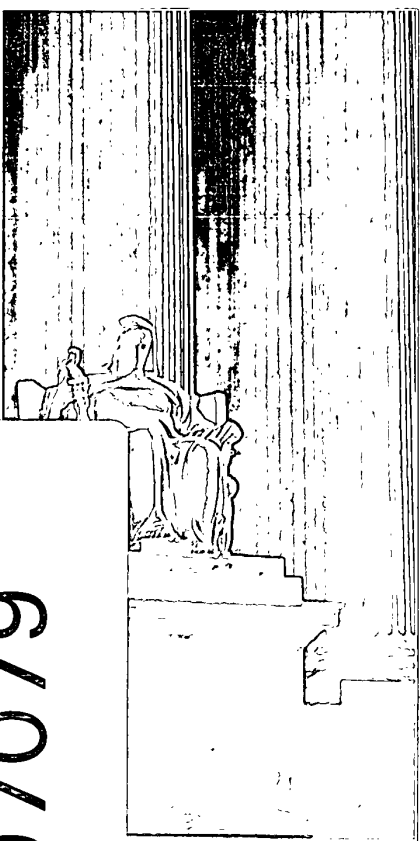


## **Court Responses to Individuals in Need of Services:**



**Promising  
components  
of a service  
coordination  
strategy for  
courts**

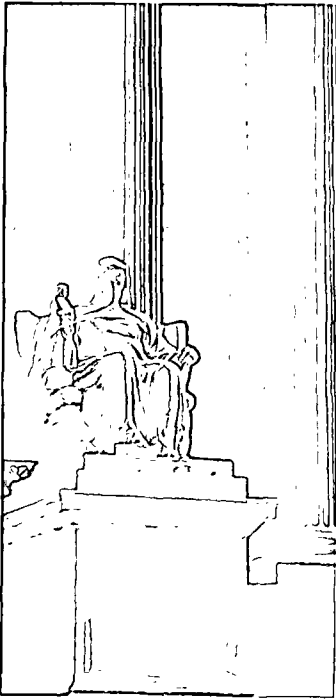
Pamela Casey  
William E. Hewitt

197079



197079

## **Court Responses to Individuals in Need of Services:**



**Promising  
components  
of a service  
coordination  
strategy for  
courts**

Pamela Casey  
William E. Hewitt

**PROPERTY OF**  
**National Criminal Justice Reference Service (NCJRS)**  
Box 6000  
Rockville, MD 20849-6000

© Copyright 2001  
National Center for State Courts  
ISBN 0-89656-211-5

This project was supported by Grant No. 94-MU-CX-0004 awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. Points of view in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.

Publication design by Judith Ann Sullivan

## ❧ TABLE OF CONTENTS ❧

### Acknowledgments

❧ Chapter 1	<b>Introduction</b>	7
	Table 1. Examples of Problem-Solving Courts	8
❧ Chapter 2	<b>Goals of Service Coordination: A Court Perspective</b>	13
	PERFORMANCE AREA 1: ACCESS TO JUSTICE	14
	PERFORMANCE AREA 2: EXPEDITION AND TIMELINESS	15
	PERFORMANCE AREA 3: EQUALITY, FAIRNESS, AND INTEGRITY	16
	PERFORMANCE AREA 4: INDEPENDENCE AND ACCOUNTABILITY	18
	PERFORMANCE AREA 5: PUBLIC TRUST AND CONFIDENCE	19
	Table 2: Key Questions for Courts by Performance Areas	20
❧ Chapter 3	<b>The Problem-Solving Approach</b>	23
	COMMON FEATURES OF THE PROBLEM-SOLVING APPROACH	23
	JUVENILE COURTS: AN EARLY PROTOTYPE OF THE PROBLEM-SOLVING APPROACH	24
	DRUG COURTS: A CONTEMPORARY MODEL OF THE PROBLEM-SOLVING APPROACH	26
	OTHER APPLICATIONS OF THE PROBLEM-SOLVING APPROACH	27
❧ Chapter 4	<b>Promising Components for Effective Court-Based Service Coordination</b>	31
	PROMISING COMPONENT 1: ACKNOWLEDGED COURT ROLE IN SERVICE COORDINATION	32
	PROMISING COMPONENT 2: JUDICIAL AND COURT LEADERSHIP	33
	PROMISING COMPONENT 3: AN ACTIVE POLICY COMMITTEE OF STAKEHOLDERS	35
	PROMISING COMPONENT 4: CASE-LEVEL SERVICE COORDINATORS	36
	PROMISING COMPONENT 5: CENTRALIZED ACCESS TO SERVICE NETWORK	38
	PROMISING COMPONENT 6: ACTIVE COURT MONITORING OF COMPLIANCE WITH ORDERS	41
	PROMISING COMPONENT 7: ROUTINE COLLECTION AND USE OF DATA	43

**Chapter 4 continued**

PROMISING COMPONENT 8: CREATIVE USE OF RESOURCES ..... 45

PROMISING COMPONENT 9: TRAINING AND EDUCATION RELATED TO  
SERVICE COORDINATION ..... 46

MOVING FORWARD ..... 48

**References ..... 51**

**Appendix A ..... 57**

**Appendix B ..... 63**

## ✂ ACKNOWLEDGMENTS ✂

The authors are indebted to many individuals who contributed to the completion of this report. First among these are the members of the Advisory Committee who provided expertise and advice as we undertook the study of this multifaceted subject. Thanks to Ms. Trine Bech, Dr. Allen Brown, Mr. Leland Fish, Judge Richard FitzGerald, Judge Aubrey Ford, Jr., Mr. Lowell Groundland, Dr. Kathleen Hayes, Mr. Ronald Overholt, Dr. Alan Tomkins, and Dr. Gregg Wright.

We are grateful to the numerous judges, court staff, attorneys, and service providers who participated in the project's telephone interviews and field research. In particular, we acknowledge the eight jurisdictions that served as field sites:

- Richland County Family Court in Columbia, South Carolina,
- Sacramento Superior and Municipal Courts in California,
- Jefferson Family Court in Louisville, Kentucky,
- Mental Health Court in Broward County, Florida,
- Circuit Court in Kalamazoo, Michigan, including its drug courts;
- Manhattan Youth Part in New York County, New York,
- Oregon Judicial Department and Integrated Family Courts in Deschutes and Jackson Counties, and
- King County Unified Family Court in Seattle, Washington.

The judges, court staff, attorneys, and service agency representatives from these sites graciously granted us interviews, provided us with relevant documentation, and offered us the benefits of their insights and experience.

A special thanks to the University of Nebraska Public Policy Center for its assistance in planning and convening two focus groups to obtain feedback on an earlier version of the report. The focus groups included a cross section of practitioners and scholars from both the legal and service communities. We thank the participants for their careful review and suggestions.

Many staff have been involved in the project at various points. We are grateful to Karin Armstrong, Thomas Cohen, Courtenay Davis, Hillery Eskeman, Carol Flango, Victor Flango, Lynn Grimes, Paula Hannaford, Susan Keilitz, Lynn Levey, and Pamela Petrakis for their contributions. We also benefited from the able assistance of research assistants Anna Jemjemian and Deborah Schutte and the editing skills of Ann Keith.

Finally, we owe our sincere appreciation to the Bureau of Justice Assistance, Office of Justice Programs, for its support of the project, and to Mr. Gale Farquhar, Ms. Marilyn Nejelski, Ms. Jennifer Knobe, and Ms. Jeannie Santos for their thoughtful direction and their enduring patience in seeing the project to completion.





## ❧ CHAPTER 1 ❧

### INTRODUCTION

Many of today's court cases such as divorce, custody, domestic violence, child abuse and neglect, juvenile delinquency, drunken driving, guardianship, drug possession, and a variety of misdemeanor "quality of life" offenses often involve individuals with a host of medical, psychological, and social problems. Generally, these individuals (a) have not had contact with the traditional service net operating in their jurisdiction and are now in crisis, (b) have had contact but have since fallen outside the traditional net, or (c) remain in need of services despite continued contact with community service agencies.<sup>1</sup>

These cases are coming to court in increasing numbers. Chief Judge Judith Kaye of New York describes the current environment:

We've witnessed the breakdown of the family and of other traditional safety nets. So what we're seeing in the courts is many, many more substance abuse cases. We have a huge number of domestic violence cases. We have many, many more quality-of-life crimes. And it's not just the subject of the cases that's different. We get a lot of repeat business. We're recycling the same people through the system. And things get worse. We know from experience that a drug possession or an assault today could be something considerably worse tomorrow. (Berman, 2000, p. 80)

These types of cases pose particular challenges for courts. Traditional court processes were designed to make specific decisions; they were not designed to address the underlying social and psychological problems that lead these cases to court. Consequently, courts are crafting legally relevant but ineffective decisions. Although individual

---

<sup>1</sup> The term "services" is defined broadly as assistance to address the wide range of needs (e.g., educational, employment, health, housing, mental health, social services) presented by individuals appearing in court.

TABLE 1

## Examples of Problem-Solving Courts

Type of Court	Jurisdiction	Types of Service Referrals*
<b>Community Courts</b>	Primarily address low-level "quality of life" crimes such as shoplifting, prostitution, drug possession, and disorderly conduct. Some courts expanding jurisdiction to include environmental ordinance violations, housing code violations, delinquency, and felony property offenses (Lee, 2000).	A variety of social services such as employment counseling and assistance with entitlements, drug treatment services, and counseling (Lee, 2000).
<b>Domestic Violence Courts</b>	Most specialized courts/calendars handle civil protection orders; some handle domestic violence misdemeanors, and a few handle domestic violence felonies (Keilitz, 2000, pp. 20-21).	Legal victim advocacy, social and economic services (e.g., emergency housing, vocational services, public assistance, elder assistance, general community support services, children's services), medical psychological, and mental health services (Keilitz, 2000, pp. 27-28).
<b>Drug Courts</b>	Primarily drug possession offenses. Some courts also accept prescription drug fraud, sales of small amounts of drugs, theft and property offenses. A few also include check and credit card forgeries and prostitution (Cooper, 1997, p. 16).	Detox, stabilization, counseling, drug education and therapy; personal and educational development; job skills; and employment, housing, family, and medical services. Some also provide acupuncture services (Cooper, 1997, p. 42).
<b>Family Courts</b>	Jurisdiction varies considerably across states. Most courts have jurisdiction over some combination of the following: divorce, annulment, and property distribution; child custody and visitation; alimony and child support; paternity, adoption, and termination of parental rights; juvenile causes (juvenile delinquency, child abuse, and child neglect); domestic violence; criminal nonsupport; name change; guardianship of minors and disabled persons; and withholding or withdrawal of life-sustaining medical procedures, involuntary admissions, and emergency evaluations (Babb, 1998, p. 535, note 1).	Generally include alternative dispute resolution options, custody evaluation, child representation, substance abuse counseling, parent education, and anger management. May also include educational services, mental health assessments, and emergency financial and housing assistance (Burhans, 1998).
<b>Mental Health Courts</b>	Primarily misdemeanors and some low-level felonies involving persons with a serious mental illness or developmental disability (Goldkamp & Irons-Guynn, 2000).	Mental health treatment and related support services such as housing, substance abuse treatment, training in social and independent living skills, and vocational training (Goldkamp & Irons-Guynn, 2000).

\*Referrals may be to court-based programs, service liaisons housed in the court, or to service agencies within the community.

cases are disposed, they are not really resolved because the underlying problems are not addressed. The result is that the problems often resurface in the form of new cases.

In response, courts are experimenting with a variety of innovative programs that focus on closer collaboration with the service communities in their jurisdictions. These programs vary considerably from jurisdiction to jurisdiction and even by different casetypes within a jurisdiction, but they all stress a collaborative, multidisciplinary, problem-solving approach to address the underlying issues of individuals appearing in court.

The most formal and comprehensive versions of these programs are the specialized “problem-solving” courts and court calendars developed to address domestic violence, drug abuse, family matters, mental illness, quality of life crimes such as prostitution, and so forth. These courts and specialized calendars emphasize the importance of links to medical, social service, and treatment providers and generally involve special procedures and alternative sentencing options to promote effective case outcomes. Table 1 provides examples of these courts, the types of cases they handle, and the types of services they refer individuals to either on a voluntary or mandated basis or in some combination.

Although subject matter jurisdiction varies across the courts, they all have service coordination as a core feature of their operation, and service coordination begins early in the process—often post-arrest to determine eligibility for programs and the need for emergency services. Some courts are pre-adjudicatory and diversion oriented, and others require a plea before a treatment plan is implemented, but much service coordination has usually taken place by the time a treatment order is entered.

In 1999, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) established a Task Force to “advance strategies, policies, and recommendations on the future of these courts” (Conference of Chief Justices and Conference of State Court Administrators [CCJ & COSCA], 2000, p. 1). The Task Force’s subsequent resolution, adopted by both CCJ and COSCA, acknowledged the “integration of treatment services” as a core principle of these courts—and one that advances court performance and public trust and confidence:

There are principles and methods grounded in therapeutic jurisprudence, including integration of treatment services with judicial case processing, ongoing judicial intervention, close monitoring of and immediate response to behavior, multidisciplinary involvement, and collaboration with community-based and government organizations. These principles and methods are now being employed in these newly arising courts and calendars, and they advance the application of the trial court performance standards and the public trust and confidence initiative. (CCJ & COSCA, 2000, p. 1)<sup>2</sup>

---

<sup>2</sup> See Appendix A for full text of the resolution.

