courts and away from more nonjudicial dispute resolution mechanisms. Family and juvenile courts have attempted to address the problems through judicial management of cases related to children and families.

Most family law scholars agree that the fragmented family law system needs reform [109] and are calling for systemic implementation of unified family court systems. [110] A unified family court system is a single court with comprehensive jurisdiction over all cases involving children and relating to the family, with one specially trained judge [111] assigned to each family, and with coordinated social services crafted to meet the family's individual needs. [112] A unified family court is also part of a broader community justice paradigm that focuses on problem solving, practices therapeutic jurisprudence, and coordinates with community services. [113]

COMMUNITY COURT PRINCIPLES AND FAMILY LAW

The goals of the criminal justice community courts are entirely consistent with those of family law reform and, in actuality, relate specifically to problems being faced daily in the family courts.

1. Restoration of the community

   The concept of "community" is two-pronged as it relates to family law. First, in the traditional sense, the community at large is adversely affected by protracted, painful family disputes, which can lead to tragic and even fatal consequences. Second, and of equal importance, is the community of the family itself. The parties in a family dispute are part of an extended social group including children, other family members, friends, and co-workers. All are affected by the ability of the litigants to resolve their conflicts in a way that can restore peace and predictability to daily life. Unlike civil litigants, who have little or no connection other than the dispute, the individuals involved in family law disputes will be continuing their relationships far past any given court hearing on a particular disputed issue. They will continue to be connected, usually for life, because of the children they care for. Not only the outcome, but also the process of obtaining dispute resolution, edu-

cates the participants in how to resolve future conflicts. Community-based services teach families how to handle problems and seek assistance when needed.

2. Bridging the gap between communities and courts

   Family law litigants are routinely referred to various services from the community. Examples of these community services are substance abuse treatment, drug testing, supervised visitation, anger management, parenting classes, co-parenting counseling, and conjoint counseling with children. The connection between the courts and community service providers is often weak, and there is very little direct communication. The courts do not really understand the services provided or their limitations. The community service providers are frequently unaware of the details related to the legal cases and the concerns of the courts. Collaboration between the courts and these community service providers not only provides the opportunity for more holistic treatment for families, but also provides the court with a good entry point into the community at large to solicit input and provide education about the operation of the court. The courts learn what services are available in the community, what are appropriate referrals and requirements, and what expectations are reasonable for the litigants. The community service providers learn what the court expects, how to help their clients meet those expectations, and how to provide progress reports that are helpful to the court. Absent such collaboration, litigants often get conflicting messages about what they are reasonably expected to accomplish.

3. Knitting together a fractured family court system

   Earlier discussion pointed up the fragmentation in the current family law system. The unified family courts attempt to bring all matters relating to one family under the auspices of one judge who has comprehensive jurisdiction over all issues that may arise for the family. This system greatly enhances the court's ability to coordinate with the community service providers who are attempting to make helpful interventions pursuant to orders of the court. More important, it is better for children and families because the services and expectations can be coordinated and all relevant information is available to the court so that a comprehensive plan for the family can be developed and implemented. The result is less confusion for the families. They are more likely to succeed when the directives are consistent and uniform and there is a societal expectation of success. The families benefit most when the court and the service providers have a consistent approach.

4. Helping litigants deal with problems that lead to recidivism

   Family law departments see the same litigants repeatedly. This is "family law recidivism." As with drug treatment courts, it is desirable for family law departments to develop a treatment approach to the problems that are provoking this sustained litigation. In developing such an approach, the court considers the needs and abilities of the litigants and tailors a plan to overcome problems and enhance strengths. The litigant, the treatment provider, and the court work together to alleviate the problems that brought the litigant and the family before the court. Until the underlying issues are addressed, recidivism will continue. Social services and programs are available to assist families with the sorts of problems that lead to recidivism; the family law court can be a gateway to those services.

5. Providing better information

   The fragmentation of issues relating to families makes the need for information extremely pressing. Judges need information about previous case history, other matters pending in other parts of the court, and family members' history of compliance with treatment and other orders. For the most part, this developing technology to facilitate information sharing with the different parts of the court is at a starting point for family law courts. Linkage with social services and other government and community agencies is also required. Furthermore, data collection and input technology are desperately needed in order to assess true caseload volume and evaluate efficacy. Pro se assistance can also be enhanced by user-friendly interactive information and forms systems that make court procedures and mandated forms available, combined with assistance from on-site personnel.

6. Design of the courthouse

   A community court for family law would have a waiting area with appropriate amenities or at least enough space so that litigants could sit comfortably in the courtrooms. The court should also have a secure waiting room for children. There would need to be space for volunteer and community referral services, as well as a courthouse safety protocol to protect individuals who were at risk of physical harm from the other party. Space would also be required for a help center that would assist unrepresented litigants in negotiating their way through the court system.

FAMILY COMMUNITY COURT EXAMPLES

Across the country, communities have applied community court principles to family law problems. The resulting family community courts have proved quite successful.

JACKSON COUNTY COMMUNITY FAMILY COURT, OREGON

Jackson County calls its family law court a "community court" to emphasize the court's commitment to community collaboration.[114] The court seeks to coordinate with social services to make early identification of a family's needs and to hold the family accountable for compliance with court orders. Jackson County has established family resource centers in which up to 17 agencies are housed in one building.[115]

The court incorporates a one-family/one-judge case assignment system. The community court clerk searches the automated data systems for cases involving children and may receive case referrals from judges, court staff, and social service agencies. There are three levels of service for multiple-case families. At Level I, a court coordinator simply gathers together all cases related to the family and meets with the judge who has had the most involvement with the family. The decision whether or not the family can benefit from Level II service is then made. If so, the family is assigned to one judge for judicial coordination: all pending cases are "bundled" together so that all future hearings will be in front of that judge. The family may also qualify for Level III service, in which the family is given a comprehensive family plan including social services. The case coordinator then meets with the family and the service providers to create the plan. The services may be provided through a family resource center or by an interagency team of providers. Participation is voluntary. The plan is filed with the court and monitored for compliance.[116]

JEFFERSON COUNTY FAMILY COURT, LOUISVILLE, KENTUCKY

In the Jefferson County Family Court, each judge is assisted by a staff social worker who is present in the courtroom during proceedings. The social worker provides information to help the judge in making determinations and linking families to social service providers in the community.[117] A local human services agency, Seven Counties, and the Jefferson County Public Schools provide liaisons to the court. The Cabinet for Families and Children provides two paralegals and a social worker to the dependency cases. The University of Louisville's social work school sends interns to the court, and the law school sends law students for training. Volunteers staff the children's waiting rooms; others, from the Center for Women and Families, assist victims of domestic violence and their children. The Jefferson County Department for Human Services develops community-based services in neighborhoods.[118]

