

Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

KATHERINE STOCKS
Director and State Court
Administrator



JOHN MCCORMICK
Assistant Court Administrator

Judicial Council of the State of Nevada

Date and Time of Meeting: August 18, 2023, at 2:00 p.m.

Place of Meeting: Remote Access via Zoom (zoom.com or zoom app, see “Notices” for access information)

In-person:

<i>Carson City</i>	<i>Las Vegas</i>
Conference Room 107 First Floor, Law Library	Conference Room A & B First Floor

AGENDA

- I. Call to Order
 - A. Call of Roll
 - B. Determination of Quorum
 - C. Opening Remarks
- II. Review and Approval of Previous Meeting Summary*
 - A. May 12, 2023 (*Tab 1, pages 4-6*)
- III. Business and Action Items
 - A. Specialty Court Funding & Policy Guidelines Handbook Update* (*Tab 2, pages 8-26*)
 - B. Ad Hoc Subcommittee to Review the 2019 NCJFCJ Family Court Study* (*Tab 3, pages 28-102*)
 - C. Judicial Perspectives on Civility (*Tab 4, pages 104-151*)
 - D. First Amendment Auditors
- IV. Reports of Standing Committees
 - A. Court Administration Committee (*Tab 5, pages 153-170*)
 - B. Court Improvement Program (*Tab 6, page 172*)
 - C. Specialty Court Funding Committee (*Tab 7, page 174*)
 - D. Technology Committee – *No meeting held within the reporting period*
- V. Summaries of Regional Judicial Council Meetings
 - A. Clark Regional Judicial Council (*Tab 8, pages 175*)
 - B. North Central Judicial Council (*Tab 9, pages 177-179*)
 - C. Sierra Regional Judicial Council (*Tab 10, pages 181-183*)
 - D. South Central Regional Judicial Council (*Tab 11, pages 185-186*)
 - E. Washoe Regional Judicial Council – *no meeting held within the reporting period*
- VI. Other Items/Discussion
 - A. AOC Projects
- VII. Future Meetings
 - November 3, 2023, 2:00 p.m.
- VIII. Adjournment

Notices

- Action items are noted by * and typically include, approval, denial, and/or postponement of specific items. Certain items may be referred to a subcommittee for additional review and action.
- Agenda items may be taken out of order at the discretion of the Chair in order to accommodate persons appearing before the Commission and/or to aid in the time efficiency of the meeting.
- If members of the public participate in the meeting, they must identify themselves when requested. Public comment is welcomed by the Commission but may be limited at the discretion of the Chair.
- The Commission is pleased to provide reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If assistance is required, please notify Commission staff by phone or by email no later than two working days prior to the meeting, as follows:
Almeda Harper, (775) 687-9810 – email: aharper@nvcourts.nv.gov
- This meeting is exempt from the Nevada Open Meeting Law (NRS 241.030)
- At the discretion of the Chair, topics related to the administration of justice, judicial personnel, and judicial matters that are of a confidential nature may be closed to the public.
- **Notice of this meeting was posted in the following locations:** Nevada Supreme Court website: www.nvcourts.gov; Carson City: Supreme Court Building, Administrative Office of the Courts, 201 South Carson Street; Las Vegas: Nevada Supreme Court, 408 East Clark Avenue.

Meeting ID: 819 5404 8956
Participant Passcode: 514134
Teleconference Dial-in: (669) 900-6833

TAB 1

Supreme Court of Nevada
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JOHN MCCORMICK
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Judicial Council of the State of Nevada

May 12, 2023
2:00 p.m.

Summary prepared by: Seth Easley

Members Present

Chief Justice Lidia Stiglich, Chair
Associate Chief Elissa Cadish, Vice Chair
Judge Steven Dobrescu
Judge Shirle Eiting
Chief Judge Michael Gibbons
Judge Kelley Giordani
Steven Grierson
Chief Judge Kevin Higgins
Alicia Lerud
Judge John Schlegelmilch
Judge Randall Soderquist
Katherine Stocks
Judge Gloria Sturman
Judge Dawn Throne
Judge Ryan Toone
Chief Judge Jerry Wiese

Guests Present

Justice Douglas Herndon
Joe Tommasino

AOC Staff

Almeda Harper
David Gordon
Stephanie Gouveia
Brandi Jinkerson
Kristin Worth-Barlow
Melody Luetkehans
Paul Embley
Zaide Martinez
John McCormick

Absent

Judge Victor Miller
Judge Mike Montero
Chief Judge Lynne Simons
Judge Gus Sullivan

Absent Excused

Judge Eileen Herrington
Judge Joanna Kishner

- I. Call to Order
 - Chief Justice Stiglich called the meeting to order at 2:05 p.m.
 - Ms. Harper called roll; a quorum was present.
- II. Public Comment
 - There was no public comment.
- III. Review and Approval of Previous Meeting Summary
 - The meeting summary from February 24, 2023, was unanimously approved.
- IV. Business and Action Items
 - JCSN Bylaws, Article XI Revisions
 - Mr. McCormick discussed the proposed changes to the bylaws governing the Court Improvement Program's select committee. He also discussed an alteration made to item four on the memo about specialty program designation and will circulate the changes for review.
 - Justice Herndon moved to approve the bylaw amendments. Chief Judge Wiese seconded the motion. There being no further discussion, the motion passed unanimously.
- V. Standing Committee Reports
 - Court Improvement Program Select Committee
 - Ms. Martinez provided an update on the Committee's recent achievements. [AB148](#) was passed out of the Assembly Judiciary Committee on April 13th.

- The committee sponsored eleven registrations for the National Association of Counsel for Children on Inaugural Race and Equity virtual training. They are also extending that sponsorship through June 1st and have notified dependency stakeholders.
- The Judicial, Court, and Attorney Measures of Performance (JCAMP) Leadership Team is in the process of identifying priority measures for Nevada’s dependency system.
- The committee hosted its annual dependency mediation training on Friday, May 19th.
- Upcoming dates for the Summit:
 - Judicial Roundtable: September 27th (for dependency judges and magistrates).
 - General Summit: September 28th-29th (for all CIP stakeholders).
- Legislative Committee
 - Mr. McCormick provided an overview of the bills the Committee has been tracking.
 - [AB12](#) - Revises the required size of a jury for criminal actions in justice and municipal courts.
 - The bill did not receive a hearing and failed to pass the first deadline.
 - [AB15](#) & [AB16](#) - COLA bills for district judges and supreme court justices.
 - These bills are currently sitting with Ways and Means. It is anticipated that budget bills will be heard and moved by money committees beginning May 29th. If these bills are not approved in their original form, they could be added to another bill, possibly the Appropriations Act.
 - [AB17](#) - Revises provisions relating to penalties for driving under the influence of alcohol or a controlled substance.
 - The bill moved out of Senate Judiciary; anticipated to pass.
 - [SB15](#) - Makes various changes related to guardianships.
 - The bill did not meet the first deadline.
 - [SB55](#) - Revises various provisions relating to courts.
 - The bill moved out of Senate Judiciary; anticipated to pass Assembly.
 - [SB58](#) - Revises provisions related to the Judicial Department of the State Government.
 - The bill is currently being amended. This could be added to another bill or the Authorizations Act.
 - [SB62](#) - Revises provisions relating to the Commission on Judicial Discipline.
 - The bill was heard in Assembly Judiciary; anticipated to pass.
 - [SB63](#) - Revises provisions relating to the Judicial Department of State Government.
 - The bill was amended and presented to Assembly Judiciary. The language in section 27 was changed to “reasonable and necessary” to match the associated case law. The effective date for sections eight and 27 has also been changed to July 1st.
 - [SB354](#) - Revises provisions relating to justices of the peace.
 - The Assembly was not as favorable as the Senate when reviewing this bill. It went to Legislative Operations and Elections on the Assembly side. May be re-referred to the Judiciary on the Assembly side.
 - [SB418](#) - Revises provisions relating to candidates to the office of district judge.
 - This bill may not move forward based on Speaker Yeager’s questions and approach to it during the hearing. The bill was amended to have district judge candidates fill out a questionnaire prescribed by the Supreme Court to be filed instead of the full application.
 - Chief Justice Stiglich asked if Speaker Yeager was interested in keeping the full, original application. Mr. McCormick responded that the Speaker seemed to think the bill would not achieve the purpose that the sponsors indicated. The Speaker also questioned the applicability to incumbents.
- Specialty Court Funding Committee
 - Ms. Gouveia provided an update on the committee’s projects.
 - The committee completed Part I of their peer review with Judge Montero, Judge Dobrescu, and Judge Fairman.

- The East Fork Justice Court graduated their last participant for their misdemeanor treatment court and that court is now closed. Potential participants of this court may participate in other jurisdiction's specialty courts. Ms. Gouveia is working on referring potential participants.
 - The committee is working on getting definitions across the state for Drug Court Case Management (DCCM), the case management system, to have a uniform system, and compile statistics for more accurate reporting.
 - The committee has a national conference in June.

VI. Report of Regional Council Meetings

- Clark Regional Judicial Council
 - Chief Judge Weise commented that "First Amendment Auditors" were discussed and how they are handled in different jurisdictions. A First Amendment Auditor is a member of the public who appears in courts, often filming, looking for an adverse reaction from court staff.
 - The group discussed some of their pending bills during a legislative update.
 - Fines and fees and dismissed cases were also discussed.
- North Central Judicial Council
 - Judge Soderquist directed the members to refer to the meeting materials for the summary of their last meeting.
 - They will be addressing the First Amendment Auditor issue as there was an incident at one of their outlying justice courts. The incident caused a policy to be created for their courthouses that conflicts with the Supreme Court's Rules.
 - Chief Justice Stiglich suggested adding this issue to the Court Administrator agenda and asked the members to reach out to Ms. Stocks to share their experiences regarding this issue.
- Washoe Regional Judicial Council
 - As a representative was not available for comment, the update was tabled for a future meeting.

VII. Future Meetings

- August 18, 2023, at 2:00 p.m.
- December 1, 2023, at 2:00 p.m.

VIII. Other Items/Discussion

- Topics to discuss during the next meeting
 - Judicial Perspectives on Civility

IX. Adjournment

- There being no further discussion or public comment, the meeting was adjourned at 2:31 p.m.

TAB 2

Supreme Court of Nevada
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MEMORANDUM

TO: Judicial Council of the State of Nevada
FROM: Stephanie Gouveia, Specialty Courts Statewide Coordinator
DATE: July 25, 2023
SUBJECT: Nevada Specialty Court Funding Guidelines & Criteria Handbook Updates

Attached hereto is a proposed amendment to the Nevada Specialty Court Funding Guidelines & Criteria handbook.

The amendment is offered to achieve three things:

1. With the consolidation of funding and the implementation of a single application process, the committee has doubled the caps on operating expenses, basic needs, transportation, and incentives to ensure the same level of funding as previous years allowed.
2. Remove the reference to NRS 176.059 as it is no longer pertinent with the passage of SB448 that sends the entire state portion of the base administrative assessment revenue collected to the State General Fund.
3. Unspent funding and carry-forward balances updated to reflect accounting policy regarding carry-forward balances and procedures.

Recommendation:

Approve the proposed handbook amendments.

Attachment

NEVADA SPECIALTY COURT FUNDING GUIDELINES AND CRITERIA

**As established by the
Specialty Court Funding and Policy Committee**

**Approved by the
Judicial Council of the State of Nevada
November 19, 2021**

Distributed by:

The Administrative Office of the Courts

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General Provisions

What Are Specialty Courts

Nevada Revised Statute (NRS) 176.0613 defines a Specialty Court program as, “A program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from a mental illness or uses alcohol or other substances. Such a program includes, without limitation, a program established pursuant to [NRS 176A.230](#), [176A.250](#) or [176A.280](#).”

Nevada has classified its specialty court programs into two categories, existing and new. Below are the definitions of these categories:

An existing program is defined as a program that currently meets adopted guidelines and criteria, receives NRS 176.0613 funds, any legislatively approved general fund appropriation, is self-funded, or receives grant funding that may expire in the next 12 months. An existing program must be currently operational and must have contracts with providers.

A new program is defined as a program that is not currently operational and does not have a contract with a provider.

Purpose

This manual identifies the requirements for funding of a specialty court program using NRS 176.0613, 176.059, and 178.518 funds or any legislatively approved general fund appropriation. Any program requesting funding through the Supreme Court, Administrative Office of the Courts, for a specialty court program will be required to follow the guidelines disclosed within this document.

Best Practices

Nevada abides by the “Defining Drug Courts: The Key Components” that were developed by the Bureau of Justice Assistance in collaboration with the National Association of Drug Court Professionals (NADCP). Nevada also abides by the National Association of Drug Court Professionals Best Practice Standards. All programs must follow the literature on the Key Components and NADCP Best Practice Standards.

In order to be recognized as a specialty court, you must adhere to the Key Components and NADCP Best Practice Standards. The Key Components and NADCP Best Practice Standards have been adopted by the committee and are used nationally. They are the basic elements of a successful drug court. All specialty court programs applying for funding shall be substantially compliant with the following guidelines.

10 Key Components

- ***Key Component 1 = Drug courts integrate alcohol and other drug treatment services with justice system case processing.*** The mission of drug courts is to stop the abuse of alcohol and other drugs and related criminal activity. Drug courts promote recovery through a coordinated response to offenders depending on alcohol and other drugs. Realization of these goals requires a team approach, including cooperation and collaboration of the judges, prosecutors, defense counsel, probation authorities, other corrections personnel, law enforcement, pretrial services agencies, TASC programs, evaluators, an array of local service providers, and the greater community.

- **Key Component 2 = Non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.** Because the purpose is to facilitate an individual's progress in treatment, the prosecutor and defense counsel must shed their traditional adversarial courtroom relationship and work together as a team. Once a defendant is accepted into the drug court program, the team's focus is on the participant's recovery and law-abiding behavior – not on the merits of the pending case.

- **Key Component 3 = Eligible participants are identified early and promptly placed within the drug court program.** Judicial action, taken promptly after arrest, capitalizes on the crisis nature of the arrest and booking process. Rapid and effective action also increases public confidence in the criminal justice system.

- **Key Component 4 = Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.** The origins and patterns of AOD problems are complex and unique to each individual. They are influenced by a variety of accumulated social and cultural experiences. If treatment for AOD is to be effective, it must also call on the resources of primary health and mental health care and make use of social and other support services.

- **Key Component 5 = Abstinence is monitored by frequent alcohol and other drug testing.** Frequent court-ordered AOD testing is essential. An accurate testing program is the most objective and efficient way to establish a framework for accountability and to gauge each participant's progress. AOD testing is central to the drug court's monitoring of participant compliance. AOD testing results are objective measures of treatment effectiveness, as well as a source of important information for periodic review of treatment progress.

- **Key Component 6 = A coordinated strategy governs drug court responses to participants' compliance.** An established principle of AOD treatment is that addiction is a chronic, relapsing condition. A pattern of decreasing frequency of use before sustained abstinence from alcohol and other drugs is common. Becoming sober or drug free is a learning experience, and each relapse to AOD use may teach something about the recovery process. A participant's progress through the drug court experience is measured by his or her compliance with the treatment regimen. Cessation of drug use is the ultimate goal of drug court treatment. There is a value in recognizing incremental progress toward the goal, such as showing up at all required court appearances, regularly arriving at the treatment program on time, attending and fully participating in the treatment sessions, cooperating with treatment staff, and submitting to regular AOD testing. Drug courts must reward cooperation as well as respond to noncompliance. Small rewards for incremental successes have an important effect on a participant's sense of purpose and accomplishment. Praise from the drug court judge for regular attendance or for a period of clean drug tests, encouragement from the treatment staff or the judge at particularly difficult times, and ceremonies in which tokens of accomplishment are awarded in open court for completing a particular phase of treatment are all small but very important rewards that bolster confidence and give inspiration to continue.

- **Key Component 7 = Ongoing judicial interaction with each drug court participant is essential.** The judge is the leader of the drug court team, linking participants to AOD treatment and to the criminal justice system. This active, supervising relationship, maintained throughout treatment, increases the likelihood that a participant will remain in treatment and improves the

chances for sobriety and law-abiding behavior. Ongoing judicial supervision also communicates to participants that someone in authority cares about them and is closely watching what they do. Drug courts require judges to step beyond their traditionally independent and objective arbiter roles and develop new expertise. The structure of the drug court allows for early and frequent judicial intervention. A drug court judge must be prepared to encourage appropriate behavior and to discourage and penalize inappropriate behavior.

- ***Key Component 8 = Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.*** Fundamental to the effective operation of drug courts are coordinated management, monitoring, and evaluation systems. The design and operation of an effective drug court program result from thorough initial planning, clearly defined program goals, and inherent flexibility to make modifications as necessary. The goals of the program should be described concretely and in measurable terms to provide accountability to funding agencies and policymakers. Program management provides the information needed for day-to-day operations and for planning, monitoring, and evaluation. Program monitoring provides oversight and periodic measurements of the program's performance against its stated goals and objectives.
- ***Key Component 9 = Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.*** Periodic education and training ensures that the drug court's goals and objectives, as well as policies and procedures, are understood not only by the drug court leaders and senior managers, but also by those indirectly involved in the program. Education and training programs also help maintain a high level of professionalism, provide a forum for solidifying relationships among criminal justice and AOD treatment personnel, and promote a spirit of commitment and collaboration.
- ***Key Component 10 = Forging partnerships among drug courts, public agencies, and community-based organizations generate local support and enhance drug court program effectiveness.*** Because of its unique position in the criminal justice system a drug court is especially well suited to develop coalitions among private community-based organizations, public criminal justice agencies, and AOD treatment delivery systems. Forming such coalitions expands the continuum of services available to drug court participants and informs the community about drug court concepts.

NADCP Best Practice Standards

I. Target Population

Eligibility and exclusion criteria for the Drug Court are predicated on empirical evidence indicating which types of offenders can be treated safely and effectively in Drug Courts. Candidates are evaluated for admission to the Drug Court using evidence-based assessment tools and procedures.

II. Historically Disadvantaged Groups

Citizens who have historically experienced sustained discrimination or reduced social opportunities because of their race, ethnicity, gender, sexual orientation, sexual identity, physical or mental disability, religion, or socioeconomic status receive the same opportunities as other citizens to participate and succeed in the Drug Court.

III. Roles and Responsibilities of the Judge

The Drug Court judge stays abreast of current law and research on best practices in Drug Courts, participates regularly in team meetings, interacts frequently and respectfully with participants, and gives due consideration to the input of other team members.

IV. Incentives, Sanctions, and Therapeutic Adjustments

Consequences for participants' behavior are predictable, fair, consistent, and administered in accordance with evidence-based principles of effective behavior modification.

V. Substance Abuse Treatment

Participants receive substance abuse treatment based on a standardized assessment of their treatment needs. Substance abuse treatment is not provided to reward desired behaviors, punish infractions, or serve other nonclinical indicated goals. Treatment providers are trained and supervised to deliver a continuum of evidence-based interventions that are documented in treatment manuals.

VI. Complimentary Treatment and Social Services

Participants receive complementary treatment and social services for conditions that co- occur with substance abuse and are likely to interfere with their compliance in Drug Court, increase criminal recidivism, or diminish treatment gains.

VII. Drug and Alcohol Testing

Drug and alcohol testing provides an accurate, timely, and comprehensive assessment of unauthorized substance use throughout participants' enrollment in the Drug Court.

VIII. Multidisciplinary Team

A dedicated multidisciplinary team of professionals manages the day-to-day operations of the Drug Court, including reviewing participant progress during pre-court staff meetings and status hearings, contributing observations and recommendations within team members' respective areas of expertise, and delivering or overseeing the delivery of legal, treatment and supervision services.

IX. Census and Caseloads

The Drug Court serves as many eligible individuals as practicable while maintaining continuous fidelity to best practice standards.

X. Monitoring and Evaluation

The Drug Court routinely monitors its adherence to best practice standards and employs scientifically valid and reliable procedures to evaluate its effectiveness.

Program Criteria

All applications for funding of a Specialty Court program shall substantially meet the following minimum program criteria in order to be considered for funding.

Judicial Interaction

The judge is the judicial officer of the specialty court and must be involved in all aspects of the specialty court program. The judge shall serve as the leader of the specialty court team and shall maintain an active role in the drug court process, including drug court staffing, conducting regular status hearings, and provide incentives and impose sanctions. The National Association of Drug Court Professionals Adult Drug Court Best Practice Standards, Volume I, Pages 20-25 identifies the judges' role as staying abreast of current law and research on best practices in specialty courts, participates regularly in team meetings, interacts frequently and respectfully with participants, and gives due consideration to the input of other team members. The best practice standard is:

- Professional Training
- Consistent Docket
- Judicial Demeanor
- Frequency of Status Hearings (No less than every two weeks during the first phase.)
- Judicial Decision Making
- Length of Term (The judge presides over the specialty court for no less than two consecutive years.)
- Participation in Pre-Court Staff Meetings
- Length of Court Interactions (Minimum of approximately three minutes with each participant.)

Separate Routine Court Docket

The specialty court program must have a separate and routine court docket that is presided over by the designated judicial officer of the specialty court. The frequency of court hearings is dependent upon the phase. The National Drug Court Institute (NDCI) identifies the reason to have phases is for structure, recovery process, and incremental progress. The specialty court should consider the following as the routine court docket:

- Phase 1..... Weekly Court appearances
- Phase 2..... Bi-weekly Court appearances
- Phase 3..... Monthly Court appearances
- Phase 4..... Monthly Court appearances
- Phase 5..... Monthly Court appearances

Multidisciplinary Team

Each specialty court program requires a team. A team shall be a group of professionals who are primarily responsible for the day-to-day operations of the program. The team is led by the judge and is responsible for the monitoring, supervision, and treatment of participants. The team may include, but is not limited to the judicial officer, defense counsel, prosecutor, probation, pretrial services, law enforcement, specialty court coordinator, and treatment providers. All participants and participating entities should be represented on the team. The National Association of Drug Court Professionals Adult Drug Court Best Practice Standards, Volume II, Pages 38-50 recommends the multidisciplinary team to have the following characteristics:

- Team Composition
- Pre-Court Staff Meetings
- Status Hearings
- Team Communication and Decision Making
- Sharing Information
- Team Training

Substance Abuse Testing

An accurate testing program is the most objective and efficient way to establish a framework for accountability and to gauge each participant’s progress; therefore, frequent court-ordered alcohol and drug testing is essential. Substance abuse testing shall be used as a tool to support recovery. Each specialty court program must monitor abstinence through frequent and random alcohol and drug testing. The method of testing should be scientifically valid, therapeutically beneficial, and legally defensible. The recommend method is observed urinalysis however Courts may use other methods such as the saliva, ankle monitors, portable breathalyzer, hair, and sweat patches. The National Drug Court Institute (NDCI) recommends no less than twice weekly throughout the entire program.

All participants are required to submit to random drug screens. Drug testing confirmation may be required if the participant denies use or a sanction is to be imposed. If a lab confirms a positive drug test, the participant must pay the cost of the confirmation.

Treatment Services

Treatment services are a vital component of the success of a specialty court program. Treatment services should be individualized to each participant's needs. The treatment provider should assess the participant and develop a treatment plan through after care. Each specialty court program must provide aftercare/discharge planning to participants. The plan should address areas of addiction, social skills, work skills, relationship issues, and living a healthy and sober life. Interventions may include individual, group, family counseling, parenting classes, detoxification, residential care (Mental Health Courts only) and 28-day inpatient residential treatment for programs that have a contract.

Specialty court participants must attend regular counseling sessions. Counseling sessions may vary depending upon the type of addiction and the length of time the participant has been enrolled in the program. Staff delivering services must be appropriately licensed and operating within the scope of their practice. Alcohol and Drug Counselors must be certified or licensed per NRS 641C and NAC 641C.

Sanctions and Incentives

The specialty court model is based on behavior modification, rewarding positive behavior and sanctioning criminal behavior or program violations. Research has shown that for sanctions to be effective they should be certain, immediate, fair, and appropriate for the consequence.

Sanctions could include, but are not limited to the following:

- Verbal warning in Court
- Letters of apology
- Essay assignment
- Increased Supervision
- Community Service
- Life skill assignments
- Termination from program
- Jury box observation
- Fines
- Jail
- Curfew
- Journaling

Small rewards for incremental successes have an important effect on a participant's sense of purpose and accomplishments therefore incentives are used to encourage participants to work toward and maintain sobriety. Incentives could include, but are not limited to the following:

- Verbal praise
- Reduced Supervision
- Late curfews
- Travel privileges
- Recognition in Court
- Written commendations
- Small tangible rewards (gift certificates \$5-\$15 value)

Each specialty court program should develop policies and procedures for sanctions and incentives that are consistent with science-based practices.

Program Fees

All participants in a specialty court program that is funded entirely or in part by funding through NRS 176.061(3) or any legislative-approved funding appropriated through the Supreme Court, Administrative Office of the Courts, are required to contribute to the total costs of the program in a manner and method determined by the Court.

The reimbursement shall be collected in a manner and method which shall be determined by the specialty court and documented in the program and procedures manual and may be designated a participant fee. This reimbursement includes payments made directly to service providers by the participant and payments made to the Court. To be compliant, collections of reimbursements must be 60% or greater. Any participant fees collected by the Court shall be rolled back in the program to help subsidize the costs of the program. The fee schedule shall meet the following standards.

Type of Program	Program Fees
Felony Drug Courts	The reimbursement from the participant shall be a minimum of <u>\$750</u> and shall not exceed a total sum of \$2,300.
Felony DUI Courts	The reimbursement from the participant shall be a minimum of <u>\$750</u> and shall not exceed the total cost of the program (NRS 484C.360).
Mental Health Courts, Family Treatment Courts, Juvenile Courts, Veterans Courts, Community Courts, Homeless Courts	Owing to the nature of these courts, the reimbursement from the participant shall be left to the discretion of the judge.
Misdemeanor Courts, unless otherwise exempt	The reimbursement from the participant shall be a minimum of <u>\$100</u> and shall not exceed the total cost of the program.

Case Management System

The Drug Court Case Management (DCCM) system is Nevada’s specialty court case management system. This system is a tool that facilitates the daily operations of specialty courts and allows for programs to self-evaluate. The Supreme Court, Administrative Office of the Courts, will use DCCM to collect data pursuant to Nevada Revised Statutes. The system is a web-based, menu-driven application accessible through most web browsers and is most compatible with Google Chrome. The software is organized around a series of screens associated with a participant’s case. DCCM is designed to manage all participant information from initial intake to program completion and beyond (for recidivism studies, for example). The system stores participant level data and produces summary information needed by judges and court staff to facilitate drug court decision making. All users of the system shall sign a confidentiality form. The confidentiality form should be retained by the Court.

Courts that receive funding for a specialty court from NRS 176.0613, 176.059, 178.518 or any legislatively approved general fund appropriation are required to use DCCM. Programs are required to use the following modules that are on the client menu in DCCM.

- Initial Eligibility
- Substance Abuse Testing
- Employment History
- Ancillary Services
- Community Service
- Funding Source
- Personal Demographics
- Medical History specifically pregnancy status
- Criminal History
- Incentives/Sanctions
- Interlock
- Journal
- Service/Veteran Information
- Treatment
- Fees
- Discharge
- Other modules at Court’s discretion, local assessments, medical history, school information.

Funding Priorities

Pursuant to NRS 176.0613, money appropriated to a court for the provision of specialty court programs must be used to pay for the treatment and testing of persons who participate in the program and to improve the operations of the specialty court. This includes acquiring necessary capital goods, personnel to oversee the specialty court program, training and education, studying the management and operation of the program, conducting audits of the program, supplementing the funds used to pay for judges to oversee a specialty court program, or acquiring or using appropriate technology.

In compliance with NRS 176.0613, below in order are the recommended funding priorities and definitions.

1. Treatment, Testing, and Housing

This category includes:

- ◆ *Counseling Services*
- ◆ *Housing for Mental Health Courts*
- ◆ *Drug Testing Supplies*
- ◆ *In-Patient Residential (28-day) must have a contract with a provider*
- ◆ *Drug Testing Equipment*
- ◆ *Electronic Monitoring*

2. Personnel

Staff involved with overseeing and or working directly as a team member. This category includes personnel who are dedicated 100 percent to the specialty court program and paid by the program. This excludes the judge and positions paid by the city/county/state. Personnel is considered to be an employee who aides in testing, assists participants with life skills, provides probation type services to participants, and may include personnel that provides clinical treatment to participants. Also included in this category are part-time contract personnel.

Please note that there is no limit on how much funding may be used per court to pay for personnel who are not already paid for through city/county/state funds; however, funding must first be used on professional services such as counseling, drug testing, and housing for participants.

3. Training and Education / Peer Review

Funds ranging in the amount of \$40,000-\$50,000 will be withheld by the Supreme Court to provide training and education opportunities in-state or out-of-state for personnel who are team members of a specialty court. This category may include judges, district attorneys, public defenders, law enforcement, counselors, and coordinators. The majority of this funding will used for the National Association of Drug Court Professionals (NADCP) Annual Conference. This funding may also be used for expenses related to Peer Review.

4. Operating expenses

Fund a maximum of \$2,400 per year per program to assist with operating expenses such as paper, certificates, and office supplies.

5. Bus Passes and/or Taxi Vouchers
Fund a maximum of \$10,000 per year per program to assist with transportation needs.
6. Incentives
Fund a maximum of \$5,000 per year per program to assist with incentives. Incentives include tokens, books, cookies, pizza, and gift certificates. When providing gift certificates, the value range is \$5-\$15, per the National Drug Court Institute's (NDCI) The Drug Court Judicial Benchbook.
7. Basic Needs
Fund a maximum of \$10,000 per year per program. Assistance with clothing, haircuts, hygiene products. Products and services must be for participant only.
8. Housing with case/house manager on-site
Maximum 30% of total program award, per year.
9. Housing (apartments, motel, weekly room rates)
Maximum 30% of total program award, per year.
10. Acquiring necessary capital goods
Defined as including office buildings, equipment, and machinery.
11. Acquiring or using appropriate technology
Defined as technology that is designed with special consideration, for example, case management system.
12. Studying the management and operation of the program
Defined as a program evaluation completed by a consultant or contract person who specializes in specialty court program evaluation.
13. Supplementing the funds used to pay for judges to oversee a specialty court program
Defined as funding for a Judge to oversee a specialty court.
14. Conducting audits of the program
Defined as financial and program audits of a specialty court. Note: Financial auditing of NRS 176.0613 and legislatively-approved state general funds will be conducted by an AOC auditor. The AOC Specialty Courts Statewide Coordinator will conduct a program audit ensuring the 10-Key components and NADCP's Best Practice Standards are being followed. Expenses from this category would include travel.

Unspent Funding - Carry-Forward Balances

Unspent funding-carry forward balances reported on the 4th quarter financial status report will be deducted from the following fiscal year's quarters two through four allocation. Unspent funds should *not* be returned to the AOC; please contact your state coordinator if further instruction is needed.

Committee

Structure

The Specialty Court Funding and Policy Committee shall consist of no more than 20 members. The Chair of the Committee must be a Supreme Court Justice. The Vice Chair may either be a

Supreme District Court Judge, Justice of the Peace, or a Municipal Court Judge. The remaining members are one general/limited jurisdiction judge from each region except Clark. Clark will have two general jurisdiction and two limited jurisdiction judges. Senior judges may serve. Additionally, there will be three at-large members consisting of one general jurisdiction judge, one limited jurisdiction judge, and one judge from any region and jurisdiction. At-large members may be judges who do not conduct a specialty court program, and will be appointed by the Chair and Vice-Chair of the Committee. At-large members will be selected by the Chair, and ratified by the Chief Justice. The committee will have an equal number of general and limited jurisdiction representatives.

There will also be up to four non-voting members who are specialty court program coordinators or program administrators. These members will be selected by the chief justice upon recommendation of the specialty court program coordinators and program administrators in three regions consisting of the Clark Region, the Washoe Region, and the Rural Region. The Rural Region shall be comprised of the all the courts in the Sierra, North Central, and South Central regions. The Rural Region will have two coordinators serving as members while the Clark and Washoe regions will have one member. These members will serve terms consistent with those of the other members of the Committee save that the initial terms of the specialty court coordinator or administrator members shall begin July 1, 2019, and the initial three members shall serve from then until December 31, 2019, before commencing regular two-year terms on January 1, 2020.

Eligible Candidates

All judges, including senior judges, are eligible to serve on the committee.

Terms

All members will serve 3-year terms. Terms will be staggered and begin on January 1 and conclude December 31 of the third year (e.g., January 1, 2021 – December 31, 2023.) Members are eligible to serve multiple terms.

Nomination to Serve

Prior to the expiration date of the respective member, the AOC will distribute by email a nomination form. The nomination form will be distributed to all judges within the same jurisdiction, in the respective region. The judges within the region and with the same jurisdiction level will nominate a judge to serve. Prior to nominating a judge to serve, the judge should ascertain their interest in serving. Self-nominations are acceptable.

Election

All nominations and voting will be conducted by e-mail. An official ballot identifying all nominated judges will be emailed to all the judges in the region and with the same jurisdiction level for the nomination of the member. To assure no duplicate votes are received, control numbers will be printed on the top of each official ballot. Votes will be kept in strict confidence by the AOC.

When a member's term expires, all judges within the respective region and jurisdiction level may vote (general jurisdiction judges vote for general jurisdiction representatives and limited jurisdiction judges vote for limited jurisdiction representatives within their respective region). At-large representatives may be determined by the Chair of the Committee. Participation is encouraged; however, 100% participation in a region is not required to determine an election outcome. In the case of a tie, a "run off" election will be held between the tied candidates.

Election Timeline

Nomination forms emailed.....	mid October
Nominations due to AOC.....	late October
Ballots emailed.....	early November
Ballots due to AOC.....	late November
Results certified to Chair of the Committee.....	early December
New Committee members notified via email.....	early January

Funding Process

NRS 176.0613 articulates that the Office of Court Administrator shall allocate the money credited to the State General Fund to assist courts with the funding or establishment of specialty court programs. Special funding such as a general fund appropriation will follow the same funding process.

How to Apply

The AOC will distribute an “Application for Funding of a Specialty Court Program.” The application needs to be completed and returned to the AOC by the due date.

When to Apply

An “Application for Funding of a Specialty Court Program” will be distributed to all Nevada judges and court administrators. The application will be distributed in October each calendar year and must be submitted to the AOC by the due date, usually six weeks after being distributed. The same application will be used for both administrative assessment revenue and general fund appropriation requests. Existing programs and new programs requesting funds need to apply during this open application period.

Application

The application consists of three sections. Section One is the Application Cover Sheet, Budget Worksheet, Budget Narrative, Program Design, Treatment Provider Contracts, and Program Handbook. Section Two is the Funding Priorities, Minimum Program Criteria, and Evaluation/Reporting Requirements. Section Three is the Application Data Dictionary. All programs, whether new or existing, must complete the entire application unless other specific instructions are provided.

After the application is submitted to the AOC, the Specialty Courts Statewide Coordinator or Review Committee will review each application to ensure the program applying meets the minimum criteria. In addition, he/she will review the Budget Worksheet in detail to ensure accuracy of the budget. The Budget Narrative must coincide with the Budget Worksheet. The Specialty Courts Statewide Coordinator may contact a court at any time and inquire into the details to support the Budget Worksheet.

Funding Recommendation

The Specialty Courts Statewide Coordinator will make two or three funding recommendations to the Specialty Court Funding and Policy Committee. Funding recommendations will be based on available revenue, taking into consideration the approved funding priorities. The

funding recommendations will be presented to the committee at the March meeting or at the call of the Chairs. The Committee will approve a funding recommendation with final approval at the next Judicial Council of the State of Nevada (JCSN) meeting.

Award

Funds will be awarded for a 12-month period and will be based on a fiscal year. Awards may be subject to change depending upon available funding. Any funds awarded must not be used to supplant county or federal funds allocated for the operation of an existing program.

Award Notification

All courts will be notified of their award after final approval from JCSN, usually in December or January of the prior fiscal year. The notification will include the total award and how the funds are to be expended. If a program wants to modify the allocation, they must submit a Budget Revision to the AOC Specialty Court Statewide Coordinator. The total amount on the Budget Revision cannot exceed the allocation awarded.

Program Audit/Compliance

Audit

All programs are subject to a financial status audit. The financial status audit will be performed by the Administrative Office of the Courts Auditors. The audit will consist of a review of the financial status reports to ensure the programs financial audit is consistent with the Minimum Criteria and Funding Priorities as outlined in this document. Programs selected for the audit will need to provide receipts and revenue verification in accordance with the financial status reports and will need to respond to questions from the auditors related to the financial information. The AOC Specialty Courts Statewide Coordinator will provide the auditor with the financial status reports, receipts and the grant application for the fiscal year that the program is being audited for.

Compliance

All programs are subject to a compliance review to ensure the program is complying with the award application and the Nevada Specialty Court Funding Guidelines and Criteria. The review will be conducted by the Specialty Courts Statewide Coordinator or a review committee ensuring that the 10-key components and the NADCP Best Practice Standards are being followed and the program is in compliance with the Minimum Criteria as outlined in this document. The Specialty Courts Statewide Coordinator may ask additional questions as they pertain to the program and specifically to the award application.

Reporting Requirements

Courts awarded funds are required to submit statistical and financial reports. Each program must complete the reports quarterly and reports are due one month after the end of the quarter.

Financial Status Reports

The financial status report assists the Administrative Office of the Courts (AOC) in tracking costs associated with Specialty Court programs and to help maintain adequate financial records of each program. All revenue (participant payments, appropriations received from cities or counties, federal grants, and other funds received) and expenditure costs (approved expenditures only) for the program should be recorded on these reports. Receipts for all expenditures must be attached to the quarterly financial status report. The financial status report revenue and

expenditures must balance. In addition, funds that were not expended within the quarter or the fiscal year must be accounted for and recorded as unspent Supreme Court/AOC funding balance forward from prior quarters.

Statistical Reports

The statistical report was designed to assist in the collection of statewide data statistics and provide continuity within our programs. Statistical information collected will be in accordance with the Nevada Revised Statutes.

Quarterly Allocation

Courts who were approved to receive an allocation will receive 25 percent of the total allocation on a quarterly basis during these months of the fiscal year: July, October, January, and April.

Budget Revisions

A budget revision form authorizes programs to move monies from one approved category to another after the allocation has been approved. This form needs to be completed every time a program wishes to redistribute funds from one approved category to another.

Funding Authority

➤ **NRS 176.0613 Additional administrative assessment for misdemeanor: Authorization; collection; distribution; limitations on use. [Effective July 1, 2020.]**

1. The justices or judges of the justice or municipal courts shall impose, in addition to an administrative assessment imposed pursuant to [NRS 176.059](#), [176.0611](#) and [176.0623](#), an administrative assessment for the provision of specialty court programs.

2. Except as otherwise provided in subsection 3, when a defendant pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of \$7 as an administrative assessment for the provision of specialty court programs and render a judgment against the defendant for the assessment. If a defendant is sentenced to perform community service in lieu of a fine, the sentence must include the administrative assessment required pursuant to this subsection.

3. The provisions of subsection 2 do not apply to:

(a) An ordinance regulating metered parking; or

(b) An ordinance which is specifically designated as imposing a civil penalty or liability pursuant to [NRS 244.3575](#) or [268.019](#).

4. The money collected for an administrative assessment for the provision of specialty court programs must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the bail pursuant to this subsection must be disbursed pursuant to subsection 6 or 7. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment the defendant has paid and the justice or judge shall not recalculate the administrative assessment.

5. If the justice or judge permits the fine and administrative assessment for the provision of specialty court programs to be paid in installments, the payments must be applied in the following order:

(a) To pay the unpaid balance of an administrative assessment imposed pursuant to [NRS 176.059](#);

(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to [NRS 176.0611](#);

(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs;

(d) To pay the unpaid balance of an administrative assessment for obtaining a biological specimen and conducting a genetic marker analysis pursuant to [NRS 176.0623](#); and

(e) To pay the fine.

6. The money collected for an administrative assessment for the provision of specialty court programs in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the city treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

7. The money collected for an administrative assessment for the provision of specialty court programs in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the county treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

8. The Office of Court Administrator shall allocate the money credited to the State General Fund pursuant to subsections 6 and 7 to courts to assist with the funding or establishment of specialty court programs.

9. Money that is apportioned to a court from administrative assessments for the provision of specialty court programs must be used by the court to:

(a) Pay for the treatment and testing of persons who participate in the program; and

(b) Improve the operations of the specialty court program by any combination of:

(1) Acquiring necessary capital goods;

(2) Providing for personnel to staff and oversee the specialty court program;

(3) Providing training and education to personnel;

(4) Studying the management and operation of the program;

(5) Conducting audits of the program;

(6) Supplementing the funds used to pay for judges to oversee a specialty court program; or

(7) Acquiring or using appropriate technology.

10. As used in this section:

(a) “Office of Court Administrator” means the Office of Court Administrator created pursuant to [NRS 1.320](#); and

(b) “Specialty court program” means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from a mental illness or uses alcohol or other substances. Such a program includes, without limitation, a program established pursuant to [NRS 176A.230](#), [176A.250](#) or [176A.280](#).

(Added to NRS by [2003, 2096](#); A [2007, 1418](#); [2009, 101](#); [2013, 1066](#), [1990, 3686](#); [2015, 2955](#); [2017, 2905](#); [2019, 4382](#), effective July 1, 2020)

➤ **NRS 178.518 Payment of forfeited deposits to county treasurer or State Controller.** Money collected pursuant to [NRS 178.506](#) to [178.516](#), inclusive, which was collected:

1. From a person who was charged with a misdemeanor must be paid over to the county treasurer.

2. From a person who was charged with a gross misdemeanor or a felony must be paid over to the State Controller for deposit in the State General Fund for distribution in the following manner:

- (a) Ninety percent for credit to the Fund for the Compensation of Victims of Crime; and
- (b) Ten percent for credit to the special account established pursuant to [NRS 176.0613](#) to assist with funding and establishing specialty court programs.

(Added to NRS by [1967, 1453](#); A [1981, 1672](#); [2001, 2922](#); [2003, 2105](#))

TAB 3

Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

KATHERINE STOCKS
Director and State Court
Administrator



JOHN MCCORMICK
Assistant Court Administrator

MEMORANDUM

TO: Judicial Council of the State of Nevada
FROM: John McCormick, Assistant Court Administrator
DATE: August 18, 2023
SUBJECT: Ad Hoc Subcommittee to Review the 2019 NCJFCJ Family Court Study

In 2019, the National Council of Juvenile and Family Court Judges (NCJFCJ) conducted an assessment of Nevada's two family courts, those in the Second and Eighth Judicial Districts.

The NCJFCJ issued a report (attached) in October 2019 that offers recommendations for possible implementation to enhance the operation of Nevada's family courts.

After a preliminary exploration of options to implement the Report's recommendations, the Supreme Court determined the need to set forth a formal process of review and implementation of the report's recommendations. Pandemic-related changes to court business processes necessitate the prioritization of family law initiatives and require consideration of additional priorities outside the report's limited scope.

Pursuant to the authority in Article III, Section 2 of the JCSN Bylaws, the Council will establish an ad hoc subcommittee to: review and prioritize the Report's recommendations; survey judicial officers and court staff on their current business process needs; and develop an implementation plan to improve the delivery of family court services in Nevada. The subcommittee may establish work groups as necessary to fulfill its charge.

The ad hoc subcommittee membership will be appointed by the Chief Justice as provided in the Bylaws. The subcommittee will be supported by the AOC and the National Center for State Courts.

The subcommittee shall consist of judges and administrators that handle family cases and will provide a report to the full Judicial Council for its consideration and possible action.

The timeline for the work of the subcommittee will be developed by the subcommittee and dictated by the scope of the recommendations and other factors to be studied and considered.

Recommendation:

Approve the creation of an ad hoc subcommittee to review the 2019 NCJFCJ Family Court Study Report in light of the changes since its publication.

Attachment

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Supreme Court Building ♦ 408 East Clark Avenue ♦ Las Vegas, Nevada 89101



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Nevada District Court, Family Division Assessment Report

October 2019

Project Director:
Hunter Hurst
hhurst@ncjfcj.org

This report was prepared by the National Center for Juvenile Justice, the research division of the National Council of Juvenile and Family Court Judges.

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Executive Summary and Recommendations

On behalf of the Supreme Court of Nevada, the National Center for Juvenile Justice (NCJJ), the research division of the National Council of Juvenile and Family Court Judges (NCJFCJ), conducted an initial study to assess the status of the family division models operating the 2nd and 8th Judicial District Courts in Washoe and Clark counties (hereinafter referred to as Washoe County Family Division and Clark County Family Division). The study time frame was 8 months, beginning with data collection instrument planning and online document review in mid-January of 2019. The study's purpose is to identify the high-level areas in which the coordinated family division operating models for juvenile and family law are meeting legislative goals, to identify the primary challenges for meeting these goals, and to make recommendations.

