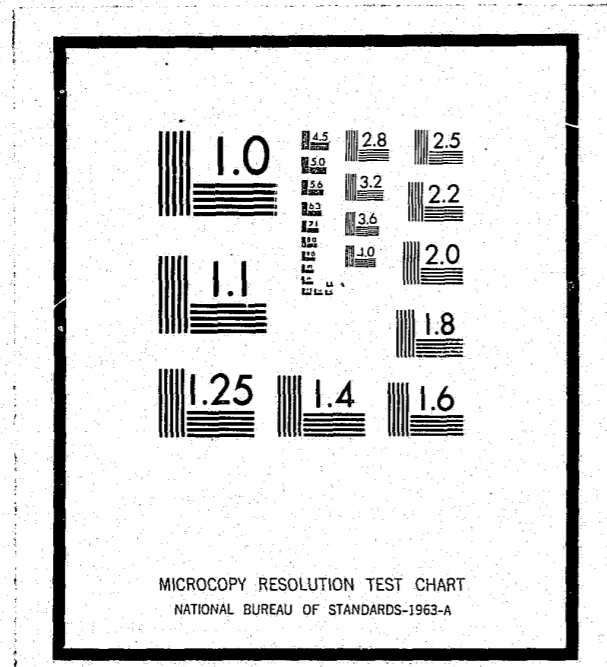


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THE LAW OFFICER PROJECT IN THE FAMILY COURT OF NEW YORK CITY: AN EVALUATION

OCTOBER 1973



THE INSTITUTE OF JUDICIAL ADMINISTRATION
40 Washington Square South
New York, N.Y. 10012

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EVALUATION

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Prepared for the Office of Corporation Counsel
and the Mayor's Criminal Justice Coordinating
Council of the City of New York

October 1973

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PREFACE

This report traces the history of the Law Officer Project in the Family Court of New York City. A special section relates the Project to national developments in representation of the state in juvenile court. Particular emphasis is placed on making recommendations for future improvements, rather than dwelling on past problems.

To a large extent, the Law Officer Project today remains an ideal which has not been fully tested. As originally planned, 18 Assistant Corporation Counsel would concentrate on juvenile cases in Brooklyn Family Court. Responding to urgent pressures for service, the Project now employs 25 Attorneys spread through three boroughs and appearing not only in a broad range of Family Court cases but also in courts of general jurisdiction. Despite these problems of doing too much on too broad a scale, the Project has made substantial progress. We urge that the Law Officer Project be given the administration and resources necessary to test its initial goals.

* * *

Several methodological limitations of this evaluation should be noted. The Institute began its study during the spring of 1973. Since it was impossible to monitor the program from its inception, the focus has been on how the program stood during the summer of 1973.

Although the Project initially started in Brooklyn in 1971, it soon spread to Manhattan and later to the Bronx. Consequently, it was necessary to study all three boroughs. While the Project had certain similarities in each borough, there were often significant differences -- both in the implementation of the Project itself by the Assistant Corporation Counsel involved and in terms of the court setting in which they found themselves. Thus, this evaluation was more like a study of the representation of the state in three separate cities, rather than a study of the operation of a single program in a single jurisdiction.

An additional problem was that the Project has been rapidly changing even during the few months during which we made observations and collected data. Over the summer, policies in the Family Court or in the Project were instituted, some modified, others cancelled. As a result, the emphasis of the report has been on trends, rather than keeping current on changes in details.

The amount spent on this evaluation was relatively modest: about one percent of the federal funds for the Project. Although we feel that this report is an accurate picture of the Project, particularly the actions and attitudes of the Assistant Corporation Counsel themselves, several areas could not be studied because of the lack of funds, time, and base line data.

First, we did not attempt a systematic survey of the reactions of judges, law guardians, police officers, and others involved in the court who have day-to-day contact with the Law Officer Project. Naturally, our staff talked to individuals from all of these perspectives, but it was not possible to do an in depth study of their perceptions of the Project and reactions to Assistant Corporation Counsel.

Second, pertinent statistics about representation of the state in the New York City Family Court are either non-existent or unreliable. Further study in this area should commence by taking a sampling of a representative number of cases in order to determine the exact nature of the representation being afforded the state in all types of actions by all types of attorney-prosecutors.

Third, it was not possible to make a review of petitions being drafted by the Corporation Counsel and compare them with those previously prepared by the Petition Clerks in any systematic way.

This report is the result of a team effort at the Institute of Judicial Administration. The Project was under the supervision of Paul Nejelski, who also was responsible for the drafting of this final report. Peter Schwindt did much of the field work and interviews. A consultant, James Fishman, was primarily concerned with developing the questionnaire which was given to the Assistant Corporation Counsel. All three have had experience as prosecutors: Nejelski as an Assistant United States

Attorney in New Jersey, as well as a trial attorney and supervisor in the Criminal Division of the U. S. Department of Justice; Schwindt as a District Attorney in New York County; and Fishman as an Assistant Attorney General for the State of New York. Two students at New York University School of Law, Thomas Donegan and Judith LaPook, ably assisted in the field research and drafting of the report.

The Institute should like to thank the many individuals in the Family Court who helped provide information for the evaluation, especially the Assistant Corporation Counsel themselves, who freely gave their time in assisting the research team. In particular, Ms. Mary P. Bass, the Attorney in Charge of the Family Court Division, was an invaluable source of information and suggestions.

A final comment: although the Institute of Judicial Administration is serving as the Secretariat for the IJA-ABA Juvenile Justice Standards Project, this evaluation was conducted independent of the IJA-ABA standards project. The opinions or recommendations herein are those of the Institute of Judicial Administration alone. They should not be attributed to any other individual or organization. Neither the IJA-ABA Standards Project nor its co-sponsor, the American Bar Association, have been consulted or in any other way joined in this report.

I. THE LAW OFFICER PROJECT IN CONTEXT

A. Representation of the State in New York City Family Court before the Law Officer Project in 1971

The Law Officer Project began in July, 1971. It was initiated "to test the feasibility and implications of governmental presentation of juvenile petitions in the Family Court."¹ Proper evaluation of this Project requires knowledge of both the New York City Family Court and the Project's sponsor, the Office of the Corporation Counsel.

The Family Court in New York City is a large, complex, and overburdened institution with branches in the boroughs of Manhattan, Brooklyn, Bronx, Queens, and Staten Island. The total caseload of the Family Court involved 43,843 original proceedings during the judicial year 1971-1972.²

The work of the Court can be divided into two types: juvenile and adult. "Juvenile cases" include juvenile delinquency, persons in need of supervision (PINS), child protective (neglect, child abuse) and handicap petitions. The bulk of the "adult cases" involves support, paternity, and uniform support of dependents law (USDL) petitions.

In addition to these original proceedings, the Court handles many supplemental proceedings involving modification or enforcement of previously existing orders.

There are 39 full-time judges appointed to the Family Court bench. The Office of Probation, Family Court Division, has a large staff which includes an intake branch, an investigation branch, and a Supervision branch. The Department of Social Services has a full-time staff of administrators, social workers, and attorneys assigned to the Family Court. Other city agencies, such as the Board of Education, Youth Aid Division of the Police Department, and the Board of Health work in the Court. A private agency, The Society for Prevention of Cruelty to Children, has one attorney in Brooklyn and one in Manhattan. Since 1962, the Legal Aid Society, Juvenile Rights Division, has been in the Court; the present staff includes 60 attorneys and 40 supportive personnel.

Thus, when the Law Officer Project began in July, 1971, it had to adjust to the needs and pressures of a large pre-existing structure. The success of the Project in meeting its original goals must be judged in that structural context. It is especially important to note that originally the Law Officers were to deal with only juvenile petitions in the Brooklyn Family Court. According to the Judicial Conference statistics above, 16,612 new juvenile petitions, only 38% of the total 43,843 new petitions, were filed in the New York

The following table indicates the total caseload of the Family Court in the five New York City boroughs in the judicial year 1971-1972.³

CASE PREFIX TYPE OF PROCEEDING	Petitions Pend- ing 7/1/71	NEW YORK CITY COUNTIES (1971-2)				Petitions Pend- ing 6/30/72
		New Petitions Filed During Year	Petitions Disposed of during Year			
			With- drawn Or Dis- missed	Other Dispo- sitions	Total	
Total - All Proceedings ..	30,303	43,843	12,772	21,811	34,583	39,563
A Adoption	406	836	10	895	905	337
B Permanent Neglect	45	57	10	23	33	69
C Conciliation .....	.....	1	1	.....	1	.....
D Juvenile Delinquency ...	3,600	6,748	3,624	1,946	5,570	4,778
F Support	6,604	11,296	1,335	6,467	7,802	10,098
G Guardianship	70	130	4	99	103	97
H Physically Handicapped .	11	104	1	71	72	43
K Foster Care Review .....	.....	397	.....	4	4	393
M Consent to Marry	127	220	4	156	160	187
N Child Protective	5,744	5,497	1,979	1,735	3,714	7,527
O Family Offense	1,546	4,303	2,009	2,091	4,100	1,749
P Paternity	4,800	4,466	335	3,502	3,837	5,429
Q Mental Defective	53	18	8	10	18	53
S Persons in Need of Supervision	3,122	4,367	2,230	1,867	4,097	3,392
U USDL Cases	3,744	5,023	1,196	2,747	3,943	4,824
W Material Witness .....	.....	1	1	.....	1	.....
R Supreme Court Referrals						
1. Custody	4	29	6	9	15	18
2. Support	177	203	7	166	173	207
3. Habeas Corpus	250	147	12	23	35	362

City Family Courts. Thus, the Law Officer experiment was to focus on only the part of that 38% which were brought in the Brooklyn Court.

Prior to the Law Officer Project, the Office of the Corporation Counsel had only a limited involvement in the Family Court. There was no designated Family Court division in the Office. Instead, attorneys from the Penalties Division were assigned to the Family Court. Assignment of attorneys was not based on any special expertise in Family Law. Attorneys with background in real estate and condemnation were routinely assigned to work in the Family Court (Q. 14).*

Under the broad terms of the Family Court Act, Family Court judges had power to request the appearance of Assistant Corporation Counsel to "represent the petitioner" when such representation was deemed to serve the purpose of the Act.

However, until June, 1969, Assistant Corporation Counsel were called on to represent petitioners in only a limited number of cases -- serious juvenile delinquency (42 out of a total of about 7,800 juvenile delinquency petitions in 1969), paternity, and support (either under Uniform Support of Dependents Law or where the mother or child was on welfare or in danger

*The answers of Assistant Corporation Counsel to a questionnaire administered in June and July, 1973, are attached in Appendix C. Whenever their answers provide support for a statement in the text of this report, the number of the question is placed in parentheses in the text.

of going on welfare.)*

This limited involvement required the assignment of six full-time attorneys for support and paternity matters and four part-time attorneys for juvenile delinquency cases. The responsibility of the Corporation Counsel in the Court was largely to protect the financial interest of the City of New York by assuring that respondents who were able to make support or paternity payments to indigent petitioners met their obligations.

Assistant Corporation Counsel were not involved with the wider social concerns of the court. Since they were not involved in the large bulk of juvenile cases (juvenile delinquency, PINS, neglect, abuse), Assistant Corporation Counsel were not concerned with the dispositional alternatives available to the court. They had no social workers who worked

*The Family Court Act was amended in 1970 in recognition of the pending expansion of the Corporation Counsel's program in the Family Court. Section 254 of the Family Court Act had required the Corporation Counsel to "represent the petitioner" upon request of the court. This language was amended in §254(a) to read, in part,

... the corporation counsel shall present the case in support of the petition and assist in all stages of the proceedings, including appeals in connection therewith (emp. added).

The Corporation Counsel, by this change of language, was relieved of any attorney-client relationship with the petitioner. The Assistant Corporation Counsels were now to present the petition, not to represent the petitioner. In essence, the Corporation Counsel's role thus became that of a public official and officer of the court.

with them on a continuing basis to enable them to understand the family situations which led people to the court in contrast, for example, to the Department of Social Services. Nor did they have any special training, as did Legal Aid attorneys, to acquaint them with the unique spirit and philosophy of the Family Court. They were essentially helping to reduce the welfare rolls for the City of New York, while working in the Family Court setting.

Then, in June 1969, a Child Abuse Law went into effect which created a new position of "Police Attorney" to serve as representative of the child in abuse cases. The Corporation Counsel was designated to fill this role. During the first six months under the new statute, Assistant Corporation Counsels made more than 1800 appearances on 650 Child Abuse petitions. Abuse cases at first were heard in a "Central Child Abuse Term" at 80 Lafayette Street, Mahattan. When the Child Abuse cases were later dispersed to each borough, the Office of the Corporation Counsel found it necessary to assign three Assistants for Brooklyn and Staten Island, one for Manhattan, and one for the Bronx and Queens, to handle these cases.

By December 1969, sixteen Assistant Corporation Counsel were assigned full time to the Family Court. Attorneys from the Police Department, Department of Social Services, and the Board of Education were also assigned to the Court.

The following table summarizes the representation of the State in the New York Family Court in December 1969.⁴

AGENCY	Support & Paternity	Abuse & Neglect	PINS	Delinquency
Corporation Counsel	6	5	-	4
Police	-	-	-	5
Dept. of Social Services	-	12	-	-
Bd. of Education	-	-	3	-
TOTALS	6	17	3	9

Thus, 31 full-time and 4 part-time City Attorneys were assigned to the Family Court.

On January 3, 1969, the Youth Services Committee of the Mayor's Criminal Justice Coordinating Council (CJCC) proposed the Family Court Law Officer Project based on a study conducted by the Vera Institute of Justice. This proposal was soon approved by the Presiding Justices of the Appellate Divisions for the First and Second Judicial Department and by the Administrative Judge of the Family Court. However, no formal action was taken on the proposal until Presiding Justices Stevens and Beldock requested the Office of the Corporation Counsel to provide assistance in the presentation of juvenile petitions pursuant to §254 of the Family Court Act. Justice Stevens, in a letter dated December 3, 1969 said: "We urge

that this request be acted on expeditiously and that provision for legal services of the kind required be made available by your office at the earliest possible moment."

The CJCC report revealed that cases in the New York City Family Court in a substantial number of juvenile delinquency petitions were not represented by counsel. Generally a single representative of the Police Department in each Borough acted as liaison between the Family Court and the Police Department. This police attorney represented the state's interests in cases where the Corporation Counsel was not specifically asked to participate.⁵

The results of inadequate legal representation by the state were: petitions were not screened by attorneys and were frequently defective; there was generally no one to prepare and present the petitioner's case; the judge was often forced to cross-examine respondent's witnesses; and cases were frequently adjourned because no one was responsible for producing witnesses. The Youth Services Committee of CJCC proposed a Family Court Law Officer unit within the Corporation Counsel's office to prepare, review, and present juvenile delinquency petitions.⁶

Almost two years after the Youth Services Committee proposal, and a year after Justices Stevens and Beldock's request for assistance, the Office of the Corporation Counsel applied for a grant from CJCC for a pilot project to test the feasibility of assigning a unit of Assistant Corporation Counsel to the Family Court to prepare and present juvenile petitions.

The project originally covered a one year period from July 1, 1971 through June 30, 1972. Federal funds of \$351,000 were provided during that period matched by \$405,000 in city funds. The project was then extended for a 3 month period through September 30, 1972, by federal funds of \$98,642 matched by \$22,354 in city funds. Federal accruals of \$39,708 were included in the federal figure. Finally an extension was granted through August 30, 1973. Federal funds of \$325,066 for this period were matched by \$243,534 in city funds. Federal accruals of \$31,471 were included in the final extension. In sum, the federal funds received total \$774,708, the total match \$670,888, for a total Project figure of \$1,445,596.

At about the same time the Law Officer Project was initiated, the five Police Department attorneys who had been presenting juvenile delinquency petitions were administratively merged with the Corporation Counsel attorneys. According to

the report on the Law Officer Project in June, 1972, by Norman Redlich, Corporation Counsel, a merger of the Department of Social Service attorneys was also approved at this time, but it has yet to occur.⁷

The Report by the Youth Services Committee of CJCC specifically designated the Corporation Counsel to perform this Law Officer function, rather than the office of the District Attorney, because it was reluctant "to create a full-scale prosecutor's office in the Family Court."⁸ The CJCC committee felt that a wholesale adoption of the criminal process would not be compatible with the Family Court goal of providing constructive treatment for children in need of help. Consequently, the committee proposed that the advocate for the petitioner have a different function from that of a prosecutor. The proposal recommended that the newly created Law Officers experiment in a number of areas in order to create an office uniquely suited to the goals of the Family Court.⁹ It recommended that the Family Court Law Officer undertake the following functions, primarily in juvenile delinquency cases:

A. Post-Intake Screening.

1. Develop legal guidelines for use by intake officers in considering recommendations to file petitions.

2. Review all cases of alleged juvenile delinquency for legal sufficiency; drop legally insufficient petitions.
- B. Preparation of the Petition.
1. Authorize preparation of petitions.
 2. Control form and content of the petition (typing to be restricted to clerks).
- C. Litigative Role.
1. Fact-Finding Hearings.
 - a. Represent all petitioners in juvenile delinquency fact-finding hearings.
 - b. Interview witnesses, gather evidence, present the case, cross-examine witnesses, present briefs and oral arguments.
 2. Detention and Dispositional Hearings.
 - a. Probation officers can best perform the role of advising the court with respect to the best dispositional alternatives including detention facilities, for each child.
 3. Hearings on Revocation of Probation and Parole.
 - a. Screen allegations of supervising probation officers to determine whether sufficient facts exist to constitute a violation of the terms of a child's release.

- b. If facts are deemed to be sufficient, present them at revocation hearings.
- 4. Out of Court Resolution of Issues.
 - a. Experiment with pretrial discovery procedures to maximize disclosure by both parties.
- 5. Calendar Management.
 - a. Produce witnesses and records as well as work out with the child's lawyer necessary adjournments or other administrative matters.
- D. Advisory Functions.
 - 1. Be available to the court to conduct investigations and studies to assist the court.

These recommendations of the CJCC committee were closely followed in the project proposal except that the responsibility of the Law Officers was expanded in two key aspects. According to the Corporation Counsel's Final Report in June 1972, the Assistant Corporation Counsel were also to present petitions in PINS, abuse and neglect cases, and appear during dispositional hearings.

In summary, The Corporation Counsel was to emphasize juvenile cases, to adopt the treatment orientation of the Family Court rather than a traditional prosecutorial function, and to play a vital role in eight areas:

- 1. screening cases for legal sufficiency;
- 2. experimenting with liberal pre-trial discovery to encourage pre-trial resolution of cases;

- 3. drafting petitions;
- 4. resolving appropriate cases prior to hearing;
- 5. responding to motions;
- 6. preparing and presenting the government's case in all fact-finding hearings;
- 7. appearing during dispositional hearings; and
- 8. appearing at revocation of probation or parole and extension or termination of placement hearings.

B. National Developments in the Prosecution Function in Juvenile Court

Across the country, "attorney-prosecutors" are increasingly representing the state. A comparative view of past practices, as well as the current national experience, provides a perspective on the problems encountered in New York City and suggests solutions.

1. The Prosecutor's Role in the Past.

In the traditional juvenile court, there was no role for a prosecutor. Prosecutors were deemed to be harmful to proceedings held on behalf of children and designed for their diagnosis and treatment. The judge was the principal representative of the state.

Generally, a probation officer investigated the case, initiated the proceeding, and helped present the evidence in court. The apparent anomaly of having the same person to represent "the best interests of the child" and to bring the petition against the child presented no conflict in the traditional juvenile court since the court action was considered to be in the child's interest. Therefore, the probation officer's action could only be seen as helpful to the child. A further reason for the absence of prosecutors from the traditional juvenile court was the notion that adversary proceedings defeated

the purpose of a court designed to aid and counsel, rather than punish, wayward youth.

These views were undermined in New York by statute in 1962 which called for the presence of defense counsel in most juvenile cases (F.C.A., §241). On the national level, three Supreme Court decisions extended certain constitutional protections to juvenile court proceedings: Kent v. United States,¹⁰ In re Gault,¹¹ and In re Winship.¹²

2. Evolution Since Gault.

Since Gault, certain trends have been evident concerning the representation of the state's interests in the juvenile court.