Communication is a major focus of the court. The court exchanges information with other courts and government agencies, community service providers, probation departments, gun registries, prosecutors and defense attorneys, law enforcement, national agencies, and criminal records to assist in ensuring enforcement and to provide information to all agencies on orders and progress of treatment. The court has a family court advisory committee with subcommittees focusing on specific areas: emergency protective orders, divorce, status offenders, dependency, paternity, termination of parental rights, and adoption.[119]

FAMILY DIVISION OF THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

The Baltimore City Family Court began as a pilot project mandated by legislative funding.[120] Constructed on a social science research paradigm, it has an interdisciplinary team approach not unlike the medical model and practices therapeutic jurisprudence.[121] The principles of the court include (1) the protection of adults and children from harm; (2) protection of children from the adverse impact of family law litigation; (3) increased access to the judicial system for unrepresented litigants; (4) aggressive case management to facilitate early settlement and referrals to appropriate services; and (5) identification of litigants exhibiting signs and symptoms of substance abuse and addiction and appropriate referrals for treatment. Services are offered both in the courthouse and in the community.[122]

Cases are managed by a team made up of judicial officers and staff, the family division coordinator, the family division manager (clerk of the court), the social services coordinator, the domestic violence case monitor, and the chief medical officer and staff.[123]

The family division coordinator reviews the contested files and works with the supervising judge on matters of policy and procedure, service contracts, staffing issues, community relations, and other administrative matters. The family division manager oversees clerical operations in the clerk's office. The family division social worker coordinates evaluation of the litigants and referrals to services such as substance abuse treatment. The domestic violence case monitor coordinates referrals of victims to services and assists on the ex parte calendar. The chief medical officer has clinical responsibility at the court and is responsible for custody evaluations and recommendations.[124]

Baltimore City Family Court makes several social services programs available to litigants:

- A substance abuse program trains all team members to identify the signs and symptoms of substance abuse. When a substance abuse problem is identified, a clinical social worker evaluates the litigant and reports to the court. The social worker also counsels the litigant, makes referrals to treatment, and monitors compliance.
- The judicial officer may refer litigants to the supervised visitation program. In such a case, a court social worker conducts an interview and intake evaluation of the litigant, schedules the visits, and supervises them. Family visits take place in a playroom located in the medical services office, which contains a one-way mirror. A court security staff person is always present. In addition to regular court hours, the visitation center is open four weekday evenings and Saturday mornings. The medical services office also serves as a safe place to exchange children for visitation and is available Friday evenings and Sunday afternoons.
- Students from the University of Maryland School of Social Work help victims of domestic violence get restraining orders through the Domestic Violence Ex Parte Project. The Women's Law Center of Maryland provides advocacy and representation of domestic violence victims at the court.
- Pro se assistance is provided full-time at the court through a contract with a local legal services provider.
- Sheppard Pratt Hospital's community education programs offer parent seminars and children's groups.
- A volunteer attorney settlement panel is available to assist with case settlement. This program is administered by the Bar Association of Baltimore City and monitored by an oversight group.

Ongoing training is provided to judges and staff in all areas of treatment and other social services provided by the court.[125]

HAYWARD DOMESTIC VIOLENCE COURT, HAYWARD, CALIFORNIA

The Hayward Domestic Violence Court [126] hears matters relating to civil domestic violence restraining orders. It is one of six civil domestic violence courts in Alameda County. [127] Community service providers actively participate inside the courtroom during each calendar session. In addition to the judge and courtroom staff, there are plaintiffs' domestic violence counselors, defendants' domestic violence counselors, family court services mediators, a family law facilitator and staff, and volunteer resource specialists.

The plaintiffs' domestic violence counselors are volunteers from local domestic violence advocacy groups, shelters, or legal services. Tri-Valley Haven and San Leandro Women and Children's Shelter have participated in the Hayward Domestic Violence Court as plaintiffs' counselors. The counselor interviews the plaintiff before the hearing and gathers information related to the history of violence, the existence of other problems such as substance abuse and mental illness, previous separations and reconciliations, and the type of treatment or other assistance that may be desired. Information is taken in the form of a structured interview and recorded on a form made available to the judge and to family court services if children are involved. The plaintiffs' counselor may make a recommendation to the judge about possible treatment and services for the plaintiff. The counselor will also provide the plaintiff with information about resources available in the community.

The court works with local batterers' and substance abuse treatment agencies to provide defendants' domestic violence counselors. A Second Chance and Terra Firma are community-based organizations that have sent volunteer defendants' counselors to the Hayward court. The counselor meets with the defendant before the hearing. If there is a pending criminal case, the interview is waived because of confidentiality and privilege concerns. Once the criminal matter is disposed of and the case returns to the civil domestic violence court, the interview will take place.

The defendant's interview is basically identical to the plaintiff's. The interview is structured, recorded on a court form, and covers the defendant's history of violence, relationship history, problems of substance abuse and mental illness, and his or her input on possible counseling orders. The reports of the interview are made available to the judge, and the counselor may make recommendations about treatment options or other support services. The counselor may also provide information to the defendant about possible treatment plans and available resources.

If children are involved, both plaintiff and defendant meet with a family court services mediator who is also present in the courtroom during proceedings. The parties meet separately with the mediator. The information gathered in the structured interviews by the plaintiffs' and defendants' domestic violence counselors is made available to the mediator. If a reasonable custody and visitation agreement can be reached, the mediator drafts the agreement and submits it to the judicial officer prior to the hearing on the restraining order. If there is no agreement, the mediator makes a recommendation for a short-term temporary custody and visitation order lasting until the

parties return to court in about 30 days. During this period, the mediator conducts a more extensive inquiry into the case and prepare a written recommendation for the next hearing. [128]

Case history and coordination research is conducted before the hearing and provided to the judge for each case. It includes the identification of other cases concerning the parties, such as dissolution, paternity, guardianship, and child support enforcement; criminal histories; and information about any restraining orders from the criminal court. If a criminal restraining order is identified, effort is made to secure the docket and provide it to the judge so that conflicting orders may be avoided. Case history and coordination information, along with copies of the pleadings, are also given to the family court services mediator before the hearing in order to provide maximum data on which to base any recommendations he or she may make to the court.

The family law facilitator and staff assist the parties in the courtroom in cases involving child support issues and help with the preparation of the restraining orders after hearing. The facilitator and staff also provide the parties with information about court procedure and make referrals to legal services for assistance with other family law issues. The family law facilitator's office works in collaboration with the Alameda County Bar Association's Volunteer Legal Services Corporation to provide courthouse assistance to unrepresented litigants who are seeking or responding to restraining orders.

If restraining orders are granted, often treatment orders for the defendant are also made, and the plaintiff is encouraged to seek counseling or other support services. The type of treatment orders will depend on the facts of the case as well as the individual needs of the defendant and other family members. The primary goal is to keep all family members safe and free from harm.

Recently, a volunteer from the CalWORKs [129] domestic violence project has begun working as a liaison to the court and is attempting to structure some case management services for eligible litigants. It is hoped that additional on-site volunteers will participate as liaisons to the Victim-Witness Assistance Program and programs offering housing assistance, GED, supervised visitation, and mental health services.

