



Family Court Performance Standards and Measures



The Family Court of the State of Delaware

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1999

Family Court Performance Standards and Measures
The Family Court of the State of Delaware
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Preface

This monograph is intended for judges, administrators, court staff, attorneys, legislators, citizens, and all others interested in performance standards and measures for family courts. Engaging in strategic planning for a family court can be an intimidating endeavor. The emotionally charged nature of family law requires careful consideration of all those involved in the case as well as those affected by the decisions of the court. Policymakers, both in and out of the court, must balance the needs of the users with the requirements of the law and the considerable resources required to function at an effective and efficient level. The *Family Court Performance Standards and Measures* is the result of the effort of the Family Court of the State of Delaware to adapt the widely accepted *Trial Court Performance Standards* to the domestic relations forum.

The Family Court Standards Project began in 1997 as part of a multiyear, multilevel assessment and strategic planning process for continued improvement of the twenty-five year old statewide family court. Although initiated as an internal project, the Family Court effort quickly received the attention of our other state courts, the legislative and executive branches, the Bar, and concerned citizen groups. Similarly, it became clear from the many requests received each month that our colleagues in other states were grappling with similar problems in setting standards for this distinct jurisdiction. It is our belief that family courts can – and must – develop measurable performance standards to fulfill their mission in addressing the conflicts that affect the children and families charged to their judicial care. The *Family Court Performance Standards and Measures* is a starting point for Delaware and other family courts in developing benchmarks for measuring its effectiveness and setting a path for the future. Acknowledging that this product is an initial step, the Family Court looks forward to sharing its experiences and learning from the experiences of other states that join us in this quest.

This document exists only through the tireless efforts of many dedicated professionals who labored to develop, adapt, reconcile, and verify the input of multiple committees concerning the *Trial Court Performance Standards*. I extend appreciation and thanks to all who worked on this project and special gratitude to those individuals whose names appear on the following page who brought this project to fruition. We hope this effort has value for those who share our vision.

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Chief Judge, Family Court of the State of Delaware

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Introduction

Today, family courts, like other courts and public organizations funded by tax dollars, increasingly are held accountable for their performance. No longer content to prioritize services based on needs and demands, the public wants assurances of effective services at reasonable costs. The application of court performance standards and measures is a way to assess what the public gets for its money. Almost ten years in the making, the *Trial Court Performance Standards (TCPS)*, published in their final form in July 1997, represent a milestone in the development of concepts, techniques and strategies to examine the performance of courts and the justice system. The *TCPS* provide a conceptual framework and the operational steps for identifying desired results, creating and tracking measurable indicators of progress toward those results, and assessing court system performance. They represent a new understanding – a new paradigm – of the role and responsibilities of courts.

The *TCPS*'s initial focus was on general jurisdiction trial courts. This volume, *Family Court Performance Standards and Measures*, is an adaptation of the *TCPS* for courts that serve primarily children and families and have jurisdiction over juvenile delinquency, divorce, property division, alimony, domestic violence, child abuse and neglect, adoption, termination of parental rights, as well as paternity, custody, and support proceedings separate from divorce. Although the *TCPS* have wide applicability across courts of general and limited jurisdiction of many types, family courts are sufficiently different from general jurisdiction trial courts to warrant a separate volume of performance standards and measures for them. For example, the adjudication of family cases generally can be distinguished from that of felonies and general civil cases – with an emphasis on rules of procedure – as well as from traffic cases and small claims – with an emphasis on establishing the facts so that the law can be applied as quickly as possible. Although the rules and procedures in family cases are no less important than in courts of general jurisdiction, adjudication and disposition in family cases require skillful balancing of the equities (e.g., the identification and diagnosis of problems that are the source of the conflict and the protection of the persons before the court, those affected by the decisions, and broader community interests at stake) in administering justice. In performing its role, the family court is a blended court of law and equity, but is no less a court in its requirements of due process.

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Organization of This Volume

The organization of this volume follows that of the *Trial Court Performances Standards With Commentary*, the major volume of the four-part series describing the TCPS.¹ The section following this Introduction is divided into five chapters corresponding to five areas of family court performance:

- Access to Justice
- Expedition and Timeliness
- Equality, Fairness and Integrity
- Independence and Accountability
- Public Trust and Confidence

Performance Areas

These five performance areas suggest alternative ways of viewing the fundamental role and responsibilities of courts...

These five performance areas suggest alternative ways of viewing the fundamental role and responsibilities of courts, such as providing and appearing to provide individual justice in individual cases; resolving disputes; upholding federal and state constitutions; working independently of, but in cooperation with, other branches of government; promoting the rule of law; protecting individuals from the arbitrary use of government power; making a formal record of legal proceedings; and encouraging behavior that adheres to societal norms as expressed in statutes, ordinances and regulations. Within each of the five performance areas, three to six standards describe goals (or major areas of emphasis) for family court performance. Standards in two of the five performance areas – Expedition and Timeliness; and Equality, Fairness and Integrity – emphasize the family court's fundamental dispute resolution functions. The standards in the three performance areas of Access to Justice, Independence and Accountability, and Public Trust and Confidence focus on the functions of family courts as organizations and their relations with other courts, agencies, organizations and the public.

Theoretically, the five performance areas are accorded equal weight and importance. If effective participation and access to justice are denied, for example, it is of little consequence to those affected that a family court *potentially* performs well in the other four areas. Furthermore, delay in having one's case heard is justice denied even if barriers to access to the court are overcome. But, as an insightful judge said, noting the importance of the area of Equality, Fairness and Integrity, "If the train is not heading where I want to go, I don't care how fast it's going." Finally, a family court system that does not have public trust and confidence has diminished power and legitimacy.

In practice, however, the performance areas are systematically linked, and actions in one will affect another. When a minority group loses its trust and confidence in the court system, and when it believes that it will not be treated fairly and equally, for example, its effective participation and access to justice is limited. Court performance in performance areas may conflict, requiring balance and choice by family court managers and leaders. A public information campaign promoting a court's domestic violence program, for example, may increase access afforded women seeking civil protection orders, but it may also increase the court's caseload, negatively impacting the timeliness and expedition of case processing.

Measures of Performance

The five performance areas, the standards in each of them, and the performance measures (specific indicators of the work performed and results achieved) associated with the standards are presented in a common format. Each performance area (i.e., Access to Justice) first is described in a general introduction (General Commentary) followed by a brief overview of the performance measures associated with the standards in the area (Commentary on Performance Measurement). The commentaries on performance measurement are very brief summaries only of the comprehensive and greatly detailed prescriptions for performance measurement in the *Trial Court Performance Standards and Measurement System Implementation Manual*.ⁱⁱ The brief summaries that appear in this volume are intended to introduce and refer readers to the detailed measures described in the *Trial Court Performance Standards and Measurement System Implementation Manual*.

The measurement system employs numerous data gathering methods and taps diverse data sources. Included are familiar methods, such as court and case records reviews and tallies of case filings and dispositions, as well as other social science techniques less familiar to family courts, such as systematic observation, simulations, surveys of various reference groups, and group techniques. Different "evaluators" and data collectors are prescribed depending on the object or subject of the measure. Trained volunteers, for example, are recommended for conducting structured observations of court proceedings and simulations of public access to court information, while court staff are recommended for taking measures involving record reviews. Each of the 68 measures is described in easy-to-understand language – including an overview that describes the measure's purpose and how it aligns with the standard and performance area, planning and preparations for taking the measure, data collection procedures and forms, data analysis and reporting, and

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references to other resources – to allow court practitioners to arrange the specific performance measurement with little or no professional research assistance. A table summarizing each measure and the primary data collection methods and techniques, primary evaluators, and the subject or source of the data associated with each measure is included in Appendix A.

Standards and Commentaries

In each performance area, succinct statements – “black letter” standards – describe the required performances in the area. Each of the 22 standards across the five areas of performance is followed by commentary which explains and clarifies it, first in general terms and then in the context of the perspectives and experiences of the Family Court of the State of Delaware. These commentaries explain not only the expected results and outcomes identified by the standards but suggest possible inputs – human, financial and facility resources, strategies and methods – linked to these results and outcomes by Delaware's Family Court. These inputs are a rich source of possible practices from which other family courts can draw.

The Family Court Standards Project

The Family Court of the State of Delaware (hereinafter “Family Court”) was established as a statewide family court in 1971. Like most family courts throughout the Nation, it faces today burgeoning caseloads, complex and often-conflicting mandates and demands, and stagnant resources. To be effective, the Family Court's leaders and managers – together with their justice system partners and the communities they serve – knew that they must strategically plan, manage and position the Family Court in an ever-changing, often inhospitable environment. They recognized that they must have a long-term vision and a hierarchy of worthy goals, communicate a sense of mission and shared values, and measure performance vigorously.

Beginning in 1998, with support of the State Justice Institute, the Family Court used the TCPS to anchor a process of strategic planning including: (1) a shaping of a vision, a set of values, and a sense of mission – the guiding ideas to organize and mobilize the Family Court; (2) the identification of goals consistent with those guiding ideas; (3) the formulation of a set of strategies to achieve the goals; and, (4) the initiation of monitoring and measuring of the Court's performances. At the same time, in view of a quarter-century of experiences – both successes and

failures – the Family Court undertook a project of self-assessment. Committees were created by administrative directives of the Chief Justice of the Delaware Supreme Court, the Chief Judge of the Family Court, and two significant grant projects. The individual work of each committee was considered in tandem and synthesized with the Family Court Standards Project.

The Family Court regards the views and perspectives of the various internal and external users of the Family Court as essential to substantive change. Consequently, each committee of the Family Court Standards Project included a broad range of participants from judges to litigants, lawyers to clerks, and cabinet secretaries to private citizens. The scope of review included existing local standards in statutes, rules, administrative directives, and national publications. The result, the *Family Court Performance Standards and Measures*, is both aspirational and practical. A critical stage in the development and coordination of this volume was a two-day retreat in which each performance area was dissected, analyzed, and reconstructed. The performance standards in this volume ultimately were approved at a full-day meeting of the Family Court judges.

Designed to address the immediate concerns of Family Court judges and court staff, the performance standards and measures in this volume have a broader audience with its own concerns. Legislators seek answers to questions posed by their constituents. Executive branch managers look for ways to assess the need for additional judges and staff. Attorneys need to know the expectations of the Family Court in order to provide quality representation of their clients. The litigants themselves, especially self-represented persons, need clear direction and reasonable answers to the numerous questions that they may have as they encounter the often-confusing requirements of the legal system. Perhaps most importantly, the children affected by the proceedings and decisions of the Family Court deserve the highest quality of care and service that a court can provide.

Finally, the Family Court Standards Project has a larger purpose that reaches beyond the Family Court and the State of Delaware. The TCPS were developed for general jurisdiction trial courts and received the endorsements of major judicial organizations. Their applicability to family courts seemed promising but remained to be demonstrated. The Family Court adapted and adopted the TCPS not only to serve its own needs and those of its constituencies in Delaware but also to provide a model for use by family courts throughout the Nation. This volume, *Family Court Performance Standards and Measures*, is the product of this effort.

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Performance Standards With Commentary

Access to Justice

General Commentary

In many ways
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Family courts should be open and accessible. Location, physical structure, procedures, and the responsiveness of family court personnel affect accessibility. Accordingly, the five standards grouped under Access to Justice require a family court to eliminate unnecessary barriers to its services. Such barriers can be geographic, economic, and procedural. They can be caused by deficiencies in both language and knowledge of individuals participating in court proceedings. Additionally, psychological barriers can be created by mysterious, remote, unduly complicated, and intimidating court procedures. Although not unique to domestic relations and juvenile law, the high percentage of self-represented litigants filing and defending their own suits poses formidable challenges for a family court as well as the represented and self-represented litigant. In many ways Access to Justice is the key area for family courts in developing and assessing their policies and practices related to litigants without lawyers.

The intent of the first two standards is to bring the administration of justice into the open and to make it accessible. Standard 1.1 requires the family court to conduct its business openly. To ensure that all persons with legitimate business before the court have access to its proceedings, Standard 1.2 requires the family court to make its facilities safe, accessible, and convenient to use. Accessibility is required not only for those who are guided by an attorney but also for all litigants, victims, witnesses, and relatives of litigants. Access to family courts also is required for many other individuals – for example, parents and guardians in juvenile cases, persons seeking information from public records held by the court, employees of agencies that regularly do business with the courts (mental health professionals, law enforcement officers, defenders and prosecutors, “children” departments employees, department of corrections guards and probation officers), and the public.

Because a family court may be accessible to most and still hinder access to many, Standard 1.3 requires the court to provide opportunities for the effective and appropriate participation of all who appear before the court, including young children, litigants without lawyers, and persons with linguistic difficulties or handicaps. To promote access to justice and to enhance citizen confidence and trust in the court, Standard 1.4 urges that all court personnel accord respect, courtesy, and dignity to all with whom they come into contact. Finally, Standard 1.5 recognizes that there are financial and procedural barriers to access to justice. It requires that the fees imposed and procedures established by the court be fair and reasonable. Recognizing the importance of the relationship between public records and access to justice, the standard also requires that public records be preserved and made available at a reasonable cost.

Commentary on Performance Measurement

The *Trial Court Performance Standards and Measurement System Implementation Manual* prescribes 21 performance measures associated with the five standards in the area of Access to Justice (see Appendix A). Taken together these measures provide both breadth and depth of measurement of a court's performance in providing public access to justice.

The measures in this performance area rely on a variety of data collection methods: surveys, observations (in some measures combined with simulation), interviews, and reviews of court records and documents. Three measures call for administering surveys to individuals who are "regular users of the courthouse." The information sought from these people relates to safety and security, ease of doing "business" with the court, and the courtesy and respect they experience in the courthouse. Although each survey measure is described separately in relation to a particular standard, it may be easier and less time consuming to combine the questions for each measure into one questionnaire and survey regular users once rather than three times.

The method described most often for measuring access to justice is observation (sometimes combined with simulation). Observers systematically record what they see and hear. This structured information can then be examined quantitatively as well as qualitatively. These "see, hear, and record" measures range from concrete and objective (Was an observer able to gain entrance to a courtroom?) to subjective (Did activity taking place in a courtroom detract from the dignity of the proceedings?). There are 12 measures of this type. Although the observations could be carried out by almost anyone, the recommended approach is to use citizen

Taken together these measures provide both breadth and depth of measurement of a court's performance in providing public access to justice.