The study methods were qualitative and started with NCJJ reviewing the enabling statutes creating Nevada's coordinated family division model, historical documents describing the goals of the reform, and state and local court rules that shape practice in both jurisdictions. The primary data collection activity for the study were three electronic surveys and six days of on-site interviews with judges and hearing masters (hereinafter referred to collectively as judicial officers) and a broad range of family law, child welfare, and juvenile justice stakeholders interacting with the family divisions on a regular basis (hereinafter referred to collectively as stakeholders). Specific stakeholder types included private attorneys, public defenders, prosecutors, family division administration, clerks of court, judicial support staff, and the directors of several agencies or units co-located within the respective courts or supervising staff who work in the courts daily (e.g., the Department of Juvenile Justice, Legal Aid Services). Legislators also were invited to participate by a brief electronic survey or in telephone interviews. To support the qualitative data collected for the study, the introduction provides a summary of 5-year workload trends by case type within the family divisions of Washoe and Clark counties and the results of a workload comparison of judicial officers assigned to hear family division case types in comparable jurisdictions. The study also addressed the ability of the respective family divisions to use their information technology resources to measure the likelihood of families in court having various types of past and pending cases within the family division (see Appendix C). The assessment was guided by a workgroup led by Justice James Hardesty and the presiding judges and family division administrators from Washoe and Clark counties.

During the planning for the study, it became clear that a framework for the operating principles and goals for family divisions was needed to help structure the electronic survey and on-site portions of the assessment. NCJJ reviewed examples used in other family court studies in California, Ohio, and

Maryland to help shape the design. The assessment tools and protocols developed under the framework were adapted by NCJJ to encompass family court goals in the Nevada Revised Statutes (NRS) Chapter 3. These goals included: judicial specialization in juvenile and family law (NRS 3.0105 and 3.233 and 3.0125 and 3.0185); one-family--one-judge case coordination (NRS 3.025); resolution of certain disputes through nonadversarial methods; and, maximizing the use of alternative dispute resolution methods and programs (NRS 3.225). The goals/principles articulated in the NRS family division enabling statutes were further framed with measurable goals contained in the Performance Standards and Measures for Maryland's family divisions and the American Institutes for Research Unified Family Court Evaluation Literature Review (Babb and Kuhn, 2002; and Hirst, 2002). The assessment used this framework to organize data collection and summarize findings contained in this report.

The document review indicated that the enabling statutes creating the family divisions in Washoe and Clark counties have helped advance both jurisdictions to positions of strength nationally (as this study will describe). Both jurisdictions are growing in population. Between 1993 and 2018, the total population of Clark County grew 147% and Washoe County grew by 67% (see Easy Access to Juvenile Populations: 1990-2018. Online). Clark County is similar to the family courts of the boroughs of New York City in operating this type of court administration model at a scale serving a population between 2-2.5 million people. There is a high level of ongoing communication between the Supreme Court Justices, the Nevada Administrative Office of the Courts (AOC), and the respective judges and juvenile and family law attorneys in both jurisdictions, and a spirit of admiration and mutual collaboration between Washoe and Clark counties (as opposed to competition). The cycle of the annual judicial conference and quarterly local bench/bar gatherings are critical to this environment existing within Nevada. While finite resources for judicial officers and facility space are a challenge, the family divisions in Washoe and Clark counties have notable operating strengths, and judicial officers and stakeholders responding to the electronic survey expressed general satisfaction with the family division operations. The following findings are supported by the electronic survey and on-site interviews conducted for the assessment. Highlights of strengths include:

- Both courts frequently collaborate with justice partners to work on policies and procedures and address challenges.
- The judges vary in their community presence and leadership roles as advocates for justice for families in court. However, there are shining examples in both jurisdictions of judges who exercise strong judicial leadership in a manner well aligned with resolutions and model practices published by NCJFCJ.

- Both courts are extremely busy but have the caseload management capability to be able to understand their trends and make adjustments. This is a feature lacking in many other jurisdictions.
- Recent efforts to examine and improve operations for specific case types aligned with where the most stress was noted in child welfare, guardianship, and juvenile justice cases.
- Both courts are dedicated to the optimal use of technology to meet their operating goals to serve self-represented litigants and provide alternative dispute resolution (ADR) opportunities.
- The state has been an active partner in helping to explore new ADR techniques and most recently succeeded in evaluating and expanding ADR in child abuse/neglect cases.

The primary limitations of the Nevada family court model, based on electronic survey and on-site interview response, include:

- Due to population growth in both jurisdictions, the respective family division court facilities are in need of expansion and at risk of fragmenting with departments already being housed outside of the primary facilities.
- The facility challenge is impacting the ability of the court to manage the volatile dynamics of vulnerable family members in court seeking emergency protection from domestic violence, litigants involved in contentious custody matters, and children in court for abuse/neglect.
- There are differences in opinion concerning the most efficient use of hearing masters in a coordinated family division model in both Washoe and Clark counties and a need for additional training and support for them.
- There is an unmet need for public voice in family division operations. Juvenile and family law case types are personal and emotional and among the most volatile within court systems. The stakes for children and families in court are high and the decisions judicial officers make are life-altering. Both courts lack ongoing forums for children and families to provide feedback on their experiences in court.
- In both of the jurisdictions, when major changes are discussed and implemented, stakeholders impacted by the changes are not always included in the discussions.
- Judicial training (inclusive of hearing masters) is a challenge. The AOC works closely to meet this challenge but lacks a specialized judicial training department aligned with the challenges faced by Nevada's coordinated family division model.
- Regular and ongoing training for family division staff, clerks and security in both jurisdictions concerning the dynamics of domestic violence are challenging for the courts to address.

NCJJ respectfully proposes the following recommendations to the Supreme Court of Nevada and the respective family divisions in Washoe and Clark counties.

1. Sustain the family division operating model. Over 25 years after the Nevada Legislature implemented the family division legislation, there is strong support among judicial officers and stakeholders to continue the model. Both jurisdictions can present many specific examples for how they operate under these goals, albeit sometimes under stress and strain, but generally with a high level of commitment to service to the community and families in court. Regular and open communication, progressive technology, and strong county and community partner support have a central role in sustaining and advancing goals under Nevada's coordinated family division operating model. Specific features of both jurisdictions have promise for informing other state and local jurisdictions considering adopting a family division operating model in the future. The family divisions in Washoe and Clark counties are also informing each other in a collaborative manner and are pioneering and sharing solutions that may eventually be replicated. NCJJ repeatedly observed a spirit of friendly competition and mutual admiration between family division leaders and stakeholders in the jurisdictions.

2. Support careful planning for future court facility expansions. The primary threats to Nevada's coordinated family division operating model are tied to population growth and the respective Washoe and Clark counties' court facility footprints. The family division court facilities are prematurely aging from the pressure. In both jurisdictions, courtroom operations and ancillary family division services that were once co-located are now fragmenting to other locations. The separation is affecting family division morale and may contribute to an erosion of public trust, particularly for self-represented litigants that are incurring a greater level of stress in navigating separate locations. This stress has implications for the well-being concerns of children and vulnerable family members including; more time off of work, greater expense and general stress navigating the courts. Both jurisdictions are considering long- term options but the scale at which they operate, particularly in Clark County, provides formidable obstacles that inhibit or prevent efforts to alleviate these challenges. The Supreme Court of Nevada in collaboration with the legislature and the executive branch should undertake a court facility study, or provide support to both jurisdictions to independently engage in family division master planning. Planning activities require state support can involve projecting population with the best available accuracy and new case filing growth based on existing trends; addressing judicial officer and family division staffing deficits and estimating future need (see recommendation 3); and developing functional requirements for a facility footprint that will accommodate the family division and plan outward for growth. The development timeframe for this undertaking will require sustained support for several years and steadfast leadership from the Supreme Court and AOC.

3. Conduct weighted workload study for the family divisions. Both courts are crowded and busy and are emerging from a period of chronic caseload pressure. Caseload pressure has impacted their ability to meet high internal standards and those of ongoing state and local court improvement commissions and task forces. The normative workload comparisons contained in this study suggest that both courts are operating at a deficit of judicial officer resources in comparison to similar jurisdictions (see the Judicial Officer Resource Comparison section of this report). There is optimism about the recent state support to address these challenges with additional judicial positions effective in 2021, but the NCJJ workload comparisons indicate that even with this allocation, the family divisions in Washoe and Clark counties will continue operating at a deficit of judicial officer resources when compared to similar jurisdictions. The differences are substantial enough that NCJJ recommends that the Nevada Legislature allocate support for family division weighted workload studies in order to determine the magnitude of the judicial position deficit in both family divisions by case type. In the past, the National Center for State Courts (NCSC) has worked with both of the courts to conduct this type of specialized research activity for the criminal and civil divisions (Ryan et al., 2005; Tallarico et al., 2007). NCSC has more recently conducted a study to weight workload values by case types heard in West Virginia’s family court system (see West Virginia Family Court Judges Workload Study <http://www.courtswv.gov/lower-courts/pdfs/FamilyCourtJudgeWorkloadStudy,FinalReport2014.pdf>). Weighted workload studies require careful planning, and in the instance of time studies, a commitment from each judicial officer within the study jurisdictions is required to record the time spent conducting a variety of activities on a daily basis and for an extended period of time (e.g., 9 weeks in the West Virginia example). However, there is ample justification to warrant the investment in a weighted approach, including: the uniqueness of Nevada’s coordinated family division model, the high internal performance standards that both courts have set for case processing and judicial oversight, the size and scale at which the family division in Clark County is operating, and the need to consider long-range planning for new court facilities that address current deficits and long-term projections for needs with population growth. An investment in weighted workload studies should be structured with a study deliverable to provide the Nevada AOC with the data collection tools required to update the time studies and case type weights themselves as needed in the future.

4. Create a hearing master study commission or task force. Hearing masters have an important role within both the family divisions serving Washoe and Clark counties. They help to balance the demand for elected judges to have a broad range of juvenile and family law knowledge with the need for high specialization in certain high-volume or highly technical case types such as child support or oversight in abuse/neglect cases. The hearing master system also reflects the shared investment of the state and the counties in supporting the operation of courts within an ever-changing environment. Quasi-judicial

officers are a feature of juvenile and family court operations in many states and were an influential factor in the normative workload comparisons conducted for this study (see the Judicial Officer Comparison section of this report). While there are many benefits of quasi-judicial officers to consider, a theme among interview participants was the challenge of including hearing masters in training and collaboration forums. The lack of coverage for their high-volume dockets was often cited as the reason for hearing masters not being available to attend training and forums. How to best deploy and support hearing masters is a stress point in the current Nevada family division model that the AOC should help to resolve by elevating the discussion of how to best support the hearing master resource and the possible need for statute or court rule reforms. At the request of the Clark County Family Division, and on an unrelated study, NCJFCJ has compiled initial information based on a quick scan of court rules in other states governing quasi-judicial officers and can be called upon to assist with providing expanded information to a study commission.

5. Establish an Office of Family Division Services within the AOC. The AOC, the respective juvenile and family bars, and Washoe and Clark counties communicate frequently and collaboratively to identify problems and solutions. Virtually every interview respondent referred to the importance of these well-organized forums in both jurisdictions. However, the breadth of family division jurisdiction in Nevada is wide-ranging, and the need for comparable specialization for state support within the AOC should mirror it in an office or position for family division services, or similar to Kentucky's Department of Family and Juvenile Services (see <https://kycourts.gov/aoc/familyjuvenile/Pages/default.aspx>) or the Supreme Court of Ohio's Office of Court Services, Children and Families Section, <https://www.sconet.state.oh.us/JCS/>). The purpose of this office is to help preserve and advance key family division operating goals in the NRS, such as supporting judicial specialization in juvenile and family law matters with state-of-the-art training, solutions to one-family-one-judge case assignment, optimal and domestic violence-informed use of nonadversarial dispute resolution, proactive caseload management tailored to the NRS provisions of each case type, and progressive use of technology. Increasing the AOC's specialized capacity to support family division operations will help the two jurisdictions achieve and sustain these important goals and take advantage of the proximity of the National Judicial College and NCJFCJ.

6. Support specialized, ongoing, domestic violence training. There currently is a critical need in both jurisdictions to train all staff on the dynamics of domestic violence and to implement model screening procedures. Training is needed not only for judges but also for hearing masters and anyone working directly with those whose cases may involve domestic violence. More than half of domestic violence incidents will not have been disclosed. Thus any court staff or court-related professionals interacting directly with litigants must be trained. This type of highly specialized, intensive and ongoing training

need is one of many examples that recommendation 5 is aimed at addressing and one that the NCJFCJ can help to support with technical assistance.

7. Consider expanding the District Court, Family Division’s assessment data collection to public forums and to judicial officers and stakeholders working in rural jurisdictions. The scope of this study was initially focused on the two urban district courts for which the NRS requires a coordinated family division model to be applied. During the study, NCJJ identified areas where investments in different or more detailed data collection are warranted. Two of the most important topics for further data collection are measuring public opinion about the family division model and addressing the model as it is applied in rural areas of the state. NCJJ’s findings can be used to develop a process to formally gather public opinion about the family division model through techniques such as polling and public hearings. In-person interviews with state and community policy-makers and leaders that were outside the scope of this initial study can be part of the methodology during this next phase. A goal of a phase two study should be to determine the communication pathways that are most effective for providing an ongoing client/family voice. For example, prior to developing this recommendation NCJJ reviewed all AOC websites from all 50 states and identified at least one state AOC that provides an informal complaint panel to address complaints or concerns about court operations. The informal complaint panel is specifically intended to constructively provide a forum for concerns before they rise to the level of a formal grievance (see, <https://www.ndcourts.gov/supreme-court/committees/informal-complaint-panel>). While this might be a solution worth considering, additional information needs to be collected in public gatherings and with planning methods that will encourage a strong response rate.

The subsequent phase should also measure the needs of rural jurisdictions to achieve objectives and expectations that are aligned with Nevada’s coordinated family division model (i.e., revisiting what the model is for a rural court and what implementation support may be required).

Introduction

During the mid-1980s, Nevada policy-makers began to consider the merits of various family court models (often referred to as Unified Family Courts or UFCs during that era, nationally, and hereinafter referred to as Nevada's coordinated family division model). Coordinated family divisions were first introduced as a distinct judicial operating model during the early 20th century as a judicial administration framework better suited to addressing the complex needs of families in court. Early judicial advocates of the model helped to popularize the concept and various family court models emerged in a handful of diverse jurisdictions across the nation, such as Toledo, OH; Des Moines, IA; St. Louis, MO; Omaha, NE; Portland, OR; and Baton Rouge, LA. The concept evolved and expanded during the 1950s, culminating in the publication of the *Standard Family Court Act* and the development of the first statewide family courts in Rhode Island, New York, Hawaii and South Carolina (National Council on Crime and Delinquency, 1959; and Page, 1993). By 1996, 23 states had adopted measures to consolidate, in whole or in part, legal matters that involve various family members in different legal proceedings (Hurst and Szymanski, 1996). At the same time, a number of national organizations also published policy statements supporting the trend toward establishing family courts, including the American Bar Association, Association of Family and Conciliation Courts, and NCJFCJ Nevada entered the movement in 1985 when legislation was introduced to create family courts in Washoe and Clark counties (Kuhn, 1991). The first bill did not pass but the policy discussion continued, eventually leading to Senate Joint Resolution 24, which introduced a referendum to amend the state Constitution such that the Nevada Legislature could have authority to enact the structural revisions. The measure appeared as Question 1 on the 1990 general election ballot and was passed, amended the state Constitution, and helped clear the path for a subsequent bill, SB 395, establishing family courts in Washoe and Clark counties effective January 1993 (Jordan, 1992).

The story of the legislative politics around the enabling legislation included conversations concerning appropriate case types for the new courts and debates such as whether juvenile delinquency should be part of the new family divisions, how the goals of specialization can be balanced with the peril of judicial burnout on emotionally draining assignments, the appropriate number of judicial positions for Washoe and Clark counties at the time, and the coordinated family division model as it might apply to rural jurisdictions. A host of compromises occurred, but in the end, the model implemented by the Nevada Legislature preserved many of the recommended features that a select few other states had implemented and that were recommended at the national level by the NCJFCJ in *Recommendations for a Model Family Court* (Katz and Kuhn, 1991). Twenty-five years later both Washoe and Clark counties have grown substantially in population size. Washoe County has several peer jurisdictions of similar size across the country operating a similar family division model, but Clark County has grown so rapidly that only the

family courts of New York City, which are organized at the borough/county-level are their peers operating a somewhat similar model. Over time, some large urban jurisdictions have conducted pilots but they have been limited to a suburban satellite court or to creating a hybrid model through an integrated intake process, without the goal of judicial specialization and retention in a combined family/juvenile division. Such examples are incomplete in comparison to the vision that Nevada implemented and many of them have been short-lived pilots that adopted parts or pieces of the Nevada menu for operating coordinated family divisions. This study re-affirms the importance of the vision that people of Nevada supported 2 to 1 in the referendum to amend the constitution and that the 66th Legislature thereafter crafted into SB 395.

Caseload Trends Reporting to the State

The NRS requires reporting of certain statistical information by district courts to the state court administrator (NRS 3.243). The AOC's Research and Statistics Unit provides analysis support for the Uniform System for Judicial Records (USJR) model. Interviews with AOC staff indicated a gradual progression in the quality and consistency of reporting on district court trends. Starting with Administrative Docket 0295 of 1999, the Supreme Court of Nevada administrative orders have incrementally increased the case type detail and consistency of reported data. By 2014, detailed case type reporting had expanded for all major case types and interviews suggest that accuracy is increasing each year. Pursuant to Administrative Docket 0398 of 2015 and in collaboration with the Nevada trial courts, the AOC has implemented certification procedures for court case management systems that identify and resolve inconsistencies that ensure the accurate and uniform reporting of data. In addition, the AOC receives, processes, and returns data to the district courts for verification. The advancement of reliable caseload data has required close communication and partnership with county/court information technology directors and court staff. As a result of these combined efforts, Nevada's USJR has moved from a ranking near the bottom of all states in 1999 to near the top (currently ranked 6th) by the National Center for State Courts. Current annual statistical reports and the statistical report appendix contain a high level of detail for specific family-related case types.

Washoe and Clark counties combined serve about 88% of Nevada's total population and about 90% of the children and youth population ages 0-17 within the state. In terms of overall filing statistics, combined Washoe and Clark counties account for 90% of all new family division filings (Washoe 16% and Clark 74%, respectively). The AOC report series is commendable for the details it gathers but a current limitation is that it does not display family division filings and dispositions across years in the level of detail required to present workload trends. NCJJ organized data from individual reports to develop the trends in Table 1 for Washoe County and Table 2 for Clark County. Fewer reporting

variability/inconsistencies exist within the adult or domestic relations case types than there is in juvenile case type reporting. Consistent with AOC interviews, the more recent years show greater progress toward consistency. Key findings for the adult or domestic relations case types include:

- In Washoe County between FY2014 and 2018, new filings across the adult case types increased 24% but reopened cases decreased 49% and dispositions decreased 11%.
- New filing increases in custody (non-divorce), requests for domestic violence protection, mental health cases, and guardianship cases are driving the increase.
- Clark County volumes are much higher than in Washoe County but overall new domestic relations filings have increased less dramatically than in Washoe, specifically, 10% between FY 2014 and 2018.
- Contributing to overall increases in Clark County adult cases are the case types for custody and visitation (non-divorce), child support enforcement (IV-D), adoption, mental health/involuntary commitment, and guardianship.
- Child support under the Uniform Interstate Family Support Act (IV-D UIFSA) case filings decreased in both jurisdictions (35% decrease in Washoe County and 64% in Clark County).
- Adult case types collapsed into an “other” category have decreased in Washoe County but increased in Clark County.

Trend highlights for the juvenile caseload include:

- For Washoe County, for the FY 2014 data year, the report notes reporting discrepancies but those discrepancies were reduced in subsequent years.
- Using 2015 as the base year, between 2015 and 2018, overall juvenile filings decreased 10% in Washoe County.
- In Washoe County, juvenile delinquency trended consistently at about 950 new filings annually but child abuse/neglect petitions as they are reported to the AOC decreased 29% between 2015 and 2018.
- Reporting for Clark County was more consistent going back to 2014. Between 2014 and 2018, overall juvenile filings decreased by about 9%.
- New filings for juvenile delinquency decreased 11% for Clark County and child abuse/neglect petitions decreased 6%.

Table 1: Washoe County Family Division Filing and Disposition Trends 2014-18

Family Division Case Type	Activity	2014	2015	2016	2017	2018	Trend
Adult Total *	New Filings (cases)	7,395	7,952	8,688	9,176	9,160	■ - ■ ■ ■ ■ ■ ■
	Reopened (cases)	4,019	512	1,067	1,235	2,034	■ - - - - - ■ ■
	Grand Total Dispositions	10,803	7,945	7,847	9,004	9,574	■ - - - - - ■ ■
Marriage Dissolution	New Filings (cases)	2,205	2,160	2,231	2,209	2,214	■ - ■ ■ ■ ■ ■ ■
	Reopened (cases)	NR	313	471	478	828	■ - ■ ■ ■ ■ ■ ■
	Total Dispositions	3,416	1,872	1,756	2,237	2,439	■ - - - - - ■ ■
Paternity	New Filings (cases)	51	26	45	25	23	■ - ■ - - - - - ■ ■
	Reopened (cases)	NR	19	12	19	24	■ - - - - - ■ ■
	Total Dispositions	65	50	25	33	28	■ - ■ - - - - - ■ ■
Visitation (Non-Divorce)	New Filings (cases)	NR	26	24	21	23	■ - ■ ■ ■ ■ ■ ■
	Reopened (cases)	NR	1	0	0	0	■ - - - - - ■ ■
	Total Dispositions	NR	10	20	16	22	■ - ■ ■ ■ ■ ■ ■
Adoption	New Filings (cases)	203	199	149	155	186	■ - ■ - - - - - ■ ■
	Reopened (cases)	NR	3	3	3	12	■ - - - - - ■ ■
	Total Dispositions	116	153	121	151	175	■ - - - - - ■ ■
Custody (Non-Divorce)	New Filings (cases)	430 ^a	439	417	456	548	■ - ■ ■ ■ ■ ■ ■
	Reopened (cases)	NR	125	173	198	341	■ - ■ ■ ■ ■ ■ ■
	Total Dispositions	666	348	330	379	513	■ - - - - - ■ ■
IV-D UIFSA ^b	New Filings (cases)	1,329	1,272	1,085	1,037	864	■ - ■ ■ ■ ■ ■ -
	Reopened (cases)	NR	29	376	518	771	■ - - - - - ■ ■
	Total Dispositions	2,971	2,054	1,596	1,178	1,324	■ - ■ - - - - - ■ ■
IV-D Intrastate ^b	New Filings (cases)	0	0	0	0	0	■ - - - - - ■ ■
	Reopened (cases)	0	0	0	0	0	■ - - - - - ■ ■
	Total Dispositions	0	0	0	0	0	■ - - - - - ■ ■
State Initiated (TPR) Petition	New Filings (cases)	105	95	93	121	152	■ - - - - - ■ ■
	Reopened (cases)	NR	0	0	1	0	■ - - - - - ■ ■
	Total Dispositions	87	114	97	66	125	■ - ■ ■ ■ ■ ■ ■
Other (TPR) Petition	New Filings (cases)	118	0	0	0	0	■ - - - - - ■ ■
	Reopened (cases)	NR	1	0	3	1	■ - - - - - ■ ■
	Total Dispositions	122	0	0	0	0	■ - - - - - ■ ■
Request for Domestic Violence Protection Orders (TPOs)	New Filings (cases)	1,604	1,576	2,238	2,200	2,148	■ - - - - - ■ ■
	Reopened (cases)	NR	7	7	9	44	■ - - - - - ■ ■
	Total Dispositions	2,088	1,453	1,577	2,028	2,002	■ - - - - - ■ ■
Mental Health (Involuntary Commitment)	New Filings (cases)	759	1,723	2,000	2,437	2,464	■ - ■ ■ ■ ■ ■ ■
	Reopened (cases)	NR	0	0	1	0	■ - - - - - ■ ■
	Total Dispositions	845	1,658	1,972	2,385	2,409	■ - ■ ■ ■ ■ ■ ■
Guardianship	New Filings (cases)	339	348	321	415	446	■ - - - - - ■ ■
	Reopened (cases)	NR	14	22	1	4	■ - ■ - - - - - ■ ■
	Total Dispositions	262	168	286	450	441	■ - - - - - ■ ■
Other Domestic Relations	New Filings (cases)	252	87	83	99	89	■ - - - - - ■ ■
	Reopened (cases)	4,019 ^c	0	3	4	9	■ - - - - - ■ ■
	Total Dispositions	165	64	66	81	96	■ - - - - - ■ ■
Juvenile Total *	New Filings (cases)	2,228	1,537	1,376	1,420	1,384	■ - - - - - ■ ■
	Reopened (cases) ^d	NR	NR	1	0	0	■ - - - - - ■ ■
	Grand Total Dispositions	1,069	1,047	889	1,142	1,148	■ - ■ - - - - - ■ ■
Delinquency	New Filings (cases)	939	915	881	953	942	■ - ■ - - - - - ■ ■
	Reopened (cases) ^d	0	0	1	0	0	■ - - - - - ■ ■
	Total Dispositions	666	492	349	601	625	■ - ■ - - - - - ■ ■
Child Abuse/Neglect Petition	New Filings (cases)	1,289	622	495	467	442	■ - - - - - ■ ■
	Reopened (cases) ^d	NR	NR	0	0	0	■ - - - - - ■ ■
	Total Dispositions	403	555	540	541	523	■ - ■ ■ ■ ■ ■ ■

* Totals include filings, reopened cases, and dispositions of detailed cases that may not be included in the table but are available in source reports. (i.e., adult other support, juvenile status petitions, juvenile miscellaneous petitions, dependent no fault, and other dependency child victim reports.)

^a Custody (Non-Divorce) includes Other Support.

^b IV-D UIFSA includes all IV-D matters.

^c Reopened cases are for all family case types.

^d Reopened cases under-reported.

^{NR} Not Reported

Source: Adapted from the report series, Annual Report of the Nevada Judiciary Appendix Tables (FY 14-18).

Table 2: Clark County Family Division Filing and Disposition Trends 2014-18

Family Division Case Type	Activity	2014	2015	2016	2017	2018	Trend
Adult Total *	New Filings (cases)	38,708	39,693	41,167	42,853	42,545	- ■ ■ ■ ■ ■
	Reopened (cases)	15,453	17,828	22,337	26,005	21,105	- ■ ■ ■ ■ ■
	Grand Total Dispositions	52,090	54,952	61,212	64,391	68,060	- ■ ■ ■ ■ ■
Marriage Dissolution	New Filings (cases)	12,495	12,895	12,967	12,847	12,441	- ■ ■ ■ ■ ■
	Reopened (cases)	2,926	2,721	2,877	2,856	2,972	■ ■ ■ ■ ■
	Total Dispositions	15,464	15,502	16,299	16,131	15,557	- ■ ■ ■ ■ ■
Paternity	New Filings (cases)	345	313	268	250	242	■ ■ ■ ■ ■
	Reopened (cases)	243	228	239	215	201	■ ■ ■ ■ ■
	Total Dispositions	635	538	545	539	430	■ ■ ■ ■ ■
Visitation (Non-Divorce)	New Filings (cases)	44	59	76	49	51	- ■ ■ ■ ■ ■
	Reopened (cases)	8	6	10	14	29	- ■ ■ ■ ■ ■
	Total Dispositions	45	54	72	83	85	- ■ ■ ■ ■ ■
Adoption	New Filings (cases)	678	715	755	751	773	- ■ ■ ■ ■ ■
	Reopened (cases)	14	9	10	16	22	- ■ ■ ■ ■ ■
	Total Dispositions	708	722	765	776	809	- ■ ■ ■ ■ ■
Custody (Non-Divorce)	New Filings (cases)	1,440	1,703	1,912	2,134	2,159	- ■ ■ ■ ■ ■
	Reopened (cases)	731	858	994	1,061	1,141	- ■ ■ ■ ■ ■
	Total Dispositions	2,049	2,342	2,852	3,135	3,376	- ■ ■ ■ ■ ■
IV-D UIFSA	New Filings (cases)	1,192	1,184	1,263	1,243	426	■ ■ ■ ■ ■
	Reopened (cases)	818	1,058	1,464	2,132	2,671	- ■ ■ ■ ■ ■
	Total Dispositions	2,212	2,344	2,174 ^a	2,044	5,620	■ ■ ■ ■ ■
IV-D Intrastate	New Filings (cases)	4,321	3,448	4,066	4,851	5,489	- ■ ■ ■ ■ ■
	Reopened (cases)	1,141	1,717	2,255	3,254	3,289	- ■ ■ ■ ■ ■
	Total Dispositions	3,656	3,632	3,553 ^a	4,286	10,133	- ■ ■ ■ ■ ■
State Initiated (TPR) Petition	New Filings (cases)	448	484	410	413	279	■ ■ ■ ■ ■
	Reopened (cases)	18	18	13	25	14	- ■ ■ ■ ■ ■
	Total Dispositions	454	535	393	527	424	■ ■ ■ ■ ■
Other (TPR) Petition	New Filings (cases)	318	313	310	391	378	- ■ ■ ■ ■ ■
	Reopened (cases)	18	10	19	16	21	- ■ ■ ■ ■ ■
	Total Dispositions	368	320	314	401	434	- ■ ■ ■ ■ ■
Request for Domestic Violence Protection Orders (TPOs)	New Filings (cases)	7,485	7,680	7,790	8,392	8,744	- ■ ■ ■ ■ ■
	Reopened (cases)	323	85	72	33	50	■ ■ ■ ■ ■
	Total Dispositions	8,042	7,423	7,318	8,084	12,141 ^b	- ■ ■ ■ ■ ■
Mental Health (Involuntary Commitment)	New Filings (cases)	7,004	7,610	7,769	7,931	7,704	- ■ ■ ■ ■ ■
	Reopened (cases)	9,039	10,923	12,785	14,268	8,962	- ■ ■ ■ ■ ■
	Total Dispositions	15,568	18,556	20,494	21,959	12,829	- ■ ■ ■ ■ ■
Guardianship	New Filings (cases)	1,609	1,725	1,803	1,660	1,724	- ■ ■ ■ ■ ■
	Reopened (cases)	31	49	1,466	1,996	1,579	- ■ ■ ■ ■ ■
	Total Dispositions	1,466	1,381	4,548 ^a	4,292	3,830	- ■ ■ ■ ■ ■
Other Domestic Relations	New Filings (cases)	1,329	1,564	1,778	1,941	2,128	- ■ ■ ■ ■ ■
	Reopened (cases)	143	146	133	119	154	■ ■ ■ ■ ■
	Total Dispositions	1,423	1,603	1,885	2,134	2,386	- ■ ■ ■ ■ ■
Juvenile Total *	New Filings (cases)	6,675	6,761	5,991	5,889	6,046	■ ■ ■ ■ ■
	Reopened (cases)	687	891	734	677	622	- ■ ■ ■ ■ ■
	Grand Total Dispositions	7,747	6,536	6,324	6,319	5,971	■ ■ ■ ■ ■
Delinquency	New Filings (cases)	5,192	5,216	4,457	4,437	4,643	■ ■ ■ ■ ■
	Reopened (cases)	634	828	670	629	571	- ■ ■ ■ ■ ■
	Total Dispositions	4,864	4,787	4,725	4,708	4,515	■ ■ ■ ■ ■
Child Abuse/Neglect Petition	New Filings (cases)	1,475	1,536	1,522	1,423	1,392	- ■ ■ ■ ■ ■
	Reopened (cases)	53	63	64	48	50	- ■ ■ ■ ■ ■
	Total Dispositions	2,883	1,720	1,597	1,596	1,383	■ ■ ■ ■ ■

* Totals include filings, reopened cases, and dispositions of detailed cases that may not be included in the table but are available in source reports. (i.e., adult other support, juvenile status petitions, juvenile miscellaneous petitions, dependent no fault, and other dependency child victim).

^a Reported dispositions exclude 44,183 administrative closures of older IV-D UIFSA cases, 20,831, IV-D Intrastate cases, and 4,978 guardianship cases to provide a better representation of current cases addressed by the court this fiscal year.

^b Includes administrative closures.

Source: Adapted from the report series, Annual Report of the Nevada Judiciary Appendix Tables (FY 14-18).

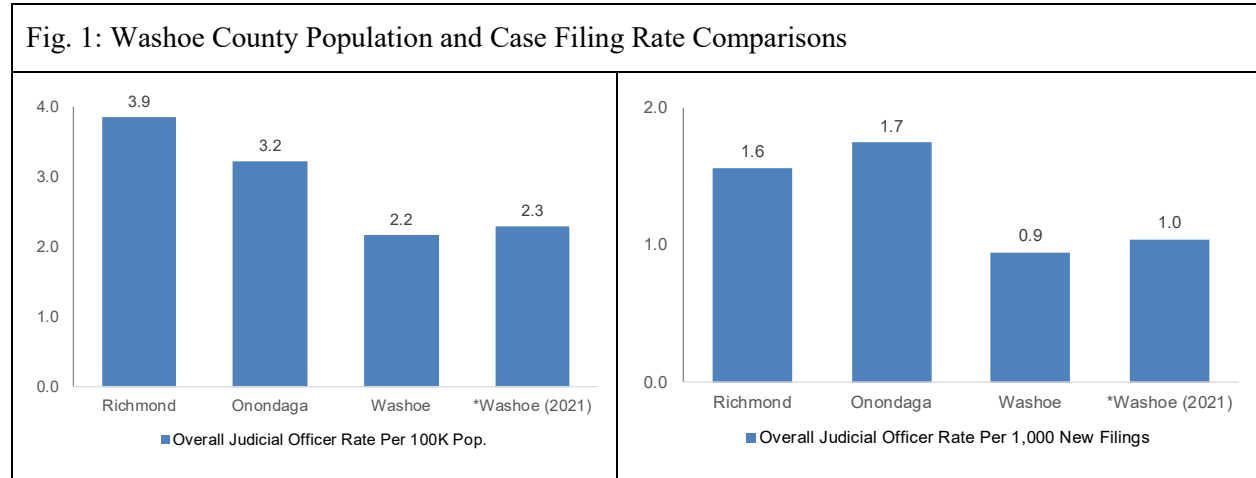
Judicial Officer Resource Comparison

What constitutes a reasonable judicial workload has been an ongoing challenge since the creation of the coordinated family divisions in Washoe and Clark counties. The timeframe and scope for this study required a starting place for discussing the adequacy of judicial officer resources in Washoe and Clark counties. NCJJ proposed a normative method involving comparisons across similar size jurisdictions of judicial officer resources assigned to the family division/court (Hurst 1999). The size of Clark County limits the number of comparison jurisdictions to the family courts operating in boroughs/counties of New York City (Table 3). However, in terms of the region, Maricopa County, AZ is considered more relatable to Clark County by project stakeholders and therefore were added to enable comparisons.

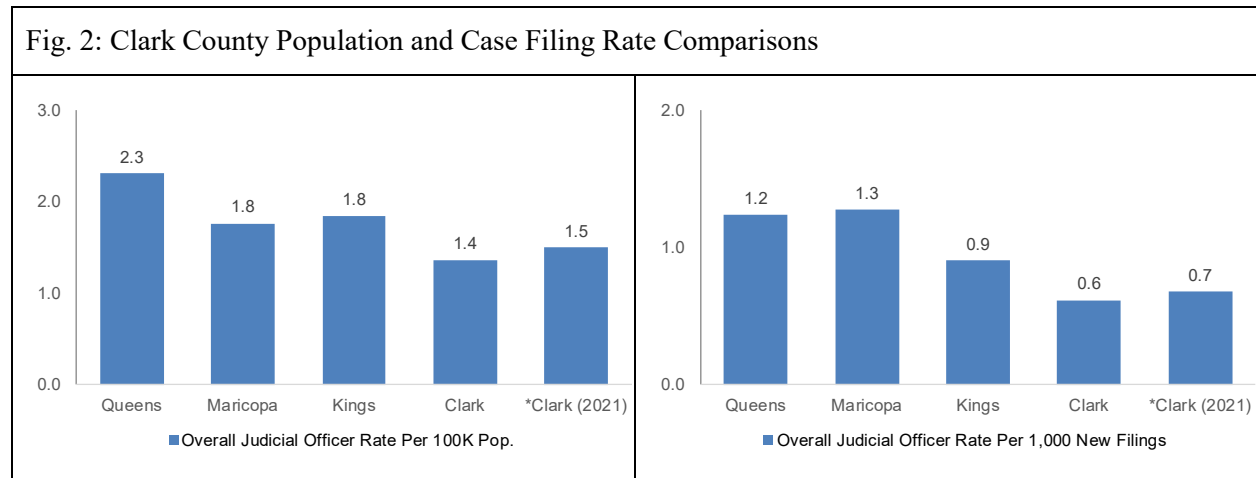
Table 3: Judicial Officers Available to Hear Juvenile and Family Cases in Selected Jurisdictions

County	Total Population	Family Div. New Filings (2018)	Judge FTE	Hearing Master/Officer FTE	Overall Judicial Officer FTE	Judge Rate Per 100K Pop.	Judge Rate Per 1,000 New Filings	Overall Judicial Officer Rate Per 100K Pop.	Overall Judicial Officer Rate Per 1,000 New Filings
Washoe Co. Comparison Set									
Staten Island Family Court, New York, NY (1) (2)	479,458	11,843	8	10.5	18.5	1.7	0.7	3.9	1.6
Second Judicial District, Family Division, Reno Nevada (2019 judicial resources)	460,587	10,544	6	4	10	1.3	0.6	2.2	0.9
Second Judicial District, Family Division, Reno Nevada (2021 judicial resources)	475,902	10,544	7	4	11	1.5	0.7	2.3	1.0
Onondaga County Family Court, Syracuse, NY (1) (2)	465,398	8,584	7	8	15	1.5	0.8	3.2	1.7
Clark Co. Comparison Set									
Maricopa County Superior Court, Phoenix, AZ (3)	4,307,033	59,766	51.5	24.5	76	1.2	0.9	1.8	1.3
Kings (Brooklyn) Family Court, New York, NY (1) (2)	2,648,771	54,194	27	22	49	1.0	0.5	1.8	0.9
Queens Family Court, New York, NY (1) (2)	2,358,582	44,074	37	17.5	54.5	1.6	0.8	2.3	1.2
Eighth Judicial District, Family Division, Las Vegas, NV (2019 judicial resources)	2,204,079	48,591	20	10	30	0.9	0.4	1.4	0.6
Eighth Judicial District, Family Division, Las Vegas, NV, (2021 judicial resources)	2,243,694	48,591	26	7	33	1.2	0.5	1.5	0.7
<p>(1) New York family courts do not have jurisdiction over divorce matters. The Unified Courts of New York graciously assisted with augmenting the judicial officer FTEs for family court with FTEs allocated to divorce (matrimonial matters heard in the Supreme Court for Civil Matters).</p> <p>(2) New York family court case filings for 2018 were provided by the Unified Courts of New York for each comparison jurisdiction. The family court statistics were augmented by estimating the divorce filings based on the New York State Unified Court System 2018 Annual Report and the proportion of cases divorces represented in Supreme Civil Court new filings statewide (about 25%).</p> <p>(3) Maricopa County, Arizona serves a population size two times greater than that of Clark County and the court structure is specialized with juvenile, family and probate departments.</p>									
<p>Sources: Annual Report of Nevada Judiciary Fiscal Year 2018 Appendix Tables, online, https://nvcourts.gov/Supreme/Reports/Annual_Reports/2018_Annual_Report/; Public Information Office, Unified Courts of New York; New York State Unified Court System 2018 Annual Report, online, https://www.nycourts.gov/legacypdfs/18_UCS-Annual_Report.pdf; 2021 population estimates. Nevada County Population Projections 2015 to 2034, online, https://tax.nv.gov/uploadedFiles/taxnv.gov/Content/TaxLibrary/Nevada_County_Population_Projections_2015-2034.pdf</p>									

Based on rates calculated for overall judicial officers available to hear family division cases (the last two columns of Table 3), both Washoe and Clark counties have fewer resources than any of their respective comparison jurisdictions. In the instance of Washoe County, they currently (2019) have one less full-time position than either Richmond or Onondaga counties, NY for every 100,000 total population served (Fig. 1). The differences are also pronounced when considering the rate by new family division filings.



When making rate comparisons based on the total population served and the most recent available year of family division case filings, Clark County also appears to be operating with fewer judicial officer resources than its comparison jurisdictions (Fig 2). For example, compared to Queens County, NY, Clark County has 0.9 fewer full-time judicial positions available per 100,000 total population in 2019. The differences are less pronounced for Maricopa County, AZ or Kings County, NY, but still represent 0.4 fewer overall judicial positions per 100,000 total population.



The Nevada Legislature is responding to the workload pressure with additional judicial allocations authorized for 2021. This normative workload comparison incorporated a separate line (bar) for the 2021 allocations for both Nevada jurisdictions in Figures 1 and 2, however, both jurisdictions will continue to operate at a deficit in comparison to comparably sized jurisdictions. In the absence of national standards for judicial officer resources assigned to family divisions, this report provides initial estimates of the magnitude of the judicial officer deficit based on the norms of other jurisdictions. In other words, how many additional judicial officer FTEs need to be added in the family divisions of Washoe and Clark counties for them to be resourced at levels comparable to other relatable jurisdictions. To calculate the deficit the following formula was used:

$$\frac{X \text{ (no. of addtl. judicial officers for Washoe or Clark)}}{\text{Total population for Washoe or Clark}} = \frac{\text{Comparison jurisdiction's overall judicial officer rate}}{100,000}$$

Based upon the future (2021) overall judicial officer resource allocations in Nevada:

- Washoe County requires an additional 4.2 judicial FTEs to match the 3.2 judicial FTEs available per 100,000 total population in Onondaga County, NY Family Court, on the low end, and an additional 7.5 FTE judicial officer positions to match the overall judicial officer rate in Staten Island, NY Family Court, on the high end.
- Clark County requires an additional 7.4 FTE judicial officer positions to match the overall judicial officer rate per 100,000 total population in Maricopa County, AZ Superior Court or the Kings County, NY Family Court, on the low end, and an additional 18.6 judicial officer positions to match the resources rate of the Queens County, NY Family Court.

These estimates address the anticipated deficit using the 2021 allocations with the comparison jurisdictions as they are currently resourced and do not consider population growth projections beyond 2021 or weight the needs for allocations by family division case type.

Stakeholder Surveys

A primary data collection activity for this study was the administration of an electronic stakeholder survey to judicial officers (judges and hearing masters) in Washoe and Clark counties and a separate stakeholder survey for staff in agencies that work closely with the respective family divisions. The judicial officer survey was administered in late April 2019 and the companion stakeholder survey was administered in June. Both surveys had the same overarching question format so that most of the findings can be reported together. The purpose of the surveys was to reach as many of the professionals working

day-to-day in the family courts and measure their attitudes regarding the goals of family court and the performance of their respective family divisions.

Survey participation among judicial officers was robust. All of the judges and hearing masters in each jurisdiction responded and completed all survey questions. The Supreme Court strongly encouraged judicial officer participation but respondents were not asked to enter their name. At the suggestion of judicial survey testers from Nevada (retired urban and sitting rural judges) most questions had a place for open-ended comments to be entered. Many judicial officer respondents took advantage of this design to provide specific commentary. Selected comments are included for each survey question after the result tables or summaries. To preserve anonymity, comments that could identify an individual are omitted and responses are organized across both jurisdictions and respondent types. The stakeholder survey was administered to expand the voice of those who could not be reached during on-site interviews. Each family division administrator provided a listing of agency leaders and staff and had some flexibility to customize their respective distribution lists. In Washoe County, 48 family division staff were invited to participate and 81 juvenile and family bar members were directly emailed the survey. Additionally, 28 leaders of agencies that work with the family division on a regular basis were invited to participate. The leaders of the child welfare and juvenile justice agencies were invited to share the invitation with their staff. NCJJ received 70 responses to the stakeholder survey from Washoe County. Among respondents 32% (22) identified as family division staff, 31% (21) as private attorneys, 9% (6) as legal services, 7% (5) as district attorney, 9% (6) as public defender, 6% (4) as family services, 1% (1) as sheriff's office, and 4% (5) did not identify their agency or skipped the question. The small number of respondents who identified with a social services role was a limitation of the Washoe stakeholder survey findings.

In Clark County, 103 family division staff, including the clerk's office, were invited to participate. The chairs of the juvenile and family bar invited their members to participate and agency leaders of child welfare and juvenile justice agencies were invited to share the invitation with their staff. NCJJ received 48 responses to the stakeholder survey from Clark County. Among stakeholder respondents, 63% (30) identified as a family division staff/clerks, 19% (9) as legal services staff, 6% (3) as probation staff, 4% (2) as CASA program staff, 2% (1) as a private attorney, and 3 respondents skipped the question. Survey coverage among the bar was disappointing and a limiting factor for Clark County survey findings. Similar to Washoe County, the response from stakeholders identifying as a social service agency role was also low and a limitation.

Judicial Officer Specialization

Judicial specialization within the family division was a goal for the 1990's coordinated family division reforms. Survey results indicate considerable longevity in both jurisdictions among judges, but also among stakeholders that responded to the survey. The survey data indicate that about one-third of the judges in Washoe County had been in their current assignment more than 10 years, one-third had been in their position between 3 and 10 years, and one-third had been in their position for 2 years or less. Among Washoe County stakeholder respondents, about 41% reported experience more than 10 years, 41% between 3 and 10 years, and 17% for 2 years or less.

In contrast, nearly half of the family division judges in Clark County (48%) indicated a length of service in the family court more than 10 years, about 40% reported experience between 3 and 10 years, and 3 judges or hearing masters reported experience of 2 years or less. Among Clark County stakeholder respondents, 43% had been in their current assignments more than 10 years, 32% between 3 and 10 years, and 25% for 2 years or less.