Input from the domestic violence counselors and family court services mediators assists in making treatment determinations. Often the defendant's interview has helped the defendant achieve enough perspective that he or she can "buy in" more readily to the treatment plan. Sometimes the judge needs additional information and assessment, in which case the defendant is ordered to participate in several assessment sessions with a batterers' treatment or substance treatment provider, and the case is continued for a short time to complete the assessment. Compliance is monitored by means of a review structure in which the defendant is required to return to court and discuss progress in treatment with the judge and other courtroom staff. The length of time between reviews depends on the ability of the defendant to comply. The more problems there are with compliance, the more often the reviews will occur.

The presence of treatment providers in the courtroom demonstrates to the litigants that the court takes treatment seriously. It also greatly reduces the ability of the litigants to manipulate the court by exploiting an obvious lack of communication between service providers and the court. Additionally, the personal connection made between the treatment providers and the litigants appears to reduce anxiety and facilitate initial enrollment and attendance in the programs.

A PROPOSAL FOR A MODEL FAMILY COMMUNITY COURT

Many litigants in family law do not require supportive services; however, many need assistance in dealing with the issues that have interfered with their personal relationships and brought them to the court. The authors propose that a realistic approach to the resolution of family disputes arising from such problems should include assessment and a practical treatment plan. By connecting litigants with treatment service providers in the courtroom setting, the likelihood of a successful treatment outcome is increased. In most areas of law, legal realism, which seeks to foster the social welfare of litigants and the community,[130] has dominated judicial decision making. [131] The task for legal realists in family law is to structure the system to reflect the realities of the families it serves. The current system of family jurisprudence does not, for the most part, function in this way.

A realistic family court system would have at least six primary goals: (1) unification of children and family cases[132] into a system of comprehensive jurisdiction that allows for a one-family/one-judge method of case assignment; (2) the practice of therapeutic jurisprudence [133] based upon social science research; (3) adequate court infrastructure of administrative and other support services; (4) development of effective technology and automation as a priority; (5) assistance to pro se litigants to facilitate access to the family justice system; and (6) ongoing collaboration with the community in a variety of areas, including community education.

Because the process of structuring a unified family case assignment system will most certainly vary from one court

to another depending on their preunification organization, it is not our purpose here to discuss this aspect of the family community court. Suffice it to say that the planning and implementation of a unified family system is imperative; nevertheless, it may not be a condition precedent to the other features set out herein. Family courts may find certain of the procedures and/or personnel tasks helpful even though they have not yet unified their children and family cases.

COMPONENTS OF THE FAMILY COMMUNITY COURT

This family community court[134] adopts a team approach that is similar to the Baltimore City Family Court in that it resembles the medical-team model: team members work together to assess the causative factors in protracted or intense disputes, to formulate a plan for dispute resolution, to implement the plan, and to follow up and support plan compliance. The team consists of the judge and courtroom staff, a family court coordinator, a family court investigator, a differential assessment counselor, a child custody mediator, a case manager, community service providers, a volunteer coordinator, pro se assistance, and specialized court administration.

The work of some team members takes place before the first hearing; others work primarily during hearings; and still others work throughout the family community court process. The operation of the court emphasizes coordination of court and other information, assessment and effective therapeutic court orders, linkage to community service providers, accountability and compliance, and collaboration with community service providers. Additionally, to accommodate the litigants' work schedules, all services should be available in the evenings and on Saturdays.

Before the First Hearing

Family court coordinator. Once a case has been set for hearing by the family court clerk and assigned to a judicial officer, it is given to the family court coordinator. Each judicial officer in the family community court division should be assigned a family court coordinator. The family court coordinator assists the judicial officer in gathering information to be used at the first hearing on the newly filed motion. The family court coordinator searches the civil, probate, criminal, and juvenile databases to locate other cases pertaining to the family. Whenever reasonably possible, the files from the other cases will be provided to the judicial officer with a summary of case activity, future hearing dates, and existing orders. The family court coordinator also gathers and summarizes criminal histories and other relevant information obtained from governmental databases.

Ex parte matters are prioritized so that the family court coordinator can attempt to gather as much data as possible before the judicial officer makes a decision on the ex parte application. Ex parte orders require such rapid attention that it may be desirable to have an ex parte coordinator whose responsibility is to deal immediately with the requests as they come in.

The family court coordinator reviews the case files prior to hearing for readiness and makes reports to the judicial officer. The role of the family court coordinator is not unlike that of the resource coordinator in the Midtown Manhattan Community Court.

Family court investigators. The family court investigator's task is to obtain additional information from collateral sources. The family court investigator might attempt to corroborate allegations of child protective services or police involvement. The investigator can contact childcare providers, schools, and therapists and interview other collateral witnesses. The investigator can also make home visits. Investigative information is made available to the judge and other members of the family court team. If the court is unified, the existing investigative services, such as child protective services and probate investigators, will coordinate information with the family court investigators.

Differential assessment counselor. Also before the first hearing, the family is assigned to a differential assessment counselor who focuses on prioritizing its various needs. The assessment counselor should be a social worker or other mental health professional trained in mental health assessment and case management. Although the assessment counselor does not serve as the case manager for the family, experience in case management is imperative because he or she recommends the judicial case management track that will best serve the needs of the family. The assessment counselor attempts to determine the most efficacious point of intervention from a therapeutic perspective. The differential case management tracks of the court may include alcohol and other drugs, child protection, mental health support, domestic violence, high-conflict custody, employment assistance, and no social service support for families that do not require it. The counselor recommends service providers, if needed, and compile a referral packet for the family's use. The assessment counselor is provided with copies of the summaries prepared by the family court coordinator as well as copies of the pleadings and any information obtained by the family court investigators. The counselor may also interview the litigants. An assessment counselor should always be present

in the courtroom at the first hearing on a motion to meet with those who have not yet participated in an assessment.

Child custody mediators. In California, child custody mediation is mandatory when parents are not in agreement. Family court services will conduct the mandatory child custody mediation. The family court services mediators will be provided with copies of the pleadings and information from the family court coordinator, investigator, and assessment counselor. The availability of this information is vital to mediators in counties where recommendations about child custody and visitation are made to the court if the parties fail to agree. At least one child custody mediator should be available in the courtroom at all hearings for those who could not come to a mediation appointment prior to hearing. This is particularly important in domestic violence and other cases involving ex parte orders that are set for hearing within a short time frame.

The First Hearing

Before the first hearing on a new motion, the judicial officer receives data summaries from the case coordinator and reports of any investigative activity. The judge may also receive recommendations from the assessment counselor and the child custody mediator. This information is also made available to litigants or their attorneys if it is not protected by statute. At the first hearing, if the family is not in need of any type of social services, the case will not be referred to a differential case management track. Instead, the case will be placed on the litigation track, a primary goal of which is adequate availability of settlement conference and trial time.