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volunteers who are relatively naïve to the legal system and who are unfamiliar with the facilities and “customs” of the courthouse. This results in records of experiences that resemble those of ordinary citizens who have infrequent occasion to do business with the court. Furthermore, the observers chosen should optimally be representative of the jurisdictional community of the family court. Representativeness is more important for some measures than others. However, because the same individuals could be asked to obtain data for all the observation measures, it may be helpful to recruit one pool of observers who vary on demographic factors. Observers may be recruited by contacting volunteer organizations, universities, senior citizen groups, and so forth.

This “volunteer observer” method has other advantages, notably its relatively low cost. The family court must invest staff time to recruit volunteers, orient them to their assignments, and evaluate results. Once the recruitment and orientation are completed, however, the observers may be used to collect data for many measures described throughout the measurement process. Because the observers are relatively few in number, they offer the added advantage of being able to provide court staff with additional information during interviews following their structured assignments. A much richer, qualitative analysis results when explanations, descriptions, and suggestions can be elicited from the observers to augment what is provided on written forms, questionnaires, and checklists.

Two other measurement methods rely on data collected through interviews and examination of court records and written policy documents. Some of the measures of this type focus on case data. Measure 1.3.1, regarding effective legal representation of children in child abuse and neglect proceedings, is of this type. In this measure, court case records are examined and those involved in the cases are surveyed and interviewed to document how the guardian *ad litem* process actually has worked for several selected cases. Other measures focus on administrative documents. For example, Measure 1.5.1 relies on an examination of forms, brochures, and written policies to evaluate court efforts to facilitate affordable access alternatives for individuals with low incomes. Interviews with court staff also are conducted to identify and locate the relevant documents. Finally, measures addressing the issues of court security (Measure 1.2.1) and interpreter services (Measure 1.3.2) rely on evaluation by outside experts in the respective areas.

Standard 1.1 Public Proceedings

The family court conducts its trials, hearings and other public business openly except as prohibited by law.

Commentary

This standard requires the family court to conduct all trials and hearings openly unless prohibited by law. The family court must specify those proceedings to which the public is denied access and ensure that the restriction is in accordance with the law and reasonable public expectations. Further, the court must ensure that its trials and hearings are accessible and audible to all participants, including litigants, attorneys, court personnel, and other persons in the courtroom.

Notwithstanding the first clause of Section 9 of Article I of the Delaware Constitution, which reads "All courts shall be open," the Delaware General Assembly determined that some aspects of Family Court should not generally be open to public scrutiny. Thus hearings, interviews of children and investigative reports in custody matters are private, as are all matters involving termination of parental rights, adoption, and divorce proceedings. Some of these restrictions recently were challenged as unnecessary. The traditional view that family court matters should be private is yielding to a realization that the purposes supporting this view may no longer be valid. The General Assembly, as a result of House Joint Resolution 4, effective July 16, 1997, called upon the Family Court to open more court proceedings to the extent permitted by law and to study the effects of such opening. Pursuant to that legislative directive, the Family Court has increased the opportunities for the general public to gain access to trials and hearings.

The Family Court is considering several initiatives:

- Adopting a presumption that all hearings and trials are open, with the exception of termination of parental rights and adoption cases. In essence, the Family Court would change from a closed court that is open for some cases to an open court that is closed in some cases and matters (e.g., arbitration and mediation conferences).
- Recommending statutory changes to the Delaware General Assembly to support the presumption of openness.
- Developing and disseminating criteria (e.g., matters relating to child sexual abuse are private) for closure of hearings for good cause.

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- Disseminating to the public the Family Court's policies on opening and closing hearings.
- Developing and disseminating policies governing access to records.
- Measuring (using Measure 1.1.3, Audibility of Participants During Open Court Proceedings) and evaluating the audibility of Family Court proceedings.

Standard 1.2 Safety, Accessibility, and Convenience

Family court facilities are safe, accessible, and convenient to use.

Commentary

Standard 1.2 considers three distinct aspects of court performance: the security of persons and property..., access to the courthouse and its facilities, and the reasonable convenience and accommodation

Standard 1.2 considers three distinct aspects of court performance: the security of persons and property within the courthouse and its facilities, access to the courthouse and its facilities, and the reasonable convenience and accommodation of those who use or come to the court. A family court must be concerned about matters such as the centrality of its location in the community it serves, adequate parking, reasonable accommodation of children and families, the availability of public transportation, the degree to which the design of the court provides a secure setting, and the internal layout of court buildings (e.g., the signs that guide visitors to key locations).

Standard 1.2 pertains to the conduct of court personnel as well. The behavior of court personnel impacts convenience, safety and accessibility (see Standard 1.4). Unusual or unexpected conditions, such as bomb threats, mass arrests, and natural disasters, challenge the routine operations of the court. Mechanisms, such as a natural disaster plan, should be developed to handle unexpected or unusual situations that could impede the court and disrupt daily routines.

Statistics support the conclusion that more violence occurs in a domestic relations court due to the emotional turmoil in which people find themselves. The importance of security in such a court can not be overstated. It has been Delaware's experience that "block" scheduling (requiring many people to appear at one time) overcrowds waiting areas and other public areas unnecessarily which, in turn, creates an atmosphere

of confusion and uncertainty that may further agitate already emotionally distraught litigant. In response, the Family Court has begun to refine scheduling in a way that will better distribute the litigants, both by time and by area, and is pursuing the enhancement of its security force.

Accessibility and convenience are integrally related to Expedition and Timeliness. The nature of family law requires timeliness if access is to be meaningful. Unsophisticated scheduling is inconvenient to the litigant if he or she is made to wait unnecessarily to have his or her problem addressed. Anticipating that many individuals who come to a family court are caretakers of small children, as well as children who are the subject of litigation, the Family Court is considering creation of "child friendly" spaces. In addition, the Family Court is considering or has implemented the following:

- Relocating metal detectors closer to entrances to buildings and requiring all individuals to enter the buildings through metal detectors.
- Employing additional security personnel to provide more of a security presence in public waiting areas courtrooms. (The Family Court has worked successfully with the Department of Public Safety to provide a limited police presence. Collaborative budget requests have been successful in meeting common goals.)
- Ensuring that buildings and parking facilities are adequately lighted and monitored by cameras.
- Providing for after hours filing.
- Developing satellite sites and increasing the hours of court operation.
- Establishing "Access Centers" in which litigants will have access to: information about the Family Court, its rules, procedures and proceedings; instructions for completing forms; information about social services and agencies that meet the needs of the litigants; and directories of attorneys willing to provide limited or full representation. (See Commentary Standard 1.3)

Standard 1.3 Effective Participation

The family court gives all who appear before it the opportunity to participate effectively, without undue hardship or inconvenience.

Commentary

Accommodations for the self-represented litigant include providing sufficient information.

Standard 1.3 focuses on how a family court accommodates all participants in its proceedings - especially the self-represented litigant and those who have language difficulties, mental impairments, or physical handicaps. Accommodations for the self-represented litigant include providing sufficient information. Such accommodations might include the following: the use of clear language forms, instructions on completing all necessary forms, service centers for the self-represented, a directory of lawyers, space for attorneys to provide preliminary assistance, or a combination thereof in a way that will permit the litigant to properly file a clearly worded petition, or response thereto. Accommodations for the impaired or handicapped include providing interpreters for the deaf and special courtroom arrangements or equipment for blind and speech-impaired litigants. For non-English speaking litigants, accommodations include provision of interpreters, and a phone system that is responsive to non-English speaking callers.

In a snapshot of civil cases (excluding child support) taken by the Family Court in 1999, 74 percent of the cases involved self-represented litigants. As the number of litigants who represent themselves increases, the challenge of effective participation of self-represented litigants will need to be met by additional resources. Although the Family Court has created some self-represented "litigant friendly" petitions, the Court has not met this challenge comprehensively. Recently, however, the Family Court has developed a Web site designed to be user friendly, sent representatives to study an out of state court facility that has successfully created a self-represented litigant service center, employed a Director of Self-Represented Programs who has begun to design and develop "access centers" (see Commentary Standard 1.2), and has begun a review of a limited category of forms with a view towards making them very user friendly. In addition, the Court is considering or has implemented:

- Providing litigants with general information about the Family Court, its rules, proceedings and procedures (e.g., the "life" of a petition), with forms and instructions that are understood by lay persons, and with information about social services and agencies, and legal assistance available to them.

- Continued expansion of the web site toward a goal of interactive capability
- Promoting partnerships with public libraries
- Creating a space in each Family Court building that would accommodate an Access Center in which litigants would access information and receive assistance.
- A child care facility in the Family Court.
- Interpreters and telephone systems accommodating non-English speaking litigants.
- Identifying deficient filings early during case processing to allow litigants to address the deficiencies in a timely manner.
- Interpretation for hearing impaired litigants.

Standard 1.4 Courtesy, Responsiveness, and Respect

Judges and other family court personnel are courteous and responsive to the public, and accord respect to all with whom they come into contact.

Commentary

The intent of Standard 1.4 is to make the justice system more accommodating and less intimidating. A responsive family court ensures that judicial officers and other court employees are available to meet both the routine and the exceptional needs of those it serves. Requirements of the standard are particularly important in the understanding shown and assistance offered by court personnel to members of minority or disadvantaged groups and to those unfamiliar with the family court and its procedures. In keeping with the public trust embodied in their positions, judicial officers and other court employees should reflect by their conduct the law's respect for the dignity and value of all individuals who come before, or make inquiries of, the court. No court employee should by words or conduct demonstrate bias or prejudice based on race, religion, ethnicity, gender, sexual orientation, color, age, handicap, political affiliation, or level of education. These requirements extend to the manner in which the employees of the court treat each other.

The volume and emotional nature of cases in the Family Court cause stress for judicial officers and other court personnel, stress that often

is associated with anxiety, frustration, low morale, and a diminished capacity to meet the requirements of Standard 1.4. In response to the problem, the Family Court began a courtroom monitoring "Court Watch" program in 1999 in which trained observers – University of Delaware graduate students – provide written feedback on the performance of judicial officers and courtroom personnel in domestic violence and related proceedings. Initiated as a limited pilot program, the results of the program will be evaluated and, if justified, expanded. In addition, since 1995 members of the private and public bar evaluate all Family Court commissioners on their legal ability, judicial management, and comportment. Recently all non-judicial personnel of the Family Court attended "customer" service training. Other initiatives considered or implemented include:

- Recognition and reward of staff members who demonstrate courtesy, responsiveness and respect.
- Quarterly or semi-annual customer service training.
- Continuing periodic evaluation of court staff and all hearing officers.
- Access Centers in Family Court facilities (see Commentary Standard 1.3)

Standard 1.5 Affordable Costs of Access

The costs of access to family court proceedings and records — whether measured in terms of money, time, or the procedures that must be followed – are reasonable, fair, and affordable.

Commentary

Litigants and others who use the services of the family court (e.g., nonlitigants who require records kept by the courts) face three main financial barriers to effective access to the family court: court fees, third-party expenses (e.g., deposition costs and expert witness fees), and lawyer fees. Standard 1.5 requires that the family court minimize its own fees for access and participation in its proceedings and, where possible, scale its procedures and those of others under its influence or control to the reasonable requirements of matters before the court. Means to achieve this include simplification of procedures and reduction of paperwork in uncontested matters, the use of volunteer lawyers to do *pro bono* work, simplified pretrial procedures, and establishment of appropriate alternatives for resolving disputes (e.g., referral services for cases that may be resolved by mediation, court-annexed arbitration, early neutral evaluation, tentative ruling procedures, or special settlement conferences).

Although a family court may control its own fees more readily, it can reduce the overall cost of litigation by, for example, conducting telephone conferences in lieu of in-person conferences and by making it easier for citizens to handle uncontested matters (e.g., name changes, stepparent adoptions, or uncontested divorces) without legal representation. As a general rule, simple disputes should be resolved at low cost and by uncomplicated procedures. Procedural accessibility should be enhanced by clear, concise, and understandable language in instructing the parties, witnesses, and others about rights, responsibilities, necessary forms, hearings, and court facilities and resources.

Family courts possess the record of their own public proceedings as well as important documents generated by others (e.g., police records and paternity testing results). These records must be available to individuals who are authorized to receive them. Standard 1.5 requires that the court maintain a reasonable balance between its actual costs in providing documents or information and what it charges users.

A litigant who has insufficient money to pay filing fees or hire an attorney may feel that he or she has been denied access to justice. In addition to filings and proceedings *in forma pauperis* (i.e., allowing poor litigants to proceed without payment of court fees or costs), the Family Court permits "fee waivers" that excuse or defer payment of filing fees, upon a showing of imminent need. The vast majority of litigants in Family Court do not meet the poverty-level criterion of indigence to proceed *in forma pauperis* yet find the court costs and fees burdensome. In response to this problem, the Family Court is considering or implementing the following initiatives:

- Review of court fees setting practices with a view toward ensuring that fees are at a level that will not unnecessarily discourage filings.
- Re-evaluation and update of the fee waiver system making certain that it is uniformly applied throughout the state.
- Establishment of Access Centers (see Commentary Standard 1.3) to allow litigants to help themselves and reduce the cost their litigation.

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Expedition and Timeliness

General Commentary

Family courts are entrusted with many duties and responsibilities that affect individuals, families, and organizations involved with the judicial system, including litigants, attorneys, witnesses, criminal justice agencies, social service agencies, and members of the public. The repercussions from untimely court actions in any of these involvements can have serious consequences for the persons directly concerned, the court, allied agencies, and the community at large.

A family court should meet its responsibilities to everyone affected by its actions and activities in a timely and expeditious manner — one that does not cause delay. Unnecessary delay causes injustice and hardship. It is a primary cause of diminished public trust and confidence in the court.

Defining delay requires distinguishing between the amount of time that is and is not acceptable for case processing. National and statewide authorities have articulated time standards for case disposition. These standards call for case processing time to be measured beginning with arrest or issuance of a summons in a criminal case, or from the date of filing in a civil case.