First, there has been a growing recognition that the assumption of the prosecutorial role by the probation staff or the juvenile court judge creates an undesirable conflict. For example, an Ohio juvenile court judge noted with reference to cases in which defense counsel operates:

In such contentious hearings, the Judge is in an impossible role, and reluctant as some of us are to abandon our traditional hearing practices, it is becoming increasingly evident that this is necessary in many cases and we will be required to call upon prosecutors for assistance in more cases than we have in the past.¹³

The practice of mixing the prosecutorial with the judicial function has given rise to several court attacks. In Rhode Island, for example, an attack on the system in which the judge performed the "prosecutorial" function of screening cases at intake and then went on as judge to hear "charges which he has approved" resulted in an invalidation of the procedure on due process grounds.¹⁴

Second, there has been an increasing realization that some legally trained person must be available to represent the state in many juvenile court proceedings. A concern for such state representation was indicated in 1967 by the National Crime Commission's Task Force on Juvenile Delinquency and Youth Crime:

To the extent that the presence of counsel for the child (or the parent) in contested adjudicatory proceedings is based upon or would result in a closer approximation of the adversary system, the presence of counsel on the other side may be necessary to achieve the virtues of that system.¹⁵

Beyond the President's Commission's concern for the impact of defense counsel in juvenile delinquency cases it is no longer possible, according to the post-Gault "due process" view of the juvenile court, to conceive of juvenile court proceedings as involving only the child's interest. The Gault decision, in extending procedural protections drawn from the Constitutional requirements in criminal proceedings, recognized that distinct and sometimes conflicting interests are involved in juvenile

proceedings. On the one hand, the state has an interest in protecting society from threatening conduct and, as parens patriae, in promoting the juvenile's welfare. Set against these interests of the state, the child has an interest in avoiding court proceedings, the stigma of adjudication, and the possible limiting of his freedom or even removal to a training school.

The Constitution requires procedures which recognize that these distinct and possible conflicting interests are involved. The presence of defense counsel assures representation of the child's interest; presence of counsel for the state assures representation of the state's interest.

Further, many post-Gault lower court decisions have expanded the Gault rationale to require stricter procedural safeguards for aspects of the juvenile court process other than the adjudicatory stage, such as the investigative phase, pre-hearing proceedings and dispositions. Legislation has also expanded such procedural requirements. As a result, a large body of rules rooted in the laws of criminal procedure, have been transferred to juvenile proceedings. Thus, aggressive defense of the child's interest in avoiding adjudication now takes such forms as suppression of illegally seized evidence, demands for

probable cause hearings, and objections to the sufficiency of proof. Without an attorney to present the state's response at each stage, the state's interest will probably not be represented adequately, and the defense function will be hampered for lack of a true adversary.

As a result of these trends, recent and proposed legislation has increasingly required a prosecutorial role in juvenile and family courts.

3. Legislative trends.

A recent study by the Boston University Criminal Justice Center (hereinafter, Finkelstein) of the "attorney-prosecutor"* in the juvenile court found that about half of the state laws across the country still reflect the traditional pre-Gault concept of the juvenile court by their silence on the subject of prosecution.¹⁶ The study also indicated that even statutes which do provide for mandatory or discretionary participation by prosecutors in juvenile court proceedings rarely offer details on the nature or scope of such participation.¹⁷ However, Finkelstein also noted a trend toward increased utilization of prosecutors in juvenile court as a result

*The present study has generally referred to the representative of the state in juvenile court as a "prosecutor" for the sake of convenience. However, it should be emphasized that the prosecution function is being adapted to the unique conditions and traditions of the juvenile court. Consequently, the term "attorney-prosecutor" may be useful to designate the different roles and orientations which are developing in the juvenile court.

of newly enacted and proposed rules and statutes.¹⁸ Significantly, there was little agreement on the precise nature or definition of the "attorney-prosecutor's" role.¹⁹

Over the past decade, various legislative models have been proposed. The changes in these models indicate a growing recognition of the need for a professional representative of the state in the juvenile court process. Whereas in 1959 the Standard Juvenile Court Act did not mention a prosecutor,²⁰ in 1966 the Children's Bureau Standards for Juvenile and Family Courts recommended granting the court discretion to use an attorney for the state.²¹ In 1968, the Uniform Juvenile Court Act provided an attorney for the state at the adjudicatory stage, subject to court discretion.²²

In contrast to these earlier models, the 1969 Children's Bureau Legislative Guide for Drafting Family and Juvenile Court Acts proposed a mandatory prosecuting attorney's role.²³ Under this model, the prosecutor would be involved from the intake through appellate stages. Once the probation officer conducts initial screening of the complaints and recommends whether or not a petition should be filed, the prosecutor has unreviewable discretion on the matter. He must prepare and countersign all petitions and represent petitioners at all stages.²⁴

Professor Sanford Fox, in model legislation he has recently proposed, also utilized a "prosecutor" who is involved in the court process from intake through disposition.²⁵ Fox prefers a non-adversarial approach in the juvenile court. After Gault, however, he feels that adversary proceedings are inevitable and therefore prosecutors are necessary. Since Fox does not welcome the adversary process, he titles the representative of the state a "community advocate" and he hopes for full cooperation between the office and defense counsel to "dull the rapier edge of the adversary process."²⁶

Influenced by the 1969 Children's Bureau Legislative Guide, recent legislation in the District of Columbia, Minnesota, Vermont, and Wyoming has provided for a mandatory prosecutor who is active in most phases of the case. This trend will probably be followed in other states.

4. Present National Scope.

The Finkelstein Study of the prosecutor's role in the juvenile court also surveyed the extent of prosecutor appearance in major metropolitan areas.²⁷ In this survey of 68 responding cities, most of the jurisdictions utilize the office of District Attorney for service as prosecutor; very few use Corporation Counsel or City Solicitor.²⁸

<u>TYPE OF ATTORNEY PROSECUTOR</u>	<u>No.</u>	<u>%</u>
<u>District or County Attorney</u>	44	64.7
<u>Special Juvenile Court Prosecutor</u>	13	19.1
<u>Corporation Counsel/City Solicitor</u>	6	8.8
<u>Law Student</u>	1	1.5
<u>No Attorney-Prosecutor</u>	4	5.9
<u>TOTAL</u>	68	100%

Most cities have determined that the District Attorney is best equipped to present the state's case in the new due-process-oriented juvenile court. The increased adversary process and attendant intricacy of the proceedings demand a qualified trial attorney who knows the rules of evidence, as well as criminal law and procedure.

City Solicitor or Corporation Counsel offices do not always place as strong an emphasis on litigative skills. In New York City, as previously indicated, the Youth Services Committee Report recommended that the Corporation Counsel's Office provide Law Officers in the Family Court, because the committee was reluctant to create a traditional prosecutor's office in that court.

The creation of a Special Juvenile Court Prosecutor indicates a recognition by some cities (13 cities of 68) of the unique nature of the juvenile court. Similar to

the "Community Advocates" role envisioned by Professor Fox a special unit of juvenile court prosecutors may be able to adapt themselves more fully to the particular needs of the juvenile court.

Almost all of the cities (94.1%) replied that an attorney prosecutor regularly appears in juvenile court.²⁹ However, the meaning of "regularly" varies from city to city. In most of the cities (65%), the attorney-prosecutor appears automatically, but in others (28%), only at the court's request.³⁰

APPEARANCES OF ATTORNEY-PROSECUTOR (68 Cities)

APPEARS	No.	%
Automatically	44	64.7%
At Court's Request	19	27.9%
At Discretion of Prosecutor	1	1.5%
No Attorney-Prosecutor	4	5.9%
TOTAL	68	100%

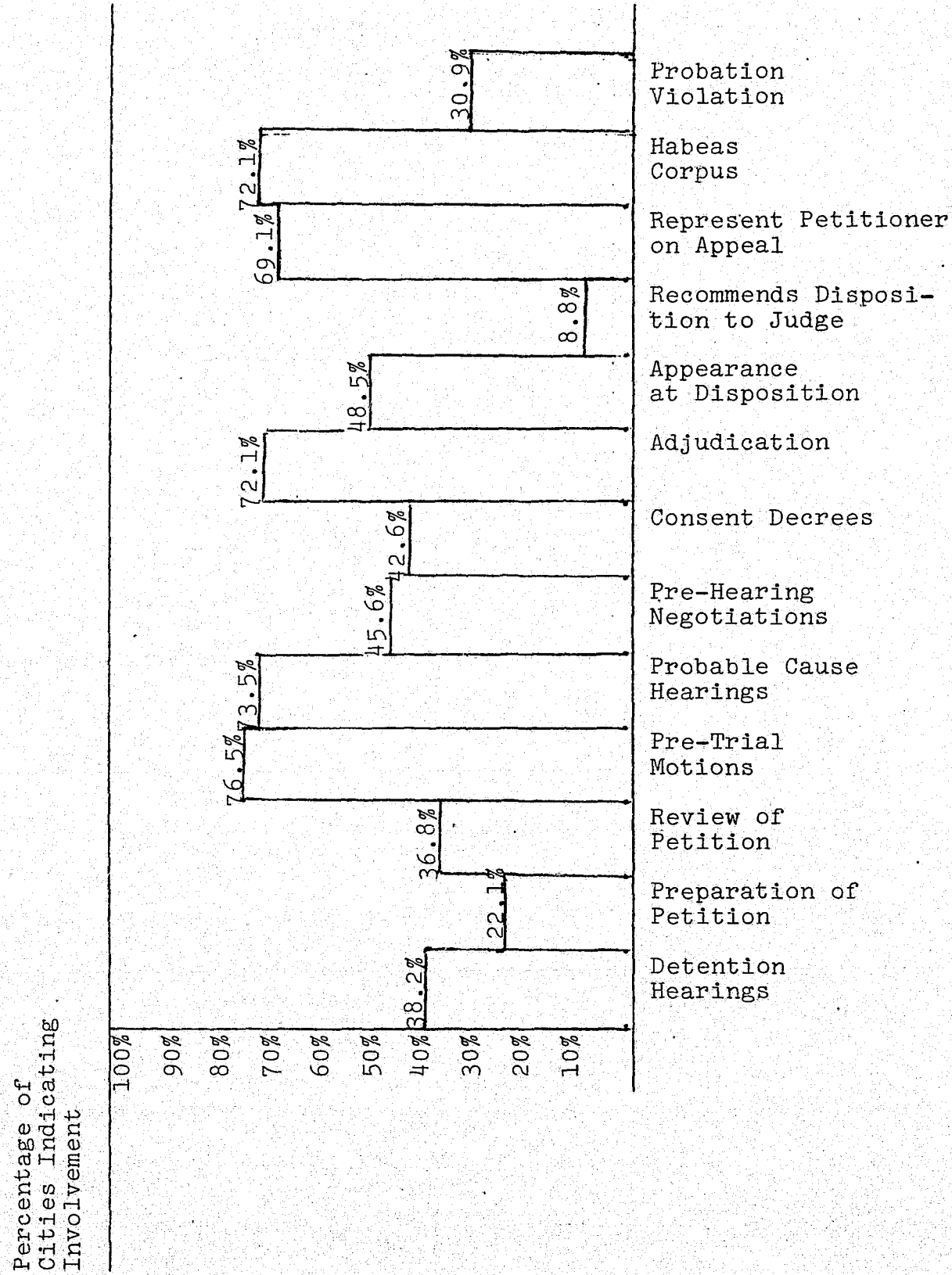
Even this "automatic" appearance is limited, as it is in New York, to particular kinds of proceedings. For example, most jurisdictions which have attorney-prosecutors in the court utilize them in serious delinquency cases. But for other types of cases, many cities use attorney-prosecutors in less than 25% of their cases. Attorney-prosecutors appear least frequently in PINS and neglect cases.³¹

The Finkelstein Study also asked questions concerning the prosecutor's role at the various stages of the court proceedings.³² The bar graph on page 24 is compiled from data in that study and it indicates a wide disparity.³³

Some of the statistics indicated in the bar-graph need some explanation. For example, the graph might be taken to indicate that attorneys for the state spend most of their time at pretrial motions, probable cause hearings, adjudications, appeals, and habeas corpus proceedings. However, the study's findings also indicated that probable cause hearings and pre-trial motions occur seldom or not at all, and that consent decrees are not yet commonly used in most jurisdictions (e.g., "44% of the answering said "no one" or gave no response to the question asking who represents the petitioner in consent decrees).³⁴ Also, appeals and writs are not very numerous in the juvenile area. And it is also noteworthy that, while 48.5% of the attorney-prosecutors represent petitioners at disposition, only 8.8% recommend a disposition to the judge.³⁵

Thus, the adjudication stage emerges as the major activity of the attorney-prosecutor. The pre-trial and post-trial activities of the state's representatives

Prosecutor's Role at Various Stages (68 Cities)



are still in a state of flux, but it can be safely surmised that as the state's attorney becomes more and more an integral part of the juvenile court scene, his involvement in terms of numbers of cases, types of cases, and phases of the proceedings will increase.

C. Current Status of the Law Officer Project

1. Introduction

The Law Officer Project began in Brooklyn in July 1971 and has been in existence for two years. About half way through this two-year period, an evaluation of the Project in Brooklyn was conducted by Professor Sheldon Krantz of Boston University Law School. Krantz's report, dated September 5, 1972, was critical of the Project's lack of progress at that time. From his observation and interviews in the Brooklyn Family Court, he concluded that the Project was not meeting its original objectives. In his opinion, there was little hope for improvement without changes in personnel and program content, and without stronger commitment to the Law Officer concept by Corporation Counsel.³⁶

Professor Krantz recommended that federal funding of the project be continued for a second year "under carefully-developed conditions. . . because the concept of a Law Officer continues to have considerable promise."³⁷ Funding was continued, some changes were made, and the Project was expanded to include the Bronx. Then, in December, 1972, 16 months after the Project began, and several months after the Krantz evaluation, a separate Family Court Division was created so that Law Officers would no longer have to be "borrowed" from the Penalties Division. A Division Chief and an Assistant were appointed at that time. Now, after two years, federal funding is coming to an end; and the Law Officer concept, if it is to be continued, must be supported by New York City.

2. Law Officer Project: Progress to Now

As previously indicated, the Corporation Counsel's role in the Family Court reaches beyond the goals set out in the Law Officer Project. The Corporation Counsel's responsibilities extend into almost every type of Family Court proceeding. Seen in this perspective, the Law Officer Project was viewed as a method of funding an expanded and improved representation in one area of the Corporation Counsel's Family Court effort: i.e. juvenile cases.

The "Law Officer Project" was a concept which indicated an increased concern by the Office for work in the juvenile area of the court; but the Project did not exist in isolation from the other Family Court responsibilities of the Corporation Counsel. The goals of the Project were incorporated into the expanding role of the Office. Programs or guidelines relating to juvenile delinquency, child protective, or PINS proceedings were not labelled as "Family Court Law Officer Project" programs. No Assistant Corporation Counsel called himself or was called a "Law Officer" because no one was assigned exclusively to handle juvenile cases. Consequently, in writing the present evaluation, it was impossible, in many instances, to separate the Law Officer Project from the increased role of the Corporation Counsel's Office and, later, from the Family Court Division.

There are presently 25 Division Attorneys working in three Project Boroughs - 11 in Brooklyn; 9 in Manhattan; and

5 in the Bronx. In addition, there is a Supervisor for each Borough team. Although Corporation Counsel's Office did supply attorneys to Queens and Staten Island, they were not a part of the federally funded project. Presumably the goals of the Law Officer Project will be extended to all five boroughs.

Up to this time, for a variety of reasons, the Project has fallen short of its ambitious goals. An initial problem was the rapid expansion of the Project in both geography and subject matter. Soon after the Project commenced in Brooklyn, it was expanded, without any additional funds, to Manhattan, and, after a year, to the Bronx. Second, the intent of the Project was to improve the quality of juvenile petitions, i.e. delinquency, PINS, neglect and abuse. Throughout the period of the grant award, Project attorneys undertook many activities not covered by the grant. In the first Project year, Law Officers handled approximately 150 handicap cases and made approximately 12,860 appearances in support and paternity proceedings. And, pursuant to §7009 of the C.P.L.R., the Corporation Counsel represents the Family Court judge in Writs of Habeas Corpus which result from remand and dispositional decisions of the Family Court. Added to these duties, pursuant to §7009 of the C.P.L.R., Corporation Counsel must represent the Family Court in Article 78 proceedings brought in the New York State Supreme Court, challenging the judges of the Family Court on their jurisdiction over proceedings brought in the Family Court. In a number of juvenile delinquency cases, Corporation Counsel attorneys are involved in

Supreme Court motions seeking such relief as immunity for witnesses and obtaining grand jury minutes. In the first Project year, approximately 65 State Supreme Court proceedings of all types were handled. Thus, rather than being able to concentrate on developing a coherent program based on the original goals of the Project, the Division Attorneys were forced into the position of keeping abreast of a heavy workload in a high volume court.

In addition, many of the options which might theoretically be open were limited by the presence of other parties in the court. For instance, the presence of a vigorous Law Guardian program by the Legal Aid Society for nine years necessitated a strong adversarial role. The presence of a large bureaucracy including probation officers and court clerks who had traditionally screened cases and prepared the petitions meant that these functions could not be immediately assumed by the recently expanded, but still understaffed, representation of the Office of the Corporation Counsel.

Some of the deficiencies in the first two years of the Project, however, were more directly under the control of the Office of the Corporation Counsel and their remedy may be more swift. Thus, the original Project called for a training program to prepare the Assistant Corporation Counsel for their work in the Family Court. There was no training program at the beginning of the Project, and new attorneys do not receive any orientation when they are hired. A series of training sessions

began a year and a half after the grant was received under a contract to an outside consultant. This was a modest beginning, which the attorneys themselves found unsatisfactory (13 of 20 Division Attorneys interviewed found the sessions either "unsatisfactory" or "highly unsatisfactory", Q. 20). The Division does not have a Manual which would articulate procedures and policy. (See Recommendation #19, p.70).

But the modest training and the lack of a Manual are symptoms, rather than causes, of a lack of goals in the Division: there is confusion concerning the Division's policy in many key areas. (Q's 1, 2, 3, 29, 30). As the second half of the report stresses, a process must be developed within the Family Court Division for policy formulation. Then, procedures for communicating that policy to the Division Attorneys and to other court personnel will really be meaningful.

In addition to problems of goals and communication, the Project suffered serious bureaucratic and budgetary problems. The grant award was never fully disbursed. Due to administrative difficulties within the office of Corporation Counsel, budget lines for the hiring of more attorneys were never created and the money not disbursed. Although the original grant called for the assignment of two investigators to the Brooklyn Family Court, these important personnel have still not been hired.

For the Division Attorneys to function efficiently in their important role in the court, the Family Court Division must be

accorded at least as much respect as the other divisions within the Office of the Corporation Counsel. For too many years, practice in the family and juvenile courts has generally been considered a less demanding and less prestigious form of legal practice. Unfortunately this attitude toward family law practice has apparently had its effect on the Law Officer Project. Corporation Counsel must fill the budgetary needs of the Division Attorneys, actively recruit attorneys interested in family law, and provide a salary commensurate with the important and necessary work of the Family Court.

3. Summary of Findings

This section compares the present involvement of the Division Attorneys in the court with the goals in the original grant award. (Other findings of our study are made in reference to specific recommendations in Part II of this report.) The comments of Professor Sheldon Krantz after one year of Project operation serve as a useful bench mark.

The authors of the original reports describing the Project and the Krantz evaluation speak in terms of "Law Officers", and we have tried to retain this original phrase in speaking of their aspirations or his evaluation. However, as noted, the attorneys and their supervisors never used this phrase to describe themselves. Instead, project funds were used to augment the existing staff and give the Office of the Corporation Counsel a new orientation in juvenile cases. In

describing present or future situations, we have found it more convenient to use the phrases "Assistant Corporation Counsel" or "Division Attorneys".