In cases where services are needed, the judge assigns each case to one of the differential case management tracks and makes appropriate orders. For example, if the judge determines that the most therapeutic case management plan is to be found in the substance abuse track, orders may require the addict's enrollment in substance abuse treatment and/or drug testing as well as the partner's attendance at a codependency group. If the case is related to chronic nonpayment of child support, the judge may assign it to the employment assistance track and order the parent to consult with a job counselor and make efforts to gain employment. Once the initial orders are made, a date is set for a second review hearing to occur in a fairly short time and the litigants are ordered back.

Case managers. Once the initial orders are made, the case is assigned to a case manager. The case manager will serve as a compliance assistance counselor and as a point of contact at the court for community service providers. The case manager will maintain client contact and help with access to services. The case managers will collect progress reports from the treatment providers and prepare summaries for the judge at review hearings. The case manager may also make recommendations for modifications in the case management plan when it seems appropriate or as circumstances begin to change. The case managers may make field visits when indicated to assist the client in accessing services and complying with court orders.

The Second Hearing

At the second hearing community service providers begin their courtroom involvement. If the family community court can acquire facilities adequate to house offices for the community service providers, as the Midtown Manhattan Community Court did, this contact could take place immediately after the first hearing. The parties would simply go directly from the courtroom to the social services center. Without such a facility, community services must be coordinated in scheduling clusters. For example, review hearings for the substance abuse track may be on one day each week, review hearings on the domestic violence track on another. Review hearings on the mental health support track may be held on only two days per month. The frequency of scheduling should be determined on the basis of a weighted caseload analysis.

Community service providers. The community service providers participate in the courtroom during review hearings beginning at the second hearing in the case. Because review hearings are clustered according to case management track, not all providers need be in the courtroom at the same time. Depending on the track, the following team members might be needed at court:

- Substance abuse track: Substance abuse counselors, drug-testing services (to perform on-site presumptive testing), and addiction education providers
- Domestic violence track: Providers of assistance to domestic violence victims; anger management and batterers' treatment counselors
- Child protection track: Parental stress counselors; CASA volunteers; and providers of therapeutic supervised visitation services, co-parenting counseling, and parent education
- Employment assistance track: Employment assistance providers; educational counselors to provide referrals to literacy programs, English as a Second Language classes, and GED and other educational programs
- Mental-health-support track: Mental health service providers to make referrals to psychiatric services

- High-conflict-custody track: Child custody evaluators, special masters or other experts, supervised visitation providers, and providers of extended focused mediation services

The courtroom community service providers interview litigants, assist those who had not yet accessed the services to which they were referred, provide counseling and orientation about helpful ancillary social services, and keep the judge informed about their programs and litigants' compliance.

Ongoing Compliance Reviews

A system of review hearings ensures compliance by the litigants. These hearings are scheduled in clusters according to the case management track. The frequency of such hearings would depend on various factors, such as the nature of the order being reviewed and the history of compliance. Both parties would not necessarily be required to attend every review hearing, although they would be entitled to attend if they so desired. Intermediate review hearings set specifically to track the progress of only one of the litigants may be scheduled. If the other party does not wish to be present for these hearings, his or her appearance can be waived and the case manager will forward a copy of the court's order. If some adjustment in the parenting arrangement related to compliance problems appears to be required, the case manager will notify the other party. The case manager monitors compliance during the periods between hearings and will make reports and recommendations to the judge at the review hearings. Community service providers in the courtrooms may be asked to interview litigants with particular problems and provide information directly to the court. The court may address specific problems as they arise.

Sanctions will be crafted from a therapeutic perspective that includes accountability. Ongoing compliance failure may result in a more intensive or different case management plan, more frequent reviews, or possible restrictions on access to the minor children if their welfare is involved. Because the family community court is primarily a civil court, the sanction of incarceration is very limited and probably is not optimally useful except for criminal acts of family violence. Since the litigants are ordered back to the court for review hearings, failure to appear might result in a bench warrant that is held temporarily. The first step in such cases might be for the case manager to try to contact the delinquent litigant and find out why he or she did not show up for court. The case manager would inform the litigant of the next court date and explain that if there is another failure to appear, a police officer will bring the litigant to the judge. If the case manager fails to reach the litigant or the litigant fails to appear again, the bench warrant will be served and the person brought to court. Such an action must be executed in a manner that does not traumatize any minor children who may be involved. Though such an event would probably not result in subsequent incarceration, it would be expected that the experience of being brought to court by the police would have a sobering effect on the individual and make it clear that the court is seriously interested in enforcing its orders. The court would need to work closely with local community policing programs to use this method of enforcement. Input from local law enforcement about resources and method would be imperative. Law enforcement does have an interest in compliance with family court orders, however. The police are continuously plagued by calls related to domestic disputes occasioned not only by domestic violence, but also by arguments over such matters as custody and visitation where court orders seem unclear or conflicting. It is hoped that the success of the family community court would serve to reduce substantially this burden on police.

Participation Throughout the Process

Judicial officers. The family community court would have a presiding judge and sufficient judicial resources and staff to effectively manage the family law caseload. Judicial officers assigned to the family community court should have substantial family law experience, and regular training sessions for updates in the law and social science research should be offered. As noted, cases would be assigned through a one-family/one-judge method.

A family community court should employ several other principles of judicial workload assignment. First, workload assignment should consider complexity of the cases and not simply caseload volume. Second, docket control and the speed of disposition should not be the single criterion for identifying judicial need; this task must also consider the quality of justice. Third, workload for judicial officers must include time off the bench for financial and program development and for administrative work such as meetings, phone calls, writing letters and articles, speaking, community outreach and education, and networking. The courts that have the best resources, that allow for innovative program development, are those in which the judges have engaged in aggressive development activities off the bench. [135] Moreover, judges in the family community court should be rotated as infrequently as possible to allow for the development of expertise. Judicial officers should have regular meetings with one another and with other team members to discuss successes and problems.

Volunteer coordinator/community liaison. The volunteer coordinator would be responsible for organizing and scheduling the courtroom participation of community service providers. This person would also work closely with providers to help create a more coordinated community response by conducting regularly scheduled meetings to work on systemic issues, such as developing a centralized intake procedure, uniform intake and compliance report forms, mechanisms for getting information to case managers, a system of cross-referrals, case-conferencing procedures, and conducting and organizing cross-training sessions. In addition, the volunteer coordinator would organize regular roundtable meetings between the court and community providers to exchange information and collaborate on problem-solving tasks.

As community liaison, the volunteer coordinator would attend community meetings, gather information from the community about how the court can improve its services, and provide information about the court and its programs. It is hoped that the court as a whole would conduct a vigorous community education project designed to communicate to the entire community about the role of the judicial system. The volunteer coordinator would work closely with the education project so that information about the family justice system is fully included.