The three performance standards under Expedition and Timeliness draw attention not only to the prompt resolution of cases, a requirement expressed by Standard 2.1, but also to the expectation that all family court functions will be expeditiously performed, a requirement of Standard 2.2. Standard 2.3 emphasizes the importance of expedition and timeliness in anticipating, adapting to, and implementing changes in law and procedure.

Commentary on Performance Measurement

The ten measures for this area's three standards assess how promptly the court processes cases, files required reports, and implements new legal and procedural changes. Because of the diversity of activity examined under the three standards, a wide range of measurement techniques is employed. Yet, in many cases, data collection can be coordinated with other measures and many of the measures associated with Standard 2.1 will be familiar to judges and court managers.

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Information from individual case files or automated records is required to complete most measures for Standard 2.1. For example, calculating the time to disposition and the age of pending cases requires access to case status and the dates of key events. Information on the number of times a case was set for trial is needed to determine the certainty of trial dates in the progression of cases through the system. To measure compliance with Standard 2.2, a variety of records maintained by the court are compared with recognized filing requirements. Patterns of completeness must also be evidenced as a condition of meeting these measures. Financial records, records of court-initiated services (e.g., court-appointed counsel, and interpreters) and required statistical reports are considered. Recognizing that not all information flows through written channels, a simulation of an information request provides an opportunity for the court to assess how quickly and accurately it responds to information requests from the public.

The court must not only promptly disburse information when it is requested, it must also promptly conform its operation to meet new requirements of law or procedure. Two measures for Standard 2.3 provide opportunities for reviewing records or interviewing individuals affected by these changes in order to assess the court's pattern of adopting changes based on new requirements.

Standard 2.1 Case Processing

The family court establishes and complies with recognized guidelines for timely case processing while, at the same time, keeping current with its incoming caseload.

Commentary

The American Bar Association, the National Council of Juvenile and Family Court Judges, the Conference of Chief Justices, the Conference of State Court Administrators, and various state judicial authorities have urged the adoption of time standards or guidelines for expeditious caseload management. Timely disposition is defined in terms of the elapsed time a case requires for consideration by a court, including the time reasonably required for pleadings, discovery, and other court events. Any time beyond that necessary to prepare and conclude a case constitutes delay. Standard 2.1 first requires a family court either to adopt (or adapt) existing standards or guidelines for timely case processing or to formulate its own.

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Early and continuous control establishes judicial responsibility for timely disposition, identifies cases that can be settled, eliminates delay, and ensures that matters will be heard when scheduled.

The requirement of timely case processing applies to trial, pretrial, and posttrial events. The court must control the time from civil case filing or criminal arrest to trial or other final disposition. Early and continuous control establishes judicial responsibility for timely disposition, identifies cases that can be settled, eliminates delay, and ensures that matters will be heard when scheduled. Court control of the trial itself will reduce delay and inconvenience to the parties, witnesses, and family members. During and following a trial, the court must make decisions in a timely manner. Finally, ancillary and postjudgment or postdecree matters need to be handled expeditiously to minimize uncertainty and inconvenience.

In addition to requiring courts to comply with recognized guidelines for timely case processing, Standard 2.1 urges courts to manage their caseloads to avoid backlog. This may be accomplished, for example, by terminating inactive cases and resolving as many cases as are filed.

The Delaware Family Court approached this standard first by subdividing case processing into judicial and staff functions. Using focus groups of judges, administrators, court staff, and other court users, the Family Court Standards Project identified benchmarks and targets of time for each stage in the life of a case. These benchmarks and targets simultaneously reflect the needs of the litigants, especially the children, for timeliness, constitutional and due process requirements, and available resources in setting goals for case processing. Setting time standards for each stage of a case gives litigants a sense of forward action on their filings, permits the court to determine the resources required to meet the goal, and provides a measurable aspect to the largely immeasurable concept of justice.

In a family court where self-represented litigants, inexperienced in the legal process, initiate and defend up to three-quarters of the caseload, established time standards are helpful in giving the parties a framework for their case and an expectation of when their situation will be addressed. Although each family case is unique, the cumulative data can provide averages upon which the family court can plan calendars and acquisition of resources.

Case Prioritization – Timely case processing of family court cases differ from courts of general jurisdiction as each case type has a different level of urgency associated with it. The Delaware Family Court prioritizes its caseload focusing on constitutional requirements, children-at-risk, and other civil matters. Highest priority is given to children who have “no one” – those who are dependent, neglected, or abused and are reliant upon the State for care and protection. Closely following the dependent child are those children whose parents are not providing for them and

cases where a relative or private citizen seeks custody or guardianship. Custody and visitation cases involve at least one parent wishing to take care of their child. Other civil matters, such as property division are lower in priority as they have a less direct effect on the children. Domestic Violence poses safety threats for abused persons and their children. Consequently, civil and criminal domestic violence cases have a thirty-day timeframe for resolution. Criminal defendants have a constitutional right to a speedy trial.

Processing Prior To Judicial Assignment – Family court cases involve additional processing steps prior to judicial scheduling. Prefiling assistance to self-represented litigants, Alternative Dispute Resolution (ADR) sessions, parent education requirements, and various required social reports add complexity to monitoring case processing timeframes. The Family Court's Courting Quality workgroup suggested a "15 minute rule" that could be applied to many of the early stages of case processing. Litigants should receive personal attention from court staff within 15 minutes. Similarly, intake assistance, filing time, cashier time, and waiting time before a hearing may all fit into this quarter-hour requirement. Specific time standards, and action steps for cases not meeting the standard, were developed for service of process, scheduling of mediation and arbitration, and completion of the parent education requirements.

Judicial Case Management – Using a live modified Delphi technique, the Internal Operating Procedures Committee recommended guidelines for each case type in the Family Court jurisdiction: (1) time from assignment to designating a trial date; (2) time from assignment to the actual trial date; and (3) time from trial to issuance of the order. Additionally, average recommended times for each hearing were proposed for each type of case.

Standard 2.2 Compliance With Schedules

The family court disburses funds promptly, provides reports and information according to required schedules, and responds to requests for information and other services on an established schedule that assures their effective use.

Commentary

As public institutions, family courts have a responsibility to provide information and services to those they serve. Standard 2.2 requires that this be done in a timely and expeditious manner. The source of the information requests may be internal or external to the court. Services provided to those within the court's jurisdiction may include

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... [A]n effective family court establishes and abides by schedules and guidelines for activities not directly related to case management.

legal representation or mental health evaluation for criminal defendants, protective or social services for abused children, and translation services for some litigants and witnesses.

In addition to adhering to case processing time guidelines, an effective family court establishes and abides by schedules and guidelines for activities not directly related to case management. Moreover, the court meets reasonable time schedules set by those outside the court for filing reports or providing other information stemming from court activities. When disbursement of funds is necessary, payment is made promptly. Standard 2.2 requires that regardless of who determines the schedules, once established, those schedules are met.

Timely disbursement of funds held or controlled by the court is particularly important. Fines, fees, restitution, child support payments, and bonds are categories of moneys that pass through the court to their lawful recipients. Depending on the category involved and the laws of a given jurisdiction, the recipients may include funding agencies (e.g., State, county, or city), public agencies (e.g., police academies and corrections boards), and individuals (e.g., litigants or victims). In addition, courts oversee disbursement of funds from their budgets. These funds go to other branches and units of government, vendors, litigants, or witnesses. For some recipients, delayed receipt of funds may be an accounting inconvenience; for others, it may create personal hardships. Regardless of who the recipient is, when a family court is responsible for the disbursement of funds, expeditious and timely performance is crucial.

Standard 2.3 Prompt Implementation of Law and Procedure

The family court promptly implements changes in law and procedure.

Commentary

Tradition and formality can obscure the reality that both the law and procedures affecting court operations are subject to change. Changes in statutes, case law, and court rules affect what is done in the courts, how it is done, and those who conduct business in the courts. Family courts must make certain that mandated changes are implemented promptly and correctly. Whether a change can be anticipated and planned or must be responded to quickly, Standard 2.3 requires that the court not only make its own personnel aware of the changes but also notify court users of such changes to the extent practicable. It is imperative that changes mandated by statute, case law, or court rules be integrated into court operations as

they become effective. Failure to do so leaves the court open to criticism for noncompliance with the law or required procedures.

The area of family law is subject to rapid change in statutes, case law, federal regulations, and local court rules to meet the changing needs of the litigants and children. Family courts need to monitor proposed and pending legislation to assess impact and to submit statements on required resources. In order to prepare to implement changes in case law, courts must receive, analyze, and distribute appellate court decisions to the judges and other appropriate court personnel in a timely manner. Changes to local court rules should have an implementation schedule considered during the development of the modified rules. The Family Court addressed this standard by setting time frames for identifying and distributing appellate court opinions dealing with Family Court issues. A legislative tracking system was implemented for a next-day review of all introduced, passed, and signed legislation affecting Family Court. Impact statements identifying implementation problems, responsibilities, and required resources are developed for all pending bills. Signed legislation is distributed with an accompanying memorandum explaining the method and time for implementing the changes.

Equality, Fairness, and Integrity

General Commentary

Family courts should provide due process and equal protection of the law to all who have business before them, as guaranteed by the U.S. Constitution and State constitutions. Equality and fairness demand equal justice under law. These fundamental constitutional principles have particular significance for groups who may have suffered bias or prejudice based on race, religion, ethnicity, gender, sexual orientation, color, age, handicap, or political affiliation.

Integrity should characterize the nature and substance of family court procedures and decisions, and the consequences of those decisions. The decisions and actions of a family court should adhere to the duties and obligations imposed on the court by relevant law as well as administrative rules, policies, and ethical and professional standards. What the family court does and how it does it should be governed by a court's legal and administrative obligations; similarly, what occurs as a result of the court's decisions should be consistent with those decisions.

Integrity refers not only to the lawfulness of court actions (e.g., compliance with constitutional rights, legal representation, and a record of legal proceeding) but also to the results or consequences of its orders. A family court's performance is diminished when, for example, its mechanisms and procedures for enforcing its child support orders are ineffective or nonexistent. Performance also is diminished when summonses and orders for payment of fines or restitution are routinely ignored. The court's authority and its orders should guide the actions of those under its jurisdiction both before and after a case is resolved.

The demand for equality, fairness, and integrity is articulated by five performance standards. The first standard encompasses the all-important legal concept of due process and requires that trial courts adhere to relevant law, rules, and policy when acting in their judicial and administrative capacities. Standard 3.2 focuses on what many consider to be the essence of justice. The standard requires that the decisions and actions of family courts be based on legally relevant factors consistently applied in all cases. Furthermore, those decisions and actions should be based on individual attention to each case. In accordance with the call for integrity in court performance, Standard 3.3 urges family courts to render decisions that clearly state the issues addressed and specify how

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compliance with their decisions can be achieved. Clarity is a prerequisite for both compliance and enforcement.

Standard 3.4 encourages family courts to assume responsibility for the enforcement of their orders. Finally, Standard 3.5 requires the prompt and accurate preservation of family court records. Records of court decisions and the process followed to arrive at decisions constitute, in an important sense, the law. Both the accuracy of the records and reliable access to them are fundamental to the achievement of the purposes of family courts.

Commentary on Performance Measurement

Twenty specific measures are associated with the five standards in Performance Area 3, Equality, Fairness, and Integrity. They are intended to provide systematic information on the many facets of this complex and important topic. For most of the individual standards, the measures use similar data elements, data gathering procedures, and methods of analysis. For example, Standard 3.5, Production and Preservation of Records, requires that family court records of all relevant court decisions are accurate and properly preserved. For five of the six measures associated with this standard (see Appendix A), a common database is used to assess the integrity of the court's record management systems. The measures use some portion of the same pool of cases to examine the extent to which court records are adequately stored. Use of a joint database is called for in other standards, including Standard 3.2, which requires trial courts to "give cases individual attention, deciding them without undue disparity among like cases and only upon legally relevant factors." Measure 3.3.3, Equality and Fairness in Sentencing, and Measure 3.3.4, Equality and Fairness in Bail Decisions, rely on the same set of cases and the same methodological approach to determine whether legally irrelevant factors play a role in bail and sentencing decisions. Hence, a court that decides to undertake the measurement of a given standard will find that it can apply all of the measures within that standard in an efficient manner.

The most common approach to all of the measures in this performance area is the analysis of case-related information. Case files are used as a primary source of data for many of the measures. In some instances, the information in the files is gathered and analyzed to assess the fairness of court decisions in areas such as bail and sentencing. On the other hand, case-related information is also used in Standard 3.1 to determine the extent to which the court adheres to laws and procedures. Standard 3.1 states that "Trial courts faithfully adhere to procedural rules,

and established policies.” Here the case-related information is used as a way to verify compliance with laws.

The second most common approach is the use of mail questionnaires to assess the views of key participants in the court process. Different measures target different sets of respondents. For example, Measure 3.3.3 seeks to determine both court employees’ and attorneys’ assessment of court performance in applying the law. Measure 3.3.1 targets the bar’s view of the fairness of court decisions and actions. Measure 3.3.2 surveys the opinions of court users. Measure 3.6.6 examines the views of attorneys toward the adequacy of the court record when cases are appealed.

Standard 3.1 Fair and Reliable Judicial Process

Family court procedures faithfully adhere to relevant laws, procedural rules, and established policies.

Commentary

This first standard in the performance area of Equality, Fairness, and Integrity draws on the concept of due process, including notice and a fair opportunity to be informed and heard at all stages of the judicial process. Fairness should characterize the court’s compulsory process and discovery. Family courts should respect the rights to legal counsel and the rights of self-representation, confrontation, cross-examination, and impartial hearings. Standard 3.1 requires fair judicial processes through adherence to constitutional and statutory law, case precedent, court rules, and other authoritative guidelines, including policies and administrative regulations. Adherence to established law and procedures contributes to the court’s ability to achieve predictability, reliability, and integrity, and to satisfy all parties. Because of its centrality to the court’s purpose, Standard 3.1 overlaps with standards in the performance areas of Access to Justice and Public Trust and Confidence, which emphasize that justice should be “perceived to have been done” by those who directly experience the quality of the family court’s processes and procedures.