A. Post-Intake Screening

Original Goals of Project - July 1971. The goals are taken from the Youth Services Committee Report on January 3, 1969 and the Corporation Counsel's Family Court Law Officer Project Report, July, 1971 - June 30, 1972.

1. The Law Officer should develop legal guidelines for intake probation officers to use in making their recommendations to file petitions.

2. The Law Officer should be empowered to review all cases of alleged juvenile delinquency which are referred to the court by the intake officer.

Krantz Evaluation - September 1972. Professor Krantz spent two weeks in evaluating the Project attorneys in September, 1972.

1. The only effort to develop legal guidelines was the attempt by the Brooklyn supervisor to adapt district attorney complaint forms into juvenile delinquency petition forms as a guide for "police officers and court personnel".

2. After 14 months, the important objective of assigning Law Officers to review petitions had not been achieved. Court clerks, who lack legal training, drafted the petitions. It was estimated that 20-30% of these petitions had to be amended, dismissed or withdrawn because of faulty draftmanship. Law

Officers were not reviewing petitions for either form or substance.

Present Status - July 1973

1. Strictly speaking, probation officers do not make "recommendations" when they refer cases to the Assistant Corporation Counsel in the petition drafting room. They do, however, exercise considerable discretion in deciding whether to adjust or to refer an individual case. No legal guidelines are contemplated for intake officers, since the Office of the Corporation Counsel feels that its attorneys should make determinations concerning the legal sufficiency of the petition.

2. Law Officers in Brooklyn and Manhattan now draft their own juvenile delinquency petitions. There is some confusion about the Law Officer's role in screening various types of petitions.

B. Preparation of the Petition

Original Goals of Project

If the Law Officer determines that the facts are sufficient to give the court jurisdiction, he should authorize the preparation of a petition. The Law Officer should control the form and content of the petition; the role of the petition clerk should be limited to typing the petition itself.

Krantz Evaluation

Law Officers were not yet involved in petition drafting. Two reasons were given: 1. the petition clerks had a stipulation built into their union contracts authorizing them to draft petitions and it was difficult to change this policy; and 2. the Law Officer staff did not have enough time available to screen and draft petitions.

Present Status

Of the three Project boroughs, two now assign attorneys to the petition drafting room as part of the regular rotation. In Brooklyn and Manhattan, Probation sends its juvenile delinquency petitions to the Family Court Division's petition room. Division Attorneys interview petitioners and draft petitions in long hand. They then give the written petition to a clerk who types the petition and returns it to the attorney for approval. The petitioner signs the petition and copies are sent to the court, the petitioner, defense counsel, and the probation folder. Division Attorneys also make out an official court jacket and keep their own record of petitions drafted. The number of petitions drafted per day varies in Manhattan from 4 to 12 and in Brooklyn from 6 to 18.

There is some confusion in the minds of Division Attorneys about their role at petition drafting. Some exercise a

great deal of discretion in refusing to draft a legally insufficient petition; some do not view this as their function. There is also a little confusion in situations when there is a strong case and the petitioner wants to withdraw the petition (Q.29).

Bronx does not have enough attorneys to perform the petition drafting task.

C. Fact-Finding Hearings

Original Goals of the Project

1. The Law Officer would represent all petitioners in fact-finding hearings where the petition alleges juvenile delinquency and would interview witnesses, marshal evidence and present the case, cross-examine witnesses and present briefs and oral arguments on legal issues.

2. The Youth Services Committee recommended that the Law Officer avoid PINS and neglect cases to assure an experiment of manageable proportion. However, the Corporation Counsel Law Officer Project after the first year of the Project indicated that the Project's goals were expanded to include neglect and abuse cases which were not brought by other agencies such as Department of Social Services and Society for Prevention of Cruelty to Children whose attorneys present petitions brought by these agencies.

Krantz Evaluation

1. Krantz presented a "bleak summary" of the Law Officer role at fact-finding hearings. According to Krantz, cases were poorly prepared and little skill in advocacy was shown. Personnel seemed of questionable quality.

2. Staff time was increasingly given to non-juvenile cases because judges relied on §254 of the Family Court Act to require Law Officer involvement in paternity and support cases. The supervisor wanted to resist, but was afraid of being held in contempt of court. He complained that no policy had been worked out with the Administrative Judge on the use of Law Officers.

3. The lack of clerical and investigative staff hurt their effectiveness. The supervisor in Brooklyn complained of lack of cooperation from the police department in continuing investigations beyond the arrest. There appeared to be little commitment to the project from Corporation Counsel, and only lawyers of marginal quality seemed willing to work in the Family Court.

Present Status

1. The general level of competence of Division Attorneys in presenting the facts of the case and cross-examining witnesses was good.

A few attorneys are especially dedicated to their work and do an excellent job of case preparation and trial presentation. They take work home on weekends and do research on difficult evidence problems and case law.

Other attorneys have adjusted their output to the low level of emphasis and esteem their role is granted. Since they have no investigators or clerical help and have little time for case preparation, they do the minimum necessary to present the facts they can gather from cursory interviews before entering the court room. Some have taken this position to avoid the high pressures and insecurity of private practice or corporate work. They like the job security, regular hours, and routine work. (Q.17, Misc. Comments)

Some younger attorneys were drawn either to the family law or law enforcement aspects of the job, but will probably leave the Division because they are frustrated at the initial lack of orientation or on the job training, the absence of support service, the poor salary, and the general feeling of desperation of being part of the "revolving door" of the Family Court. They generally try to do a good job at the trial stage, but will almost inevitably leave after two or three years of experience.

2. Division Attorneys are still involved in adult as well as juvenile cases. The judges require their involvement in many adult cases and the office of the Corporation Counsel has never seriously protested. They are also required by statute (F.C.A. §254 (b)) to be present at all Neglect hearings even though S.P.C.C. or D.S.S. attorneys present the petition.

3. There are still no investigators, and secretarial-clerical staff is inadequate. The Brooklyn supervisor still complains of the lack of police cooperation in continuing investigations.

D. Detention Hearings

Original Goals of the Project

The probation officer can best advise the Court about the necessity of detention.

Krantz Evaluation

No comments.

Present Status

Division Attorneys are not involved in detention hearings, except where the detention issue arises as part of an adjudication hearing. Division Attorneys appear and present the case in all good cause hearings held pursuant to Guggenheim v. Mucci 32 N.Y. 2d 307 (1973) in homicide and assault cases where the petitioner is incapacitated.

E. Dispositional Hearings

Original Goals of the Project

The original recommendation left this matter to Probation. In the Law Officer Report a year later, the Corporation Counsel announced that one of the priorities for the second year of the Project would be to introduce Law Officers into dispositional hearings in delinquency cases.

Krantz Evaluation

Law Officers were not involved in juvenile dispositions. Krantz recommended that attorney-prosecutors could best assist in achieving the Family Court goals by developing a concern for dispositions. Specifically, he suggested that they use their position and influence to: 1. ensure that only legally-sufficient cases are adjudicated, and 2. ensure that cases are resolved in the best interests of the treatment of the child consistent with appropriate concern for public safety.

Present Status

Division Attorneys appear at some child abuse and neglect dispositions, when they feel the issues are complex or they can make a unique contribution.

They do not appear at juvenile delinquency dispositions.

The adult matters in which they are involved are all essentially disposition-oriented. In support, paternity, and

USDL cases, the state's interest is to secure a satisfactory settlement.

In July 1973, a Court of Appeals decision, In re Ellery C., held that juveniles adjudged as PINS may not be sent to training schools with delinquents. Following this decision, Legal Aid has been moving for new dispositional hearings to vacate previous dispositions of PINS in training schools. The Assistant in Charge of the Family Court Division has recently issued a memorandum directing Division Attorneys to present the state's case at these hearings.

F. Hearings on Revocation of Probation and Parole

Original Goals of the Project

The Law Officer should screen allegations of supervising probation officers to determine whether the facts are sufficient to constitute violation of the terms of the child's release. If deemed to be sufficient, a Law Officer should be responsible for presenting the case at revocation hearings.

Krantz Evaluation

No comments.

Present Status

Division Attorneys are not involved in these hearings.

G. Out of Court Resolution of Issues

Original Goals of the Project

1. The Law Officer should be empowered to play a role in

the resolution of cases prior to the actual court hearings.

2. Given the civil nature of the hearing, it should be possible to experiment with the use of pretrial discovery procedures which would point toward disclosure by both parties.

Krantz Evaluation

No real effort had been made to achieve any of these objectives.

1. Law Officers, prior to a hearing, did not attempt to resolve cases.

2. The office policy was against pretrial discovery in juvenile cases. The Supervisor in Brooklyn took the position that the stricter rules of criminal procedure should apply to juvenile cases. The Supervisor acknowledged that there had been disagreement over this policy, but that the inconvenience of responding, partially due to lack of supportive personnel, militated against a more liberal policy.

Present Status

There has been some progress in this area.

1. Some Division Attorneys attempt to meet with the Legal Aid Lawyer and work out a pre-hearing resolution. These efforts vary depending on the individual attorneys on both sides.

2. Division Attorneys have not fulfilled the original goal of creating a unique role, different from the traditional prosecutor. This is partially evident in their failure to experiment with liberal pretrial discovery and resolution of issues. Most Assistant Corporation Counsel consider themselves trial attorneys who are not involved in searching for alternate solutions. Almost no emphasis has been given to dispositions at any stage.

H. Calendar Management

Original Goals of the Project

The Law Officer should be responsible for the production of witnesses and records, as well as for working out with the child's lawyer necessary adjournments or other administrative matters.

Krantz Evaluation

No comments.

Present Status

Assistant Corporation Counsel are responsible for producing their own witnesses and records. When Legal Aid lawyers cooperate with them, they work out agreements on adjournments.

I. Advisory Functions

Original Goals of Project

The law Officer should be available to judges of the

Family Court to conduct investigations and studies which would assist the court in performing its functions.

Krantz Evaluation

No comments.

Present Status

Assistant Corporation Counsel have not explored this role.

In summary, the Project has improved its performance at fact-finding hearings and has assumed a new role at petition drafting. There was also a training session. The creation of a Family Court Division has already had a beneficial effect.

However, the needs of the Division must be granted greater priority by the Office of Corporation Counsel. Sufficient investigatory and secretarial support have not been provided. The Division Attorneys lack a clear concept of their role in the court, essentially because the Corporation Counsel, the Division Chief, the Borough Supervisors and the Assistant Corporation Counsel have not formulated policy in many key areas. Involvement in the dispositional concerns of the court should run through the entire work of the Law Officer, from petition drafting to disposition and revocation hearings.

II. RECOMMENDATIONS FOR THE FUTURE

A. Summary of Recommendations

1. ADMINISTRATION

a. Central Office Administration

1. The Office of Corporation Counsel should grant the Assistant in Charge of the Family Court Division adequate authority and power to manage the Division. In particular, the budget request of the Counsel in Charge should receive due consideration.
2. The Assistant in Charge should function as an administrator.
3. The Assistant in Charge should have the services of a full-time administrative assistant, as well as adequate secretarial support.
4. An efficient and simple statistical system should be created to assist the Assistant in Charge in planning and monitoring the work of the Division.

b. Borough Supervision

5. The responsibilities of supervisors should be defined. These duties should include monitoring performance of all attorneys; assisting in the preparation of difficult cases; providing on-the-job training seminars; and communicating office policy.
6. Supervisors should give more time to administration. They should generally be free from litigating cases themselves.
7. Each borough supervisor should have an assigned deputy to cover for absences.

c. Support Staff

8. The Division should have a full-time investigative staff.
9. The Division needs more secretarial help.
10. More efficient use should be made of the temporary typists who now only type petitions in Brooklyn and Manhattan.

d. Working Conditions

11. The Assistant in Charge of the Division and the borough supervisors should negotiate with the court administration for better and increased office space.
12. The Division attorneys should have convenient access to a law library.
13. Each borough office should be provided a reasonable supply of basic office materials.

2. STAFFING

a. Recruitment and Compensation

14. The Division needs an increase of at least 20 attorneys.
15. A program should be developed to actively recruit new attorneys in law schools and the practicing bar.
16. The division recruitment program should focus on lawyers and law students a) with interest or expertise in family law and juvenile justice problems and b) who are members of minority groups, especially Spanish-speaking attorneys.
17. To increase job satisfaction within the Family Court Division, the ability of Assistant Corporation Counsel to rotate within the Office of the Corporation Counsel should be facilitated.
18. The salaries paid Division Attorneys should be competitive with the pay scale of Assistant District Attorneys and the Legal Aid Law Guardians. In particular, a better increment scale is needed to encourage long-term commitment.

b. Orientation and In-Service Training

19. The Division should use its own staff to develop and update a manual to aid in orientation and training. The manual should emphasize the evolving role of the attorney-prosecutor, as well as problem areas in Family Court practice.
20. A special orientation program should be developed to meet the needs of new Division Attorneys who have recently graduated from law school or who have never practiced in the Family Court.

21. The existing in-service training program should be improved with an emphasis on decentralized seminars in each borough.

3. DUTIES

a. Role of the "Attorney-Prosecutor" in Family Court

22. The Division should formulate goals for its involvement in the Family Court in light of national developments.
23. All of the staff attorneys should be involved in developing the Division's goals.
24. The Division's goals should be articulated in writing and communicated to the staff and other court personnel.

b. Types and Stages of Cases

25. The Division should examine its role in the various types of Family Court cases and stages of litigation in relation to its goals and developing national standards.
26. The Division should negotiate an agreement with the Family Court Judges to adjust the Division's role in cases according to available resources.
27. The Division should work, through legislation or appeals, to make changes which would facilitate their own work and aid the overall performance of the Family Court.
28. The initial goal of the Law Officer Project that the Division assume the duties of the other agencies presently representing the state in the Family Court should again be considered.

4. TIME MANAGEMENT

a. Factors Within the Division's Control

29. Paralegal assistance would allow Division Attorneys to concentrate on more important legal functions.
30. Late arrivals or leaving the court on personal matters by Division Attorneys should be eliminated by better supervision.

b. Areas Requiring Increased Liaison

31. Time lost in the petition room waiting for probation department folders should be reduced through better coordination with the Probation Department.
32. More efficient case scheduling requires closer coordination with court officers, as well as better planning within the Division.
33. Regular communication by the Assistant in Charge of the Division and the borough supervisors with the appropriate representatives of the Legal Aid Society would increase the effectiveness of both offices.

B. Recommendations and commentary

1. ADMINISTRATION

a. Central Office Administration

1. The Office of Corporation Counsel should grant the Assistant in Charge of the Family Court Division adequate authority and power to manage the Division. In particular, the budget request of the Counsel in Charge should receive due consideration.

There is a clear need for strong central administration in the Family Court Division. Although specific problems will be discussed under the appropriate recommendations which follow, two general points should be made here.

(a) Because there are five boroughs, there will have to be five physically separate offices of the Division. The responses to the questionnaire and our own observations disclose a wide variation in attitudes and practices. Different borough supervisors may often have different approaches to the same problem. Each court presents a different environment in terms of physical facilities, judges and court personnel. Unless there is central control, there will be five separate offices rather than one Division on matters such as policy for screening petitions, which require uniformity.

(b) There is no coherent philosophy or role definition to which the Law Officer can turn for guidance. As already noted in Part I B, there is considerable conflict and variation about these subjects on a national level. Within the Law Officer Project itself, there is substantial uncertainty about philosophy

(only four of 23 Law Officers thought that there was a philosophy for the office, and each of these four gave different answers), (Q. 1) and role (e.g., participation in pre-hearing negotiation and settlement of cases).

An important function of the central administration of the Division will be to help develop a meaningful philosophy, as well as implement it through specific definitions of the attorney-prosecutor role and relevant policy directives.

Perhaps the most important development for the Law Officer Project during the last year was the creation of a separate Family Court Division with a separate Assistant in Charge. This Assistant can work full-time to achieve the original goals of the Project, as well as to improve the total Family Court responsibilities of the office. In relation to the Office of the Corporation Counsel, it is essential that the Attorney in Charge be given the authority and power to carry out his responsibilities.

In general, persons working in the family or juvenile court, like the court itself, too often suffer from a lack of resources and attention. This should not be allowed to happen within the Office of the Corporation Counsel. The Assistant in Charge of the Family Court Division is the only person who can provide the leadership necessary to make the goals of the Project and Division succeed. Significantly, a majority of the Assistant Corporation Counsel felt that the Division now has begun to establish guidelines for their

performance in court (Q. 3: 11 yes, 4 qualified yes, and 8 no). The affirmative responses cited memoranda from the Assistant in Charge as either the major or the exclusive source of policy. The Assistant in Charge is clearly attempting to shape Division policy, and Division attorneys appreciate these efforts. However, if these efforts are to be successful, the Office of the Corporation Counsel must become acquainted on a first hand basis with the work of the Division and support the Assistant in Charge.

The Assistant in Charge must have an equal status with the other divisions in developing a plan of action, especially in formulating the Division's budget and winning its approval. The unfortunate hiatus which has surrounded the disbursement of the Project's funds from CJCC during the last two years is symptomatic of a lack of concern by the administration of the Office of the Corporation Counsel itself for this Division. As a direct result of administrative inattention, for example, investigators have never been hired and money available to create attorney positions has gone unspent. The Family Court Division should not be allowed to become the unwanted and unattended stepchild of the Corporation Counsel's Office.

2. The Assistant in Charge should function as an administrator.

The job of the Assistant in Charge of the Family Court Division is primarily an administrative position. Of course, a knowledge of substantive law and procedures is essential. But the Assistant in Charge must emphasize the administrative

tasks such as preparing budgets, developing statistical systems and implementing procedures for hiring and training the staff.

Lawyers often have trouble making the transition from litigation to administration. They were trained both in law school and through various forms of apprenticeship for litigation, not for administration. As a result, when lawyers are placed in administrative posts, they tend to involve themselves in litigative responsibilities, and fail to recognize the importance of the administrative requirements of the office. The Assistant in Charge must give primary attention to the management of the Division and not become personally involved in litigation. Possible exceptions might be made for test litigation; but, even here, the primary responsibility for the case should be assigned to an Assistant Corporation Counsel.

The tasks of the Assistant in Charge are many. To mention only a few, this administrator must (1) maintain liaison with other components of the court such as the judges, probation, clerks, police, defense counsel and other counsel representing the state; (2) represent the interests of the Division within the Office of the Corporation Counsel, in particular, budget preparation and justification; (3) plan for the future needs of the Division; (4) establish policy for the role and procedures of the staff in and out of court; (5) communicate policy to the borough supervisors and the staff; (6) monitor policies already established; and (7) attend to the personnel needs of the Division ranging from developing policy for recruitment through

responding to individual complaints. Anyone adequately performing these and other duties of the job has little time for actually litigating cases in court.

In addition to allowing enough time to perform these tasks, the Assistant in Charge should have a special interest in administration. Often an attorney will accept administrative responsibility because of the added compensation or prestige involved, but he will continue to be primarily interested in litigation. Some administrative training or experience would also be useful; but, unless the individual genuinely likes administration, the Assistant in Charge cannot fulfill the demands of the office.

3. The Assistant in Charge should have the services of a full-time administrative assistant, as well as adequate secretarial support.

In order to help the Assistant in Charge deal with the growing managerial demands, a full time administrative assistant should be hired. Time consuming chores should be delegated, such as attempting to obtain service from other components of the court. A full time assistant who would not require legal training could be hired at perhaps half the salary of the Assistant in Charge and could perform many of the duties which currently keep the incumbent from devoting adequate time to long range concerns.

What can be achieved by professional administration has been exemplified in New York City by the placement of an administrative assistant in the District Attorney's Office in Brooklyn. As an administrator, the assistant is not involved in the

strictly legal concerns of the District Attorney's Office. Rather this assistant attempts to improve and simplify the system under which the office works. For example, the District Attorney's complaint room in the Brooklyn Criminal Court handles approximately 60,000 complaints a year. At present the complaint room utilizes three (3) Assistant District Attorneys and five (5) typists. The administrative assistant is currently trying to identify the peaks and lows in complaint room traffic to maximize the best utilization of personnel.

