

**WHAT, WHERE, WHY AND HOW
UNIFIED FAMILY COURTS IN FLORIDA
JUSTICE BARBARA J. PARIENTE
MARCH 2003**

THE PRESENT: In May 2001, the Supreme Court issued its unanimous opinion in In re Report of Steering Committee, 794 So. 2d 518 (Fla. 2001).

The opinion recites twelve guiding principles of a family court as a foundation for defining and implementing a model family court. Among those:

1. Children should live in safe and permanent homes.
2. The needs and best interests of children should be the primary consideration of any family court.
3. All persons, whether children or adults, should be treated with objectivity, sensitivity, dignity and respect.
4. Cases involving inter-related family law issues should be consolidated or coordinated to maximize use of court resources to avoid conflicting decisions and to minimize inconvenience to the families.
5. Whenever possible, parties and their attorneys should be empowered to select processes for addressing issues in their cases that are compatible with the family's needs, financial circumstances, and legal requirements.
6. The court is responsible for managing its cases with due consideration of the needs of the family, the litigants, and the issues presented by the case.
7. There should be a means of differentiating among cases so that judicial resources are conserved and cases are diverted to non-judicial and quasi-judicial personnel for resolution, when appropriate and consistent with the ends of justice.
8. Trial courts must coordinate and maximize court resources and establish linkages with community resources.

Further, in its Model Family Court opinion, the Court specifies the **enumerated cases that "shall be included within the family division of each circuit,"** 794 So. 2d at 525, and reiterates that the type of cases included were consistent with the Court's precedent. "Indeed, broad jurisdiction over all problems involving a single family is one of the key components of a unified court." Id. These cases include all the cases traditionally referred to as "**family**

cases" and include "civil domestic and repeat violence injunctions, juvenile dependency, termination of parental rights, juvenile delinquency and truancy."

The Court recognizes that "case management and coordination is a defining characteristic of a model family court." The Court emphasizes that:

Case management does not simply mean scheduling cases on a judge's docket. Rather, case management includes multiple aspects such as case differentiation, coordination, and monitoring. Case differentiation means that a case should be evaluated at the outset to determine the appropriate resources for that case and the appropriate way to handle that case. Case coordination requires that the judicial system identify all cases involving that family. Case monitoring requires a continued attention to the needs of the children and family as the case moves through the judicial system so that the appropriate court resources are made available and linkages to appropriate community resources are facilitated. All of these aspects are critical because in so many family cases, as acknowledged in Recommendation 1, Guiding Principle 5, recognition of the family's interrelated legal and nonlegal problems will produce a result that improves the family's functioning, empowers families to resolve their own disputes, and assists families in resolving problems without additional emotional trauma.

The model recognizes the importance of coordinating multiple cases involving one family, whether that is accomplished by the "one family, one judge" or the "one family, one team" approach, in order to both maximize resources and minimize the likelihood of inconsistent orders and conflicting approaches. As the commentary explains, under this model, "all pending family cases are coordinated and managed by a staff member or team of staff members to facilitate the delivery of appropriate social services, maximize judicial resources, avoid conflicting court orders, and prevent multiple court appearances by the parties on the same issues. Under this model, the judge's role of performing these nonjudicial duties and providing continuity to the family is shifted to a staff member or team of staff. Thus, judges should be able to conserve their time and energy for "what judges do best--resolve issues properly determined by the adversary process and

fashioning appropriate remedies." It is hoped that as the model is implemented, the model family court will slow the demand for new judges in the family division.

The Court's opinion emphasizes the need for technology and an "integrated management information system." It also emphasizes the need for an administrative structure to implement a unified family division and an administrative family law judge and family court administrator or coordinator to coordinate the overall implementation. It also states that judges, where possible, should volunteer to serve and the Chief Judges are encouraged to assign judges for at least a three-year term so that a significant portion are experienced in family law.

Each Circuit is called upon to create a Family Law Advisory Group (FLAG) made up of court staff, judges, lawyers, social service providers, local community leaders and any other interested persons or organizations to support and advise the family court.

The success of any family court is dependent upon effective communication among all stakeholders both in the judicial system and in the community. Because the model court concept must be tailored to the needs of each community and because each family court should fully explore and take advantage of resources within the community, the creation of a Family Law Advisory Group within each circuit will enhance the family court in each circuit. Only by open communication among court staff, judges, attorneys, social service providers, and other community leaders will the role and the goal of the family court truly be realized.

The Court explained:

As the number of family court filings and post-judgment matters continues to increase, twenty-first century family courts need new and better ways to improve the resolution of disputes within the judicial system for children and families. It is essential that the courts' interactions with children and families promote public trust and confidence in the judicial system. By identifying and providing families access to appropriate court and community services and by offering a variety of dispute resolution forums where families can resolve conflict without exacerbating emotional trauma, the judicial

system will promote the resolution of conflict and not facilitate conflict. If the judicial system encourages alternatives to the adversarial process, empowers litigants to reach their own solutions, and assists in crafting solutions that promote long-term stability in matters involving children and families, the likelihood of future court intervention in the family should be decreased--whether this be through minimizing post-judgment litigation or preventing the dependent child of today from becoming the delinquent child of tomorrow. Our ultimate goal remains to facilitate the resolution of disputes involving children and families in a fair, timely, effective, and cost-efficient manner.