In creating a unified family court, the distinction between formal adherence and essential fairness must be recognized. Strict formal compliance with traditional rules and procedures found in courts of general jurisdiction can frustrate the social service function inherent to the family court jurisdiction. Accordingly, family court rules and procedures, while providing clear and understandable direction, must also provide each litigant the opportunity to meaningfully participate in shaping

Adherence to established law and procedures contributes to the court’s ability to achieve predictability, reliability, and integrity, and to satisfy all parties.

outcomes which address the unique and complex needs of dysfunctional families and disadvantaged persons.

The unique social function of the Family Court of the State of Delaware emanates from its enabling legislation which mandates that:

The Court shall endeavor to provide for each person coming under its jurisdiction such control, care and treatment as will best serve the interests of the public, the family, and the offender, to the end that the home will, if possible, remain unbroken and the family members will recognize and discharge their legal and moral responsibilities to the public and to one another.
10 Del. C. § 902(a) (1974).

The Family Court has made a concerted effort to shift from a court with dual roles as a court and a social service agency to a *court* with a "social conscience."

The Family Court's efforts to establish and maintain a fair and reliable judicial process, while adhering to this unique mission, include the following initiatives:

- **Rules of Civil and Criminal Procedure.** In 1987, the Family Court adopted Rules of Civil and Criminal Procedure patterned after the Rules of the State Court of General Jurisdiction and the Federal Rules of Civil and Criminal Procedure. However, in drafting the court rules for the Family Court, important and specific distinctions were made to accommodate the Court's special jurisdiction such as compulsory mediation and arbitration, expedited process for child dependency, neglect and abuse cases, as well as guidelines for handling child delinquency cases involving juveniles detained pending resolution.
- **Uniform Forms and Instructions.** The Family Court developed uniform court forms and instructions in order to promote adherence to relevant laws and rules and to provide information to all parties coming before the Court. The Court has recently undertaken a project to substantially revise all forms and instructional packets with a goal of making all such documents more easily understood.
- **Formalized Procedures Development and Revision Process.** The Family Court has instituted a formalized process for the

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development and revision of the Court's operating procedures so as to ensure opportunities for input from all levels of the Court (Judges, Commissioners, Administration, Operations). Procedures are modified as necessary in response to statutory or rule changes as well as to changes in federal regulations. Review and input from the judicial, administrative, and operations components of the Court helps to ensure adherence to relevant laws, court rules, while recognizing and addressing the need for effective and efficient processes and procedures for managing the Court's high-volume caseload.

Standard 3.2 Court Decisions and Actions

Family courts give individual attention to cases, deciding them without undue disparity among like cases and upon legally relevant factors.

Commentary

Standard 3.2 requires that litigants receive individual attention without variation due to judge assignment or other legally irrelevant characteristics of the parties, such as race, religion, ethnicity, gender, sexual orientation, color, age, handicap, or political affiliation. Generally, persons similarly situated (e.g., juvenile defendants faced with or found guilty of similar offenses and having similar criminal histories) should receive similar treatment. The standard further requires that court decisions and actions be in proper proportion to the nature and magnitude of the case and to the characteristics of the parties. Variations should not be predictable on the basis of legally irrelevant factors, nor should the outcome of a case depend on which judge within a court presides over a hearing or trial. The standard refers to all decisions, including sentences in criminal cases, the conditions of bail, the amount of child support ordered, the appointment of legal counsel, and court-supervised alternatives to formal litigation.

Much of the litigation brought before a family court has the potential for spanning many years over the length of the minority of children's lives or the duration of relationships. Assignment of multiple decision-makers to individual families risks not only consistency in decisions, but unnecessary disruption to children. An emerging trend in family courts throughout the country aimed at consistency in decision making is a one-family/one-judge model. Individualized assignment leads to the development of specialized knowledge resulting in more efficient and meaningful justice. However, the reality of overwhelming volume and diversity of case types of a unified family court necessitates

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the utilization of alternative methods of case disposition such as Alternative Dispute Resolution Programs (ADR) and intermediate-level hearing officers (commissioners, masters). While somewhat of a departure from a one family/one judge case assignment, these alternative methods of case resolution can advance the ideal of consistency among cases through subject matter specialization. Key to ensuring specialized knowledge among various judicial officers is an information system capable of providing case specifics as necessary. Also, diversion of cases frees the judges of the court to concentrate on those matters of greatest importance. Accordingly, in the family court setting, the number and diversity of methods of case resolution requires that the court promote consistency in dispositions through the development of substantive guidelines.

The Family Court of the State of Delaware has made progress toward conformity with Standard 3.2 through initiatives such as:

- **One Family/One Judge Case Assignment Policy.** The Family Court adopted a One Family/One Judge Case Assignment policy in 1994 in an effort to ensure greater judicial continuity for the family, more informed decisions and greater consistency in dealing with complex, interrelated family issues. However, as mentioned in the commentary above, the overwhelming volume and diversity of cases falling within the jurisdiction of Family Court has necessitated that the Court modify somewhat the One Family/One Judge Case Assignment methodology so that certain appropriate case types are assigned to the Court's Alternative Dispute Resolution Program (ADR) or intermediate-level hearing officers, such as Commissioners, for resolution.
- **Delaware Child Support Formula.** In 1979, the Family Court developed the Delaware Child Support Formula to ensure that child support orders would be consistent and equitable. The formula takes into consideration the incomes or earning capacity of both parents as well as the needs of the parents and of the children. The Delaware Child Support Formula is utilized at all hearing levels (Judge, Commissioner, Mediator) and provides predictability and consistency relative to one's support obligation. The automated support calculation is available to members of the Delaware Bar, and will soon be available to all litigants through the web site, to provide some advance indication of the support obligation to the parties.

- **Juvenile Dispositional Guidelines.** The Court, in 1992, adopted a uniform set of sentencing standards for delinquency cases. The Dispositional Guidelines for Juveniles considers both the seriousness of the adjudicated charge and the individual characteristics and treatment needs of the offender in reaching a presumptive level of placement. The sentencing judicial officer has the ability to place an offender at a specific level of security and specific treatment program based on the recommendations of the treatment specialists. The Guidelines provide a framework that ensures, to the greatest extent possible, that a juvenile will be treated with fairness and equality, irrespective of the county in which the case is tried.
- **Standard Visitation Schedule/Presumptive Order.** The Court adopted a standard visitation schedule, which serves as the presumptive order that provides predictability for litigants in assessing their options. The standard schedule provides significant contact for non-residential parents and is also the presumptive interim order for mediations not resulting in consent orders.

Standard 3.3 Clarity

The family court renders decisions that unambiguously address the issues presented to it and clearly indicates how compliance can be achieved.

Commentary

An order or decision that sets forth consequences or articulates rights but fails to tie the actual consequences resulting from the decision to the antecedent issues breaks the connection required for reliable review and enforcement. A decision that is not clearly communicated poses problems for the parties, agencies, and for judicial officers who may be called upon to interpret or apply it.

Standard 3.3 requires that it be clear how compliance with court orders and judgments is to be achieved. Dispositions for each charge or count in a criminal complaint, for example, should be easy to discern, and terms of punishment and sentence should be associated clearly with each count upon which a conviction is returned. Noncompliance with court pronouncements and subsequent difficulties of enforcement sometimes occur because orders are not stated in terms that are readily understood

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and capable of being monitored. An order that requires a minimum payment per month on a restitution obligation, for example, is clearer and more enforceable than an order that establishes an obligation but sets no time frame for completion. Decisions in civil cases, especially those unraveling tangled webs of multiple claims and parties, also should connect clearly each issue and its consequences.

Family court orders must often endure until a child reaches the age of majority or for the length of a relationship. Voluntary compliance is essential to the smooth running of the court. A significant number of the litigants are unrepresented and are uninformed as to court processes, and procedures, and fail to recognize the consequences of orders. The issues are complex, highly personal and often involve the safety and welfare of persons in significant peril, especially children. Family court orders will be read and interpreted by a multitude of individuals from the litigants to social workers to police officers called upon in the middle of the night to enforce the order of the court. For these reasons, and others, clarity of family court orders is of paramount importance.

The Family Court has developed and utilizes standardized forms of order in most areas of the Court's jurisdiction. Further, the Special Committee on Family Court Internal Operating Procedures, recognizing that the order effectiveness could be enhanced by appropriate forms of order, set forth the following recommendations:

- No judicial order should be handwritten.
- No order issued from the Family Court, other than stipulations or agreements prepared by the parties and approved by the Family Court, should be handwritten.
- The Family Court should designate, as a priority, the development of automated standard forms of orders covering the situations most frequently coming before the Family Court. The orders could expand on the standard form of order presently used for motions for temporary contact (visitation).
- One judicial officer in each county should be assigned to coordinate a continuing effort by the Family Court to improve, modify, and expand the Family Court's library of automated orders.

Courts should not direct that certain actions be taken or be prohibited and then allow those bound by their orders to honor them more in the breach than in the observance.

- The library of automated orders should be available to each judicial officer, and judicial officers should be encouraged to suggest ways to improve the orders on a continuing basis.
- The Family Court should organize and present mandatory training on the use of automated order forms.

Standard 3.4 Responsibility for Enforcement

The family court takes responsibility for the enforcement of its orders.

Commentary

Courts should not direct that certain actions be taken or be prohibited and then allow those bound by their orders to honor them more in the breach than in the observance. Standard 3.4 requires a family court to ensure that its orders are enforced. The integrity of the dispute resolution process is reflected in the degree to which parties adhere to awards and settlements arising out of them. Noncompliance may indicate miscommunication, misunderstanding, misrepresentation, or lack of respect for or confidence in the courts.

Obviously, a family court cannot assume direct and sole responsibility for the enforcement of all of its decisions and orders. Court responsibility for enforcement and compliance varies from jurisdiction to jurisdiction, program to program, case to case, and event to event. More often than not, responsibility is shared with one or more government departments or agencies. It is common and proper in some civil matters for a family court to remain passive with respect to judgment satisfaction until called on to enforce the judgment. Nevertheless, no family court should be unaware of or unresponsive to realities that cause its orders to be ignored. For example, patterns of systematic failures to pay child support and to fulfill interim criminal sentences are contrary to the purpose of the courts, undermine the rule of law, and diminish public trust and confidence in the courts. Monitoring and enforcing proper procedures and interim orders while cases are pending are within the scope of this standard.

Standard 3.4 applies also to those circumstances when a court relies upon administrative and quasi-judicial processes to screen and divert cases by using differentiated case management strategies and alternative dispute resolution. Noncompliance remains an issue when the

family court sponsors such programs or is involved in ratifying the decisions that arise out of them.

A family court, like courts of general jurisdiction, may rely on conventional means for enforcement of its orders. However, certain jurisdictional areas may require a family court to assume a greater role in ensuring that its orders are enforced. Unlike orders issued by courts of general jurisdiction, orders issued by a family court predominantly address critical issues concerning the welfare of a child or protection of a victim in a domestic dispute. Failure by the court to aggressively ensure strict compliance with its orders can have catastrophic consequences for children and families.

- **Conventional Means of Monitoring and Enforcement.**

Delaware's Family Court relies on executive branch agencies such as the Probation and Parole Division of the Delaware Department of Correction, the Division of Youth Rehabilitative Services within the Department of Services for Children, Youth and Their Families, and the Division of Child Support Enforcement within the Department of Health and Social Services to monitor and enforce compliance with Family Court orders pertaining to adult criminal, juvenile delinquency and child support matters respectively. Of course, the Court also relies on the parties themselves to monitor and enforce compliance with the Court's orders.

- **Family Court Initiated Monitoring and Enforcement.** The Family Court has concluded that in some jurisdictional areas it is necessary for the Court to develop processes and procedures to monitor compliance with its orders. The Court's civil Protection From Abuse and child welfare jurisdictional areas, as well as its criminal domestic violence jurisdiction, represent examples of jurisdictional areas where the court has recognized a need and has become more proactive in ensuring that compliance with court orders is actively monitored and enforced.

Failure by the court to aggressively ensure strict compliance with its orders can have catastrophic consequences for children and families.

In 1995, the Delaware Supreme Court was awarded a Court Improvement Project grant to access and improve how courts within the State handle cases involving foster care, termination of parental rights and adoptions. In May of 1997 the Court Improvement Project report was issued which included a series of recommendations for improvement which included significant enhancement of the oversight role of the court and

expedited timeliness in child welfare cases. Implementation of the recommendations has begun.

In 1995, the Family Court, in conjunction with the law enforcement community, developed the nation's first automated, statewide system for issuing Protection From Abuse Orders and for on-line monitoring for compliance with specific provisions set forth in the Orders. The law enforcement community and all Delaware Courts have twenty-four-hours/seven-days-a-week on-line access to Family Court's Protection From Abuse Orders. The system also issues "notices" to the appropriate law enforcement agency when a party fails to comply with certain provisions of the court order within specified time frames.

Similar to the Dispositional Guidelines for Juveniles, adult defendants are sentenced in conformity with the Delaware Sentencing Accountability Commission (SENTAC) Guidelines. A special category for domestic violence offenses provide enhanced presumptive sentences within the statutory limits.

- **Expeditious Court Processes.** In order to ensure that matters brought before the court concerning enforcement of court orders are addressed expeditiously, the Family Court is considering the implementation of a two-tiered process for handling "Rule to Show Cause" petitions. Under the two-tiered process, all Rules to Show Cause are first heard by an intermediate-level hearing officer such as a commissioner within fifteen days of filing. The bulk of the cases can be quickly and successfully resolved at this level. However, the more complex cases which cannot be resolved at the first tier are assigned to the judge whose original order is in dispute. Reducing the number of Rules to Show Cause, which must be scheduled for a hearing before a judge, promotes more expeditious and effective enforcement of court orders.

Standard 3.5 Production and Preservation of Records

Records of all relevant family court decisions and actions are accurate and properly preserved.

Commentary

Equality, fairness, and integrity in family courts depend in substantial measure upon the accuracy, availability, and accessibility of records. Standard 3.5 requires that family courts preserve an accurate record of their proceedings, decisions, orders, and judgments. Relevant court records include indexes, dockets, and various registers of court actions maintained for the purposes of inquiry into the existence, nature, and history of actions at law. Also included are the documents associated with cases that make up official case files as well as the verbatim records of proceedings.