The Family Court Division could use the services of an administrator to similarly tighten up and simplify its operations. At least a year's experiment with such a post, possibly under a CJCC grant, is strongly recommended.

The secretary of the Assistant in Charge, in addition to her regular duties, is assigned to jobs such as processing requests from other jurisdictions for family support payments against employees of the City of New York. The Assistant in Charge of a division, especially when assisted by a full time administrative assistant, needs the service of a full time secretary.

4. An efficient and simple statistical system should be created to assist the Assistant in Charge in planning and monitoring the work of the Division.

An accurate periodic statistical summary of the work of the Family Court division is an essential management tool. It provides a basis for determining the best allocation of manpower among the borough offices and can assist in guiding the decision

to assign persons to posts within a specific borough. Further, accurate caseload statistics are invaluable arguments for more or less personnel when budget time arrives.

Presently the Family Court Division central office receives monthly statistics concerning the work of the borough offices. Everyone agrees that this form and the data collection procedures should be improved. The rest of this section describes a new and, hopefully, improved system. A two page form is suggested which would use identical tear off "case record" sheets. A sample appears on the next page.

Title, Docket #, Type of Action, Date Filed, and Appearance Data information would be entered by the petition drafting attorneys, when a petition is filed with the court. After the petition is filed and a docket number assigned, the first copy (as well as the second, if there was a disposition) would be torn off and transmitted to the Division's clerk in each borough, where it would be stored in one of two files: one for cases commenced during the current month, the other for cases commenced during the current month and terminated during the current month. A third file would be maintained for cases commenced in prior months and still pending.

If the case cleared intake without termination, the remaining page of the "case record" would accompany the other case papers to the next appearance. At each appearance, a new adjourned date would be entered by the attorney. At termination, the type and date of disposition would be noted. The second page would then be torn off and given to the Division's clerk who would match it with the first page by Docket # and place it

CASE DATA COLLECTION FORM

Case Record

Title _____ v _____ Docket # _____

Date Filed _____/_____/_____

Type of Action

- J.D. PATERNITY
- Homicide SUPPORT
- CHILD PROTECTIVE USDL
- Abuse
- Neglect
- HANDICAP
- PINS

Appearance Dates

Mo	Da	Yr	Mo	Da	Yr
____/____/____	____/____/____	____/____/____	____/____/____	____/____/____	____/____/____
____/____/____	____/____/____	____/____/____	____/____/____	____/____/____	____/____/____
____/____/____	____/____/____	____/____/____	____/____/____	____/____/____	____/____/____

DISPOSITION

- Fact Finding
- Settlement
- Dismissal
- Dismissal to other Petition
- No petition

Date Terminated _____/_____/_____

in the appropriate file; either one for cases commenced in prior months and terminated during the current month.

At the end of a regular reporting period (e.g. monthly), summaries similar in form to the present ones could be put together merely by counting the forms in each of the four files. Accuracy would probably be greater because attorneys would have less writing to do by virtue of the carbon copy system. Periodic sampling could also produce time delay data from these forms, as well as appearance per case data.

Whatever the form adopted, it is not recommended that much more than the basic data elements just described be collected. Too much information leads to less accuracy and less cooperation from the attorneys who must supply the raw data. For instance, data about attorneys' work habits could be acquired by having the Assistant Corporation Counsel fill out logs for a short period.

A final note: this section has only discussed the statistics about representation of the state by Assistant Corporation Counsel. However, there are several other agencies which represent the state in Family Court. If meaningful planning is to be accomplished about the needs of the total system, data should also be collected from the Board of Education and other agencies on a continuing basis.

b. Borough Supervision

5. The responsibilities of supervisors should be defined. These duties should include monitoring performance of all attorneys; assisting in the preparation of difficult cases; providing on-the-job training seminars; and communicating office policy.

6. Supervisors should give more time to administration. They should generally be free from litigating cases themselves.

Presently, the three borough supervisors work hard and put in many overtime hours. The supervisors are generally well regarded by their staff. 15 of the 21 Division Attorneys interviewed felt they were receiving adequate supervision (Q. 6). But our observation and discussion with the supervisors suggest that the allocation of their time could be improved. The basic problem is that supervisors spend too much time on litigation and not enough on training and monitoring. In part this is because of the general understaffing of the offices, but another reason is that there are no written guidelines or clear role definitions.

If the various borough offices are to be efficiently run, clear guidelines must be set out. Of primary importance, the supervisor must be generally free from litigative responsibilities. A supervisor cannot adequately perform administrative tasks if he is concurrently carrying a full caseload.

The supervisor's main duty must be to ensure effective performance by his staff. This would include: a) spending time in court monitoring attorney's work, especially new attorneys; b) running on-the-job training seminars in such areas as trial technique, policy formulation, and recent developments in family law; c) helping in the preparation of difficult cases; d) maintaining a file of important court opinions and legislation; e) meeting on a regular basis with other court personnel, especially the Legal Aid supervisor; and f) communicating the

needs and suggestions of the attorneys to the Assistant in Charge of the Division. (See Q. 7 and 46.)

7. Each borough supervisor should have an assigned deputy to cover for absences.

There will be times when a supervisor will not be present in the court, for example, meetings with superiors or other supervisors outside the courthouse, an important case that calls for personal investigation, personal sickness or vacation. At present, no one is officially assigned to act for the supervisor in his absence. An attorney in each borough should be permanently assigned to perform the supervisory functions when the supervisor is absent.

c. Support Staff

The Manhattan office has a supervisor and 9 Assistant Corporation Counsel, assisted by a clerk and one temporary stenographer. The Brooklyn staff includes a supervisor and eleven attorneys, assisted by a clerk and 2 temporary stenographers. The Bronx has 5 attorneys and one clerk.

Thus, for a total of 28 professionals there are only 6 support staff or a ratio of 4.7 attorneys for each support staff member. The Juvenile Rights Division of Legal Aid has an attorney-support staff ratio of 1.5 attorneys for each support staff member. The support staff of Legal Aid includes an investigator and social workers, as well as clerks and stenographers.

8. The Division should have a full-time investigative staff.

Division attorneys report that their office spends the most time and effort on juvenile delinquency cases (Q. 33). Delinquency cases are comparable to adult crimes in complexity and importance. The substantive offenses are the same: homicide, rape, arson, larceny, and assault. Preparation for such cases may entail leaving the court house to interview witnesses or view the scene of the crime.

The Division Attorneys' work in this area is similar to that of District Attorneys. Yet; unlike the District Attorneys and unlike the Legal Aid attorneys, Division attorneys have not been provided with an investigative staff. In juvenile delinquency cases, such services are provided only informally through contact with individual police officers. When an attorney needs more information about the circumstances of a case, he must locate the officer or detective involved, and request a supplemental investigation. Although police are mandated by the Police Commissioner to cooperate with such requests, Division Attorneys report that police are not performing these supplemental investigations.

Division Attorneys interviewed frequently requested investigative assistance. The demand was particularly strong in Brooklyn, where the need for such aid was mentioned by 5 out of 9 attorneys (Q. 46). Investigation was also cited as a function currently performed by Division Attorneys which could be performed by clerical or paralegal personnel (Q. 47).

A full-time investigative staff could 1) serve as liaison with the police department to ensure cooperation of individual police officers and 2) perform investigations when police of-

ficers are not available. In addition, they could render investigative assistance in cases, such as USDL and support, where police have had no prior involvement. To facilitate investigations some members of the staff should be Spanish-speaking (Q. 46).

9. The Division needs more secretarial help.

In all three of the Project boroughs, one clerk performs a variety of tasks, including receiving all incoming telephone calls, locating Division attorneys, and typing for the supervisor and other Assistant Corporation Counsel.

Typing duties include letters, bills of particulars, and subpoenas. (According to their contracts and civil service regulations, clerks should not be burdened with typing duties which interfere with their administrative functions.) The clerk also maintains the docket file and is responsible for compiling and sending to the Division central office a monthly statistical record. The clerk must constantly interrupt typing and filing duties to answer the phone and relay messages to attorneys in their offices or elsewhere in the court building. Also, they must act as office manager, for example ordering supplies.

Placing a heavy workload on these clerks means that there may be delays in the sending of subpoenas, requests for information and other items essential to the effective preparation of a case. Additional secretarial aid would speed the processing of these papers, and enable the clerk to spend more time assisting the supervisor in the administration of the office.

10. More efficient use should be made of the temporary typists who now only type petitions in Brooklyn and Manhattan.

The Family Court currently employs temporary typists who are assigned to assist Assistant Corporation Counsel by typing petitions. This is their sole duty. They are hired to work during the court day, in the summer, 9:00AM to 4:00PM. On a normal day, they will work from approximately 10:30AM to 3:00PM. They are inactive much of the day, waiting for reports to come in from Probation and for the drafting of petitions.

Given the Division's need for clerical and secretarial assistance, the Office of the Corporation Counsel should discuss the possibility with the court administration of using these temporary typists to type for Division Attorneys when they are not typing petitions. This would help alleviate some of the work burden currently placed on the Division's clerks.

d. Working Conditions

11. The Assistant in Charge of the Division and the borough supervisors should negotiate with the court administration for better and increased office space.

- (a) The Bronx office requires immediate action.
- (b) The Brooklyn office needs a better petition drafting room and privacy to interview witnesses.
- (c) In Manhattan, provision should be made that the building now under construction will adequately meet the Division's needs.

Assistant Corporation Counsel working in the Family Court need to be treated as professionals. The conditions in which these attorneys work affect their spirit of cooperation and enthusiasm for their job. Physical working conditions have a strong impact on the Division Attorneys' attitude toward their

job. If no one cares enough about their work to attempt to provide them decent working conditions, they easily fall into thinking their job is not very significant and not worth much effort. In discussing what things dissatisfy them most about their work, 8 attorneys referred to the poor facilities, noise, and crowding (Q.51).

Each borough has distinctive problems:

BRONX. The physical facilities provided Family Court Division attorneys in the Bronx are abominable. The supervisor, five attorneys, and a clerk are all wedged into one small non-air-conditioned office with two desks and some file cabinets. In this small space, attorneys are expected to prepare cases, interview witnesses, and make phone calls on one of the two lines. As a result of these conditions, Division attorneys hastily glance over case folders in the hallway, few phone calls are made, and in-depth interviews are rare and difficult to conduct. For example, a woman who has been raped will not want to discuss the incident in a small room crowded with strangers.

Such poor conditions create a deplorable impression of the justice system and, in fact, obstruct justice in many cases. If people can't be interviewed or called and if cases are not well prepared, then the petitioner cannot expect to receive justice from the court.

Not surprisingly, four out of the five Bronx attorneys interviewed stated that they were hindered in carrying out their responsibilities by the poor physical facilities in which they had

to work (Q.41). The poor facilities were also referred to as a reason for considering resignation from the Division (Q.52).

Supposedly, a new court building is planned, and the Division should make sure that adequate facilities are provided in the new building. However, the needs of the present are pressing. The Bronx office needs: 1) at least one other office, and preferably two, for the attorneys to conduct interviews. 2) Each office should have its own phone line, since the present phone system run by the court is inefficient and continually clogged. 3) If the office receives more attorneys and moves into petition drafting, they will require additional room.

BROOKLYN. The Brooklyn office has the best facilities of the three boroughs studied. The building is air-conditioned. The eleven attorneys, supervisor, and clerk have the use of four offices, plus a petition drafting room. This is not ideal -- each lawyer should have some private place to conduct an interview. But the situation is greatly preferable to the Bronx.

The present petition drafting room is too small for its present function. Sometimes, five or six complainants and witnesses have to be squeezed into this small room along with the attorney assigned to draft petitions. The typing of the petition is conducted in another room on the same floor of the court building, but down the hall from the petition drafting room. The two attorneys assigned to Intake are often also in the petition drafting room. A more practical system would be to place both the typists and the attorney drafting petitions

in one larger room.

MANHATTAN. Although the present facilities in Manhattan are far from optimum, the Division's efforts should profitably focus on assuring that the new court building now under construction will meet the Division's needs. As in the Bronx, the Assistant in Charge and the borough supervisor should engage in careful planning for the proper number of attorneys and support staff.

12. The Division attorneys should have convenient access to a law library.

The Division Attorneys find it difficult to do legal research on their cases. Brooklyn and Manhattan have a partial set of McKinney's kept in a file drawer in the supervisor's office. The Bronx supervisor worked with the Assistant in Charge of the Division to secure a partial set of New York Supplements and a set of McKinney's. Each attorney is supposed to have a personal copy of the Penal Law. Beyond this, the offices are without libraries. As a minimum, each office needs more than one copy of New York statutes basic to the work of the Division, such as the Penal Code, Family Court Act, Domestic Relations Law, and Social Services Law. They need more New York Supplements. They also need some periodical legal works, such as the New York Law Journal. In Manhattan, there is a large court library which only the judges can use. Some Division Attorneys felt that they should also be entitled to use the library.

13. Each borough office should be provided a reasonable supply of basic office materials.

Necessary office supplies such as legal pads, forms, pens, and carbon paper should be provided as a matter of course. However, the supervisor in one borough said he had difficulty even getting sufficient legal pads. The fact that such necessary items are not readily available contributes to the overall feeling of Division attorneys that their work does not receive the recognition it deserves.

A small example might further illustrate this problem. In the petition room in Manhattan, a Division Attorney had to rip off a piece of paper to scribble her name and phone number for a petitioner. Because that attorney was not provided with a simple card with name, title, and phone number, time was wasted to find scrap paper and write down the necessary information. At the same time, the petitioner was probably left with the impression that the city does not think much of its attorneys.

2. STAFFING

a. Recruitment and Compensation

14. The Division needs an increase of at least 20 attorneys.

A frequent request of Division Attorneys interviewed was for more and better attorneys. The demand was strongest in the Bronx, where the need was stressed by four out of five lawyers. (Q.46) (The Bronx office must leave the drafting of petitions to the Court Clerks because it cannot staff this important function.)

If contemplated changes in the Law Officers Project are initiated, there will be an even greater need for new staff; for example, workloads will increase if Division Attorneys are to enter into more stages of the proceedings, including dispositions, and if they are to assume the supervisor's caseloads so that the supervisors can be substantially freed from litigation in order to perform their administrative duties. New attorneys will also be needed if the Project is to expand into Staten Island and Queens.*

Because present caseload statistics are so poor, and because our study only included three of the five boroughs, it is difficult to give a precise estimate of how many attorneys are needed to properly staff the city-wide Division. However, compared to the Juvenile Rights Division of Legal Aid with over 60 attorneys, the present complement of less than 30 Assistant

* The Project must also be prepared to replace retiring attorneys. Of the present staff, over one fourth are sixty or more. Half of the attorneys in the Manhattan office are in their sixties. (Q.8)

Corporation Counsel is clearly inadequate, even allowing for the approximately 10 attorneys from other agencies appearing on behalf of petitioners in the Family Court. Based on our interviews and observations, we estimate that at least twenty attorneys are currently needed to fulfill the goals of the original Law Officer Project (Q.31, 32).

15. A program should be developed to actively recruit new attorneys in law schools and the practicing bar.

During the summer of 1973, the Assistant in Charge has been actively recruiting additional Division Attorneys. Although attorneys in the Division should be civil servants selected from existing civil service lists, no lists are presently available. New positions are generally being filled by applicants solicited through Law Journal advertisements.

Recruitment should also include active solicitation from law schools in order to attract younger attorneys. Only 12% of the Division's existing attorneys came directly from law schools. (The Juvenile Rights Division of Legal Aid estimates that 35% of its staff comes directly from law school.) Younger attorneys may not necessarily be more able than older attorneys, but frequently better talent can be attracted at existing salary levels from among the ranks of new attorneys.

Law school recruitment should be carried on both in and outside New York City. Of the twenty-three Division attorneys questioned, only three attended law schools outside New York. (Q. 9) Attorneys trained in different jurisdictions would provide a healthy input into the Family Court system. The field

of juvenile law is developing so rapidly and with such variation across the country that more young attorneys who have been exposed to systems different from New York City might provide an important new perspective to the Division.

16. The Division recruitment program should focus on lawyers and law students a) with interest or expertise in family law and juvenile justice problems and b) who are members of minority groups, especially Spanish-speaking attorneys.

Of the 21 Division Attorneys interviewed, only 5 with any prior job experience had worked with family court; 2 others had practiced in the criminal court. (Q.12) When questioned about reasons for joining the Law Officers Project, only 10 of the total of 23 interviewed indicated that they had specifically sought employment in the family court area. 8 stated that they had entered this bureau because it was the only one in which there had been an opening. (Q.15)

To some extent a higher salary will help attract attorneys with greater expertise. But a conscious effort will have to be made to recruit attorneys with skill and experience in the family court area.

There is also a need for conscious minority group recruitment, especially Spanish-speaking attorneys. Of the present staff, only one attorney is Black and none are Spanish-speaking. One Division Attorney characteristically commented during the interview: "We're almost all Jewish here: Legal Aid and Corporation Counsel. There's really a similarity in our orientation and philosophy. We get along well." (Miscellaneous Comments, C-28.)

The population served by the family court is made up of many non-white and Spanish-speaking people. For these people, the court is a frightening alien environment. An attorney for the state who could speak to them in their native tongue or who was of the same race might help overcome these problems.

17. To increase job satisfaction within the Family Court Division, the ability of Assistant Corporation Counsel to rotate within the Office of the Corporation Counsel should be facilitated.

Only three of the twenty-three Division attorneys interviewed said that they would like to be doing the same work in five years. (Q.55) Perhaps with more selective recruitment, more people who are interested in making a career of Family Court work will be attracted to the Division. Nonetheless, it would be wise to recognize that, for many young attorneys, the Division will be viewed as only a temporary job. Consequently, new attorneys should not be deterred from joining the Family Court Division by a Corporation Counsel policy which discourages transfers to other divisions.

Personnel policies should at least allow for easy rotation within the Office of Corporation Counsel to make sure that Family Court Division attorneys do not feel trapped in jobs which no longer interest them. Good rotation policies should hopefully increase the number of qualified people interested in the Division and reduce attorneys who have become disgruntled with Family Court practice. (Q. 54,55)

18. The salaries paid Division Attorneys should be competitive with the pay scale of Assistant District Attorneys and the Legal Aid Law Guardians. In particular, a better increment scale is needed to encourage long-term commitment.

In all three boroughs, salary was cited by Assistant Corporation Counsel as one of the chief reasons for dissatisfaction with their job. (Q.43)

Entry level salaries for Assistant Corporation Counsel are comparable to those offered Legal Aid attorneys of the Juvenile Rights Division. However, as the table on page 71 shows, salary increments offered Legal Aid attorneys are substantially better than those given to Division attorneys. After twelve years of service, the Division Attorney is making \$15,700 compared to \$24,700 for Law Guardians.

This competitive disadvantage should be eliminated. The median salary for Division Attorneys is \$13,200, compared to \$20,875 for Law Guardians. Significantly, the three Division Attorneys who indicated that they would like to be at the same job five years from now all added that they would stay only if given a better salary. (Q.55)

b. Orientation and In-Service Training

19. The Division should use its own staff to develop and update a manual to aid in orientation and training. The manual should emphasize the evolving role of the attorney-prosecutor, as well as problem areas in Family Court practice.