The CCJ and COSCA resolution recommended the careful study and evaluation of these principles and methods and, “where appropriate, the *broad integration* [italics added] ... of the principles and methods employed in problem-solving courts into the administration of justice to improve court processes and outcomes while preserving the rule of law, enhancing judicial effectiveness, and meeting the needs and expectations of litigants, victims, and the community” (CCJ & COSCA, 2000, p. 2). Thus these problem-solving courts offer a rich laboratory of experimentation and a starting point to explore promising court practices that integrate treatment services with judicial case processing to address the service needs of individuals in courts.<sup>3</sup>

This report begins that exploration. The intent of the report is not to suggest that all courts become problem-solving courts; rather, it is to identify features of the problem-solving approach that may be adapted by courts—given their local legal and service cultures and resources—to help improve service coordination.

The report considers service coordination in the broader context of a court’s work. Interviews with court and service professionals who are involved in cases typically found in problem-solving courts revealed that service coordination issues were integrally linked to other court goals. Thus examining them apart from other court performance issues (such as court timeliness, fairness, and independence) is artificial.

Given this broader focus, Chapter 2 explores service-related issues in the context of the Trial Court Performance Standards. The Trial Court Performance Standards identify five fundamental responsibilities of trial courts: (1) access to justice, (2) expedition and timeliness, (3) equality, fairness, and integrity, (4) independence and accountability, and (5) public trust and confidence (Bureau of Justice Assistance [BJA], 1997). Key service coordination questions related to each of these court performance goals are suggested in Chapter 2.

Crafting answers to many of the key service coordination questions requires courts to reach out to other community entities. Working with other community entities to meet goals is a hallmark of problem-solving courts. Chapter 3 provides an overview of the problem-solving approach and briefly describes several examples of courts that fit the rubric.

---

<sup>3</sup> These courts are not without their critics. See, for example, Hoffman (2000), “In their mad rush to dispose of cases, drug courts are risking the due process rights of defendants and turning all of us—judges, staff, prosecutors, and the public defenders alike—into cogs in an out-of-control case-processing machine” (p. 1533). The philosophical debate regarding the proper role, if any, of the court in service-related issues has raged for at least a hundred years when the development of juvenile courts was first contemplated (see Appendix B for some of the issues/arguments). However, as evidenced by the CCJ and COSCA resolution, “In Support of Problem-Solving Courts” (see Appendix A), the Nation’s state court leadership sees potential value in the approach of these courts and encourages further study.

Chapter 4 suggests nine promising components of an effective service coordination strategy based on a problem-solving approach. The components were derived from three sources:

- reviews of academic and practitioner articles and reports addressing the issue of service coordination between courts and various community service agencies;
- telephone interviews with court personnel in fifty jurisdictions (one court randomly selected from each state) focusing on the coordination of services within the context of three casetypes: involuntary civil commitment, domestic violence, and child abuse and neglect; and
- field research in eight jurisdictions exploring how courts work with service agency providers to identify and provide services for individuals involved in court cases.<sup>4</sup>

The information from these sources underscores why one model of service coordination is not appropriate. Jurisdictions vary considerably with regard to their local legal and service cultures and resources. What works for one jurisdiction may need significant modifications to work in another. The focus on performance goals and key service coordination questions is intended to offer a flexible approach for each jurisdiction to assess its current service coordination needs, and the promising components of effective service coordination offer a starting point to address those needs given local jurisdiction culture and resources.

---

<sup>4</sup> The first three field research sites were selected based on their approach to service provision. Richland County Family Court in Columbia, South Carolina was selected as a court that primarily refers individuals to services; the Sacramento Superior and Municipal Courts in California were selected because of their efforts to link with service providers at both the individual and policy level; and the Jefferson Family Court in Louisville, Kentucky was selected as a court that links individuals to services and provides some services in the courthouse. Additional sites were chosen because of innovative approaches to service coordination. These sites include: the Mental Health Court in Broward County, Florida; the Circuit Court in Kalamazoo, Michigan, including its drug courts; the Manhattan Youth Part in New York County, New York; the Oregon Judicial Department and Integrated Family Courts in Deschutes and Jackson Counties; and the King County Unified Family Court in Seattle, Washington. The field research for this project was supplemented with information from site visits to other jurisdictions (e.g., the Midtown Community Court in New York and the Domestic Violence Unit of the Superior Court for the District of Columbia) conducted for other projects of the National Center for State Courts.



## ❧ CHAPTER 2 ❧

### GOALS OF SERVICE COORDINATION: A COURT PERSPECTIVE

Service agency goals focus on improving the health and well-being of the individuals they serve. Ultimately, they seek to reduce child abuse and neglect, domestic violence, substance abuse, and so forth. Obviously, court performance cannot be judged by these same goals. That is, a court, by itself, is not responsible for the reduction of child abuse in its jurisdiction. However, it can use its powers to ensure treatment is available to those who need it. Thus courts can consider what contributions they make to these broader societal goals within the parameters of court goals.<sup>5</sup>

The Conference of Chief Justices, the Conference of State Court Administrators, the American Judges Association, and the National Association for Court Management have acknowledged the Trial Court Performance Standards as articulating the fundamental goals and responsibilities of courts (BJA, 1997). There are 22 standards that fall into five broad areas of performance: (1) access to justice; (2) expedition and timeliness; (3) equality, fairness, and integrity; (4) independence and accountability; and (5) public trust and confidence.

These broad areas provide the context for exploring a court's role in addressing the service needs of individuals in court. What are the critical service-related questions courts should be asking within each performance area? A description of each performance area

---

<sup>5</sup> See, for example, the recommendations of the National Council of Juvenile and Family Court Judges' Alcohol & Substance Abuse Committee (1995):

Courts alone cannot resolve the alcohol and other drug problems in American society at any level, youth or adult. However, they can and must be a strong force within their communities for reducing the problem. (p. 4)

Also see Commission on the Future of the California Courts (1993), "The judicial branch should be a helpful and forceful participant in ensuring that families receive the social support they need" (p. 125).

and critical questions follows. To answer some of the questions, courts may need to reach out to service agencies and other community entities to obtain information about specific issues.

## PERFORMANCE AREA 1: ACCESS TO JUSTICE

*Trial courts should be open and accessible. Location, physical structure, procedures, and the responsiveness of personnel affect accessibility. Accordingly, the five standards grouped under Access to Justice require a trial court to eliminate unnecessary barriers to its services. Such barriers can be geographic, economic, and procedural. They can be caused by deficiencies in both language and knowledge of individuals participating in court proceedings. Additionally, psychological barriers can be created by mysterious, remote, unduly complicated, and intimidating court procedures. (BJA, 1997, p. 7)*

What are the implications of this performance goal on the court's level of concern and engagement with services? At a basic level, courts should be aware that location, procedures, eligibility requirements, fees, language and cultural differences, and the responsiveness of agency and court personnel affect the accessibility of services to individuals in court. What does the court do to identify barriers to services within its jurisdiction? Are there court policies, procedures, or practices that affect accessibility? Does the court itself create or exacerbate barriers? What accommodations can the court make on its own or in concert with appropriate service agencies to facilitate access to services?

Some key access questions for courts and relevant service agencies to discuss are:

- At what points in the court process do issues of service needs arise (e.g., intake, presentence investigation, sentencing/disposition)?
- Who (e.g., attorney, probation officer, judge, court staff, defendant/party to a case) identifies a need for services at these various points?
- Does the current approach work? Are individuals with service needs identified appropriately from the perspectives of court officials, service providers, and the parties to a case? Are there policies or practices the court or other involved party could change to make the needs-identification process work better?
- What court forms, documents, and other paperwork are necessary to access services? Are the processes and forms understood and easy to complete? What modifications might improve accessibility?
- What types of services are not available to individuals in court? What can be done to ensure access to needed services?



- Does the court order or recommend services that are difficult to access because of location? How can these barriers (e.g., transportation costs) be alleviated?
- What types of needed services are prohibitively expensive to access? How can the court and community address the problem?

## PERFORMANCE AREA 2: EXPEDITION AND TIMELINESS

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

*A trial court should meet its responsibilities to everyone affected by its actions and activities in a timely and expeditious manner—one that does not cause delay. Unnecessary delay causes injustice and hardship. It is a primary cause of diminished public trust and confidence in the court. (BJA, 1997, p. 10)*

Delay in identifying individuals in need of services or in providing services may cause unnecessary hardship, result in further deterioration of existing conditions, and have serious consequences for the effective resolution of court cases. The issue of time is especially crucial in family cases involving children. “Given the importance of time in a child’s life, court delay may have implications for juveniles that are both quantitatively and qualitatively different than its implications for adults” (Mahoney, 1985, p. 54).

Based on the Expedition and Timeliness performance goal, courts have an obligation to meet their service coordination responsibilities, such as obtaining assessments, sharing pertinent information, transferring critical documents to relevant professionals, or disbursing funds in a timely and expeditious manner. Effective courts work with service agencies to establish and ensure mutual compliance with schedules and to develop time guidelines for completing essential service coordination activities.

Some key timeliness questions for courts and service agencies to discuss are:

- Are there case management procedures in place to ensure the timely identification, acquisition, and provision of services? Does the court order services without knowing whether the services are actually available?
- What is the backlog of cases waiting to be screened or waiting for specific services?
- Is there a formal or informal “triage” system in place to identify cases that involve more sensitive time issues (e.g., pregnant women with health risks) with regard to service needs?

- How quickly are files updated with service information? Do individuals involved with the case have relevant information when needed?

### PERFORMANCE AREA 3: EQUALITY, FAIRNESS, AND INTEGRITY

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

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

*Integrity refers not only to the lawfulness of court actions (e.g., compliance with constitutional rights to bail, legal representation, a jury trial, and a record of legal proceeding) but also to the results or consequences of its orders. A trial court's performance is diminished when, for example, its mechanisms and procedures for enforcing its child support orders are ineffective or nonexistent. Performance also is diminished when summonses and orders for payment of fines or restitution are routinely ignored. The court authority and its orders should guide the actions of those under its jurisdiction both before and after a case is resolved. (BJA, 1997, pp. 12-13)*

The distinct and unique purpose of courts is to guarantee fair treatment and equal rights to all citizens. The standards grouped together in this area are therefore viewed as central to trial court performance, and four of the six standards are worth special attention in the context of court concern with services.

First, Standard 3.3, "Trial courts give individual attention to cases, deciding them without undue disparity among like cases and upon legally relevant factors" (BJA, 1997, p. 15), suggests a clear indicator of quality in court performance—individual attention to cases.

Standard 3.4, "The trial court renders decisions that unambiguously address the issues presented to it and *clearly indicate how compliance can be achieved* [italics added]" (BJA, 1997, p. 15), suggests that the integrity of the relationship between decisions and

services is another component of quality. Quality of service provision presupposes that everyone concerned understands the intended outcomes of court orders. Moreover, there should be a clear connection between the issues the court has been asked to resolve and the services the court orders to resolve those issues.

Standard 3.5, “The trial court takes appropriate responsibility for the enforcement of its orders” (BJA, 1997, p. 16), clearly evokes the need for a monitoring and reporting component to service provision. Are the affected parties following through on specific mandates related to service? Is the agency acting as expected with respect to the services it is providing?

Standard 3.6, “Records of all relevant court decisions and actions are accurate and properly preserved” (BJA, 1997, p. 16), emphasizes that complete and accurate documentation of both the court’s decisions and actions—and those of the service provider—are essential to program evaluation and provider assessment.

Taken together, these standards highlight issues related to the quality and integrity of services. They imply access to competent and reliable service professionals and accurate service history information.<sup>6</sup> The integrity of service provision is maintained when individuals are properly matched with programs that address their specific needs. Integrity is also enhanced to the extent that individuals are involved in the identification and treatment of their own problems, and the ordered services comprehensively address their needs. For example, individuals’ basic needs such as housing and health care may need to be addressed as well as their mental health or substance abuse problems.

Some key equality, fairness, and integrity questions for courts and service agencies to discuss are:

- How are priorities for services determined? Are the types of services made available to individuals in court developed in a way that fairly reflects needs? Are the service needs of specific court populations overlooked or ignored?
- Are existing services available equally to individuals in court who need them?
- Are the qualifications of the individuals involved in identifying service needs appropriate for the populations and problems they are expected to evaluate?
- Are there any standardized protocols and risk assessment inventories used to identify service needs and placement? If so, are they effective for court purposes? Are they valid and reliable?
- Do recommended service plans address the specific needs of individual clients?

---

<sup>6</sup> Edwards (1992) discusses the importance of having good information upon which to make decisions: “The quality of a judge’s decision about children and their families is directly related to the quality of information the judge receives” (p. 26).