Preservation of the case record entails the full range of responsible records management practices. Because records may affect the rights and duties of individuals and families for generations, their protection and preservation over time are vital. Record systems must ensure that the location of case records is always known, whether the case is active and in frequent circulation, inactive, or in archive status. Inaccuracy, obscurity, loss, or untimely availability of court records seriously compromises court integrity and subverts the judicial process.

The management and preservation of the case record, including exhibits and recordings of court proceedings, present a unique challenge in the family court setting. In many courts of general jurisdiction, the "case record" is just that: pleading(s), court order(s), indexes, dockets, and verbatim records of court proceedings which pertain to a single cause of action brought before the court for resolution. This type of case record has a clearly identifiable start and end in terms of the "records management life cycle" (records creation through archival). Additionally, once the litigation is concluded, the litigants often have no further contact with the general jurisdiction court. Management preservation and archiving of the court's record in this type of setting, while still very demanding, is far less complex than in the family court setting.

The family court jurisdiction encompasses litigation between or among family members on matters such as child custody, visitation and support, which can last, quite literally, from the birth of a child to the age of majority. Accordingly, the "life cycle" of the "case record" in the family court setting can span many years and necessitates special consideration in formulating a family court's records management program. The sheer longevity of domestic relations litigation will significantly increase the need to access the court record over the life of the case.

Litigation in the family court setting may involve multiple matters litigated virtually simultaneously; whether as a result of a single set of

Equality, fairness, and integrity in family courts depend in substantial measure upon the accuracy, availability, and accessibility of records.

[T]he "life cycle" of the "case record" ... necessitates special consideration in formulating a family court's records management program

litigants bringing multiple pleadings before the court for resolution, such as child custody, visitation and support, or as a result of multiple "sets" of litigants filing single pleadings relating to the same family issues, such as grandparents' petition for visitation, natural parents' petition for custody, custodial parents' petition for child support, the Division of Family Services' dependency/neglect petition, etc. The reality is that in the family court setting, multiple matters may be litigated virtually simultaneously as a result of differentiated case management practices (i.e., the child dependency/neglect petition before a judge, the child support petition before a commissioner, and lastly the custody and visitation matters before a mediator). As a result, multiple individuals (judges, commissioners, mediators, attorneys, self-represented litigants, court staff, agency staff, *et al.*) need access to the court records seemingly at the same time. However, none can make do with just a single portion of the record. The challenge of how to organize the multitude of documents that will come to comprise the court record and ensure its accessibility to all who may need access while providing for the security of the court record is substantial in a family court setting.

Issues of "confidentiality" also complicate the records management in the family court setting. The court record must be accessible to those authorized to have access while ensuring that "confidentiality" is maintained. This presents a significant challenge to the clerks charged with custodial responsibilities over the court's records. In many jurisdictions, certain aspects of the domestic relations jurisdiction remain confidential while other jurisdictional areas are matters of public record (see Standard 1.1). Recognizing this is essential when developing a records management program in the family court setting.

The Family Court in Delaware has undertaken a number of records management initiatives in order to ensure that the Court's records are accurate, accessible, and properly preserved.

- **Uniform Statewide Filing System Standards.** The Family Court developed a uniform statewide filing system which standardizes the construction and organization of the case file. The filing system standards address such issues as what documents are to be "tabbed" and "docketed"; where within the case files certain document types are to be housed; how individual case files are to be numbered, etc. Knowing that the Family Court will be dealing with paper records for the foreseeable future, we have invested in creating standards on how to manage those records during the active life cycle of the

case record so the Court's records are both accurate and accessible.

- **Uniform Statewide Archiving Program.** In order to ensure that "inactive" court records are properly preserved and yet accessible, the Family Court has developed a uniform, statewide archiving program. The archiving program establishes standards pertaining to issues such as: which documents are "permanent" and thus must be preserved and which documents are "temporary" and can be discarded once the record has reached the end of its "active life cycle"; how long certain types of records are to be retained prior to archiving; acceptable media for archived records; retention periods for tape-recorded records of court hearings. The Court fully assumes responsibility for both its "active" and "inactive" records.
- **File Tracking System.** Given the multiple demands for information from the manual case file and the requirement that the court's record be readily available, the Family Court has developed an automated case file tracking system utilizing "bar-code" technology that has greatly improved the Court's ability to know the exact location of the case record and to make that record timely available upon inquiry.
- **Automated Case Management System.** The Family Court recognizes that the manual case record cannot completely satisfy in a timely fashion all the competing demands for information regarding a particular case. Accordingly, the Family Court has invested heavily in the development of automated case management systems. Increasingly, case-related information can be provided on-line via computer without the need to retrieve the Court's manual record. Relying on automated case management systems not only results in more timely responses to requests for information but also means that the manual record does not have to be referenced. Accordingly, wear and tear on the manual record is reduced, the official Court record is better protected when left in the file room, and lastly, the location of the record is more predictable and more readily available if and when needed. The Court also recognizes the applicability of imaging technology as a way to provide access to information while protecting official court documents.

- **Security.** The Family Court recognizes the importance of securing the Court's record in order to mitigate against theft, destruction or alteration. Accordingly, the Court has initiated strict procedures governing access and review of Court records (files and recordings). Additionally, Court files must be reviewed in the presence of Court staff, and a videotape record of all transactions at the Records counter is maintained.

Independence and Accountability

General Commentary

The judiciary must assert and maintain its distinctiveness as a separate branch of government. Within the organizational structure of the judicial branch of government, family courts must establish their legal and organizational boundaries, monitor and control their operations, and account publicly for their performance. Independence and accountability permit government by law, access to justice, and the timely resolution of disputes with equality, fairness, and integrity; and they engender public trust and confidence. Family courts must both control their proper functions and demonstrate respect for their coequal partners in government.

Because judicial independence protects individuals from the arbitrary use of government power and ensures the rule of law, it defines court management and legitimates its claim for respect. A family court possessing institutional independence protects its judicial officers and managers from unwarranted pressures. A family court, more than any other segment of a judicial branch shares responsibility with other governmental agencies in ordering treatment and services as well as monitoring compliance with those orders. Balancing the need for interagency collaboration with the independence of the judicial branch is one of the major challenges facing a family court.

Independence carries with it the duty of accountability. Standards of performance in the area of Independence and Accountability require that family courts acknowledge this duty and operate in accordance with its assigned responsibilities and jurisdiction within the State judicial system. Independence is not likely to be achieved if the family court is unwilling or unable to manage itself. Accordingly, the family court must establish and support effective leadership, operate effectively within the State court system, develop plans of action, obtain resources necessary to implement those plans, measure its performance accurately, and account publicly for its performance.

The five standards in the performance area of Independence and Accountability combine the principles of separation of powers and judicial independence with the need for comity and public accountability. Standard 4.1 requires the family court to exercise authority; to manage its overall caseload and other affairs; and to realize the principles of separation of powers, interdependence of the executive, legislative, and

Balancing the need for interagency collaboration with the independence of the judicial branch is one of the major challenges facing a family court.

judicial branches of government, and comity in its governmental relations. Standard 4.2 requires a family court to seek adequate resources and to account for their use. Standard 4.3 extends the concept of equal treatment of litigants to the court's own employees by requiring every trial court to operate in accordance with personnel practices and decisions that are free of bias on the basis of race, religion, ethnicity, gender, sexual orientation, color, age, handicap, or political affiliation. It requires family courts to practice what they preach. Standard 4.4 requires the family court to inform the public of its programs and activities. Finally, Standard 4.5 acknowledges that the court's organizational character and activities must allow for adjustments to emergent events, situations, and social trends. There is an inherent tension between Standard 4.1 and Standard 4.5, particularly as applied to family courts. Maintaining judicial independence in an age of interagency collaboration requires creative interaction with other agencies in addressing emerging issues tempered with respectful consideration of the independence of each branch of government. Striking the proper balance is one of the major challenges facing a family court.

Commentary on Performance Measurement

In contrast to the measurement approach taken in the other four performance areas – which is largely *prescriptive* in its detailing of specific measures and indices – the measurement approach in the area of Independence and Accountability is largely *heuristic*. That is, rather than defining specific measures of performance, it requires methods by which a court proceeds along empirical lines to identify the people, events, and activities needed to develop valid and feasible performance measures to assess independence and accountability. And rather than initially taking a specific measurement, the court engages in a process that will allow it to make inferences about its performance based on empirical results. Field tests and demonstrations of experimental measurement approaches for the standards indicated that performance assessment in this area is highly context-driven. Differences in the sizes of courts, the statutory frameworks governing court funding, and the structural arrangements of essential justice system services make it very difficult to prescribe detailed measurement approaches.

The measures should be undertaken only following the formation of a steering committee of judges and court managers. This group will be involved in planning data collection, considering the significance of the results, and integrating the findings from all the measures into an overall view of court performance in this area. Structured group techniques, such as the Nominal Group Technique and Ideawriting, led by a skilled

facilitator, are recommended to save time during steering committee meetings and to maximize objectivity in the committee's work. The use of the steering committee, in conjunction with research efforts that may be undertaken by court staff or consultants combine fact gathering, value clarification, decision making, and action.

Standard 4.1 Independence and Comity

The family court maintains and defends its institutional integrity and observes the principle of comity in its governmental relations.

Commentary

For a family court to endure in both its role as preserver of legal norms and as part of a separate branch of government, it must develop and maintain its distinctive and independent status. It also must be conscious of its legal and administrative boundaries and vigilant in protecting them.

Effective family courts resist being absorbed or managed by the other branches of government. A family court compromises its independence, for example, when it merely ratifies plea bargains, serves solely as a revenue-producing arm of government, or perfunctorily places its imprimatur on decisions made by others. Effective court management enhances independent decisionmaking by family court judges.

The court must achieve independent status, however, without damaging the reciprocal relationships that it maintains with others. Family courts are necessarily dependent upon the cooperation of other components of the justice system, executive branch agencies and affiliates over which they have little or no direct authority. For example, elected clerks of court are components of the justice system, yet in some matters many function independently of family courts. Sheriffs and process servers perform both a court-related function and a law enforcement function. If a family court is to attain institutional independence, it must clarify, promote, and institutionalize effective working relationships with other components of the justice and social service systems. The boundaries and effective relationships between the family court and other segments of the justice and social service systems must therefore be apparent both in form and in practice.

The Family Court was established as a dual court/social service agency blurring the lines of responsibility between decision making and

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Some of the most difficult problems with independence for the Family Court result from legislative mandates and expectations of non-judicial actions by the court.

providing services for the "clients." (Even the use of the term "client" in referring to its litigants invokes an expectancy of personal, rather than judicial, advocacy by the Family Court.) In 1983, the treatment services components of the Family Court were transferred to the newly created Department of Services for Children, Youth and Their Families. Both the Court and the Department struggled with the transition of services to the executive branch agency, leaving the Court to order services it would no longer provide. In 1992, the Family Court changed its philosophy from the dual court/social service agency to the role of decision maker and gatekeeper. Referred to as the "court with a social conscience," the Family Court embraced its primary role in deciding facts, applying the law, and ordering equitable relief.

This fundamental change had external effects, as well, on the various agencies that interact with the court including prosecutors, defense counsel, the private bar, child protection agencies, child support enforcement agency, probation and parole, police, schools, and victim advocates. Today, the Court continues to rework its processes to reflect this philosophy. Assistance for litigants is moving from provision of intake services toward provision of information necessary for filing. Protocols describing how the Court will process certain actions are developed, rather than memoranda of understanding committing the Court to decide matters in a set manner, accentuating the independence of the court while recognizing the need for interagency collaboration.

Some of the most difficult problems with independence for the Family Court result from legislative mandates and expectations of non-judicial actions by the court. Laws that require the Family Court to assist petitioners in completing petitions, for example, may create an appearance of impropriety. Expectations that the Court should seek and receive relevant information outside the courtroom and pleadings conflict with the evidentiary and ethical rules key to an independent judiciary. In an effort to respond and redirect these expectations and mandates, the Family Court has established links between court staff and legislative staff to share their problems and to work toward proper solutions where possible. Representatives of the Family Court, both judicial and non-judicial, actively participate in commissions and task forces to provide information while reinforcing judicial independence where required.

This refocusing to a proper judicial perspective without abrogating responsibility for dealing with the individual needs and circumstances of its litigants has been key to the success of the Family Court as an independent unified family court.

Standard 4.2 Accountability for Public Resources

The family court responsibly seeks, uses, and accounts for its public resources.

Commentary

Effective court management requires sufficient resources to do justice and to keep costs affordable. Standard 4.2 requires that a family court responsibly seek the resources needed to meet its judicial and administrative responsibilities, to use those resources prudently (even if they are inadequate), and to account for their use. Effective family courts utilize a formal budgeting process supported by clear, measurable standards. Family court priorities often are not fully understood by those unfamiliar with the unique characteristics of a family court. Even with the general judiciary, family court priorities and justification for requests must be clearly set forth in the budgeting process.

Family courts must use available resources wisely to address multiple and often conflicting demands. Resource allocation to cases, categories of cases, and case processing are at the heart of family court management. Assignment of judges and other hearing officers and allocation of other resources must be responsive to established case processing goals and priorities, implemented effectively, and evaluated continuously.

Of course, accountability encompasses more than expenditure of public funds. The family court must be accountable to the appellate courts by ensuring its decisions are consistent with the law and within the boundaries of its constitutional and statutory authorization. The family court must be accountable to the parties by scheduling, hearing, and deciding cases within timeframes that are reasonable in light of the nature of the case and the requirements of due process. The family court must be accountable to those presenting cases, both attorneys and self-represented litigants, by adhering to the rules that govern its procedures. The family court must be accountable to the children who are the subject of litigation by ensuring their best interests are presented independently to the Court. Finally, the family court must be accountable to the general public for its trust and confidence by responding to inquiries and concerns in a timely and respectful manner.

The requirement of accountability also reaches beyond what dollars and numbers alone can express. It includes integrity, honesty, and

Effective family courts utilize a formal budgeting process supported by clear, measurable standards.

persuasion in communicating the ideals of justice and requires authentic and strong leadership.