The need to develop a philosophy suited to the Division's role in the court has been a constant theme in these recommendations. Only 4 of the 23 Law Officers interviewed felt that the

LEGAL AID SALARIES

FAMILY COURT DIVISION SALARIES

Unadmitted	\$11,000	Less than 6 mos. experience	\$11,400
1st yr. admission	\$12,500	6 mos. or more experience	\$13,200
2nd yr.	\$15,000	2nd yr.	\$13,200
3rd yr.	\$16,650	3rd yr.	\$15,700
4th yr.	\$18,250	4th yr.	\$15,700
5th yr.	\$19,200	5th yr.	\$15,700
6th yr.	\$20,550	6th yr.	\$15,700
7th yr.	\$21,200	7th yr.	\$15,700
8th yr.	\$21,900	8th yr.	\$15,700
9th yr.	\$22,600	9th yr.	\$15,700
10th yr.	\$23,300	10th yr.	\$15,700
11th yr.	\$24,000	11th yr.	\$15,700
12th yr.	\$24,700	12th yr.	\$15,700
<u>Mean Salary</u>	\$19,296	<u>Mean Salary</u>	\$13,433

Division had a philosophy. (Q. 1) The only policy guidelines for Division attorneys have been provided by memoranda from the Assistant in Charge of the Division. In addition, there is confusion in the Division about problems in daily practice, e.g. the Law Officer's divergent attitudes about drafting petitions in weak cases. (Q.29)

The drafting and updating of a manual on policy and practice would be an important aid in meeting these important objectives. This recommendation is hardly new. Although it was an objective of the original grant two years ago, no manual is now available. The task of preparing the manual was given to an outside consultant, who had formerly been an Assistant Corporation Counsel practicing in the Family Court prior to the inception of the Law Officer Project.* Based upon a proposed table of contents, it appears that the manual will emphasize court practice. Hopefully it will also examine the evolving role of the attorney-prosecutor in Family Court.

The use of an outside consultant to write the Division's manual should not preclude participation by members of the Division itself. Indeed, the excellent Law Guardian manual was drafted entirely by staff members. It is generally preferable as an educational experience for the people directly affected to help develop policy they will have to live with -- rather than have it imposed from outside. The end product will be more meaningful to those who have participated in its creation.

* The consultant's first progress report was dated June 6, 1972. He presumably started during the early Spring of 1972. A tentative table of contents for the manual was given to Institute evaluators in July 1973.

The manual may also be closer to reality because it is written by those in daily contact with the courts. But most important, the very process of drafting policy should force the personnel at all levels of the Division to think about the implications of their decisions.

Presumably, preliminary drafts of the manual now being prepared will at least be reviewed by a specially-appointed committee or committees to insure participation by Division Attorneys. In the future, policy in particular areas might be formed by working groups of Division Attorneys, reviewed by central staff, and then presented to all the attorneys in memoranda or updates to the manual.

20. A special orientation program should be developed to meet the needs of new Division Attorneys who have recently graduated from law school or who have never practiced in the Family Court.

The Division does not currently have a systematic orientation program. Only 3 of the 23 Law Officers received any orientation when they came to work for the Project. One of the three commented that his orientation was slight; the other two were merely apprenticed to work with regular attorneys in the court. (Q.18 and 19) Suggestions from the Division Attorneys for improving the project included a recommendation for an orientation program with moot court participation. (Q.46) One attorney who expressed the opinion that he was not making the best use of his legal abilities stated that the lack of a good orientation program left him with the feeling that he "might be making the same mistakes over again." (Q.49)

The development of an orientation program is imperative, especially if the Division is going to nearly double its size by adding at least twenty new attorneys in the near future.

Only 2 of the 23 Law Officers interviewed came directly from law school. Of the remaining twenty-one, 14 had engaged in private or corporate practice. Only 5 had experience in the Family Court, while 2 had practiced in criminal court. Thus, most of the Project members started with no experience directly related to their work as Law Officers. (Q.12)

Once again, the Law Guardian Program offers a useful contrast. There are two Law Guardian orientation programs: one for attorneys already in practice; another for recent law school graduates, which stresses participation in a series of moot courts or simulated hearings at the different stages, e.g. detention, adjudication and disposition. The program for recent graduates is approximately eight weeks long and includes study and discussion of the Law Guardian Manual, of cases and various reports, and of studies on the New York Family Court, in addition to personal visits to a variety of detention and treatment institutions.

Perhaps the most important fact about the orientation is that it is run by the Law Guardians themselves. The program is coordinated by a Law Guardian whose duties, in addition to litigation include responsibility for the training program. Individual Law Guardian supervisors or attorneys lead discussions on specific topics such as search and seizure or child protective proceedings. The orientation is given each autumn, and the

same person lectures on a particular topic. Thus, various staff members become identified with particular areas and develop into useful resource people for the whole program.

Unfortunately, it does not appear possible to combine a Family Court Division orientation with the current Law Guardian program. A plurality of the Law Officers interviewed felt that the two programs could not be combined. The principle reason given was that the Law Guardians have a different philosophy which permeates the whole program. (Q.21) This view was shared by the Law Guardian in charge of training. However, some forms of joint training might be possible, and prospects for at least an exchange of information might be explored.

An orientation program for Division Attorneys should include the following topics:

1. The essential legal elements of each of the forms of action a law officer will encounter.
2. Basic Family Court procedure from petition drafting through motion practice to trial and disposition. Most of the suggestions from the Division Attorneys for improving the current training program stressed the need for a practical program emphasizing trial techniques. (Q.20)
3. The decision whether or not to file a petition.
4. The process of negotiation and settlement, emphasizing the use of discretion and judgment.
5. The rules of evidence.
6. Dispositional alternatives. A knowledge of the resources available to the court is necessary for the increasing participation by the Division in dispositional hearings. It is also important for Division Attorneys to develop a general understanding of what will happen to juveniles in and out of court-ordered programs, if they are going to exercise an informed discretion in drafting petitions or in settlements.

- 7. The growing role of the attorney-prosecutor in juvenile court. Recently hired Division Attorneys should have some familiarity with the growing literature about the different roles adopted across the country by the attorney representing the state in juvenile court.
- 21. The existing in-service training program should be improved with an emphasis on decentralized seminars in each borough.

The Project ran a series of thirteen presentations (each featuring a guest lecturer, occasionally supplemented by a film) on "all aspects of representation by the Family Court." The series was held for an hour and a half on Thursday afternoons from February through June, 1973. An IJA representative attended each session. Attendance varied from a high of twenty-five members of the Division at the beginning to an average of about fifteen towards the end.

When asked about their impressions of the Project, the Law Officers gave the following evaluation:

Highly satisfactory	1
Satisfactory	6
Unsatisfactory	9
Highly unsatisfactory	4
Total	<u>20</u>

Thus, 65% found it less than satisfactory. (Q.20) Allowance should be made for the fact that this was the first effort at in-service training and that some people will always find training, especially after a working day, to be not very attractive. Also, the Attorney in charge felt that the quality of the programs improved as the series continued, but some Division Attorneys had stopped coming by that time and therefore did not give the whole program a fair hearing.

Certain comments may be made in an effort to improve future training programs. First, the series was largely the responsibility of the same consultant who was supposed to produce the Law Officer Manual. As with the manual, the feasibility should be explored of having the Division Attorneys themselves at least aid in the planning of future programs and perhaps making some of the individual presentations. A consultant might be valuable to provide balance and innovation in subject matter and training materials or speakers, but an internally generated program might be closer to the daily needs of the attorneys. Another suggestion would be to devote time specifically to the role and philosophy of the attorney-prosecutor. None of the speakers and none of the materials specifically addressed this important topic.

Finally, future programs might emphasize local meetings in each borough, in addition to city-wide programs. Borough meetings would reduce travel time and might increase attendance. Even informal staff meetings at lunch would be a useful means of discussing policy or providing answers to practical problems.

3. DUTIES

a. Role of the "Attorney-Prosecutor" in Family Court

22. The Division should formulate goals for its involvement in the Family Court in light of national developments.

Formulation of goals, especially in relation to the role of attorney-prosecutor in the Family Court is probably the most critical need for the Division at this time. As already described in Part I A., the Corporation Counsel's role in the Family Court has been steadily expanding since 1969. If this commitment is to make a maximum impact, the Family Court Division must develop goals which take into account both the increasing body of literature on the juvenile court prosecutorial function and a realistic assessment of the Division's resources. One serious limitation in the search for national standards is that most of the literature is directed toward juvenile laws and juvenile courts, not toward family court practice. The Division must adapt the proposed juvenile court prosecution standards to its own role in the complex world of the New York Family Court.

In developing standards, the Division may wish to pay special attention to the District of Columbia, especially as an example of a jurisdiction which has studied the problems and formulated a specific role for the attorney-prosecutor. The District recently adopted court rules which are modeled on the Federal Rules of Criminal Procedure. Under these rules, attorney-prosecutors have a very active role throughout the proceedings. Their function extends far beyond presenting the

facts at the adjudicatory stage. Attorney-prosecutors in the District of Columbia have a great deal to say about whether a juvenile will get into the system at all and about what will happen to him once he gets there. The juvenile court attorney-prosecutor must approve a police application for an order of custody (arrest warrant) before the application can be submitted to a judge.³⁸ The prosecutor requests the court to proceed either by summons or by arrest.³⁹ He appears at detention hearings to represent the interests of the District,⁴⁰ at bail hearings,⁴¹ probable cause hearings,⁴² pre-trial conferences,⁴³ and dispositions.⁴⁴ He also initiates subpoenas⁴⁵ and discovery.⁴⁶ He controls joinder decisions⁴⁷ and is empowered to veto adjustment by consent decree.⁴⁸

The District of Columbia situation, however, is rare. In most jurisdictions, the prosecutorial function has not been statutorily defined, and the office filling the prosecutorial function has failed to develop goals and standards. This is the situation in New York City. Before systems and patterns which have been haphazardly established become solidified, the Family Court Division should take the time now to develop a coherent set of functions, objectives, and priorities.

To accomplish this end, the Family Court Division should 1) study the literature on the attorney-prosecutor's role in Family and Juvenile Court (see attached bibliography) and 2) critically review its own involvement in Family Court. The role of the IJA is limited to pointing out the various roles and guidelines available; it is not attempting to impose a

solution from the outside. The Office of Corporation Counsel and the Assistant Corporation Counsel themselves should select solutions appropriate to its traditions and resources, as well as the needs of the Family Court. This clarification of objectives would lead to a stronger role in the court and a greater sense of unity among Division Attorneys. It would also aid in recruitment and training of new attorneys.

Because the Finkelstein "preliminary objectives" are the most complete and best researched statement of goals, they are presented in summary below and in full in the appendix.⁴⁹

1. The prosecutor is concerned with a) protection of the community from harmful conduct by the restraint and rehabilitation of juvenile offenders, and b) promotion of the best interests of juveniles.
2. In some cases, these interests will have to be balanced. This balance should be struck in favor of community protection, only when the juvenile presents a substantial threat to public safety. The well-being of a child should be stressed for most other types of offenses.
3. The prosecutor should be involved from the police investigation through post-disposition proceedings.
4. Out of commitment to a rehabilitative philosophy, the attorney-prosecutor should avoid retribution and general deterrence as goals for court proceedings.
5. Early diversion of cases should be stressed. The attorney-prosecutor should strive for the least restrictive alternative throughout the process. For example, the office should issue enforcement guidelines to police. Individual attorneys should screen out insufficient complaints and make efforts to refer juveniles to other agencies.
6. The attorney-prosecutor should assure that rehabilitative measures undertaken as alternatives to court handling or pursuant to court ordered disposition are carried out and that the services meet proper standards of quality.

7. He should ensure that baseless prosecutions are not brought, that all juveniles receive fair and equal treatment and that exculpatory evidence be made available to the defense.

Another attempt to formulate standards for juvenile court prosecution is Sanford Fox's Prosecutors in the Juvenile Court: A Statutory Proposal, 8 Harv. J. Legis. 33 (1971). Fox operates on the assumption that the present trend toward increasing the adversary nature of juvenile court proceedings loses sight of the "traditional concerns of juvenile courts."⁵⁰ He accepts the thesis put forth in 1918 by George Herbert Meade that reliance on the criminal process destroys any attempt at comprehension and treatment of the deviant. He also stresses the corollary thesis that the non-adversarial juvenile court presented a healthier forum than the criminal court for both understanding and controlling deviant behavior.⁵¹

In line with this disinclination to convert juvenile court proceedings into a strict adversary process, Fox attempts to distinguish the juvenile court prosecutor from the criminal prosecutor or, in his words, to "dull the rapier edge" of the adversary process.⁵² His essential method for effectuating this new role is to propose a great deal of cooperation and communication between the prosecutor and the defense counsel at all stages.⁵³ For example, the prosecutor would be required to present a copy of his witnesses and the probable physical evidence to the defense counsel.⁵⁴ Fox even proposed a special name for juvenile court prosecutors - "Community Advocates" - in an effort to decrease "the connotations of criminality and hostile prosecutions."⁵⁵

As part of filling in the picture on the prosecutor's role, Fox provides: 1) that the "Community Advocate" be responsible for filing all petitions to the court;⁵⁶ 2) that the Advocate exercise discretion in not filing a petition where he feels there is no case or the youth does not require the supervision of the court (the petitioner could appeal this decision to the court);⁵⁷ 3) that the Advocates be provided full-time investigators, clerical and secretarial staff, and adequate salaries to maintain high-caliber lawyers in the office;⁵⁸ 4) that Advocates be involved with a case from intake through disposition;⁵⁹ and 5) in an effort to decrease antagonism between the offices, that the defense counsel (Legal Aid or Public Defender) and prosecution rotate positions for a six month to a year period.⁶⁰

In contrast to Fox's attempt to mold the effects of the Gault decision to fit his own concept of the ideal juvenile court atmosphere, Judge Walter Whitlach argues that Gault was simply wrong.⁶¹ In his opinion, if society would provide juvenile courts with the facilities they require, the court would be able to do such a constructive job that there would be no question of bringing in adversary court proceedings.⁶² The absence of these resources and the presence of a strong Law Guardian program in New York City cast doubt on the advisability of abandoning some form of adversarial model.

In sum, juvenile and family courts are at an important stage in attempting to evolve a proper function for attorneys. During the next few years, the Family Court Division will be

facing the important questions of whether to become involved in disposition, in revocation of parole hearings, in more PINS cases, and in a more active appellate role. All these questions must be answered in the context of what is best overall for the Family Court. Hard decisions must be made by the participants themselves about the role Corporation Counsel should play, and what resources are necessary to effectuate such a role.

23. All of the staff attorneys should be involved in developing the Division's goals.

All of the Division Attorneys have a perspective to offer in the formulation of prosecutorial goals. The insights of the attorneys involved in the day-to-day work of the court should be incorporated into the goals which the Division finally evolves. Supervisors, who were not consulted for suggestions on the 1973 training session or the creation of a manual, obviously have much to offer. And the Assistant in Charge will be best acquainted with the resources available to the Family Court Division.

24. The Division's goals should be articulated in writing and communicated to the staff and other court personnel.

As indicated in questionnaire responses (Q.1,2,3,) there is confusion by the Division Attorneys concerning the philosophy and policy of the Division. Out of 23 attorneys interviewed, 14 felt that no philosophy had been developed and 8 answered that policy guidelines had not been set. Other personnel in the court were even more unclear about the role of Corporation

Counsel in the court. For example, a supervisor of the Law Guardians was unsure of how much authority the borough supervisor of the Corporation Counsel Law Officers had, or, more importantly, why the Division Attorneys were involved in so many different types of Family Court cases. There is little communication between the Division and other parts of the court, and, as a result, much confusion.

To alter this casual situation, the Division should put its policy in writing and distribute it to relevant court personnel. Division Attorneys should have a handbook or folder to which new policy statements can be added as the Division continues to redefine its goals in the court.

b. Types and Stages of Cases

25. The Division should examine its role in the various types of Family Court cases and stages of litigation in relation to its goals and developing national standards.

The Family Court Division is currently involved in a large segment of the work of the Family Court. Division Attorneys present the petition in many types of cases which have traditionally been considered "adult" cases - support, paternity, and USDL (Uniform Support of Dependents Law). They are also involved in the large bulk of "juvenile" cases - delinquency, child protective (neglect and abuse), handicap, and some PINS.

In terms of the personal preferences of individual Division attorneys, the questionnaire revealed that almost all who had a preference liked to handle the juvenile rather than the adult cases. (Q. 34,35) Of the 21 answers indicating a preference,

18 mentioned various types of juvenile cases. On the other hand, the type of case mentioned most often, by 5 attorneys, as the kind the attorney liked least was an adult case - support. In line with the individual attorneys' preferences, 21 out of 23 interviewees listed "juvenile delinquency" as the kind of case on which the office expends the most time and effort.

The original goals of the Law Officer Project were conceived of exclusively in terms of juvenile cases; and, based on the preferences and case loads of the Division Attorneys, that goal is largely being carried out.

Division attorneys are also involved in a variety of activities from petition drafting through the dispositional hearing. Specifically these activities include:

- a. Drafting petitions;
- b. Exercising discretion, by some attorneys, in diverting cases from court proceedings;
- c. Preparing the day's calendar;
- d. Calling the calendar, phoning and looking for witnesses;
- e. Interviewing witnesses;
- f. Negotiating, by some attorneys, with defense counsel and parties for adjournments or out of court resolution of issues;
- g. Writing letters, bills of particular, and some memoranda of law;
- h. Waiting for witnesses, defense attorneys, interpreter, and calling of the individual case;
- i. Appearance at good cause hearings;
- j. Presenting the case, examining and cross-examining witnesses at fact-finding hearings;

- k. Appearing at dispositions (in limited number and type of case);
- l. Appearing at hearings to vacate orders of disposition;
- m. Appearing at various post-disposition and Supreme Court hearings (such as representing Family Court judges in Writs of Habeas Corpus resulting from remand and dispositional decisions of the court; and representing Family Court judges in Article 78 proceedings challenging judges on their jurisdiction over proceedings brought in Family Court).

Critical examination of the role played by Division Attorneys throughout the proceedings should continue. In addition to the types of litigation, the Division should review its role at these stages of litigation in relation to its general goals and developing standards. A comparison of the present activities of Division Attorneys with the standards proposed by the Finkelstein study and others suggest at least four areas on which the Division could concentrate more attention in the future.

- 1. Relationship with other agencies in the court. As a case moves through the various stages, many agencies are involved with the proceeding. For instance, the police department or social services agency generally initiates a complaint; and the probation department is involved at intake, the hearing and disposition stage, and in post-disposition supervision. Working guidelines for coordination with these agencies should be prepared by the Division. If it is determined that legislative change is needed to grant the Division a larger role, bills should be drafted and proposed to the legislature.

- 2. Discretionary review of petitions. Division attorneys are confused about their role in exercising discretion in reviewing petitions. (Q.29,30) If the Division is to be an innovative force which acts to remove weak or trivial cases from the court, the attorneys within the Division must be trained to assume that role. The policy must be made clear and communicated to all members of the Division and to other court personnel as well.
- 3. Use of pre-trial discovery. One of the original goals of the Law Officer Project was to experiment with the use of pre-trial discovery procedures which would point toward disclosure by parties. The various proposed national standards for attorney-prosecutors (e.g. Finkelstein and Fox) also encourage liberal experimentation with discovery devices. The Family Court Division should attempt to fill this need of the court. Fewer cases should reach the hearing stage. Fuller use of discovery would lead to pre-hearing resolution of issues and to a clarification of issues that do reach the hearing stage. This will require negotiation with the Law Guardians who have adopted a strong adversarial posture. The orientation, in-service training, and the Division manual should all contain instructions on the use of pre-hearing discovery procedure.
- 4. Development of a dispositional perspective. The Corporation Counsel Report of June, 1972, set out as one of the priorities of the coming year that the Law Officer Project become

involved in dispositions for Article 10 neglect and abuse cases and Article 7 juvenile delinquency cases. As already noted, the Corporation Counsel in the District of Columbia are fully involved in a dispositional role. The developing national guidelines encourage a concern for the dispositional function of the court.

Division Attorneys are already present at adult dispositions.* In juvenile cases, the discretionary review of petitions by some attorneys is motivated by a dispositional concern. And there is a growing sense among the Division Attorneys that they should become fully involved in the dispositional concerns of the court in order to perform as fully professional attorneys. They should be concerned with the entire work of the court, instead of only having a minimal contact with the case at the adjudicatory hearing. In the questionnaire, the most commonly recommended additional function was that the Division become involved in dispositions. (Q.39)

* In adult cases, the Division Attorney is present to assure a disposition, usually a money settlement, satisfactory to the interests of the City of New York.

CONTINUED

1 OF 2

26. The Division should negotiate an agreement with the Family Court Judges to adjust the Division's role in cases according to available resources.