Judicial officers also reported a broad range of experience with family division case types. In Washoe County, two-thirds of judicial officers reported experience with child support (67%); temporary protection orders (67%); and 56% reported experience with paternity, custody, inter-jurisdictional enforcement of support, termination of parental rights, adoption of child and adoption of adult (56% each). Fewer Washoe County judicial officers reported experience with juvenile case types or guardianships of minors and adults than did for domestic relations case types.

In Clark County, more than half of judicial officers reported experience with child support (83%), adoption of children (79%), termination of parental rights (76%), minor guardianship (76%), paternity (69%), visitation (69%), divorce/dissolution (66%), custody (66%), name changes (59%), inter-jurisdictional enforcement of support (52%), and adoption of adults (52%). This survey finding supports interview observations that most judges and hearing masters were comfortable with the potential breadth of assignments they can receive in the family division operating model. Fewer respondents had experience with juvenile case types, temporary protection orders, and adult guardianship and conservatorship case types.

Family Division Operating Goals

The survey design integrated some of the commonly accepted trial court operating goals that have also been applied to family courts in other states (see Babb and Kuhn, 2002). Most judges and hearing masters in both jurisdictions agreed or strongly agreed that the family division operating model should support:

- Access to Justice: Families need to have easy-to-use and affordable access (in terms of both cost and duration of litigation) to courts with proceedings that are understandable, especially to parties without lawyers.
- Expeditious and Timely Disposition: Effective and efficient case processing from intake to resolution that limits delays and minimizes ongoing exposure to adversarial hearings.
- Equity, Fairness, and Integrity: Courts need to coordinate all of the relevant family information and provide appropriately trained judicial officers to ensure adequate individual attention to the issues involved in each case, maximize the consistency of treatment across cases and decisionmakers, and minimize conflicting orders.
- Independence and Accountability: To effectively use public resources, courts need to coordinate their support for families with human service agencies and the community-at-large, increase coordination between social agencies, reduce conflicting orders, expedite matters for families in court and shorten the time children must remain in court.
- Public Trust and Confidence: Courts need the trust and confidence of the public to maintain a credible role in addressing family legal issues.

Judges and hearing masters in Washoe County are unanimous in agreeing or strongly agreeing with the above goals as elements of the family division operations. There is also general agreement in Clark County with these principles. However, in Clark County, a few judicial officer respondents (4 among 29) either disagreed or strongly disagreed with expeditious and timely disposition and independence and accountability being goals for family division operations in Nevada.

Case Coordination

In Washoe County, three-quarters of judicial officer respondents (7 of 9) either agreed or strongly agreed that consolidating juvenile and family law cases improves coordination and management of cases involving the same family and should be an operational objective of the family division. Two respondents neither disagreed/nor agreed (Table 4).

In Clark County, about half of judicial officer either agreed or strongly agreed that case coordination or consolidation in juvenile and family law cases improves the management of cases involving the same family. About one-quarter of judicial officer respondents were neutral and one quarter disagreed or strongly disagreed the policy has a benefit. In contrast, over two-thirds of the Clark County stakeholders responding to the survey agreed or strongly agreed that the family division operating model improves case management within the family division.

Table 4: To what extent do you agree that consolidating juvenile and family law cases improves the coordination and management of cases involving the same family? (i.e., the same judge hears all case types related to the same family)

	Strongly disagree		Disagree		Neither		Agree		Strongly agree		Total
Washoe judicial	0.0%	0	0.0%	0	22.2%	2	33.3%	3	44.4%	4	9
Washoe stakeholders	7.5%	5	6.0%	4	10.5%	7	37.3%	25	38.8%	26	67
Clark judicial	10.7%	3	14.3%	4	25.0%	7	17.9%	5	32.1%	9	28
Clark stakeholders	7.5%	3	15.0%	6	10.0%	4	25.0%	10	42.5%	17	40

Sources: Nevada Family Court Assessment Judicial Officer Survey and the Nevada Family Court Assessment Stakeholder Survey.

Survey respondents noted question phrasing and definitional challenges for this question that can be improved in the future (e.g., the definition of case consolidation in contrast to case coordination).

However, the comments under this question were extensive, insightful and helped to refine the on-site interview protocols. Selected comments across jurisdictions and respondent groups include:

- I agree in principle. However, it may be challenging to schedule stakeholders going into several courtrooms and every judge having the appropriate legal and current knowledge to handle each case type including being aware of any Federal regulations and legislative changes that occur every 2 years.
- For clarification, we rarely consolidate one case type into another; such practice is disfavored as distinct issues are often lost in case consolidation of one case type into another.
- While this may be a laudable goal, the Courts do not act in a vacuum but must be cognizant of the limitations of other agencies (e.g., District Attorney, CAP attorneys, Parent attorneys, child protection agencies, support agencies) to staff multiple courts simultaneously.
- Child protection is a specialized area of fact and law which does not lend itself to easy replication among all judicial officers.
- The Family Division uses a one-judge-one family protocol in which related cases are heard by a single judge except for specialized areas largely heard by Family Court Masters.
- Although the [we] follow one-judge-one-family principles for civil-domestic matters, the expansion of these principles to juvenile dependency and delinquency might create problems.
- Would avoid inconsistency in decisions and more consolidation in decision making.
- Our jurisdiction has a heavy caseload. I have heard of this in other jurisdictions, but have not seen actual data on the size of the caseload in such jurisdictions. I would be interested in this idea if it can be managed properly and does not result in delays in the court proceedings.
- One Judge One Family has been an aspirational goal for Family Court. However, the complexity of implementing this means that, in reality, the Court falls far short of this.
- Though some judges are better than others, having one judge hear all matters makes sense.
- Stakeholders are better able to serve the families when receiving direction from one judge. Families experience less time in Court and are more accountable when receiving direction from one Judge.
- I find it unusual to have issues in one area without parallel or corollary issues [in] another. Domestic violence between parents always has an effect on the children.

- Where a party intends to keep facts or circumstances out of the knowledge of the courts, it is more difficult to do that when the judge can see the whole picture.

In responding to a question concerning how case consolidation is accomplished in the two jurisdictions, judicial officers in both jurisdictions differed in their explanations of how case consolidation through assignment occurs. In Washoe County, about one-third of judicial officers indicated that the case assignment is systematic but is only for select case types or does not occur (Table 5). In Clark County, a greater proportion of judicial officer respondents indicated consolidation occurring through selective requests across departments.

	Washoe		Clark	
Systemically across all eligible case types	0.0%	0	6.9%	2
Systematically, but for select case types only (e.g., delinquency and dependency)	33.3%	3	13.8%	4
Selectively by request from other departments	0.0%	0	27.6%	8
There is no consolidation of juvenile and family law cases in my department	33.3%	3	27.6%	8
Other (please specify) (see comments below table)	33.3%	3	24.1%	7

Source: Nevada Family Court Assessment Judicial Officer Survey.

Comments for this question that are associated with the other (specify) category included:

- Such consolidation is done on a case by case basis, by placing eligible cases into a [special docket] caseload.
- Not necessarily consolidation in the traditional sense of consolidating cases, but I do work with other departments to coordinate in order to hear certain cases involving the same families/juveniles on a selective/case-by-case basis when I see appropriate related cases. It has, however, to date been relatively rare.
- I know delinquency and dependency are heard together for cases designated as Project One, but not all children who have both types of these cases are assigned to Project One. I'm not sure how the assignment occurs.
- Don't believe that technical consolidation is always appropriate, but as to Family Court custody matters I am assigned to, it is critical that I am aware of, and have access to, relevant juvenile files that may potentially impact my decisions. It is critical to be fully informed of all relevant proceedings involving the care of the minors at issue.
- Civil-domestic matters are related to one another and heard by the same judicial department. We have started the relating of juvenile dependency and delinquency matters.
- Custody decisions in family cases are held in abeyance if there is a pending dependency case unless the dependency officer specifically authorizes the other court to proceed.
- Unsure about the definition of the term.

In both counties, there was more divergence of opinion on identifying the most needed resource to function optimally under the case coordination goal of coordinated family divisions (Table 6). In Washoe County, judicial training and additional positions were the most frequent responses. In Clark County, the most frequent response was better technology to identify related family cases at filing, followed by more judicial training to learn all case types.

Table 6: What resources are required to fully coordinate family cases? (i.e., systematically consolidate all case types before the same judge.) Select all that apply.

	Washoe		Clark	
Better technology to identify related family cases at filing	55.6%	5	64.3%	18
More judicial training to learn all case types a family court judge or master may be assigned	88.9%	8	53.6%	15
Additional judicial positions (new departments)	77.8%	7	50.0%	14
Additional hearing master positions	33.3%	3	35.7%	10
Other (please specify) (see comments below table)	55.6%	5	42.9%	12

Source: Nevada Family Court Assessment Judicial Officer Survey.

Selected comments across jurisdictions provide rich insights into the challenges of achieving this family division operating goal and include:

- Full consolidation, without exception, will require available time each day for each judge to meet hearing demands of exigent cases such as mental health commitments, orders of protection, child welfare protective custody hearings, juvenile detention hearings, and other emergency matters while also accommodating the ongoing demands of non-emergency domestic matters in a manner that disposes of all cases in a timely and responsive manner.
- Attorney stakeholders such as district attorneys, public defenders, CASA representatives, domestic violence advocates and other stakeholders associated with specialized casework would be spread thin between all Departments in a manner that could slow down [the] disposition of cases based on [the] unavailability of necessary counsel.
- If this model were fully implemented, judges would be capable of adjudicating all manner of cases, with some requiring additional training.
- Additional case managers would also be necessary. Although I disagree that this is the appropriate model for all cases.
- Judicial silos make consolidation of all cases involving a single family not possible.
- Changes in how cases are docketed in order to set/hear the same family. Working with stakeholders regarding the docket given the limited number of DAs, PDs, alternate PDs, probation, parole, and WCHSA (formerly CPS) stakeholders who also participate in these hearings.
- Address issues related to juvenile delinquency cases being heard at a separate courthouse at Jan Evans removed and distant from the Family Court.
- Additional court staff to help relate and identify cases that technology misses.
- Family Court judges having full access to juvenile files, and CPS records. Also, when the Family Court custody case appears on the screen, any relevant juvenile case [numbers] should also appear on screen, even if the two cases may never be consolidated.

- We may be able to reassign some existing hearing masters but would need additional hearing masters assigned to work with each department. For example, we could assign one hearing master to work with each existing judicial department.
- All agencies who staff specialty courts would need to have sufficient staff positions to staff all courts.
- Coordination with community partners and appropriate staffing by such partners to cover 20+ potential departments. Also, we currently have exceptional technology that has been working diligently to coordinate one-judge-one-family assignments. This is a work in progress that, at times, has generated some frustration. However, working together, we should be on our way to completing this process in the civil-domestic arena.
- If one was to coordinate delinquency/dependency cases with regular domestic cases, the requirements to effectively do so would, in my opinion, be extremely difficult and could lead to less effective handling of these cases with vast inconsistency of decision which could even draw in Constitutional concerns.

Alternative Dispute Resolution (ADR)

In Washoe County, most respondents indicated that the family division encourages the resolution of disputes before the court through non-adversarial methods (hereinafter ADR) (Table 7). Specifically, 7 of 9 judicial officer respondents indicated this happens a lot or a great deal. A similar proportion of Washoe County stakeholders believe the family division promotes ADR a lot or a great deal. Very few stakeholders indicated none at all. In Clark County, most judicial respondents also thought that their family division engaged in ADR a lot (22%) or a great deal (52%).

Table 7: To what extent does your department encourage the resolution of disputes before the court through non-adversarial methods?													
	None		A Little		Moderately		A Lot		A Great Deal		Unsure		Total
Washoe Judicial	22.2%	2	0.0%	0	0.0%	0	22.2%	2	55.6%	5	0%	0	9
Washoe Stakeholders	1.5%	1	4.5%	3	19.4%	13	20.9%	14	52.2%	35	1.5%	1	67
Clark Judicial	0.0%	0	14.8%	4	11.1%	3	22.2%	6	51.9%	14	0%	0	27
Clark Stakeholders	2.6%	1	7.7%	3	12.8%	5	10.3%	4	59.0%	23	7.7%	3	39

Sources: Nevada Family Court Assessment Judicial Officer Survey and the Nevada Family Court Assessment Stakeholder Survey.

Selected comments across jurisdictions and respondent groups include:

- I spend many hours voluntarily serving as a Settlement Judge for cases assigned to other departments. As to the cases assigned to my department, I am known for exploring a resolution on as many issues as the parties and attorneys are willing to discuss.
- We routinely offer mediation in termination of parental rights cases.
- This Court recommends the parties utilize alternative dispute resolution in all cases. The unfortunate part about the process is the lack of resources. Additionally, affecting the process

is the court's inability to spend enough time with the families to craft orders that are necessary to prevent ongoing litigation and multiple visits to the courtroom.

- We have various resources at low or no charge to litigants, such as [the] Family Mediation Center, UNLV mediation, Judicial Settlement Program and [a] Senior Judge Settlement Program. Most parties are assigned to at least one, if not two, alternative dispute resolution venues to assist in settlement.
- Mediation and Settlement Conferences are the norm, not the exception. Non-adversarial resolution is a major component of the family division mission statement. We all know that families have better outcomes when they have a voice in the process.
- The Judges most successful with this process give the participants active feedback on what they can expect moving forward, including both strengths and weaknesses of their cases based on the known facts and applicable law, and also warn as to risks in maintaining an unwinnable position.
- I am unaware of all services Nevada court provides to ensure alternative resolutions. This would be interesting to review stats if there are any.
- Most judges encourage the parties to resolve their issues on their own if they are able to do so prior to the Court's involvement and suggest and/or refer to attempt a resolution.

After addressing overarching goals and provisions specific to the family division model as the legislature establishes in the NRS, both the judicial and stakeholder surveys organized questions about family division operations into the five overarching family court goals (see p. 17). The questions were designed to provide a sense of how the courts operate and to prepare for site visits interviews.

Access to Justice

The judicial survey asked a yes/no question about whether non-traditional court hours were offered. In Washoe County, all judicial officer respondents indicated, no. In Clark County, all of the respondents indicated that the family division does not currently offer this type of access. Courtroom staffing challenges limit the ability to schedule regular hearings at non-traditional times although it would help families and children from missing work or school. However, open-ended comments suggested that Clark County had tried non-traditional docket times. Collectively, there was interest in advancing solutions, but current judicial workloads prevent them.

Selected comments across jurisdictions include:

- The family division offers after-hours availability of judges and masters for issuance of domestic violence orders of protection and warrants to pick up children from abusive or neglectful homes.
- In limited cases, I have participated in settlement conferences outside of the courthouse. I have limited additional ability given the court budget and the need for litigants to be safe at all stages of the proceedings. Litigant safety requires a court setting with [the] appropriate screening of litigants prior to coming into the court and additional security officers to provide a safe place for the litigants to meet. The need for safe courts for families cannot be

overstated. Family cases are the most dangerous for litigants and the most volatile cases for judicial officers to address.

- If the court calendar goes long, we do go into the lunch hour or past 5 pm to finish cases. However, we try to be cognizant of staff and their family obligations. There is always a concern about the well-being of staff.
- A best practice identified by NCJFCJ in juvenile delinquency proceedings is to hold detention hearings on Saturdays. Our jurisdiction doesn't currently do this.
- I would love to, but I don't think matters are currently structured wherein that option would be permitted.
- I have proposed the use of non-traditional court hours, however, due to staffing concerns and security it was determined not to be feasible at the moment.
- We start at 8:30 a.m. and stay as long as needed within reason to our courtroom employees. Evenings are rare. Weekends — never. With the exception of being on call for warrants/TPOs.
- I used to run night court for uncontested divorce hearings and other matters, prove up hearings, etc. Due to county budgeting and no more overtime, we don't have that anymore.

The judicial officer survey asked a question about the co-location of family-serving agencies within the courthouse. In Washoe County, nearly all respondents indicated that the family division facility co-locates juvenile and family services at the courthouse, or provides space for agency liaisons (Table 8). The same held true for Clark County, but open-ended responses indicated that space limitations were decreasing this feature of the court and fragmenting services to other locations.

	Washoe		Clark	
Yes, we have service agencies located in the court	44.4%	4	48.3%	14
Yes, we have liaisons to connect clients to services	66.7%	6	51.7%	15
No	0.0%	0	17.2%	5
Other (please specify) (see comments below table)	55.6%	5	24.1%	7

Source: Nevada Family Court Assessment Judicial Officer Survey.

Comments under the other (please specify responses) included:

- We have a Nevada State Welfare agency representative available in the Family Division to assist persons [to] complete applications for benefits.
- Protection Order Help Center on-site.
- My department keeps information related to programs in the community to hand out but we have no co-located services within the department itself.
- The Court has mediation, family peace center programs, self-help center services, family support services and law library services in the buildings comprising the court.
- We have mediation available to help resolve custody and visitation issues.

- We are housed at the Jan Evans Juvenile Justice Center where the Dept of Juvenile Services is also located.
- IV-D courtrooms were moved from Family Court several years and placed with Dept. of Family Services in order for litigations to have all IV-D child support services located together.
- We have service agencies in the courthouse for Juvenile Justice, Mental Health, Medicaid, etc., but we do not have services available for domestic or dependency case types.
- We have 2 courthouses! We provide ZERO access to other services, unless they are mandated through criminal proceedings or dependency.
- Only certain departments have this ability and the services are provided through partner agencies such as: probation, DA's office, Legal Aid Southern NV.

Washoe County judicial officer respondents indicated that language services for non-English participants are a strength of the family division, with a variety of strategies, including courtroom translators, multi-lingual court website information and brochures and multi-lingual court staff (Table 9). Clark County respondents also noted similar strategies but were more likely to comment about limitations, such as court translator fees and limited information translated to Spanish.

Table 9: What features does your department have to ensure accessibility for non-English speaking participants?				
	Washoe		Clark	
Multi-lingual court website information	11.1%	1	27.6%	8
Multi-lingual informational brochures	22.2%	2	55.2%	16
Multi-lingual court documents/orders	11.1%	1	31.0%	9
Courtroom translators	100.0%	9	96.6%	28
Multi-lingual court staff	55.6%	5	34.5%	10
Multi-lingual court appointed counsel	0.0%	0	20.7%	6
Other (please explain) (see below table)	22.2%	2	17.2%	5

Source: Nevada Family Court Assessment Judicial Officer Survey.

Comments under the other (please explain responses) included:

- As a rule, we have court translators in all of our Family Division hearings requiring the same.
- We have other services including those listed above, but not on a comprehensive basis.
- Website information and information brochures in [E]nglish and [S]panish.
- Translators available for court appointed counsel.
- Unfortunately, funding and services in this area need to be expanded to a significant degree.
- The only translators that appear in court are those who are retained by the parties.

- I see [many] Hispanic and Latino litigants in my courtroom each week. If they cannot afford, I must give them [a] pro bono court interpreter and the interpreter's office has been very good about that.
- Some court documents are available in Spanish but on a limited basis.
- [We] routinely use the court interpreter's office to translate documents and orders

Stakeholders in both counties viewed the efforts of the family divisions to accommodate non-English speaking participants at a similar level. About 70% of Washoe County and 68% of Clark County stakeholders felt like their respective family division did a lot or a great deal to accommodate language challenges (Table 10).

Table 10: Stakeholders: based on your experience working in Nevada family courts, to what extent are non-English speaking participants accommodated by the court?													
	Not At All		A Little		Moderately		A Lot		A Great Deal		Unsure		Total
Washoe stakeholders	0.0%	0	6.1%	4	18.2%	12	22.7%	15	48.5%	32	4.6%	3	66
Clark stakeholders	0.0%	0	2.6%	1	5.3%	2	23.7%	9	60.5%	23	7.9%	3	38

Nevada Family Court Assessment Stakeholder Survey.

In both Washoe and Clark counties, about 80% or more of judicial respondents responded to a yes/no item indicating, yes their family divisions consider the client’s ability to pay when imposing court fees and costs (Table 11). The judicial officers also rated their respective family divisions as having a moderate amount or a lot of legal information for self-represented litigants. Washoe County stakeholders were less likely to agree, with about 37% indicating not at all or a little. In Clark County, the proportion of stakeholder respondents expressing a negative opinion on this question is lower, coming in at about 26% thinking the family division does this not at all or a little.

Table 11: Based on your experience working with Nevada family courts, to what extent are costs assessed by the family court a financial burden for families seeking an effective resolution to their case?													
	Not At All		A Little		Moderately		A Lot		A Great Deal		Unsure		Total
Washoe stakeholders	4.5%	3	32.8%	22	29.9%	20	7.5%	5	9.0%	6	16.4%	11	67
Clark stakeholders	7.9%	3	18.4%	7	23.7%	9	13.2%	5	15.8%	6	21.1%	8	38

Nevada Family Court Assessment Stakeholder Survey.

Selected comments across jurisdictions include:

- Our fee waiver standard is 185% of the Federal Poverty Guidelines and exemption of a home, car and \$2,000 in liquid assets.
- The use of fee waivers must be done only in qualifying cases as a portion of court filing fees are also used to help supplement the budget of legal services agencies such as Washoe Legal Services. Granting fee waivers in inappropriate cases means that the agencies which exist to assist low-income litigants will not get appropriate funding.
- No free parking. Way too expensive to obtain a copy of a court recording (the record).
- Stipulated matters that require little or almost no court involvement should not be similar in cost to those cases that require significant judicial resources.
- Most families are awarded fee waivers when they cannot afford filing fees; many families take advantage of this opportunity.
- I think fee waivers are granted generously. However, I think there is poor education about their availability.
- Get rid of attorney's fees and prohibit any fines being imposed. The vast majority of the families in the juvenile justice system are indigent/living in poverty or near poverty already.
- Costs have gotten significant over the years and they don't appear to support the actual needs of the Court as the legislature continues to add mandates without funding.
- Repeatedly, I have seen parents express their inability to pay for required classes for case compliance.
- In almost all cases, families are given the opportunity to express their financial difficulties. Only on a few occasions have I seen a judge or hearing master take on solving the financial burden to support reunification.

In Washoe County, about two-thirds of judicial officers indicated that their family division provides a lot or a great deal of access to community legal resources and legal information. Washoe County stakeholders generally agreed. About 54% think that the family division meets this need a lot or a great deal (Table 12).

In Clark County, about 59% of judicial officers think that their family division provides a lot or a great deal of assistance to self-represented litigants in the court. A much higher proportion of Clark County stakeholders feel the same way (about 84%)

Table 12: To what extent do self-represented litigants have access to the full spectrum of community legal resources and/or information?													
	None		A Little		Moderately		A Lot		A Great Deal		Unsure		Total
Washoe judicial	0.0%	0	11.1%	1	22.2%	2	33.3%	3	33.3%	3	0%	0	9
Washoe stakeholders	3.0%	2	14.9%	10	23.9%	16	34.3%	23	19.4%	13	4.5%	3	67
Clark judicial	0.0%	0	18.5%	5	22.2%	6	18.5%	5	40.7%	11	0.0%	0	27
Clark stakeholders	0.0%	0	2.6%	1	5.3%	2	23.7%	9	60.5%	23	7.9%	3	38

Sources: Nevada Family Court Assessment Judicial Officer Survey and the Nevada Family Court Assessment Stakeholder Survey.

Survey comments provided specific examples of resources in both jurisdictions but provided caveats as to their limitations such as:

- It's been improving, but it's a process. More funding and greater education and direction as to what is currently available are a necessity.
- Some information is provided to litigants when the need is obvious. Much depends on the litigant's own efforts to explore resources and review information.
- We have two legal aid agencies in our District: Washoe Legal Services and Nevada Legal Services. Their services are of high quality. Unfortunately, they are unable to serve everyone who needs legal assistance in the family division based on limited resources.
- The District Court also has an excellent Self-Help Center with [self-represented] forms available in virtually every area of Family Court. Despite such invaluable service, [self-represented] litigants are still significantly challenged by having no counsel in the majority of our cases.
- Our self-help center is amazing and so are the people who staff it. Unfortunately, it is not open 8-5 M-F, let alone nights or weekends. Nor can parties file documents there. The online videos available on the website are not only outdated and contain incorrect law, but strongly encourage self-represented litigants to obtain counsel.
- I believe they have access -- but the offerings are fairly slim and often not very helpful. It would be good for our Self-Help center to utilize an attorney not to give legal advice but to better advise on [the] next steps and processes as people are now often getting bad information. The Self-Help center could also use a better list of referrals and resources, updated frequently.
- Self-represented litigants are generally not aware of [the] full spectrum of services they could access.
- I have only seen a few people attempt to represent themselves and in all cases they were offered free legal counsel.
- It would be nice if there were additional resources that could be provided instead of the [self-represented] litigants constantly asking for legal advice.
- They have access to it, but sometimes have no idea where to find it. The self-help center sometimes provides wrong information or the people do not understand what is being said, so they end up doing the wrong thing. The court process is very overwhelming.

Expeditious & Timely Disposition:

In Washoe County, most judicial officer respondents, 7 of 9 responded to a yes/no question that yes the family division operates under specific case processing timeliness requirements that exceed statute requirements at times and could comment (based on their experience, in their department) on the points of friction where delays are most likely to occur. In Clark County, most respondents (19 of 29 or 66%) felt like the division did not operate under goals that were more stringent than statute minimums.

In Washoe County, about one-third of stakeholders think the family division does a lot or a great deal to promote timely case disposition, about one-third think they do a moderate amount and about one-third

think the division does not at all or just a little (Table 13). In Clark County, over one-third of stakeholder respondents indicated the family division does a lot or a great deal to promote timely case disposition.

Table 13: Based on your experience working in Nevada family courts, to what extent does the family court dispose of cases in a timely manner?													
	Not At All		A Little		Moderately		A Lot		A Great Deal		Unsure	Total	
Washoe stakeholders	9.5%	6	19.05%	12	33.3%	21	17.5%	11	12.7%	8	7.9%	5	63
Clark stakeholders	3.3%	1	16.67%	5	26.7%	8	6.7%	2	33.3%	10	13.3%	4	30

Nevada Family Court Assessment Stakeholder Survey.

Selected comments across jurisdictions include:

- We need statewide standardized court orders for every area of practice. We also need statewide standardized forms. If we achieved these goals, litigation would be more expeditiously resolved, orders would be entered immediately, pleadings would be complete and transferable, and stakeholders would be able to read orders with greater ease and familiarity.
- An additional case management specialist tasked with early intervention in self-represented cases would help streamline the process greatly.
- More judges to lower the caseload. It is difficult to do a good job without the time to think through an issue.
- Information technology improvements and additional resources to assist with service of process.
- Settlement conference judges to hear simple cases or to mediate a settlement before trial.
- Attorneys to help self-represented litigants understand their rights and in preparing documents.
- Most cases are resolved through non-adversarial methods. Those that do not resolve that way tend to take longer. Not only in getting to the trial phase, but also in obtaining a final order simply because of the resources needed.
- It really depends on the case. Most seem to run fairly efficiently, from filing to case management conference, to mediation (if children are involved), to settlement conference, to trial. That can take a year, but complex matters take time.
- Some departments are considerably more efficient than others. It depends on the department. However, all of the departments are burdened with significant caseloads, some just manage them more effectively.
- All parties work very hard to make sure cases are disposed of quickly in juvenile delinquency.
- They often do their best, but they are sometimes very slow with orders in legal issues, and sometimes things seem to get lost.
- Nothing is settled in a timely manner.
- Most Judges try and resolve the cases in a reasonable amount of time, however, there are some that are too complicated and take longer than most.

Judicial officers were asked in yes/no format if they feel like their respective family divisions have procedures to differentiate complex and simple cases in an effort to expedite case processing. In both counties, more than two-thirds of judicial officers responded that such efforts are made.

Selected comments across jurisdictions include:

- Every week, an uncontested termination of parental rights docket for the initial hearing is set in 30 increments to dispose of uncontested matters quickly rather than setting cases wherever there is space. The stakeholders know there is a set time each week. We also have two days a week set aside for full-day trials.
- Domestic violence cases involving custody of minor children are set for expedited hearing.
- Certain case types have a rush order designation.
- With simple cases, I am very proactive and at initial court hearings will explore agreements on as many issues as possible, often resulting in a full resolution.
- Complex cases will have more frequent hearings, status checks, and supervision by the court to ensure they are not allowed to lag. Less complex cases go to mediation or can be resolved at the case management conference.
- The caseload requires matters to be set for hearing four months out. This is too long.
- Our hearings are stacked oftentimes and happen very quickly. There isn't enough time to give each case the individual attention and hearing time the parents and children deserve.
- The caseload is such that it does not allow the Court to spend the time necessary to focus the time and attention to detail which is often necessary in many cases.
- If the court were able to focus more time at the beginning of a case (or mediator or facilitator is able to spend time), many of the matters would settle sooner, rather than languishing in the system for months due to the court's burdensome caseload.
- Hearing masters for juvenile delinquency usually hear over 100 cases per week. This leaves little time to spend with the families to determine all the issues.

When stakeholders were asked to what extent does your agency experience resource limitations that limit the effectiveness of the family division operating model, about 1 in 5 respondents in both jurisdictions indicated that their agency limitations impact the family division model a great deal and another 1 in 5 were unsure (Table 14). A greater proportion of stakeholders in Washoe think their agency resource limitations impact how the family division operated not at all or a little than did Clark County respondents.

Table 14: To what extent does your agency experience resource limitations that may limit the effectiveness of the family court?													
	Not at All		A Little		Moderately		A Lot		A Great Deal		Unsure		Total
Washoe stakeholders	10.0%	6	23.3%	14	16.7%	10	11.7%	7	20.0%	12	18.33%	11	60
Clark stakeholders	6.5%	2	16.1%	5	19.4%	6	19.4%	6	19.4%	6	19.35%	6	31

Nevada Family Court Assessment Stakeholder Survey.

Selected comments across jurisdictions and respondent groups include:

- An inadequate number of judges cripples the entire process.
- Sadly, as a private attorney, these delays often work to drive up costs. As litigants wait for 3-4 months to be in front of [a] judge for the first time, issues arise. This means more motions and litigation. This drives up costs.
- No resources in [the] community for placement of individuals.
- We have numerous resources and knowledgeable attorneys.
- Department calendars are extremely full, which delays timeliness in setting and completing work.
- Although there is an additional judge starting in 2020 (Department 16), a court master position was removed.
- The number of hearings heard by all judicial officers in family court is very high, therefore, the number of cases processed by family court staff is very high.
- It would be nice to see the family court judges given the ability to use CASA workers (or something similar) to assist in meeting with the parents and ascertaining the child's best interests.
- There seems to be a link between the children in juvenile court proceedings and the families in domestic proceedings. I often wonder if there would be less children in the juvenile court if the domestic judges were given resources like I suspect the juvenile judges have to address the family conflicts and problems that are revealed during the family court proceedings and are usually linked to a child ending up in the juvenile court system.
- There does not seem to be an emphasis on evidence-based resources, and reliance on resource partners that have historically been in place. Effectiveness of the active resources does not seem to be a factor.

Judicial officers and stakeholders were asked in yes/no format if judicial officers within their respective family divisions exercise a leadership role in the community advocating for needed disposition resources for youth and families involved in delinquency proceedings. In Washoe County, 6 of the 9 judicial officer respondents indicated that judges exercise a leadership role in advocating for needed disposition resources in juvenile delinquency cases. Among stakeholders, about half could comment and half were unsure about this topic. Among those stakeholders who were familiar with the topic, about 71% feel like the judges exercise leadership in the community for addressing needed disposition resources for youth and families in delinquency cases.

In Clark County, 10 judicial officer respondents indicated familiarity with the topic/case type and all of them felt like the family division judges exercise a leadership role in the community advocating for needed delinquency disposition resources. Among Clark County stakeholders, 26 respondents out of 48 overall were in a position to respond. Among these 26 stakeholders, about 73% felt that the family

division judges are advocates in the community for addressing resource gaps for delinquent youth and their families.

Selected comments across jurisdictions and respondent groups include:

- These are resources in which we are sorely lacking. It frustrates me to no end. We sent many of our youth to other states for treatment because we lack them in our community.
- Girls got and still get the short end of programming.
- Yes, but the services became fewer and fewer.
- Our judges do advocate for additional services. However, I think our judges can play a larger role in advocating for these services.
- Again, this is sometimes and it depends on the judicial officer. There are a couple who are extremely involved but there are a few who do not appear to be as involved in the community.
- My impression is that the family court judges are so inundated with work that they have very little time to lead advocacy for needed disposition resources.
- But this is limited by their heavy caseloads. Every time a judge makes a community appearance during the workday, that is time away from their court. We expect our judges to adjudicate, but they must also campaign and fund raise; we are exhausting and burning out our judges.
- Only a handful do compared to how many are on the bench.
- I see in press releases where all Judges are advocating for families and that dynamic.
- The juvenile court judge has advocated for services and has taken a strong leadership role, however, I am not so sure about other family court judges.

The stakeholder survey asked a yes/ no question concerning judicial oversight of hearing continuance requests. In Washoe County, over two-thirds (68%) of stakeholder respondents felt that the family division generally limits the circumstances in which hearing continuances may be granted. The judicial officer survey asked the question specifically within the context of child abuse/neglect cases. All of the respondents who have experience in this area indicated that the family division limits the circumstances in which hearing continuances are granted.

In Clark County, about one-third of stakeholders (32%) felt like the family division generally limits the circumstance in which hearing continuances are granted and under one-third indicated that the family division does not limit continuances. Over one-third (39%) of stakeholders are unsure. Among judicial officers, the question was framed specifically in the context of continuance control in child abuse/neglect cases. Among 11 respondents indicating experience in this case type, about 82% felt like the family division limits circumstances in which continuances are granted.

Selected comments across jurisdictions and respondent groups include:

- Statutorily, we have specific timelines for the hearings [child abuse/neglect]. Going past the timelines requires a good cause finding, which is rarely granted and usually only once.

- While we have had numerous training sessions on the importance of resolving cases within the timeframe guidelines and the need to limit continuances [child abuse/neglect], each judicial essentially uses their own discretion in granting/denying continuances.
- While we want to get to court faster in most cases, I feel like if a continuance is needed, and there is good cause, it should be granted.
- A (normal) lawyer does not just ask for this for nothing. I think the courts should defer, where appropriate, to the lawyers when they seek to continue. Officer essentially uses their own discretion in granting/denying continuances.
- I have not seen continuances for no good reason routinely granted. Rather, I have seen continuances denied, and properly so.
- I think we all recognize that a continuance generally adds 90-120 days to a matter. I have requested one in the past year, and have encountered 2-3 from opposing counsel during that time.
- Continuances tend to be unusual.
- Our local rules state that continuances need to be granted only in the presence of good cause. Our department has been pretty good about enforcing this.
- Requests for continuances are reviewed on a case-by-case basis.
- Depending on if you are [self-represented] or have an attorney will usually determine if a continuance is granted.
- Depends on the situation, if the court is setting the matter for a trial, it will usually do so at that time and allow the parties time to address and try and resolve their issues prior to trial. However, there are extenuating circumstances that warrant a continuance [be] granted. So I do not believe circumstances are limited, it just depends.

The stakeholders were also asked a yes/no question concerning the timely distribution of court orders. In Washoe County, 60% of 63 stakeholder respondents indicated that in their experience that judicial orders are distributed in a timely manner (across case types). The judicial officer survey asked the question specifically within the context of child abuse/neglect cases. Six of nine judicial officers indicated experience with this case type. Five of nine respondents indicated that orders are typically distributed at the conclusion of the hearings they have experience with.

In Clark County, about two-thirds of stakeholder respondents indicated that the family division generally distributes court orders in a timely manner to parties on a case. However, another one-third were unsure and 17 respondents skipped the question. Among judicial officers, and specific to child abuse/neglect case types, 10 respondents indicated experience with child abuse/neglect cases. Four of the 10 indicated that orders are generally distributed directly after the hearing, 2 indicated within a week, and 4 provided comments indicating that the timing of the distribution of the orders depends on the complexity of the hearing phase, but that for routine hearings the court orders are distributed directly at the conclusion of the hearing.

Selected comments across jurisdictions and respondent groups include:

- In our Preliminary Hearing Calendar [child abuse/neglect], we provide at least 50% if not more of our orders to litigants out of court. The remainder are completed in no more than a week. Other orders are completed promptly, within a month at most. A few substantive orders are largely completed within 60 days. A minor few take longer based on workload.
- Our judges typically rule from the bench and require the attorneys to draft the order in a timely manner. Some delays occur when the attorneys cannot agree on the language of the final order.
- Some orders are quickly filed. Other orders languish. There's no logic to it.
- They are generally issued under the 60-day rule, but sometimes they take 90 to get out, which I partially blame on the 25% increase of caseload.
- The more time the judge sets aside to be on the bench and hear cases, the less time they have to write the orders taken under submission.
- The family court judges are really impacted by the volume of cases they are handling. They, I am sure are doing the best they can. There have been delays.
- Directly at the hearing [child abuse/neglect] unless a matter is taken under advisement with a written order issued thereafter.
- Routine orders [child abuse/neglect] are produced on the bench and distributed at the conclusion of the hearing. Decisions after adjudicatory trials are produced within a week. Decisions after termination of parental rights trials are produced within 30 days.
- It depends. Due to high caseloads, a family court judicial department is typically flooded with an exorbitant amount of orders for review and signature. The timeliness of distributing orders is greatly linked to the volume of orders a judicial department receives.
- The court does an excellent job with this.
- Juvenile delinquency matter orders are generally done in a timely manner. I am not sure of the other aspects of family court.
- This depends on how the docket is managed: some judicial officers draft their own orders and findings of facts, conclusions of law and orders rather than directing one of the parties to draft the order. When the judicial officer drafts his/her own orders, this exponentially speeds up the process of getting the orders in. Waiting for orders and, oftentimes receiving competing orders, results in gross inefficiency. Additionally, some judicial officers do their own writing while other judicial officers rely heavily on their law clerks for the drafting of such orders.

Equity, Fairness, and Integrity

In Washoe County more than half of the judicial officer respondents, 5 of 9, indicated that local court rules are consistently applied within the family division, either a lot or a great deal. About two-thirds of stakeholders also indicated a high level of consistency following court rules (Table 15).

A greater proportion of Clark County respondents (over two-thirds) indicated the local court rules were consistently applied across departments either a lot or a great deal. About three-quarters of stakeholders that chose to respond to the question (19 skipped it) were in agreement that the local court rules for family division operations are followed either a lot or a great deal.

Table 15: To what extent do you believe local court rules are followed?													
	Not at All		A Little		Moderately		A Lot		A Great Deal		Unsure		Total
Washoe judicial	0.0%	0	33.3%	3	11.1%	1	55.6%	5	0.0%	0	0.0%	0	9
Washoe stakeholders	3.2%	2	12.9%	8	12.9%	8	56.5%	35	8.1%	5	6.5%	4	62
Clark judicial	0.0%	0	17.2%	5	17.2%	5	51.7%	15	13.8%	4	0.0%	0	29
Clark stakeholders	3.5%	1	6.9%	2	3.5%	1	44.8%	13	31.0%	9	10.3%	3	29

Sources: Nevada Family Court Assessment Judicial Officer Survey and the Nevada Family Court Assessment Stakeholder Survey.

Selected comments across jurisdictions and respondent groups include:

- Some rules are out of date. The rules are currently being updated.
- [In dependency matters] the local court rules are often times impossible to comply with due to statutory requirements and time constraints.
- I always strive to follow and enforce the rules, but with [self-represented] litigants we are expected to afford a little latitude in certain areas, and I believe we are vested with the discretion to do so.
- Many of the rules and administrative orders are out of date. Some are even inconsistent with NV law. The court is currently working on amending the rules to bring them into current practice.
- We have some issues with our rules that need fixed, but by and large, they are followed where applicable. However, the judges do not always make [self-represented] litigants follow the rules and this is frustrating.
- The biggest issue is getting awareness of the orders or changes in processing cases, and distributing those announcements.
- All departments run differently depending on what they want and how things should be. Some follow the rules and orders to a tee, while others use it as a guideline.
- Depends on [the] judge.

In Washoe County, about all but one of the judicial officer respondents feel like cases are decided on the merit of facts (one respondent skipped the question) (Table 16). About 82% of stakeholder respondents indicated this is true either most of the time or all of the time.

In Clark County, all but one judicial officer that responded to the question indicated that cases are decided on facts either most or all of the time. About two-thirds of stakeholder respondents were in agreement with this assessment, but 19 skipped the question.

Table 16: To what extent do you believe cases are decided on the facts?

	Not Often		Sometimes		Half of the Time		Most of the Time		All of the Time		Unsure		Total
	%	Count	%	Count	%	Count	%	Count	%	Count	%	Count	
Washoe judicial	0.0%	0	12.5%	1	0.0%	0	25.0%	2	62.5%	5	0.0%	0	8
Washoe stakeholder	0.0%	0	1.6%	1	8.2%	5	65.6%	40	16.4%	10	8.2%	5	61
Clark judicial	3.7%	1	0.0%	0	0.0%	0	55.6%	15	40.7%	11	0.0%	0	27
Clark stakeholder	0.0%	0	10.3%	3	3.5%	1	41.4%	12	24.1%	7	20.7%	6	29

Sources: Nevada Family Court Assessment Judicial Officer Survey and the Nevada Family Court Assessment Stakeholder Survey.

Selected comments across jurisdictions and respondent groups include:

- The facts cannot be separated from decisions also based on the application of the law to the facts. In which case, I would say all of the time.
- I state I am unsure because trial[s] are so rare. Most cases settle at the settlement conference, which is not always based upon the facts, but rather a series of concessions, which may or may not be based upon what could be factually proven at trial.
- As opposed to what? Sometimes the judge sees the end they want to reach and work backward, but thankfully, this is rare. The real problem is judges taking a liking to one side or the other, and worse, showing it.
- Some of our judges refuse to let us put forth all the facts.
- Often times the family court judges do not decide cases on the law. It appears their decisions are [based] on their personal likes or dislikes.
- In my experience, the judge does not make a ruling absent the evidence and facts.
- Current legislatively decreed preferences and presumptions have made many judges lazy to addressing the relevant facts of a child's best interest in order to pursue a perception of equality between disputing adults.
- The reason for not selecting all of the time is when a judge may decide to rule on the presentation rather than hold an evidentiary proceeding which is very tempting when the calendar gets congested.
- Most cases settle, so cases are rarely decided on the facts.

Both the judicial officer and the stakeholder surveys asked a yes/no question concerning the coordinated family division model reducing the chances of conflicting judicial orders. In Washoe County two-thirds of judicial officer respondents (6 of 9) felt that the family division operating model reduces the chances of conflicting court orders being produced by separate judicial departments. Among Washoe County stakeholders, about half (52%) agreed that the family division models reduce the likelihood of conflicting orders.

About the same proportion (70%) in Clark County agreed that the family division reduces the likelihood that families in court will experience orders that are in conflict because of a more coordinated approach. Among stakeholders, about half (52%) agreed that the family division model reduces the likelihood of conflicting orders. However, 19 respondents skipped this question in Clark County.

Selected comments across jurisdictions and respondent groups include:

- Judges are able to see orders in other cases and be aware to avoid conflicting orders.
- We do a good job of monitoring related cases to avoid conflicting decisions.
- Only through maintenance of the one-family-one-judge processing of cases. There is no consistency between judicial departments.
- Sometimes, but if there are confidential case types, then no.
- Just because a different family court judge is hearing a related family issue, does not mean that they are unaware of the other proceedings.
- Many of the related cases are heard by masters who cannot legally issue orders. So they have to go before at least two judicial officers anyway.
- [The court] could do a much better job enforcing the one-family-one-judge rule. Some judicial officers are more willing than others to ensure one family is assigned to one department. There is communication between departments who share cases for one family, but there are still conflicting court orders for families.
- Yes, if the one family/one judge rule is respected.
- In my experience, we have been pretty good regarding following the one-family-one judge rule. This has helped keep court orders from conflicting.
- The one-judge-one-family rule has helped this dramatically.
- The different goals and agendas of the differing courts often increase the likelihood of conflicting directions given to families.

Using a yes/no question structure, judicial officers in both of the counties think that they receive adequate judicial training to do their job effectively. In Washoe County, about two-thirds (6 of 9) of the judicial officers indicated that they are adequately trained to hear the cases they are assigned. Among stakeholder survey respondents, about half (53%) agreed that judges are adequately trained to hear the cases they are assigned. In contrast, about one-quarter of stakeholder respondents disagreed that judges are adequately trained, 23% were unsure, and 8 stakeholder respondents skipped the question.

Among Clark County judicial officer respondents, 79% (23 of 29) felt that they have adequate training support and 21% disagreed that judicial officers have adequate training. Among stakeholders, 69% agreed that judges and hearing masters are adequately trained to hear the cases they are assigned, 17% disagreed they are adequately trained, 14% were unsure and 19 stakeholder respondents skipped this question.

Selected comments across jurisdictions and respondent groups include:

- The training that is needed to do the job effectively is not usually offered by the court itself. I look for judicial training on issues applicable to my docket and have to find the trainings myself. The court is very supportive of training and education and I have never been denied a request to participate in education.
- Other than on the job training, I have not had any training, due to coverage issues.
- Attending relevant training more than 1[time] per year [is] virtually impossible because of the coverage issue it creates. We need a much better coverage system in place for the masters, period.
- It would be helpful to have a review program such as assigning a senior judge(s) to randomly sit in and/or review video of judicial performance and provide constructive criticism.
- Hearing masters are permitted to attend a limited number of CLEs per year if the budget permits... judges attend many statewide or jurisdiction summits. Hearing masters are not invited.
- Trauma-informed care, LGBTQ.
- They should be cross-trained so that when cases are transferred, or someone is covering, cases are processed efficiently and orders are consistent.
- Domestic violence training is critical, on multiple levels. The cycle of domestic violence and how many times on average a victim tries to get out before they eventually do.
- New judges and masters need new training.
- Best practices and current trends for the cases they are hearing. Trauma-informed care, adolescent brain development.
- Some hearing masters place kids on probation for low-level offenses, youth are still being detained for low-risk offenses.