- Are court orders requiring services clear?
- Is the implementation of court orders monitored? That is, are court orders involving service issues enforced?
- What efforts are made to ensure services are culturally sensitive?

#### PERFORMANCE AREA 4: INDEPENDENCE AND ACCOUNTABILITY

*The judiciary must assert and maintain its distinctiveness as a separate branch of government. Within the organizational structure of the judicial branch of government, trial courts must establish their legal and organizational boundaries, monitor and control their operations, and account publicly for their performance. Independence and accountability permit government by law, access to justice, and the timely resolution of disputes with equality, fairness, and integrity; and they engender public trust and confidence. Courts must both control their proper functions and demonstrate respect for their coequal partners in government. (BJA, 1997, p. 17)*

The effectiveness of the service system for individuals in court involves not only the effective operation of the court and the local service system, but also the effective coordination between them. Court populations in need of services are not the sole responsibility of either the courts or the service system. Therefore, clarity with regard to role expectations, responsibilities, and funding are critical. Responsibilities of courts and service agencies vary across jurisdictions and even across populations within jurisdictions because of differences in local legal and service cultures and available resources. This performance area addresses the need to promote understanding between the two branches of government and clarify responsibilities regarding people in court with service needs. Beyond coordinating and monitoring services, this guideline also focuses on accountability. That is, to what extent are available resources used efficiently and fairly and with what outcomes?

Some key independence and accountability questions for courts and service agencies to discuss are:

- Who is in charge of obtaining various services for an individual?
- How are services coordinated across court and service agencies (e.g., to determine scheduling, ensure compatibility, avoid duplication or fragmentation)?
- What information about the client do service agencies and the court share? How is the information made available?
- Are the court, client, service agencies, and others involved in the identification, acquisition, and provision of services clear with regard to their respective responsibilities?

- Who monitors the delivery of services and tracks client progress?
- Are individuals/entities held accountable for deviations from court orders?
- Are agency services periodically evaluated?
- Is information across services and cases routinely recorded and reviewed (e.g., types of services by types and numbers of cases; costs of services)?
- What emerging service needs require additional or reallocation of resources in the near future?

## PERFORMANCE AREA 5: PUBLIC TRUST AND CONFIDENCE

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

*Several constituencies are served by trial courts, and all should have trust and confidence in the courts. These constituencies vary by the type and extent of their contact with the courts. At the most general level is the local community, or the "general public"—the vast majority of citizens and taxpayers who seldom experience the courts directly. A second constituency served by trial courts is a community's opinion leaders (e.g., the local newspaper editor, reporters assigned to cover the court, the police chief, local and State executives and legislators, representatives of government organizations with power or influence over the courts, researchers, and members of court watch committees). A third constituency includes citizens who appear before the court as attorneys, litigants, jurors, or witnesses, or who attend proceedings as a representative, a family friend, or a victim of someone before the court. This group has direct knowledge of the routine activities of a court. The last constituency consists of judicial officers, other employees of the court system, and lawyers—both within and outside the jurisdiction of the trial court—who may have an "inside" perspective on how well the court is performing. The trust and confidence of all these constituencies are essential to trial courts. (BJA, 1997, p. 20)*

Trust and confidence in the service system for people in court will be engendered to the extent that individuals in need of services and professionals from both the court and service systems are satisfied with the system. If the system is perceived as ineffective, cumbersome, unfair, costly, or problematic in other ways, it likely will be bypassed or used sporadically. This performance area recognizes the importance of obtaining feed-

TABLE 2  
Key Questions for Courts by Performance Areas

Access to Justice	Expedition and Timeliness	Equality, Fairness, and Integrity	Independence and Accountability	Public Trust and Confidence
<ul style="list-style-type: none"> <li>At what points in the court process do issues of service needs arise (e.g., intake, presentence investigation, sentencing/disposition)?</li> <li>Who (e.g., attorney, probation officer, judge, court staff, defendant/party to a case) identifies a need for services at these various points?</li> <li>Does the current approach work? Are individuals with service needs identified appropriately from the perspectives of court officials, service providers, and the parties to a case? Are there policies or practices the court or other involved party could change to make the needs-identification process work better?</li> </ul>	<ul style="list-style-type: none"> <li>Are there case management procedures in place to ensure the timely identification, acquisition, and provision of services? Does the court order services without knowing whether the services are actually available?</li> <li>What is the backlog of cases waiting to be screened or waiting for specific services?</li> </ul>	<ul style="list-style-type: none"> <li>How are priorities for services determined? Are the types of services made available to individuals in court developed in a way that fairly reflects needs? Are the service needs of specific court populations overlooked or ignored?</li> <li>Are existing services available equally to individuals in court who need them?</li> <li>Are the qualifications of the individuals involved in identifying service needs appropriate for the populations and problems they are expected to evaluate?</li> </ul>	<ul style="list-style-type: none"> <li>Who is in charge of obtaining various services for an individual?</li> <li>How are services coordinated across court and service agencies (e.g., to determine scheduling, ensure compatibility, avoid duplication or fragmentation)?</li> <li>What information about the client do service agencies and the court share? How is the information made available?</li> <li>Are the court, client, service agencies, and others involved in the identification, acquisition, and provision of services clear with regard to their respective responsibilities?</li> </ul>	<ul style="list-style-type: none"> <li>What do judges, court staff, service providers, attorneys, and, most importantly, clients see as working well and needing improvement with regard to service coordination?</li> <li>Can the media be enlisted to build a broader constituency to address the service needs of court populations?</li> <li>Can community volunteers be enlisted to assist with some aspects of service coordination?</li> </ul>

- What court forms, documents, and other paperwork are necessary to access services? Are the processes and forms understood and easy to complete? What modifications might improve accessibility?
- What types of services are not available to individuals in court? What can be done to ensure access to needed services?
- Does the court order or recommend services that are difficult to access because of location? How can these barriers (e.g., transportation costs) be alleviated?
- What types of needed services are prohibitively expensive to access? How can the court and community address the problem?
- Is there a formal or informal "triage" system in place to identify cases that involve more sensitive time issues (e.g., pregnant women with health risks) with regard to service needs?
- How quickly are files updated with service information? Do individuals involved with the case have relevant information when needed?
- Are there any standardized protocols and risk assessment inventories used to identify service needs and placement? If so, are they effective for court purposes? Are they valid and reliable?
- Do recommended service plans address the specific needs of individual clients?
- Are court orders requiring services clear?
- Is the implementation of court orders monitored? That is, are court orders involving service issues enforced?
- What efforts are made to ensure services are culturally sensitive?
- Who monitors the delivery of services and tracks client progress?
- Are individuals/entities held accountable for deviations from court orders?
- Are agency services periodically evaluated?
- Is information across services and cases routinely recorded and reviewed (e.g., types of services by types and numbers of cases; costs of services)?
- What emerging service needs require additional or reallocation of resources in the near future?
- What are the community's perceptions of how well the systems are performing?

back on the system from the perspective of the many different individuals involved in its operation and its intended clients.

Some key public trust and confidence questions for courts and service agencies to discuss are:

- What do judges, court staff, service providers, attorneys, and, most importantly, clients see as working well and needing improvement with regard to service coordination?
- Can the media be enlisted to build a broader constituency to address the service needs of court populations?
- Can community volunteers be enlisted to assist with some aspects of service coordination?
- What are the community's perceptions of how well the systems are performing?

As noted in Chapter 1, this report defines service coordination broadly, and the key questions for each performance area (see Table 2) illustrate how service coordination issues are embedded throughout the court process. The next chapter describes an approach some courts are using to address these service coordination issues in a more comprehensive manner.



## ❧ CHAPTER 3 ❧

### THE PROBLEM-SOLVING APPROACH

Chapter 2 discussed service coordination issues within the context of court performance goals. It is important to note that the goals (e.g., equal access to relevant services in a timely manner) are aspirational. Courts need to set specific objectives within those goals in light of their local legal and service cultures and resources to ensure progress toward the goals. They also have to determine the relative balance among the goals. For example, if the court focuses only on timeliness, access may be threatened.

These are hard questions for courts. What makes them particularly challenging in the service coordination area is that they are not questions that can be answered by a court alone. To accomplish goals in this area, courts must reach out to other community entities.

Reaching out to other community entities to achieve goals is a hallmark of problem-solving courts. Because these courts are particularly practiced in collaboration and service coordination, they offer a starting point for identifying promising components of an effective service coordination strategy that addresses the key service coordination questions. The promising components are presented in Chapter 4. For those who are less familiar with the problem-solving approach, this chapter provides a brief overview.

### COMMON FEATURES OF THE PROBLEM-SOLVING APPROACH

There are now several different types of problem-solving courts. Table 1 in Chapter 1 lists some of the more common versions: community courts, domestic violence courts, drug courts, family courts, and mental health courts. In addition, other variations such as reentry courts, tobacco courts, and youth courts seem to be developing at a rapid pace. They focus on different target populations and vary with respect to eligibility criteria, whether a plea or finding of guilt is necessary for

obtaining services, the length of court supervision, and so forth. Even within a problem-solving court category, such as drug courts, considerable variation in methods and procedures exists.

Despite the variation, problem-solving courts do share some common elements. Berman and Feinblatt (2001, pp. 8-9) identify five commonalities: (a) *case outcomes*—a focus on achieving “tangible outcomes for victims, for offenders and for society,” (b) *system change*—re-engineering “how government systems respond to problems like addiction, mental illness and child neglect,” (c) *judicial authority*—“the active use of judicial authority to solve problems and to change the behavior of litigants,” (d) *collaboration*—a reliance “on both government and non-profit partners (criminal justice agencies, social service providers, community groups and others) to help achieve their goals,” and (e) *non-traditional roles*—alterations of the traditional adversarial process.

These common features are evidenced to varying degrees in the different types of problem-solving courts. The remainder of this chapter describes some specific problem-solving courts.

## JUVENILE COURTS: AN EARLY PROTOTYPE OF THE PROBLEM-SOLVING APPROACH

Many features of the classic juvenile court are reminiscent of Berman and Feinblatt's (2001) common elements of a problem-solving approach. Examples follow.

- **Case outcomes.** The problem-solving juvenile court sought scientific evaluations for purposes of understanding the child and scientifically valid services aimed at prevention and rehabilitation. This requirement for understanding the child evolved into the familiar “intake” service of the juvenile court. The objectives of rehabilitation and problem solving focused on effective outcomes:  
A particularly effective requirement has been the devising of an individualized, workable disposition plan beneficial to the juvenile involved, a suggested constructive *solution to his problems* [italics added]. Through its measurable goals, both parent and child, as well as the court and its staff, are able to evaluate the progress of the disposition. (Arthur, 1979, p. 35)
- **System change.** Early proponents of the juvenile court concluded that it is “of the utmost importance that there be attached to the court...a child study department, where every child, before hearing, shall be subjected to a thorough psycho-physical examination” (Mack, 1909, p. 120). Judge Mack's 1909 call for juvenile courts to have access to clinical personnel became a deeply ingrained principle, evident in

detail in the 1954 *Standards for Specialized Courts Dealing with Children* (Children's Bureau, 1978, p. 87).<sup>7</sup>

- **Judicial authority.** Butts and Mitchell (2000, p. 175) describe the power of the judge in the early juvenile court:  
The informality and flexibility in juvenile court provided conscientious judges with the freedom to intervene in the lives of troubled youths. If a youth's circumstances seemed to pose merely the risk of future criminal behavior, the court was empowered to act.
- **Collaboration.** The original strategy of the juvenile court movement was to develop a *partnership* with the developing professions of social work, psychology, and sociology. The juvenile court was to be "a legal tribunal where law and science, especially the science of medicine and those sciences which deal with human behavior, such as biology, sociology, and psychology, work side by side" (Children's Bureau, 1978, p. 1).
- **Non-traditional roles.** Because of the importance placed on outcomes in the juvenile court, the adversarial orientation typical of most court proceedings was diminished:  
Proceedings on behalf of children in these courts are nonadversary in nature and the court must be permitted to operate with informality and flexibility as far as possible consistent with the protection of the rights of individuals coming before it. Failure to permit this would negate the basic principles underlying the philosophy of these courts. (Children's Bureau, 1978, p. 5)

During the latter half of the last century, the discretion of the juvenile court was eroded quite dramatically, prompting Butts and Mitchell (2000) to conclude, "There can be little remaining doubt that the boundary between juvenile justice and criminal justice has become less meaningful than originally envisioned by the founders of the juvenile court" (p. 202). Butts and Mitchell suggest that a new integrated court process be established within the criminal justice system to address the particular needs of youth in the system.<sup>8</sup> Ironically, they reference problem-solving courts as a potential model for

---

<sup>7</sup>The *Standards for Specialized Courts Dealing with Children*, prepared by the Children's Bureau, U.S. Department of Health, Education and Welfare in cooperation with the National Probation and Parole Association and the National Council of Juvenile Court Judges classically describes the juvenile court. Published in 1954 and reprinted in 1962 and 1978, the *Standards* have roots in the 1923 Children's Bureau publication *Juvenile Court Standards*.