Once it has determined realistic goals for its general role in the Family Court, the Division should examine its present or potential participation in each type of proceeding. If there is a type of proceeding which does not fit over-all goals, or if limited resources dictate a lesser involvement in some kinds of cases, the Division should work out an agreement with the Family Court judges to limit its role accordingly. Passive compliance with orders or requests that the Division may not be prepared to fulfill will only lead to a weaker over-all performance by the Division and, as a result, poorer quality of justice throughout the court.

On the other hand, in light of the examination of its goals, the Division might determine that it should participate more fully in a type of proceeding in which it is not currently involved in whole or in part. One example might be PINS cases. Division attorneys only appear in PINS now at the request of the court. Following a formulation of goals, the Division might determine that its attorneys should present the petition in all PINS cases. Such a determination should be explained to the Family Court judges, and all efforts should then be made to put the decision into action.

27. The Division should work, through legislation or appeals, to make changes which would facilitate their own work and aid the overall performance of the Family Court.

As well as litigating cases under the present law, the

Division should be concerned with improving and re-shaping the laws applicable to the Family Court. For example, §254 (b) of the present Family Court Act requires the presence of Corporation Counsel at all child abuse hearings. When the Society for the Prevention of Cruelty to Children (SPCC) has brought the petition, their attorney is present and equipped to handle the case. No Corporation Counsel is needed, and the statute should be amended to reflect the active participation of SPCC attorneys. Division views on this subject should be made known.

Some attorneys in the Division feel that all school attendance cases should be removed from the court, or that the different treatment of PINS cases from delinquency cases should be reflected and codified by statutory change. If the Division is to be a significant force in affecting improvements in family law and the juvenile justice system, it should be involved in the legislative arena.

In addition, the Division should consider developing their own appellate capability. Presently, appeals are generally given to the Appeals Division of the Office of Corporation Counsel. Either a separate unit in the Family Court division or, at least, closer participation in the appellate process might help improve the quality of the work and the morale of Division attorneys who would not otherwise participate in test litigation.* The Juvenile Rights Division of the Legal Aid

* In the United States Department of Justice, for example, there is a division of responsibility between the Solicitor General's office, which is primarily responsible for Supreme Court litigation, and the appellate sections in the substantive Divisions, which assist in preparing or actually write the briefs and argue the appeals.

Society has an active appeals branch and has brought important test litigation. The Corporation Counsel's Family Court Division should be equally involved.

28. The initial goal of the Law Officer Project that the Division assume the duties of the other agencies presently representing the state in the Family Court should again be considered.

In response to the questionnaire, about half (12 of 23) of the Division's attorneys felt the city's best interests are served by the present system of utilizing separate legal counsel from various agencies such as the Department of Social Services (DSS) or Board of Education. (Q.26) To an outside observer who is not daily involved in the court, there appears to be undue complication, duplication, and confusion in policy resulting from having these various agencies representing the state. Also, there might be a better pooling of resources if there were more centralized representation. For example, DSS and the Bureau of Child Welfare (BCW) have social workers attached to their staffs; yet the Family Court Division attorneys have no authority to use their services when these social workers could be helpful in a child protective case.

One consideration which might weigh against putting all of the cases in the Corporation Counsel's office is the good work being done by the Society for Prevention of Cruelty to Children, a private agency which has one attorney in the Manhattan Family Court and one in Brooklyn to present the Society's child abuse and neglect cases. The Society has an excellent staff of social workers, and the attorneys who present its

petitions are probably better prepared and more involved in their cases than Division Attorneys can be under the present system. But there is no reason why the Society must have its own attorney to assume this role. Assistant Corporation Counsel could present the petitions and develop a similar working relationship with the SPCC social workers.

Consolidation would bring both benefits and problems; but it should at least be studied more fully than it has been up to the present time.

4. TIME MANAGEMENT

a. Factors Within the Division's Control

29. Paralegal assistance would allow Division Attorneys to concentrate on more important legal functions.

In response to the questionnaire, Division attorneys suggested many activities that paralegals or law students could perform to assist them in their work. The suggestions included the writing of subpoenas, bills of particular and letters, and drafting petitions, as well as legal research. (Q.47) Such assistance would be helpful to the attorneys and would contribute to a more professional atmosphere within the Division. However, the creation of a new paralegal position would not automatically free the attorneys for other duties.

The position would have to be carefully defined, and the attorneys would have to be trained in how to best make use of paralegal assistance. For example, law students are now hired as summer aides, yet their talents are often not used fully because no one has adequately planned a role for them in the Division. A good supervisor who has time for administration could ensure that future paralegal services are well-utilized.

30. Late arrivals or leaving the court on personal matters by Division attorneys should be eliminated by better supervision.

There must be one person at the head of each team of attorneys, not only to act as administrator and resource person, but also to assure that each person is performing well. Some attorneys do come in at 10:00 AM and sign "8:45" on the sign-in sheet; some occasionally leave the court for one or two hour

period during the day; some are not present in the Part when they should be, or are engaging in outside practice. (Q.5) These are certainly not common characteristics of the Division as a whole; but, where such practices exist, a capable supervisor is essential to restore Division policy.

b. Areas Requiring Increased Liaison

31. Time lost in the petition room waiting for probation department folders should be reduced through better coordination with the Probation Department.

The workload of the Division Attorneys assigned to the petition drafting room is dependent on the flow of reports from Probation. The attorneys can only draft petitions as the folders are sent up from Juvenile Intake.

In Brooklyn, the Division attorneys claim that no work begins in the petition drafting room until between 10:30 and 11:00 AM because no reports are received before that time. This has been supported by our observations. Probation, however, claims that the first reports are always up by 9:40, and that recently, due to a new system of opening juvenile intake at 8:30, reports are delivered even earlier (by 9:15). There is clearly some confusion here which should be resolved through increased communication between the two offices.

In Manhattan, Division Attorneys report that files do not begin to arrive at the petition room until late in the morning. (During one of our observations, the first folder was delivered at 10:10.) Division Attorneys also complain that probation sometimes will not bring folders up as they are

completed, but wait and bring up a pile later in the day. Or, probation will proceed slowly in the morning, and then process a larger number of cases in the afternoon. Thus Division Attorneys may have a slow period with no work, followed by an overload later in the afternoon.

To some degree, this variation in workload is a product of the flow of cases into juvenile intake; probation can only process cases as they come in. But to a considerable degree workload is effected by the manner in which probation handles these cases. Given the dependence between probation intake and the petition drafting process, it is clear that there needs to be increased coordination between the two agencies. One Division Attorney in Brooklyn has suggested that probation intake begin one hour earlier than court intake. (Q.43) (Either he is unaware of the new system or does not feel it has been successful.) A Manhattan Division Attorney requested that probation send up complex cases, such as homicide, immediately, so that the attorney can begin working on these more complex cases as soon as possible. (Q.45)

32. More efficient case scheduling requires closer coordination with court officers, as well as better planning within the Division.

Private attorneys charge clients for their services according to the amount of time they use and the type of service they are required to perform. Because the Division Attorneys do not charge individual clients for their services, they have not paid as close attention to the way they spend a day in the

Family Court. Even so, they are aware that there is a great deal of time spent waiting for a case to be called. A few attorneys estimated that half of their time is spent waiting; others knew it was a good deal of time, but they could not even estimate a percentage. (Q.38) Similarly, many attorneys were dissatisfied with the system of work assignments presently employed in their borough. (Q.27)

Our observations indicated there are long periods spent waiting for petitioners, witnesses, interpreters, and scheduling changes. In one day of observation, an all purpose part was open for 5 hours. During that five hour day, three different Division Attorneys spent a total of 40 minutes in hearings before the court. Thus Division Attorneys were in the court room only 13% of that working day. On that same day, the observer noted that one of these three attorneys spent a total of 80 minutes waiting in the back of the courtroom until his cases were called. Thus one man spent twice as much time waiting as all three attorneys spent in presenting cases before the court.

Other days of observation revealed similar discrepancies between the potential working hours of the Division Attorneys and the actual amount of time spent in productive work. During six days of observation, the average hearing day was found to be about five hours, while the average time for Division Attorneys' appearances was 55 minutes. Certainly, there are longer days when an attorney might spend 5 or 6 hours in the courtroom. In response to the questionnaire, almost all the attorneys answered that they spent more hours in the courtroom

than IJA observers recorded. (Q.37) Yet the average time actually observed was comparatively low.

To decrease some of the time lost waiting, the Division should work more closely with court officers to have them contact the attorneys in their offices. Also, cases could be scheduled which involve Division attorneys during a concentrated time period.

The Division Attorneys are also part of the complex bureaucracy of the Family Court. They must constantly bend their plans to fit the overall needs and demands of the larger Family Court scene. However, a disorganized or passive submission to the various pressures placed on Division Attorneys is not healthy for their own morale and effectiveness nor for the spirit and effectiveness of the court as a whole.

In the questionnaire, 19 of 23 attorneys felt that their office was hindered in carrying out their responsibilities by factors outside the Division's control. (Q.41) Many factors were mentioned, such as lack of cooperation from Legal Aid lawyers, court congestion, poor facilities, and inefficient calendar control.

On the more specific question of whether improvements in case scheduling could be made, 17 of 23 answered "yes". (Q.42) Many suggestions were given for improving scheduling, all of which would require a coordinated effort among the Family Court judges, Corporation Counsel, and other agencies serving the court. Up to now, such an effort has not been made, and thus

many attorneys list "administrative problems", "a feeling of helplessness", and the overall atmosphere of the court as the causes of dissatisfaction in their work. (Q.51)

For the Division to develop a more active role in scheduling and to develop a strong working relationship with the administrative personnel of the court, the Division attorneys in each borough should periodically meet to identify problem areas in court administration and to propose solutions. At present, Division attorneys waste too much time waiting in court (Q.38), feel dissatisfied with the court system, and have no constructive outlets for their general feelings of frustration. For the Division to build a stronger role in the court, as well as a stronger sense of internal unity, there should be a concerted effort to propose and support efforts to reduce such problem areas.

33. Regular communication by the Assistant in Charge of the Division and the borough supervisors with the appropriate representatives of the Legal Aid Society would increase the effectiveness of both offices.

The Legal Aid Society and the Family Court Division of the Office of Corporation Counsel make up the two largest bodies of attorneys in the Family Court. Many problems affect the two groups equally: time wasted in waiting because of scheduling difficulties; the noise, confusion, and tension which make up a working day; the lack of rehabilitative help provided juveniles in the system; and the need for orientation and training of attorneys. Working together on issues of common concern, they could be a strong force for constructive

change within the system. A regular pattern of communication should be established between the Assistant in Charge of the Division and the borough supervisors with administrators from the Juvenile Rights Division of the Legal Aid Society.

FOOTNOTES

1. Norman Redlich, Corporation Counsel, New York City, Family Court Law Officer Project Report, July 1, 1971-June 30, 1972, p. 4.
2. All Family Court statistics are from the New York Judicial Conference's Sixteenth Annual Report (1973), p. 415.
3. Id.
4. Redlich, supra, n. 1.
5. Youth Services Committee, CJCC, Family Court Law Officer Project (January 3, 1969), p. 2.
6. Id., pp. 1-4.
7. Redlich, supra, n. 1, at 4.
8. Youth Services Committee, supra, n. 5, at 3.
9. Redlich, supra, n. 1, at 5.
10. Kent v. United States, 383 U.S. 541 (1966). Kent required procedural regularity in waiver hearings sufficient to satisfy basic requirements of due process and fairness.
11. In re Gault, 387 U.S. 1 (1969). Gault upheld Kent and extended due process requirements to adjudicatory stage; required (1) adequate notice; (2) right to counsel; (3) extended privilege against self-incrimination; (4) right to confrontation and sworn testimony of witnesses available for cross-examination.
12. In re Winship 397 U.S. 358 (1970). Winship found old "preponderance of evidence" standard of proof in juvenile delinquency cases (§74(b)FCA) to be a denial of due process; required "proof beyond a reasonable doubt" at adjudicatory stage, when juvenile charged with act that if committed by an adult would be a crime.
13. Whitlach, The Gault Decision: Its Effect on the Office of Prosecuting Attorney, 41 Ohio Bar J. 41, 44 (Jan. 8, 1968).
14. Matter of Reis, R. I. Fam. Ct. (decided Apr. 14, 1970), in 7 Crim. Rptr. 2152 (May 20, 1972). Similar proceedings have been invalidated in California: R.v. Superior Ct., App., 97 Cal. Rptr. 158, 19 Cal. App. 3d 895 (1971); Gloria M. v. Superior Ct., App., 98 Cal. Rptr. 604, 21 Cal. App. 3d. 525 (1971).

15. President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Juvenile Delinquency and Youth Crime, 34 (1967).
16. Center for Criminal Justice, Boston U. School of Law, Prosecution In the Juvenile Courts: Guidelines for the Future, (hereinafter Finkelstein Study), p. 30 (Apr., 1973).
17. Id., at 32.
18. Id.
19. Id., at 32-3.
20. NCCD, Standard Juvenile Court Act (1959).
21. Children's Bureau, Standards for Juvenile and Family Courts (1966) at 73.
22. National Conference of Commissioners on Uniform State Laws, Uniform Juvenile Court Act, §24(b) (1968).
23. Children's Bureau, Legislative Guide for Drafting Family and Juvenile Court Acts, §§13 and 14 (1969).
24. Id., at §14(c).
25. Fox, Prosecutors in the Juvenile Court: A Statutory Proposal, 8 Harv. J. Leg. 33, 37 (1970).
26. Id., at 41.
27. Finkelstein Study, p. 44. For the Study, questionnaires were sent to juvenile court judges in the 100 largest cities in the United States during the year 1972. Sixty-eight cities responded from all areas of the country.
28. Id., at 45.
29. Id., at 44.
30. Id., at 46.
31. Id., at 48.
32. Id., at 50.
33. Finkelstein Study, Appendix B, pp. 298-320.
34. Id., at 52-3.
35. Id., at 315-17.

36. Sheldon Krantz, The Family Court Law Officer Program (Sept. 5, 1972), at 24.
37. Id.
38. D. C. Code Encycl. Ann., Superior Court Rules, Rules Governing Juvenile Proceedings, hereinafter cited as D. C. Rules, Rule 4(a) (1) (1972).
39. The prosecutor may request arrest ("custody"), (D. C. Rule 9, (a); 1972.)
40. D. C. Code §6-2312; 1970 West's Supp. Vol. implemented by D. C. Rule 107, 1972.
41. This role is implied from his involvement in detention hearings (D. C. Code §16-2327; 1970) West's Supp. Vol.
42. The prosecutor must show probable cause for detention (D. C. Code, §16-2312 (e); 1970 West's Supp. Vol.).
43. D. C. Rule 17.1 (1972).
44. D. C. Rule 32 (1972).
45. D. C. Rule 17 (1972).
46. D. C. Rule 16(c) (1972).
47. D. C. Rules 8, 13, 14 (1972).
48. D. C. Code, §2314; D. C. Rules 10, 104 (1972).
49. Finkelstein Study, pp. 77-9.
50. Fox, at 35.
51. Id., at 40.
52. Id., at 41.
53. Id., at 43.
54. Id., at 48-9, §7a-d.
55. Id., at 42.
56. Id., at 44, §4.
57. Id., at 46-8, §6.

58. Id., at 44, §3.
59. Id., at 44-51.
60. Id., at 51.
61. Whitlach, supra, note 5.
62. Id.

APPENDIX A

Selected Bibliography on
Prosecutors and the Juvenile Court

1. PROSECUTOR'S ROLE

Feldman, J. H. "The Prosecutor's Special Task in Juvenile Delinquency Proceedings in Illinois." Ill. B.J. 59:146 (Oct., 1970).

Author deals with prosecutor's role at detention hearings, intake, adjudication, disposition.

Finkelstein, M. Prosecution in the Juvenile Courts: Guidelines for the Future. Center for Criminal Justice, Boston U. School of Law (April, 1973).

Most comprehensive study available on the developing prosecutorial role in juvenile court; includes historical study, a survey of 68 cities, and a preliminary effort to establish guidelines for prosecutors.

Fox, S. "Prosecutors in the Juvenile Court: A Statutory Proposal." 8 Harv. J. Legis. 33 (1971).

Fox reluctantly recognizes advent of the adversarial process; proposes an "Office of Community Advocates" which would "blunt the rapier edge of the prosecutor's role."

Studt, J. "Procedural Rights: A Balanced Approach in Juvenile Court." 64 Nw. U. L. Rev. 87 (1969).

An attempt to reconcile two sometimes contradictory goals: preservation of the institution of the juvenile court with its emphasis on the "best interests" of the child and the protection of individual rights. Studt proposes a balancing formula.

Whitlach, W. "The Gault Decision -- Its Effect on the Office of the Prosecuting Attorney." 41 Ohio Bar 41 (1968).

Walter Whitlach is a judge in the Ohio Juvenile Court, who favors the traditional, less formal court; he feels that Gault treated the court unfairly, is critical of Legal Aid lawyers who do not work within the parens patriae philosophy of the court.

APPENDICES

COMMENT: "Attorney and the Dispositional Process." St. Louis U. L. J. 12:644 (1968).

Presentation of arguments both in favor of and against attorneys taking a role at disposition; author favors an active role for both prosecution and defense attorneys at this stage.

II. THE JUVENILE COURT AND THE ROLES OF LAWYERS

Brennan, W. C. and Khinduka, S. K. "Role Expectations of Social Workers and Lawyers in the Juvenile Courts." *Crime and Delinquency* 17:191 (1971).

An examination of the role expectations that court personnel bring to the court, and the effect of these expectations on performance.

Cayton, C. E. "Emerging Patterns in the Administration of Juvenile Justice." 49 *Urban* 377 (1972).

Exploration of the role images of judge, probation department, defense counsel, and prosecutor in California and Kansas juvenile courts. The Kansas analysis of the prosecutors' role-concept is of particular interest.

Handler, E. J. "The Juvenile Court and the Adversary System." 1965 *Wisc. L. Rev.* 7.

Handler advocates abolition of court informality to increase respect for the courts proceedings as well as to comply with due process requirements of Gault.

Lemert, J. "Legislating Change in the Juvenile Court." 1967 *Wisc. L. Rev.* 421.

An inquiry into the possibility of changing behavior patterns by legislation; focus is on the role of counsel. Lemert concludes that, although formal structures can be changed, the roles that personnel adopt in the new structures are less subject to change and old behavior patterns persist.

Stapleton, W. and Teitlebaum, L. In Defense of Youth, N. Y. Russell Sage Foundation, 1972.

An analytical and statistical study of the results of two different approaches to defense counsel advocacy: strict adversarial versus more traditional, modified adversarial stance.

Three Juvenile Courts: A Comparative Study. Denver Institute for Court Management, 1972.

A thorough, well-documented study of three different metropolitan area juvenile courts; study is wide-ranging, including comparison of physical facilities, area of the city in which court is located, interrelationship and function of all the various court agencies, role of prosecutors, etc.

III MODEL PROPOSALS

All recommend counsel for the petitioner:

U. S. Children's Bureau. Legislative Guide for Drafting Family and Juvenile Court Acts. (1969) §15 (c), Comment.

National Council on Crime and Delinquency. Model Rules for Juvenile Courts. (1969) R. 24, Comment.

National Council on Crime and Delinquency. Provision of Counsel in Juvenile Courts. (1970) p. 18.

Uniform Juvenile Court Act, §24 (b). (National Conference of Commissioners on Uniform State Laws.)

APPENDIX B

Prosecution in the Juvenile Courts:
Guidelines for the Future

Center for Criminal Justice
Boston University School of Law
Professor Sheldon Krantz, Director

(M. Marvin Finkelstein, Project Director)

General Principles for Juvenile Prosecution

1. The prosecutor is an advocate of the State's interest in juvenile court. The "State's interest" is complex and multivalued, and may vary with the type of proceeding and the nature of the particular case. Foremost, it includes: (a) protection of the community from the danger of harmful conduct by the restraint and rehabilitation of juvenile offenders; and (b) concern, shared by all juvenile justice system personnel, as parens patriae, with promotion of the best interests of juveniles.
2. To the extent that the State's interest in community protection may conflict with its interest as parens patriae in promoting the well-being of a particular child, the prosecutor will be required to balance the interests based upon the nature and facts of the particular case. For example, to the extent that interests have to be balanced in given cases, the balance might be struck in favor of community protection when the juvenile presents a substantial threat to community security but of promoting the well being of a child for most other types of situations.
3. In his role as advocate, the prosecutor has responsibility to ensure adequate preparation and presentation of the State's case, from the stage of police investigation through post-disposition proceedings. He is also committed generally to the advancement of legitimate law enforcement and child welfare goals by the participation of his office, together with other agencies such as the public defender's office, in drafting court rules and legislation, in appellate litigation, and in other activities which shape development of the law.