Pro se services.[136] Because family law is characterized by an enormous number of unrepresented litigants, the community court must be guided by the goal of access to the family justice system by these individuals. Pro se litigants require assistance at each proceeding. General information about the court, its procedures, locations of various offices and courtrooms, times and places of hearings, and simple case status information are always needed by these litigants. Assistance with forms and information about filing, service of process, and payment and waiver of filing fees are all needed at the pleading stage of the proceeding. There are many methods of delivering such services. Telephone help lines can be useful for general information. Assistance with forms and procedures can be provided one-on-one either by drop-in or by appointment or in workshops and seminars. Automated interactive forms programs may be useful to many litigants and should be available whenever possible.

Pro se assistance is also required in courtrooms when there has been a failure of service or some other procedural error in the pleadings and for explaining and running guideline support calculations, writing stipulations, preparing orders after hearing, explaining orders, or just providing supportive human contact in a frightening and confusing situation. In fact, the courtroom is an extremely efficacious point of assistance for pro se litigants. Because both parties and a judge are often present, it is an opportunity to conclude many procedural matters that would be resolved with great difficulty, or not at all, outside the courtroom.

Providers of pro se assistance services must make it clear to the litigant that they do not give legal advice, that no representation is provided, and that no confidential relationship exists.[137] Litigants need to be informed that the pro se assistance service is available to everyone, including one's spouse, ex-spouse, or partner. Of equal importance is the training of pro se assistance personnel so that the line between legal information and legal advice is clear to them as well. Litigants should receive information about legal assistance referral services so they can obtain representation whenever possible. It would be very helpful to have a representative of the lawyer referral service available on-site. Pro se assistance services should be administered by a licensed attorney, but many of the services may be delivered by paralegals, law student interns, or volunteer attorneys, provided proper supervision is in place. The pro se assistance service providers should also seek close collaboration with other legal service providers in the community to coordinate services whenever possible.

Children's waiting room. Many litigants, owing to scheduling and financial constraints, have to bring their children with them to court. Frequently, the children are exposed to adult courtroom disputes, a situation detrimental to the children and disruptive to the court. The courthouse facility should therefore have a secure children's waiting room staffed at all times the courthouse is open for business. Staff may be either court employees or volunteers. Use of the children's waiting room should be free of charge and have sufficient space for use by children of varying ages.

Administrative operations. The family community court needs to have a dedicated court administrator who oversees court operations on a day-to-day basis. The administrator would ensure that all court clerks are knowledgeable about court forms and procedures and are provided training in such things as domestic violence, substance abuse, and cultural sensitivity.

In addition, court administrators should develop a full-time professional fundraising and grant administration office. Family law does not have the access to government funding in the way that criminal justice does. Other sources must be developed with links to the local business community and private foundations. This department would be responsible for locating potential funding sources, writing grant proposals, and working with community service organizations on collaborative funding strategies to maximize and reduce competition

for resources. Moreover, current funding sources are categorical and have very specific subject-matter or financial eligibility limitations. The grant administration service would be responsible for budget management, reporting, and accounting and billing of grant-funded programs for the family community court.

Technology and evaluation. A family community court should vigorously pursue the most advanced technology possible. The jobs of family court coordinator, investigator, assessment counselor, and case manager would all be greatly enhanced by available technology. Being able to "bundle" information related to a case in the manner developed at the Manhattan Community Court would be invaluable. Better courtroom automation for the production of minute orders and orders after hearings would be of enormous benefit to both the court and litigants. Automated self-help programs that assist pro se litigants with completion of forms would help increase the quality of pro se pleadings. Automated referral systems that would allow a litigant to access a community provider directly from the courthouse after the first hearing would be an extremely useful compliance assistance tool.

Evaluation design for court-based programs has proved problematic mainly because of problems of data collection at the courts. In part, and especially for family law, this may result from the sheer volume of cases entering the court at any given time. Certainly the more rational organization of cases in a unified model would be helpful, but appropriate automated data collection methods are an integral component of program evaluation. It would be expected that eventual evaluation of a program that is structured around therapeutic case management tracking would include variables from both litigation and clinical efficacy models.

CONCLUSION

One of the factors that distinguishes the proposed family court model from the Midtown Manhattan Community Court is that the social and therapeutic services are not provided by the court, or even at the courthouse, but entirely by the community. The proposed family community court and community service providers would collaborate closely in the attempt to match effective therapeutic court orders to responsible community services. The court operates not as a social service provider, but as a portal through which litigants can link up with high-quality services and more effectively benefit from the court's orders. It is true that if the court had the facilities available to house full-time community service liaisons, the need for calendaring clusters according to differential case management tracking would be lessened from a docket-control standpoint. However, from a therapeutic viewpoint, this may not be helpful. One of the therapeutic elements of the drug treatment court is the experience litigants gain from seeing others in the courtroom struggling with similar problems and being able to view both successes and failures. The successful effect of the group dynamic should not be underestimated. Certainly, many families who come to court have multiple problems. A domestic violence case may include substance abuse problems. Cases involving any kind of family violence tend to be more highly contentious. It is not realistic from a therapeutic perspective, however, to expect that all the problems of any family can be addressed at the same time. The assessment counselor's job is to evaluate which type of intervention and case tracking would be most helpful initially, and then make recommendations to the judge. Further assessments will be made by the case managers in collaboration with community providers. Families may move among the various tracks or altogether out of the differential case management tracking system.

It is hoped that a family community court would have beneficial effects not simply for the litigants, but for the judge and other court staff as well. If the court is successful in assisting litigants in solving problems, job satisfaction would be expected to increase. [138] Judges suffer from lack of feedback, caseload volume, and lack of control over what cases they get. They frequently express dismay at finding that, owing to large caseloads, they have to "process" people because they have so little time to listen.[139] Most family judicial officers work with large calendars containing a mix of issues. They have little control over what cases are scheduled in a given morning and can rarely predict what their days will be like. It is impossible to tell how long the matters may take, whether a short calendar will mean a light day or will become a nightmare because of one or two problem cases, or whether a large calendar will be difficult or actually light because the parties do not appear. Rational workload assignments, familiarity with cases and issues, case clustering, and an organized structure of reviews would all help to alleviate some of these problems.

As noted earlier, the number of children and family cases requiring court hearings continues to increase, as does the complexity of the issues. In the majority of cases, these hearings are conducted on short-cause motion or show-cause calendars rather than in formal trials or evidentiary hearings. This means that the true extent of contested family disputes cannot be accurately measured by counting how many cases require disposition by a formal trial. Until the volume of short-cause motion/show cause calendars is accurately measured, the real amount of family law litigation will remain anecdotal. Still, there is

absolutely no indication that this trend of growth will slow within the foreseeable future. Even with the implementation of mandatory mediation and other alternative dispute resolution services, court caseloads have continued to increase. Both criminal and family courts are being forced to respond to the demands placed on them by ongoing societal changes over which they basically have no control. Communities and courts are being affected by the same social conditions and have common interests in a system of rational jurisprudence. The growing movement of community and court collaborative initiatives in both criminal and family justice is a natural and rational development for jurisprudence in the new century.