The Family Court of the State of Delaware addresses accountability on each of the levels in specific ways:

- **Accountability for Decisions.** The Court issues sound decisions that can be appealed swiftly and at a reasonable cost – both in terms of procedure and financial resources – to the litigants through reviews of commissioners’ orders, *de novo* appeals in criminal cases, and responsible use of motions for reconsideration. Final orders of judges in all civil cases are appealed directly to the Supreme Court.
- **Scheduling of Cases.** The Court views time from the perspective of the persons affected by the ultimate decision. Time specific standards for cases involving children-at-risk, child protection, termination of parental rights, and adoption accentuate this concern. (See Appendix B) One year in the life of an infant is literally a lifetime. Changes in the processing of termination of parental rights petitions are illustrative. The Court recently adopted the practice of assigning a hearing date upon filing of the petition. The notice of the hearing date is served along with the petition. In cases where publication is necessary, personal jurisdiction and notice of hearing date are contained in a single notice published once per week for three successive weeks. This change reduced termination of parental rights case processing by seven weeks and ultimate disposition by up to seven months.
- **Representation and Rules.** The Family Court has a Rules Committee that includes practicing attorneys. Additionally, the Court has a liaison with the Family Law Section of the Delaware State Bar Association to discuss practice concerns. Videos are available for self-represented litigants to explain the courtroom process. Packets containing the required forms for specific filings are available through the Court intake office. The Court is considering specific timeframes for deciding motions.
- **Best Interests of Children.** The Family Court assumes the parents in custody cases will present the children’s wishes and best interests. Additionally, the Court may interview children in chambers to determine their wishes. The Court will appoint

guardians *ad litem* for the children when it becomes apparent that the parents are unable to adequately present the issues for the children. In dependency/neglect and termination of parental rights proceedings, the presumption is reversed as the parents are alleged to be acting against the best interests of the children. In these cases, a guardian *ad litem* must be appointed for each child. The Court uses volunteer Court Appointed Special Advocates (CASA) extensively to represent the child's best interests. In delinquency cases, the Court receives recommendations from the Division of Youth Rehabilitative Services committees that review possible placement alternatives based on the needs of the child.

- **General Public.** The Family Court has a formal complaint process to receive, review, and respond to concerns and complaints about the Family Court. The Court adopts a non-defensive posture, remaining open to the constructive criticism that presents opportunities for growth and improvement.
- **Business Practices and Budgeting.** The Delaware Judiciary as a whole submits an annual operating budget request to the General Assembly and the Governor. The Governor reviews the submission of all State agencies and submits a proposed budget for the State to the Legislature. A Legislative Joint Finance Committee conducts hearings on the Governor's proposed budget, receiving presentations from, and asking questions of, the heads of each department and the Judicial Branch. After a period of deliberation, the Committee reconvenes to revise the Governor's proposed budget for introduction as an appropriations bill. Major capital expenditures are developed through a Bond Bill process in the legislature. Consequently, all requests for judicial resources, both monetary and personnel, are filtered through the other two branches of government.

In order to maximize the available resources and present the strongest argument for required resources, the Family Court develops its budget request through an internal process of gathering requests, assessing needs, and setting priorities. In 1998, the Special Committee on Family Court Internal Operating Procedures, established by the Supreme Court of Delaware, undertook a year-long study of case management from judicial assignment through disposition. The study resulted in time standards for each stage of judicial

case processing. Employing a modified Delphi technique, the Committee proposed a methodology for determining the need for judicial resources to meet the proposed standards. (See Appendix B) Similar efforts continue in developing time-specific standards for case processing prior to judicial assignment.

Legislative initiatives on the State and Federal levels impact current and future resource needs of the Family Court. Responsible court management requires that initiatives are analyzed for fiscal and operational impact on the Court. The Family Court centralizes this function in its administrative office. A daily review of legislation identifies those bills affecting the Court. Impact statements are prepared and submitted to the Administrative Office of the Delaware Courts and Budget Office. This process has increased the Court's ability to predict its needs and to respond responsibly to the legislature. As a result of this working relationship, legislators often send draft legislation to the Court for review and comment prior to final drafting.

Court
personnel
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decisions
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highest
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personal
integrity and
competence
among its
employees.

Standard 4.3 Personnel Practices and Decisions

The family court uses fair employment practices.

Commentary

The family court stands as an important and visible symbol of government. Equal treatment of all persons before the law is essential to the concept of justice. Extended to the court's own employees, this concept requires every family court to operate free of bias – on the basis of race, religion, ethnicity, gender, sexual orientation, color, age, handicap, or political affiliation – in its personnel practices and decisions.

Fairness in the recruitment, compensation, supervision, and development of court personnel helps ensure judicial independence, accountability, and organizational competence. Court personnel practices and decisions should establish the highest standards of personal integrity and competence among its employees.

Delaware's state courts use one of two personnel systems. Some use a judicial branch personnel system partially administered by Delaware's Administrative Office of the Courts. Other courts, including the Family Court, are part of the State Merit System administered by the State Personnel Office. The vast majority of positions in the Family Court are "merit" positions requiring adherence to formal policies for posting

vacancies, screening, interviewing, hiring, compensating, rewarding, and disciplining employees. A small number of positions are "exempt" from the merit system wherein employees serve at the pleasure of the Court due to the nature of their function requiring confidence and trust in the incumbent.

The Family Court is dedicated to employee development. It reinforces the belief that a court cannot be perceived as being fair in its judicial decisions if there is not fairness in its hiring and personnel practices. Beyond the formal requirements of the State Merit System, the Family Court developed an orientation program for all new employees that provides them with necessary information on the operations of the Court and their position within the system. Judicial officers and managers participate in an extensive two-week orientation program that includes visits to each courthouse, meetings with key judges and managers, and mentoring for new judges. The Court presently is working on job-specific competency training checklists that will increase the confidence of the employees and provide measurable benchmarks for employee development.

Since 1992, the Family Court has adopted an internal hiring policy allowing in-house candidates to apply for vacancies prior to external posting. Supervisor and employee development training programs on customer service have focused on fellow employees as internal customers. A staff initiated program, "Courting Quality", includes initiatives such as tuition reimbursement and career ladders within the Delaware Court System to enhance promotional opportunities for clerical employees.

Standard 4.4 Public Education

The family court informs the community about its programs.

Commentary

Most members of the general public do not have direct contact with the courts. Information about the courts is filtered through the media, lawyers, litigants, jurors, political officeholders, family court employees, and employees of other components of the justice and social service systems. Public opinion polls indicate that the public knows very little about the courts, and what is known is often at odds with reality. Community outreach through education is a responsibility that enhances the family court's independence and accountability.

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Standard 4.4 requires family courts to inform and educate the public. Effective informational brochures and annual reports help the

...[S]elf-represented litigants present special problems in managing, presenting, and deciding cases

public understand and appreciate the administration of justice. Participation by court personnel in public affairs commissions also is effective. Moreover, family courts can effectively educate and inform the public by including able public representatives on advisory committees, study groups, and boards.

The Family Court recognizes that self-represented litigants present special problems in managing, presenting, and deciding cases. Whether referred to as *pro se*, *pro per*, or unrepresented litigants, those unaccustomed to the legal process and its requirements are easily frustrated. Family law cases can continue for years and the costs of representation often are beyond the means of many citizens. Delaware has joined the ranks of other States in developing *pro se* services to provide information to litigants in understandable, non-legal terms. From handouts on frequently asked questions to videos on presenting a specific type of case in court, the Family Court attempts to provide as much accurate and understandable information as possible within the limits of propriety. (See Standard 1.3, "Effective Participation.")

The Family Court educates the public through participation on community boards, commissions and task forces. A web page contains essential information on the Court and its forms and process. Judges, commissioners, and administrators regularly make presentations to community groups, schools, representatives of the legislature, and other interested individuals and groups. Ignorance of the requirements of due process, fundamental fairness, and the role of an impartial decision maker is perhaps the greatest threat to the Court's authority. A proactive approach to education helps litigants understand the process, enhancing confidence in the system and supporting its independence.

Effective family courts are responsive to emergent public social issues...

Standard 4.5 Response to Change

The family court anticipates new social conditions and emergent events and adjusts its operations as necessary.

Commentary

Effective family courts are responsive to emergent public social issues such as drug abuse, child and spousal abuse, domestic violence, concerns of the aging, AIDS, drunken driving, child support enforcement, crime and public safety, consumer rights, gender bias, and the more efficient use of fewer resources. Standard 4.5 requires family courts to recognize and respond appropriately to such public issues. A family court

that moves deliberately in response to emergent issues is a stabilizing force in society and acts consistently with its role of maintaining the rule of law.

Courts can support, tolerate, or resist societal pressures for change. In matters for which the family court may have no direct responsibility, but nonetheless may help identify problems and shape solutions, responsiveness means the family court takes appropriate actions to inform responsible individuals, groups, or entities about the effects of these matters on the judiciary and about possible solutions.

The independence and accountability of the family court place the court in a position of responsibility and trust unique in its role as a court with a social conscience. Issues that comprise family law touch the heart of society. Factors that threaten the stability of families require swift attention and fully informed action. Domestic violence is one of these issues that has required much of the Family Court's attention. Delaware has come from the position as the last state in the Nation to enact a civil protection order for victims of domestic violence, to a national leader in addressing domestic violence efficiently and effectively. The statewide Family Court is the only court in the Nation with an automated system that creates protective orders and places them on an electronic registry available to every police officer in the State at the time the order is granted in the courtroom.

Domestic violence is but one of the many emerging issues that face family courts. In response to other threats to families, the Court initiates or participates in many action plans such as child death review panel and fatal incident response teams, a heroin task force, combating underage drinking conferences, recruiting Court Appointed Special Advocate (CASA) volunteers to represent abused, neglected, and dependent children, AIDS awareness through art displays, automobile theft reduction measures, specialized calendars for school cases of delinquency, speakers bureaus, stalking focus groups, and developing plans for addressing truancy.

Public Trust and Confidence

General Commentary

Compliance with law depends, to some degree, on public respect for the court. Ideally, public trust and confidence in family courts should stem from the direct experience of citizens with the courts. The maxim "Justice should not only be done, but should be seen to be done!" is as true today as in the past. Unfortunately, there is no guarantee that public perceptions reflect actual court performance.

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Family courts serve several constituencies, and all should have trust and confidence in the courts. These constituencies vary by the type and extent of their contact with the courts. At the most general level is the local community, or the "general public" – the vast majority of citizens and taxpayers who seldom experience the courts directly. A second constituency served by family courts is a community's opinion leaders (e.g., the local newspaper editor, reporters assigned to cover the court, the police chief, local and State executives and legislators, representatives of government organizations and social service agencies with power or influence over the courts, researchers, and members of court watch committees). A third constituency includes citizens who appear before the court as attorneys, litigants, jurors, or witnesses, or who attend proceedings as representatives, family friends, or victims of someone before the court. This group has direct knowledge of the routine activities of a court. The last constituency consists of judicial officers, other employees of the court system and allied agencies, and lawyers – both within and outside the jurisdiction of the family court – who may have an "inside" perspective on how well the court is performing. The trust and confidence of all these constituencies are essential to family courts.

The central question posed by the three standards in this final area is whether family court performance – in accordance with standards in the areas of Access to Justice; Expedition and Timeliness; Equality, Fairness, and Integrity; and Independence and Accountability – actually instills public trust and confidence. Standard 5.1 requires that the family court be perceived by the public as accessible. Standard 5.2 requires that the public believe that the family court conducts its business in a timely, fair, and equitable manner and that its procedures and decisions have integrity. Finally, Standard 5.3 requires that the family court be seen as independent and distinct from other branches of government at the State

and local levels and that the court be seen as accountable for its public resources.

Ideally, a family court that meets or exceeds these performance standards is recognized by the public as doing so. In fulfilling its fundamental goal of resolving disputes justly, expeditiously, and economically, the court will not always be on one side of public opinion. Nevertheless, where performance is good and communications are effective, public trust and confidence are likely to be bolstered. When public perception is distorted and understanding unclear, good performance may need to be buttressed with educational programs and more effective public information. In addition, because in some instances a court may be viewed as better than it actually is, it is important for courts to rely on objective data and public perceptions in assessing court performance.

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Commentary on Performance Measurement

The three standards in this performance area are associated with 14 measures, all but three of them drawn from the other performance areas. Because a court's performance with regard to public trust and confidence is dependent, in large part, on its performance in other performance areas like access to justice and fairness and equality, several of the measures rely on *informed* opinions (i.e., opinions of individuals who have had contact with the court). For example, in Measure 1.2.6, Evaluation of Accessibility and Convenience by Court Users, the ease and convenience of conducting business with the court is measured through a survey of regular court users — court employees, attorneys, probation officers, and jurors.

This performance area includes three measures that specifically address Standards 5.1, 5.2, and 5.3. These measures are presented under Standard 5.1 and are referred to in the overviews of the other two standards in *Trial Court Performance Standards and Measurement System Implementation Manual*.ⁱⁱⁱ The measures include 5.1.1, Court Employees' Perceptions of Court Performance, 5.1.2, Justice System Representatives' Perceptions of Court Performance, and 5.1.3, General Public's Perceptions of Court Performance. The first measure is conducted through a mailed survey to court employees, the second through a modified focus group with representatives of the various components of the justice system, and the third via a telephone survey of the general public.

Measures 5.1 and 5.2 provide the court with the most useful information for developing an action plan for improving performance in the area. The third measure provides a benchmark of the public's

Measures 5.1 and 5.2 provide the court with the most useful information for developing an action plan for improving performance in the area.

A family court should not only be accessible to those who need its services but also be perceived as accessible by those who may need its services in the future.

perception of overall performance. The benchmark will serve as a gauge for comparing the results of future surveys of public perception. However, because the general public has little firsthand information about trial courts, the results of the measure provide only limited help in developing an action plan for improvement.