<sup>8</sup>One of the project's field research sites, the Manhattan Youth Part in New York, has some of the features of an integrated court process for youth in the criminal justice system. Eligible youth have an opportunity to participate in an alternative to incarceration program that involves a treatment plan to address the youth's specific needs. The Court monitors the youth's adherence to the plan and reviews the case every three weeks. See Corriero (1999) for more information on the program.

the integrated court process—recognizing the link between the values of the original juvenile court and those of problem-solving courts today.

Among the modern versions of problem-solving courts, the drug court is the most established. It serves as an illustration of the contemporary problem-solving approach.

## DRUG COURTS: A CONTEMPORARY MODEL OF THE PROBLEM-SOLVING APPROACH

Drug courts began appearing in the late 1980's in response to the dramatic rise in court caseloads involving drug offenses (The National Association of Drug Court Professionals Drug Court Standards Committee, 1997). Some drug courts focus primarily on expedited case processing to relieve congested court dockets. However, a number of drug courts fall under the category of drug treatment courts (DTCs). These courts emphasize treatment as a potential strategy for addressing recidivistic behaviors common to substance abuse cases:

In recognizing the physical and mental health components of this problem, DTCs attempt to combine the traditional processes of our criminal justice system with those of the drug treatment community to create judicially initiated treatment solutions for a certain class of drug offenders. This synthesis of therapeutic treatment and the judicial process stand at the core of the DTC concept. (Hora, Schma, & Rosenthal, 1999, p. 453)

Generally, the drug court treatment programs “divert defendants who have been charged with, or pled guilty to, a drug-related offense to a court-monitored substance abuse treatment program” (Casey, 1994, p. 118). Different versions of the DTC model exist, but Belenko (1998, pp. 6-7) notes that they usually entail:

- judicial supervision of structured community-based treatment;
- timely identification of defendants in need of treatment and referral to treatment as soon as possible after arrest;
- regular status hearings before the judicial officer to monitor treatment progress and program compliance;
- increasing defendant accountability through a series of graduated sanctions and rewards;
- mandatory periodic drug testing.

The Drug Courts Program Office (The National Association of Drug Court Professionals Drug Court Standards Committee, 1997) has promulgated ten key components to define DTCs. The components emphasize the *partnership* necessary between the

criminal justice system and the community's treatment providers—an emphasis of the early juvenile court, as discussed above. The components are consistent with many of the court performance goals discussed in Chapter 2. For example:

- **Access.** Key Component #4 requires that services be accessible for those persons with disabilities, not fluent in English, not literate, and so forth.
- **Expedition and Timeliness.** Key Component #3 requires the early identification of eligible participants to ensure early intervention once an individual has been arrested.
- **Equality, Fairness, and Integrity.** Key Component #4 calls for an assessment of the individual when he or she enters the program and periodic assessments thereafter to ensure the individual receives appropriate services. Treatment services should respond to the specific needs of each DTC participant.
- **Independence and Accountability.** Key Component #8 demands that drug courts gather and manage information to monitor and evaluate program effectiveness.
- **Public Trust and Confidence.** Key Component #10 requires drug courts to form partnerships to help ensure local support and program effectiveness. “As a part of—and as a leader in—the formation and operation of community partnerships, drug courts can help restore public faith in the criminal justice system” (The National Association of Drug Court Professionals Drug Court Standards Committee, 1997, p. 16).

Analysis of the key components reveals many other links to court performance goals. Of particular importance for this report is the integration of service-related issues throughout the DTC process. The DTC incorporates service coordination into all of its work and hence all aspects of court performance; service coordination is not something done on the side, in isolation, or at one point in the process.

## OTHER APPLICATIONS OF THE PROBLEM-SOLVING APPROACH

As already noted, the problem-solving approach has been adapted for other court caseloads. Brief descriptions of some of these follow.

**Family Courts.** One of its more common applications is in family courts. Family members often appear in different courts for different cases. As a result, the potential for conflicting orders and fragmented or duplicative services for the family increases. In response, some jurisdictions have created comprehensive family courts to promote a more coordinated and effective response to families involved in the court system. These courts emphasize the need to work with the community to ensure the availability and provision of needed services.

Much has been written about family courts, the particular subject matter jurisdiction they encompass, and the particular forms that they take (American Bar Association Center for Continuing Legal Education, 1998; Babb, 1998; Burhans, 1998; Page, 1993). Ross (1998, p. 5) summarized many of the features of family courts into four critical components: (1) comprehensive jurisdiction of all intrafamilial matters, (2) structure and administration that focuses on the one family, one judge/team approach, (3) specialized training in family-related issues, and (4) the delivery of comprehensive services.

**Community Courts.** These courts focus primarily on low-level, “quality of life” crimes (e.g., prostitution, shoplifting, minor drug possession, disorderly conduct). Rottman, Efkenman, & Casey (1998) report that the Midtown Community Court in New York, “mobilized local residents, businesses, and social service providers to collaborate with the criminal justice system by developing and supervising community service projects and by providing drug treatment, health care, education, and other services to defendants” (p. 87).<sup>9</sup>

**Domestic Violence Courts.** During the last decade, the number of domestic violence filings in state courts increased exponentially (Levey, Steketee, & Keilitz, 2000). These increases were accompanied by a variety of efforts to improve the processing of these cases and better insure victim safety and batterer accountability—including the development of specialized dockets and calendars that focus on an integrated community justice response to the problems prompting involvement in the court system.<sup>10</sup>

**Mental Health Courts.** The focus of these courts is on individuals with a mental illness who have committed minor offenses. The first mental health court was established in Broward County, Florida in 1997 (Mental Health Task Force Fiscal and Data Subcommittee, 1998). The court was initiated as a result of discussions among local criminal justice officials, mental health providers, and community leaders about the ineffectiveness of the criminal justice system in addressing misdemeanor defendants with a mental illness. Because these defendants were not receiving treatment and support services, they often returned to court, sometimes charged with more serious offenses. The Mental Health Court was developed to link this population with needed services in an expedited manner and to monitor individual defendants’ progress with regard to their treatment plans.<sup>11</sup>

---

<sup>9</sup> For more information on community courts, see Center for Court Innovation (1997), Feinblatt and Berman (1997), and Lee (2000).

<sup>10</sup> For more information on domestic violence courts, see Fritzler and Simon (2000) and Keilitz (2000).

<sup>11</sup> For more information on mental health courts, see Goldkamp and Irons-Guynn (2000). Information about the Broward County, Florida, Mental Health Court is available on-line at <http://www.co.broward.fl.us/ojss/jsi00300.html>.

**Reentry Courts.** One of the latest versions of the problem-solving approach is the reentry court. These courts focus on prisoner reentry into the community following incarceration. Many individuals returning home from prison have substance abuse problems, a mental illness, no job skills, little education, and so forth. Reentry courts help to marshal community resources that provide employment, counseling, education, health, mental health, and other essential services to support successful reintegration (Reno, 2000; Travis, 2000).

As is evident from these various examples, service coordination is a core value of problem-solving courts. Each court highlights the importance of addressing service coordination issues as an ongoing court activity and not an activity that is performed only at certain stages of the process. This is consistent with the service coordination goals discussed in Chapter 2. The next chapter offers a strategy that includes nine promising components for addressing service coordination issues more comprehensively.





## ❧ CHAPTER 4 ❧

### PROMISING COMPONENTS FOR EFFECTIVE COURT-BASED SERVICE COORDINATION

*"It shouldn't be so hard to get help. It shouldn't be so hard to get treatment. It shouldn't be so hard to get services."* Mental Health Court Judge to defendant with mental illness <sup>12</sup>

The Court's reorganization *"recognizes that courts are becoming more social service oriented in nature by the demands/needs of the public or by default because the court is the place of last resort for help."* Court Administrator <sup>13</sup>

This chapter discusses nine promising components of a service coordination strategy. The components offer ideas and suggestions for addressing the key service questions posed across the court performance goals presented in Chapter 2. The components are derived from innovative practices observed across study sites and discussed in the literature.

Consistent with the orientation that service coordination is a comprehensive court activity and thus does not occur only at certain stages of the court process, the components address both policy-level and individual-case level issues. Jurisdictions have the option to adapt one component to improve current coordination in a particular area or may use the entire list of components to systematically build a comprehensive approach to service coordination. Because each jurisdiction's local legal and service cultures and resources vary, it is expected that jurisdictions will modify the generic components to best fit their needs.

---

<sup>12</sup> Discussion between Judge Lerner-Wren and defendant during observation of Mental Health Court proceedings, November 18, 1999, in Broward County, Florida.

<sup>13</sup> Correspondence from Mr. Robert A. Houtman, Court Administrator, Ninth Judicial Circuit Court in Kalamazoo, Michigan to project staff, March 18, 1999.

## PROMISING COMPONENT 1: ACKNOWLEDGED COURT ROLE IN SERVICE COORDINATION

There is debate about the appropriate role of courts in service-related issues. In practice, judges and court staff define their role on an individual basis, ranging from "hands-off" to complete involvement. This lack of clarity in court policy with regard to service issues results in inconsistent judicial practices across the bench that threaten equality and fairness. It also creates confusion for service providers regarding their expected communications with the court and their responsibilities. The confusion consequently affects the access, timeliness, and integrity of services. Court independence and accountability also are affected by a court's lack of guidance in establishing its service coordination role. Courts may overstep their role in these issues and threaten their relations with the other branches of government, or they may ignore their role altogether creating accountability problems.

Although no jurisdiction specifies the court's service coordination role in detail, some jurisdictions have acknowledged the role in statutes, court rules, mission statements, or other task force and special issue documents. This acknowledgement provides some guidance and justification for courts as they become involved in service issues.

In Kentucky, for example, the expression of the court's role in service coordination is found in a Mission Statement (Kentucky Rules of Court, 1997, p. 469). The Mission Statement encourages the judge and court personnel to focus on outcomes and resolutions of long-term problems. It makes explicit the expectation that it is appropriate for the court to recommend or order specific services to remedy causes of family dysfunction and not limit itself to adjudication of a specific legal issue. The Statement recognizes that traditional court processes can create new barriers within families and exacerbate existing problems; accordingly, the use of alternative dispute resolution is encouraged.<sup>14</sup>

In Oregon, the Legislative Assembly articulated a clarifying policy in statute. Each presiding judge is mandated to adopt a plan to coordinate the provision of services to families involved in domestic relations or other family court proceedings (Family Law Act, 1997, § 3.434). The law includes the requirement that the court convene advisory

---

<sup>14</sup> Mission Statement of the Jefferson Family Court (Kentucky Rules of Court, 1997, p. 469):

- A. The Court strives to transcend the traditional adjudicatory function and adversarial process and to look beyond the immediate crisis, fashioning remedies and orders designed to minimize future court involvement.
- B. Cognizant of the fact that traditional legal approaches may create new barriers to relationships and exacerbate problems within families, the court encourages alternative dispute resolution, and, as appropriate, recommends or orders counseling, self-help and other available, suitable governmental and community services.

groups of service providers and funding bodies. Plans developed under this mandate clarify in detail the respective responsibilities and expectations of the court and the community providers.

In Broward County, Florida, policy clarification regarding court coordination of services is found in an Administrative Order establishing the Mental Health Court. The Order relates to cases involving individuals accused of committing a misdemeanor and who suffer from mental illness or mental retardation. The Order provides that the judge of the court will “coordinate the role of the judiciary with the functions of the state and local service agencies that are responsible for treatment and supervision of mentally ill or otherwise handicapped individuals” (Administrative Order No. VI-97-I-1A, 1997).

In Massachusetts, policy clarification arises from the Supreme Judicial Court through its Standing Committee on Substance Abuse. A Policy Statement (Supreme Judicial Court, 1995) frames expectations that judges and court staff should:

- be proactive in identifying substance abuse by any party;
- educate themselves about the dynamics of substance abuse and effective recovery interventions;
- make substance abuse treatment available at every turn in the case; and
- forge collaborative relationships between the court and treatment providers.

These examples of court policy emerge in the context of a specific policy concern in each locality: family concerns in Kentucky and Oregon, mental health cases in Florida, and substance abuse in Massachusetts. It is timely for courts to consider an explicit policy framework for the court as a whole to clarify the appropriateness of judges and court staff engaging proactively with service issues, while establishing guidelines and limits on those interactions.

A clear policy that acknowledges expectations regarding the court’s role in service coordination creates a strong foundation upon which to build the operating framework for court and service agency interactions. Effective leadership is then needed to implement the interactions that span the boundaries between the court and its service providers.

## PROMISING COMPONENT 2: JUDICIAL AND COURT LEADERSHIP

The importance of judicial leadership in achieving quality court performance, whenever “boundary spanning” issues are at stake, emerged initially and prominently in studies of reducing delay in courts (Mahoney, 1988; Hewitt, Gallas, & Mahoney, 1990).