4. Commitment to the rehabilitative philosophy of the juvenile court bars the use of certain penal objectives to achieve community security and protection. Retribution, for example, is not a proper goal of juvenile court prosecution.
5. Since unnecessary exposure to juvenile court proceedings and to formal labeling and treatment in the juvenile court process is often counter-productive for many juveniles, the prosecutor's duty to promote both the community's long-term security and the best interest of particular juveniles requires him to encourage and stimulate early diversion of cases from the court and to strive for imposing the least restrictive alternative available in dealing with a juvenile throughout the juvenile justice process. It also requires that a prosecutor proceed only on legally sufficient complaints or petitions even though a juvenile may require treatment or other types of assistance. Responsibility in this area is exercised by such means as issuing enforcement guidelines to the police, screening out deficient, insufficient, or trivial complaints, and actively encouraging and participating in efforts to refer juveniles to other agencies or reach agreement on other acceptable dispositions in cases where court handling is not the best means for either protecting the community or helping the juvenile.
6. The prosecutor shares the responsibility with other juvenile court personnel to ensure that rehabilitative measures undertaken as alternatives to court handling or pursuant to court-ordered disposition are actually carried out, and that facilities and services for treatment and detention meet proper standards of quality.
7. The prosecutor has a duty to seek justice in juvenile court by insisting upon fair and lawful procedures. This entails the responsibility to ensure, for example, that baseless prosecutions are not brought, that all juveniles receive fair and equal treatment, that liberal discovery of the State's case is available to defense counsel, that exculpatory evidence is made available to the defense, and that excessively harsh dispositions are not sought. It also entails the responsibility to oversee police investigative behavior to ensure its compliance with the law.

APPENDIX C

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Law Officer Project Questionnaire

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Introduction to the Law Officer Questionnaire

The responses to the questionnaire were obtained from June 22 through July 9, 1973 based on personal interviews with twenty-three of the twenty-five Assistant Corporation Counsel working in the Bronx, Brooklyn and Manhattan Offices. The questionnaire was not administered to the three supervisors, although they were each extensively interviewed in a less structured fashion. Every attempt has been made to keep the responses to the questionnaire confidential and no individuals are identified. In order to insure respondent anonymity, the questionnaires were destroyed after the information which follows was tabulated and compiled.

The order in which the original questions were asked has been changed to conform to the four basic categories in the report --(1) administration, (2) law officer: staffing, (3) law officer: duties, and (4) law officer: time management. In addition, categories have been added for evaluation of the law officer program and its environment.

Approximately five questions from the original questionnaire were omitted in this tabulation because the responses were too sparse to be useful.

A word of introduction may also be useful in interpreting the responses. Basically, two types of questions were asked: On the one hand, there were structured questions in which the respondent was offered a specified number of possible responses. On the other hand, there were also open ended questions where

the staff had to summarize the responses at a later time.

The following convention was adopted in distinguishing between the two types of questions. Responses preceded by a letter or number in parentheses were presented as alternatives to the respondent. In contrast, answers which are grouped in order of frequency are summaries of responses to unstructured questions. An occasional hybrid may occur where a response was given which was not part of the original list of options. For example, a question may have called for a simple yes or no answer, and the respondent answered "unsure" or "don't know". In such an instance, the result would be displayed as follows:

1) Yes	15
2) No	5
Don't know	2

Answers are tabulated by borough, where this characteristic was important.

There was no intention in any question to elicit a particular answer. For instance, question 1 was not intended to suggest either to the respondent or to the reader of this report that there should be a particular philosophy. Rather the question and others like it, was asked to determine the attitudes and perceptions of the Assistant Corporation Counsel themselves. Furthermore, it is not unusual for members of an organization when asked general questions about the "philosophy", "priorities", or "policy guidelines" of their organization to express uncertainty about such matters.

I Administration

A. Division Policy and Philosophy

1. Would you say that the Corporation Counsel's Office has developed a particular legal or administrative philosophy?

1) Yes	4
2) No	14
Don't know	5
	<u>23</u>

IF YES, how would you describe that philosophy?

- serve interests of the city; contribute to social services work
- protect community; rehabilitate juveniles
- help juvenile as much as possible
- keep streets safe; protect rights of petitioners
- follow mandates of Family Court Act

2. Has your Office established as a matter of policy what kinds of cases deserve priority in terms of your time?

1) Yes	11
2) No	8
Unsure	2
No response	2
	<u>23</u>

IF YES, which cases have priority?

- 11 Juvenile delinquency
- 5 Child abuse
- 1 Paternities
- 17 (Some interviewees gave more than one answer)

3. To your knowledge, has the Corporation Counsel's Office established policy guidelines concerning your function in the Family Court?

	Brooklyn	Manhattan	Bronx	Total
1) Yes	5	1	5	11
2) No	4	4	0	8
Qualified Yes	1	3	0	4
	<u>10</u>	<u>8</u>	<u>5</u>	<u>23</u>

3. (continued)

IF YES,

- 1 -We have received some memoranda from the Division Chief on certain matters such as probable cause hearings, handling of writs and appeals, etc.

IF QUALIFIED YES,

- 1 -only that there should be no outside practice of law, and that policy is violated; there is not much written policy in general.
- 1 -not sufficiently specific policy in some areas.
- 1 -only policy comes from training program; should be better.
- 1 -yes and no; have policy on when to withdraw a case; need more, e.g., guidelines when respondent wants to admit the allegations of the petition.

4. Have you ever intentionally violated an office rule or policy?

1) Yes	1
2) No	21
Unsure	1
	<u>23</u>

IF YES, could you describe such an incident?

- 1 -refused to attend Thursday training sessions.

5. Have others violated office rules or policies?

1) Yes	4
2) No	11
Unsure	2
Question not asked	5
No answer	1
	<u>23</u>

Could you please elaborate?

-the four people answering YES (3 in Brooklyn) all referred to others having an outside practice. (Extensive practice or appearance in court against the city is illegal. Some Assistant Corporation Counsel were alleged to have large practices.)

B. Supervision

6. Do you feel that the amount of supervision you receive is:

	Brooklyn*	Manhattan	Bronx	Total
1) Too much	0	0	0	0
2) Adequate	2	8	5	15
3) Too little	6	0	0	6
Total	8	8	5	21

*question not on 1st three questionnaires in Brooklyn.

Why is supervision adequate?

The answers fell into several categories which are summarized as follows:

Case Management: "good assignment of cases"; "proper assignments"; "work load is distributed"
Assistance: "supervisor looks over problem cases"; "supportive advice from supervisor"; "supervisor is a good resource for questions"
Availability: "supervisor is there all the time"; "very accessible".

7. What do you think the responsibilities of a Supervisor of Law Officers should be?

- 13 -available; good source of information; training -- e.g. runs moot court for new people
- 10 -organized and manage staff; set policy
- 8 -keep staff well informed; circulate new legislation, important court opinions; prepare file of cases; hold conferences
- 6 -distribute caseloads; re-direct when too heavy

II Law Officers: Staffing

A. Personal Background

8. How old are you?

	Brooklyn	Manhattan	Bronx	Total
20's	3	0	1	4
30's	2	2	2	6
40's	2	1	1	4
50's	1	1	0	2
60's	2	4	0	6
No response	0	0	1	1
	10	8	5	23

9. What law school did you attend?

Law Schools	Total	(Night Division)	(Day Division)
Brooklyn	5	3	2
N.Y.U.	5		5
St. John's New York	4	1	3
Fordham	3		3
Columbia	2	2	
Michigan	1		1
Suffolk	1		1
Virginia	1		1

10. Where did you rank in your law school class?

a) Upper Third	13
b) Middle Third	6
c) Lower Third	2
d) Unsure	2
	<u>23</u>

11. In what year were you first admitted to practice?

	Brooklyn	Manhattan	Bronx	Total
1925-1946 (i.e., 27 or more years of practice)	2	5	0	7
1958-1972 (i.e., 13 or less years of practice)	7	3	5	15
No answer	1	0	0	1
	<u>10</u>	<u>8</u>	<u>5</u>	<u>23</u>

12. Was the Corporation Counsel's Office your first job after law school?

1) Yes	2
2) No	21
	<u>23</u>

12. (continued)

IF NO, where did you previously work?*

	Brooklyn	Manhattan	Bronx	Total
Private or Corporate Practice	5	4	5	14
Family Court	3	2	0	5
Criminal Court	0	2	0	2
	<u>8</u>	<u>8</u>	<u>5</u>	<u>21</u>

*An answer listed in the Family Court row or Criminal Court row indicates that the interviewee had some prior experience in either of these courts.

13. How long have you served as a Law Officer?

	Brooklyn	Manhattan	Bronx	Total
1 year or less	4	3	3	10
1 to 2 1/2 years	6	5	2	13
	<u>10</u>	<u>8</u>	<u>5</u>	<u>23</u>

14. Have you worked in other bureaus or divisions in the Office of Corporation Counsel?

	Brooklyn	Manhattan	Bronx	Total
1) Yes	4	2	2	8
2) No	6	4	3	13
No response	0	2	0	2
	<u>10</u>	<u>8</u>	<u>5</u>	<u>23</u>

IF YES, which other bureaus or divisions?

- 4 -Penalties
- 1 -Condemnation
- 1 -Department of Social Services
- 1 -Practice and Claims
- 1 -Probation

15. Why did you join the Law Officer's Program?

- 9 -like to work with kids; family court; social work
- 8 -there was an opening
- 7 -opportunity for trial work
- 2 -no special reason
- 1 -my expertise in Child Abuse cases was needed.

16. From your own experience, what are the most important qualities or skills a person needs to perform an effective job in your office?

- 10 -good trial attorney; effective court room presentation
- 10 -knowledgeable attorney; know laws of evidence
- 6 -personable
- 5 -compassion; concern
- 4 -maturity; tact
- 3 -forceful; confident
- 2 -negotiate; know how to avoid hearings
- 2 -interest in Family Court
- 2 -not easily frustrated

17. What types of competition, if any, exist among Law Officers?

- 1) None 20
- 2) Some 3

Examples of some competition:

- 2 -some work toward Supervisor's job
- 1 -we compete to be the best trial lawyers

B. Training and Orientation

18. Did you receive any introductory training or orientation when you began your work as a Law Officer?

	Brooklyn	Manhattan	Bronx	Total
1) Yes	0	0	2	2
2) No	9	8	3	20
Slight	1	0	0	1
	10	8	5	23

19. What improvements would you suggest for the orientation you received?

- 2 -some may need more than just assignment to an attorney
- 1 -lectures on evidence, criminal law, criminal procedure
- 1 -orientation on framing complaints, presenting Uniform Support of Dependents Law (USDL) and support cases

20. How would you characterize the Thursday afternoon in-service training program which ran in 13 weekly sessions from February to May?

	Brooklyn	Manhattan	Bronx	Total
a) Highly unsatisfactory	1	3	0	4
b) Unsatisfactory	3	4	2	9
c) Satisfactory	3	1	2	6
d) Highly Satisfactory	1	0	0	1
Schedule conflicts	2	0	0	2
Hired too late	0	0	1	1
	10	8	5	23

If you found the training less than "highly satisfactory", what improvements would you suggest for this program?

- 9 -more practical, trial technique
- 9 -more emphasis on Family Court matters or use of Family Court experts
- 4 -different times
- 1 -one to one instruction instead of lectures
- 1 -eliminate movies
- 1 -better speakers

21. The Law Guardians have an extended training program for new attorneys. Do you feel your orientation could be combined with theirs?

	Brooklyn	Manhattan	Bronx	Total
1) Yes	3	1	3	7
2) No	5	4	2	11
Unsure	2	3	0	5
	10	8	5	23

IF NO, why not?

- 10 -they have a different slant
- 1 -they are too concerned with disposition
- 1 -we have broader duties than they do
- 1 -I've seen the results of their orientation

III Law Officers: Duties

A. Relationship with other Personnel

22. On the whole, would you consider the Law Guardians to be as competent as the lawyers in your own office?

22. (continued)

	Brooklyn	Manhattan	Bronx	Total
1) Yes	7	6	3	16
2) No	1	2	2	5
Don't know	2	0	0	2
	10	8	5	23

IF NO, why not?

- some are more social workers than lawyers
- they lack tact, maturity, cooperation
- they have no sense of the practical; this hurts their credibility
- they can't cross-examine witnesses

23. In comparison with the Law Guardians, do you consider the spirit of cooperation in your office to be greater, the same, or less?

	Brooklyn	Manhattan	Bronx	Total
1) Greater	3	3	1	7
2) Same	3	4	2	9
3) Less	2	1	0	3
Don't know	2	0	2	4
	10	8	5	23

24. How do you think you are received by Judges in the Family Court in comparison with Law Guardians?

	Brooklyn	Manhattan	Bronx	Total
1) More favorably	1	4	1	6
2) The same	4	4	2	10
3) Less favorably	4	0	1	5
Don't know	1	0	1	2
	10	8	5	23

If you feel you are received either "more favorably", or "less favorably", why do you feel this?

- "More favorably"
- Law Guardians aggravate judges
 - judges more cordial to us
 - think of us as their attorneys; this is not good
 - like us better; demand more from us
 - some judges fed up with Law Officers' obstructions

24. (continued)

"Less favorably"

- judges know Legal Aid will appeal; we won't
- don't treat us as professionals; no respect
- listen to Legal Aid, some consult them on points of law, favor their policy requests
- calendar preference to Legal Aid
- more courtesies; attitude

25. How do you think you are received by the Judges in the Family Court in comparison with private attorneys?

	Brooklyn	Manhattan	Bronx	Total
1) More favorably	1	2	1	4
2) The Same	4	4	1	9
3) Less favorably	4	2	2	8
Don't know	1	0	1	2
	10	8	5	23

If you feel you are received either "more" or "less" favorably, why do you feel this? (No comments from "more favorably" category.)

"Less favorably"

- 3 -court recognizes time burdens of private attorneys
- 1 -judges take us for granted
- 1 -natural prejudices; often judges and private attorneys know each other
- 1 -some try to impress private counsel; fawn over them

26. Do you feel that the City's best interests are served by separate legal counsel in court for certain agencies or departments (such as Department of Social Services)?

1) Yes	12
2) No	5
Sometimes Yes/No	4
Unsure	2
	23

If you feel that consolidation might be better, what benefits and/or detriments, if any, would accrue from such "consolidation"?

- consolidation might increase efficiency, spread caseload.
- "might" be simpler; "might" increase exchange of information (e.g., school information); "might" lead to sharing of expertise.

5. (continued)

-Department of Social Services is ineffective;
Board of Education attorneys are not much help;
Society for Prevention of Cruelty to Children
attorney is good.

B. Work Schedule, Scheduling Cases, Petition Drafting

27. Do you feel that the present system of work assignments is the most efficient utilization of Law Officer manpower?*

	Brooklyn	Manhattan	Bronx	Total
1) Yes	4	6	3	13
2) No	4	1	2	7
Unsure	2	1	0	3
	10	8	5	23

*Each borough has developed a slightly different work system:

Brooklyn

Assigns two persons to a court part, including two persons to the 2 Intake parts. At Intake, the team requests from the judges a day and a court part which matches their own schedule. Thus, the Brooklyn attorneys attempt to follow cases through from Intake to final fact-finding hearing. Attorneys are also assigned to petition drafting. Each team has a different assignment for each day of the week, including various all-purpose parts, Intake part, and petition drafting.

Manhattan

Attorneys do not use the Brooklyn team system and do not attempt to follow cases through from Intake. Manhattan attorneys do rotate assignments. They are individually assigned to court part, Intake part, and petition drafting, rotating assignments each day of the week.

Bronx

Attorneys do not use the team system, do not follow through cases from Intake, do not regularly rotate assignments, and do not yet do petition drafting. The Supervisor assigns an attorney to a court all-purpose part, or Intake; and that attorney remains there for 3 or more months until assignments are switched.

27. (continued)

Explain why you feel your borough's system is or is not the most efficient.

	Why Most Efficient	Why Not Efficient
<u>Brooklyn</u>	<p>We remain flexible by working as a team.</p> <p>Partners can balance their workloads.</p> <p>The same attorney, or at least Team, can follow a case through; this eliminates a different attorney reviewing the case at each stage.</p>	<p>There's too much running around. When the court does not comply with our schedule requests, we end up working in 3 to 5 parts in one day.</p> <p>There's no need for following through a case from Intake.</p> <p>We should stay in one part each day.</p> <p>The long-term assignment of 1 person to 1 part might be better.</p> <p>I have a bad partner.</p> <p>We are required to go to too many parts in each day.</p> <p>One person to a part would be better.</p>
<u>Manhattan</u>	<p>This system is equitable, efficient.</p> <p>We all must be individually responsible.</p> <p>We all get a variety of work.</p> <p>Brooklyn's system is poor.</p>	<p>Having the same attorney follow cases through from Intake to final fact-finding is better.</p>

27. (continued)

	Why Most Efficient	Why Not Efficient
<u>Bronx</u>	Attorneys are available to the part since they never leave part. Our system is a more efficient use of our time.	We should ideally, divide responsibility among teams of 2-3, according to individual expertise. We need continuity, follow-through.

28. At intake do you attempt to put specific cases on the calendar when you are scheduled for a particular part?

This question applies only to Brooklyn. At Intake, all attempt to schedule cases for a day when they will be in a particular part. The conflict in scheduling resulted from Legal Aid's different method of scheduling cases.

29. How much discretion do you have in drawing up petitions? That is, if a case is too weak to stand up in court, do you still draw up a petition?

	Brooklyn	Manhattan	Total*
1) Yes	3	2	5
2) No	6	5	11
Sometimes	1	1	2
	10	8	18

*Bronx Assistant Corporation Counsel do not draft petitions.

If you would still draw up the petition, why don't you screen at intake?

- lack of clear policy on when to screen
- petitioner has right to day in court
- if probation sent it up, should be a case
- probation doesn't take it back
- draw up petition if youth has no place to go; at least he can sleep in shelter

If you would not draw up the petition, why not?

- discretion is important to our function
- don't waste city's time

29. (continued)

- obligation to court
- does no one any good to press a bad case
- I can just tell probation it's too weak
- complainant can go forward on his own (Three said "it's just too weak.")

30. Or, if a complainant withdraws the complaint, do you still go forward to present the petition when the case is strong and the matter serious?

	Brooklyn	Manhattan	Total*
1) Yes	2	2	4
2) No	6	3	9
Sometimes	0	3	3
No answer	2	0	2
	10	8	18

*Bronx Assistant Corporation Counsel do not draft petitions

If you would still go forward, why?

- when it is a serious matter, I would convince them not to withdraw the case
- should present matter to court
- judge should know Assistant Corporation Counsel didn't drop petition
- let judge decide

If you would not present the petition, why don't you exercise discretion at intake?

- 4 -we're not prosecutors; must have complainant; (one added that to protect themselves from Daily News, they have complainant sign withdrawal).
- 3 -not responsibility of lawyer to force complainant's decision; wishes of complainant control
- 1 -if no complainant, our subpoenas are not valid
- 1 -I'd like to, but can't; judge would throw out case.

If you would only present the petition on certain occasions, what factors would influence your decision?

- will go forward if it can be proved without complaining witness
- depends on offense
- depends on whether I feel good or bad about the kid

C. Caseload: Type and Number

31. How many cases are you presently handling on a daily basis?

<u>Number of Attorneys</u>	<u>Cases</u>
2	4-7
8	7-8
10	8-15

Two interviewees in the Bronx kept personal records for each month. One caseload averaged 6.3, the other 8.4 cases per day.