NOTES

1. Interest in court and community collaboration is also driven by ongoing concern about the apparent low levels of public trust and confidence in the judiciary. Recent surveys report that only 22 to 48 percent of the public have a high confidence level in the judicial system. Surveys of court personnel reported lack of public trust as one of the five most pressing problems in their courts. *See* DAVID ROTTMAN ET AL., A GUIDE TO COURT AND COMMUNITY COLLABORATION, at viii (National Ctr. for State Courts 1998); *see also* Veronica S. McBeth, *Judicial Outreach Initiatives,* 62 ALB. L. REV. 1379 (1999).

2. Examples are drug and alcohol abuse, mental health problems, housing, health care, unemployment, and resultant recidivism.

3. Community-oriented policing seeks to form closer attachments between police and community members by focusing on strengths and goodwill rather than fear and punishment, recognizing the broader context of neighborhood crime, and working together to promote peace and solve problems. *See* Wesley G. Skogan, *The Community's Role in Community Policing*, NAT'L INST. JUST. J. 34 (Aug. 1996).

4. Community prosecution is a response to grassroots public safety demands in which prosecutors are assigned to specific neighborhoods to work closely with citizens and police. *See* Barbara Boland, *What Is Community Prosecution?,* NAT'L INST. JUST. J. 40 (Aug. 1996).

5. Community defense deploys public defenders in neighborhoods for the purpose of solving problems in the community while providing high-quality representation. *See* Christopher Stone, *Community Defense and the Challenge of Community Justice,* NAT'L INST. JUST. J. 45 (Aug. 1996).

6. "Community corrections" refers more to an offender living outside a correctional facility than it does to any collaboration with the community. *See* Todd R. Clear, *Towards a Corrections of "Place": The Challenge of "Community" in Corrections,* NAT'L INST. JUST. J. 56 (Aug. 1996).

7. Raymond Shonholtz, *Neighborhood Justice Systems—Work, Structure, and Guiding Principles,* 1 MEDIATION Q. 30 (Sept. 1984) (giving the example of the San Francisco community boards).

8. David B. Rottman, *Community Courts: Prospects and Limits,* NAT'L INST. JUST. J. 60 (Aug. 1996); Marlene A. Young, *Restorative Community Justice in the United States: A New Paradigm,* 6 INT'L REV. VICTIMOLOGY 277 (1999).

9. *See* Community Justice Exchange Web site, www.communityjustice.org, at "Best Practices," "Community Court Principles" (visited Nov. 3, 2000).

10. For example, St. Louis, Missouri (pop. 400,000), and Hartford, Connecticut (pop. 125,000), have citywide community courts. *Id.* at "Best Practices," "National Scene."

11. Todd R. Clear, *Societal Responses to the President's Crime Commission: A Thirty-Year Retrospective, in* THE CHALLENGE OF CRIME IN A FREE SOCIETY: LOOKING BACK LOOKING FORWARD 148 (U.S. Dep't of Justice 1998) (citing Barbara Boland, How Portland Does It (1996) (unpublished report to the National Inst. of Justice)).

12. Hempstead, New York, Indianapolis, Indiana, and Portland, Oregon, are examples of cities that are attempting to address some civil matters using a community court model.

13. ROTTMAN ET AL., *supra* note 1, at 4 (citing ROSCOE POUND, CRIMINAL JUSTICE IN AMERICA 13–15 (Henry Holt & Co. 1930), *quoted in* FRANK TANNENBAUM, CRIME AND THE COMMUNITY 30 (Ginn & Co. 1938)).

14. *Id.*

15. Charles F. Wellford, *Changing Nature of Criminal Justice System Responses and Its Professions*, *in* THE CHALLENGE OF CRIME IN A FREE SOCIETY: LOOKING BACK LOOKING FORWARD, *supra* note 11, at 63.

16. Clear, *supra* note 11, at 133.

17. In 1967, President Lyndon Johnson convened the President's Commission on Law Enforcement and the Administration of Justice. Professor Clear cites four main themes articulated at the 1967 President's Commission: (1) the problem of crime results from inadequate social institutions and lack of economic opportunity; (2) repeat offending results from the lack of integration into socially supportive structures such as jobs, family, and housing; (3) criminal justice can best promote public safety by improving services to offenders and coordinating with

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social service agencies; (4) offender adjustment is best effected by community-based agencies, and prison should be a last resort. *Id.* at 135.

18. *Id.* at 133.

19. *Id.*

20. *Id.*

21. *Id.* (citing WILLIAM JULIUS WILSON, THE TRULY DISADVANTAGED (University of Chicago Press 1987)).

22. Relative poverty is a social problem that contributes greatly to crime. *Id.* (citing JOHN BRAITHWAITE, INEQUALITY, CRIME, AND PUBLIC POLICY (Routledge & Kegan Paul 1979)).

23. *Id.* at 134.

24. *Id.*

25. *Id.*

26. This more individualistic focus on crime as the result of individual sloth, self-indulgence, greed, or other personal moral failings was supported by reaction to political events of the sixties and by the research concluding that rehabilitation does not work to reduce criminal behavior. *See id.* at 138, 139–40 (discussing Robert Martinson et al., *What Works? Questions and Answers About Prison Reform*, *in* REHABILITATION, RECIDIVISM, AND RESEARCH (National Council on Crime & Delinquency 1976)).

27. *Id.* at 142.

28. *Id.* at 144.

29. *See* ROTTMAN ET AL., *supra* note 1, at 6.

30. *Id.*

31. For detailed reports on the operations and evaluations of the Midtown Community Court, see DAVID ANDERSON, IN NEW YORK CITY, A COMMUNITY COURT AND A NEW LEGAL CULTURE 10 (National Inst. of Justice 1996); ROTTMAN ET AL., *supra* note 1, at 97; MICHELLE SVIRIDOFF ET AL., DISPENSING JUSTICE LOCALLY: THE IMPLEMENTATION AND EFFECTS OF THE MIDTOWN COMMUNITY COURT (National Inst. of Justice 1997); Community Justice Exchange Web site, *supra* note 9, at "Best Practices," "Project Profiles," "Midtown Community Court."

32. *See* ANDERSON, *supra* note 31, at 4.

33. Quality-of-life crimes include prostitution, shoplifting, minor drug possession, turnstile jumping, and disorderly conduct.

34. The Fund for the City of New York is a nonprofit organization.

35. *See* SVIRIDOFF ET AL., *supra* note 31, at 2.

36. See the Community Justice Exchange Web site, www.communityjustice.org/walkthru/html/walkthrintro.html, for a detailed "walkthrough" of the Midtown Community Court.

37. See the Community Justice Exchange Web site, *supra* note 9, at "Best Practices," "Project Profiles," "Red Hook Community Justice Center," for a description of the Red Hook Justice Center.

38. E-mail communication with Courtney Bryan, Associate, Technical Assistance, Center for Court Innovation (June 6, 2000).

39. *See* SVIRIDOFF ET AL., *supra* note 31, at 4. It should be noted, however, that serious concerns about confidentiality remain but are beyond the scope of this article.

40. *Id.* at 1.