[I]t is clear that most of the successful courts have had the benefit of leadership by a chief judge with vision, persistence, personality, and political skills necessary to develop broad support for court policies and programs.... By the same token, the absence of strong leadership...was frequently cited by

practitioners...as a prime reason for the lack of attention to the problem of delay. (Mahoney, 1998, p. 198)

The importance of leadership in achieving quality in court performance is now a generally accepted principle. In a study of the relationship between court structural arrangements and court performance generally, Rottman and Hewitt (1996) found that court "outsiders" (social service providers prominent among that group) consistently and "often with great vehemence" expressed frustration that no one represents the bench in "discussions about problems that affect the entire justice system" (p. 86). The authors concluded: "In our view, *responding to and taking leadership in, such 'boundary spanning' problems is a basic component of any chief judge and any trial court manager* [italics added]" (p. 86).

This boundary spanning role is acknowledged in the Trial Court Performance Standards:

In matters for which the trial court may have no direct responsibility but nonetheless may help identify problems and shape solutions, the trial court takes appropriate actions to inform responsible individuals, groups, or entities about the effects of these matters on the judiciary and about possible solutions. (BJA, 1997, p. 20).

Effective court leadership is not restricted to the chief judge. The trial court manager, the presiding judges of court divisions, and the departmental administrative managers effectively apply leadership skills. Court leadership is essential for maintaining the coordination and financial support necessary for court-related service initiatives and daily activities. It is key to fruitful interactions between the judicial and service systems and a necessary component of a quality service delivery system for court populations.

For this study, interviewees in jurisdictions where courts have consciously initiated efforts to coordinate court and service agency interactions were asked why the court's approach to service coordination works. Inevitably, respondents within and outside the courthouse named a judicial leader committed to making coordination work. In jurisdictions where various reform efforts began outside the courthouse doors, those involved in the efforts noted that the reforms "did not have legs" until a judge was willing to champion the effort. The prestige of the bench lent credibility to the effort.

A clear articulation of court policy relating to court and service agency interactions creates a foundation for court leadership in implementing strategies, and effective court leaders build upon that foundation through strategies of inclusion. While a champion judge is necessary for reform of court and service agency interactions, judges cannot implement cross-system improvements on their own. Judicial involvement brings credibility and other stakeholders to the table.

In summary, the exercise of leadership involves the following elements: (1) clear articulation of goals by the person in charge; (2) clear communication of the goal and the

will to achieve it; (3) diplomatic and prudent recognition of, and deference to, the expertise and territorial concerns of leaders; (4) cultivation of expanded leadership support; and (5) exercise of authority to ratify and act on consensus decisions of a group of community leaders. The first two of these elements serve as a foundation for building leadership, and the last three elements use leadership to build a common cause with other stakeholders.

### PROMISING COMPONENT 3: AN ACTIVE POLICY COMMITTEE OF STAKEHOLDERS

Most of the sites that were studied had some type of formal or informal policy committee in place to discuss issues of relevance to all entities involved in providing services to court populations. The committees varied in terms of structure, members, and specific tasks, but they all had the common goal of establishing better communications between and among various system components involved in service coordination. An effective cross-systems committee exhibits comity and produces positive results for timeliness, quality, fairness, and accountability of services, and, consequently, satisfaction with those services.

Stakeholder committee tasks vary by mission. Sometimes the mission of the committee is initially narrow and grows during implementation. Sometimes the mission is broad and gradually becomes more focused. The broader the mission, the more appropriate it is for the committee to be comprised of members from the highest policy level — the leaders of the justice system and the service agencies. As focus becomes more specific, formation of subcommittees or task groups that include line supervisors and staff become more appropriate and effective. These subcommittees are likely to focus on problematic procedural issues related to inter-organizational communication and boundary spanning operations. Personnel who are familiar with operational detail deal best with these issues.

In some instances, jurisdictions have one large committee consisting of both agency leaders and representative line staff of the major service and justice system components. This larger committee is divided into subcommittees to address specific issues. When agency or department leaders meet separately to discuss broader system issues and the line staff have their own meetings to discuss specific operational issues, sometimes a representative from the line staff will attend both meetings to ensure coordination between levels.

The Criminal Justice Cabinet of Sacramento, California, offers one of the best examples of an effective and institutionalized policy committee. It was conceived in 1991 when local justice system leaders “recognized the need for and desirability of a coordinated leadership body to provide cohesive public policy and programming across the

many agencies, departments and organizations responsible for the area's criminal justice system" (Criminal Justice Cabinet, 2000, p. 4). Its members include: The Presiding Judge, Superior Court; the Presiding Judge, Juvenile Court; a judge of the Superior Court; the Sheriff; District Attorney; Public Defender; Chief Probation Officer; the Mayors of the surrounding cities; the Chief of Police; a member of the Board of Supervisors; the County Executive; the Sacramento City Manager; the Administrator, Public Protection and Human Assistance Agency; the Director, Department of Human Assistance; Director, Department of Health and Human Services; the Director, Department of Medical Schools; and the California Legislative Delegation for Sacramento. The Cabinet includes an Executive Committee, five subcommittees, and full-time staff, and has an annual budget allocated from the Sacramento County general funds. The Cabinet meets regularly "not only to discuss and implement approaches to common issues that arise in the conventional processing of adult and juvenile cases, but also to develop fresh ideas involving prevention, rehabilitation, alternative sentencing, community involvement, and information technology" (Criminal Justice Cabinet, 2000, p. 1). The Cabinet uses its funds as seed money to support local initiatives to address deficiencies in the system. Although the Sacramento example is more formal than most policy committees, it is a good illustration of the kinds of members and activities that jurisdictions can consider when initiating their own committees.

Component 3 refers to boundary spanning and coordination at the policy and operational procedure level. When line supervisors or staff meet to discuss specific cases, the focus moves beyond coordination of administration and planning to coordinated case action – the very thing that all of the preceding components are designed to enable.

#### PROMISING COMPONENT 4: CASE-LEVEL SERVICE COORDINATORS

Service coordination for court populations involves "exchanges" of information and individuals *across boundaries*. The boundaries can be within the courts themselves (e.g., juvenile courts, family courts, criminal courts) or within large executive branch agencies (e.g., divisions of health, mental health, income assistance, children's services). The boundaries can also be those that separate courts, executive agencies, and not-for-profit service providers. The efficiency with which these exchanges are accomplished affects the timeliness, integrity, and continuity of service provision. As the number of individuals involved in these exchanges increases, so does complexity and the possibility of miscommunication (or non-communication) within and across the various courts and service providers.

Jurisdictions take different approaches to overcome the problems resulting from many individuals involved in multiple exchanges concerning the same and related cases. The most traditional approach is the use of a court officer to follow a case through the

pre- and post-sentencing phases, “broker” services when needed, and coordinate information about the individual’s status and progress. With the advent of courts designed to address specific problems such as drug use, mental illness, domestic violence, or juvenile violence, a focus on service coordination at the front-end of the system is being added as well. This front-end focus is particularly vital for coordinating services across multiple, related parties involved in multiple, related cases (e.g., domestic relations, juvenile, domestic violence, criminal). Rubin and Flango (1992) address this issue in the context of family cases:

As important as the procedural coordination of family cases may be, and it is important, it pales in significance to the importance of the effective coordination of substantive services ordered by the court. The fragmentation and unplanned duplication of child and family services for family members who are the subject of a court order is a bottomless, perverse, and polymorphous pit. (p. 72)

The line between pre- and post-disposition coordination is not a bright one; one blends into the other. Coordination at the pre-disposition stage involves ensuring judicial access to high quality factual data and evaluative opinion regarding services to all related parties. This information allows the judge to craft orders that do not conflict and appropriately speak to the issues. Coordination at the post-disposition stage involves ensuring that the services required to successfully implement the provisions of orders are available and delivered. Optimally, both aspects of case-level service coordination are robustly developed in a program of court-based service coordination.

Effective case-level service coordination requires the involvement of individuals familiar with both the legal and service arenas. Steadman (1992) refers to these coordinators as boundary spanners and discusses them in the context of jail mental health programs:

Whether we were examining jail diversion programs, screening and evaluation procedures upon booking, jail crisis intervention programs, or case management services, one factor kept appearing among the better programs—there always was a core position that directly managed the interactions between the correctional, mental health, and judicial staff. These positions tended to have strong similarities, even if their particular job titles, positions in their organizational charts, and their incumbents’ training and experiences did not. What all of the incumbents of these positions did one way or another was to interact on a daily basis with the mental health and corrections staff at the jail and the judicial staff in the courts. The incumbents had carved out niches in their organizations that depended upon a special set of skills they had acquired to smoothly, albeit carefully, crosswalk the three, often competing, systems of corrections, mental health, and the courts. (p. 76)

Based on his observations of these positions across numerous jurisdictions, Steadman concluded that there is no one best model of boundary spanner:

Location choice depends upon local politics, history, economics, and personalities. . . . If a boundary spanner position is developed, the particular source of the revenue for it and its organizational niche are much less significant than is a clear conceptualization of what its functions are, the selection of the right incumbent, and the securing of money from any source to fund it. (p. 84)

Individuals who serve as case service coordinators are known by a variety of titles in different jurisdictions. Classically, probation intake and supervision officers serve the role of case coordinator in many courts; the positions might also be known as Resource Coordinator (Midtown Community Court in New York, New York), Family Court Support Worker (Jefferson County Family Court, Louisville, Kentucky), or Family Court Advocate (Integrated Family Court, Deschutes County, Oregon).

Some service coordinators are court employees, and some are service agency employees. Some jurisdictions have both: a court employee to liaise with service agencies and service agency representatives to liaise with the court (Flango, Flango, Rubin, 1999).

Boundary spanners in the context of court-based service coordination include teams as well as individuals. Team resources are used for bringing together substantive information on legal history, personal background, and clinical experience with individuals and family members; such teams generally also participate in framing disposition and treatment plans. When a team approach is used, such as the Family Advocate Screening Team (FAST) and multidisciplinary treatment team found in the Integrated Family Court in Deschutes County, Oregon, it is still necessary for purposes of accountability and efficiency to have a single individual responsible for documenting and monitoring implementation of decisions made by the team.

The effectiveness of individuals and teams that provide case-level service coordination is directly related to what they know about the range and quality of available services. If mandates or policy initiatives seeking provision of quality treatment and services are to have any practical meaning on a case-by-case basis, court officials, attorneys, mental health personnel, social service personnel, law enforcement officers, and others involved in the process must have access to current information about available facilities and resources.

## PROMISING COMPONENT 5: CENTRALIZED ACCESS TO SERVICE NETWORK

The maze of service providers and available programs in a community can be daunting even to those who are familiar with the service community. The range of programs offered, program components, eligibility requirements, and fees are just some of the factors that can contribute to confusion in identifying appropriate services for an individual.



How do case coordinators find out about new service providers? How does the community know what services are duplicated across several providers and what services are nonexistent? A central resource is needed to provide current information about available services in a jurisdiction to help ensure the timely access and delivery of appropriate services.

The resource can take different forms—printed, electronic, human, or some combination—as described in the following examples, but it is crucial that the resource be a consistent source of accurate and reliable information on a wide variety of services. When organizing to create a resource directory in particular, several dimensions need to be considered:

- **Scope of the information resource.** Is the directory intended to be statewide, regional, or local? If local courts and collaborating agencies rely on existing statewide or regional directories, how well do the directories serve local purposes?
- **Intended user.** Is the directory a resource for professionals or for direct recipients of services? A resource may vary in design, specific content, and tone depending on the target audience for the directory. Resources designed for professionals can use technical language and be more efficient about agency-to-agency communications regarding treatment services and available expertise. They also can incorporate information supplied by other professional users of particular services in the form of references or other inter-agency evaluative techniques. These characteristics are not likely to be incorporated into resource guides for direct service recipients.
- **Accuracy and reliability.** Are there procedures in place to ensure that the resource serves its intended purpose? Several requirements need to be met to ensure utility, accuracy, and reliability of published hard copy or electronic resource guides. These include:
  - a standard format and procedure for providing information to be included in the guide;
  - a procedure for review and follow-up of information submitted for inclusion in the guide to provide quality control for content, completeness, and clarity of entries;
  - a procedure for validation and evaluation of service availability and consistency with published information; and
  - a procedure for keeping resource directory information current.

The process of developing a resource guide in a community offers an important ancillary benefit, which is the opportunity to systematically survey the service needs of professionals in the community and respond to deficiencies in resources. “The development of the guide may help to identify gaps in the continuum of services as well as facilitate use of existing services” (National Center for State Courts, 1986, p. 424).

While the most familiar approach to development of central resource guides is a written directory of services, other strategies are possible and should be considered. These include on-line directories, neighborhood resource centers, and courthouse resource centers.

**On-line Directories.** One example of an on-line directory is from Kentucky. It is jointly maintained by the Cabinet for Families and Children, the Cabinet for Health Services, and the Cabinet for Workforce Development. This resource directory is state-wide in its orientation, and its sophistication reflects the resources available to state agencies. It allows a user to search for services in different ways. One way that is especially friendly to the person with the problem is to respond to inter-active questions about the nature of the problem or problems for which help is sought. Another way is to search by specific services (e.g., counseling, emergency health care, food, substance abuse treatment) and/or geographic region. Service providers can update information about their programs, and new providers can add information on-line. The Directory has over 18,000 provider listings and 45,000 service listings, and may be reviewed at <http://resourcedirectory.state.ky.us/default.asp>.