32. How would you describe your current caseload?

	<u>Brooklyn</u>	<u>Manhattan</u>	<u>Bronx</u>	<u>Total</u>
a) Too light	0	0	0	0
b) Light	0	0	0	0
c) Average	3	2	2	7
d) Heavy	6	5	3	14
e) Intolerable	0	1	0	1
Varies	1	0	0	1
	10	8	5	23

33. On what kinds of cases does your office expend the most time and effort?

21 out of 23 interviewees answered "juvenile delinquency".

34. What kinds of cases do you like to handle best?

- 10 -juvenile delinquency, in general
- 4 -challenging, complicated cases
- 3 -no preference
- 2 -no answer
- 1 -(each) abuse, neglect, paternities, person in need of supervision (PINS), rapes, support, trials, USDL.

35. What kinds of cases do you like to handle least?

- 5 -support
- 3 -neglect
- 2 -simple, no skill
- 2 -abuse
- 2 -PINS
- 2 -USDL
- 1 -(each) handicap, homicide, juvenile delinquency, family offense, paternity, sex cases
- 4 -no preference

36. What percentage of your cases are of the kind you like to handle best? Least?

The percentages indicate the responses of individual attorneys. For example, if, in the "Like Best" column, an attorney responds "50-60%", and in the "Like Least" column, "15%", there remains 25-35% of the cases for which that attorney feels neither any preference nor any dislike. One attorney did not indicate any preference, and that response is listed as "Don't know".

	<u>Like Best</u>	<u>Like Least</u>
<u>Brooklyn</u>		
Attorney No. 1	50-60%	15%
Attorney No. 2	50%	30%
Attorney No. 3	40-50%	50%
Attorney No. 4	35-40%	15-20%
Attorney No. 5	15-20%	30-35%
Attorney No. 6	10-20%	70-80%
Attorney No. 7	10%	3-4%
Attorney No. 8	5-10%	10%
Attorney No. 9	Don't know	Don't know
	Mean: 29.7%	Mean: 29.2%
	Range: 5-60%	Range: 3-80%

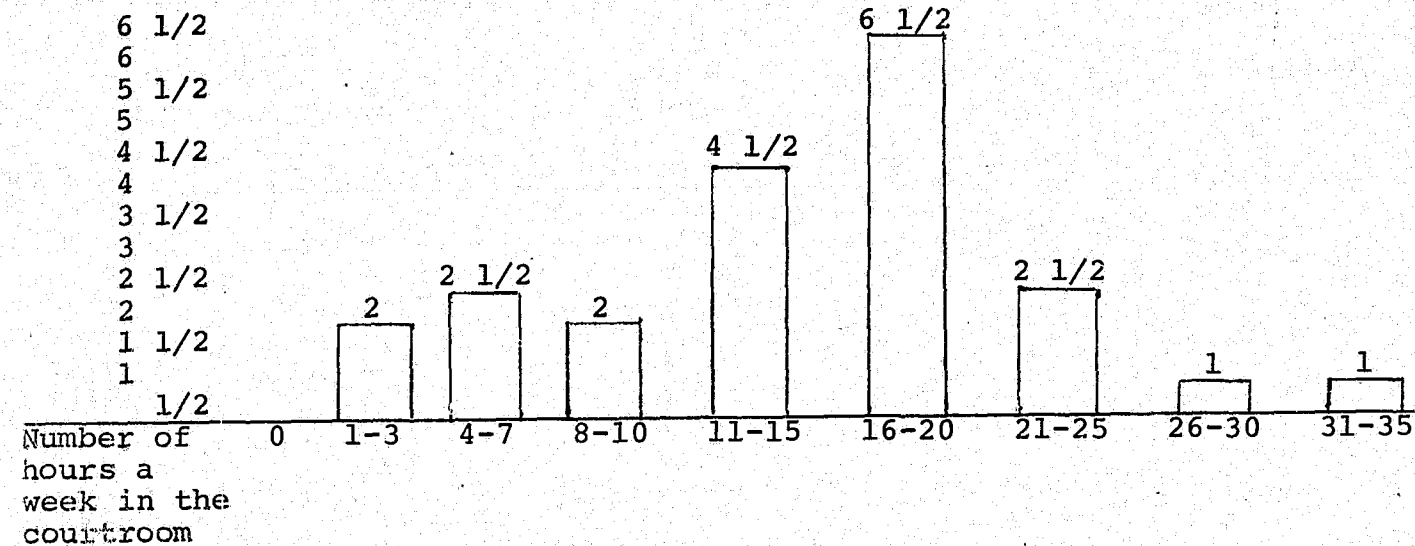
	<u>Like Best</u>	<u>Like Least</u>
<u>Manhattan</u>		
Attorney No. 1	100%	0%
Attorney No. 2	100%	0%
Attorney No. 3	90%	10%
Attorney No. 4	65%	2-5%
Attorney No. 5	60%	5%
Attorney No. 6	50-60%	Small
Attorney No. 7	50%	0%
Attorney No. 8	10%	1-2%
	Mean: 66.2%	Mean: 2.8%
	Range: 10-100%	Range: 0-10%

	<u>Like Best</u>	<u>Like Least</u>
<u>Bronx</u>		
Attorney No. 1	100%	Small
Attorney No. 2	50%	0%
Attorney No. 3	50%	5-10%
Attorney No. 4	30-40%	5%
Attorney No. 5	Large	Small
	Mean: 58.7%	Mean: 4.2%
	Range: 30-100%	Range: 0-10%

V Law Officer: Time Management

37. Roughly speaking, how many hours a week, on the average, do you spend in the courtroom?

*Number of Interviewees



*Some of the interviewees' estimates of time spent in the courtroom during an average week crossed over more than one of the categories of answers provided in the questionnaire. For example, one interviewee answered "8-15 hours a week". In the above bar graph, this one answer was divided in half, with half placed in the "8-10 hour" category, and half placed in the "11-15 hour" category.

The individual estimates of hours a week spent in the courtroom were:

Brooklyn (10 answers)	Manhattan (8 answers)	Bronx (5 answers)
15-25 hours	31-35 hours	21-25 hours
16-20	26-30	20
15-25	20	16-20
15	20	3-4
11-15	16-20	?
8-15	15	
8-10	11-15	
6-9	1-3	
5		
1-5		
Mean: 16	Mean: 18	Mean: 16
Range: 1-25	Range: 1-35	Range: 3-25

38. During an average 6-month period what percentage of your time do you give to the following activities?

Activities	Brooklyn	Manhattan	Bronx
1. Prepare cases for trial	12%	16%	14%
2. Screen cases for possible disposition	5%	4%	2.5%
3. Negotiate settlements, agreements, pleas	6%	6%	5%
4. Call calendar	1-2%	2-3%	3%
5. Interview witnesses, petitioner	11%	2%	11%
6. Phone witnesses, etc.; write letters and bills or particular	12%	12%	10%
7. Wait around	(Great variation in estimates)*		
8. In courtroom for trial	33%	35%	39%
9. In courtroom for disposition	1-3%	0%	0%
10. Other	5-10%	0%	0%
Total percentage of time accounted for (not including time spent "waiting around").			
	86-94%	77-78%	84.5%

*In category 7, the estimates for time spent waiting around showed too great a variation to be summarized fairly. By borough, the variations were:

Brooklyn: 0-50% (+ "a lot", + "impossible to answer")
 Manhattan: 0-40%
 Bronx: 0-20% (+ "I don't know")

38. (continued)

One person in Brooklyn refused, one in Bronx was unable to answer this question. All found it extremely difficult. Despite the surprising similarity in the data when compiled by borough, there was considerable internal variation among individual estimates. For example, on "question 2", "Screen cases for possible disposition", Brooklyn answers varied from 0-13%, Manhattan 0-12%, and Bronx 0-5%. Yet the comparative totals, 5.2%, 4%, and 2.5% are close. Another example is number 8, "In courtroom for trial", where the individual estimates ranged from 15-60% in Brooklyn, 17-50% in Manhattan and from 25-55% in the Bronx. But the comparative totals for "Time spent in courtroom", were close: 33%, 35% 39%.

V Evaluation of Law Officers Project and its Environment

A. Perceptions of Law Officers Project

39. Ideally, are there any additional functions Law Officers should perform?

1) Yes	14
2) No	8
Not responsive	1
	<u>23</u>

IF YES, what additional functions do you suggest?

- 10 -become involved in dispositions
- 1 -replace Probation Officer at disposition
- 1 -do our own investigation
- 1 -represent children in child abuse cases
- 1 -become involved in PINS cases
- 1 -administer rights at arrest to juveniles (rather than have District Attorney do it)
- 1 -coordinate with petition room (where Assistant Corporation Counsels are not involved in petition drafting)

40. How well do you think your office is carrying out its functions and responsibilities?

40. (continued)

	Brooklyn	Manhattan	Bronx	Total
1) Excellent	2	3	3	8
2) Good	3	5	2	10
3) Average	3	0	0	3
4) Could be better	2	0	0	2
5) Poor	0	0	0	0
	<u>10</u>	<u>8</u>	<u>5</u>	<u>23</u>

41. Is your office hindered in carrying out its responsibilities by factors beyond its control?

	Brooklyn	Manhattan	Bronx	Total
1) Yes	8	8	3	19
2) No	1	0	1	2
Don't know	1	0	0	1
No answer	0	0	1	1
	<u>10</u>	<u>8</u>	<u>5</u>	<u>23</u>

IF YES, what factors would you name?

Brooklyn

- 3 -Legal Aid Lawyers
- 2 -some judges
- 2 -lack of supportive personnel
- 1 -lack of courtrooms
- court officers
- inadequate support services
- court congestion
- budget
- pressure groups
- non-cooperation of other court personnel
- politics of city
- no active Appeals Division
- schedule v. Legal Aid schedule
- no punishment
- lack of esteem, supervision
- inefficient calendar control

Manhattan

- 4 -Lack of supportive personnel
- 3 -facilities (Xerox, library, forms, etc.)
- 1 -difficulty of getting witnesses
- court congestion
- judges
- one or two fellow Assistant Corporation Counsels

Bronx

- 4 -physical plant, facilities
- 1 -Civil Service system
- small staff

B. Assistance Requested from Court

42. Are there improvements in the scheduling of cases which could be made?

- 1) Yes 17
- 2) No 2
- Unsure 2
- No response 2
- 23

IF YES, what improvements do you suggest?

Brooklyn

- 3 -coordinate Assistant Corporation Counsel schedule with Legal Aid schedule
- 2 -create separate juvenile division
- 1 -create one part for adjournments
- 1 -adjourn cases by 11 A.M.
- 2 -no response

Bronx

- 1 -adjourn long hearings to particular time of day
- 3 -no response

Manhattan

- 1 -have more days for hearings only
- 1 -utilize split scheduling
- 1 -create more parts
- 1 -create separate Juvenile Delinquency part
- 1 -reserve 1 part with no calendar for immediate hearings
- 1 -speed up adjournments
- 1 -excuse petitioner when case is only in for a report (for example, in support case, where respondent is reporting on present job status.)
- 1 -schedule brief hearings for 9:30 A.M.

43. Are there areas where you think the judicial process in the Family Court could be streamlined?

	Brooklyn	Manhattan	Bronx	Total
1) Yes	9	6	4	19
2) No	0	1	0	1
No answer/ Don't know	1	1	1	3
	10	8	5	23

IF YES, do you have any suggestions for how this might be done?

43. (continued)

Brooklyn

- have a calendar call at beginning of day to clear out adjournments and brief hearings
- open probation intake one hour earlier than court intake
- have better calendar control
- improve system of assignment of cases to parts
- improve efficiency of probation department at disposition
- need more judges
- need research facilities
- need more parts
- need panel attorneys available daily
- remove school attendance cases from the court
- separate PINS from juvenile delinquencies in the statute
- court should recommend some corrections by its own motion

Manhattan

- need different judges for trial and disposition
- need more and better judges
- need more all-purpose parts
- need uniform procedures by court
- need better probationary, mental health, and supplementary services
- speed through adjournments
- call A.M. and P.M. calendar
- don't hold hearings on adjournments or for enforcement of USDL orders
- adhere to Assistant Corporation Counsels' schedule requests

Bronx

- hold adjournments first thing in the morning
- allow private lawyers first
- screen more petitions at probation intake or in petition room
- reduce time between intake and trial

44. What kinds of assistance could Family Court Judges provide?

Brooklyn

- 2 -follow a regular calendar
- 2 -formulate a consistent policy
- 2 -show more respect for Assistant Corporation Counsel
- 2 -some could be better informed about the law
- 1 -some could stop relying on Legal Aid
- 1 -some could stop playing sociologist
- 1 -some could stop favoring private counsel
- 1 -call adjournments by 11 A.M.
- 1 -obtain schooling in administration
- 1 -we need more judges

Manhattan

- 2 -understand our problems
- 1 -permit us to use their library
- 1 -cooperate on scheduling

44. (continued)

Manhattan (continued)

- 1 -call Assistant Corporation Counsel cases together
- 1 -coordinate Assistant Corporation Counsel and Legal Aid schedules
- 1 -set stricter standards for Law Guardians
- 1 -show concern for aggrieved citizen
- 1 -improve court procedure
- 1 -don't require appearance of Assistant Corporation Counsel in support cases, where respondent not potential welfare recipient

Bronx

- 2 -some lack tact, patience
- 1 -judges should be part of our orientation
- 1 -they should not be too insistent on technicalities
- 1 -quality of some appointments could be improved

45. What kinds of additional cooperation or assistance could the Probation Department offer to Law Officers?Brooklyn

- 3 -some Court Liason Officers (Probation Department) misuse power; don't respect court's role
- 2 -they should work with us more
- 2 -they should release probation report to us
- 1 -individual Court Liason Officers' prejudices hurt our work

Manhattan

- 3 -more Court Liason Officers should release information from Probation Report
- 2 -cooperation is OK now
- 1 -streamline USDL reports; provide us with an outline, rather than voluminous notes
- 1 -Intake Probation should send up complex cases (e.g. homicide) immediately so that we can begin work on them

Bronx

- 2 -cooperation is OK now
- 1 -if we get into disposition, we will need more cooperation on files

C. Assistance Requested from Law Officers Project

46. What kinds of help within the Corporation Counsel's Office and, in particular, the Law Officer's Project would assist you most?

The most commonly requested aids were:

- 9 -investigators (including one request for a Spanish speaking investigator, and one for two policemen and a car)
- 7 -more attorneys
- 7 -better salaries
- 6 -clerical, stenographic assistance
- 5 -orientation for new attorneys (especially in trial work and research; include moot court)
- 3 -research staff
- 3 -more policy meetings and direction from the Central Office
- 2 -supervision
- 2 -library (one requested a full set of McKinney's; another - use of court's library)
- 2 -law students (one mentioned that they could work in petition room)

Noteworthy additional suggestions from individuals included:

- 1 -orientation for Assistant Corporation Counsels in child psychology
- 1 -legislative work for better Family Law in New York
- 1 -use of standardized forms for letters, notices of appearance, bills of particular
- 1 -a weekly law letter on important developments in Family Law
- 1 -a good Appeals bureau

Characteristics by Borough

Brooklyn: 5 asked for investigatorsManhattan: most requests were for clerical helpBronx: 4 out of 5 stressed a need for more attorneys47. Are there any duties that you presently perform yourself that could be performed by paralegal or clerical personnel?

- 12 -write subpoenas (1 added that better forms might relieve burden)
- 9 -write letters and bills of particular; file
- 5 -conduct investigations
- 3 -research

47. (continued)

- 3 -answer phones
- 2 -work in petition room (hand-draft or type petitions under the supervision of a Division attorney)
- 1 -law students could appear in adjournments, USDL's and support cases
- 1 -assist preparation of cases; interview witnesses
- 1 -serve papers

D. Personal Job Satisfaction

48. In the final analysis, how would you rate your job in terms of the satisfaction it offers you?

	Brooklyn	Manhattan	Bronx	Total
a) Very well satisfied	2	4	2	8
b) Fairly well satisfied	4	3	3	10
c) Neither satisfied nor dissatisfied	2	0	0	2
d) Fairly dissatisfied	1	0	0	1
e) Very dissatisfied	1	0	0	1
No Answer	0	1	0	1
	10	8	5	23

49. In your position do you think you are making use of your best legal abilities?

	Brooklyn	Manhattan	Bronx	Total
1) Yes	4	5	3	12
2) No	6	1	2	9
Don't know	0	2	0	2
No answer	0	0	0	0
	10	8	5	23

IF NO, why not?

Brooklyn

- after a few years we know results will be the same
- we are not trained well; I might be repeating errors
- there's no innovation; we are hindered by restrictive policy in the office
- too much menial work

Bronx

- poor facilities, lack of space; inadequate library

50. What do you like most about your work?

- 14 -trial work
- 6 -doing constructive work; helping families, poor, youths
- 5 -meeting and working with people
- 2 -bringing people's petitions, protecting the community
- 2 -challenging nature of the work
- 2 -diversity of the work
- 2 -fellow attorneys

51. What things dissatisfy you most about your work?

Many different responses were given. It is noteworthy that more complaints were directed toward the overall Family Court situation than to the Law Officer Project. A representative selection of the responses includes:

Dissatisfaction with Law Officer Project:

- 6 -poor salary
- 2 -our unclear role in the court
- 1 -lack of incentive on the city's part

Dissatisfaction with the Family Court:

- 8 -noise, crowds, tension, poor facilities
- 7 -feeling of helplessness; dissatisfaction with available dispositions and with the impression families receive of the justice system
- 5 -administrative problems: time wasted waiting around, inability to get witnesses, repetition of adjournments, too many non-essentials to deal with
- 4 -lack of respect from some judges, lack of formality

52. Have you ever thought of resigning your position over dissatisfaction with your work?

	Brooklyn	Manhattan	Bronx	Total
1) Yes	4	1	2	7
2) No	6	7	3	16
	10	8	5	23

IF YES, why specifically, have you thought of leaving?

	Brooklyn	Manhattan	Bronx
Frustration		Salary	Facilities
Lack of formality in court			
Salary			
Borough of assignment			

53. Have you ever transmitted your discontent to a superior?

1) Yes	14
2) No	9
	<u>23</u>

IF YES, what was the reaction and result of your complaint?

Division Attorneys responded that the supervisor was generally understanding, although often unable to improve the situation.

54. In light of your actual experience within your office, would you again choose to work as a Law Officer?

	Brooklyn	Manhattan	Bronx	Total
1) Yes	2	1	0	3
2) No	7	7	5	19
No response	1	0	0	1
	<u>10</u>	<u>8</u>	<u>5</u>	<u>23</u>

55. What would you like to be doing five years from now?

4	-trial work
3	-retired
3	-this work (under better conditions, with higher salary)
2	-private practice
1	-College dean
1	-Family Court judge
1	-working in the family law area
1	-panel work, Family Court
1	-supervisory role in law enforcement
1	-making money
4	-don't know
1	-no answer

VI Miscellaneous Comments

At the end of each formal interview, the Division Attorney was asked for any additional comments. These were some of the responses.

Perspectives

"We're almost all Jewish here: Legal Aid and Corporation Counsel. There's really a similarity in our orientation and philosophy. We get along well."

Perspectives (continued)

"The major differences among Corporation Counsel come down to different political perspectives. Conservatives want more training schools. Liberals don't like any of the available dispositions."

Competition

"I made my choice to come here after having private practice. Young guys out of law school haven't done that. They feel the lure of an outside practice. Also I appreciate the security."

"Whole civil service setup should be changed; it caters to mediocrity. I abhor job security, it makes people fat and lazy."

"There's no real competition here; it's like a rest home. Many women have found a nest here."

"Esprit de corps among Law Officers is remarkably warm - not only on a social basis, but professional basis too. We share common respect and have a desire to help each other."

Policy Making

"Corporation Counsel can be influential in legislation to make work more effective. Sections of Family Court Act, especially PINS, can best be handled by a social service agency rather than the adversary process. Better social services are needed."

"I wish there were some input by our office into legislation -- laws, methods, policies."

END