Both surveys applied a yes/no question format to ask whether the family division judicial officers have adequate resources to do their jobs well (e.g., technology or adequate courtroom support staff). More than half of judicial and stakeholder respondents in both of the counties felt like they are adequately supported to operate their respective departments.

Selected comments across jurisdictions and respondent groups include:

- I have mentioned case management specialists. We could use some more and also more clerks to ensure that court minutes and orders are processed more quickly.
- It may be helpful to have drop-down menus that could be used in the courtroom, which would also generate formatted orders.
- The technology for video conferencing is somewhat lacking and could be better.
- [The] court provided laptops to be able to work from home on evenings/weekends.
- More robust automated record system, which allows more standardized and ad hoc reports incorporating multiple fields of information.
- We are working on automated orders, our compliance screening was recently fixed so it is getting better. Voice recognition software to use in filling auto orders would be beneficial, a system that could timely resolve cases wrongfully assigned is needed.
- Our caseloads can be overwhelming. Additional court staff is necessary to support the extraordinary caseloads.

- When I started with the court twenty years ago, each department had two court clerks assigned to each department. This facilitated the docket management, improved the time needed to review and approve orders from hearings.
- The primary problem that I see is that the judges are overwhelmed by the size of their dockets.
- Video appearance capability for adults in guardianship court, that is accessible from facilities throughout our region and out of state.
- Judges do have enough to be effective, but there is room for improvement, especially on the technology side.
- I would like to see a greater investment in case management software.
- Our courts do not have the capability to have parties or witnesses appear by electronic video means.
- Judicial departments are in need of additional staff to manage large caseloads, high volume.

Finally, both surveys asked a yes/no question concerning the adequacy of the space and condition in the respective primary family division court facilities. In Washoe County, only 2 of 9 judicial officers felt that the family division court facility is adequate for them to do their job effectively. The remainder indicated no or had specific comments about facility inadequacies. Washoe stakeholders were divided nearly 50/50 in either responding that the facility has adequate space.

In Clark County, about two-thirds of judicial officer respondents felt that the court facility is of adequate size to do their jobs effectively. About half (52%) of Clark County stakeholders responding to this question felt that the facility is inadequate, and about 41% think it is adequate. The remaining 7% were unsure.

Selected comments across jurisdictions and respondent groups include:

- We have no conference room. No room for additional judges.
- It would be great to have child-friendly interview rooms and rooms for counsel to speak privately with their clients rather than in separate corners of the waiting room. We also do not have room to add more judges or courtrooms.
- We could use more courtrooms and attorney/client rooms and better internet access.
- As of now, we have adequate space. I do wonder where the new department will be housed beginning in 2021.
- The dockets for family court judges are higher than the dockets for general jurisdiction judges. The family court needs more judges and departments. The current building would not accommodate additional needed judges.
- Yes, the space is adequate. It will not be adequate when a new department is added in 2021.
- No, there are judicial officers located in [an] outbuilding, and courtroom sharing is normal.
- Our building is falling apart, stinks, air vents are jam-packed with grime and dust, [and] constantly have leaks when it rains or when pipes break.
- Family court building built in 1994, Clark County now has over 2 million citizens.
- The family division courthouse is old and unpleasant. Courthouses should be located in a central place for the benefit of attorneys working multiple cases in a single day and so that litigants can access all court-related services in an efficient manner.

- Court staff should have private offices to include the [judicial assistant] and law clerk as is the case at the Regional Justice Center.
- Phone calls are often of a sensitive nature and the bullpen style of the working conditions at the Pecos/Bonanza courthouse makes [privacy] nearly impossible. Additionally, quiet is at a premium for all who are working. Additional bathrooms would be nice for both the staff and the judges.
- Many modifications have been made to the family court facility to make it more efficient assisting the public.
- This facility is run down and in need of many upgrades.
- Not adequate space with 6 new judges coming.
- Courtrooms are spread throughout the building and it can often be crowded and confusing for the public. Office space is at a premium for most of the county entities residing in the building, and there is no room for expansion and growth.

Independence and Accountability

Both the judicial officer and the stakeholder surveys asked a yes/no format question concerning access to services. In Washoe County, less than one-quarter of judicial officers felt that the family division has access to adequate services to meet the needs of families in court. Among stakeholders the proportion was similar. Only 29% of respondents felt that there are adequate services in the community available to families in court.

In Clark County, one-third of respondents indicated that the family division has access to adequate support services to meet the needs of families in court. A smaller proportion of stakeholders (27%) felt that families in court have the services they need in the community.

Respondents in both jurisdictions and across survey respondent pools provided extensive examples for specific service gaps.

- There is a dearth of support services for children and families in this community.
- Children with disabilities are often under-served outside of the school system with supplemental support such as counseling, home care support, caretaker relief, tutoring availability, and respite services.
- Diversionary pro-social programs for children are present but not to a sufficient degree to provide healthy intervention into the lives of most children.
- Additional mental health services for both children and parents are necessary.
- Parents need access to more services related to assistance with mental health and substance abuse issues.
- Parents need housing and transportation assistance.
- The families need more counseling resources, including access to timely psychological and psychiatric evaluations.
- It is not so much additional services as additional service providers.
- Access to social workers to assess and make necessary referrals for monetary benefits and public and private assistance programs, mental health/counseling/therapy, addiction recovery,

physical health/immunizations, disabled services, transportation, education, job/employment programs.

- Many families are struggling with mental health issues. There simply are not any services available to support these families in crisis.
- We need more in-patient beds for parents with substance abuse issues. We need better programs for parents who have physically abused their child. We need better evaluations on an abusive parent's likelihood to re-offend. We need greater funding for housing for parents who have had children removed based upon a lack of adequate resources. We need more shelter beds for victims of domestic abuse.
- Services are typically utilized by delinquency and dependency case types and unavailable for civil domestic case types.
- There is inadequate access to behavioral health services; living wage jobs; childcare; transportation; safe affordable housing for families to name a few.
- There are not enough judges to handle the caseload.
- We need additional Spanish interpreters and translators. Utilizing Voiance is an option but it would be better to have a live interpreter.
- Some assistance for our patrons for transportation and parking would be excellent. Additional staff is needed in both the Filing Office and the Protection Order Help Center.
- Litigants must even pay for their own drug tests. No funds for drug treatment and mental health treatment in custody/divorce cases.
- Social workers or other support personnel to advocate for family engagement in the system.

The judicial officer survey asked a yes/no question concerning the availability of caseflow performance reports. In Washoe County, about two-thirds of the judicial officers thought that they receive information on a regular basis that uses data to measure their performance on case processing goals and timelines. In Clark County judicial officers also indicated receiving caseflow management reports. Similar proportions of respondents in both counties also indicated that information about effective case management practices is shared across departments.

Selected comments across jurisdictions and respondent groups include:

- I can get gross percentage figures on meeting all timelines other than termination of parental rights, which recently moved from a separate case type to motion practice within the dependency case. I can't truly say if I have the ability to drill down in the report that we do receive (upon request) and am not sure if I can trust the accuracy of the report itself.
- What we receive is ill-suited to the task, some of the stats are easily manipulated through self-reporting.
- Yes, monthly case activity reports, we check them every month and try to get our numbers down it's a helpful tool, as well as daily filings reports [which are] computer generated and end up in our inbox on email.
- Yes, for the most part. We receive info as to how many open cases we each have. Plus, as mentioned, it is important to be vigilant that individual cases don't linger.

In Washoe County, over half of the judicial officer respondents (5 of 9) think that the family division strives to provide a child-friendly environment with features such as comfortable waiting areas, clean facilities and amenities like infant/childcare (Table 17). Others think that moderate attempts are made to meet these needs. In Clark County, judicial officers were less likely to think their family division is making strides with child-sensitive environments. About 20% (6 of 28) respondents felt like the court does a lot or a great deal on this topic and a substantial proportion felt like they do little to nothing at all.

Table 17: Based on your experience in Nevada family courts, to what extent does the family court in your judicial district provide a family and child-friendly environment (e.g., comfortable waiting areas, clean facilities, infant/childcare, etc.)?

	Not At All		A Little		Moderately		A Lot		A Great Deal		Unsure		Total
Washoe judicial	0.0%	0	0.0%	0	44.4%	4	22.2%	2	33.3%	3	0.0%	0	9
Washoe stakeholders	0.0%	0	16.1%	10	25.8%	16	24.2%	15	33.9%	21	0.0%	0	62
Clark judicial	28.6%	8	17.9%	5	32.1%	9	17.9%	5	3.6%	1	0.0%	0	28
Clark stakeholders	28.6%	8	10.7%	3	32.1%	9	10.7%	3	14.3%	4	3.6%	1	28

Sources: Nevada Family Court Assessment Judicial Officer Survey and the Nevada Family Court Assessment Stakeholder Survey.

Selected comments across jurisdictions and respondent groups include:

- We attempt to be as comforting, stress-free, and as user-friendly as reasonably possible. However, within the call of the question, there are services not yet available, at least not to my knowledge (e.g. free on-site childcare services and the like)
- When our current building was first opened it had an employee and public cafeteria and open lobbies which allowed for [the] separation of litigants. The cafeteria was converted into courtrooms and the public lobby was filled with meeting tables.
- We could use childcare or at least a child-friendly waiting area.
- Parents are prohibited from bringing their children to Court, but they often do. We have to reschedule their hearings because we cannot accommodate any childcare.
- Parties are in the same, short hallway even if there are protective orders or high conflict. We have two small ante-chambers but they are often not accessible because they are being used. I feel this is inadequate.

Public Trust and Confidence

In Washoe County, judicial officers indicated that they are involved in the community at a high level (reporting either a lot or a great deal) with public education, building relationships with stakeholders, and building relationships with service provider networks (Table 18).

In Clark County, judicial officer respondents reported less community engagement. However, more than a quarter responded being involved in public education either a lot or a great deal and more than one-third reported being involved in building relationships with system stakeholders and service provider networks at a similarly high level. Collectively the survey results indicate the family division may be helping to promote judicial leadership within the community.

		None at All		A Little		Moderately		A Lot		A Great Deal		Total
Washoe judicial	Public education	0.0%	0	11.1%	1	44.4%	4	33.3%	3	11.1%	1	9
	Build relationships with stakeholders	0.0%	0	0.0%	0	0.0%	0	55.6%	5	44.4%	4	9
	Build relationships with service providers	0.0%	0	11.1%	1	0.0%	0	66.7%	6	22.2%	2	9
Clark judicial	Public education	14.8%	4	22.2%	6	33.3%	9	25.9%	7	3.7%	1	27
	Build relationships with stakeholders	0.0%	0	25.9%	7	33.3%	9	29.6%	8	11.1%	3	27
	Build relationships with service providers	0.0%	0	29.6%	8	33.3%	9	25.9%	7	11.1%	3	27

Sources: Nevada Family Court Assessment Judicial Officer Survey.

Both the judicial officer and the stakeholder surveys asked a yes/no question about formalized methods for youth and families in court to provide feedback on their experiences. In Washoe County, most judicial officers (7 of 9) indicated that there is no formal pathway for family input, or if there is, they are unaware of the procedures or forum. About two-thirds of Washoe County stakeholders agreed that there is no formalized method to provide feedback, but provided some important qualifiers listed below.

In Clark County, 80% of judicial respondents indicated there are no formal methods for youth and families to engage the court regarding their experiences. About two-thirds of stakeholders agreed nothing formal exists. Based on these results, this is an area for improvement in both jurisdictions.

Selected comments across jurisdictions and respondent groups include:

- Unknown whether formalized method; however, court administration is open and receptive to feedback from litigants.
- I am aware there are complaint forms that can be filled out and given to court administration but I think [are] rarely used.
- The family mediation center and the family self-help center provide surveys to court users to provide feedback concerning their experience with these programs.
- It has been some time since there has been a public survey concerning court experiences in general.

- A system similar to that used to rate Supreme Court settlement judges would be very beneficial. It should be completed by litigants and counsel at the conclusion of their case.
- I think we had a survey table done once a few years ago where departing families had an opportunity to provide feedback, but I was not involved and don't recall the details.
- Customer feedback forms are available for both complaints and comments.
- They come to the third floor and are able to provide a feedback form or speak with our staff attorney who will formalize the feedback as well.
- Family feedback would be key and greatly needed to improve the experience.

Within the stakeholder survey, respondents were invited to provide further comments about the communication between their agency and the family division court. In Washoe County, about two-thirds of stakeholder respondents (39 of 62) indicated that there is no method. About the same proportion also responded that there is no formalized feedback communication path, but in both surveys respondents had some important comments. Selected examples include:

- Washoe County Bar Association has the annual survey of judges. We also have quarterly bench/ bar meetings, and the judges overall are approachable and more or less willing to hear feedback from counsel.
- We have a small bar. They know most of us, and attend functions, meetings, etc., with the lawyers who appear before them. That is not a formal feedback method, but it is important nevertheless.
- There is a complaint/suggestion box.
- Aside from complaints or concerns addressed directly with the presiding judge, there is not an actual formal method for staff to provide feedback unless specifically solicited for it via email.

Survey Theme Summary

The overall survey results indicate that the family division operating model has some strengths but is also experiencing some challenges in specific areas. Among the strengths there is agreement among judicial officers that the family division operating model supports commonly accepted goals of Access to Justice; Expeditious and Timely Disposition; Equity, Fairness and Integrity; Independence and Accountability; and Public Trust and Confidence. There is also general support for the family division case coordination goal with some disagreement concerning how and to what extent it is accomplished. Respondents in both jurisdictions had strong opinions on what resources are required to increase coordination. Finally, most judicial officer and stakeholder respondents believe the family division operating model encourages the use of alternative dispute resolution methods.

Highlights of the specific challenges included:

- Survey respondents in both jurisdictions are concerned about the space limitations in their respective facilities limiting activities that support the family division operating model.

- Judicial officers think that the family division works to reduce the costs to families in court but stakeholders believe more can be done.
- Access to legal resources and information appears to be an operating strength of both jurisdictions, but the judicial officer and stakeholder respondents have specific suggestions for improvement.
- Both divisions are generally advancing activities to support timely case processing, but respondents have many specific observations about where there is room for improvements.
- Access to adequate levels of social services was a theme in both jurisdictions and there was a strong response with specific examples of service gaps.
- Examples of specific judicial officers engaged in leadership and community outreach exist in both jurisdictions but caseload demands limit the ability to accommodate this role.
- There may be no consistent forum or procedure for families in court to provide feedback about their experiences in the respective family division courts.

Interview Themes

NCJJ staff conducted a 3-day site visit to the Washoe County Family Division on June 5-7, 2019, and a similar site visit to the Clark County Family Division on June 24-26. Court administrators assisted NCJJ in developing an ambitious 2-track interview schedule. One track focused on a broad range of judges, attorneys, family division staff, court program administrators, and representatives whose work is centered in domestic relations case types (i.e., adult/civil). The second track focused on those assigned to or working closely with the child abuse/neglect and juvenile justice areas. One NCJJ researcher primarily managed the domestic relations track and was accompanied by an attorney from the NCJFCJ main office, and one NCJFCJ researcher conducted all the juvenile justice and child abuse/neglect track interviews. The study team interviewed 60 individuals across Washoe and Clark counties. A list of interview participants from each of the 3-day visits is provided in Appendix A.

The purpose of the on-site interviews was to explore the themes gleaned from the surveys in greater depth. The interview schedule that was used in Washoe County differed slightly in structure from the one used in Clark County later in the month. The differences reflect refinements that were noted as useful during the Washoe County trip. The final interview protocol is included in Appendix B and is a starting place for subsequent updates or future self-assessments.

Interview subjects in each jurisdiction indicated that, overall, the courts are advancing the five goals of the coordinated family divisions, consistent with the responses to the judicial and stakeholder surveys. Findings from the interviews, including perceived strengths and areas in which challenges and/or opportunities remain, are integrated into this report section.

Access to Justice

Washoe County

The Washoe County Family Division's efforts are generally held in high regard by stakeholders interviewed during site visits. Several interview subjects characterized the self-help center and the family division's website as excellent. Language services were generally viewed as a strength within the overall district court. In juvenile matters, the family division appoints counsel to parties in all cases. Court administration support to the family division covers the entire district court (i.e., not specialized to divisions). This policy is intentional and aimed at supporting an image of equity in status between the general division and the family division. NCJJ noted a high level of attention among judicial officers and court administrators toward balancing the needs of the family division with those of the general division of the trial court. With limited resources, there will always be competing demands, but overall, interview subjects provided examples of collaboration and mutual support, such as general division judges temporarily assisting when the division was experiencing unacceptable delays when there was a vacant judge position. Interview subjects also noted that when additional positions in Washoe County have been allocated to the family division, they have been prioritized and assigned to address increasing caseloads (often in juvenile and family case types).

Interview subjects noted the family division's application of alternative dispute resolution as a strength. This is consistent with the survey findings. The recent support from the state Court Improvement Project to pilot and evaluate dependency mediation was frequently cited as a specific example, as were the mandatory mediation, case management conference, and senior judge settlement conference procedure in divorce and custody matters. Some interview respondents expressed interest in expanding ADR into new areas that may include victim-offender mediation in delinquency or property settlement in divorce and custody, if suitable resources can be provided.

The primary challenges noted in Washoe County most often revolved around navigating facility inadequacies that have caused some fragmentation of and/or logistical issues for the family division and its key partners. Achieving greater procedural consistency across courtrooms was also mentioned by a number of interview participants as an ongoing challenge. A number of stakeholders indicated that differences in procedures in different courtrooms can pose important challenges in terms of case preparation and courtroom practices.

The lack of on-site childcare was raised by interview subjects who are concerned about the enormous impact the lack of this programming presents to families in court who must take time off of work and incur expenses that add greatly to their stress to attend court proceedings.

A recurring theme among interview subjects under access to justice was the need to align operations toward the majority of the domestic relations clients that are self-represented, with moderate to low incomes. Some respondents suggested that clients of private lawyers in divorce/custody matters are more likely to receive a timely response than are self-represented parties.

Clark County

Family division court administration is specialized in Clark County and differs in this regard from the Washoe County structure. Like Washoe County, there is a theme among subjects interviewed of general respect for the family division, including its efforts to improve access to the court.

In discussing ongoing challenges, one important factor in Clark County is the distance between family division court facilities. Interview participants emphasized how this distance (and separation) can inhibit timely access and present logistical obstacles (e.g., parking), particularly for the public and key stakeholders who may have overlapping court actions occurring at different, distant locations.

Clark County interview subjects often referred to court facility limitations, such as the lack of space for new courtrooms and judicial chambers and adequate space for key programmatic areas that should be features of a coordinated family division (e.g., on-site infant/childcare, separate victim waiting areas). Despite these constraints, interview subjects often referenced the e-filing and new auto-accept procedure, live-file for temporary protection orders, and advanced video hearing equipment as key improvements utilizing technology to reduce the strain on an antiquated court facility. They also acknowledged the recent efforts of court leadership/administration to re-locate and expand the area allocated for legal information and temporary emergency order triage. This renovation is occurring in a space near the entrance/exit of the Pecos facility. However, some participants doubt it will be large enough and that safety concerns will remain a prominent challenge. Some concern exists that the crowded conditions and the limitations on building out spaces create safety concerns that create a volatile situation that could erupt on any given day.

The dilemma of the space situation, coupled with the need for convenient, modern, 24/7 access to emergency relief or to accommodate work schedules in routine matters, is viewed as a priority and one that the family division is making efforts to address with technology. The Tyler Technologies guided-file-online temporary protection order (TPO) application is a prime example of the innovation that the pressure of the current chaotic facility environment is helping to inspire. An online dispute resolution (ODR) application for custody/divorce that was implemented in January 2018 is also well received by clients of the court, helping about half resolve their cases. Like Washoe County, the information technology support to the family division in Clark County is well respected, innovative, and fluent with a

proprietary Tyler Technologies data system (Tyler-Odyssey) that interview subjects suggest is well-equipped to support the needs of the family division.

As indicated in Washoe County, interview subjects in Clark County emphasized that access to ADR is an important resource for the family division, often mentioning abuse/neglect and termination of parental rights mediation, and that the procedures in divorce and custody for mandatory mediation/case management/settlement are key strengths. Translation service availability was noted as a barrier to increasing the accessibility to ADR in Clark County, as were procedures that expertly identify and address domestic violence dynamics.

In the juvenile justice area, interview subjects referenced the positive impacts of the proactive pre-charge diversion programs implemented and expanded by the Clark County Department of Juvenile Justice Services (DJJS), as well as the family division diversion court.

Finally, the lack of on-site childcare for families in court was a concern raised by interview subjects for similar reasons that it is a theme in Washoe County (e.g., expense, stress). On-site childcare is among the first wish-list items in the vision for a new court facility, along with a plan for safer and more secure plan for judicial, staff and litigant pathways and flow in a new building (e.g., exits and entrances, secure areas, etc.)

Expeditious and Timely Disposition

Washoe County

In Washoe County, most interview subjects agreed that support for timely case processing is a strength of the court, particularly in the child welfare and juvenile justice areas. In the words of one interview participant, timeliness and delay reduction are built into our policies and practices. The court has strong collaborative partners in this regard across practitioners who, in other jurisdictions, may be more adversarial and less cooperative. In particular, interview subjects noted the exceptional collaborative efforts in dependency and delinquency matters. All of these stakeholders emphasized their shared commitments to making system responses in abuse/neglect and delinquency matters as timely as possible, though some respondents did indicate some concerns with the system moving too fast at times.

Overall, the court has good performance monitoring information to understand where delays occur at critical phases, such as at the termination of parental rights or adoption. Interview subjects noted that it is rare for the court to not adhere to statutory timeframes for case processing. Consistent with the survey findings, court orders in routine dependency hearings are frequently drafted in court and served at the

conclusion of hearings. Though at the review hearing stage, it is not the court that generates these orders, it is secretarial staff from the District Attorney's office.

Interview subjects noted that the child abuse/neglect and delinquency case types have strong statutory support for case processing timeliness, and the state court improvement program director at the AOC helps to provide oversight and support for promoting best practices in dependency matters. There have also been reform commissions and a CIP-supported dependency mediation program evaluation that have helped enhance key family division operations, particularly in the abuse/neglect realm. Dependency mediation was specifically noted as helping to address more timely permanency and case processing in child abuse and neglect cases.

On the delinquency side, the Department of Juvenile Services (DJS) is a strong partner of the court in promoting and practicing timely diversion, intervention and other best practices, along with its abilities to maintain and produce exceptional case management and performance measurement data. However, interview subjects stated that these same supports do not exist in other case types, notably guardianship, divorce, and custody.

The volume of mental health (involuntary commitment hearings) is large in Washoe County and the court generally issues orders at the conclusion of the hearing or within 24 hours of the conclusion of the proceedings.

Clark County

In Clark County, most interview subjects agreed that the court receives good support for caseflow management performance and that growing workload demands are the most pressing challenges. During interviews, judicial officers could share caseflow management reports, and information technology brought a complete range of reports to the interview. A theme exists that with strong data and collaborative efforts great progress has been made with specific case types but the vigilance must be constant. For example, interview subjects shared that there has been a fairly recent and ongoing focus on court improvement in child abuse/neglect cases. The family division was a lead partner in the Clark County Blue Ribbon for Kids Commission (chaired by a Supreme Court Justice). Interview subjects indicated that there is a general recognition within the family division, regardless of a judicial officer's current assignment, that the abuse/neglect case type has stringent case processing requirements and must be closely managed for performance.

In both Washoe and Clark counties, there is an emphasis in the family divisions on making sure the resource requirements for cases involving children and youth do not take a secondary position to those of adults in domestic relations cases. In Clark County, efforts to produce and distribute court orders in the

courtroom at the conclusion of proceedings are evident in some courtrooms but there is a lack of consistency across courtrooms. There is support and interest in modeling a template in judicial departments that the court order technology has not been applied, such as in delinquency proceedings. Some interview subjects suggested that consistent approaches to court order generation is an important role for the AOC or a state commission to provide guidance. Currently, there is variation within the family divisions in Washoe and Clark counties and outside of them.

Equity, Fairness, and Integrity

Washoe County

In Washoe County, a consistent theme among interview subjects was the collaboration between court partners and the family division. The interview subjects provided specific examples of how the family division encourages and supports cross-system collaboration, particularly in child welfare and juvenile justice.

Having proximate access to the resources of the University of Nevada at Reno campus, the National Judicial College, and NCJFCJ was also a strength noted during some interviews. In the context of specific case types, judicial interview subjects often cited specific NCJFCJ training programs such as the annual Child Abuse and Neglect Institute and new family court judge training as resources that help promote equality, fairness, and integrity. While strong communication was a theme between district judges and the family bar, several interview subjects noted stakeholders are not always included in discussions about improvements that are directly within their wheelhouse. Some specific examples included meetings to discuss changes impacting hearing master dockets to which hearing masters were not invited (perhaps due to lack of coverage), changes that impact self-represented litigants to which no one from legal aid or the self-help center were invited, and discussions concerning the challenges of the mental health docket that did not include social services or community stakeholder agencies working with the mentally ill.

Another prominent theme cited during interviews is the communication modeled in the regular bench/bar meetings and annual judicial conferences. One experienced judicial officer observed that the Nevada Supreme Court Justices attend the annual juvenile and family law conferences and some typically stay for the duration. A judicial interviewee in a leadership position also complimented the value of the annual statistical reports produced by the Supreme Court and uses them on a continuous basis to orient and train staff.

The challenge of providing adequate ongoing training to all family division staff in the dynamics of domestic violence was raised by several interview subjects. They observed that judges, some masters,

mediators, clerk's office staff, self-help staff, and even supervised visitation staff had a lack of understanding of these issues, or expressed during their own interviews a need for training that is dangerous if it continues to be unmet.

A prominent challenge noted by some interview participants, and mirrored in survey results, is the role of hearing masters within the family division, their ongoing oversight by district judges, and their inclusion in judicial meetings and training programs. Hearing masters are assigned to high volume dockets and it is difficult for them to step away from packed hearing dockets to attend training. Some interview subjects characterized the hearing master position as one of the more high-stress positions within the family division and that it has some structural challenges for working optimally, such as judicial review of all hearing orders. New hearing master recruitment and training prior to assuming hearing responsibilities is an area that some interview subjects think can be improved, but they generally acknowledged overwhelming workloads presenting a challenge to a thorough orientation period. The family division has taken the step of assigning a specific judge to supervise the activity of each master and masters are involved in cross-training between case types.

One circumstance in Washoe County that involved the eventual removal of a new family division judge also prompted some comments regarding the court's commitment to equality, fairness, and integrity. In brief, this new judge did not meet the performance standards of the bench and was subsequently removed. A number of stakeholders remarked that this was an example of how committed the family division is to maintaining high standards of performance. However, the vacancy and the time required to fill this position had a negative impact on the ability of the remaining judicial officers to take the adequate time required in hearings to meet their internal standards, which are often state program or national best practice standards. It also had an impact on other court staff and stakeholders as workloads temporarily increased during this extended period. Judges assigned to the general division helped with trial calendars as needed until the position was filled, but the experience has left an important imprint across all those involved with the family division in Washoe County.

Crowded dockets and heavy caseloads were generally viewed as persistent challenges to fairness and integrity. Several judicial officer interview subjects and other stakeholders mentioned working over lunches, in the evenings, and over weekends. Most respondents characterized the family division courtrooms as extremely busy and in some instances overwhelmed with balancing docket demands. A range of stakeholders provided specific examples of unwieldy calendar sizes being the norm in recent years.

Interview subjects frequently referenced the family division clerk's work to organize related case information in electronic binders for each hearing day. The information technology department can assist but there is a great amount of work in hand-checking the queries and adding related cases to the electronic binders. The process is labor-intensive and there are periodic accuracy/quality control issues, but it allows the family division judges and masters to coordinate matters and it reduces the possibilities of conflicting orders that can impact the fairness and integrity of the court.

The family division in Washoe County is piloting case consolidation (i.e., all hearings before the same judge) for abuse/neglect and delinquency cases in the Project One court. While some interview subjects indicated some disagreement on the merits/benefits of automatic consolidation of all related cases before one judge, especially beyond dependency and delinquency cases, others indicated strong support to continue Project ONE. A recent initial assessment of Project One conducted by the NCJFCJ also found strong support across stakeholders for this case coordination model and promising process outcomes such as fewer placement changes, fewer hearing continuances, and timely DJS case closure.

In responses to questions involving broader family division matters (not just dependency and delinquency), interview subjects, including attorneys, generally valued the information gathered by the court about other proceedings (e.g., the electronic binders compiled by court clerks) but noted that some related matters have more relevance for coordination than other case types, and the family division judges are in a good position to triage and individualize coordination activities.

Some interview subjects noted that among the most useful cases to have knowledge about, particularly in relation to abuse/neglect and delinquency matters, are the adult criminal cases of parents. Much labor-intensive work is occurring to facilitate the compilation of accurate related case information in the family division, and it is sometimes subject to errors. However, Washoe County Family Division judges have more information than many of their colleagues nationally that work in judicial silos.

A progressive dialogue exists in the Washoe County jurisdiction regarding the goals of the automatic case assignment procedure, and selective case coordination with a specific-purpose tailored to individualized circumstances. Overall, a broad range of interview participants supported the efforts of the family division to meet the NRS goals of case coordination, and the effort to pilot integrated solutions such as Project ONE. In general, those working in the abuse/neglect and juvenile delinquency areas strongly support coordination for these two case types; whereas those working in the domestic relations area tend to support more selective communication between departments, coordination or consolidation when it advances timely and fair resolution of family cases, and the creation of binders that contain related case information. As these issues relate to the extent of information shared by the court with stakeholders,

some stakeholders indicated that the court should share even more information about related cases, as appropriate. Specifically, some respondents suggested there is a need to coordinate information from other, separate courts (e.g., justice, municipal, or other Nevada district courts) particularly around criminal domestic violence and other adult criminal cases that may require coordination or at least active communication with the other court.

Clark County

In Clark County, judicial workloads were also a prominent, recurring theme among judicial officers but also among most of the other stakeholders. For example, despite the increase in resources and the attention provided to the abuse/neglect docket in the Clark County, interview subjects provided anecdotal descriptions of afternoon dockets exceeding 20 hearings and running well past 5:00 p.m. almost every day. During interviews, some judicial officers indicated that the volume impacts the time available to prepare for and conduct substantive hearings, adversely affecting the family division's goals for fairness and integrity.

Similar to Washoe County, the role of hearing masters in judicial teams was an important theme in Clark County interviews. At the time of the June site visit, the family division had nine hearing masters. Three master positions were being replaced with new judicial position allocations (thus reducing the county-supported positions and the net gain of the additional state investment). Interview subjects were divided on supporting or opposing the use of hearing masters, and facility limitations for creating additional courtrooms are likely to have been somewhat of a factor in the decisions. The boundaries and differences in authority between the district judges and the hearing masters were a theme in some interviews, and training opportunities for hearing masters were raised as a challenge for some of the same reasons they were in Washoe County.

The theme of inadequate domestic violence training for all family division staff and the danger this unmet need poses that was present for Washoe County is a similar theme among Clark County interview subjects.

The family division in Clark County is piloting case consolidation (i.e., all hearings before the same judge) with the automatic judicial assignment at e-filing called 1 Judge/1 Family (1J/1F) (reversing the more recognized phrasing one-family-one-judge). The procedure is new and the court was only 3 months into implementation during the time of interviews. Interview subjects were mixed in their responses concerning whether the auto-assign is happening and whether it will improve the equity, fairness, and integrity for the family division. An important side benefit to the innovation is the information technology (IT) department's ability to generate metrics concerning the overall inter-relatedness of family division

cases by case type. During the study, family division IT provide NCJJ with example by abuse/neglect; delinquency; temporary protection orders; divorces with children and divorces without children (Appendix C). This was the first time IT had compiled summary data concerning the probability of past or current related cases for specific samples of filings and what types of related cases these are most likely to be. Having the ability to draw this level of information, helps to quantify the need for a coordinated family division model in Nevada, confirm which case types are most likely to have inter-related cases, and will help the family division in Clark County be able to plan for how to optimally consolidate matters under 1J/1F. The Clark County Family Division is the first coordinated family division model court that NCJJ has documented being able to produce preliminary related-case probability statistics. Interviews suggest that Washoe County is on the verge of having similar capabilities.

Independence and Accountability

Washoe County

In Washoe County, interview subjects provided observations along the lines of regular, ongoing communication being a standard of the family division, citing monthly judicial meetings and regular meetings between supervising judges and hearing masters.

Active ongoing judicial participation in child abuse and neglect court improvement was noted as a strength by stakeholders. Comments described judges taking care to make sure families in court are heard by them, and an overall high level of expertise in juvenile and family law among judicial officers. When challenges were noted it was usually specific to particular judges when the family division seat was not a good fit for them in terms of their background or comfort/disposition toward children and/or families in court, many of who are from diverse backgrounds and face challenges out of their control (e.g., language, transportation, poverty, mental illness, structural bias in public agencies, etc.). A number of interview respondents indicated that these issues could be resolved through additional judicial training opportunities, or by taking advantage of the considerable longevity of some judicial officers and pairing them with the newer judges or hearing masters as mentors. The strong communication channels for when problems arise, that were a theme in the survey responses, were also a theme during interviews and an important check and balance under this goal area.

Clark County

In Clark County, with 20 judges (soon to be 26) and 9 hearing masters (soon reducing to 6), the challenges described are like those for Washoe County but somewhat amplified. There are similar cycles for judicial officer meetings, but it has proven difficult to schedule these in a manner that accommodates everyone, including the hearing masters due to a lack of calendar coverage. Interview subjects indicated

that judicial/hearing master teams have been implemented under 1F/1J in Clark County and this has improved the communication pathway from judges to hearing masters. There are judges with considerable longevity on the family division bench but there currently is not a formal process to establish mentoring relationships.

As in Washoe County, a number of stakeholders indicated that consistency in procedures across courtrooms represented an important challenge. With almost 30 judicial officers in Clark County, stakeholders emphasized that individual differences across judicial officers make for challenging efforts in case preparation and in-court practices. These stakeholders called for greater consistency when possible and procedures for addressing judicial officers who operate outside standards for courtroom decorum or whose performance falls outside of the family division's collective standards. The number of judicial officers who present consistency challenges was characterized by some as typically about 4 among 30 on an ongoing basis as positions are filled and assignments change.

Public Trust and Confidence

Washoe County

In Washoe County, opinions differed on this goal due to a recent challenge that the family division has faced and addressed with a new judge that was not well-suited for a family division assignment and was removed. During this period, according to some interview subjects, there was a noticeable erosion of public trust. Other interview subjects think that the family division continues to do well under this goal and that their handling of the recent situation, though it also created a vacancy and exceptional workload stress, is an example of why the court is mostly held in high regard.

Interview subjects working child abuse/neglect and juvenile justice also provided many examples where there was strong interaction with families, such as ongoing surveying of youth and parents by DJS and regular community stakeholder meetings in both abuse/neglect and juvenile justice. Where challenges were noted it was usually tied by the interview subjects to judicial workload and the size of hearing schedules. There is optimism that the filling of the judicial vacancy and the creation of a new, additional judicial position will help address these challenges. There is also optimism about technology helping to increase public trust and confidence, and confidence among family division staff that their information technology department will continue to make strides to help support their operating goals. Examples include the fee-for-service co-parenter application to help parents in divorce and custody cases prepare to make decisions about parenting time, the on-demand ADR, and online applications so that victims requesting temporary protection orders do not have to be in the proximity of their adversary.

Clark County

In Clark County, there was also a divergence of opinion on the division's performance under this goal. Workload challenges, combined with the need for ongoing, topic-specific judicial training were challenges that are not completely met and impact public trust and confidence in the court and there was a need for ways to bring informal complaints about performance forward. Some interview subjects felt excluded from discussions about reforms that impacted their specific operational area.

Some family division units or specific programs had ongoing approaches to collecting client/family feedback and others did not have a structured process. For example, the legal services self-help center collects client feedback. In promoting more effective informal options to formal delinquency system involvement, numerous interview participants highlighted the efforts of the county's DJJS in creating and expanding the innovative juvenile assessment or community resource center model known as The Harbor. These efforts have included the creation of community advisory boards that, according to interview subjects, have played essential roles in establishing centers that allow families to seek and access help without having to penetrate the formal child welfare and/or juvenile justice systems. These centers also attempt to obtain feedback from families after initial contact.

Overall, interview subjects suggest there is a need for technical assistance on the topic of client/family voice that promotes open communication and gathers public input in an organized, safe and respectful manner with multiple options that help to filter case or outcome-specific suggestions/complaints from systemic ones about cleanliness of the facility, parking, waiting areas, hearing delay and security.

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Appendix A: Onsite Interview Participants

While on site in June 2019, NCJJ conducted interviews with a broad range of family division judicial officers and agency director stakeholders in Washoe and Clark counties.

Washoe County Interview Participants and Roles	
<u>Name</u>	<u>Role</u>
Alicia Lerud	Assistant Court Administrator/Court Clerk Supervisor
Frank Cervantes	Director of Juvenile Services
Gianna Verness	Delinquency Public Defender
Herb Kaplan	Adult Civil Commitment Attorney
Hon. Doherty	Family Division Judge
Hon. Dixie Grossman	Family Division Judge
Hon. Cynthia Lu	Family Division Judge
Hon. Bridget Robb	Family Division Judge
Jackie Bryant	Court Administrator & Clerk of Courts
Jeffrey Martin	Civil Division District Attorney
Jennifer Rains	Dependency Public Defender
Jo Lee Wickes	Juvenile Dependency Prosecutor
Julie Wise	Clerk of Courts
Kathleen Baker	Child Support Prosecutor
Mary Herzik	Family Services Program Director
Amy Banales	Hearing Master
Paige Dollinger	Hearing Master
Greg Shannon	Hearing Master
Michelle Purdy	Clerk of Courts
Tyler Beach	Dependency Prosecutor

Clark County Interview Participants and Roles

<u>Name</u>	<u>Role</u>
Amy Mastin	Hearing Master
April Green	Director of DV Project, Legal Aid Center of Southern NV
Brigid Duffy	Attorney, Director of DA Dependency & Delinquency
Carolina Griffin	Attorney, Delinquency Track
CEO Steve Grierson	Chief Executive Officers, 8th Judicial District Court
Chaka Crome	Private Attorney
Christopher Tilman	Attorney, Dependency Track
Corrine Price	Private Attorney
Courtney Ketter	Attorney, Dependency Track
Darin Imlay	Attorney, Director of PD
DeDe Parker	Manager of Specialty Courts
Drew Christenson	Director, Office of Court Appointed Counsel
Elizabeth Ham	President CASA Foundation
Holly Roys	Hearing Master, Dependency
Hon. Arthur Ritchie, Jr.	Family Division Judge
Hon. Bryce Duckworth	Family Division Judge
Hon. Charles Hoskin	Family Division Judge
Hon. Frank Sullivan	Family Division Judge
Hon. Linda Marie Bell	Chief Judge of the 8th Judicial District Court
Hon. Linda Marquis	Family Division Judge
Hon. William Voy	Family Division Judge
Jack Martin	Director, Department of Juvenile Justice
Jane Femiano	Hearing Master
Janice Wolf	Attorney, Legal Aid Center
Jeff Whittun	Director, DA Family/Child Support
Kris O'Conner	Manager, FC Clerk Division
Leonard Cash	Family Court Administrator
Liz Ortenburger	CEO SafeNest
Marshal Willick	Private Attorney
Michael Watson	Chief, DA, Delinquency
Mike Doan	Assistant Court Administrator
Randall Forman	Staff Attorney
Ronald Cordes	Chief DA, Dependency Track
Sheila Parks	Manager, CASA
William Croft	Hearing Master, Delinquency
Stephanie McDonald	Director, FC Self-Help Center
Tim Burch	Director, Department of Family/Social Services
Xavier Planta	Attorney, Legal Aid Center

Appendix B: Nevada Family Court Assessment Site Visit Interview Protocol

The National Center for Juvenile Justice (NCJJ) was retained by the Supreme Court of Nevada in January of 2019 to conduct an assessment of the family court model operating in Washoe and Clark counties. NCJJ is assessing the status of Nevada’s family court reforms amid the current operating environment and pressures on juvenile and family law dockets.

The purpose of on site interviews is to gather information from family court stakeholders working with the court on a routine basis (e.g., private attorneys, caseworkers, agency directors, etc.). The information gathered will help augment the results of two online surveys by discussing family court operations topics in more detail, and explore challenges and strengths of the family court model as it is currently operating within the jurisdiction.

The responses you provide will remain confidential; that is, your name will not be associated with the results we describe in a final report. You can stop participation in the interview at any time.

Respondent Name: _____

Title: _____

Agency: _____

Email: _____

1. How many years have you been a (judge, court administrator, etc.)?
2. Could you tell us a little about your background and the responsibilities of your current position?
3. In what role do you/your agency/organization interact with the Family Court?

Case type reference:	
Divorce/dissolution	Minor guardianship and conservatorship
Paternity	Adult guardianship and conservatorship
Custody	Emancipation of minors
Visitation	Minor’s disabilities
Child Support	Name changes
Inter-jurisdictional enforcement/support	Involuntary commitment/quarantine
Temporary protection orders	Authorization of abortion

<p>Child protection from abuse and neglect</p> <p>Juvenile delinquency</p> <p>Juvenile status offenses</p> <p>Termination of parental rights</p> <p>Adoption of children</p> <p>Adoption of adults</p>	<p>Approval of withholding/withdrawing life support</p> <p>Marriage approval for minor</p> <p>Damages proximate result of domestic violence</p>
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4. What do you think are the **strengths** of the current court system in resolving family issues?
5. Based on your interactions with the Family Court, how **busy** does the court seem? What are docket sizes like? **How far out** does the schedule extend for status reviews or motion hearing?
6. Based on your Agency's/organization's interactions in the Family Court to what extent does the system encourage **non-adversarial methods** of resolving juvenile and family cases? What opportunities exist to expand ADR?
7. To what extent do costs assessed by the family division create a financial burden for families in court? Are there opportunities to reduce **financial burdens**?
8. Based on your role and clients of the court you interact with how does the family division extend services to **self-represented litigants**?
9. Which of the family **case types are the most strained or** difficult? Why - timeliness, poor representation, continuances, contested matters, continually end up back in court, lack of services to help families, etc.) What can be done to address these issues?
10. If **delay** is a problem, where is it most likely to occur (what case type, what hearing stage)? Are **judicial orders** distributed in a timely fashion?
11. To what extent does the family division engage in efforts to reduce the **trauma children** and other vulnerable family members experience in the court hearing process?
12. What measures does the court take to promote **safety** and to **address the volatility of domestic violence**? Do clients generally feel safe in court?
13. What is the extent of information available to you regarding family cases with respect to **past or current proceedings** involving this family? At what point in the proceedings is this information available? How do you use this information about related cases? Does the nature and extent of information vary by type of case?
14. How satisfied are you with your court's ability to **coordinate cases** involving the same family? Why?

15. What changes would you suggest to **improve the coordination of cases** involving family members?
16. To what extent do Family Division judges exercise a **leadership role in the community** or in advocating for needed disposition resources (e.g., treatment services, community counseling, gender-specific programming)?
17. How **consistent are judicial procedures** across judicial departments on topics such as continuance control, case management steps, the content of judicial orders?
18. Do **you/your agency have the resources** you need to effectively deal with the family cases you work with/that come before you?
19. Based on your experience in the Family Court, are judges and hearings masters **adequately trained** to the cases they are assigned?
20. What role does **technology** play in improving operations in the family division?
21. What is the **role of data, research and planning** within the current family division operations where you touch it?
22. What challenges does the **family division's physical plant present?** (e.g., overcrowding, victim/witness separation, security flow). Is the facility child-friendly and accessible (e.g., waiting areas, infant/child care on site)?
23. What opportunities do families in court have to provide **feedback on their experiences?** How does your agency provide feedback with the family division?
24. What is the **appropriate support role of the state court/AOC** in improving family division operations?
25. If you could recommend **one policy change** at the state and/or local level what would it be? If you could address one resource challenge what would it be?