**Neighborhood Resource Centers.** A more direct mechanism for sharing service information is to house multiple service organizations or at least their intake services in one location. One such example is The Neighborhood Place in Louisville, Kentucky, which offers families a common point of intake for a variety of services such as health, mental health, employment, and social services. The representatives work together to serve families as a coordinated system. Thus, information on services and their availability is shared, improving access to appropriate services and avoiding duplication and fragmentation of services. Such centers provide a convenient point of contact for court officials to maintain contact with service agency professionals through case interactions (see Promising Component 4). The service centers also offer focal points for launching and maintaining community advisory committees and task forces.

**Courthouse Resource Centers.** A variation on neighborhood resource centers is the co-location of a resource center and the court facility—essentially moving The Neighborhood Place model described above inside the courthouse doors. The obvious advantage of this arrangement is that referrals or mandates for services can be carried out immediately. When the referrals are for diagnostic or exploratory purposes, in fact, service connections and feedback to the court regarding immediate results of interventions can be accomplished before the person has completed her or his “day in court.” One example of such an initiative is found in The Midtown Community Court in New York City. The court’s sixth floor houses representatives of a wide variety of services to respond to defendants’ needs with regard to substance abuse, housing, health, education, employment, and so forth (Sviridoff, Rottman, Ostrom, & Curtis, 1997). The representatives, in turn, are connected to a wider network of service providers in the community. Information about services is shared easily among the various service representatives and with the court’s resource coordinator, who makes service recommendations for each case to the judge. This may all be accomplished before releasing the individual from the court’s custody.

Knowledge of available resources, whether through directories or resource centers, is the foundation for securing effective pre-disposition diagnostics and post-disposition interventions. But extending success on paper (achieving a correct understanding of the problem and a disposition order to match) to a successful intervention and an actual therapeutic outcome, requires compliance with and monitoring of the court order to ensure that what is intended to happen actually does happen.

## PROMISING COMPONENT 6: ACTIVE COURT MONITORING OF COMPLIANCE WITH ORDERS

Active monitoring of compliance with court orders is a critical component of an effective service coordination system. Without it, the integrity of a court's orders and implementations of plans designed to remedy problems that contributed to a person's involvement in the court system are left to chance. Resources spent at the front end of the system to identify problems and match individuals with appropriate services are wasted if the services are not subsequently accessed and delivered in a timely manner. Trial Court Performance Standard 3.5 "Responsibility for Enforcement" addresses the issue: "Courts should not direct that certain actions be taken or be prohibited and then allow those bound by their orders to honor them more in the breach than in the observance" (BJA, 1997, p. 16).

The tricky part for courts is to determine how to enforce orders that include provisions (i.e., the delivery of services) falling under the responsibility of executive agencies or private, not-for-profit service agencies. Although the executive branch or private, not-for-profit agency is responsible for enforcing such provisions, Standard 3.5 also makes clear that "no court should be unaware of or unresponsive to realities that cause its orders to be ignored" (p.16). Thus, the court has an obligation to find out whether its orders have been enforced and, if not, why.

What are typical reasons for non-compliance? Some are the result of easily remedied communication problems, such as the client not knowing where to go or writing down the wrong time. Other reasons may relate to overburdened treatment resources. For example, the unavailability of rooms in the designated treatment facility results in a technical breach of compliance with the court order. In other cases, the client is responsible for deliberate noncompliance. The court can take action in all of these cases, either directly, by requiring better procedures to ensure accurate communication or by issuing sanctions, or more indirectly, by meeting with service agencies' heads (perhaps through a stakeholder committee as discussed under Promising Component 3) and determining what can be done to ensure the availability of services.

Critical factors related to enforcement are clarity and specificity. To the extent that orders are clear with regard to specific services and timelines, compliance by parties and service agencies is easier to achieve, and is easier for the court to monitor.

How much specificity should court orders include? In practice, this will depend on many factors, including the judge's expertise and the information she has about the party and the programs and services that are available. Some judges prefer to order an individual to a service agency and allow the agency to determine the best plan. These judges do not consider themselves qualified to determine specific treatment plans or services and prefer that service professionals make those determinations. This approach gives more control to the service provider, and the court needs to be particularly vigilant in ensuring that the client is provided services and is progressing. In addition, when the court relies on service providers to structure service plans, it is critical that the court at least clarify the objectives of the treatment referral in the order. What does the court expect the agency to do? What will count as compliance on the part of the person referred?

Other judges make it a point to find out about various treatment facilities and feel qualified to order specific programs. A potential concern is that the judge has too much control in deciding service issues, without the corresponding expertise.

Potential weaknesses in both extremes of judicial involvement – too little service specificity in orders or too much specificity—are lessened to the extent that the court's service coordination before the point of issuing an order has been effective. Assuming the case-level service coordinators (see Promising Component 4) have done their work well, the service providers and the party will have a good sense of what the court's expectations are when a referral is made to an agency for the design and execution of a service plan. Judges should also have a good base of information about available and appropriate services to include in an order, when that level of specificity appears to be appropriate.

One of the best ways to determine whether the order was clear and the services rendered were beneficial to the client is to ask the client. By focusing on performance—were the ordered services actually available, did the client meet her or his responsibilities to take full advantage of the services, did the ordered services conform to expectations, did the services have the intended consequences—the court can determine whether modifications in the way it specifies its orders need to be made. Obviously, the client is not the only source of information, but is often an overlooked and vital one. Direct questioning of the client, in addition to reliance on service provider updates, will provide the court with a good barometer of the effectiveness of service plans.

Some courts schedule a separate "compliance" calendar. This has been done in juvenile, mental health, drug treatment and batterer intervention programs. Most program case managers cannot be in court for lengthy periods, but can appear briefly at regularly scheduled times. Exchanging information in court regarding compliance creates accountability for all involved.

## PROMISING COMPONENT 7: ROUTINE COLLECTION AND USE OF DATA

The importance of routine and accurate collection of data that is properly preserved is an ongoing theme in court performance and improvement literature, as it is in the literature of public policy and management generally.<sup>15</sup> Mahoney (1988) identified “information” as one of ten key elements that characterize successful courts: “In all of these [successful] courts...some type of management information is collected - and *used* by the leadership of the court - to monitor case processing times and identify problems before they become crises” (p. 200).

Data is essential for self-assessment, which is the value chiefly emphasized by Mahoney. In *Courts That Succeed: Six Profiles of Successful Courts*, data collection and analysis is likened to health monitoring and diagnosis; successful courts have management controls in the form of data collection and reporting that routinely “take the temperature” of the court (Hewitt et al., 1990, p. vi). The routine collection and use of data allow managers to monitor what is working and what needs to be examined more closely for potential problems. The act of measuring also identifies what is important both to policymakers and to staff.

Implicit in calls for collecting data is the assumption that the data will be *examined* and used evaluatively, activities that should not be taken for granted in public institutions. Mahoney (1988) emphasizes *use* of data as a requirement for management excellence (as do Osborne and Gaebler, 1992) and notes as a “surprising” finding of his 1988 study that several of the courts studied collected data, but did not *use* it “to diagnose and help devise solutions to problems” (p. 200). The *Guidelines for Involuntary Civil Commitment* (National Center for State Courts, 1986) propose that while courts and other public service agencies may not have the resources for conducting research, they:

should collect and compile statistics on the functioning and results of the processes for which they are responsible. The compilation of such statistics should be considered *a routine administrative function* [italics added]. (p. 425)

Administrators of court service coordination efforts can utilize the data to determine where a process or program is functioning properly and where it needs improvement.

In the context of demonstrating efficiency and effectiveness of service interventions for court populations, there are special challenges. For example, in the court management literature, descriptions of successful courts and their use of data for management rarely consider areas of court performance that focus on providing non-adjudicatory services for court populations. The emphasis is on legal issue case processing and, within that, on *timeliness* of case processing (as in the passages from Mahoney (1988) and Hewitt

---

<sup>15</sup> See, for example, Osborne and Gaebler (1992, pp. 146-155).

et al. (1990) cited above). Courts traditionally do not compile information on individuals who use or are in need of its services, much less the services provided by system partners. Courts, by design, strive to remain “blind” to the people who are subjects of litigation – such blindness in fact is a traditional *value* in courts. For courts, “individual attention to cases,” is not the same as “attention to individuals.” That a court would need to know, and therefore collect, person-centered information (e.g., social security numbers for cross-reference, race, gender, age, medical, and social history) is considered anathema by many court professionals.

It is therefore important in dialogues between courts and their partners in service agencies to be prepared for this “disconnect” and to understand that the conventional wisdom of court management presumes that for the overwhelming majority of court cases, information about people has little or no management significance. Thus, *person-centered* record keeping is rare in court environments, and developing the capacity to track persons requires system innovation and acceptance of a new paradigm.

A court that has embraced this new paradigm is the Midtown Community Court in New York. Its information system is based on the assumptions that (1) as much information as possible should be available at the defendant’s first appearance to help the judge match the defendant with treatment and service programs, (2) the central database should be accessible to everyone connected with the case simultaneously, and (3) the database should be used to track the defendant’s progress and monitor compliance with the court’s orders (Feinblatt & Berman, 1997, pp. 5-6).<sup>16</sup>

Even without the person-centered focus, however, courts can collect case-level data that will help increase their understanding of what’s working and should be continued, what’s not working and should be stopped, what should be modified to make it work better, and what should be started that doesn’t currently exist. Typically, a court’s measurement strategy presupposes that “success” is indicated by process measures relating to organizational efficiency (e.g., timeliness of case processing, low numbers of hearings, low numbers of continuances) and effectiveness (e.g., low trial rates, high compliance rates, low rates of recidivism). However, there are no direct measures of “success” in terms of service coordination.

Data collection designed to improve understanding of court and service agency interactions clearly requires a paradigm for monitoring administrative functions that substantially expands traditional views of sound program administration. In determining what data to collect, courts can start with outcome questions. For example, courts can adapt the five evaluation questions posed by Rossi, Freeman, and Wright (1979,

---

<sup>16</sup> See Feinblatt and Berman (1999) for a description of the information technology systems employed in New York’s community courts.

p. 20) for human service programs to a court context. Questions are:

1. Is the intervention reaching the appropriate target population?
2. Is it being implemented in the ways specified?
3. Is it effective?
4. How much does it cost?
5. What are its costs relative to its effectiveness?

In terms of courts, the questions become what populations have access to services, are orders with service provisions complied with, are the services effective, and so forth—essentially the kinds of critical questions posed under each court performance area discussed in Chapter 2. Courts are only beginning to collect data to answer these kinds of questions.

## PROMISING COMPONENT 8: CREATIVE USE OF RESOURCES

Funding for service-related initiatives for court populations tends to be ad hoc and diffused. Courts and service agencies generally find it difficult to fund their core responsibilities much less areas of shared responsibility. Thus finding funds for improving service coordination for court populations tends to be an exercise in creativity as well as perseverance. Although the lack of funding presents problems, it also can have the unintended benefit of “encouraging” various system players to work together who might not otherwise.

Creative funding strategies among jurisdictions include piecing together funding from a variety of sources such as Federal and private grants, state and local taxes, fines, user fees, and pooled resources from several budgets. Partnerships among agencies are often attractive to grant funding sources. Several states have some form of a not-for-profit organization to accept donations to fund justice related programs.<sup>17</sup> Some jurisdictions reassign work among staff to make coordination efforts possible, and some rely on volunteer help. Some jurisdictions use the media to bring attention to particular problems and build public support for various initiatives.

When the Jefferson Family Court was started in Louisville, Kentucky, there were insufficient resources to cover all the new positions. Each of the six judges was slated to have a social worker on staff, but the Administrative Office of the Courts had funding for only two social workers. To overcome the problem, the Cabinet for Families and Children, the state social services agency, and the Seven Counties Services, a local mental

---

<sup>17</sup> Personal communications with A. Skove of Knowledge Management Services, National Center for State Courts, February 2, 2001.

health organization, “loaned” the other four social workers to the Court. These positions were gradually absorbed by the Administrative Office of the Court in subsequent years. Similar strategies could apply to any local government unit or agency.

The effective use of volunteers to stretch resources is embodied in the well-known Court Appointed Special Advocate (CASA) and other Guardian ad Litem (GAL) programs. Such programs can get their start from a variety of quarters. In Richland County, South Carolina, the volunteer program began as an advisory board of the Junior League with the support of the local Bar association and the Administrative Judge of the Family Court. The program started with 15 volunteers and now includes a full-time staff of eight, a part time staff of four and approximately 300 volunteers that represent over 1300 children.<sup>18</sup> GALs follow a child through the court process and make recommendations on behalf of the child.

In Oregon, legislation that mandated creation of Family Court programs included a Family Law Account to support innovative programs (Family Law Act, 1997, § 3.440). The Oregon Family Law Account provides that the fund administrator (the State Court Administrator) may accept and deposit contributions of funds and assistance from any source, public or private. Once authorized, a vehicle like the Family Law Account may be used as a source of incentive funding by state policy bodies to encourage innovation or replication of proven programs through demonstration grants.