A court undertaking measures in this area may find it helpful to work with professionals skilled in research design (e.g., a marketing research group or professors of research methodology). This is particularly true for the survey of the general public. The methodologist could also help court officials weigh the benefits and costs of conducting the measures and discuss alternatives that address more specific needs of the court and its community. For example, if the court is particularly concerned with the perceptions of the media, it may prefer to focus its attention and resources on that public. A small town hall meeting with members of the media to obtain their perceptions of court performance may be a better approach for gauging public trust and confidence for this court. Similarly, a court might determine, based on the results of measures in other areas, that a follow up study of the perceptions of attorneys or jurors may be warranted. In that case, the court, with the help of the research methodologist, might modify the survey or focus group measures to better address the population of interest. The court also could explore other options (e.g., interviews) for obtaining specific information of interest.

Finally, it is important to note that the measures in this area examine individuals' perceptions of court performance with regard to the court's administration and operation. They do not examine the extent of public agreement with individual case decisions made by the court.

Standard 5.1 Accessibility

The public perceives the family court and the justice it delivers as accessible.

Commentary

The five standards grouped in the area of Access to Justice require the removal of barriers that interfere with access to family court services. Standard 5.1 focuses on the perceptions of different constituencies about court accessibility. A family court should not only be accessible to those who need its services but also be perceived as accessible by those who may need its services in the future.

Findings in recent surveys by the American Bar Association, National Center for State Courts, and Connecticut Commission on Public Trust and Confidence validated the results of an informal survey of Family Court litigants in New Castle County. The snapshot survey indicated that coming to the Family Court was inconvenient and an intimidating process for most of the individuals questioned. Furthermore, litigants reported feeling confused and worried due to difficulties navigating around the city, finding their way to the Family Court, knowing the length of time required to be set aside for proceedings, securing parking, and in general, uncertainty regarding procedures. Most litigants planned on proceeding without counsel, but nearly all of those indicated that they did not know exactly what to do and would hire counsel if they could afford to do so.

The following actions are being considered or implemented by the Family Court to address Standard 5.1:

- Arrangements with a local parking company whereby litigants could park free-of-charge by submitting vouchers provided by the Family Court.
- Eased congestion on the busy floors of the Family Court by using existing Domestic Violence intakes in local magistrate (Justice of the Peace) courts as makeshift satellite locations.
- Uniform training for Family Court personnel and requirements for internal strict compliance with established procedures regarding self-represented litigants.
- Improving the appearance of the Family Court's physical plant in New Castle County while awaiting completion of a new courthouse.
- Improvements in the layout of the court buildings, signage, and organization of work areas according to case types designed to make the Family Court more "litigant friendly."
- Installation of additional vending machines and pay phones on each floor of the Family Court buildings.
- Development of "child friendly" spaces to accommodate children, and reduce noise and commotion.

Standard 5.2 requires a family court to instill in the public trust and confidence that basic court functions are conducted in accordance with the standards in the areas of Expedition and Timeliness and Equality, Fairness, and Integrity.

- Conveniently located computer terminals available to litigants who wish to search for and review of specific records in their case files.
- Creation of triage stations in all intake locations.

Standard 5.2 Expeditious, Fair, and Reliable Court Functions

The public has trust and confidence that basic family court functions are conducted expeditiously and fairly, and that court decisions have integrity.

Commentary

As part of effective court performance, Standard 5.2 requires a family court to instill in the public trust and confidence that basic court functions are conducted in accordance with the standards in the areas of Expedition and Timeliness and Equality, Fairness, and Integrity. There should be no unnecessary delay in dispensing even-handed justice.

Letters of complaint received by the Family Court indicate that public misunderstanding of laws, rules and procedures is the most common cause of a lack of public trust and confidence in the court. In order to address this and other problems highlighted by this standard, the Family Court is considering or implementing the following actions:

- Educational videos that explain due process, case processing, and other legal requirements in common types of Family Court cases.
- Informational pamphlets on a variety of topics made available to litigants and other court users.
- Improved communications (*e.g.*, by effective use of new technology and increased personal contacts) with litigants in the courthouse about schedules and anticipated delays in case processing.
- Teams of judicial officers, assistants and secretaries dedicated to the expedition of criminal pleas and consents to civil protection orders.
- The reassessment of the status of a case at each stage of processing (*e.g.*, mediators identifying cases with complex issues that may require extended hearings by a judge or commissioner).
- Active participation in the community by Family Court judges and personnel (*e.g.*, speaking to community groups, writing articles and editorials, teaching classes at various educational levels).

- Expansion of the courtroom monitoring program, "Court Watch." (See Commentary, Standard 1.4, "Courtesy, Responsiveness and Respect.")

Standard 5.3 Judicial Independence and Accountability

The public perceives the family court as independent, not unduly influenced by other components of government, and accountable.

Commentary

The policies and procedures of the family court, and the nature and consequences of interactions of the family court with other branches of government and non-profit or private social service agencies affect the perception of the court as an independent and distinct branch of government. A family court that establishes and respects its role as part of an independent branch of government and diligently works to define its relationships with the other branches presents a favorable public image. Obviously, the opinions of community leaders and representatives of other branches of government are important to perceptions of the court's institutional independence and integrity. Perceptions of other constituencies (e.g., those of court employees) about court relationships with other government agencies, its accountability, and the role within the community also should not be overlooked as important contributions to a view of the court as both independent and accountable.

Because of their subject matter jurisdiction, family courts must interact more frequently than other courts with social service agencies and other public, non-profit and private organizations and their representatives. Comments made by litigants to Family Court staff suggest that the general public often is not able to distinguish and often confuses these agencies and organizations, their representatives and their role in the Court. This problem is exacerbated when the organizations and agencies are identified by acronyms and initials that create a veritable alphabet soup— DCSE, DFS, DYRS, DSCYF, HSS, APS, TASC, and ICPC - and their representatives must conduct their business in court in cramped and non-private spaces in the courthouse. If nothing else, this problem creates an appearance of impropriety, and a resulting erosion of public trust and confidence in the Family Court. In order to address this problem and other issues raised by Standard 5.3, the Family Court has implemented or is considering the following:

A family court that establishes and respects its role as part of an independent branch of government and diligently works to define its relationships with the other branches presents a favorable public image.

- Requiring all agency and organization representatives that appear in the Family Court to wear nametags clearly identifying their affiliations.
- Providing appropriate workspace in the Family Court for lawyers and self represented litigants to interview witnesses and to prepare their cases.
- Increasing the Family Court's favorable media presence by a series of articles describing the working relationships between the Family Court and the various agencies and organizations associated with it.
- Building a working relationship with a committee of the Delaware Bar Association charged with the responsibility of responding to the media in instances when articles or broadcasts describe the Family Court in terms that are unfairly or improperly critical.

ⁱ Commission on Trial Court Performance Standards, *Trial Court Performance Standards With Commentary*, Washington, DC: U.S. Department of Justice, Bureau of Justice Assistance, July 1997 (NCJ 161570); Commission on Trial Court Performance Standards, *Trial Court Performance Standards and Measurement System Implementation Manual*, Washington, DC: Department of Justice, Bureau of Justice Assistance, July 1997 (NCJ 161567); Commission on Trial Court Performance Standards, *Trial Court Performance Standards and Measurement System – Program Brief*, Washington, DC: Department of Justice, Bureau of Justice Assistance, July 1997 (NCJ 161569); and Commission on Trial Court Performance Standards, *Planning Guide for Using the Trial Court Performance Standards and Measurement System*, Washington, DC: Department of Justice, Bureau of Justice Assistance, July 1997 (NCJ 161568).

ⁱⁱSee Note 1.

ⁱⁱⁱSee Note 1.

1. Access to Justice			
Measure	Primary Data Collection Method	Primary Evaluators	Subject/Source of DATA
Standard 1.1 Public Proceedings			
1.1.1 Access to Open Hearings Observation/Simulation	Volunteer observers	Record of access for selected court proceedings	Record of access for selected court proceedings
1.1.2 Tracking Court Proceedings	Observation/simulation	Volunteer observers	Selected court proceedings
1.1.3 Audibility of Participants During Open Court	Observation/simulation	Volunteer observers	Selected court proceedings
Standard 1.2 Safety, Accessibility, and Convenience			
1.2.1 Courthouse Security Audit	Observation/simulation	Security consultant	Security checklist of courthouse facilities
1.2.2 Law Enforcement Officer Test of Courthouse Security	Observation/simulation	Law enforcement Officials	Security tests of courthouse facilities
1.2.3 Perception of Courthouse Security	Survey	Skilled survey Methodologist	Perceptions of regular users of the court (including court employees, attorneys, jurors, and probation officers)
1.2.4 Court Employees' Knowledge of Emergency Procedures	Interviews	Skilled interviewers	Court employee interviews
1.2.5 Access to Information by Telephone	Observation/simulation	Volunteer observers	Phone calls to court about specific cases

Measure	Primary Data Collection Method	Primary Evaluators	Subject/Source of DATA
Standard 1.2 Safety, Accessibility, and Convenience (continued)			
1.2.6 Evaluation of Accessibility and Convenience by Court Users	Survey	Skilled survey Methodologist	Perceptions of regular court users (including court employees, attorneys, jurors, and probation officers)
1.2.7 Evaluation of Accessibility and Convenience by Observers	Survey	Skilled survey methodologist	Perceptions of volunteer observers
Standard 1.3 Effective Participation			
1.3.1 Effective Legal Representation of Children in Child Abuse and Neglect Proceedings	Record review and survey	Court staff	Case file documents; Information from judges, guardians ad litem, and caseworkers
1.3.2 Evaluation of Interpreted Events by Experts	Observation/simulation	Court interpretation consultants	Court Proceedings involving interpreters
1.3.3 Test of Basic Knowledge Required of Interpreters	Written test	Court staff knowledgeable about interpretation issues	Skills of court interpreters
1.3.4 Assessing Non-English Language Proficiency Through Back Interpretation	Oral Test	Court staff or consultant with highly developed English language skills	Skills of court interpreters
1.3.5 Participation by Persons with Disabilities	Observation/simulation	Volunteer observers	Court facilities and services

Measure	Primary Data Collection Method	Primary Evaluators	Subject/Source of Data
Standard 1.4 Courtesy, Responsiveness, and Respect			
1.4.1 Court Users' Assessment of Court Personnel's Courtesy and Responsiveness	Survey	Skilled survey Methodologist	Perceptions of regular users of the court (including court employees, attorneys, jurors, and probation officers)
1.4.2 Observers' Assessment of Court Personnel's Courtesy and Responsiveness	Survey	Skilled survey methodologist volunteer observers	Perceptions of court personnel
1.4.3 Treatment of Litigants In Court	Observation/simulation	Volunteer observers	Selected court proceedings
Standard 1.5 Affordable Costs of Access			
1.5.1 Inventory of Assistance Alternatives for the Financially Disadvantaged	Record review, observation/simulation and interviews	Data collection team consisting of a court official, a practicing attorney, and a representative of a local social service agency	Administrative documents, court facilities, and interviews with court staff
1.5.2 Access to Affordable Civil Legal Assistance	Observation/simulation	Volunteer observers	Court operations and services
1.5.3 Barriers to Accessing Needed Court Services	Survey	Survey research organization	Perceptions of the general public

2. Expedition and Timeliness			
Measure	Primary Data Collection Method	Primary Evaluators	Subject/Source of Data
Standard 2.1 Case Processing			
2.1.1 Time to Disposition	Record review	Court staff and statistical analyst	Case file documents
2.1.2 Ratio of Case Dispositions to Case Filings	Record review	Court staff and statistical analyst	Case management records
2.1.3 Age of Pending Caseload	Record review	Court staff and statistical analyst	Case file documents
2.1.4 Certainty of Trial Dates	Record review	Court staff and statistical analyst	Case file documents
Standard 2.2 Compliance With Schedules			
2.2.1 Prompt Payment of Moneys	Record review	Court staff	Court financial records
2.2.2 Provision of Services	Record review	Court staff	Case file documents
2.2.3 Provision of Information	Observation/simulation	Volunteer observers	Court operations and services
2.2.4 Compliance with Report Schedules	Record review	Court staff	Administrative documents
Standard 2.3 Prompt Implementation of Law and Procedure			
2.3.1 Implementation of Changes in Substantive and Procedural Laws	Record review	Court staff	Administrative documents
2.3.2 Implementation of Changes in Administrative Procedures	Record review	Court staff	Administrative documents

3. Equality, Fairness, and Integrity

Measure	Primary Data Collection Method	Primary Evaluators	Subject/Source of Data
Standard 3.1 Fair and Reliable Judicial Process			
3.1.1 Performance in Selected Areas of Law	Structured group techniques, record review, observation/simulation, and interviews	Panels of practitioners in basic areas of law and court staff	Case file documents, court proceedings, and perceptions of judges, court employees, and attorneys
3.1.2 Assessment of Court Performance in Applying the Law	Survey	Skilled survey methodologist	Perceptions of court employees and attorneys
Standard 3.2 Juries			
3.2.1 Inclusiveness of Jury Source List	Record review	Court staff	Juror source list
Standard 3.3 Court Decisions and Actions			
3.3.1 Evaluation of Equality and Fairness by the Practicing Bar	Survey	Skilled survey methodologist	Perceptions of attorneys
3.3.2 Evaluation of Equality and Fairness by Court Users	Survey	Skilled survey methodologist	Perceptions of regular court users (including litigants, jurors, witnesses, and victims)
3.3.3 Equality and Fairness in Sentencing	Record Review	Expert statistical consultant	Case file documents
3.3.4 Equality and Fairness in Bail Decisions	Record review	Expert statistical consultant	Case file documents

Measure	Primary Data Collection Method	Primary Evaluators	Subject/Source of Data
Standard 3.3 Court Decisions and Actions (continued)			
3.3.5 Integrity of Trial Court Outcomes	Record review	Court Staff	Appellate case files
Standard 3.4 Clarity			
3.4.1 Clarity of Judgment and Sentence	Record review	Court staff	Criminal case file documents
3.4.2 Clarity of Civil Judgments	Record review	Court staff	Civil case file documents
3.4.3 Experience in Interpreting Orders and Judgments	Survey	Court staff	Perceptions of judges, attorneys, probation officers, and clerks
Standard 3.5 Responsibility for Enforcement			
3.5.1 Payment of Fines, Costs, Restitution, and Other Orders by Probationers	Record review	Court staff	Court probationary orders and bookkeeping records
3.5.2 Child Support Enforcement	Record review	Court staff	Child support orders and bookkeeping records
3.5.3 Civil Judgment Enforcement	Record review	Court staff	Civil judgment docket
3.5.4 Enforcement of Case Processing Rules and Orders	Record review	Court staff	Case file documents