Appendix C: Clark County Family Division Related Case Rate Statistics (Preliminary)

During the study, NCJJ asked both the Washoe and Clark counties court IT offices about the feasibility of using their primary data systems to select certain family division case types (e.g., divorces with children, divorces without children, abuse/neglect, delinquency, and temporary protection orders) and measure the likelihood that a litigant had a related case type currently pending or in the past with the family division. The District Court, Information Technology Division in Clark County was able to develop related case measures across samples of five case types and summarize them in the charts contained in this appendix. The process was completely automated, except for manual checking of the results by data support staff. They had never attempted this before, but their recent immersion in supporting their IJ1F auto-assignment policy opened pathways for attempting to produce related case measures for the first time. The five appendix examples (related case charts) are preliminary and are intended to promote discussion of the ability of Nevada District Courts to begin answering questions such as:

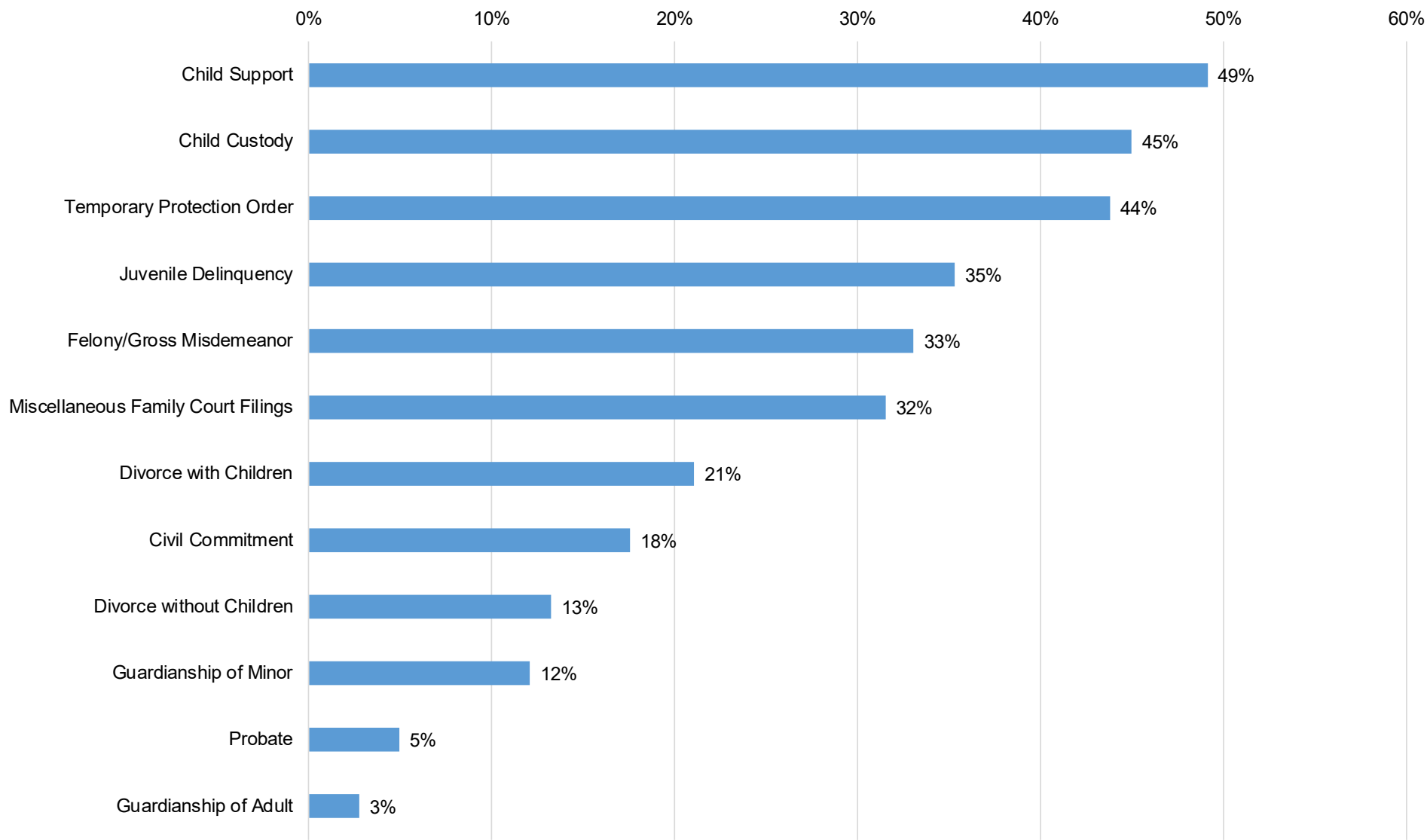
- What case types are most likely to have families in court on multiple matters?
- When families have multiple cases over time in the family division what types of related case types are those likely to be?
- What proportion of [X case filings] have adults in the case with past or present criminal cases within the district court?

For example, the first chart in this appendix presents related case rates for dependency case types. Among the five case types dependency is most likely to have related cases. The last chart in the series shows divorces without children, which were the least likely to have related cases. Regarding dependency, nearly half of the sampled cases (49%) had a family member with a past or present child support case, 45% had a child custody matter, 44% had a temporary protection order and 35% had a past or present delinquency matters.

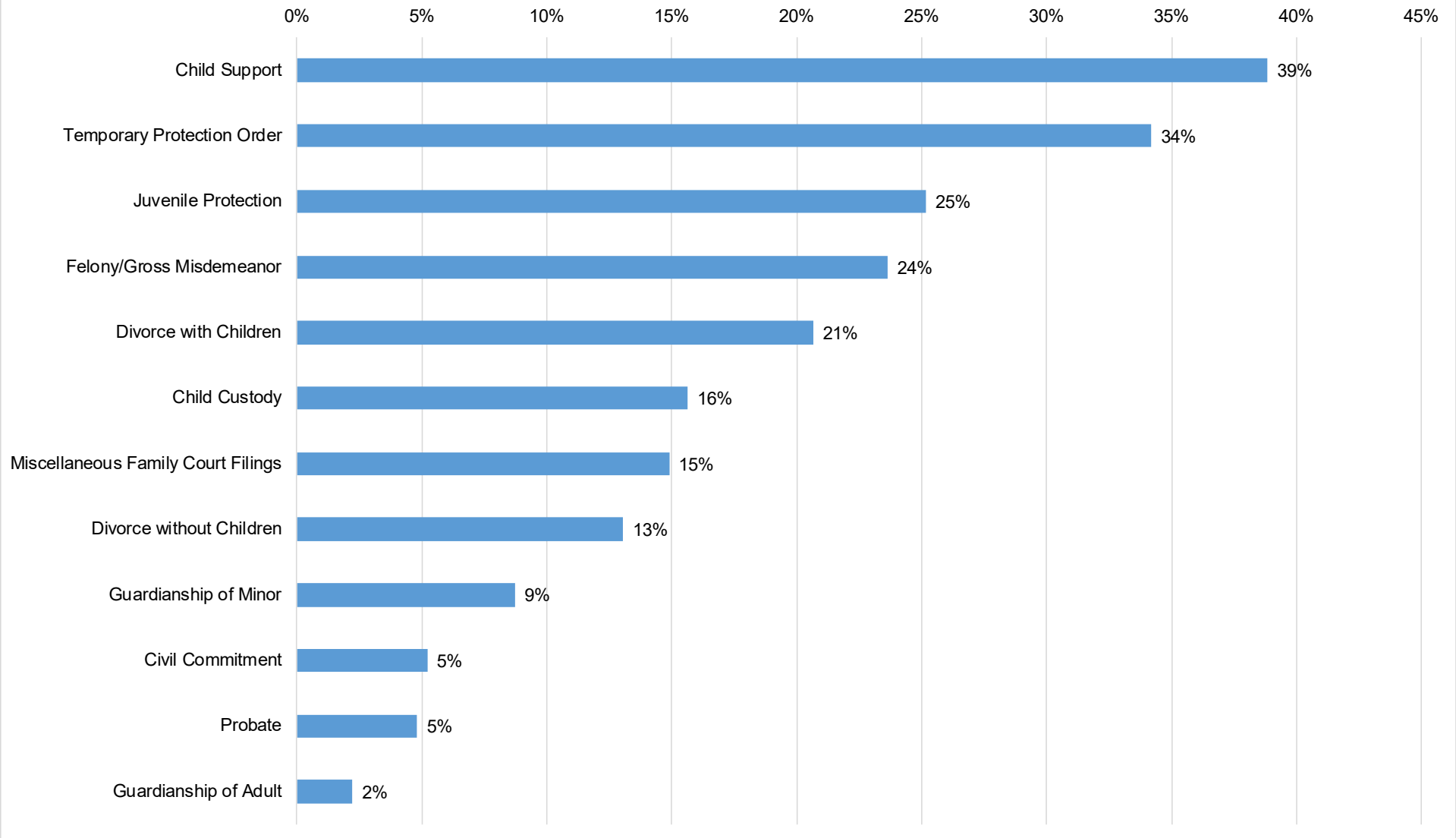
The capacity to see the intricacies of the present and past experiences of families in court is central to the premise of a coordinated family model, but jurisdictions have generally lacked the technology resources to begin building the logic and automated routines to relate the cases.

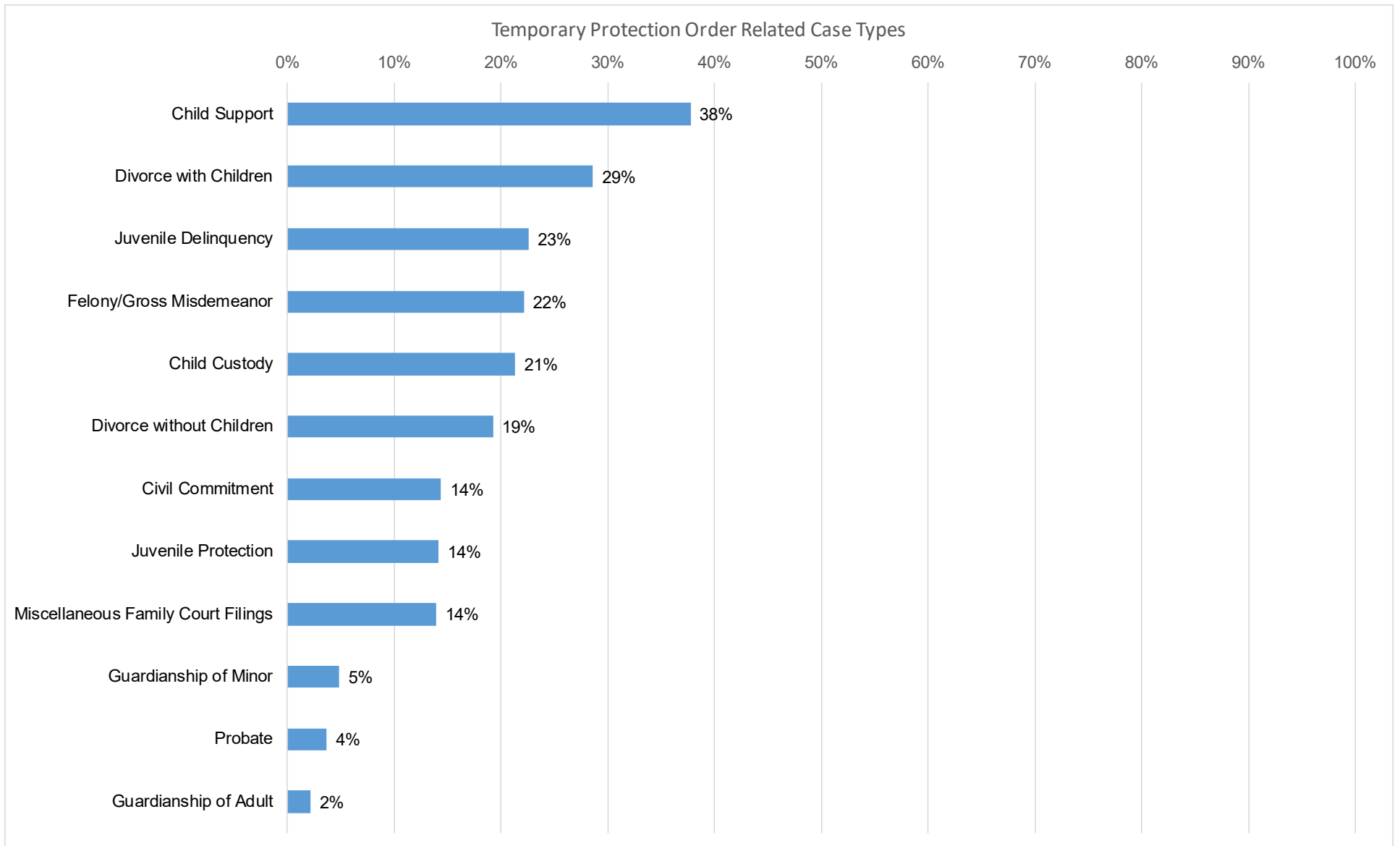
The Washoe County Court Information Technology Office has a similar capacity that will be accelerated during their Inspires project with IBM-Watson.

Dependency Related Case Types

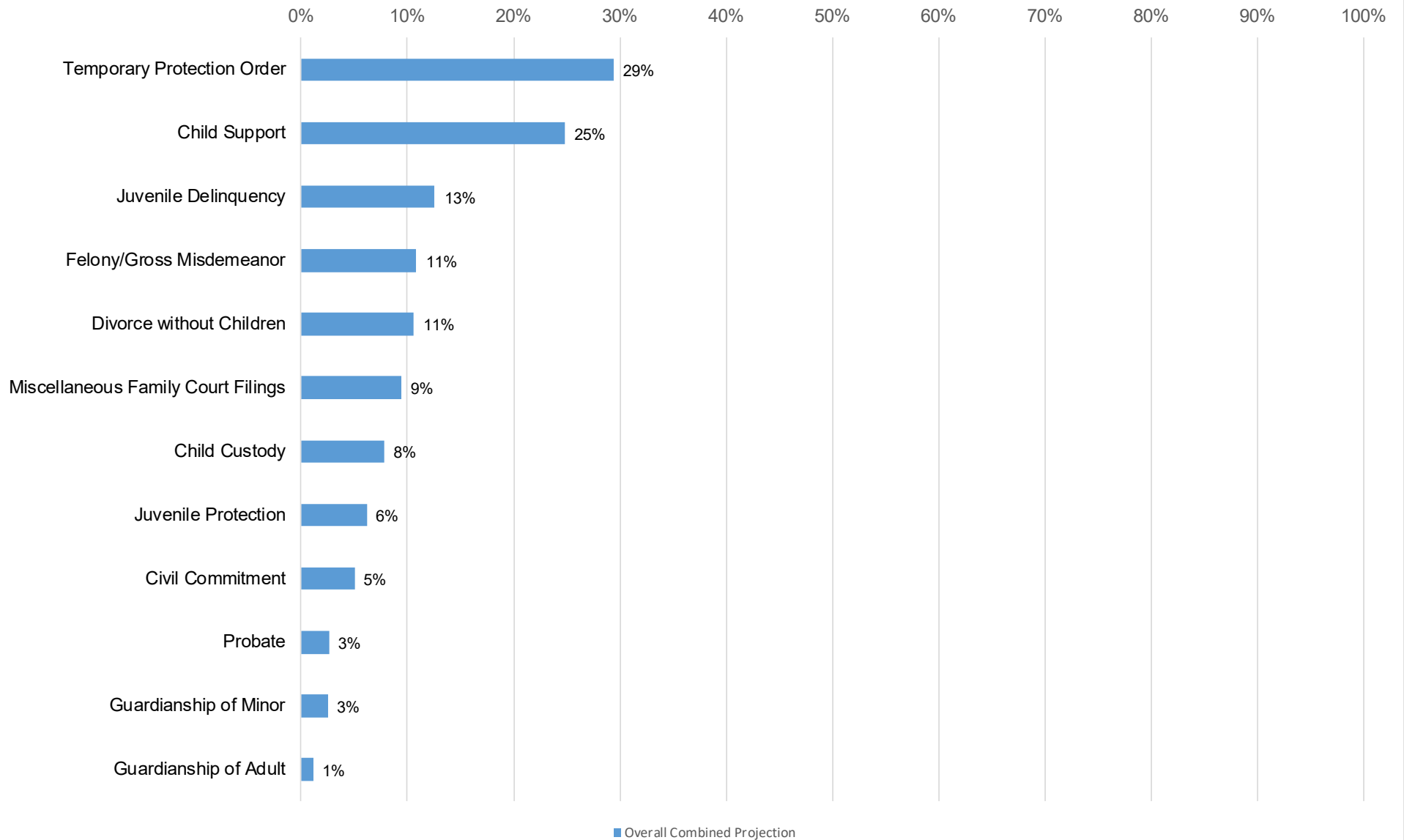


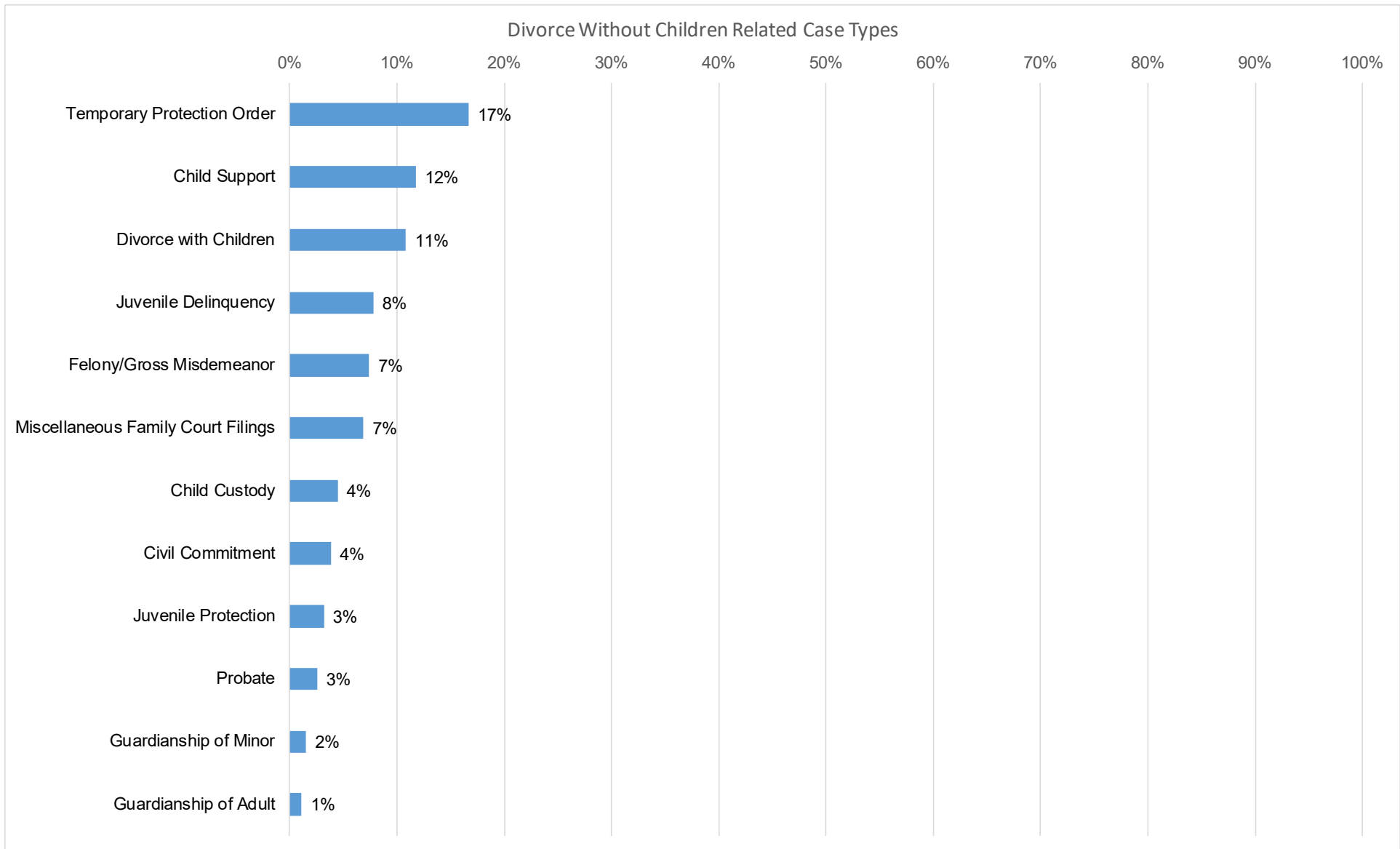
Delinquency Related Case Types





Divorce With Children Related Case Types





National Center for Juvenile Justice

The research division of the **National Council of Juvenile and Family Court Judges**

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TAB 4

CIVILITY IN THE COURTROOM

A JUDGE'S PERSPECTIVE

BY SENIOR JUDGE GERALD W. HARDCASTLE

While sitting as a senior judge in another judge's courtroom, I noticed a sign which read, "Professionalism and Civility – The Least that is Expected." It was like mother's voice saying, "Behave while I am gone!" or "Don't tease your little sister!" It was a reminder of the obvious but the judge thought it was important enough, problematic enough, that there be a sign – a warning.

Too often attorneys and litigants view the courtroom as the ultimate bar fight – a place where winning, at whatever cost, is the goal, and where the rules are: there are no rules. Yet court proceedings in the adversarial process are not bar fights but minuets. The expectation is that there will be a reasoned examination of facts and principles under the rules of procedure and the rules of evidence.

One of the great professional experiences for a judge is watching good attorneys examine and cross-examine witnesses and listening to them respectfully argue relevant legal and factual issues. Issues become more clear, applicable law becomes more defined and there is confidence that disputes are better resolved. Litigants win and lose but there

is a sense of civility and rationality. The litigants have had their day in court without being sucker-punched in an abusive and degrading process.

But is it really necessary to remind grown, college-educated lawyers of the obligation to be civil? There should be an agreement that the practice of law, and court proceedings in particular, should be civil. But for some reason, incivility is like looting after a riot: there is understanding that incivility is bad but, hey, everyone else is doing it and they get all the free stuff. There is an implication that incivility works. The purpose of this article is to suggest that incivility in the long term does not serve the interests of attorneys or clients.¹

How Rude Is It?

Addressing uncivil behavior is the part of the daily fare of judges, particularly of family courts. As an example, I limited argument on pre-trial motions. The reason? I found that if attorneys argue motions, the first two minutes are spent arguing the merits of the motion, the next three minutes are spent arguing the opposing party's lack of human worthiness,

and the last three minutes are spent arguing about the opposing attorney's lack of value. The opposing attorney's argument is spent in the same fashion but with the order of points reversed – all of this with numerous objections and interruptions.

My experience is not unique. In listening to other judges speak about their days, the primary reflection is the increasingly uncivil tone of the courtroom. Judges are frustrated. They are distracted, on too many occasions, from the legal and factual issues surrounding the allegations fundamentally in dispute to matters concerning the unprofessional and uncivil conduct of those in court.

And this experience is not unique to family courts. When former U.S. Supreme Court Justice Sandra Day O'Connor spoke at the University of Oklahoma, she stated that only 50 percent of lawyers would choose the legal profession if they had it to do again. She largely attributed this attitude to a lack of lawyer civility.² Lawyers have become dissatisfied with lawyers.

A task force commissioned by the Maryland Court of Appeals to study civility in its court system concluded:

Without exception, these senior practitioners opined that professionalism has declined over the years. The decline is marked by rancorous discovery disputes; loss of trust between lawyers (resulting in an increase in 'defensive practices,' for instance, the perceived need to memorialize every discussion with a confirmatory letter); a breakdown of the traditional mentoring of new lawyers; an increase in the unauthorized practice of law; lack of civility in and out of the courtroom; the failure of courtroom attorneys to treat witnesses and each other with respect; and an increase in lawyer advertising.³

The most startling fact: of the attorneys interviewed by the task force, only one-third wanted to remain in the practice of law for the rest of their careers.⁴

Civility is Good Lawyering

Many continuing education courses are offered on how to do a better job for clients. There is no end to the courses designed to show the "winning strategy" for something or other. I suggest that if you want to be effective in court, one of the best winning strategies is to become professional and civil in your practice, especially when appearing in front of a judge.

Before specifically discussing civility in court proceedings, it is helpful to understand the general nature of what goes on during court proceedings from the judge's point of view. Essentially, court proceedings are about dispute resolution. There are many ways disputes can be resolved between contestants, including everything from coin tosses to wars. Hopefully, as lawyers and judges, we understand the advantages of resolving disputes consistent with the rules of evidence and rules of procedure under the adversarial process.

From the judge's perspective, contested court appearances, whether motion hearings or trials, involve three issues.⁵ First, what is it that each of the parties is requesting? Attorneys should be clear about what is being requested. Second, is it within the judge's purview to grant the request? And third, is what is being asked the best result? Attorneys who present facts and argue consistently within this outline understand how judges think. Those attorneys are going to win – at least within a range of judicial discretion.

Unprofessional and uncivil behavior distorts this process. It leads the judge and the proceedings from the noble job that judges believe they are called to do into a confused jungle. And judges remember with a sense of distrust those who lead them into the jungle. Judicial perception of the value of an attorney's professional character, reputation or skill is not an unfair consideration. It is simply human nature.

Justice Anton Scalia and Bryan A. Gardner, Esq. in "Making Your Case" assert that in court proceedings attorneys should show themselves worthy of trust and affection. Trust is won by honestly presenting the case. Affection is displayed by a positive attitude toward the court, a collegial attitude toward opposing counsel, in a refusal to take cheap shots and in asserting a forthright manner. These positive attitudes are inconsistent with unprofessional and uncivil behaviors.

Some cases can be won by any attorney and some cases will be lost by every attorney. But the great majority of cases are less predictable and in these cases, the character of the attorney influences how effective he or she is. And an attorney's trust and affection – that is, his professional character and reputation – build over time and are difficult to change. Judges do not easily forget the attorney who is less than forthright and honest or who accepts rulings with threats of appeal or emotional criticism. Attorneys who guide judges to make intelligent and legally appropriate decisions, and do so with respect for the process and those within it, are more welcomed.

Some attorneys work very hard to maintain high standards and work very hard to respect the court process; others seem unaware of the impact that unprofessional and uncivil behavior has on the process and on the judge. The point is that civility is good lawyering. Judge John Erlich stated it simply: "In the heat of litigation, emotions and zealous advocacy sometimes get the best of any attorney. I've rarely seen aggressive conduct be effective in the courtroom. Rather, respectful and reasoned presentations are much more persuasive."⁶ Virtually every judge I have ever spoken with agrees. Remaining focused and maintaining a professional and civil attitude are fundamental keys to success in court.

CONTINUED ON PAGE 8 ►

CIVILITY IN THE COURTROOM

CONTINUED FROM PAGE 7

There is a common perception that clients want attorneys who are aggressive and “willing to fight for the client.” Particularly in family court, there are clients who feel that divorces are occasions for bloodletting – the more the better. The reality is that it is impossible to get a pound of flesh through legal proceedings. First, concepts such as no fault divorce, equal division of property and child support guidelines are all designed to take the anger out of family court proceedings. Second, no judge desires to hear testimony relative to the various deeds of the parties during the marriage unless relevant to legal issues the judge must decide, and generally, the really good emotional garbage is not relevant to any issue the judge must decide. Third, approximately 90 percent of all cases settle; thus, the actual venting of all those emotional issues rarely occurs. The reality is that what clients want is to get a fair and favorable decision. This result is attained by a focused, reasoned and civil attorney much more often than one who offends the judge by uncivil behavior.

Clients need to understand that winning is the benefit of a civil, trusted attorney. They need to understand that their interests are best served by an attorney who is trusted and

respected by the judge. From the initial interview the client should be told that being civil and respectful is part of being a successful lawyer: a lawyer that is successful for the client. An attorney’s integrity and credibility, established over time, should not be lost for the sake of an unreasonable client.

A Few Common Rules Regarding Civility

In reviewing what judges have written on courtroom civility, there are a few rules that tend to be consistently mentioned. This list is not intended to be comprehensive and is certainly only the start of addressing the issue of civil behavior.

1. Carefully prepare your case.

When I first came to Las Vegas to practice law, in order to do legal research in the county law library on the weekend, you needed a key to the law library. There were a limited number of keys and they were handed out on a first-come, first-served basis. The reason that Mort Galane was so feared as an attorney was that he always seemed to have a key and could be found in the law library each weekend. You knew that he read everything there was on any issue of law in cases he handled.

2. Be clear, succinct and candid in your oral and written communications to the court and always be honest when representing anything to a judge.

Courtroom process is fundamentally about communication. Good attorneys are clear about what they want and get to the point. And judges trust their representations.

3. Accept the ruling of the judge, subject to appropriate review.

There are various reactions to unfavorable decisions. One response is to immediately inform the judge that you are going to appeal the decision. The reason most judges are not influenced by threats of appeal is that most judges have been appealed and those who have been on the bench for any appreciable time have been reversed. It is simply not new information.

Another tactic is for the losing attorney to question the judge as to how his client is going to live with this decision. This is rather like the 80-year-old murderer who was sentenced to 100 years in prison. Clients are expected to do the best they can. It is surprising, however, how many clients can comply with an order once the order is entered.

The best advice after an adverse decision is to accept the ruling, thank the judge and opposing counsel for their courtesy, and leave the courtroom. If the decision is flawed, allowing the judge to reconsider his decision by an appropriate motion supported by law and reason is much more likely to get the result you desire than an immediate attack.

4. Maintain emotional self-control.

The judge is entitled to expect attorneys to assist in maintaining dignity and decorum in the courtroom. Obviously, there should be no inappropriate faces, gestures or comments which disrespect the judge, opposing counsel or opposing parties. If you want a good role model, think of Gary Cooper awaiting high noon: a quiet, reasoned, but elegant and effective man. He would have been a good trial attorney.

5. Learn and observe local rules regarding practice before the court.

There has been a deterioration of simple practices before the court in recent years. There has been an increase in attorneys who rudely arrive late without notifying the court. Attorneys frequently do not rise when addressing the judge and often treat oral argument as if it were a casual conversation in which interruption without purpose is allowed. There is an increase in the amount of food and beverages brought into the courtroom. No judge enjoys enforcing rules of practice and decorum.

One of the common points made by judges in other jurisdictions is the issue of addressing judges as “Sir” or “Ma’am.” I thought that it was just my sensitive ears but there are many judges who believe such addresses are too familiar and too demeaning.

There are many other specific rules that could be addressed but fundamentally, civility is a matter of attitude. It is about believing that civility and professionalism are what is best for your client and for your practice. Judges understand that an attorney can have a bad argument or a bad day but attorneys who consistently upset proceedings, misrepresent or badly distort, or are otherwise uncivil will ultimately fail to convince the judge. At least in court, nice guys do not finish last.

JUDGE GERALD W. HARDCASTLE graduated from the University of Utah College of Law in 1973 and was admitted to practice in Nevada in 1974. During the period before his election to the Family Court in 1993, he practiced as a sole practitioner in Las Vegas, Nevada. He retired from the Family Court in July, 2008 and currently serves as a senior District Court judge. **NL**

- 1 The adversarial system places the control over the process in the litigants. Fundamentally, the judge has the decision-making obligation and is otherwise to remain neutral and passive. The judge is allowed to interfere in the process only to make certain that there is fairness. Accordingly, while the judge may address issues of professionalism and civility, the primary obligation is on the parties in their presentations to conform to rules and procedures. There is nothing in the adversarial system that suggests toleration of unprofessional or uncivil behavior.
- 2 O'Connor, Justice Sandra Day, Professionalism: Remarks at the Dedication of the Univ. of Okla. Law School Bldg. and Library (2002) wymcases.courts.state.wy.us/application/oscn/deliverdocuments.asp?citeid=434236.
- 3 Hon. Lynne A. Battaglia, Chair, The Maryland Jud. Task Force on Professionalism – Report and Recommendations pp. 3-4 (Nov. 10, 2003).
- 4 *Id.* at 20.
- 5 This analysis is adopted from Scalia, Justice Anton, and Gardner, Bryan A., “Making Your Case: The Art of Persuading Judges” (2008).
- 6 Erlich, Hon. John P., www.wsba.org/media/pubication/barnews (Aug. 2008).



BUILDING
CONFIDENCE IN
THE JUSTICE SYSTEM

HOW CIVIC
EDUCATION CAN
SAVE THE REPUBLIC

THE IMPORTANCE
OF CIVILITY
IN COURT

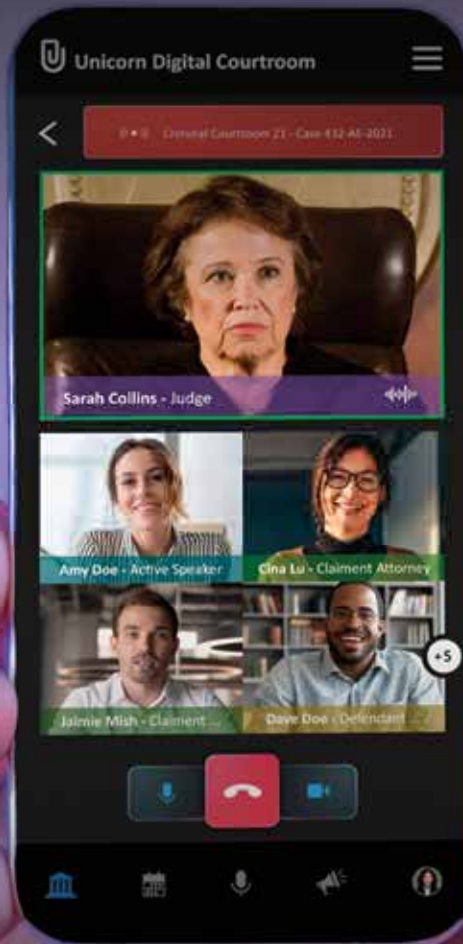
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The background of the cover is a close-up photograph of a classical stone column capital, showing the intricate carvings and textures of the stone. The lighting creates strong shadows and highlights, emphasizing the three-dimensional quality of the architecture.

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Civics, Civility, and Collaboration—The Cornerstone of Democracy

By Judge John C. Allen IV

The inherent nature of courtesy is that it's voluntary; otherwise, it's a rule (and Americans hate rules). Whether you call it courtesy, civility, or manners, these acts are society's method of establishing a baseline of acceptable behavior. These are the things that we do for each other as we interact with other people in our world. I do not use the term "baseline" to mean the minimum allowed behavior, but, instead, I am referring to the expectations that we have when engaging with other people. Each of us, as individuals, expects certain things from other people as we go about our day (and other people expect the same from us). While every culture has its own nuances, we expect and hope for an appropriate "thank you" or a "gesundheit" after a sneeze. We've all been in the position of holding a door for someone and not getting the customary appreciation. We expect these actions because basic manners are often the first thing our parents teach us as we are growing up, and, sometimes, it's the last thing.

In some respects, the core of civility relies on manners. Treating the people around us with a core level of respect is not something that should be taken for granted. It should be lauded and revered as the cornerstone of our culture, as it used to be. The current state of discourse, at least in the United States, is a perfect example of what happens when discarding that foundation and ignoring the essence of civility, the importance of civics, and the need to collaborate with each other to achieve goals larger than our individual selves. The most concerning aspect is that people are not merely choosing to ignore these tenets; they actively repudiate the notions and go so far as to attack them as signs of weakness or a showing of a lack of will. To a large extent, as a culture, we are losing the importance that being civil to one another is voluntary. Each time we exhibit some manner of courtesy or civility to another, there is an implicit acknowledgment that it was by choice. A person chooses to show another person a courtesy not because it's required, and that choice is important to the person giving the courtesy and the person receiving it. No matter what our differences or similarities are, we regularly give one another that level of respect. Or we used to. Judge W. Kearse McGill discusses his 18 years of experience as a judge who has adjudicated cases in a variety of forums in the state of California. His efforts to make conscious and conscientious choices as a jurist bring into focus the effort that is required to consistently

bring a measure of civility into the world that you control.

The legal profession is once again in the position of leadership when it comes to demonstrating the power of civility and compromise. As an institution devoted to the nonviolent resolution of conflict, lawyers and judges must continue to exhibit the discipline and resoluteness required to demonstrate to the world that true strength comes from the thoughtful, respectful presentation of ideals, positions, and solutions. Karlise Y. Grier, the executive director for Georgia's Chief Justice's Commission on Professionalism, discusses the establishment and impact of the first-of-its-kind Commission intended to address and encourage legal professionalism. While the legal profession, as a whole, must assert its leadership, it is the judiciary that maintains control in a courtroom and must make the most of its ability to foster and encourage civility in the profession and among the laypeople who utilize the court system. Retired Judge Benes Z. Aldana serves as the president and CEO of the National Judicial College, based in Reno, NV. His article and sidebar discuss the need for continued, high-level civility and some methods to maintain the environment that is necessary for the proper administration of justice in a transparent society.

I do not have the historical pedigree to opine on whether the current cultural climate is the worst it's ever been; however, I am old enough to know that things have been much better and that, as a culture, we've taken some significant steps backward. In large part, we have learned that there is no consequence for rudeness. That total anonymity while communicating to large audiences has empowered brash actions and ignorant statements. However, that is not and cannot be the entire story. Clearly, a large part of the emotion and hostility in public controversies revolves around a fundamental misunderstanding of how our system of government works or is supposed to work. Professor David E. Campbell presents an enlightening piece about the importance of a civics education and its importance in maintaining our republic. Jason L. S. Raia presents the issue from an educational point of view and shows how historical decisions to focus on core subjects to the exclusion of social studies and civics have resulted in profound civic illiteracy in our culture, which just exacerbates an already unpleasant divide with people of different demographics.

The pandemic did not help at all. As the articles discuss, our inability to engage in civil

discourse is now a new problem and stems from years of decision-making that diminished the value of civics, civility, and collaboration. However, the pandemic just made it all worse—not because of the deadly nature of the disease or the controversy over how to best control the outbreak, but for the purpose of knowing how to be around each other, the total and absolute sequestration of people resulted in the abandonment of almost everything our parents taught us as children. What made it worse was our parents forgot those lessons too. ABA President Deborah Enix-Ross spoke to the ABA House of Delegates during the 2022 Annual Meeting in Chicago, Illinois, in August. During those remarks, she articulated her theme for the year of Civics, Civility, and Collaboration. The Honorable Adrienne C. Nelson explores that charge and provides insight into the role that attorneys and judges play in the quest to restore or maintain confidence in our system of government and the philosophical underpinnings of democracy.

That sounds dramatic and more than a bit heady; however, these concepts are important. The central theme that runs through all these articles is that the diminished attention given to these concepts has resulted in a society that has contempt for its government and all things that don't fit into an individual's narrow worldview. Often courtesy is mistaken for weakness and compromise is mistaken for capitulation. Civility or manners are viewed as capitulating to someone else. This issue of *The Judges' Journal* hopes to reinforce the notion that these concepts are strengths. They are positive ideals that we, as jurists, should strive to uphold and encourage. They are not to be "enforced" because enforcement invites resistance. Treating people with respect and courtesy, having fluid knowledge of our system of government, and being willing to work with people to resolve conflicts despite individual differences is a choice of selflessness and strength. And it is a choice that we must make several times a day. ■



Judge John C. Allen IV is on contract as an administrative law judge with Cook County, Illinois, and is of counsel with Grant Law, LLC.



Cover: Boz Donovan via Getty Images

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The Honorable Tani Gorre Cantil-Sakaue

CHIEF JUSTICE, CALIFORNIA SUPREME COURT (RET.)

By Judge Margaret Kuroda Masunaga (Ret.)

Facts About Chief Justice Tani Gorre Cantil-Sakaue

Born: October 19, 1959, in Sacramento, CA

Parents: Clarence Freitas Cantil, Hawaii-born father of Filipino and Portuguese ancestry, and mother, Mary Edellion Gorre, Filipina (both deceased)

Sister: Kim Cantil

Brothers: Clem Cantil and Marc Cantil (deceased)

Spouse: Mark Sakaue, Japanese American, married in 1994, who is a retired lieutenant of the Sacramento Police Department

Children: Two daughters, Hana and Clare Sakaue, graduates of the University of California, Davis, and the University of the Pacific, Stockton

High school: Graduated in 1977 from C. K. McClatchy High School, located in the Land Park area and established in 1937, currently the oldest operating high school in the Sacramento Unified School District

College: Earned associate's degree from Sacramento City College, bachelor's degree and juris doctor degree from the University of California, Davis

Judicial career:

- Confirmed in 2010 as the 28th Chief Justice of California (sworn in January 2011)
- Nominated by Governor Arnold Schwarzenegger on July 22, 2010, to be the chief justice
- In 2005, Governor Schwarzenegger nominated her to the Court of Appeal, Third Appellate District
- In 1997, Governor Pete Wilson nominated her to the Superior Court of Sacramento County
- In 1990, Governor George Deukmejian appointed her to the Sacramento Municipal Court
- From 1988 to 1990, she was the deputy legal affairs secretary and later deputy legislative secretary under Governor Deukmejian

Firsts:

- First Asian American (and also the first person of color) to lead the California Supreme Court from 2011 to 2023, when she retired
- First Filipina American and the second woman to serve as the state's chief justice

Hobbies: Golf, tennis, pickleball

Awards:

- 2019 Sandra Day O'Connor Award by the National Center for State Courts for her work inspiring, promoting, and improving civics education
- 2013 ABA Margaret Brent Women Lawyers of Achievement Award
- 2003 National Asian Pacific American Bar Association Trailblazer's Award
- She has also been recognized for her early work on domestic violence issues, for her support for minority bar associations, and for advancing the role of women and minorities in the legal profession

Current position: President and CEO of the Public Policy Institute of California

Favorite song: "Fantasy" by Earth, Wind & Fire

Bucket list: Go to Italy with her husband and daughters

Most interesting job: Blackjack dealer at Harrah's



On September 13, 2022, at the historic Stanley Mosk Library and Court of Appeal Building in Sacramento, adjacent to the State of California Capitol building, I sat down with Chief Justice Tani Gorre Cantil-Sakaue (CJ Cantil-Sakaue) of the California Supreme Court.

Most interviewers would focus on cases and her tenure as the chief justice, but, to be honest, I just wanted to catch up on our lives since our McClatchy High School days when we met over 48 years ago. Back in 1995, CJ Cantil-Sakaue and her husband Mark chaperoned her nephew Matt Nakao's first date in sixth grade with Nikki Muranaka, my niece.

Ruthe Ashley, CJ Cantil-Sakaue, and I went to lunch after our interview. These two humble, intelligent, trailblazing, beautiful Filipina American attorneys are featured at the California Museum in Sacramento in the "California is in the Heart" exhibit under Law & Politics that runs through April 30, 2023. CJ Cantil-Sakaue is also part of the exhibit "California Women Changing Our World" as one of the Inspiring Women. At the museum, below her photo, states, "Tani Cantil-Sakaue is the first Filipina American to serve as California's chief justice. She worked as a prosecutor and a judge before being appointed to lead the state's Supreme

Court in 2010. She has worked to reform the bail system, decriminalize minor offenses, and improve civic education.”

Ruthe Ashley, a former member of the ABA Board of Governors, says this about CJ Cantil-Sakauye: “The chief justice has been a gift to the people of California. When she was appointed 11 years ago, she took over a judiciary that was struggling with finances, conflict with a group of judges, vacancies, and more. In her 11 years at the helm, she changed all that with her leadership and ability to work with all. Her historical appointment as the first woman of color chief justice and Filipina American opens doors for so many after her. She is an inspiration and role model. We will miss her.”

Hawaii Chief Justice Mark Recktenwald has gotten to know CJ Cantil-Sakauye at the Conference of Chief Justices (CCJ) meetings. He commented that “she is a wonderful leader, and her retirement is a big loss to the chief justices conference. I hope she is able to relax a bit and have more time with her family.” CJ Cantil-Sakauye’s advocacy behind the scenes made the creation of the CCJ/Conference of State Court Administrators environment and natural resources committee possible.

CJ Cantil-Sakauye’s former colleague on the California Supreme Court, Tino Cuellar, who is now President of Carnegie Endowment for International Peace, says, “California Chief Justice Tani Cantil-Sakauye was a transformative leader for the state’s judiciary because she has the unusual combination of a spine of steel and a capacity for generous engagement with colleagues. She could listen patiently but was also decisive when needed and could communicate with clarity and eloquence. Within the California Supreme Court, she led in a way that kept the court together even as justices sometimes held onto differing views. She worked to make the courts responsive to the needs of all Californians while also protecting judicial independence. In this fragile moment for democracy in the U.S. and abroad, I have found an even deeper appreciation for the norms and values that the chief justice embodied during her long tenure of public service.”

What is your fondest McClatchy High School memory?

I have so many great memories of McClatchy. I loved McClatchy and everything about it. We had Unity Day. All the organizations would bring food and play music or perform a dance. I just remember it being really homogeneous, lots of groups of people, diverse, and we all got along. I was just telling my husband this the other day; I tend to think it was about the music. There was Lynyrd Skynyrd, Van Morrison, Pablo Cruise, but all of us, everybody, came together for Earth, Wind & Fire. That was a unifying factor. We were all mellow from it.

Did you go to the Tower of Power concert in the gym at McClatchy?

I don’t remember that, but my husband is a trumpet player. He is all and only about Tower of Power. We have all the recordings.

Do you remember the East Wind Band? They still play in Sacramento. Dale Chinn plays the trumpet.

Everybody loved East Wind. We danced. It united us. The music united us.

Who was your favorite teacher at McClatchy?

Mr. Nicolai Laquaglia. Always in a hurry, always frustrated and exasperated with us. Kind and full of wisdom. Because of student government, and all of us were in there. He managed to speak everybody’s language.

Were you a songleader or cheerleader?

Songleader. It wasn’t like cheerleaders today. We were not cliquey or part of a cool crowd. We were everybody’s crowd. We had the parade. The Turkey Trot. That turkey was in my backyard! Scary, vicious.

Were you on any court?

I was homecoming queen in 1976 with Jerry Chappell, the homecoming king, and football star.

What was your most interesting job?

I was a blackjack dealer at Harrah’s, Lake Tahoe. Back in the day. They came to UC Davis to interview on campus. I was in law school. It was a two-minute interview. We walked up to this room, my roommate and I. They asked us a few questions and hired

us both on the spot. We worked during the summer and holidays.

What is on your bucket list?

I don’t really have one. There are things I want to do. Go to Italy with my girls and my husband. I would like to spend some time in the mountains and in nature with my husband. I like to snowshoe in a quiet place. I’d like to visit more national parks out of state.