## **PROMISING COMPONENT 9: TRAINING AND EDUCATION RELATED TO SERVICE COORDINATION**

There are fundamental differences between the justice and social service agency systems with respect to system goals, service priorities, and language that contribute to poor communication and conflict (Casey, Keilitz, & Hafemeister, 1992, p. 119). Judges do not acquire the kind of specialized knowledge required to understand the working environments of diagnostic and rehabilitative professionals by winning an election or gaining an appointment to the bench. Therefore, training to make appropriate referrals and issue orders that implement appropriate intervention strategies is critical for successful court performance when working with court populations with characteristic special needs. Conversely, managers of social service agencies and individuals who provide social services at the case level are rarely conversant with the factors that determine either the policy behavior of judges or how they handle case management and decision making in the courtroom.

---

<sup>18</sup> Personal communication with K. Davis of Richland County CASA, June 6, 2001.



It is unlikely that legislative or other policy initiatives to establish specialized courts or to make special efforts to coordinate family cases, for example, will be effective without providing for in-depth education to support specialization in that area of the law and its case dynamics. Periodic education and training should focus on two key objectives:

- ensure that there is clarity about the respective mission and objectives of the court and its service providers, and
- provide a forum for solidifying relationships among court, criminal justice, and service agency personnel and promote a spirit of shared commitment and collaboration directed at common problems.

But not all educational initiatives should be restricted in design to suit those judges and staff who have specialized assignments working in service-intensive contexts (e.g., domestic relations, juvenile court, domestic violence dockets, criminal court). Models for educational initiatives that reach all or most of the judges and relevant support staff in a court should also be considered and developed, because highly specialized dockets and long term or exclusive assignments to them is not the predominant rule of court organization.

There are special challenges associated with providing educational programs for judges. Because of the nature of the work and the positions judges hold, there is an enormous amount of competition for “training time” for judges. Programs intended for wide exposure must necessarily be relatively short. Moreover, programs in these contexts are perhaps the most difficult to design and implement successfully because the judicial audience is likely to be unconvinced of the relevance of the education in the first place. Judges are also likely to have professional biases about who is qualified to understand and respond as educators to their needs. Resource guides that focus on these kinds of issues should be consulted before embarking on the design and implementation of training for judges related to service coordination.<sup>19</sup> Judges and attorneys do not respond well to training to improve “interdisciplinary understanding” in a general sense – concrete problems and concrete solutions should be the focus of education when opportunities arise for training judges (Hardin, 1993).

An effort to close a communication gap between providers and sitting judges in a Family Court program was observed by project staff.<sup>20</sup> The setting was an interagency work group meeting called and hosted by a judge of the family court. During the meet-

---

<sup>19</sup> For example, see Hardin’s (1993) “How to Work with Your Court: A Guide for Child Welfare Agency Administrators.

<sup>20</sup> Luncheon meeting, October 16, 1997, Kent Regional Justice Center, Seattle, Washington.

ing, the following sources of disconnects between court and service agency providers came to light:

- Frequently court-referred clients appear at the agency requesting services “because the judge said I had to come.” They are not able to contribute directly to defining the intervention agenda.
- The service agency has no clear idea of the reasons for the court referral, or what the court expects from them. For example, the fact that the underlying case is one of domestic violence is not enough information.
- The judge, in ordering services, was looking to the agency to provide diagnostic as well as therapeutic interventions. The discussion revealed for the judge the problems this posed for service providers because providing diagnostic or evaluative services is largely incompatible with the assumption of a therapeutic role by the same person or agency. The disclosure of this fundamental role conflict made plain the importance of interdisciplinary education.

An initial model proposed by the group for an education seminar format was a “case study” approach, where participants in the seminar could explain and discuss their interpretation of the issues posed by the case study, how they would (or did) respond, and the problems they find that the study illuminates. The theory behind this approach is that organizing the seminars around “real life” problems for judges and service providers insures relevance and interest. The discussion format provides an opportunity to uncover causes of miscommunications and explain misunderstandings, and surface differences in organizational values and priorities that cause conflict and system malfunctions.

## MOVING FORWARD

This report has emphasized (1) that effective service coordination takes place throughout the court process, (2) that court performance goals should guide the court’s service coordination goals, and (3) that some of the principles and methods used by problem-solving courts can be adapted by other courts to improve service coordination efforts.

The report also acknowledges that jurisdictions vary considerably in terms of their legal culture and in terms of their service culture and resources. Different perspectives on whether and how to proceed to improve service coordination vary within and between these two cultures. Though difficult, given this context, the importance of proceeding cannot be underestimated.

While the theoretical and philosophical debate about the proper role of the court in service coordination should and does continue to be debated in scholarly articles, it

should not overshadow efforts to look for areas of agreement about service coordination issues at the local jurisdictional level. In her book, *The Argument Culture: Moving from Debate to Dialogue*, Dr. Deborah Tannen (1998) cautions against an overreliance on argument and critique as a method for addressing problems. She urges individuals to look at why a proposition might work, or what parts of it might work, rather than focusing only on the reasons why it might not. This was essentially the approach taken by the initiators of problem-solving courts. By bringing together a variety of stakeholders to discuss problems in common, alternative approaches for addressing the problems were conceived. Though debate continues about the appropriateness and effectiveness of problem-solving courts, jurisdictions can determine what aspects of the problem-solving approach they can agree on and what principles and methods they may adapt to make their current service coordination efforts more effective for individuals who work in and are affected by the court system. A focus on what could work will help avoid the costs of the argument culture: "As so often happens with the argument culture, the ultimate price is paid by human beings in personal suffering" (Tannen, 1998, p. 273).



## ❧ REFERENCES ❧

- Administrative Order No. VI-97-1-1A, *In re: Creation of a mental health court subdivision within the county criminal division*, Circuit Court of the Seventeenth Judicial Circuit, Broward County, Florida (1997).
- American Bar Association Center for Continuing Legal Education. (1998). *ABA summit on unified family courts: Exploring solutions for families, women and children in crisis*. Chicago: American Bar Association.
- Arthur, L. G. (Ed.). (1979). *National bench book for juvenile courts*. St. Paul, MN: American Caselaw Corporation.
- Babb, B. A. (1998). Fashioning an interdisciplinary framework for court reform in family law: A blueprint to construct a unified family court. *Southern California Law Review*, 71, 469-545.
- Belenko, S. (1998). *Research on drug courts: A critical review*. New York: The National Center on Addiction and Substance Abuse at Columbia University.
- Berman, G. (2000). "What is a traditional judge anyway?": Problem solving in the state courts. *Judicature*, 84, 78-85.
- Berman, G., & Feinblatt, J. (2001). *Problem-solving courts: A brief primer* [On-line]. Available: [http://www.courtinnovation.org/pdf/prob\\_solv\\_courts.pdf](http://www.courtinnovation.org/pdf/prob_solv_courts.pdf).
- Bureau of Justice Assistance. (1997). *Trial court performance standards with commentary* [Monograph]. Washington, DC: Author. (NCJ No. 161570)
- Burhans, G., Jr. (Ed.). (1998). *Profiles of selected unified family courts*. Madison, WI: Association of Family Conciliation Courts.
- Butts, J. A., & Mitchell, O. (2000). Brick by brick: Dismantling the border between juvenile and adult justice. In C. M. Friel (Ed.), *Criminal justice 2000: Volume 2. Boundary changes in criminal justice organizations* (pp. 167-213) [On-line]. Available / [http://www.ojp.usdoj.gov/nij/criminal\\_justice2000/vol2\\_2000.html](http://www.ojp.usdoj.gov/nij/criminal_justice2000/vol2_2000.html). (NCJ No. 182409)

- Casey, P. (1994). Court-enforced drug treatment programs: Do they enhance court performance? *The Justice System Journal*, 17, 117-125.
- Casey, P., Keilitz, I., & Hafemeister, T. L. (1992). Toward an agenda for reform of justice systems and mental health system interactions. *Law and Human Behavior*, 16, 107-128.
- Center for court Innovation. (1997). Community courts: A manual of principles. *Center for Court Innovation* [On-line]. Available: [www.communitycourts.com](http://www.communitycourts.com).
- Children's Bureau. (1978). *Specialized courts dealing with children*. Westport, CT: Greenwood Press. (Reprint of 1954 *Specialized courts dealing with children*, Washington, DC: Government Printing Office).
- Commission on the Future of the California Courts. (1993). *Justice in the balance 2020*. San Francisco: Supreme Court of California.
- Conference of Chief Justices and Conference of State Court Administrators. (2000). *CCJ Resolution 22; COSCA Resolution 4: In support of problem-solving courts*. Williamsburg, VA: National Center for State Courts.
- Cooper, C. S. (1997). *1997 drug court survey report: Executive summary*. Washington, DC: American University, School of Public Affairs, Justice Programs Office.
- Coordination of Services to Families in Family Law Cases. (ORS 3.434(1) 1997).
- Corriero, M. A. (1999). South African Paper: Proposals for a "Youth Justice Act". *Criminal Justice Journal*, 7(1), 55-63.
- Criminal Justice Cabinet. (2000). *Annual report 2000*. Sacramento, CA: Sacramento County Executive Office.
- Edwards, L. P. (1992). The juvenile court and the role of the juvenile court judge. *Juvenile and Family Court Journal*, 43, 25-32.
- Family Law Act (Coordination of Services to Families in Family Law Cases) 1 Or. Rev. Stat. §3.434 (1997 & 1999).
- Family Law Act (Family Law Account) 1 Or. Rev. Stat. §3.440 (1997).
- Feinblatt, J., & Berman, G. (1997). *Community court principles: A guide for planners* [On-line]. New York: Center for Court Innovation ([http://www.courtinnovation.org/cgi-bin/track.pl?p=pdf/com\\_court\\_prncpls.pdf](http://www.courtinnovation.org/cgi-bin/track.pl?p=pdf/com_court_prncpls.pdf)).
- Feinblatt, J., & Berman, G. (1999). *Informed decisions: Technology in the courtroom* [On-line]. New York: Center for Court Innovation ([http://www.courtinnovation.org/cgi-bin/track.pl?p=pdf/info\\_deci.pdf](http://www.courtinnovation.org/cgi-bin/track.pl?p=pdf/info_deci.pdf)).
- Flango, C. R., Flango, V. E., & Rubin, H. T. (1999). *How are courts coordinating family cases?* Williamsburg, VA: National Center for State Courts.

- Fritzler, R. B., & Simon, M. J. (2000). Creating a domestic violence court: Combat in the trenches. *Court Review*, 37(1), 28-39.
- Goldkamp, J. S., & Irons-Guynn, C. (2000). *Emerging judicial strategies for the mentally ill in the criminal caseload: Mental health courts in Fort Lauderdale, Seattle, San Bernardino, and Anchorage* [On-line]. Available: <http://www.ncjrs.org/pdffiles1/bja/182504.pdf>. (NCJ No. 182504)
- Hardin, M. (1993). *How to work with your court: A guide for child welfare agency administrators*. Washington, DC: American Bar Association.
- Hewitt, W. E., Gallas, G., Mahoney, B. (1990). *Courts that succeed: Six profiles of successful courts*. Williamsburg, VA: National Center for State Courts.
- Hora, P. F., Schma, W.G. & Rosenthal, J. T. A. (1999). Therapeutic jurisprudence and the drug treatment court movement: Revolutionizing the criminal justice system's response to drug abuse and crime in America. *Notre Dame Law Review*, 74, 439-538.
- Hoffman, M. B. (2000). Commentary: The drug court scandal. *North Carolina Law Review*, 78, 1437-1534.
- Keilitz, S. (2000). *Specialization of domestic violence case management in the courts: A national survey*. Williamsburg, VA: National Center for State Courts.
- Kentucky Rules of Court, State*. (1997). St. Paul: West Publishing.
- Lee, E. (2000). *Community courts: An evolving model* [On-line]. Available: <http://www.ncjrs.org/pdffiles1/bja/183452.pdf>. (NCJ No. 183452)
- Levey, L. S., Steketee, M. W., & Keilitz, S. L. (2000). *Lessons learned in implementing an integrated domestic violence court: The District of Columbia experience*. Williamsburg, VA: National Center for State Courts.
- Mack, J. (1909). The juvenile court. *Harvard Law Review*, 23, 104-122.
- Mahoney, A. R. (1985). Time and process in juvenile court. *The Justice System Journal*, 10, 37-55.
- Mahoney, B. (1988). *Changing times in trial courts*. Williamsburg, VA: National Center for State Courts.
- Mental Health Task Force Fiscal and Data Subcommittee. (1998). *1998 mental health court report* [On-line]. Available: <http://www.co.broward.fl.us/ojss/jsi00500.html>.
- The National Association of Drug Court Professionals Drug Court Standards Committee. (1997). *Defining drug courts: The key components*. Washington, DC: Drug Courts Program Office.
- National Center for State Courts. (1986). Guidelines for Involuntary Civil Commitment. *Mental and Physical Disability Law Reporter*, 10, 409-514.