Measure	Primary Data Collection Method	Primary Evaluators	Subject/Source of Data
Standard 3.6 Pro Court Decisions and Actions (continued)			
3.6.1 Reliability of the File Control System	Record review	Court Staff	Case files
3.6.2 Adequate Storage and Preservation Of Physical Records	Record review	Court staff	Case file documents
3.6.3 Accuracy, Consistency, and Utility of the Case Docket System	Record review	Court staff	Case docket system
3.6.4 Case File Integrity			
3.6.5 Reliability of Document Processing	Record review	Court staff	Legal documents
3.6.6 Verbatim Records of Proceedings	Survey	Court staff	Perceptions of attorneys

4. Independence and Accountability			
Measure	Primary Data Collection Method	Primary Evaluators	Subject/Source of Data
Standard 4.1 Independence and Comity			
4.1.1 Perceptions of the Court's Independence and Comity	Survey	Court research staff and steering committee	Perceptions of regular users of the court (court personnel, including judges, attorneys, law enforcement, and other government agency representatives)
Standard 4.2 Accountability for Public Resources			
4.2.1 Adequacy of Statistical Reporting Categories for Resource Allocation	Structured group techniques	Judges, clerks, other court operations personnel, and steering committee	Statistical case types classification
4.2.2 Evaluation of Personnel Resource Allocation	Structured group techniques	Judges, court operations personnel, and steering committee	Case filings and staffing patterns
4.2.3 Evaluation of the Court's Financial Auditing Practices	Record review and interviews	Financial consultant (optional) and steering committee	Administrative audit report
Standard 4.3 Personnel Practices and Decisions			
4.3.1 Assessment of Fairness in Working Conditions	Survey	Noncourt employees to administer survey and steering committee	Perceptions of court employees
4.3.2 Personnel Practices and Employee Morale	Survey	Skilled survey methodologist and steering committee	Perceptions of court employees
4.3.3 Equal Employment Opportunity	Record review	Steering committee and court personnel	Court personnel records

Measure	Primary Data Collection Method	Primary Evaluators	Subject/Source of Data
Standard 4.4 Public Education			
4.4.1 Court and Media Relations	Record review	Trial court manager and steering committee	Court policies and practices
4.4.2 Assessment of the Court's Media Policies and Practices	Interviews	Court staff, skilled interviewers (noncourt employees), and steering committee	Perceptions of court employees and media representatives
4.4.3 Community Outreach Efforts	Record review and interviews	Public information specialist, court employee, and steering committee	Public education documents and court employee's outreach efforts
Standard 4.5 Response to Change			
4.5.1 Responsiveness to Past Issues	Structured group techniques and interviews	Group facilitator and steering committee	Options of representatives of the justice system or other related organizations

5. Public Trust and Confidence			
Measure	Primary Data Collection Method	Primary Evaluators	Subject/Source of Data
Standard 5.1 Accessibility			
5.1.1 Court Employees' Perceptions of Court Performance	Survey	Skilled survey methodologist	Perceptions of court employees
5.1.2 Justice System Representatives' Perceptions of Court Performance	Structured group techniques	Group facilitator	Perceptions of representatives of other components of the justice system and other related agencies
5.1.3 General Public's Perceptions of Court Performance	Survey	Survey research organization	Perceptions of the general public
See also Measures 1.2.3, 1.2.6, 1.2.7, 1.4.1, and 1.4.2.			
Standard 5.2 Expeditious, Fair, and Reliable Court Functions			
See Measures 3.3.1, 3.3.2, 5.1.1, 5.1.2, and 5.1.3.			
Standard 5.3 Judicial Independence and Accountability			
See Measures 4.1.1, 4.3.1, 4.3.2, 4.4.2, 5.1.1, 5.1.2, and 5.1.3.			

APPENDIX B

GUIDELINES FOR TIMELY PROCESSING OF FAMILY COURT CASES

A key component of the Family Court Standards Project of the Family Court of the State of Delaware was the development of time guidelines for case processing. The guidelines are presented in this Appendix to assist other family courts in the establishment of time standards appropriate to their jurisdictions and operating environments.

The Project divided the standards into two categories: (1) processing from case filing to assignment to a judge; and (2) case processing from judicial assignment to case disposition. Viewed from the perspective of the litigants, the life of a family court case begins at the time it is filed with the court and ends when there is a final order. In reality there are multiple steps at each preliminary stage that involve different segments of the court. In most civil cases, service of process and timely filing of an answer precede assignment of the case to a judge or commissioner. Recognizing this distinction, the Family Court divided responsibility for recommending standards between the Courting Quality workgroup (cases prior to judicial assignment) and the Supreme Court Special Committee on Internal Operating Procedures (cases after judicial assignment).

The Family Court's Subcommittee on Expedition and Timeliness and the Courting Quality workgroups developed the following standards for case processing prior to assignment to a judge's calendar (*Table 1*).

Table 1. Civil Case Processing Standards Prior to Judicial Assignment

Stage of Processing	Recommended Time
File creation / Electronic data entry	Upon receipt
Processing of petition to issuance of summons (emergency petitions)	2 hours
Processing of petition to issuance of summons (non-emergency petitions)	48 hours
Issuance of summons to return of service of process	25 days
Service of summons to filing answer to petition, where required	20 days
Process answer to petition	24 hours
Process response to motions	24 hours
Processing of answer/response to judicial assignment list	24 hours

In 1999, in conjunction with the Family Court Standards Project, the Supreme Court Special Committee on Family Court Internal Operating Procedures developed recommendations for guidelines for timely judicial processing of family court cases described below in Tables 2 through 4 and accompanying text. The recommended guidelines on judicial processing focus on three time periods in the "life" of a case: (1) the time from judicial assignment to identifying a date for trial; (2) the time from judicial assignment to the trial date; and (3) the time from hearing to issuance of an order.

Table 2. Time from Assignment to Schedulingⁱ

Type of Case	75% scheduled	98% scheduled
Non-expedited civil cases	10 Court days after receipt in judge's office	30 Court days after receipt in judge's office
Expedited civil cases (motion to expedite granted)	1 Court day after receipt in judge's office	2 Court days after receipt in judge's office
Expedited civil cases (motion to expedite denied)	10 Court days after filing of answer	30 Court days after filing of answer

The time from judicial assignment of a family court case to the hearing date is a function of a number of variables including case complexity, the number of parties, status of representation, availability of attorneys, number of cases scheduled for trial. Need for expedited processing, and the priority on relation to other pending cases. This time period, more than others, is highly dependent on resources available to the family court.

In order to develop the guidelines for timely processing from assignment to hearing date (Table 3), the Family Court first classified cases in broad groups with common characteristics. The recommended time frames represent a balancing of the need for immediate action, complexity of the subject matter, and unique intricacies related to the processing of a particular group of cases. For example, a termination-of-parental-rights (TPR) case is one of the most serious before a family court. It merits the most expeditious hearing date. However, the processing of a TPR petition requires notice, often by publication, that can consume upwards to 60 days of time.

Table 3. Time from Assignment to Hearing Dateⁱⁱ

Category	Case Type	Level 1	Level 2	Level 3
Criminal	Non-domestic violence (Speedy Trial Directive)	90% within 45 days of arrest	100% within 90 days of arrest	
	Domestic violence (Family Court Directive)	Arraignment within 14 days of receipt	Trial within 28 days of receipt	
Delinquency	Detained defendants (Family Court Directive) (Speedy Trial Directive)	Case review within two weeks of arrest	Trial within two weeks of final case review	90% within 45 days of arrest; 100% within 90 days of arrest
	Non-detained defendants	90% within 45 days of arrest	100% within 90 days of arrest	
	Amenability and Sentencing (Speedy Trial Directive)	100% detainees within 30 days of presentence/amenability report	100% of non-detainees within 60 days of presentence/amenability report	
Quasi-criminal	Protection From Abuse (Statutory requirement)	Emergencies within 10 days of <i>ex parte</i> order	100% within 30 days of filing	
Civil (Court Improvement Project)	Dependency/Neglect Adjudications (Court Improvement Project)	10 days from filing to Preliminary Protective Hearing	30 days from Preliminary Protective Hearing to Adjudicatory Hearing	30 days from Adjudicatory to Disposition Hearing (if req.)
	Dependency/Neglect Cases in Foster Care (Federal Legislation)	180 days from child's removal to interim review	365 days from child's removal to permanency hearing	Annual reviews from last permanency hearing

<p>Civil I</p>	<ul style="list-style-type: none"> • Dependency/ Neglect (other than DFS) • Rules to Show Cause (2nd leg) • Support (Review of commitments; <i>habeas corpus</i>; bail hearings) • Guardianship • Abortion Notification Waivers • Applications for Expedited Hearings (PC/<i>ex parte</i>) 	<p>50% within 20 Court days of assignment</p>	<p>75% within 25 Court days of assignment</p>	<p>98% within 30 Court days of assignment</p>
<p>Civil II</p>	<ul style="list-style-type: none"> • Spousal Support • Alimony • Custody (Interim hearings) • Visitation (Temporary hearings; Modification for abuse) • Support (Paternity Determination; Arrears/Contempt) 	<p>50% within 30 Court days of assignment</p>	<p>75% within 45 Court days of assignment</p>	<p>98% within 60 Court days of assignment</p>

Civil III	<ul style="list-style-type: none"> • Custody (Initial Trial; Modification) • Visitation (Trial) • Support (New Hearing; Modification; Support of a poor person) • Termination of Parental Rights • Specific Performance • Education of Exceptional/ Handicapped Child 	50% within 60 Court days of assignment	75% within 75 Court days of assignment	98% within 90 Court days of assignment
Civil IV	<ul style="list-style-type: none"> • Visitation (Modification for other than abuse) • Support (w/ interim consents) • Adoption (Adult adoptee) • Appellate (Trial <i>de novo</i>; Review on record) 	50% within 75 Court days of assignment	75% within 90 Court days of assignment	98% within 110 Court days of assignment
Civil V	<ul style="list-style-type: none"> • Divorce-annulment • Property Division (measured from 16(c) filing) • Support (incarcerated respondents) • Guardianship (school related) • Imperiling the Family Relationship • Terminating Compulsory School Attendance • Rehearings under Rule 60(b) 	50% within 120 Court days of assignment	75% within 150 Court days of assignment	98% within 180 Court days of assignment

Awaiting a family court's decision is among the most stressful time for litigants. To the extent possible, judges should rule on matters as soon as practical. If a ruling is not made before the completion of a hearing, family courts should give the parties an indication of when a final decision can be expected, as well as the timing of any interim orders or instructions in the time between the trial and the issuance of a final decision.

Table 4. Standard for Time from Hearing to Issuance of Orderⁱⁱⁱ

Category	Case Type	Level 1	Level 2	Level 3
Criminal/ Delinquency	Misdemeanor	Rule from bench unless presentence report ordered	Sentencing hearing within 30 days if PSI ordered	
	Felony Amenability	Rule from bench unless presentence report ordered	Sentencing hearing within 30 days if psi ordered	
Quasi-criminal	Protection From Abuse	Rule from bench		
Civil (Court Improvement Project)	Dependency/Neglect	Ruling from bench with next Court date given in Court		
	Termination of parental rights	30 days from final submission		
Civil I	(see Table 4)	50% within 1day	75% within 3 days	98% within 5 days
Civil II	(see Table 4)	50% within 5 days	75% within 7 days	98% within 10 days
Civil III	(see Table 4)	50% within 30 days	75% within 45 days	98% within 60 days
Civil IV	(see Table 4)	50% within 30 days	75% within 45 days	98% within 60 days
Civil V	(see Table 4)	50% within 50 days	75% within 70 days	98% within 90 days

ⁱ Final Report of Delaware Supreme Court Special Committee on Family Court Internal Operating Procedures (March 30, 1999), 32.

ⁱⁱ *Id.* at 33.

ⁱⁱⁱ *Id.* at 36.

APPENDIX C

Who to Contact in Delaware for Information

Area	Contact Person	Address	E-Mail
Judicial Administration	Chief Judge Vincent J. Poppiti	Family Court of the State of Delaware PO Box 2359 Wilmington, DE 19801 (302) 577-2205	vpoppiti@state.de.us
Court Administration	Edward G. Pollard, Jr.	Family Court Administrative Office 704 King Street, 2 nd floor Wilmington, DE 19801 (302) 577-2222	epollard@state.de.us
Family Court Standards Project	Michael W. Arrington, Esq.	Family Court Administrative Office 704 King Street, 2 nd floor Wilmington, DE 19801 (302) 577-2964	marrington@state.de.us
Access to Justice	Julie S. Dvorak, Esq.	Family Court Administrative Office 704 King Street, 2 nd floor Wilmington, DE 19801 (302) 577-2695	jdvorak@state.de.us
Expedition & Timeliness	Donna M. Ward	Family Court of the State of Delaware PO Box 2359 Wilmington, DE 19801 (302) 577-2205	dward@state.de.us
Equality, Fairness & Integrity	Randall E. Williams	Family Court of the State of Delaware 400 Court Street Dover, DE 19901 (302) 739-6570	rwilliams@state.de.us
Independence & Accountability	Michael W. Arrington, Esq.	Family Court Administrative Office 704 King Street, 2 nd floor Wilmington, DE 19801 (302) 577-2964	marrington@state.de.us
Public Trust & Confidence	Edward G. Pollard, Jr.	Family Court Administrative Office 704 King Street, 2 nd floor Wilmington, DE 19801 (302) 577-2222	epollard@state.de.us

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Family Court of the State of Delaware Web Address

For a copy of this document online,
as well as more information on the
Family Court of the State of Delaware,
check the Family Court Home Page at
<http://courts.state.de.us/family/family.htm>

Family Court Administrative Office
704 King Street, 2nd floor
Wilmington, DE 19801