41. *See* ANDERSON, *supra* note 31, at 10.

42. *See* SVIRIDOFF ET AL., *supra* note 31, at 4.

43. *Id.* at 5.

44. *See* ANDERSON, *supra* note 31, at 10.

45. *See* SVIRIDOFF ET AL., *supra* note 31, at 6.

46. *See* ANDERSON, *supra* note 31, at 2.

47. *Id.* at 11.

48. *See* SVIRIDOFF ET AL., *supra* note 31, at 9.

49. *See* ANDERSON, *supra* note 31, at 11.

50. *See* SVIRIDOFF ET AL., *supra* note 31, at 1.

51. See the Community Justice Exchange Web site, *supra* note 9, at "Best Practices," "National Scene," "Hartford, Connecticut," for a description of the Hartford Community Court.

52. *Id.*

53. *Id.*

54. Barbara Zebrowski, *Social Services,* 1 HARTFORD COMMUNITY CT. NEWSL. 2 (Dec. 1998).

55. *Id.*

56. *Id.*

57. Barbara Sarkis, *Hartford Area Mediation Program,* 1 HARTFORD COMMUNITY CT. NEWSL. 2 (Dec. 1998).

58. *Id.*

59. *See* David B. Rottman & Pamela Casey, *A Response to Scheff: Don't Write-Off the Courts*, 67 REVISTA JURIDICA UNIVERSIDAD DE PUERTO RICO 653 (1998) (describing this and four other community and court collaborative projects).

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60. Dispositions often include counseling, community service, restitution, school attendance, school grades, and curfews. *See id.* at 655.

61. The court routinely monitors compliance with the requirement. *Id.*

62. See the Community Justice Exchange Web site, *supra* note 9, at "Best Practices," "National Scene," "Wichita, Kansas," for a description of the Wichita Neighborhood Environmental Courts.

63. *Id.*

64. The Comprehensive Communities grant program is an initiative funded by the United States Department of Justice.

65. *See* Community Justice Exchange Web site, *supra* note 9, at "Best Practices," "National Scene," "Wichita Kansas."

66. ROTTMAN ET AL., *supra* note 1, at 6.

67. Barbara A. Babb, *Fashioning an Interdisciplinary Framework for Court Reform in Family Law: A Blueprint to Construct a Unified Family Court,* 71 S. CAL. L. REV. 479 (1998); *see also* Robert W. Page, *Family Courts: An Effective Judicial Approach to the Resolution of Family Disputes,* 44 JUV. & FAM. CT. J. 7 (1993).

68. Babb, *supra* note 67, at 480.

69. Clear, *supra* note 11, at 133.

70. Gary B. Melton, *Children, Families, and the Courts in the Twenty-First Century*, 66 S. CAL. L. REV. 1995 (1993).

71. *Id.*

72. Catherine J. Ross, *The Failure of Fragmentation: The Promise of a System of Family Law Courts,* 32 FAM. L.Q. 6 (Spring 1998).

73. Barbara A. Babb, *An Interdisciplinary Approach to Family Law Jurisprudence: Application of an Ecological and Therapeutic Approach*, 72 IND. L.J. 776 (Summer 1997).

74. Jona Goldschmidt, *How are Courts Handling Pro Se Litigants?,* 82 JUDICATURE 13–14 (1998).

75. *Id.*

76. Melton, *supra* note 70, at 1999.

77. *Id.*

78. *Id.*

79. JUDICIAL COUNCIL OF CALIFORNIA, CALIFORNIA'S CHILD SUPPORT COMMISSIONER SYSTEM: AN EVALUATION OF THE FIRST TWO YEARS OF THE PROGRAM 43 (May 2000).

80. Melton, *supra* note 70, at 1995.

81. *Id.*

82. *See* Clear, *supra* note 11, at 133 (citing WILLIAM JULIUS WILSON, THE TRULY DISADVANTAGED (University of Chicago Press 1987)).

83. Jessica Pearson, *Court Services: Meeting the Needs of Twenty-First Century Families,* 33 FAM. L.Q. 618 (Fall 1999).

84. JUDICIAL COUNCIL OF CALIFORNIA, *supra* note 79, at 49.

85. *See* Frances L. Harrison et al., *California's Family Law Facilitator Program: A New Paradigm for the Courts,* 2 J. CENTER FOR FAM. CHILDREN & CTS. 61 (2000).

86. Melton, *supra* note 70, at 2002.

87. *Id.* at 1996.

88. *Id.* at 2013.

89. *Id.*

90. *Id.*

91. JUDICIAL COUNCIL OF CALIFORNIA, *supra* note 79, at 46.

92. Pearson, *supra* note 83, at 618–20.

93. *Id.* at 619.

94. *Id.*

95. Melton, *supra* note 70, at 2005.

96. *Id.*

97. Family Law Facilitator, Superior Court of California, County of Alameda, Family Law Calendar Caseload Statistics (1999) (unpublished document on file with Alameda County Superior Court).

98. Pearson, *supra* note 83, at 635.

99. Wellford, *supra* note 15, at 63.

100. Barbara A. Babb, *America's Family Law Adjudicatory Systems,* 32 FAM. L.Q. 37 (Spring 1998); Babb, *supra* note 67, at 482; Jeffrey A. Kuhn, *A Seven-Year Lesson on Unified Family Law Courts: What We Have Learned Since the 1990 National Family Law Symposium* , 32 FAM. L.Q. 67, 75 (Spring 1998); Melton, *supra* note 70, at 2006; Ross, *supra* note 72, at 5.

101. Deborah Chase & Peggy Hora, *The Implications of Therapeutic Jurisprudence for Judicial Satisfaction* , 37 CTS. REV. 13 (Spring 2000).

102. Hon. Donna M. Petre, *Unified Family Court: A California Proposal Revisited*, 1 J. CENTER FOR CHILDREN & CTS. 161 (1999).

103. Babb, *supra* note 73, at 781–82.

104. *Id.* at 782.

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105. Melton, *supra* note 70, at 1995.