Do you have a favorite vacation spot?

Not really. I’m kind of a homebody with my husband. We have two dogs like the sons we never had—a standard poodle and a rescue dog. The rescue dog is insecure. I can’t imagine my house without the noise and dogs.

Do you have any hobbies?

I started playing golf again with my old law school roommate and a group of 10 other women once or twice a month. I’m going to the range and bringing my younger daughter along. I picked up tennis again. I used to play. I was #12 on a team of 12 in junior college. I recently picked up pickleball with two McClatchy friends. We talk and tease each other.

Have you ever thought about writing a book?

I have. I’ve been encouraged. I haven’t had the focus.

You could write a children’s book—like Justice Sonia Sotomayor.

I would like to do a children’s book. I’ve thought about that. I’ve also thought



Judge Margaret Kuroda Masunaga (Ret.) serves on the ABA Judicial Division Executive Committee of the National Conference of State Trial Judges

and is co-chair of *The Judges’ Journal* editorial board.

about a small book, *15 Lessons in the Law or Female Perspective Practicing Law*.

The ABA would be interested.

I would love to do something like that. They [the ABA] are a tremendous force. They do so much.

You should join the ABA Judicial Division. You get *The Judges' Journal* publication as a benefit of membership.

I like being informed about what everyone is doing. That's a good national organization. California has always been the bigger state bar. When we were all in one. We now have this division. Now, the ABA is even stronger in California.

Switching gears, do you have any ideas on how to improve judicial security?

Judicial safety, now more than ever, is in the spotlight. As judges, we are used to toiling in anonymity. We all know the stories. We've witnessed it. We've been the victim of threats. I've had my share of threats. As a

trial court judge. Not as an appellate judge. That was six years of no one threatening. But then I became chief, and, again, those kinds of threats came up. It is an issue.

We, as judges, have to know that now. Before we were anonymous. We are not advocates. We are not partisan. The greatest part of our safety is going to come from ourselves. Self-awareness. Being careful if we even are on social media. Being careful for our families. I also think it is us getting out there. More and more. Let people know what we do. We decide controversy, and we do it transparently. We write; we speak. It is a fair process. I think we have to tell people more and more about that. Explain it.

I'm a huge fan of civics. I started a civics program in the branch. That's a way for us to get out. Talk about ourselves. Talk about the process. Not about cases. Educate the new generation coming up. We have to be our best security advisors. Be aware of our surroundings and situational awareness. We were talking about the police car in

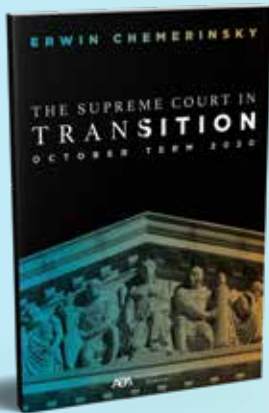
front of my house. My husband was in law enforcement. I was aware of threats and his concern. We live in a new world. We have to be careful on social media, if we are using it.

Is there any one opinion that stands out for you? Other reflections?

One of the bigger cases was the *Garcia* case. We decided an undocumented immigrant who passed the California bar exam could have his license. It was a narrow question.

As a young lawyer, I could not envision working in the law. So impassioned. How much I've learned. It's been exciting and hasn't felt like 38 years. As a young lawyer until now, we've seen so much change. California is for the better. I hope it continues. This rich environment. I've worked in the executive branch and the legislative branch. The judicial branch is such an essential branch of government. So much talk about democracy. We can still be fair and transparent. To harmonize the law. I'm happy to watch it on the sidelines. ■

The ABA Judicial Division's First Annual Review of the 2020 Supreme Court Term



BY ERWIN CHEMERINSKY

This review of the U.S. Supreme Court's October 2020 Term looks back at the major cases addressed by the Court and provides an informed focus on the implications of these decisions. Written by Erwin Chemerinsky, dean of the University of California, Berkeley School of Law, the book takes a neutral tone, neither praising nor criticizing the decisions, and organizes the case essays by the key topics covered by the Court's decisions in their 2020 term:

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CORNERSTONES OF DEMOCRACY

Building Confidence in the Justice System Through Civics, Civility, and Collaboration

By Judge Adrienne C. Nelson

The construction of the U.S. Constitution and, through it, the American government was not an easy feat. The founding fathers grappled with its structure, the various checks and balances, and balancing majority rule with minority voice. Disagreement abounded on certain points; however, one point of commonality was the value and importance of popular sovereignty and public participation in government regulation. As James Madison stated, “[T]he people are the only legitimate fountain of power, and it is from them that the constitutional charter, under which the several branches of government hold their power, is derived[.]”¹ Two-hundred thirty-five years later, many members of our society do not understand the depth of that meaningful role.

Over the past few decades, American society has become increasingly polarized.² Polls over the years have documented a decreasing public trust in our government institutions. The Pew Research Center conducts a poll each year to document American trust in their government, and that percentage has declined since 2001, when about 60 percent of Americans said they trusted the federal government to do what is right just about always/most of the time, to a mere 20 percent in 2022.³

Restoring American faith in our government institutions requires more than promises and speeches. It requires a commitment to returning to and living up to the American values on which our country was founded. The basis of our republican democracy is the American people, but they cannot wield a power that they do not understand. To regulate and assess a government body, one needs the ability to understand it first. The obstacle facing many Americans today is not an inability to understand how our government



functions but rather the plethora of information bombarding people each day. In the digital media age, where the news is more accessible on Twitter feeds than daily newspapers, it is far too easy to obtain tidbits of information rather than a complete picture. That is why civics education is critical to re-engaging the American public in their civic responsibilities.



Judge Adrienne C. Nelson is a U.S. District Judge for the District of Oregon.

“Civics education” is a broad term that is often spoken about without identifying the precise features that make it an integral part of meaningfully engaging in American society. At a basic level, civics education includes civic knowledge and skills. That is, it is an education on the “process of government, prevalent political ideologies, civic and constitutional rights.”⁴ However, a comprehensive civics education goes beyond a foundational understanding of how the American government functions. It also seeks to establish an “appreciation for civil discourse, free speech, and engaging with those whose perspectives differ from our own” and to “develop the civic agency and confidence to vote, volunteer, attend public meetings, and engage with [] communities.”⁵ Essentially, the goal of civics education is to provide individuals with an understanding of how the American government works, while also fostering the skills necessary to discuss political issues civilly and collaboratively, and fueling a desire to actively participate in American society for the public good.

Unfortunately, the level of civics education that many Americans receive does not adequately meet those lofty goals. For example, the judicial branch is complex, partly because the structure of American court systems is incredibly complex. The federal level contains district courts, circuit courts, and the U.S. Supreme Court, and each state contains its own trial courts, courts of appeals, and supreme court (though the precise names of these courts may vary from state to state). Yet, the average American receives little information about how those various courts work together. The judicial branch does not receive a large amount of media coverage, and the coverage that is aired is not representative of how the vast majority of courts in the United States function. For example, when the Supreme Court issues an opinion that involves a controversial social issue, the information that the public receives about those opinions is not always presented in a manner that encapsulates the Court’s rationale, its interpretative process, or the impacts of its decision. Rather, the public receives the headline that a

well-known case was overturned, or a constitutional right was expanded, with little information about *why* that decision was made. Or, as another example, when a federal district court issues a controversial opinion, it may engender concern precisely because the public does not know that those decisions are subject to review by, at least, one other court. This piecemeal understanding of government leads to confusion and strong emotional responses when judicial decisions are made that contravene individual personal or social beliefs. At the same time, a limited understanding of the way that the judicial branch is connected to the other two branches of government could lead individuals to believe that they have no recourse or ability to impact the outcomes that they do not agree with.

I am hopeful that every American can be taught about the judicial system. However, the goal is not perfection; the goal is education. The public does not need a three-year education, like lawyers, on interpreting statutes to obtain a solid, foundational understanding of the court systems and how judges apply the law to different facts. That foundation would sufficiently allow the public to meaningfully engage with the judicial branch because they will understand both its purpose and how it functions. That is the true goal of civics education: foundational knowledge.

However, foundational knowledge includes more than an understanding of the government itself. Intertwined with that understanding is the goal of establishing civic values and behaviors that encourage civility and collaboration. Civics education is an opportunity to put aside the polarizing topics and beliefs that divide our country and meet on common ground. Civics education is a bipartisan issue—both democratic and republican government actors have recognized the value of a public that understands its government and its role within that government.⁶ Bringing people together for civics education is an opportunity to bring both groups to the table, but in a way that maintains and demands civility. Individuals may have different perspectives or

beliefs about how the government *should* work, but that does not mean civil and collaborative discussions about how the government *does* work cannot occur. In fostering civics education, we must also seek to foster community by maintaining respect and civility as we work together to fill knowledge gaps. Civics, civility, and collaboration encourage and build confidence in the justice system.

The need for civility in these discussions is why the legal community is an essential component to promoting engagement in civics education. The essence of a lawyer’s role is to “agree to disagree.”⁷ When motions are filed and oral arguments are heard, or when an attorney objects to the admission of evidence, each attorney believes their position is correct. However, the arguments are maintained with civility because each attorney is trained to focus on the merits of their position and the arguments that are being made rather than the individual who is making the opposing argument.⁸ When the judge makes their ruling, the losing attorney takes the loss with respect and, although they may disagree with the decision, the attorney continues with the trial in a civil manner. An attorney’s job is innately adversarial, but an adversarial role does not require incivility or disrespect. The ability to approach difficult topics, where opinions and beliefs may differ, in a civil and respectful manner is what attorneys need to model when they engage in civics education. In a sense, an attorney’s behavior can be an example of the very civic values that civics education seeks to implement: the ability to civilly dialogue and engage with individuals who hold different perspectives than our own.

While modeling, attorneys also have an opportunity to impact the civic knowledge aspect of civics education. Attorneys are well-positioned to engage in discussions and educate individuals about the functions of government precisely because their jobs touch on each government branch. Attorneys have a greater depth of knowledge about how the judicial system works than the average American. The average American may not understand the difference between the federal court system and

the state court systems, but an attorney does. Understanding the legislative branch, how statutes are constructed and amended, and the impact of legislative bills are all skills that attorneys must develop in their careers. In the same manner, attorneys understand that the executive branch can also impact the legal landscape, but they recognize the nuances in the types of changes and the impact of those changes in a way that other citizens may not.

Aside from the mechanics of each government branch, attorneys receive a comprehensive education on constitutional law. Constitutional law is a foundational course in many law schools across the United States—from a future lawyer's first year of law school, they receive an in-depth civics education that many Americans do not have access to. To be sure, not every American may need to fully understand the various doctrines used to interpret the U.S. Constitution or the other narrower topics that are discussed in constitutional law classes. But the depth of knowledge that attorneys have on that topic, and other civic topics, allows them to engage in fundamental discussions about civics in a way that enhances the understanding of individuals who do not have the benefit of a legal education. Further, attorneys can aid the flow and direction of discussions during educational opportunities by identifying legitimate points and disrupting misinformation precisely because they understand the topics at a deeper level. In essence, attorneys engaging in civics education can help to provide Americans with an accurate, foundational understanding of civics that encourages them to engage more meaningfully in society while also emphasizing the importance of that engagement precisely because attorneys understand how impactful civic engagement can be.

Attorneys are not the only members of the judicial system that have an opportunity to foster civics education. Judges actively choose not to delve into the world of politics because doing so undermines American confidence in the neutrality of judicial offices.⁹ That decision to stray away from the polarity and bias of politics is an essential aspect of a judge's role and it

would be erroneous for that balance to be disrupted. However, civics education is not a subject that impacts a judge's neutrality. The importance of civics education is not a contested political issue and taking opportunities to increase civic engagement is not conduct that would affect a judge's perceived neutrality.

In fact, it is that neutrality itself that makes judges ideal actors for getting the legal community involved in civics education. Engaging in civics education is not asking judges to be activists; rather, it asks judges to model collaboration and emphasize how that collaboration benefits American society as a whole. As neutral actors, judges continually must walk the line of addressing difficult topics in a respectful and civil manner. Many of the cases that judges preside over involve topics that are deeply meaningful to Americans, be it abortion, gun control, criminal sentencing, and so forth. Bridging the gaps between the law applied in the case and the personal opinions of the public is difficult, but it must "begin by respecting the fact that these are very difficult issues and that people of good faith are going to come out differently on them."¹⁰ A judge's job is to apply the rule of law, but sometimes judges may disagree as to how that law should be applied because of the manner in which they interpret the arguments or the governing law.¹¹ For many judges, the role is a collaborative one that requires the ability to hear other viewpoints and perspectives with an open mind. That is, a judge's position requires both collaboration and civility—two features that are essential to fostering meaningful civics education.

The collaborative nature of a judge's job is not always highlighted in the media, and that is why it is all the more important that judges choose to participate in civics education. The most frequently reported on judicial actions are those that elicit the most controversy: U.S. Supreme Court confirmation hearings or Supreme Court opinions on issues like freedom of religion, affirmative action, or gun control. That type of coverage does not highlight the fact that a large percentage of opinions issued by a judicial panel are unanimous.¹² That



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type of coverage does not highlight the fact that Justice Ruth Bader Ginsburg and Justice Antonin Scalia fostered a genuine friendship during their tenure on the U.S. Supreme Court, despite having vastly different methods of interpreting the Constitution.¹³ Viewed as a whole, judges are required to collaborate with civility, even when the topics are difficult and polarizing and even when they may not agree with each other's perspectives and methods.

Engaging in civics education not only allows judges to model collaborative civility, but it also gives judges an opportunity to contrast the realities of their role from the manner in which their actions are sometimes portrayed to the public. It is an unfortunate reality that the neutrality required for a judicial office can also foster a looming separation between the judiciary branch and the public that prevents an accurate depiction of a judge's role.¹⁴ However, engaging in civics education allows judges to model behavior while also providing the public with a more accurate representation of the judiciary branch, how it functions, and its goals. It is difficult to expect the public to trust in a judiciary branch that it does not understand, especially when the primary actors in the judiciary branch maintain a careful separation from the public for fear of perceived bias.¹⁵ Judges engage with members of the public every day in the courtroom. Those interactions are opportunities to model civility; however, they do not provide the same opportunities for collaboration that civics education does because judges must maintain a certain distance from the parties to remain a neutral arbiter. Civics education provides judges with an opportunity to shrink the gap between the judiciary branch and the public, but it does so in a way that does not ask or require judges to abdicate their necessary neutrality.

The legal community has both the ability and the obligation to collaborate on facilitating civics education and creating opportunities for that education. Lawyers and judges are both uniquely positioned to promote civics education, highlight how to do so in a civil and collaborative manner, and, in some instances,

demonstrate civics in action. The only remaining question is "how?"

A new framework or system is not required. Various organizations and entities have already begun working to increase opportunities for civics education, and it would be remiss to ignore those existing systems. Instead, lawyers and judges can enhance those existing systems by seeking opportunities to join in, whether through direct teaching, engaging in discussions, or finding other methods of support. The key, however, to meaningfully involving the legal community in civics education is collaborative engagement, where members of the legal community are actively participating in the educative process rather than passively agreeing that civics education is necessary.

Through the Cornerstones of Democracy Commission, the American Bar Association (ABA) has highlighted the need for participation in civics education by the legal community. Central to the Commission's mission is the idea that "the legal profession must lead the way in promoting civics, civility, and collaboration to restore confidence in our democratic institutions, in the judicial system, and to protect the rule of law."¹⁶ The Commission has already taken many steps to advance that mission. For example, it provides a conversation guide for state, local, practical specialty, and affinity bar associations free of charge,¹⁷ and it is developing, or modifying, programs to model civil discourse on topical issues for civic, professional, and governmental organizations. Civics and civility programming have been, and will be, included at key ABA events throughout the 2022–23 bar year. A communications campaign has been developed and implemented, and the Commission has collaborated closely with both ABA entities and outside organizations to continue developing programming and activities. As an ongoing mission and initiative, the resources provided by the Cornerstones of Democracy Commission continue to be updated and expanded, and many of those resources are available free of charge.¹⁸

In addition to the Cornerstones of Democracy Commission, across the

country, various courts and institutions have established various methods for integrating the legal community in civics education. For example, courthouse learning centers are already established in the Second Circuit, the Eighth Circuit, the Ninth Circuit, and the U.S. District Court of Minnesota. Those centers have "robust programming for all ages ranging from in-depth tours and court observation to Scout badge programs, media and information literacy sessions, and institutes for teachers and homeschool educators."¹⁹ Not only can attorneys and judges actively participate in the programming available through those centers, but legal community members living in areas without such centers can advocate for their construction in their own local courts. Exact replicas are not needed—the goals of the centers and the programs that they provide can be achieved through various types of programming that meet the needs of the communities in which they are established.

In addition to courthouse learning centers, numerous courts have worked on expanding their community outreach to adults and fostering adult civics education. For many adult Americans, the last opportunity that they had to receive a comprehensive civics education was in high school, if at all, and the depth of that education can vary from state to state and high school to high school. To continue that education, courts have begun creating more opportunities for adults to learn about civics and the American government. For example, in Colorado, Our Courts Colorado provides "a series of practical presentations in English and Spanish that judges and lawyers bring into communities."²⁰ In other areas, judges and attorneys have worked together to provide accessible college courses on civics education.²¹ Those established curriculums could be modified and implemented for other classes in different locations. In the interest of collaborating to increase civics education, sharing those curriculums among members of the legal community could ease the strain of establishing classes in new areas.

Other courts have worked to increase opportunities for children to receive a more direct education about the judiciary branch.

In partnership with the Louisiana Bar Association and the Louisiana District Judges Association, the Louisiana Center for Law and Civic Education has established two programs aimed at providing that direct education: Judges in the Classroom and Lawyers in the Classroom. Through these programs, volunteer lawyers, judges, and educators deliver interactive presentations on a wide variety of civics and law-related topics.²² Potential volunteers only need to fill out a form to be matched with a local Louisiana classroom that is part of the program, making engagement accessible and simple. Information and updates about that program are available through the program's ongoing newsletter.²³

In other courts, annual "court camps" are held for students, such as the Second Circuit's annual summer camp for middle school students. "Students spend five days at the courthouse interacting with judges, lawyers, court staff, law school students, and law enforcement representatives as they consider careers and learn advocacy skills that they can use in the law and in life."²⁴ These types of opportunities are ideal for attorneys or judges who may not have the capacity to commit to large-scale, time-consuming projects. However, the longevity of the commitment in no way lessens an attorney's or a judge's impact. Those five days that middle school students spend at court camp could greatly enhance their understanding of the legal field, the judiciary branch, and civics in general. For students who may be just beginning to learn the nuances of American government, having a judge or attorney visit their classroom, or receiving an immersive experience like a court camp, could foster interest in continuing to learn about civics and a desire to continue engaging in the civic components of American society.

Along with creating more student opportunities to engage with the judiciary, other courts have provided targeted learning opportunities for teachers. For example, a number of federal courts offer professional development programs for teachers through teacher institutes. These programs last from half a day to three days, with the goal of enriching classroom teaching about the courts in high schools and middle schools.

Many of these programs are scheduled during the summer to provide the greatest level of access to teachers, and, although the curriculum of each program may vary, they generally have teachers "observe court proceedings and debrief with judges and attorneys" and "[l]egal scholars join judges in teaching substantive classes."²⁵ The information that teachers receive helps them "incorporate new insights into lesson plans they develop during and after the institutes" and provides "a deeper understanding of the judicial system."²⁶ Teachers also receive continuing education credits for their participation, making the programs beneficial for the teachers' own professional requirements.²⁷ In essence, teacher institutes operate as a dual system of civics education by providing adult education to teachers while also providing vicarious civics education to the teachers' students.

Broader efforts have also been implemented by many federal courts through community outreach committees. For example, the Ninth Circuit's Public Information & Community Outreach Committee is "dedicated solely to improving understanding of and confidence in the federal courts."²⁸ The Second Circuit established a circuit-wide steering committee and civics initiative, Justice for All: Courts and the Community Initiative, "to increase public understanding of the role and operations of the courts and bring courts closer to the community."²⁹ The Sixth Circuit's outreach committee implemented Connections: You, Your Courts, Your Democracy, a website that seeks to "[e]ducate and heighten the awareness of judges within the Sixth Circuit on [] the extent of the lack of knowledge of civics and the critical role and function of the federal judiciary in our democracy," "[e]ngage the judges within the Sixth Circuit on the importance of civics education," and "[p]romote civics education within [the Sixth] [C]ircuit."³⁰ The types of resources that these outreach committees provide vary, but the goals of each committee are the same: increasing the public's understanding of the courts and bridging the gap between the judiciary and the public. For judges wary of engaging in civics education,



these committees can be a less direct form of advocacy that still achieves the meaningful result of providing accessible resources on civics education to the community.

Aside from establishing an entire committee, smaller-scale efforts to engage with the community can still have a profound impact. In Oregon, tours are available of the Oregon Supreme Court building, and the information provided in the tours intertwines the history of Oregon's court system with more general civic knowledge about the role of courts, both generally and in relation to the other government branches. Judges on both the Oregon Supreme Court and the Oregon Court of Appeals also regularly visit high schools and colleges around Oregon to hold oral arguments and discuss the appellate process with students.³¹

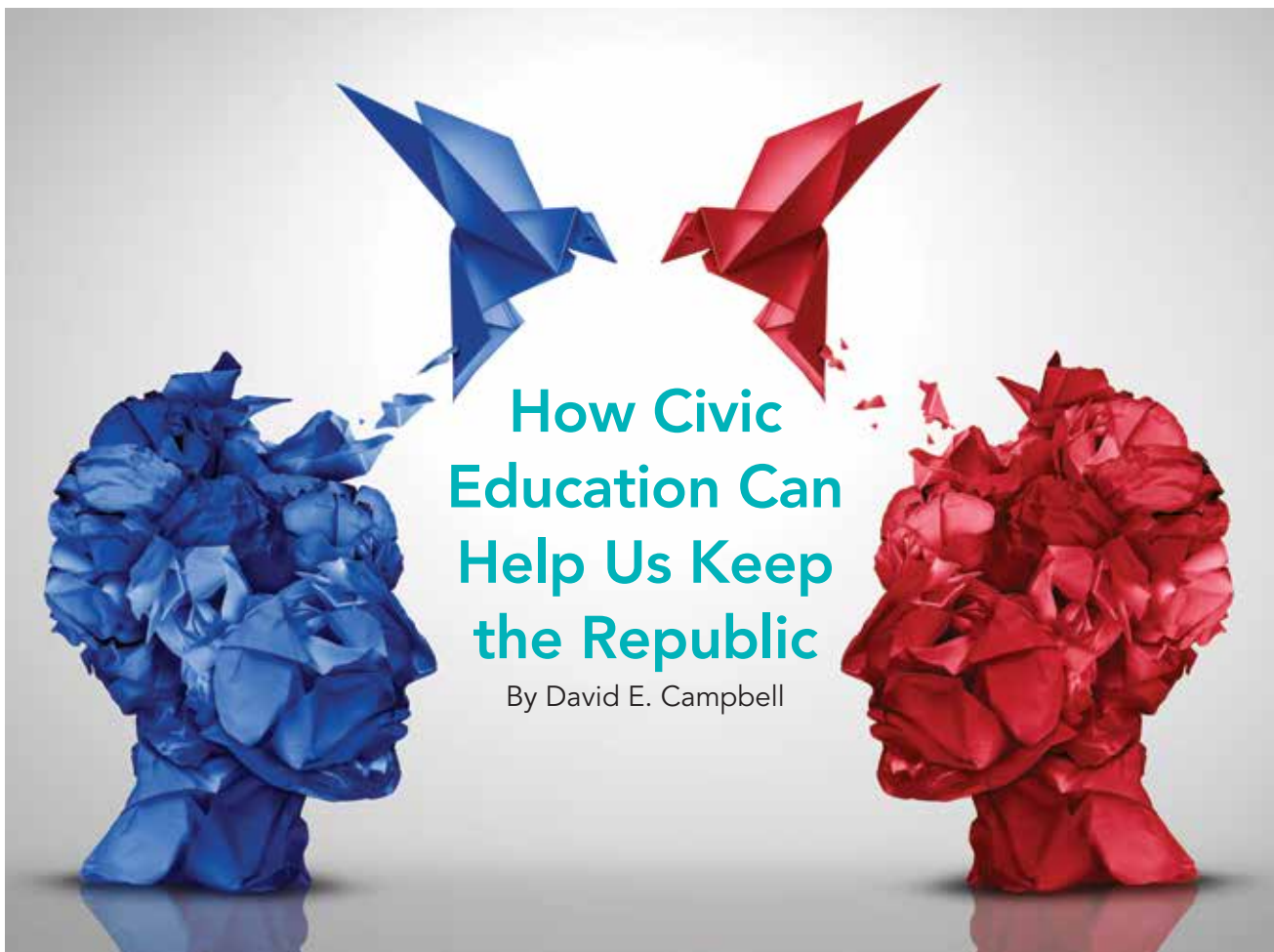
A multitude of programming and organizations exist in the legal community to promote civics education engagement, and the examples described above merely scratch the surface of this robust movement. Their very existence highlights the role that attorneys and judges can play in civics education, but these programs can only continue to grow if the legal community continues to advocate for and engage with them. Court camps require volunteers, civics education classes require instructors, and courthouse learning centers require individuals committed to creating, implementing, and leading programs. Even

outside of structured programs and organizations, attorneys and judges have opportunities to provide civics education through their behavior, their conversations, and their actions. The opportunities to participate in civics education are endless—but we must choose to participate. ■

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Endnotes

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14. *See* Fogel et al., *supra* note 9 (“There’s a truth-gap problem. We’re in a society where a significant number of people don’t read newspapers. They don’t believe that the courts are worthwhile. They believe a lot of stuff that’s very antithetical to what we’re talking about.”).
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How Civic Education Can Help Us Keep the Republic

By David E. Campbell

Democracy in America is under threat. This is not a partisan statement, as three-fifths of both Democrats and Republicans agree.¹ Nor should we assume that because the worst fears about the 2022 midterm elections were not realized that the nation is out of the proverbial woods. The challenges that face America’s republican form of democracy transcend any one candidate, election, or event. While the most extreme anti-democratic voices get the most attention, there are also warning signs among the general public. A disturbingly large share of Americans express doubt about fundamental democratic norms. In the recent Notre Dame Health of Democracy Index, 20 percent of Americans said that not everyone should be allowed to vote. Thirty percent took

the very Machiavellian position that the ends justify the means, by agreeing that they do not mind a “politician’s methods if they manage to get the right things done.” Even more alarming, nearly 40 percent agreed that “the United States is on the brink of a new civil war.” As Benjamin Franklin famously put it, the Constitution created a republic, “if we can keep it.” While long taken for granted, whether we can keep the republic is today an open question.

Volumes have been written about the causes of our current democracy deficit, but one common—and bipartisan—theme is a lament about the inadequate civic education of America’s young people. While it is easy to dismiss concern over civic education to the usual grumbling about “kids these days,” the connection between poor

civic education and weak democratic norms is plausible. For example, over the past 20 years, average scores on the civics exam administered by the National Assessment of Educational Progress (the “Nation’s Report Card”) have been below the level of proficiency. Perhaps we should not be surprised that civic education is seen as lacking, as civics is typically given short



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shrift when compared to math and reading. This is ironic, as every state has either a provision in its constitution or a statute that justifies the very existence of a public school system as necessary for the informed citizenry required by a republican government. Those state constitutions and statutes notwithstanding, civics is not included in the state-level accountability systems established by federal legislation, first No Child Left Behind and now Every Student Succeeds. Not surprisingly, when schools are incentivized to increase math and reading scores, other subjects—including civics—receive less attention. Over the

standards for civics. For the small group of scholars and educators who have long advocated for more attention to civic education (full disclosure: this includes me), it is tempting to use this moment to say, “I told you so.” This would not be very civic-minded, and so the civic education community has instead used this Sputnik moment to emphasize what works to educate young people to be active, informed members of a democratic community.

The first step to curing what ails civic education is to diagnose the problem. Understandably, attention is often directed toward low levels of knowledge about the

should be complacent about the lack of basic knowledge among voters. As an educator myself, I am in the business of disseminating knowledge and believe that we should strive for a more informed electorate. Rather, we should be wary of claims about the supposedly halcyon days of yore, as ignorance among the mass public is an age-old concern. Philosophers and social scientists alike have long noted that the citizenry seems uninformed. Something that does not change cannot be the cause of something that has changed—a constant cannot explain a variable. America’s democratic crisis is new; the low level of Americans’ knowledge about their system of government is not.

Given the maelstrom of misinformation that plagues our society, I can understand if readers are skeptical of my claim that a low level of knowledge is not the fundamental problem putting the republic at risk. Wouldn’t a more informed citizenry be less tempted by the siren songs of conspiracy theories and outright falsehoods? It is doubtful. The reason is that people’s willingness to believe false claims stems not from a dearth of knowledge but instead from how they perceive the information they receive. We all employ perceptual filters to make sense of the “blooming, buzzing confusion” of the world around us. When the Red Sox play the Yankees, what a Boston fan sees as a strike a New York fan will be equally convinced is a ball. In politics, partisanship—identification as either a Democrat or a Republican—provides just such a filter. As with examples of Americans’ political ignorance, examples of what is known as “motivated reasoning” are plentiful. Here is a recent one. When gas prices were high, Republicans around the country put stickers on gas pumps with a picture of President Joe Biden pointing toward the price and gleefully exclaiming, “I did that!” Meanwhile, Democrats argued that the president actually has little control over the price of gas. Now that fuel prices have fallen, I am unaware of Republicans again affixing stickers to give the president credit, while Democrats are no longer talking about a president’s inability to affect how much consumers pay at the pump. More seriously for the sake of American

Civics classes need to teach our young people a lesson many of their elders have forgotten: how to discuss your political views with people who do not necessarily agree with you.

same period of time that civics scores have been consistently low, average scores in math and reading have been much higher, even when accounting for the recent dip in test scores during the pandemic.

At a time when it is difficult to find common ground between conservatives and liberals on anything, it is remarkable that they would find consensus on the need for better instruction in civics. Granted, they may not always agree on the priorities for effective civic education, but the fact that both sides recognize the need for improvement is a start. Just as American education in math and science was reinvented after the Soviet Union’s launch of *Sputnik*, civic education is experiencing its own *Sputnik* moment. Congress is currently considering the bipartisan Civics Secures Democracy Act, which would provide local schools with significant federal support for improved civic education while avoiding the minefield of imposing federal

standards for civics, and not only among youth. In 2022, the Annenberg Public Policy Center at the University of Pennsylvania found that over half of all Americans (53 percent), young and old, could not name the three branches of government; 25 percent could not name even one. Judges and attorneys might be concerned that only 46 percent of Americans know that the Supreme Court has the final word on whether a law is constitutional.² I could go on with a nearly endless list of examples, but the point is made. When asked to recall factual knowledge about our system of government, Americans fare poorly—not just now, but for as long as such data have been collected.

While I do not dismiss the importance of accurate information in a democratic republic, I also submit that a low level of knowledge is not the root cause of the current threats facing American democracy. To be clear: I am not suggesting that we

democracy, belief in conspiracy theories is not found only among people with little knowledge about government but is often predicted by a person's strength of partisan identity. Importantly, even though conspiracy theories like QAnon and denial of the 2020 presidential election are associated with the political right, conspiratorial thinking is found across the political spectrum—witness the recent spike in antisemitism, which is found on both the left and the right.³

Partisanship is also nothing new in American politics and thus cannot explain the democratic crisis. What has changed, however, is a rise in partisan polarization. In saying so, it is important to be clear on what the term actually means. “Polarization” is now the default way to describe contemporary American politics, although without much attention to how it is defined. Americans are not polarized in the sense that their political opinions are found at the extremes, either on the left or the right. To the contrary, on nearly any issue you can name, most Americans' opinions are found in the moderate middle.⁴ If the majority of Americans are attitudinal centrists, why, then, is there so much political rancor? The answer is that a critical mass of Americans experiences what political scientists call “affective polarization,” which means that they have a negative, even hostile, view of the other party. They view people on the other side of the aisle not only as political opponents but also as enemies. There is a library of research demonstrating the many ways that Republicans and Democrats have hostility toward one another: They do not want their children to marry someone of the other party; they view supporters of the other party as less than human; and some endorse the use of violence to prevent the other side from assuming power, even after winning a lawful election.⁵ In each case, there are debates among scholars about how deep these feelings are—particularly on the subject of political violence⁶—but the very fact that this is even something to debate only underscores the nation's high state of political tension. Why is partisan animosity so high? A primary reason is that Democrats and Republicans increasingly live in

separate worlds: They consume different news, watch different television shows, live in different communities, eat in different restaurants, and so on. It is easy to caricature people with different political views as unreasonable extremists when you do not know any. Getting to know people with opposing views may not convince you that they are right, but it may teach you that they are not cartoonish monsters, hellbent on destroying all that is good in the world. In other words, we don't know how to talk with people of different views because we rarely try to do so.

Civics classes need to teach our young people a lesson many of their elders have forgotten: how to discuss your political views with people who do not necessarily agree with you. They need to learn that a democracy requires both advocacy for your own opinions and respect for those with perspectives different than yours. In the current political climate, political cross-talk has become increasingly rare. Even rarer are conversations between people of different political perspectives that are civil, deliberative, and for the purpose of seeking common ground. Classrooms are one of the last remaining settings where young people can be exposed to lived democracy—where a group of people comes together to wrestle with issues, hear competing points of view, and express their opinions respectfully.

Lest it seems that I am merely proposing that civics classes become unstructured rap sessions, let me emphasize that the research into civic education consistently finds that the most effective pedagogical method for teaching civics is what scholars call an open classroom climate. Rather than passively listening to the teacher's lecture, watching videos, or filling out worksheets, students gain the most from a civics curriculum built around dynamic engagement. The best civic educators expose their students to real-world issues and give them the opportunity to discuss, debate, and reason with one another. In this model of civics instruction, teachers are both interlocutors and moderators, ensuring that the discussion stays on track, everyone works from a common set of facts, and the conversation remains civil.

Classroom discussions are one important way this can happen, but so is experiential education such as mock trials, simulated congressional hearings (e.g., *We The People*), and model Congress.⁷ It is not hard to see why this method of instruction would be effective, as it brings the subject alive.

An open classroom climate teaches young people the skill of talking in a constructive way with people who hold different views and thus helps to tamp down the partisan animosity that is a root cause of our current democratic crisis. For those who might still be skeptical that this pedagogical approach lacks substance, the research literature also shows that an open classroom climate is the most effective method for imparting knowledge. That is, students who are taught civics in an open classroom climate score higher on evaluations of their factual knowledge about government. With greater knowledge also comes a greater desire to engage in the democratic process, specifically to vote. Furthermore, an open climate has the greatest benefit for young people with low socioeconomic status (SES). Sadly, we see the same socioeconomic test score gap in civics as in other subjects, which only compounds the skew in political participation toward affluent Americans. An open classroom climate serves as a counterbalance to the inequities in whose voices are heard in American politics, empowering low-SES students with more civic knowledge and a greater desire to participate in the fundamental democratic act of voting.

In short, an open classroom climate accomplishes multiple objectives at once. It addresses what I have argued is the root cause of our democratic crisis—the diminishing ability of political opponents to talk and reason with one another—while also increasing levels of factual knowledge and motivating young people to engage constructively in our democratic system of government.

In light of all that an open classroom climate can accomplish, there is good news and bad news. The good news is that nearly all (92 percent) high school students report having experienced some discussion of current affairs in their classrooms, while 69 percent say that they take part in debates

or panel discussions.⁸ These survey questions do not reveal the quality of those discussions, but they at least indicate that, across the country, civics is not merely taught using passive pedagogy.

The bad news is that teachers increasingly feel pressure to avoid precisely the sort of discussion that is the most effective form of civic education. Many teachers have long felt wary of how parents will react when they engage in discussion of potentially controversial issues, but such concerns have only grown in the current political climate. According to a recent study by the University of California, Los Angeles' Institute for Democracy Education, "almost half (45%) of principals reported that the amount of community level conflict during the 2021–22 school year was 'more' or 'much more' than what it had been prior to the pandemic"—with the most conflict in politically divided communities.⁹ Not surprisingly, another study by the RAND Corporation found that, in 2022, 40 percent of teachers reported that political issues caused them job-related stress.¹⁰ Nor is this merely paranoia on the part of teachers. Around the country, 17 states have passed laws or implemented executive orders from their governors to limit the topics that can be discussed in school, including race. While these laws have generated a lot of attention, especially during the past election campaign, it remains to be seen whether they will survive legal challenges. Currently, the best-known of these statutes, in Florida, is on hold due to a ruling by a federal judge that it violates the Free Speech Clause of the First Amendment. Whether these laws are upheld or overturned, the sheer amount of attention paid to the issue of what is discussed in classrooms undoubtedly has a chilling effect on teachers. The irony is tragic. At precisely the time when we need civic education more than ever, there is a movement toward limiting, not expanding, discussion in the classroom and thus impeding the method of instruction most likely to teach the virtues that will keep the republic.

If I left the story here, it would seem that there is no hope for civic education. Either it languishes from a lack of attention

or is stifled by too much attention, or at least attention of the wrong kind. Yet there is hope. Recently, a bipartisan, blue-ribbon team of educators and scholars (more disclosure: I played a small role) was tasked by the National Endowment for the Humanities to create a roadmap for teaching American history, government, and civics. This was an initiative under the Trump administration that, I stress, sought out perspectives and input from all over the country and across the political spectrum. The result is a curriculum guide for K–12 known as Educating for American Democracy (EAD). This is not a set of national standards for civic education but a practical guide for teachers. It has been designed, however, to calibrate with state-level standards. The brilliance of EAD is that it does not impose answers but rather poses questions, which become more challenging as students mature. For example, one of the questions for grades 3–5 includes "How can we express our disagreements and suggest change while maintaining our ability to work together?" In grades 9–12, the questions become more sophisticated, such as "What is reflective patriotism? How can we balance critical and constructive engagement with our society, our constitutionalism, and our history and still be proud to be Americans?"¹¹ While not everyone will be satisfied with every question, EAD meets with broad approval from liberals and conservatives alike. Indeed, the very process of creating EAD was an exercise in finding common ground among people with differing perspectives.

Keeping our republic will not be easy. It will not happen without effective civic education. And effective civic education entails exposure to discussion, debate, and deliberation—learning how to hold a conversation with people who hold views different than your own. To that end, the Educating for American Democracy curriculum poses a series of questions, many of which are hard. But isn't that where meaningful conversations start? ■

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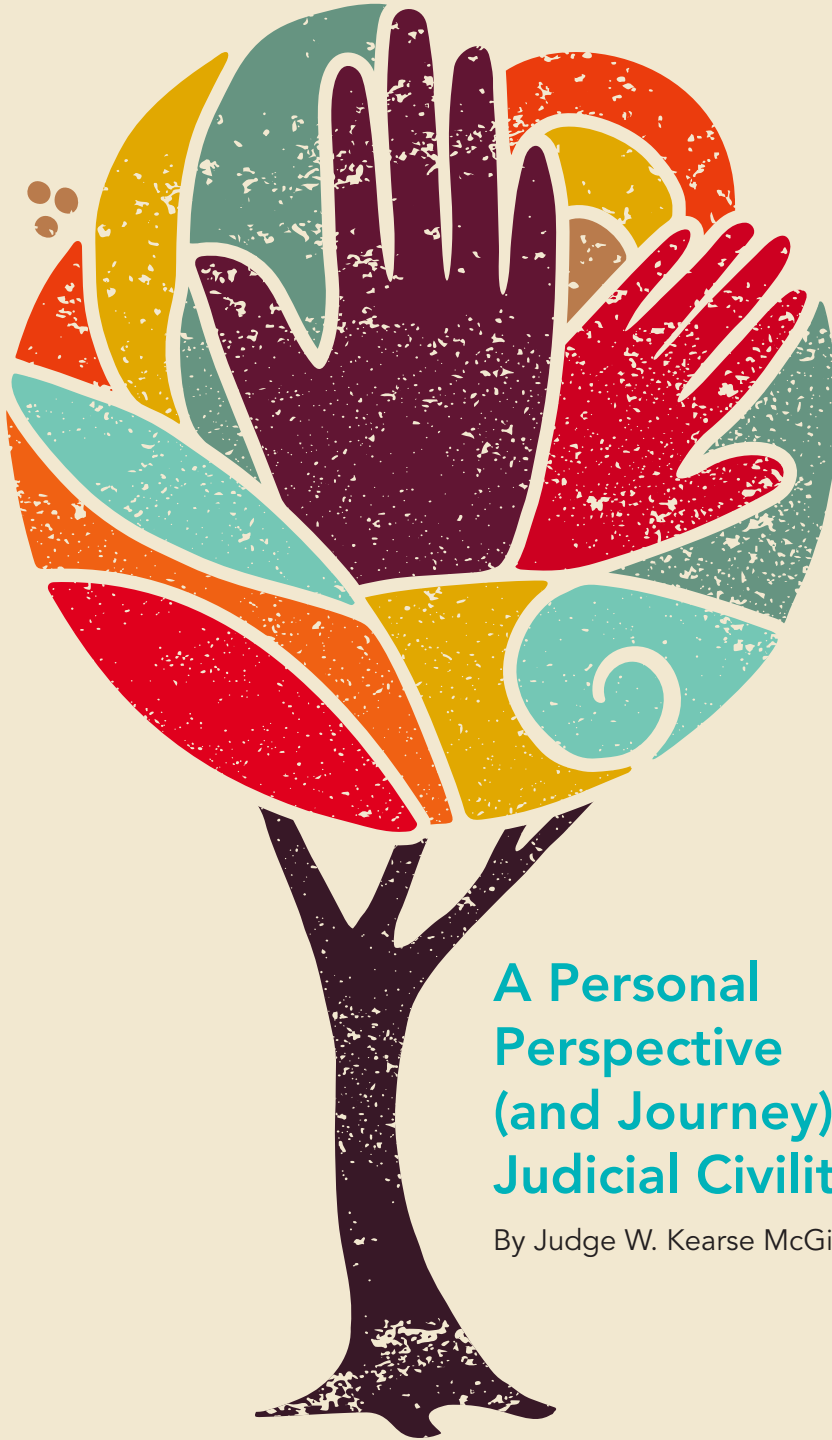
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A Personal Perspective (and Journey) on Judicial Civility

By Judge W. Kearsa McGill

Be not quick in your spirit to become angry, for anger lodges in the heart of fools.
—Ecclesiastes 7:9 (English Standard Version)

When I was selected almost 18 years ago for my first judicial position as a workers' compensation judge, I remember one thing clearly. I promised myself that I would be the best judge possible and not behave the way that I had observed some judges behaving: Surly, curt, and irascible are three of the more forgivable traits in judges that I had observed in my 12 years of appearing in court as an attorney. I resolved to be better. I did not think taking on my new position would be a difficult or fraught transition because many people, including my clients and others with whom I interacted professionally, had remarked to me over the years that I was a "really patient" person and was someone who calmly handled many situations without losing my temper. I naively thought my transition from attorney to judge would be simple and quick. As you, my colleagues, can likely sympathize, I had no idea how much my temperament and demeanor would be tested once I was sitting on the bench.

In those first few months, I would ask myself the same question: Did I, in fact, possess the requisite judicial temperament and demeanor to succeed as a judge? Well, the short answer is that, yes, I did (and I think I still do), but I learned that, while



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it is a vital skill, it must be necessarily viewed as an evolving one over a judge's career. One doesn't just become a judge; one must work to learn how to be a judge. I believe that I have gotten better at it over the years, though, admittedly, I am not perfect in how I handle myself all the time. Metaphorically, judicial civility is a long and difficult road, one filled with off-ramps that lead to dead ends and littered with potholes to avoid, small and large. Over the years, I made a few realizations that I will share with you that I think have allowed me to successfully navigate my professional road for these last 18 years. I am sure you will recognize most of them, but, hopefully, by sharing my perspectives on the problem and approaches regarding judicial civility that I have learned to apply in my life, I can help make your road a little smoother and easier to navigate.

First, let me start with a simple and basic premise: Judicial civility—a judge's duty to be respectful and courteous to others—is important in our society. As judges, we need to practice civility in the work we do. The immediate question, which could come to mind in response, is why do we need to be civil when so much of the world is not? If I were asked such a question, I would not argue with the observation contained in it. Much of society today is coarse, and many act in vulgar ways to others, with no justification for their behaviors (as if those types of behaviors are ever justifiable). Yet, the question remains: Why do we as judges need to be civil? In my opinion, the simplest answer is that judicial civility fosters the public perception that the judiciary acts with integrity, fairness, and impartiality and thus promotes public confidence in the legal system. Judicial civility also works to create an environment in which attorneys, their clients, witnesses, and jurors feel comfortable about the legal process, which can lead to more effective and fair results.

Not only is judicial civility important as a goal, but it is also typically a requirement in keeping our jobs. Virtually every state and federal jurisdiction have a code of judicial conduct that requires judges in courts of record to act with patience, dignity, and courtesy to all people with whom a judge

interacts in an official capacity, including parties and their attorneys, jurors, witnesses, court personnel, and the general public. As for other judicial officers, such as administrative law judges like me, my cursory research for this article reveals that most of these judges across the nation are also required to follow the same standard, imposed by a different set of rules established by a state's legislature or through rulemaking in its administrative agencies.

When judges do not behave civilly, not only are the people involved in the legal proceedings unfortunately subjected to such misconduct, but the public is often subjected to the spectacle as well. To get some idea of the scope of the problem, let us take a look at a couple of examples.