THE HISTORY: The Court's 2001 opinion is part of its continuing efforts to ensure that cases involving children and families are handled in a fair, timely, effective and cost-efficient manner. This is not a "new" idea but began more than a decade ago. In 1991, the Legislature's Commission on Family Courts issued its report pursuant to the legislative directive to "(1) develop specific guidelines for the implementation of a family law division within each judicial circuit; (2) provide recommendations for statutory, rule and organizational changes; and (3) recommend necessary support services." In Re Report of Commission on Family Courts, 588 So.2d 586, 587 (Fla. 1991).

In addition to recommending that circuits create family law divisions, the Commission emphasized the necessity of providing support services, additional judicial and court personnel, and developing criteria for assignment of family law judges. **The primary impetus of these recommendations was the protection of children in court and the improved resolution of family problems.**

Following the Commission's recommendations, the Supreme Court issued an opinion in 1991 (**Family Court I**, 588 So.2d 586) approving the recommendations of the Commission. The Commission's report is detailed and is set forth in part in Family Court I. It included the need for "proper resources" to fulfill their responsibilities, including "domestic violence assistance programs; guardians ad litem to represent dependent children and children in contested custody cases; home assessment services; sufficient staff to operate enforcement of support services; and case coordination/receptionist staff." Id. at 588-89. As explained:

A fully staffed mediation program is essential in these types of

proceedings. It has now been clearly established that mediation can resolve a high percentage of these disputes if they are brought before a competent mediator at an early stage of the proceeding. The fact that the mediation service is court-connected is important because it presents the mediator to the parties as a person who will be fair and impartial because of being an arm of the court.

Child assessment services and enforcement of support services must be available for all types of cases within the family division. There is no justification for child assessment services that are available only in juvenile dependency matters and not available when the same type of decision is being made in a dissolution-custody proceeding. Nor is there any justification for there to be a substantial difference in the handling of enforcement of support matters for Title IV cases as distinguished from non-Title IV cases. The underlying basis for the action--that the child is not receiving support--is the same and the service should be the same.

Id. at 588-89

In 1994, the Court issued a second opinion In Re Report of the Commission on Family Courts, 633 So.2d 14 (1994) (**Family Court II**) "to further refine and implement the family court divisions of the circuit courts." Id. at 16. The Court emphasized the goal of a family court was to establish a "comprehensive approach affecting the same family, regardless of the sometimes necessary geographical separation of courthouse facilities or the manner in which dockets for different types of cases are structured and managed." Id. at 17. The Court mandated that:

To better accomplish this goal, a family's interaction with the courts in all circuits shall be administratively coordinated and monitored in one unified family division, whether that interaction involves dissolutions of marriage (and attendant determinations of custody, visitation, child support, alimony, and modifications thereof), cases under the Uniform Child Custody Jurisdiction Act and the Uniform Reciprocal Enforcement of Support Act, adoption and paternity, domestic and repeat violence, juvenile delinquency and dependency, termination of parental rights, or cases of children or families in need of supervision. The manner of administering this family division will, of course, differ between circuits where all matters involving one family are handled by one judge and circuits where several judges

in different subdivisions of the family court may handle different aspects of a family's litigation.

The Court also emphasized that trial courts must

coordinate and maximize court resources, such as guardians ad litem, mediation, law clerks, and computer systems, for the benefit of children and families in litigation and establish necessary linkages with community-based resources, including substance abuse treatment counseling, specialized training and parenting courses, and social services.

Id.

This Court repeated what was said in its first opinions that "the creation of a family division will not be a panacea for all family law problems." Family Courts I, 588 So.2d at 591. However, "[t]o leave it to each local government to fund the necessary services for a family division is a prescription for inequality in the family services available to the citizens of this state and possible failure of the family law divisions." Id. The Court reiterated the belief "that the creation of family divisions will provide a better means for resolution of family issues in this state, and we ask the judiciary and the legal profession to cooperate in implementing these divisions where they presently do not exist." Id. at 592. This opinion created the Family Court Steering Committee, which was tasked with identifying the guiding principles and recommendations for a model family court in Florida.

The mission of the *Family Initiative*, as identified by the Family Court Steering Committee is:

to provide families and children with an accessible and coordinated means of resolving legal matters in a fair, efficient, and effective manner. In addition to adjudicating disputes and providing alternative methods of dispute resolution, the Family Initiative will assist in meeting the needs of families and children involved in the court system by offering appropriate court-related services and linkages to community service providers.

Following several years of study, the Family Court Steering Committee filed its recommendations with the Supreme Court.