106. Pearson, *supra* note 83, at 621.

107. Civil litigation can be described in this context as disputes involving nominal amounts.

108. Abstracts of research addressing civil community courts from that period in the National Criminal Justice Reference Service Abstracts Database include: Bruce E. Barnes & Peter S. Adler, *Mediation and Lawyers, The Pacific Way: A View From Hawaii*, 18 HAW. BAR J. 37–52 (1983) (describing Hawaii's neighborhood justice centers); Theodore L. Becker, *Conflict and Paradox in the New American Mediation Movement—Status Quo and Social Transformation,* 1986 MO. J. DISP. RESOL. 109–29 (expressing concern that mediation itself is becoming formalized); Robert Beresford & Jill A. Cooper, *Neighborhood Courts for Neighborhood Suits,* 61 JUDICATURE 185–90 (Oct. 1977) (describing informal neighborhood program for the resolution of small claims matters in San Jose, California); Joseph W. Cotchett, *Community Courts: A Viable Concept,* 14 TRIAL 45–47 (Apr. 1978) (proposing that small claims matters be moved into neighborhoods and adjudicated by lay judges); John C. Cratsley, *Community Courts: Offering Alternative Dispute Resolution Within the Judicial System*, 3 VT. L. REV. 1–69 (1978) (discussing alternatives to the adversary system at the neighborhood level); Richard Hofrichter, *Justice Centers Raise Basic Questions*, 2 NEW DIRECTIONS 6 (Nov.–Dec. 1977) (discussing the trend toward informal dispute resolution); Lance H. Selva & Robert M. Bohm, *Critical Examination of the Informalism Experiment in the Administration of Justice*, CRIME & SOC. JUST. 43–57 (Issue No. 29, 1987) (discussing informalism as a product of a fiscal crisis of the state); Shonholtz, *supra* note 7, at 30; Daniel McGillis, U.S. Dep't of Justice, Neighborhood Justice Centers (1978) (unpublished paper on file with the U.S. Dep't of Justice) (advocating the use of informal neighborhood justice centers as an alternative to the adversary system); Raymond Shonholtz, Community Board Program, Ethics and Values of Community Boards: Developing Concept Tools for the Work of Community Members (1981) (unpublished paper on file with the U.S. Dep't of Justice) (describing how community boards go about resolving neighborhood disputes).

109. See Barbara Babb, *Symposium: Substance Abuse, Families and the Courts: Legal and Public Health Challenges* , 3 J. HEALTH CARE L. & POL'Y 1 (1999), in which the author cites a Maryland study that identified impediments to family justice and listed the following as the most pressing concerns: (1) the resolution process is often time-consuming, expensive, and cumbersome, with some aspects of the dispute being adjudicated more than once; (2) proper attention is not given to child-related issues, which are being allowed to fester as part of other aspects of a family law dispute; (3) there is inadequate systemic resort to nonjudicial resolution techniques (alternative dispute resolution or ADR) that might provide better, quicker, cheaper, and less acrimonious solutions to many of these kinds of cases; (4) there is inadequate coordination and consolidation of litigation involving the same family; a case involving the same family may be dealt with by different judges, or masters, or even different courts—thus inhibiting a rational, coordinated, stable approach to both the litigation and the problems it has spawned; (5) in some instances, judges sitting on family law cases display a lack of interest, a lack of appropriate temperament, or a lack of understanding with respect to these cases; and (6) the courts are not giving proper attention to the special needs of poor people, who often cannot afford representation by counsel and need, or desire, to proceed pro se.

110. Babb, *supra* note 100, at 37; Babb, *supra* note 67, at 482; Kuhn, *supra* note 100, at 69; Melton, *supra* note 70, at 2006; Ross, *supra* note 72, at 5.

111. Unified family court judges must deal with legal, emotional, and social issues of the family.

112. Pearson, *supra* note 83, at 629.

113. *Id.* at 631.

114. CAROL R. FLANGO ET AL., HOW ARE COURTS COORDINATING FAMILY CASES? 60–62 (National Ctr. for State Courts 1999).

115. *Id.*

116. *Id.*

117. *Id.* at 63–64.

118. *Id.* at 63.

119. *Id.*

120. Babb, *supra* note 109, at 18.

121. Therapeutic jurisprudence is the study of the extent to which substantive rules, legal procedures, and the roles of lawyers and judges produce therapeutic or antitherapeutic consequences for individuals involved in the legal process. *See* David Wexler & Bruce Winick, *Therapeutic Jurisprudence as a New Approach to Mental Health Law Policy Analysis and Research,* 45 U. MIAMI L. REV. 979 (1991); *see also* Peggy Hora & William Schma, *Therapeutic Jurisprudence and the Drug Treatment Court Movement: Revolutionizing the Criminal Justice System's Response to Drug Abuse and Crime,* 74 NOTRE DAME L. REV. 439 (1999) (identifying therapeutic jurisprudence as the underpinning of the rapidly growing drug treatment court movement).

122. Babb, *supra* note 109, at 20.

123. *Id.* at 22.

124. *Id.* at 23.

125. *Id.* at 34.

126. The Hayward Domestic Violence Court was initiated in 1999 by co-author Judge Barbara J. Miller. She and co-author Deborah J. Chase worked together to implement this model of a civil domestic violence court, which is held one morning per week.

127. The other courts are in Oakland, Berkeley, Pleasanton, Fremont, and Alameda.

128. *See* CAL. FAM. CODE §§ 3160–3186 (West 1994 & Supp. 2000), setting out California's mandatory child custody mediation standards, and in particular C AL. FAM. CODE § 3183 (West 1994 & Supp. 2000), regarding recommendations to the court.

129. The California Work Opportunity and Responsibility to Kids Act, CAL. WELF. & INST. CODE §§ 11200–11526.5 (West 1991 & Supp. 2000).

130. See Babb, *supra* note 73, at 775 (citing Theodore M. Benditt, *Legal Realism, in* LAW AS RULE AND PRINCIPLE 1–21 (Stanford University Press 1978), *reprinted in* DALE A. NANCE, LAW AND JUSTICE: CASES AND READINGS ON THE AMERICAN LEGAL SYSTEM 69 (Carolina Academic Press 1994)).

131. *Id.* (citing Gary Melton & Brian L. Wilcox, *Changes in Family Law and Family Life: Challenges for Psychology*, 44 AM. PSYCHOLOGIST 1214 (1989)).

132. The cases heard in a unified family community court would include divorce, legal separation, nullity, establishment of parental relationship, child support enforcement, probate, juvenile dependency and delinquency, civil and criminal family violence, emancipation, and adoption.

133. *See generally* Wexler & Winick, *supra* note 121; Hora & Schma, *supra* note 121.

134. Much of the credit for the ideas set out herein must go to a collaborative effort by participants at two Community and Court Collaborative Roundtables, including many of Alameda County's community service providers in the areas of substance abuse treatment, batterers' treatment, domestic violence advocacy, parent education, supervised visitation, community mental health, and pretrial services who met with judges, court administrators, and other government personnel working in the areas of probation, law enforcement, dependency mediation, drug court services, public health, probate investigation, and family court services, as well as family law facilitators and victim-witness assistance providers. Additional input came from the members of the Alameda County Family Violence Council, a court-sponsored Community Education Forum, and community meetings organized by the Alameda County Superior Court's Community Focused Strategic Planning Committee.

135. National Council of Juvenile & Family Court Judges, *Report From Conference on Assessment of Judicial Workloads in Family and Juvenile Courts*, TECHNICAL ASSISTANCE BULL. (July 1999).

136. For an example of a limited pro se assistance program, see the Family Law Facilitator Act, C AL. FAM. CODE §§ 10000–10015 (West Supp. 2000).

137. *See* CAL. FAM. CODE § 10013

138. Chase & Hora, *supra* note 101, at 18.

139. Issiah M. Zimmerman, *Stress: What It Does to Judges and How It Can Be Lessened*, 20 JUDGES' J. 4 (1981).