In 2015, a county judge was removed from office by the Florida Supreme Court because the judge physically attacked a public defender outside the courtroom when the public defender refused to waive a client's Sixth Amendment right to a speedy trial. Shocked court attendees heard the judge yell to the attorney, "You know if I had a rock, I would throw it at you right now. . . . If you want to fight, let's go out back and I'll just beat your ass." The two walked out of the courtroom to a hallway and loud smacking noises were heard on a court video recording as one person later identified as the judge was heard yelling obscenities.¹

In a far less extreme matter, a Michigan county judge was in front of the state's Judicial Tenure Commission last year for yelling at a 72-year-old cancer patient during a court hearing. The man received a citation for having an unkempt yard that included weeds, and the judge threatened him with jail if he was cited again. While the Commission ultimately dismissed the complaint "with caution," it nonetheless concluded that the judge violated two canons in the state's judicial system's code of conduct, which requires judges "at all times to be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom they deal in an official capacity," and for a judge "to treat every person fairly, with courtesy and respect." As a result of the news coverage, a petition was addressed to that area's local statehouse

representative and amassed thousands of online signatures demanding that judge's removal from the bench.²

Of course, it is not just courtroom behavior that can be brutish; a judge's pen can be just as demeaning. Here is an excerpt from an opinion written by a Texas federal district court judge (who no longer holds office, but not because of this example) evaluating both counsels' briefings filed regarding a motion for summary judgment: "Before proceeding further, the Court notes that this case involves two . . . lawyers, who have together delivered some of the most amateurish pleadings ever to cross the hal- lowed causeway into Galveston, an effort which leads the Court to surmise but one plausible explanation. Both attorneys have obviously entered into a secret pact—complete with hats, handshakes[,] and cryptic words—to draft their pleadings entirely in crayon on the back sides of gravy-stained paper placemats, in the hope that the Court would be so charmed by their child-like efforts that the utter dearth of legal authorities in their briefing would go unnoticed. Whatever actually occurred, the Court is now faced with the daunting task of deciphering their submissions."³ Not to leave out the West Coast, but in my state of California, the Commission on Judicial Performance reports that, in 2021, demeanor and decorum issues constituted the most prevalent type of judicial misconduct that resulted in discipline.⁴

Clearly, the problem of judicial civility is a large one, and the public is well-aware of it—and it has been an issue for many years. In 1995, one commentator stated that the "affliction [of intemperance] is not so persuasive as to rule from the bench, [but] many say it is further undermining the public's already shaky confidence in the legal system."⁵ Finally, and to expand on my original point above that judicial civility promotes public confidence in the legal system, it is not hard to postulate that an increasing lack of judicial civility can lead ultimately to a loss of judicial independence, which is a hallmark of our constitutional democracy. As another commentator, David J. Sachar, executive director of the Judicial Discipline and Disability Commission in Arkansas, aptly

stated not too long ago: “The judiciary cannot exist without the trust and confidence of the people. [...] More than any other branch of government, the judiciary is built on a foundation of public faith—judges do not command armies or police forces, they do not have the power of the purse . . . and they do not pass legislation. Instead, they make rulings on the law, rulings that the people must believe came from competent, lawful[,] and independent judicial officers.”⁶ It is not an exaggeration to state that by promoting judicial civility whenever the public sees us, we judges help the public to believe in the rule of law.

What reasons account for the lack of judicial civility? I am sure each of you reading this article could quickly come up with a similar (or even longer) list than this one: dilatory, unprepared, or provocative attorneys (or the parties if self-represented); threats of potential violence from the parties or the public; courtrooms in disrepair or lacking in other resources such as court staff; overwhelming caseloads with deadlines that are at times difficult to meet; being underpaid compared to similarly experienced attorneys in private practice; or even a feeling of powerlessness because we can make decisions affecting people’s lives but are unable to fix our own occupational problems. Add to these work issues the personal problems that we may face, some quite serious, and these challenges can lead to a feeling of stress that can cause any judge to act intemperately, and, at least in the case of the Michigan judge, established some of the reasons noted by that commission in deciding to dismiss the complaint.

As for my own personal journey, I clearly recall that many items on the list above caused me great stress in those early months, even to the point of considering a return to private practice. Of course, I had been in stressful situations before as a practicing attorney, and I often prided myself on making stress work for me, using it as a way to enhance my performance as a counselor and advocate for my clients. However, judging brings fundamentally different concerns. As a workers’ compensation judge, I had two or more parties to consider, and my decisions, previously done in consultation with my clients, were mine

alone and made with the power of the state behind me. I now made decisions that could alter a person’s life or a business’s solvency, even drastically. Adding to this new sense of stress was encountering frustration in moving the parties through the legal process, even when they became uncooperative, or when the department where I was a judge seemed unresponsive or uncaring to my needs or concerns. Undoubtedly, every judge feels some of these same pressures, but, for me, at times, stress and frustration led to anger during the workday—a feeling that had to change if I were to be successful as a judge. Simply telling myself, “Don’t be angry,” was no solution to my problem.

To solve a problem, one has to understand it first. Anger management expert Howard Kassinove, Ph.D., a psychologist and professor at Hofstra University, and a fellow with the American Psychological Association, provides a good definition for anger: “Anger is a negative feeling state that is typically associated with hostile thoughts, physiological arousal and maladaptive behaviors. It usually develops in response to the unwanted actions of another person who is perceived to be disrespectful, demeaning, threatening or neglectful.”⁷ For judges, anger and any resulting maladaptive behaviors can manifest themselves in inappropriate demeanor and incivility and potentially lead to judicial discipline. By understanding the stressors that occur during the workday that provoke anger, a judge—hopefully—can avoid that unfortunate outcome. More importantly, identifying the stressors can lead to better outcomes, but understanding one’s reaction to those stressors is the real goal.

In learning to manage my reactions to stressors (commonly referred to as “anger management”) in my early days as a judge, I came across a list of ideas in a book about judicial conduct that I have adapted over time to keep in my mind when situations become stressful on the bench:

- Be honest with yourself—do not tell yourself that you are not angry when you know you are;
- Never argue while angry and never



- argue with someone else who is angry;
- When feelings of anger arise, notice it and take a moment to reflect on *why* you are angry before responding or taking action;
- Make any response or action you take productive (i.e., it accomplishes a judicial task or goal);
- Admit when you are wrong or have acted poorly—the parties will find it refreshing and trust you all the more because of it;
- Never engage in revenge—you can think about it all you want, but do not ever act on it; and
- Treat anger with kindness—rarely is a judge’s wrath a justified response to someone’s actions.⁸

Of course, managing the stressors that lead to anger, while in the courthouse, is much harder if one does not also decrease the other stressors in one’s life. Vanderbilt University Law Professor Terry A. Maroney has noted one study where “U.S. researchers found that judges’ occupational stressors—ranging from the weight of a decision to unprepared lawyers—had a correlation with effects such as fatigue, sleep disturbance, attentional challenges and rumination.”⁹ Therefore, taking care of oneself is a necessary aspect of a judge’s overall approach to avoid stressors that can impact judicial behavior.

“Self-care,” a term coined in the 1950s within the medical community to

encourage patient autonomy in institutionalized psychiatric care, has grown over the last 70 years to become a widely adopted and widespread term. The goal of self-care is to take action to improve and maintain one's emotional, mental, and physical well-being.¹⁰ I really only started to investigate and apply self-care to my own life in the early days of the COVID-19 pandemic when we were all kept home, and my husband and I worried (as we all did) about keeping ourselves healthy while the pandemic took its course over the world. These days, self-care requires a more determined focus, as I am now thankfully back to my regular work schedule, but I try to remind myself of the importance of self-care, especially when I feel my work has become challenging or time-consuming. Self-care can mean many different things to different people, so what may work for a friend or work colleague may not work for you. For me, self-care includes getting enough sleep, regular exercising (whether it is at the gym or a brisk 10-minute walk), taking one or more short breaks during the workday, taking regular vacations (and not working while on vacation!), and engaging in hobbies, such as cooking and reading. Self-care is, overall, maintaining an appropriate work-life balance for yourself that includes time for family, friends—and fun.

Mindfulness, a concept that parallels in many ways the goals of self-care described above, is another important training tool that can help a judge maintain a proper judicial demeanor when under stress. Originally established in 1979 by Jon Kabat-Zinn, Ph.D., a professor of medicine at the University of Massachusetts Medical Center, mindfulness-based stress reduction (MBSR) was created as an eight-week, structured program designed to reduce stress by cultivating attention skills and regulating one's reactions to emotional thoughts and stimuli. By focusing on the present, one can heighten sensitivity to the surrounding environment and one's reactions to it, allowing for enhanced self-management and coping and providing an outlet for reducing rumination on the past or worry about the future, thus breaking the cycle of maladaptive cognitive processes. Research studies suggest that mindfulness

training improves focus, attention, emotional regulation, and the ability to work under stress.¹¹

MBSR has experienced tremendous growth and acceptance since its creation over 40 years ago. It is regularly offered now in a variety of formats, from full eight-week seminars to one-time presentations, and in person, by video, or online, so it is easy to receive some training on this technique. For me, my first experience was taking a short one-hour online class through the National Judicial College back in September 2020. Prior to that class, I had understood meditation generally to be something that could help me relax and feel better. Since that class and others, I have subsequently taken on mindfulness, I have worked at training my mind to be able to focus better mentally and to learn to respond (i.e., not react) to life situations, including those stressful moments in which I find myself when acting as a judge, whether I am writing an opinion, working with court staff or other judges, or engaging with the public. It is certainly no panacea, but I have found it to be very useful, and I encourage you to explore this technique if you have not tried it already.

As I stated at the beginning of this article, I knew from the beginning of my judicial career that a good temperament and demeanor were necessary to be successful as a judge. Yet, what I knew early on was not enough. I had to learn new ideas and methods over the years to apply both in and out of the courtroom to successfully navigate through difficult situations testing my ability to act civilly as a judge. Hopefully, I have given you some ideas to think about and apply to your work to make your job more satisfying and rewarding, both professionally and personally. I will end with this final but, I think, apt point. Socrates, back in Athens over 2,400 years ago, stated, “Four things belong to a judge: To hear courteously; to answer wisely; to consider soberly; and to decide impartially,” and I think the underlying quality that makes those four attributes possible is judicial civility. ■

All opinions expressed in this article are solely those of the author.

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When It Comes to Civility in Court, It's Do or Die

By Judge Benes Z. Aldana (Ret.)

I've yet to find a judge or anyone else who disagrees with my opinion that our country is more divided now than at any time since the Civil War. Disagreement is to be expected in a democracy. The problem is *how* we disagree.

Simple disputes turn into screaming matches. Protests turn into violence. We no longer see someone with a different perspective—we see some *thing* that must be shouted down and defeated. It was an 18th-century English aristocrat, Lady Mary Wortley Montagu, who said, “Civility costs nothing and buys everything.” But that accounting seems lost on modern society.

I don't consider this situation to be hopeless, however. And here's a reason why. On a flight not so long ago, I had the pleasure of meeting a congressman and a congresswoman from opposite political parties. I occupied the middle seat between the two. Appropriately enough, to my left sat the Democrat, to my right the

Republican. Though they held very different views on some issues, they were more than cordial with each other.

I asked how they manage to get along so well at a time when insults, conspiracy theories, and a win-at-all-costs mentality are the order of the day in Washington. It turns out that they both are former attorneys who had learned civility from judges who would not tolerate incivility in their courtrooms. Judges taught them the advantages of relating in a civil manner, the necessity of it, even in an adversarial situation.

I believe not only that we can keep teaching that lesson but that we have to.

Follow the Rules

Our country has a long tradition of honoring, if not always practicing, civil behavior.

At the age of 13, George Washington wrote down 110 maxims he titled “Rules of Civility & Decent Behavior in Company

and Conversation.” Many of the admonitions involved table manners: “If you soak bread in the sauce, let it be no more than you put in your mouth at a time and blow not your broth at table but stay till (it) cools of itself.”

But throughout his life, Washington had a habit of putting the points he considered most important at the beginning and end of his writings. The first Rule of



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Civility he considered worthy of writing down was, “Every action done in company ought to be with some sign of respect to those that are present.” The last: “Labor to keep alive in your breast that little spark of celestial fire called conscience.”

Every course we teach at the National Judicial College is designed to help judges reach and maintain the highest standards of professionalism. That includes cultivating an environment of civility and respect in the courtroom. As a judge, however, you don’t need a lecture to know the rules for civility. They’re already written down.

Rule 2.8 of the Model Code of Judicial Conduct—Decorum, Demeanor, and Communication with Jurors:

(A) A judge shall require order and decorum in proceedings before the court.

(B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge’s direction and control.

(C) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding.

Judges also need to be role models for all people who work in the legal system. On the website of the U.S. District Court for the Central District of California, you’ll find a set of Civility and Professionalism Guidelines. They go into great detail on a lawyer’s duties to other counsel in procedures like service of papers and scheduling. I like this list of a Judge’s Duties to Others:

We will be courteous, respectful, and civil to the attorneys, parties, and witnesses who appear before us. Furthermore, we will use our authority to ensure that all of the

attorneys, parties, and witnesses appearing in our courtrooms conduct themselves in a civil manner.

We will do our best to ensure that court personnel act civilly toward attorneys, parties, and witnesses.

We will not employ abusive, demeaning, or humiliating language in opinions or in written or oral communications with attorneys, parties, or witnesses.

We will be punctual in convening all hearings, meetings, and conferences.

We will make reasonable efforts to decide promptly all matters presented to us for decision.

While endeavoring to resolve disputes efficiently, we will be aware of the time constraints and pressures imposed on attorneys by the exigencies of litigation practice.

Above all, we will remember that the court is the servant of the people, and we will approach our duties in this fashion.

Why Civility in Court Matters

In one of his essays for the *Federalist Papers*, Alexander Hamilton tries to assure his fellow citizens that judges won’t become tyrants under the proposed Constitution. The envisioned judicial branch, he promises, would have “no influence over either the sword (the military) or the purse (tax money).” Judges could basically take no action, could not even get a salary, without cooperation from the executive and legislative branches.

Of course, it takes more than money and weapons to make a justice system. A corrections system can imprison people we find guilty of crimes. But far more court orders, including the garnishment of wages by employers, rely on voluntary compliance.

In most situations, we’re relying on people choosing to comply with our orders.

The reason most of them do is simple: They believe the system and our decisions are fair.

Retired Washington State Superior Court Judge T.W. “Chip” Small offers a great example in his book *You Are Not a Lawyer Anymore: A Primer for Those Who Want to Be a Good Judge*. One of the most difficult decisions a judge may face, he writes, is in a termination-of-parental-rights case.

[I]f the state meets its burden of proof, it will be your duty to declare that these individuals are no longer the parents of their children. Incredibly, those individuals will leave your courtroom accepting the fact that they are no longer the mother and father of their children.

That would not happen, he says, unless the parties viewed the process and the judge making the decision as fair. To convince them, judges have to “sell” their decisions to the losing side. You do that by treating the loser with the same amount of respect you treat the winner, “with even more respect than you are treated,” writes Judge Small.

He’s right. I’ve known hundreds of judges, and the ones who receive the highest marks in evaluations are those who work to make sure that all parties in a case walk away feeling like they were heard and their arguments were considered fairly. Civility and mutual respect are essential precursors to that end. Sadly, not all judges approach their work with the degree of humility Judge Small prescribes.

A few years ago, the Washington Supreme Court suspended a judge for five days without pay after hearing complaints about the judge using the terms “stupid” and “idiot” when talking to litigants. The state’s Commission on Judicial Conduct found that the judge, who handled mostly traffic violations and small claims in a small community, frequently cut off defendants when they tried to speak, belittled them, and didn’t allow them to present evidence. The five-day suspension resulted from a 5–4 decision at the high court. Notably, the four dissenting justices didn’t want the judge absolved; they wanted to impose a *harsher*, 90-day suspension, as

recommended by the Judicial Conduct Commission.

Writing for the minority, Justice Gerry Alexander argued, “Statements by a judge implying that a litigant is an ‘idiot’ or ‘stupid’ and the rendering of other derisive comments about persons who are before the judge is not conduct that engenders respect for the judiciary or provides confidence in the impartiality of the justice system.” In other words, judges who show no respect for those who come before them can hardly expect their court’s authority to be respected.

Signs of the Times

In 2018, we emailed our National Judicial College alumni an informal survey asking if they thought civility in their courtroom had improved, declined, or stayed the same over the past five years. Of the more than 800 judges who responded, only about 9 percent thought it had improved. The rest felt it had either declined (45 percent) or stayed about the same (46 percent). “There are times when I feel more like a kindergarten teacher than a judge,” wrote one of the judges.

As for the causes of the decline, most comments focused on three potential culprits: politics, TV shows, and certain parties, especially self-represented litigants, who aren’t familiar with courtroom procedures and decorum. By TV shows, they meant arbitration-based courtroom reality shows. The producers of such programs often encourage conflict and argument. It spices up the proceedings. But some judges worry that viewers will think this is normal behavior in a real courtroom.

An especially worrisome program is *Judge Judy*, hosted by former Manhattan Family Court Judge Judith Sheindlin. The show ceased producing new episodes in 2021 after 25 years on the air. Soon thereafter, a similar vehicle for Judge Sheindlin’s arbitration skills, *Judy Justice*, premiered on the Amazon Freevee streaming service. Judge Sheindlin is known for aggressive and blunt questioning and for not being shy about expressing her opinion of the parties to a dispute. “When I finish making you look ridiculous, I’m going to start working on her,” she snarls in one episode

included in an online compendium of clips from the show.

Whether or not Judge Sheindlin’s beligerence is only an act, many judges don’t appreciate it. One of her persistent critics was Judge Joseph Wapner, a pioneer of the reality TV court show format. He hosted *The People’s Court* from 1981 to 1993 after a career that included 18 years as a judge of the Los Angeles County Superior Court. In a 2003 interview with a newspaper columnist, Judge Wapner, who died in 2017, said of his onscreen successor:

She is a disgrace to the profession. She does things I don’t think a judge should do. She tells people to shut up. She’s rude. She’s arrogant. She demeans people.

If she does this on purpose, then that’s even worse. Judges need to observe certain standards of conduct. She just doesn’t do it and I resent that. The public is apt to gain the impression that this is how actual judges conduct themselves. It says “judge” on the nameplate on the bench and she’s wearing a robe.

By now, most judges have been involved in virtual hearings. Last year in Philadelphia, we offered judges a class on how best to conduct virtual hearings. One imperative is to remind all participants that the same rules and standards apply to hearings online as hearings in court.

I know of at least one judge who had a party show up to a virtual hearing without pants. Some judges in class said they had noticed a deterioration in manners; distance litigation seems to have given some a license to be rude.

Judges also need to take care that they don’t use technology as a shortcut around their own responsibilities. All parties have the right to be heard during a Zoom, no matter how uncivil they may be acting and no matter how tempting it might be to mute them.

Supreme Examples

Though it likely has fewer regular viewers than *Judge Judy*, the Supreme Court of the

United States influences many people’s perceptions of proper judicial behavior. Sadly, not all justices have set a good example.

Justice James C. McReynolds, who served from 1914 to 1941, was not only a strident opponent of Franklin Roosevelt’s New Deal. By most accounts, he was also irresponsible and selfish, a grouch, and a bigot. His antisemitism ran so deep that he refused to even speak to the first Jewish member of the court, Louis Brandeis, for the first three years of Brandeis’s tenure. He refused to sit near him during court ceremonies or sign any opinions written by him.

During the 1932 swearing-in ceremony for Justice Benjamin Cardozo, who was also Jewish, McReynolds is said to have ostentatiously read a newspaper and muttered “another one.” Cardozo’s immediate predecessor on the court, Justice Oliver Wendell Holmes Jr., is said to have compared the infighting and hostility among justices during his three decades (1902–1932) on the court to “nine scorpions in a bottle.”

It’s probably good that, with the exception of oral arguments, interactions among justices occur away from public view. But maybe not. Though opposites in politics and judicial philosophies, Justices Antonin Scalia and Ruth Bader Ginsburg were known to be close friends. Current members of the court seem to want to project an air of civility and collegiality, even after bitter disagreements such as the *Dobbs v. Jackson Women’s Health Organization* decision that reversed *Roe v. Wade*.

Justice Neil Gorsuch’s book *A Republic, If You Can Keep It* was partly a plea for civility in society as a whole. At a 2019 event promoting the book, he said that he and his fellow justices may knock heads during legal arguments, but they still eat together in the same dining room: “We sing each other ‘Happy Birthday,’ we flip burgers at the employee cookout. We can disagree during the day but have fun together by night.”

That civility may be genuine, but it’s also irrelevant. The public doesn’t see cookouts. It sees hyper-partisan confirmation battles and votes that appear to inevitably break along party lines.

Last year, Gallup reported that public confidence in the Supreme Court had fallen to its lowest level in nearly 50 years

PRINCIPLES OF CIVILITY: A GUIDE FOR JUDGES

By Judge Benes Z. Aldana (Ret.)

In 2013, The National Judicial College hosted a symposium titled *Civility in the American Justice System: Promoting Public Trust and Confidence* at the National Constitution Center in Philadelphia. The event brought together distinguished members of the bench and bar, experts, and scholars. Their input went into these practical recommendations for promoting civility in the courtroom, presented here in bench-card format.



1. Prioritize courtesy and treat others with respect at all times.

- Keep a calm demeanor.
- Be engaged in the process by practicing good listening skills.
- Practice and promote procedural fairness (see #4 below).
- Introduce yourself and address litigants by name.



2. Remember that time is precious, for everyone.

- Begin and end proceedings according to a reasonably set schedule and on time.
- Make decisions, rule on motions, and issue opinions timely.
- Disclose and keep all advised when a matter taken under advisement will be addressed.
- Explain or acknowledge delays.



3. Preserve and improve the law, the legal system, and associated dispute resolution processes.

- Practice judicial leadership by taking the idea of civility to the community.
- Join with attorneys to initiate community outreach.



4. Effectively and clearly communicate your role and any expectations you may have.

- Conduct proceedings so that the parties have a voice to tell their story, understand the process and what is expected of them, perceive that the court system is neutral, and treat those involved in each case with respect.
- Lay out the expectations for attorneys, court staff, parties, and witnesses:
 - In-court activities and processes.
 - Out-of-court processes, procedures, and timelines.
 - Consider perceptions of bias in verbal and nonverbal communication.

of polling. Only one in four adults said they have “a great deal” or “quite a lot” of confidence in the court. That was down from 36 percent the year before. That poll was taken before the court had handed down its decision in *Dobbs*. Seeing how other polls have shown that a majority of Americans disagree with that decision, it would come as no surprise if public confidence in the court hit a new low in 2023.

Remember, public confidence matters because if people lose confidence in the fairness of courts and judges, the justice system will lose its authority. No more companies will agree to garnish the wages of deadbeat borrowers. No more unfit parents will accept having their children taken from them.

Here’s more bad news: The public’s confidence in state courts also appears to

be sinking. A 2022 survey by the National Center for State Courts found that 60 percent of the public have a great deal or at least some confidence in the state courts. That doesn’t sound that bad. But it was 64 percent the previous year. Worse, when asked how well the phrase “provide equal justice to all” describes state courts, nearly half (49 percent) said either “not well” or “not at all well.” That was 8 percentage points worse than three years previous.

Justices Sonia Sotomayor and Elena Kagan addressed the dangers of a decline in public confidence in the courts during an appearance at a women’s conference at their alma mater, Princeton University, in 2018. The event took place during the especially contentious confirmation of Justice Brett Kavanaugh.

Sounding like Hamilton in the

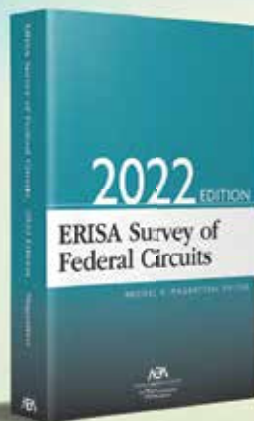
Federalist Papers, Justice Kagan said, “We don’t have an army. We don’t have any money. The only way we get people to do what we say that they should do is because people respect us and respect our fairness.”

With a slew of consequential cases on its docket and a voting majority whose opinions are likely to differ from the majority of Americans, I fear the Supreme Court faces an uphill battle to restore public belief in its fairness. And that is bad news for all of us farther down the judicial food chain.

We can’t control what the majority of the Supreme Court decides. What we can do is what we’ve always been expected to do: Listen carefully and patiently to those who appear before us. Explain our reasoning thoroughly. Show people the respect that our courts depend on for their existence. ■



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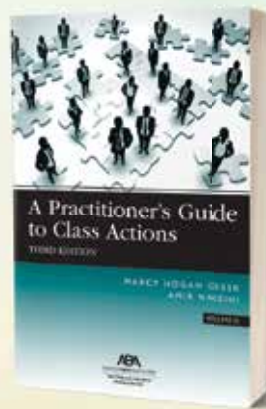
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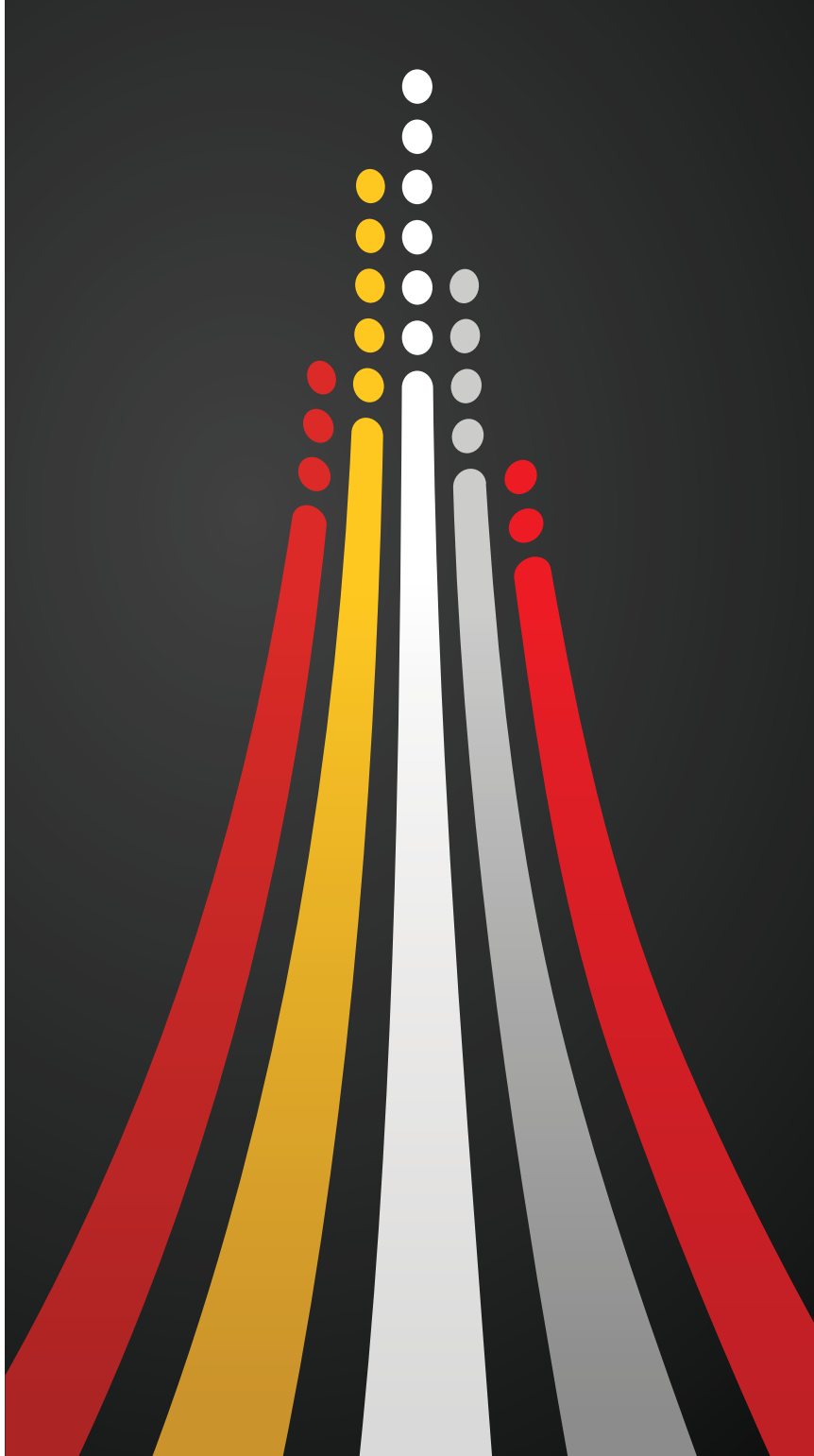
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JUDGES AND THE GEORGIA
PROFESSIONALISM MOVEMENT

The Impact of Service and Leadership

By Karlise Y. Grier

ABA Commission Report

After a series of meetings of key figures in Georgia's legal community in 1988, in February 1989, the Supreme Court of Georgia created the Chief Justice's Commission on Professionalism (CJCPGA), the first entity of this kind in the world created by a high court to address legal professionalism. The framework for CJCPGA appears to draw on the work of the American Bar Association's (ABA) 1986 report entitled *In the Spirit of Public Service: A Blueprint for the Rekindling of Lawyer Professionalism* (ABA Report).¹ The ABA Report noted:

the citizens of this country should expect no less than the highest degree of professionalism when they have entrusted administration of the rule of law—one of the fundamental tenets upon which our society is based—to the legal profession.²

Georgia 1988 Consultation on Professionalism

In March 1988, then Chief Justice of the Supreme Court of Georgia Thomas O. Marshall Jr. convened Georgia lawyers and presided over a Consultation on Professionalism and the Practice of Law. At the Consultation, Chief Justice Marshall invited Georgia judges and lawyers to discuss the lawyer's relationship with courts, the lawyer's relationship with fellow lawyers, and the lawyer's relationship with clients.³ At the end of the discussions, Judge Griffin Bell served as the closing keynote speaker.⁴ Judge Bell touched on several professionalism topics during his closing remarks, including that of civility, and shared, "We must take care to see that civility is not lost in our practice of law."⁵

Establishment of the Chief Justice's Commission on Professionalism and Defining Professionalism

Less than one year after the March 1988 Consultation, the Supreme Court of Georgia entered an order to establish CJCPGA, which was chaired by the chief justice of

the Supreme Court of Georgia.⁶ The court set forth CJCPGA's primary charge, which was (and is) "to enhance professionalism among Georgia's lawyers."⁷ The order further stated, "In carrying out its charge, the Commission [CJCPGA] shall provide ongoing attention and assistance to the task of ensuring that the practice of law remains a high calling, enlisted in the service of client and public good."⁸

Shortly after establishing CJCPGA, Harold G. Clarke, then presiding justice of the Supreme Court of Georgia, wrote an article entitled "Professionalism: Repaying the Debt" to explain the definition of professionalism and the reason why professionalism is important.⁹ First, in defining professionalism, Justice Clarke distinguished ethics from professionalism by opining that "ethics is a minimum standard which is *required* of all lawyers while professionalism is a higher standard *expected* of all lawyers."¹⁰ The distinction noted by Justice Clarke between ethics and professionalism serves as one of the reasons for Georgia's current requirement that lawyers undertake separate continuing legal education hours in ethics and professionalism each year.¹¹ The CJCPGA continues to use Justice Clarke's definition today when teaching and training lawyers about professionalism.

A Lawyer's Creed and the Aspirational Statement on Professionalism

In addition to defining professionalism for Georgia lawyers, the Supreme Court of Georgia also asked CJCPGA to develop a professionalism creed and aspirational ideals for Georgia lawyers. The result was *A Lawyer's Creed* and the *Aspirational Statement on Professionalism*. In introducing the aspirational ideals, the court explicitly stated, "Our purpose is not to regulate, and certainly not to provide a basis for discipline, but rather to assist the Bar's efforts to maintain a professionalism that can stand against the negative trends of commercialization and loss of community."¹² *A Lawyer's Creed* lists lawyers' professional obligations to six constituencies and reminds lawyers that their obligations do not rest only with

their clients. The *Lawyer's Creed* is supplemented by an *Aspirational Statement on Professionalism* provided by the Supreme Court of Georgia. The *Aspirational Statement* is followed by a series of general and aspirational ideals that explain the tenets of professionalism in Georgia.

Judge Hugh Lawson and a Federal Consent Order

One of the more unusual ways in which a judge influenced the professionalism movement in Georgia was through the entry of a consent order. On December 31, 1999, Judge Hugh Lawson of the U.S. District Court for the Middle District of Georgia signed a Consent Order and Final Judgment that settled an action seeking sanctions against E.I. Du Pont de Nemours & Company for alleged litigation misconduct in earlier product liability cases. Judge Lawson, a former member of CJCPGA, ordered that the money paid by DuPont be used to endow chairs at each of Georgia's four accredited law schools.¹³ According to the Consent Order, the monies were to be devoted "to fostering and teaching professionalism and ethics in the practice of law."¹⁴ Judge Lawson also ordered DuPont to pay \$1 million to endow an annual ethics symposium that each of the four law schools would host on a revolving basis. The impact of Judge Lawson's Consent Order continues to the present. For example, the University of Georgia School of Law held the 22nd Annual Georgia Symposium on Professionalism and Ethics entitled *Lawyering for the President: Testing the Limits of Ethics and Professionalism* on February 25, 2022.¹⁵ In addition, as Professor Roy M. Sobelson predicted in a 1999 *Mercer Law Review* article, scholarship related to professionalism continues in Georgia, in part, thanks to the endowed chairs established by Judge Lawson's Consent Order.¹⁶ Patrick E. Longan, the William Augustus Bootle Chair in Ethics and Professionalism in the Practice of Law, director of the Mercer Center for Legal Ethics and Professionalism, co-authored an article in 2021 entitled "A Virtue Ethics Approach to Professional Identity: Lessons for the First Year and Beyond."¹⁷ In 2019, Professor Longan

published a book that he co-authored on professional identity formation.¹⁸

Georgia Judges and the Current Georgia Professionalism Movement

Judges continue to promote professionalism in Georgia in myriad ways. One of the most prominent examples of the role of professionalism in Georgia culture was found during the COVID-19 pandemic. In Georgia, then Chief Justice Harold D. Melton issued a series of 16 orders declaring a statewide judicial emergency beginning on March 14, 2020.¹⁹ In May 2020, when it became apparent that the COVID-19 pandemic would impact court proceedings for longer than anyone had first anticipated, Justice Melton, in his statewide judicial emergency orders, began including language reminding lawyers about professionalism.²⁰ The initial professionalism paragraph stated, "With regard to all matters in this challenging time, all lawyers are reminded of their obligations of professionalism."²¹ From May 2020 until Justice Melton's issuance of the final statewide judicial emergency order in June 2021, he continued to remind Georgia lawyers about professionalism.²² During the pandemic, CJCPGA also worked to encourage lawyers and judges to exhibit the highest levels of professionalism through a series of virtual continuing legal education (CLE) programs.²³ Judges, such as CJCPGA members,



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graduated from the Emory University School of Law and became a member of the State Bar of Georgia in 1992, concentrating in the area of family law prior to assuming her current position. She may be reached at kygrier@cjcpga.org.



Beyond writing and publishing, many judges in their day-to-day work keep professionalism at the forefront for lawyers and litigants.

Judge T. Russell McCelland III, and the late Judge Clyde Reese, gave generously of their time to discuss professionalism issues.²⁴ In one of the last CLEs that CJCPGA offered regarding the pandemic, “Professionalism After the Statewide Judicial Emergency Order,” judges from each class of court discussed innovations their courts had implemented during the pandemic and which changes the courts anticipated continuing post-pandemic.²⁵ In addition, lawyers from various practice areas who often work on opposing sides of a case discussed ways in which lawyers had worked together throughout the pandemic to seek the common good through the representation of their clients.²⁶ The judges and lawyers also offered suggestions for a path forward as lawyers and judges continued to work together to reduce the backlog of jury trials that amassed as a result of the COVID-19 pandemic.²⁷

Judges have also supported professionalism in Georgia in other ways. For example, members of the legal academy have not been the only individuals to write about professionalism. In 2021, retired federal judge William S. Duffey Jr. published a book entitled *The Significant Lawyer: The Pursuit of Purpose and Professionalism*.²⁸ In his book, Judge Duffey discusses the commitment and resolve it takes for a lawyer to live by the oaths—regarding civility, commitment to justice, fair play, and respect for the courts—taken when

admitted to practice. Beyond writing and publishing, many judges in their day-to-day work keep professionalism at the forefront for lawyers and litigants. One CJCPGA member, for example, discussed professionalism in her courtroom in an article entitled “Questions for the Bench: Judge Shondeana Crews Morris of DeKalb County Superior Court.”²⁹ In the article, Morris explained:

Prominently displayed on my bench is an engraved nameplate presented to me by the Georgia Chapter of American Board of Trial Advocates that reads, “Professionalism and Civility—Nothing Less Will Be Tolerated.” Some lawyers have a habit of making rude, sarcastic, condescending comments or interrupting inappropriately. When this occurs, I remind them of the quote, and their attitude changes. . . .³⁰

For over 30 years, judges have also volunteered for one of the Commission’s signature programs, the Law School Orientations on Professionalism. The orientations, which began in 1992, introduce concepts of legal professionalism to incoming 1L students at each of Georgia’s five law schools. Georgia judges and lawyers serve as “group leaders” at breakout sessions to help students learn the meaning of professionalism and why it is important for them as law

students.³¹ Judges from all classes of courts have served as group leaders, including past CJCPGA chair and retired Chief Justice David E. Nahmias.³² This year, Judge Steven Grimberg, the CJCPGA member who represents the federal judiciary, also served as a group leader.

A second signature program that the Commission holds annually is the Justice Robert Benham Awards for Community Service. Since 1998, these prominent statewide awards, which are named after Georgia’s first African American supreme court justice, have honored Georgia lawyers and judges who have made significant contributions to their communities beyond their legal practice or official obligations. In 2019, Justice Benham recalled that CJCPGA established the Justice Robert Benham Awards for Community Service because “we wanted the community to see lawyers as servants of the community.”³³

To Improve the Law and the Legal Community

An aspect of professionalism that is not discussed as often as civility is the civic responsibilities of lawyers. Civics, nevertheless, has been an aspect of professionalism since the American Bar Association’s Report.³⁴ In Georgia, *A Lawyer’s Creed* encourages lawyers to “strive to improve the law and our legal system, to make the law and our legal system available to all, and to seek the common good through

the representation of my clients.”³⁵ While judges cannot practice law or represent clients, judges may still strive to improve the law and our legal system and seek the common good through their extra-judicial service.³⁶ A perfect example of how a judge may live out this aspirational ideal is CJCPGA’s current chair and the chief justice of the Supreme Court of Georgia, Michael P. Boggs. Chief Justice Boggs’s voluntary extra-judicial service spans nearly two decades, both locally and nationally. His service encompasses a wide variety of areas, including accountability courts, criminal justice reform, behavioral health reform, veterans’ justice, and sentencing. Boggs also serves as a member of Georgia’s Judicial Nominating Committee. In addition, Boggs serves as a member of the Mercer University Board of Trustees, the Mercer University School of Law Board of Visitors, and the Board of Directors of the Bobby Dodd Coach of the Year Foundation.³⁷ Boggs’s service thus exemplifies several of the aspirational ideals of Georgia’s professionalism movement and is a product, in part, of the Georgia professionalism culture that has been nurtured by Georgia’s judges.³⁸

Conclusion

I close with the words of Chief Justice Marshall’s concluding remarks from Georgia’s 1988 Consultation, which are still relevant today. He observed:

It seems to me that . . . we all recognize that in the past, there seemed to have been a precept and an example set for us when, years ago, we learned the law. As a result, I think that at a very minimum, we ourselves now have a duty to set an example that makes all of the members of our profession, both old and new, aware once more of the concept of professionalism and its importance.³⁹ ■

Endnotes

1. ABA COMM’N ON PROFESSIONALISM, “ . . . IN THE SPIRIT OF PUBLIC SERVICE:” A BLUEPRINT FOR THE REKINDLING OF LAWYER PROFESSIONALISM (1986), <https://www.americanbar.org/>

content/dam/aba/administrative/professional_responsibility/professionalism_migrated/Stanley_Commission_Report.pdf [hereinafter IN THE SPIRIT OF PUBLIC SERVICE].

2. *Id.* at vii.

3. See CHIEF JUST.’S COMM’N ON PROFESSIONALISM, HISTORICAL DOCUMENTS, PROCEEDINGS OF A CONSULTATION ON PROFESSIONALISM AND THE PRACTICE OF LAW 1 (Mar. 31, 1988) [hereinafter PROCEEDINGS OF A CONSULTATION ON PROFESSIONALISM]. Justice Thomas O. Marshall Jr. served as the Chief Justice of the Supreme Court of Georgia from 1986 until his retirement in 1989. See *Thomas Marshall Obituary*, ATLANTA J.-CONST., OBITUARIES (June 13, 2003), <https://www.legacy.com/us/obituaries/atlanta/name/thomas-marshall-obituary?pid=1085148>.

4. See PROCEEDINGS OF A CONSULTATION ON PROFESSIONALISM, *supra* note 3, at 38–47. Griffin B. Bell, who was almost always addressed as Judge Bell long after his 15 years of service on the federal bench, embodied more than a few of the clichés of Southern gentlemen of the law. See Patrick J. Lyons, *Griffin Bell, Ex-Attorney General, Dies at 90*, N.Y. TIMES (Jan. 5, 2009), <https://www.nytimes.com/2009/01/06/washington/06bell.html>.

5. See PROCEEDINGS OF A CONSULTATION ON PROFESSIONALISM, *supra* note 3, at 42–43.

6. See Chief Just.’s Comm’n on Professionalism, Historical Documents, *Order* (Feb. 1, 1989), http://cjcpga.org/wp-content/uploads/2023/01/1989-Commission-Order-February-Establishing-CJCP-20180129_11231513-copy.pdf.

7. *Id.*

8. *Id.*

9. See Harold G. Clarke, *Professionalism: Repaying the Debt*, 25 GA. ST. B. J., May 1989, at 170, <http://cjcpga.org/wp-content/uploads/2022/02/25-GSBJ-170-1989-Professionalism-Repaying-the-Debt.-Harold-Clarke-ethics-minimum.pdf>. Justice Clarke succeeded Justice Marshall as chief justice of the Supreme Court of Georgia in 1992. He briefly stepped down as chief justice in 1992 to allow his friend, Justice Charles L. Weltner, who was battling cancer, to serve as chief justice for the last few months of his life. Clarke resumed the position of chief justice in 1992. Justice Clarke stepped down from the court two years later and returned to private practice. See *Harold G. Clarke Papers*, UNIV. OF GA., UNIV. LIBRARIES, <https://sclfind.lib.uga.edu/sclfind/view?docId=ead/RBRL093HGC.xml;query=&brand=default> (last visited Jan. 8, 2023).

10. See *Professionalism: Repaying the Debt*, *supra* note 9, at 173.

11. See RULES & REGULS. OF STATE BAR OF GA., STATE BAR OF GEORGIA HANDBOOK, IT. 801-4(B)(2), 801-4(B)(3), regul. 4 to r. 801-4(B), <https://www.gabar.org/handbook/index.cfm#handbook/rule227> (last visited Jan. 8, 2023).

12. See Chief Just.’s Comm’n on Professionalism, *Lawyer’s Creed*, II. 39–41 (*A Lawyer’s Creed and the Aspirational Statement on Professionalism*), <http://cjcpga.org/wp-content/uploads/2019/07/2-Lawyers-CreedAspStatement-v-2013-Line-Number-with-new-logo-and-seal-v07-25-19.pdf> (last visited Jan. 8, 2023).

13. See *In re E.I. DuPont de Nemours & Co.—Benlate Litigation*, No. 4:95-CV-36(HL) (M.D. Ga. Dec. 31, 1998) (unpublished Consent Order & Final Judgment). See also Roy M. Sobelson, *Legal Ethics*, 51 MERCER L. REV. 353 (1999), https://digitalcommons.law.mercer.edu/jour_mlr/vol51/iss1/16.

14. *In re E.I. DuPont de Nemours & Co.*, No. 4:95-CV-36(HL), at 4.

15. See Univ. of Ga. School of Law, *Lawyering for the President: Testing the Limits of Ethics and Professionalism*, 22nd Annual Symp. on Legal Ethics & Professionalism (Virtual) (Feb. 25, 2022), <https://www.law.uga.edu/ethics-symposium>.

16. See Sobelson, *supra* note 13, at 371.

17. Patrick Emery Longan, Daisy Hurst Floyd & Timothy W. Floyd, *A Virtue Ethics Approach to Professional Identity: Lessons for the First Year and Beyond*, 89 UMKC L. REV. 645 (2021), https://digitalcommons.law.mercer.edu/cgi/viewcontent.cgi?article=1077&context=fac_pubs.

18. See PATRICK EMERY LONGAN, DAISY HURST FLOYD & TIMOTHY W. FLOYD, *THE FORMATION OF PROFESSIONAL IDENTITY* (2019), <https://guides.law.mercer.edu/c.php?g=998606&p=7228894>.