- National Council of Juvenile and Family Court Judges' Alcohol & Substance Abuse Committee (1995). Drugs—the American family in crisis: A judicial response—43 recommendations. *Juvenile and Family Court Journal*, 46, 7-114.
- Osborne, D. & Gaebler, T. (1992). *Reinventing government: How the entrepreneurial spirit is transforming the public sector*. Reading, MA: Addison-Wesley.
- Page, R.W. (1993). Family courts: An effective judicial approach. *Juvenile & Family Court Journal*, 7-14.
- Reno, J. (2000, February). Remarks of the honorable Janet Reno, Attorney General of the United States on reentry court initiative. Presentation at the John Jay College of Criminal Justice, New York, NY.
- Ross, C. J. (1998). The failure of fragmentation: The promise of a system of unified family courts. *Family Law Quarterly*, 32, 3-30.
- Rossi, P. H., Freeman, H. E. & Wright, S. R. (1979). *Evaluation: A systemic approach*. Beverly Hills, CA: Sage.
- Rottman, D. B., Efkenman, H. S. & Casey, P. (1998). *A guide to court and community collaboration*. Williamsburg, VA: National Center for State Courts.
- Rottman, D.B., & Hewitt, W. E. (1996). *Trial court structure and performance: A contemporary reappraisal*. Williamsburg, VA: National Center for State Courts.
- Rubin, H. T. & Flango, V. E. (1992). *Court coordination of family cases*. Williamsburg, VA: National Center for State Courts.
- Steadman, H. J. (1992). Boundary spanners: A key component for the effective interactions of the justice and mental health systems. *Law and Human Behavior*, 16, 75-87.
- Supreme Judicial Court Standing Committee on Substance Abuse. (1998, April). *Standards on substance abuse* [On-line]. Boston, MA: Author. Available: <http://www.state.ma.us/courts/formsandguidelines/substance1.html#content>.
- Sviridoff, M., Rottman, D., Ostrom, B., & Curtis, R. (1997). *Dispensing justice locally: The implementation and effects of the Midtown Community Court*. New York: Fund for the City of New York.
- Tannen, D. (1998). *The argument culture: Moving from debate to dialogue*. New York: Random House.
- Travis, J., (2000). But they all come back: Rethinking prisoner reentry. *Sentencing & Corrections*, 7, 1-10.



⌘ APPENDIX A ⌘

RESOLUTION ON PROBLEM-SOLVING COURTS

ADOPTED BY THE  
CONFERENCE OF CHIEF JUSTICES AND THE  
CONFERENCE OF STATE COURT ADMINISTRATORS



## CONFERENCE OF CHIEF JUSTICES CONFERENCE OF STATE COURT ADMINISTRATORS

### CCJ Resolution 22 COSCA Resolution 4

#### In Support of Problem-Solving Courts

WHEREAS, the Conference of Chief Justices and the Conference of State Court Administrators appointed a Joint Task Force to consider the policy and administrative implications of the courts and special calendars that utilize the principles of therapeutic jurisprudence and to advance strategies, policies and recommendations on the future of these courts; and

WHEREAS, these courts and special calendars have been referred to by various names, including problem-solving, accountability, behavioral justice, therapeutic, problem oriented, collaborative justice, outcome oriented and constructive intervention courts; and

WHEREAS, the findings of the Joint Task Force include the following:

- The public and other branches of government are looking to courts to address certain complex social issues and problems, such as recidivism, that they feel are not most effectively addressed by the traditional legal process;
- A set of procedures and processes are required to address these issues and problems that are distinct from traditional civil and criminal adjudication;
- A focus on remedies is required to address these issues and problems in addition to the determination of fact and issues of law;
- The unique nature of the procedures and processes encourages the establishment of dedicated court calendars;
- There has been a rapid proliferation of drug courts and calendars throughout most of the various states;
- There is now evidence of broad community and political support and increasing state and local government funding for these initiatives;

- There are principles and methods grounded in therapeutic jurisprudence, including integration of treatment services with judicial case processing, ongoing judicial intervention, close monitoring of and immediate response to behavior, multidisciplinary involvement, and collaboration with community-based and government organizations. These principles and methods are now being employed in these newly arising courts and calendars, and they advance the application of the trial court performance standards and the public trust and confidence initiative; and
- Well-functioning drug courts represent the best practice of these principles and methods;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators hereby agree to:

1. Call these new courts and calendars “Problem-Solving Courts,” recognizing that courts have always been involved in attempting to resolve disputes and problems in society, but understanding that the collaborative nature of these new efforts deserves recognition.
2. Take steps, nationally and locally, to expand and better integrate the principles and methods of well-functioning drug courts into ongoing court operations.
3. Advance the careful study and evaluation of the principles and methods employed in problem-solving courts and their application to other significant issues facing state courts.
4. Encourage, where appropriate, the broad integration over the next decade of the principles and methods employed in the problem-solving courts into the administration of justice to improve court processes and outcomes while preserving the rule of law, enhancing judicial effectiveness, and meeting the needs and expectations of litigants, victims and the community.
5. Support national and local education and training on the principles and methods employed in problem-solving courts and on collaboration with other community and government agencies and organizations.
6. Advocate for the resources necessary to advance and apply the principles and methods of problem-solving courts in the general court systems of the various states.
7. Establish a National Agenda consistent with this resolution that includes the following actions:
  - a. Request that the CCJ/COSCA Government Affairs Committee work with the Department of Health and Human Services to direct treatment funds to the state courts.
  - b. Request that the National Center for State Courts initiate with other organi-

zations and associations a collaborative process to develop principles and methods for other types of courts and calendars similar to the *10 Key Drug Court Components*, published by the Drug Courts Program Office, which define effective drug courts.

- c. Encourage the National Center for State Courts Best Practices Institute to examine the principles and methods of these problem-solving courts.
- d. Convene a national conference or regional conferences to educate the Conference of Chief Justices and Conference of State Court Administrators and, if appropriate, other policy leaders on the issues raised by the growing problem-solving court movement.
- e. Continue a Task Force to oversee and advise on the implementation of this resolution, suggest action steps, and model the collaborative process by including other associations and interested groups.



❧ APPENDIX B ❧

DEBATE ABOUT COURT INVOLVEMENT  
IN SERVICE-RELATED ISSUES





## COURT INVOLVEMENT IN SERVICE-RELATED ISSUES

What is the role of courts in responding to the service needs of individuals and families who come before the court? Some scholars and practitioners maintain that courts should not be involved in service issues based on arguments such as:

- Courts are not equipped to handle the provision of health and social services. They lack the necessary training and resources needed to effectively assess service needs, identify potential services to address the needs, and evaluate the delivery and effectiveness of the service.<sup>21</sup>
- Involvement in the provision of services can compete with the court's traditional role as the neutral trier of facts (Mulvey, 1982). The independence of the court could be jeopardized if the judge becomes too involved in an individual defendant's service needs and treatment progress. The court's independence also could be threatened if it becomes too closely allied with certain treatment providers. Frequent contacts between a judge and service providers could result in the judge showing partiality to some providers over others or could create situations in which a provider has an opportunity to influence judicial opinion in individual cases.
- The Constitutional mandate for the Judicial Branch of Government is to resolve legal issues that come before the courts. The Executive and Legislative Branches are responsible for delivering services and setting policy regarding what services are in the public interest. Courts should not be trying to address social ills.<sup>22</sup>
- When courts are directly involved in the conduct of services such as intake screenings, assessments, and custody investigations, by their own employees, the possibilities for bias are enhanced. That is, when evidence or professional opinion offered by court staff conflicts with that of other parties to the case, or their

---

<sup>21</sup> See Geraghty (1997, p. 190):

The work of the lawyers and judges in our juvenile court and in most large urban courts is simply unmanageable. It is impossible to do one's job thoroughly. The numbers simply do not permit sufficient attention to individual cases. Moreover, there are few dispositional alternatives which adequately meet the needs of the children who come before the court.

See also Mulvey (1982): "Viewed organizationally, the family court is not designed for optimal social service delivery, but instead suffers from a potentially crippling oversight" (p. 59).

<sup>22</sup> See Geraghty (1997, pp. 237-38), "We do not expect our courts to solve social problems."

advocates, the employer/employee relationship between the judge and court staff may inappropriately influence judicial decisions.

- Competing philosophies, goals and treatment modalities can cause confusion. Mulvey (1982) discusses this in the context of family cases: "Probably the most basic conceptual difficulty in merging legal, judicial logic and family theory has to do with the assumptions of each perspective regarding the causes of observed family behavior" (p. 53).

On the other hand, those who contend that the court does have at least some role in service issues argue the following:

- Although each Branch of Government has a primary area of public responsibility, each also performs "other-Branch" responsibilities in the conduct of its work. For example, the legislature has an "executive" function responsible for providing services to its members and an "adjudicative" function responsible for dispute resolution (e.g., disciplinary reviews). Executive functions include developing and promulgating policy in the form of administrative regulations and adjudicatory activities in the form of administrative law tribunals. Thus, to some extent, court involvement in "other-Branch" responsibilities also should be expected. Courts "legislate" in the form of court rules. Administering services is an executive activity courts engage in as part of the effective discharge of their judicial duties (e.g., ensuring individual attention to cases and the enforcement of court orders).
- Some statutes and/or court rules explicitly hold courts responsible for coordinating or providing services for specific types of cases or, more generally, for ensuring the well-being of individuals involved in specific types of cases (e.g., dependency and guardianship cases).<sup>23</sup>
- Courts have an oversight role to ensure that the terms of their orders are met, and the public holds them accountable for the enforcement of their orders. Many orders include the provision of services. If terms are not complied with, it is reasonable that courts determine the causes of noncompliance (e.g., ineffective or limited service resources in the community) and potential strategies for remedying the problems (e.g., creating new programs, or strengthening or redirecting the efforts of service providers to better meet the terms of court orders).<sup>24</sup>

---

<sup>23</sup> See Zimmerman (1998):

But as the public and legislatures, not to mention the federal government, increasingly demand more participation and coordination by the judiciary in the addressing of social problems that evidence themselves in courts, the judiciary is going to have to face a new cultural reality. The detached magistrate model of judges' law school days will increasingly not be the preferred model in the trial courts. More trial judges are going to have to become more adept at entering into the management of people's problems and coordinating social services to address those problems. (pp. 109-110)

<sup>24</sup> See Zimmerman (1998):

The demand is that judges and the judicial system become more expert in people's problems and more active in seeing that services are provided, rather than dealing only with the manifestations of their

# PROPERTY OF

National Criminal Justice Reference Service (NCJRS) APPENDIX B 65  
Box 6000  
Rockville, MD 20849-6000

- Bias as a consequence of frequent interaction is no more a concern with service providers than with other professionals (e.g., lawyers) with whom a judge frequently interacts. Interactions with service providers can be subject to the same types of controls (e.g., behavioral protocols, standards of ethical conduct) used to govern all judicial interactions.
- Courts, like other public institutions, are expected to discharge their responsibilities at the highest level of quality that is consistent with the available resources. Thus it makes sense for courts to evaluate each incoming case and provide for its resolution by applying the resource that is economically most appropriate.
- Court involvement in the delivery of services may confer “legitimacy” in the eyes of those receiving the services.

These contrasting points of view on the court’s involvement in service issues are reflections, in part, of the natural tension between a court’s role as an independent institution and its role as a member of the governing community. The Commission on Trial Court Performance Standards acknowledged and embraced this tension. Consistent with arguments favoring a limited role in service issues, for example, the Commission maintains:

For a trial court to persist in both its role as preserver of legal norms and as a separate branch of government, it must develop and maintain its distinctive and independent status. It also must be conscious of its legal and administrative boundaries and vigilant in protecting them. (BJA, 1997, p. 18)

However, the Commission also recognizes that trial courts are part of a wider system of interacting agencies that are required to work together to achieve quality in the pursuit of the public interest:

The court must achieve independent status, however, without damaging the reciprocal relationships that it maintains with others. Trial courts are necessarily dependent upon the cooperation of other components of the justice system over which they have little or no direct authority... If a trial court is to attain institutional independence, it must clarify, promote, and institutionalize effective working relationships with all other components of the justice system. (BJA, 1997, p. 18)

The inference is that a well-performing court necessarily must interact with other public institutions—including the network of service providers on which the court relies—to achieve quality in its performance.

While advocates of both positions continue to argue the theoretical implications, the number of specialized courts that have emerged during the last decade, and the state court leadership support of further study and adoption of the principles these courts follow, suggest a movement toward more, rather than less, court involvement in service-related issues at the practice level.

---

problems that fit within our traditional civil or criminal law tasks. This may involve simple coordination with social service agencies, or it may involve ongoing supervision of the provision of those services. (p. 109)

## ✎ REFERENCES

- Bureau of Justice Assistance. (1997). *Trial court performance standards with commentary* [Monograph]. Washington, DC: Author. (NCJ No. 161570)
- Geraghty, T. F. (1997). Justice for children: How do we get there? *Journal of Criminal Law & Criminology*, 88, 190-241.
- Mulvey, E. P. (1982). Family courts. *Law and Human Behavior*, 6, 49-64.
- Zimmerman, M. D. (1998). A new approach to court reform. *Judicature*, 82, 108-111.







---

**National Center for State Courts**  
**Williamsburg, Virginia**