19. See generally *Court Information Regarding the Coronavirus*, SUP. CT. OF GA., https://www.gasupreme.us/court-information/court_corona_info (last visited Jan. 8, 2023). Harold D. Melton served as chief justice from August 31, 2018, until his retirement on July 1, 2021. See Press Release, Sup. Ct. of Ga., Chief Justice Melton to Leave Supreme Court (Feb. 12, 2021), <https://www.gasupreme.us/chief-justice-melton-announcement>. Melton’s predecessor, the late former Chief Justice P. Harris Hines, served as Melton’s mentor for almost 30 years, once again demonstrating Georgia’s rich history of professionalism, which includes an ideal that lawyers will strive to make their association’s

professional friendships. See *Lawyer's Creed*, *supra* note 12, at ll. 14–15. See also Kathryn Hayes Tucker, “No drama. Just integrity”: Justice Harold Melton Takes on Chief Role, *DAILY REP.* (Sept. 4, 2018), <https://www.law.com/dailyreportonline/2018/09/04/just-when-you-think-i-dont-get-it-i-am-on-the-brink-of-enlightenment-melton-takes-on-chief-role> (last visited Jan. 8, 2023).

20. See Sup. Ct. of Ga., *Second Order Extending Declaration of Statewide Judicial Emergency* ¶ 8, at 6 (May 11, 2020), https://www.gasupreme.us/wp-content/uploads/2020/05/Second-Order-Extending-Declaration-of-Statewide-Judicial-Emergency_as-issued.pdf.

21. *Id.*

22. See Sup. Ct. of Ga., *Fifteenth Order Extending Declaration of Statewide Judicial Emergency* ¶ VI, at 9 (June 7, 2021), https://www.gasupreme.us/wp-content/uploads/2021/06/15th-SJEO_as-issued.pdf (“With regard to all matters in this challenging time, all lawyers are reminded of their obligations of professionalism, including the obligation to engage in discovery in good faith and in a safe manner.”). See generally *Court Information Regarding the Coronavirus*, *supra* note 19.

23. On March 14, 2020, then Chief Justice Harold D. Melton entered the first of 16 orders declaring a statewide judicial emergency as a result of the COVID-19 pandemic. Less than four weeks later, on April 6, 2020, with the support of Justice Melton, the Chief Justice’s Commission on Professionalism held its first Zoom webinar continuing legal education (CLE) course to highlight professionalism in the midst of the statewide judicial emergency. From July 1, 2020, through June 30, 2021, the Commission sponsored six online CLE Zoom webinar courses to educate lawyers and judges about various aspects of professionalism as the statewide judicial emergency continued. During the period of July 1, 2020, through June 30, 2021, the Commission reported CLE attendance of 7,804 individuals for its Zoom CLE webinars.

24. Judge T. Russell McClelland III is the chief judge of the State Court of Forsyth County. He has served as a judge of the State Court since December 2003 and as chief judge since January 2013. During the pandemic, Judge McClelland

also served as a member of the Georgia Judicial Council COVID-19 Task Force, including service as co-chair of the Task Force. The late Judge Clyde Reese, who passed unexpectedly on December 17, 2022, was a judge of the Court of Appeals of Georgia from December 1, 2016, until his death. He was an active member of CJCPGA beginning in February 2020 and assisted with many Commission CLE programs, including the creation of a groundbreaking CLE on Suicide Awareness and Prevention.

25. See *Professionalism After the Statewide Judicial Emergency Order*, CHIEF JUST.’S COMM’N ON PROFESSIONALISM, <http://cjcpga.org/092821-cjcp-cle> (last visited Jan. 8, 2023); JUDGES PANEL, WRITTEN MATERIAL FOR PROFESSIONALISM AFTER THE STATEWIDE JUDICIAL EMERGENCY, <http://cjcpga.org/wp-content/uploads/2021/09/Judges-09-28-21-Written-Materials-for-Upload-to-Web.pdf> (last visited Jan. 8, 2023).

26. See *Professionalism After the Statewide Judicial Emergency Order*, *supra* note 25; JUDGES PANEL, WRITTEN MATERIAL, *supra* note 25.

27. See *Professionalism After the Statewide Judicial Emergency Order*, *supra* note 25.

28. WILLIAM S. DUFFEY JR., *THE SIGNIFICANT LAWYER: THE PURSUIT OF PURPOSE AND PROFESSIONALISM* (2021), <https://www.mupress.org/The-Significant-Lawyer-The-Pursuit-of-Purpose-and-Professionalism-P1171.aspx>.

29. See Jonathan Ringel, *Questions for the Bench: Judge Shondeana Crews Morris of DeKalb County Superior Court*, *DAILY REPORT, Q&A* (Dec. 31, 2021), <https://www.law.com/dailyreportonline/2019/12/31/questions-for-the-bench-judge-shondeana-crews-morris-of-dekalb-county-superior-court>.

30. *Id.*

31. See Karlise Y. Grier, *Thirty Years of the Award-Winning Law School Orientations on Professionalism*, 28 GA. B.J., Oct. 2022, at 62, <http://cjcpga.org/wp-content/uploads/2022/12/10-October-2022-GBJ-Cover-and-Article-30-Years-Orientations.pdf>. Compare *IN THE SPIRIT OF PUBLIC SERVICE*, *supra* note 1, at 35 (“We begin our recommendations with law schools, not because they represent the profession’s greatest problems but because they constitute our greatest opportunities. We believe that law students should

be viewed as members of the legal profession from the time they enter law school.”).

32. See Karlise Y. Grier, *Building Community by Enhancing Professionalism*, 25 GA. B.J., Oct. 2019, at 64, <http://cjcpga.org/wp-content/uploads/2019/10/10-October-2019-Cover-Page-and-Article.pdf> (a look at the law school orientations on professionalism). See also Karlise Y. Grier, *2021 Law School Orientations on Professionalism*, 27 GA. B.J., Oct. 2021, at 70, <http://cjcpga.org/wp-content/uploads/2021/11/10-October-2021-Bar-Journal-Cover-and-Article.pdf> (“Although Chief Justice David E. Nahmias’s schedule did not permit him to serve as a 2021 group leader, in a letter to the students he shared: ‘Over the years, I have enjoyed serving as a group leader at several Professionalism Orientations. I truly believe that judges and lawyers need to emphasize the importance of professionalism to law students from the very start of your legal careers to help you avoid disciplinary issues, but even more to teach that you are part of a professional community.’”).

33. See Karlise Y. Grier, *21st Annual Justice Robert Benham Awards for Community Service*, 25 GA. B.J., June 2020, at 68, <http://cjcpga.org/wp-content/uploads/2023/01/June-2020-Bar-Journal-Benham-Awards-CSA21-Cover-and-Article.pdf>.

34. *IN THE SPIRIT OF PUBLIC SERVICE*, *supra* note 1, at 48.

35. *Lawyer's Creed*, *supra* note 12, at ll. 19–23.

36. See, e.g., *What Judges May Do to Improve the Law and the Legal System: What Lawyers Need to Know About Judicial Professionalism*, CHIEF JUST.’S COMM’N ON PROFESSIONALISM (Oct. 23, 2020), <http://cjcpga.org/102320-cjcp-cle>.

37. See *Chief Justice Michael P. Boggs*, SUP. CT. OF GA., <https://www.gasupreme.us/court-information/biographies/justice-michael-p-boggs> (last visited Jan. 8, 2023).

38. See, e.g., *Mercer Law School Alumni Awards: Justice Michael P. Boggs, '90*, MERCER LAW SCHOOL YOUTUBE CHANNEL (Mar. 5, 2020), https://youtu.be/nj_bhrST__k (Boggs says, “giving back to Mercer was important to me because people that I respected, like Justice Hugh Thompson among others, were giving back”).

39. See *PROCEEDINGS OF A CONSULTATION ON PROFESSIONALISM*, *supra* note 3, at 48.



Penalizing Attorneys' Offensive Speech May Be Satisfying, but at What Cost?

By Selena Fitanides

Policing offensive speech has become a national pastime in 21st-century America, including in the legal sphere. ABA Model Rule of Professional Conduct 8.4(g) aims to eliminate bias and enhance diversity by penalizing discriminatory verbal conduct (speech) in any context related to the practice of law. It has been the subject of much debate. Free speech advocates warn that Rule 8.4(g) is essentially a civility code provision whose purpose “is to adopt [an antidiscrimination] viewpoint within the profession,” thereby necessarily infringing upon constitutionally protected expression.¹ The Rule’s proponents, on the other hand, reject its characterization as a civility rule targeting speech, arguing instead that its main effect would be to penalize unlawful, discriminatory conduct.²

Putting aside the important constitutional considerations for a moment, let’s consider the practical impact of a rule like 8.4(g). An appeal currently before the Supreme Judicial Court of Massachusetts suggests that suppressing lawyers’ discriminatory speech may actually undermine the crucial goal of uncovering and ridding the

justice system of the sort of pernicious, disruptive, structural bias that goes far beyond hurling slurs and hurting feelings.

Anthony Dew, a convicted sex trafficker, is seeking to set aside his 2016 guilty plea based on the discovery of several dozen decidedly uncivil, racist, and religiously bigoted Facebook posts made by a now deceased attorney appointed to represent Dew and thousands of other indigent criminal defendants who, like him, were members of racial and religious minority groups. The attorney’s highly offensive posts were not made in the context of his law practice, so they would not have implicated Rule 8.4(g), but when they were discovered, they exposed the attorney’s deep bias and called into question the adequacy of his representation of thousands of minority clients. The attorney’s speech certainly does not reflect well on our profession. But had he kept his views to himself while allowing his prejudices to influence his work in secret, he undoubtedly would have continued to be appointed as counsel for indigent defendants, and innocent African Americans and Muslims may have been wrongfully convicted as a result.

It’s worth considering whether professional conduct rules that encourage lawyers to conceal their prejudices are a greater threat to the integrity of our justice system than is that slice of discriminatory speech that is not already addressed by antidiscrimination laws. Restrictions on speech will never change minds. To do that, we must confront bigotry with righteous speech. ■

Endnotes

1. See, e.g., Bruce Green & Rebecca Roiphe, *ABA Model Rule 8.4(g), Discriminatory Speech, and the First Amendment*, 59 HOFSTRA L. REV. 543, 544 (2022).

2. See, e.g., Dennis A. Rendleman, *ABA Model Rule 8.4(g): Then and Now*, 31 PUB. LAW., no. 1, Winter 2023.

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Challenges for Civic Education in the 21st Century

By Jason L. S. Raia

Learning to understand and appreciate the American experiment in democracy produces informed, responsible citizens. A solid civic education provides the civic knowledge, skills, and disposition to celebrate past national triumphs while acknowledging past national sins.

Citizens with a good civic education are able to be fully vested in our republic, to exercise, defend, and advance their natural rights—life, liberty, happiness (property), equality, justice, and security. But as Thomas Paine told us in *American Crisis*: “Those who expect to reap the blessings of freedom, must, like men, undergo the fatigues of supporting it.”

There may be broad agreement on the importance of civic education to maintain our free society, but there are plenty of challenges to overcome.

First and foremost, social studies education in general and civic education specifically have been marginalized over the last 40 years. The primary culprit for this marginalization is the 2001 No Child Left Behind (NCLB) law that implemented a testing regime focused mostly on reading and math.¹

Regardless of one’s opinion on high-stakes testing, the simple truth is that subjects that are not tested (or are tested in a less rigorous way)—like history and

government—are inevitably downgraded in importance. Schools that need to ensure that their students pass federally mandated tests for reading and math, to which federal education dollars and even jobs are tied, find extra instruction time by reducing or eliminating social studies classes.

A 2018 study from the Council of Chief State School Officers found that 44 percent of districts had reduced social studies instruction time at the elementary level since the implementation of NCLB.² This aligns with the Common Core State Standards that in 2010 focuses on English Language Arts (ELA) and mathematics; social studies is no longer a stand-alone

subject but instead was integrated into the ELA standards.

With this approach, students might be assigned the Declaration of Independence as a reading comprehension assignment. Learning in isolation like this means students rarely come to understand this founding document for its contribution to American independence from Great Britain or how it would become a model for emerging democracies over the next two centuries.

What is lost is the historical context that a teacher trained in historiography brings or the focused instruction that lends a depth of meaning to the assignment. Though Common Core was controversial and ultimately was never adopted nationwide, its influence is still felt throughout the nation's schools.

It should be no surprise that the results of what little testing there is on history, government, and civics are abysmal.

The National Assessment of Educational Progress (NAEP), known as the "Nation's Report Card," according to the most recent testing of eighth graders, shows that civics scores are flat while history scores for high schoolers are down. Less than a quarter of eighth graders in civics scored "proficient," the highest mark NAEP records. For high school history students, proficiency dropped to 15 percent.³

The long-term effect of this decades-long shift away from civic education (including American history) is borne out by the Annenberg Constitution Day Civics Knowledge Survey, conducted annually. This past year only 47 percent of respondents could name all three branches of government, and one in four could not name any. Only 6 percent could name all five freedoms protected by the First Amendment.⁴

There are profound consequences to this civics illiteracy among Americans. "When it comes to civics, knowledge is power," said Kathleen Hall Jamieson, director of the Annenberg Public Policy Center of the University of Pennsylvania. "It's troubling that so few know what rights we're guaranteed by the First Amendment. We are unlikely to cherish, protect, and exercise rights if we don't know that we have them."⁵

Social studies marginalization continues daily, even amid the noted widespread consensus on the value of civic education. Just in the last few months, a school board in Pennsylvania voted to reduce the high school social studies requirement from four courses to three—and this after three years of work realigning the curriculum.

Part of the argument for reducing the social studies credits required for graduation made at the school board meeting was that students would be able to pursue courses that would better prepare them for a career and participation in the workforce. This line of thinking completely misses the civic mission of schools. It favors producing workers over citizens.

The 2011 study *Guardian of Democracy*, sponsored in part by the ABA Division for Public Education, found that civic education is not just an isolated ideal but helps prepare students to join the workforce.⁶ "Students receiving high-quality civic learning," the report states, "score higher on a broad range of twenty-first century competencies than those without."⁷

Another challenge to civic education today is the issue of language and how meaning can change according to the politics of the user. Even when we seem to be speaking about the same things, often we mean very different things.

In a groundbreaking Civic Language Perceptions Project by Philanthropy for Active Civic Engagement (PACE), researchers surveyed 5,000 Americans, focusing on their perceptions of 21 words commonly associated with democracy and civic education. The PACE study confirmed that "civic education makes a difference."⁸

"Unity" scored highest among both liberals and conservatives, and terms like "citizen," "liberty," and "democracy" had the lowest negativity rating. Other words like "patriotism," "activism," "social justice," and "privilege" were found to be more divisive.

More work must be done to find ways to bridge this linguistic divide, to discover a shared understanding of what it means to be an American in the 21st century. Only by focusing on that which unites us and learning to tolerate our differences can

we continue to expand freedom for all. This is one of the key outcomes of quality civic education. It helps us learn to listen to others, especially those with whom we disagree, to consider their point of view, and to find common ground where possible, disagree where necessary, but always operate out of a sense of respect for others and their beliefs.

Preparing young citizens to be fully informed and engaged adults requires civic knowledge, civic skills, and civic dispositions. All three are necessary to cultivate the responsible citizens that our representative democracy requires.

Civic knowledge includes a fundamental understanding of our nation's history, our triumphs and our failures, the structures of our government and how they function, and the principles of freedom that sustain that system. Among the civic skills necessary are listening, speaking, thinking critically, collaboration, attaining and processing information, and the ability to engage and affect policy change.

Civic dispositions are the belief in our system of self-government, the common good, and the rights of others. Love of country—not the jingoistic love it or leave it idea—but one that acknowledges an imperfect human institution that continues to aspire to a more perfect union is at the core of these civic dispositions. Of the three, civic disposition is the most challenging to teach.



Jason L. S. Raia, a former classroom history teacher in Boston, is now chief operating officer at Freedoms Foundation at Valley Forge—a national education

nonprofit focused on the rights and responsibilities of citizenship. He also serves as president of the Pennsylvania Council for Social Studies and recently co-chaired the National Council for the Social Studies 2022 annual conference in Philadelphia in December.

A couple of summers ago, Medal of Honor Recipient Melvin Morris—an African American Green Beret who served during the Vietnam War—demonstrated this civic disposition while speaking to a group of teachers in Valley Forge, PA. He was asked why, as a Black American who suffered racist abuse in Jim Crow America, would he have risked his life for that same country. Referencing the long history of Black Americans, including slaves, who fought in the country's wars, all the way back to the American Revolution, he said: "This is our country; we've got to do our share; we believe in it."

The ownership Sergeant Morris expressed, "our country," is the very essence of the civic disposition that must be taught

curriculum or testing. Every 10-year-old can tell you how many branches of government there are, but less than half of all adults can do the same. The problem is not that we don't teach civic fundamentals; it is that we don't teach them in a way that makes it to long-term memory and informs how adults evaluate civic information.⁹

The best educators, no matter what subject, are passionate about what they teach. Civic educators must be too. If I had a nickel for every adult who told me that they were never really interested in history while in school, but now they love it, I could retire. These people greedily read massive biographies by the likes of David McCullough and Ron Chernow and visit national parks, gleefully stamping their

According to NAEP, "In 2018, twenty-two percent of students at grade 8 had teachers with *primary responsibility for teaching civics and/or U.S. government* to their class . . . and 62 percent had teachers with *primary responsibility for teaching U.S. history*."¹⁰

It is possible for a teacher with responsibility for educating young people in American history and government never to have taken an American history course at all, much less a course on the U.S. Constitution, Supreme Court, or the American political process. Yet they are expected to help students become informed citizens, with a nuanced understanding of the principles that are foundational to our representative democracy.

Among this catalog of challenges to civic education in the 21st century, the most insidious is the dearth of trust sustained by cynicism and amplified by social media among so many people. Distrust and cynicism may be the most challenging obstacles to overcome because the problem is not one of educational policy, preparation, or practice but about society itself.

Since 1958, the Pew Research Center has surveyed Americans about their trust in the federal government. Though there have been ups and downs over the decades, currently only two in 10 Americans trust the government to do the right thing all or most of the time.¹¹ When Dwight D. Eisenhower was president and the survey was first conducted in 1958, three-quarters of Americans trusted the government in Washington.

And it is not just trust in government that has faltered. Trust in individuals has also declined greatly. Though scientists, the military, police, and teachers are still highly trusted by a majority of the population, media, business leaders, and elected officials score at the bottom. Americans are also less and less likely to trust, fairly or unfairly, their fellow citizens to do the right thing in civic life—for instance, casting an informed vote, respecting the rights of others who are not like themselves, or having civil conversations with those who think differently.

Young Americans, according to the survey, have the lowest levels of trust, with 46 percent believing that people can't be

Social studies education in general and civic education specifically have been marginalized over the last 40 years.

and modeled in order to inspire anew each generation. The belief that our republic was, is, and must, despite all its failings, continue to be a beacon of liberty and opportunity, always welcoming more people into the tent of freedom, is necessary to bridge civic knowledge and skills to achieve greater outcomes.

Who teaches civics and how we teach it are also challenges to inculcating the knowledge, skills, and dispositions necessary for civic responsibilities. In November 2022, the Jack Miller Center hosted a summit at Mount Vernon—President George Washington's home outside DC—for nonprofits and foundations committed to improving civic education.

Thalia Considine, of the Considine Family Foundation, commented during the summit that civics is taught in schools across the country, but not in a way that the knowledge endures. "The issue in civics education," she said, "is not one of

National Park Service passports.

What changed? They experience history in the storytelling and are drawn in, seeing themselves in the narrative. What Lin-Manuel Miranda and his Broadway musical *Hamilton* have done to immerse millions of people in the story of the founding is quite simply remarkable. The passion of these authors and musicians, park rangers, and volunteer docents bring to life a subject that too often is moribund by a boring textbook, a bored teacher, or misguided authorities.

Though being passionate, creative, and dedicated are essential for all teachers, highly successful civic educators are masters of the content they are teaching. There are too many teachers who are either teaching out of their subject area expertise or whose responsibilities include a range of subjects, like the elementary teachers who do it all—English, math, science, social studies, geography, and even art.

trusted, and they will take advantage of you. This lack of trust, which is deeply informed by a fractured political climate where toleration and compromise are now seen as indefensible, is also fueled by the deep cynicism of online “hot takes” that see only the worst in everything and find examples in the viral stories of corruption or conspiracy.

The effect of this loss of trust and growth of cynicism on civic education is profound. How can we expect young people to embrace civic life when they are regularly caught in the culture wars between the radical progressives who reject the past and the reactionary conservatives who reject the future, and both of whom see each other as enemies to defeat and not fellow Americans to engage?

Civic education cannot simply be the purview of schools. It is the responsibility of all civil society. And because the decline in teaching civics has been ongoing for 40+ years, there are generations of adults in need of at least a refresher. Luckily, a multitude of committed organizations are doing innovative work to support teachers and schools in their civic mission in the classroom as well as providing civic learning experiences in extracurricular and nonschool settings for students and adults alike.

My organization, Freedoms Foundation at Valley Forge, has been providing professional development for teachers and direct programming to students since 1965, though we started in 1949 as an awards program recognizing good citizenship.¹²

We bring students and teachers from around the country to our 75-acre campus in the heart of historical Valley Forge, PA, where we have dormitories, classrooms, banquet space and dining facilities, and everything one needs for a multiday, residential learning experience about the rights and responsibilities of citizenship.

At the heart of our civic education philosophy is the Bill of Responsibilities—envisioned as a companion to the Bill of Rights—which focuses on five principles of civic responsibility: personal accountability, respect for the rights and beliefs of others, generosity toward others, participation in and defense of our democratic system, and economic productivity.

All our programs, whether for teachers or students, involve visiting the many historical sites in and around Philadelphia—or even Washington, DC, or New York—to allow participants to walk in the footsteps of history because place matters. Standing on the top of Little Round Top in Gettysburg where Joshua Chamberlain and the volunteers of the 20th Maine held the Union flank through acts of personal and unit bravery helps both students and teachers understand what it takes to maintain our experiment in democracy.

For our students, we partner with American Historical Theatre, a Philadelphia-based nonprofit whose actor-historians provide first-person interpretations of historical figures like George Washington, Abigail Adams, Sojourner Truth, and Ned Hector, a free Black soldier who served in the Continental Army. At our Spirit of America Youth Leadership program, high school students witness a fiery debate between Thomas Jefferson and John Adams that ranges from the Declaration of Independence and the Constitution to the Louisiana Purchase and the Alien and Sedition Acts. Later, the students debate in mock congress, trying to balance individual liberties with national security.

This summer we will provide 300 teachers with a week-long professional development program experience that will offer rich content from renowned scholars to bring back to their classrooms. Pedagogical demonstrations will model ways to transform the content into ready-to-use lesson plans for students at all levels, and teacher cohorts form lasting relationships that provide support for years to come. Most importantly, they return to school reenergized with the knowledge and resources to inspire the next generation.

These programs not only inform but also transform the lives of young people and their teachers. Experiential learning, which informs every activity, presentation, and discussion, helps students focus the story of American history on themselves, and how they fit into the story, while learning to appreciate the sacrifices made so that they are free to choose their own path in the world. Teachers leave reminded of the sacred trust they hold in being guardians

of our democracy and transferring to each new group of students the knowledge, skills, and disposition for full civic participation.

In addition, the Bill of Rights Institute (BRI) utilizes online technology to provide teachers with a constant flow of lesson plans and curriculum materials for their students. Their online teacher hub has over 4,000 resources, including hundreds of lessons, videos, and essay topics, including current events and primary resources. They also provide teacher training to use those materials with other civic education organizations.

One of the characteristics of BRI that is most impressive is their radical commitment to being nonpartisan in their work. When the *Dobbs v. Jackson Women's Health Organization* decision was released by the Supreme Court in June 2022,¹³ BRI's education team was ready to go with a lesson that helped students understand the question before the court, explored the majority and minority opinions, and facilitated discussion that forced students to look at both sides of the issue. Rather than teaching whether the decision was right or wrong, they simply wanted to help teachers and students understand the law and how good people could differ on whether the Constitution confers a particular right, in this case to an abortion.

Many organizations provide top-notch professional development and curricula for teachers. Some, like the Ashbrook Center, provide scholar-led careful reading of primary source documents in American history with robust discussion among the cohort of teachers. Historical sites like Colonial Williamsburg and Ford's Theatre provide summer teacher institutes right where history happened, and museums like the National Constitution Center, World War II Museum, and the Museum of the American Revolution utilize their collection and networks of scholars to provide specialized content for teachers.

The Civics Renewal Network acts as a hub for teachers to access thousands of high-quality, no-cost lesson plans from a network of partner organizations. The Center for Civic Education's “We the People: The Citizen and the Constitution” is a

complete, regularly updated, civics curriculum with versions for elementary, middle, and high school students.¹⁴ Its most ingenious element is the assessment, which includes a mock congressional hearing where students present their answer to a constitutional question (provided by the Center) before a panel of judges who then pose questions of their own, testing the students' knowledge. The Center sponsors district, state, and national competitions where students can even compete in Washington, DC.

The National High School Mock Trial Championship promotes an understanding and appreciation of the American judicial system through a learning experience where students are presented with a case, often based on real cases, and assume the roles of lawyers and witnesses for both the plaintiff and the defendant. The role-play exercise teaches students not only the intricacies of how the judicial system applies the Constitution to our daily lives but also transferrable skills like critical thinking, public speaking, and persuasive argumentation.

"Given the fundamental place of law in American society," says Carey Shoufler of the National Board of Directors, "it is critical for young people to understand how the legal system can impact their daily lives." Shoufler, who has run the Idaho mock trial program for 18 years, believes that judges and lawyers from the communities that host mock trials are an important contributing factor for what makes the mock trial program successful. "Legal professionals become role models, as they share their expertise with the 30,000 high school students who participate in this program."

Though civic education tends to focus on young citizens, the toxic polarization that threatens our polity needs to be addressed within society at large. The goal of Unify America, an online organization founded in 2020, is to replace political fighting with collaborative problem-solving. Their signature program, the Unify Challenge, brings two people of different points of view and experiences together digitally to talk. It is a low-risk way to explore common ground and shared goals, build bridges, and strengthen civic muscles.

In 2023, Unify America plans to pilot a democratic deliberation experience in a community where neighbors can develop innovative solutions to a public issue, without the rancor of our usual politics. "Imagine a community," Unify America Founder Harry Nathan Gottlieb said, "where citizens deliberate together to tackle a long-standing, entrenched problem. They explore high-quality information and different perspectives on the problem, weigh potential solutions, and, through a series of votes, build consensus toward a shared solution. Using video conference technology and game theory, Unify America intends to run citizen deliberations that include thousands, and eventually hundreds of thousands, of Americans."

It is a fraught and complicated time in America, but our democratic republic is more resilient than many people might think. As we approach the 250th anniversary of the signing of the Declaration of Independence in 2026, it is an opportune time for civic renewal. It will require all freedom-loving individuals to work together, regardless of our political proclivities, to make a personal commitment to sharing our knowledge, skills, and dispositions with those young people who will carry them into the next century.

Every American is called to be a civic educator, to pass on the principles of freedom to which the founders aspired. Every parent is a civic educator, and so is every church leader. Those who are trained in law and have an insider's knowledge of our founding documents, then, have a duty to be a civic educator and make a difference.

If you want to help ensure the next generation is well-prepared for the civic and constitutional challenges they will face, then offer your time, treasure, and expertise to a national or local civic education nonprofit, a school, a mock trial program, or a local historical site. As an individual citizen and respected member of your community, you can be a voice for civic renewal in our schools and civil society.

With over 30,000 judges and over a million lawyers in the United States, imagine the impact the law profession could have if all contributed something to the cause

of civic renewal in the next three years leading to the Semiquincentennial in 2026. What a way to celebrate America's 250th birthday! ■

Endnotes

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My “Hallucinating” Experience with ChatGPT

By Judge Herbert B. Dixon Jr. (Ret.)



The artificial intelligence–powered software ChatGPT has amassed users at a faster rate than any other online platform. After ChatGPT launched in late 2022, it amassed 100 million users within two months. Compare that to TikTok, which took nine months to reach 100 million. Instagram took two and a half years to reach the 100 million–user mark, and Facebook took nearly four years to do so. ChatGPT is a software program that responds to written requests as if it were a supersmart human being. It can produce a written essay on infinite topics in the style you direct and respond to specific inquiries with computer speed. It’s what techies call a chatbot.

When one user asked ChatGPT to explain what it is, it described itself as “an AI-powered chatbot developed by OpenAI, based on the GPT (Generative Pretrained Transformer) language model. ChatGPT uses deep learning techniques to generate human-like responses to text inputs in a conversational manner.”¹ (Note: “AI” is

today’s acronym for “Artificial Intelligence.”)

A complaint often heard about ChatGPT is that it will enable students to cheat when writing their school essays. Closer to home, a judge in Colombia used ChatGPT to issue his decision in a medical rights case for a child diagnosed with Autism Spectrum Disorder.² Although I am writing this article about my experience with Open AI’s ChatGPT, other chatbots perform similar functions. Included among these are Bing’s AI chatbot and Google’s AI BARD. A general criticism of AI chatbots is that the software occasionally gives responses that reinforce, amplify, and perpetuate existing biases and prejudices. In fact, there are cautionary notes on ChatGPT’s webpage that the software may “occasionally produce harmful information or biased content.” These cautionary comments should be considered when using ChatGPT or one of its competitors.

News reports and press releases say that ChatGPT is programmed to

resist commenting on sensitive topics. I also learned from other reports and ChatGPT’s FAQ page that this unique artificial intelligence software can fabricate authoritative-sounding answers with inaccurate or incomplete information. To emphasize this cautionary warning, ChatGPT states on its FAQ page that it “will occasionally make up facts,” “hallucinate outputs” (whatever that means), or “produce incorrect answers.”³ The FAQ page also recommends that users report whether responses from ChatGPT are accurate and requests feedback by using the “Thumbs Down” icon if a response is unsatisfactory or inaccurate. This crowdsourcing evaluation of ChatGPT is intended to assist the developer’s tweaks of their product and the chatbot’s own machine learning capabilities.

The overwhelming volume of news articles about ChatGPT finally got my attention. I had to satisfy my curiosity by trying it out. I had no thought of writing this article until . . .

I was working on a speech for a non-law-related audience when I tried ChatGPT. First, I asked it to tell me a joke about the



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both the National Conference of State Trial Judges and the ABA Standing Committee on the American Judicial System and a former member of the Techshow Planning Board. You can reach him at JhbDixon@gmail.com. Follow Judge Dixon on Twitter @JhbDixon.

Chinese balloon shot down over the United States. The essence of the response I received from ChatGPT was that it did not discuss politically sensitive topics. Okay, I can accept that. Next, I asked it to give me some ideas for my chosen speech topic. The ideas weren't bad, but they were so banal that they convinced me to choose another topic. I then had another idea for a question to ask ChatGPT, which is why I am writing this column. I have often asked audiences at legal technology conferences whether there should be a requirement for judges to keep up with and understand changes in technology. I did not ask that question of ChatGPT because I assumed an artificial-intelligence-enhanced computer program would respond, "Of course, judges should be required to keep up with and understand changes in technology." I will leave it to readers of this column to ask ChatGPT or any AI chatbot competitor about its opinion on that topic. Instead, I asked the chatbot a more general question to test its research capability and knowledge. My question and ChatGPT's response are noted below.

Dixon's Question to ChatGPT:

Is there a provision in the Model Code of Judicial Conduct that requires judges to keep up with and understand changes in technology?

ChatGPT's Response to Dixon:

The Model Code of Judicial Conduct is a set of ethical guidelines for judges, which was created by the American Bar Association (ABA). While the Model Code does not contain a specific provision that requires judges to keep up with and understand changes in technology, it does include general language that encourages judges to stay informed about changes in society and to perform their duties with competence and diligence.

Specifically, Rule 2.3 of the Model Code states that "A judge shall

perform the duties of judicial office impartially, competently, and diligently." Comment [3] to that rule explains that judges must "remain informed about the law, court rules, procedures, and management techniques necessary to perform the duties of judicial office competently." While technology is not explicitly mentioned in this comment, it is generally understood to be an important part of modern legal practice, and judges are expected to be able to use technology to manage their caseloads and communicate with parties and attorneys.

Furthermore, in 2019, the ABA updated the Model Rule 1.1, which concerns a lawyer's duty of competence. The amendment made it clear that a lawyer has a duty to keep up with the changes in technology that impact the practice of law, and that failure to do so may constitute a violation of ethical rules. Although this rule applies to lawyers, not judges, it reflects a growing recognition within the legal profession of the importance of understanding technology in legal practice.

In summary, while there is no specific provision in the Model Code of Judicial Conduct that requires judges to keep up with and understand changes in technology, judges are expected to perform their duties competently and diligently, which includes staying informed about changes in society and the law, including changes related to technology.

I was pleasantly surprised that ChatGPT referenced the American Bar Association because my question did not identify the ABA. When I shared my question and the response with Minnesota Court of Appeals Judge Peter M. Reyes Jr., chair of the ABA Judicial Division's Ethics and Professionalism Committee, he quickly pointed out that

the chatbot incorrectly referenced Model Rule 2.3 because the language closest to the cited language that "A judge shall perform the duties of judicial office impartially, competently, and diligently" is found in Rule 2.5(A), not Rule 2.3. Rule 2.5(A) actually states, "A judge shall perform judicial and administrative duties, competently and diligently." Additionally, the quoted language that the chatbot attributed to Comment [3] does not appear in the Comments to either Rule 2.3 or 2.5. Following that heads-up from Judge Reyes, I noted that the chatbot's reference to Model Rule 1.1 is misleading. The amendment making it clear that a lawyer has a duty to keep up with the changes in technology that impact the practice of law is in Comment [8] to Rule 1.1 of the ABA Model Rules of Professional Conduct, not the Model Code of Judicial Conduct (a minor detail, I guess). Still, I was unsure if I should classify these missed details as "making up facts" or "hallucinating an output."

I was intrigued by the quotation that ChatGPT attributed to Comment [3], that judges must "remain informed about the law, court rules, procedures, and management techniques necessary to perform the duties of judicial office competently." The quotation has an authoritative sound. After a diligent search, I can say with confidence that the quoted passage does not appear in the Model Code of Judicial Conduct or the Model Rules of Professional Conduct.

With the assistance of a law clerk and a law librarian, I've exhausted Google and Bing Internet search engines, LexisNexis, Westlaw, and DuckDuckGo, among other sites, including cases, secondary materials, statutes, codes, newspapers, magazines, and administrative materials. I was unable to find the source for that quotation. Out of frustration, I asked ChatGPT several times, using slightly different wording, to identify the source of the quote. I received an error message on each occasion. I even used plagiarism software to find the source of the quote. In every instance, I came up empty with no identified source for the quote. I spent more time trying to track down the source of that quote than writing this article.

Various Judicial Codes have similar language that a judge must act with impartiality so they may perform the

functions of their judicial office competently; however, nothing I located comes close to the quote. I do not know if ChatGPT aggregated the so-called quote from various Judicial Codes, fabricated it, made up facts, or hallucinated its response. I have not found the quoted language in any public online database. I welcome any reader's assistance who is inclined to continue the search for the quoted language attributed to Comment [3].

Finally, ChatGPT's response that judges have an obligation to keep up with and understand changes in technology could have been made stronger by citing additional rules of the Model Code of Judicial Conduct, but that omission makes my point. The chatbot, ChatGPT, notwithstanding its "artificial intelligence" label, is merely a tool to be used wisely and carefully. Appropriate human discretion, fact-checking, and cite-checking are still required.

Final Thoughts

Society and the legal profession's use of artificial intelligence is not new. As I type this article, my word processing program is offering spelling corrections and suggesting the next word I should type. That is artificial intelligence software at work. When I use Face ID or Touch ID to unlock my phone, that's artificial intelligence at work. When we use GPS in our travels to a new destination or to help avoid traffic congestion or find a faster route, that's artificial

intelligence at work. When we chat online with the Help Desk or customer service, we are usually not communicating with a real person but with an artificial intelligence chatbot. Or how about when you are doing routine Internet surfing and are suddenly presented with digital advertisements for products or services similar to what you have recently researched? That's also artificial intelligence at work. How about when you ask Siri to call Mom or Alexa to tell you the weather forecast for Washington, DC? That's also artificial intelligence at work. And the Internet search engines and legal research tools that members of the legal profession regularly use, and that I used to search for the phantom quote—those are also artificial intelligence at work.

Artificial intelligence chatbots can produce authoritative-sounding research or convincing essays with seeming ease. According to one commentator, chatbots are notorious for issuing "coherent nonsense"—language that sounds authoritative but is actually babble.⁴ I agree! Users must exercise the same caution with chatbot responses as when doing Internet research, seeking recommendations on social media, or reading a breaking news post from some unfamiliar person or news outlet. Don't trust; verify before you pass along the output.

Author's Supplement

After the draft of this article was submitted for publication, before this magazine went

to print, a lawyer asked ChatGPT to generate a list of legal scholars accused of sexual harassment. ChatGPT's response included a law professor/cable news commentator, saying he made sexually suggestive comments and attempted to touch a student while on a class trip to Alaska, citing a March 2018 article in *The Washington Post*. According to *The Washington Post*, however, no such article existed; there had never been a class trip to Alaska; and the law professor/cable news commentator said he has never been accused of harassing a student.⁵ As I said above, don't blindly trust a chatbot's response. Verify the information before you pass it along! ■

Endnotes

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Judicial Civility

By Marla N. Greenstein

Judges' concern over rising incivility in the courts was the impetus for this issue's theme. But as many of the articles point out, incivility is often the result of a dynamic of interactions where people feel a lack of respect and understanding. Civics education is tied to the fundamental understanding of the need to respectfully listen to another's views. Courts and judges often model that interaction. Each side has a chance to present their viewpoint in a dispute, and at the conclusion the judge dispassionately at the conclusion assesses the strengths of each opposing view. But how do things go awry? What is the role of the judge?

Intellectually, judges are aware of the need to be "patient, dignified, and courteous" (Model Code of Judicial Conduct Rule 2.8(B)) and the corresponding need to require that conduct from others in the court. However, despite this well-known directive, disciplinary cases are reported each month that illustrate the failure of judges to maintain that standard. Even where a judge's words and tone do not rise to an ethics violation, they often fall short of their own ideal response. It is fairly common in my job to review court audio where attorneys or parties assert that the judge treated them with disrespect. When I review the audio, what is most often the case is that the judge responds "in kind" to the constant high emotions of the person addressing the judge. It is a very natural and human response, but one that we expect judges to overcome.

Every trial court judge can recall a hearing where they said something in a tone that was not their own ideal. When judges reflect on the circumstances and their own responses, in every instance, there is a recognition that "I should have . . ." Those "I should have" are often (1) gone off record in recess for five minutes, (2) lowered my voice, or (3) rescheduled the hearing. There are options.



We know from several articles in this issue that incivility often arises from a sense of helplessness and misunderstanding. Unfortunately, once individuals enter a courtroom, they feel powerless in determining their fate, and the object of that feeling is the powerful judge. Trial judges often attempt to make parties aware of the power that they do have by reminding them that the trial is their time to tell their story. Lawyers may be emotionally vested in a particular outcome as well, and judges should expect a higher degree of civil discourse from trained advocates. By appealing to that higher expectation and a lawyer's own obligation to respect the tribunal, a lawyer can be reminded that their zealous advocacy can be most effective with forceful words rather than loud volume.

And, finally, at times, expectations may need to be altered to the circumstances. A child custody hearing can be expected to be one with high emotions. Acknowledging the importance of the issues at hand to the parties can go a long way. So, too, understanding personal dynamics between certain lawyers and the court and

anticipating those can help judges to plan their thoughtful response. The stresses of our current time on parties, lawyers, and judges are real. The articles in this issue all emphasize how judges can model civility for others. Understanding and anticipating these stresses can help every judge model the civility that the Code of Judicial Conduct expects. ■



Marla N.

Greenstein is the executive director of the Alaska Commission on Judicial Conduct. She is also a former chair of the ABA Judicial

Division's Lawyers Conference. She can be reached at mgreenstein@ajc.state.ak.us.

HER HONOR: Stories of Challenge and Triumph from Women Judges

EDITED BY LAUREN STILLER RIKLEEN

At a time when surveys reveal declining trust in our courts, this book offers reasons for hope and even pride. *Her Honor* features a collection of personal stories by and about some of the country's most respected female judges, offering a nuanced look at the inequality, bias, and other barriers they faced and overcame in their lives.

The 25 judges featured in *Her Honor* are from all levels of the state and federal courts, including Chief Judges and two Supreme Court Justices, and have lived lives of deep influence. The stories shared will extend that influence further and inspire future generations to persevere in their careers during even the most difficult times.

What Readers Are Saying About *Her Honor*

"This is one of the most inspirational books I have ever read. The essays, by and about twenty-five inspirational women judges, are beautifully written and compelling accounts of lives filled with amazing accomplishments. They are stories of women who overcame great obstacles—sexism and racism and antisemitism and homophobia and poverty and so much else—to rise to the top of the legal profession and make a huge difference. I want all law students and lawyers to read it, and for that matter, all high school and college students who might be thinking of a career in the law."

—Erwin Chemerinsky, Dean and Jesse H. Choper Distinguished Professor of Law, University of California, Berkeley School of Law

"As someone who's often critical about the progress of women in the legal profession, I found this book to be a much-needed antidote to my cynicism. It's an illuminating, honest look at how female judges overcame substantial obstacles with grit and grace—and triumphed."

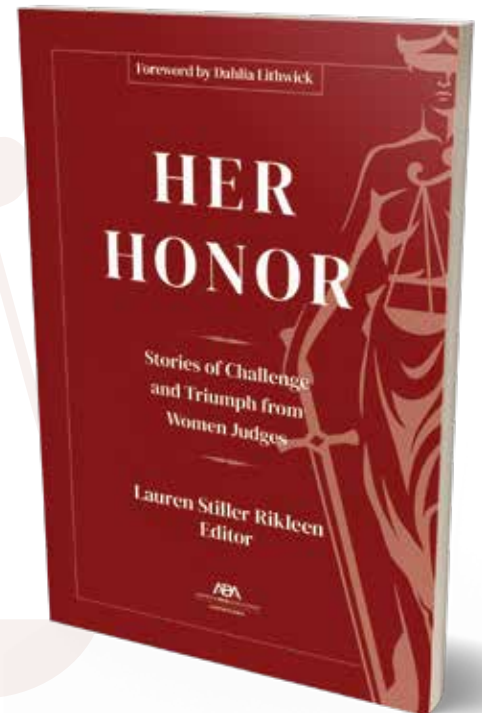
—Vivia Chen, Opinion Columnist, "Unfiltered," BLOOMBERG Law

"Some of the judges profiled in this remarkable, and remarkably infuriating, volume are household names (Justices Sandra Day O'Connor and Ruth Bader Ginsburg); others are women you've likely never heard of. Their stories are unique but also universal—tales of women who endured slights, barriers and outright humiliation unimaginable to later generations of female attorneys, but who persevered with grit, humor and intelligence. All helped shape the world women in the law face today—hardly perfect but dramatically changed—and this book offers fitting testimony to their contributions."

—Ruth Marcus, *Washington Post* Columnist

"I wish I had a book like this—full of the wisdom and testimony, trials and triumphs of brilliant and accomplished women jurists—when I was a young law student who still didn't fully understand the barriers I'd face as a young, Black woman in the legal profession and beyond. Their stories of grace and tenacity in the face of obstacles are beyond inspiring. And their focus on mentorship is so important. Their lived stories shake the ground and pave the way for all of us."

—Kimberly Atkins Stohr, Senior Opinion Writer and Columnist, *The Boston Globe*
Inaugural Columnist, *The Emancipator*



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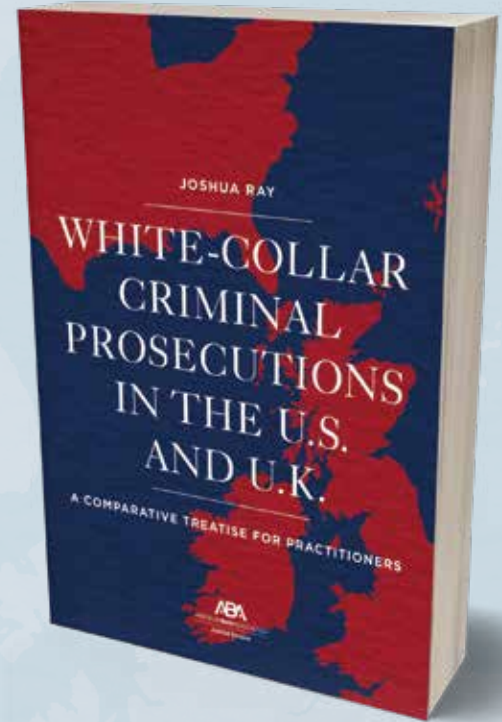
WHITE-COLLAR CRIMINAL PROSECUTIONS IN THE U.S. AND U.K.

A Comparative Treatise for Practitioners

BY JOSHUA RAY

This comparative treatise provides a holistic easy-to-follow overview of the systems of government in both the U.S. and U.K. that underpin how white-collar crimes are investigated and prosecuted, provides context for understanding the different criminal court systems and law enforcement agencies, and covers everything from pretrial discovery and procedure through post-trial appeals and sentencing. *White-Collar Criminal Prosecutions in the U.S. and U.K.: A Comparative Treatise for Practitioners* is equally useful to those in law enforcement and other lawyers in private practice.

Joshua L. Ray is a partner in the London, New York, and DC offices of CANDEY, a leading disputes-only law firm headquartered in London. A member of the New York bar and a solicitor in England and Wales, he represents individuals and corporations in cross-border criminal and civil litigation, investigations, and contentious regulatory matters. He also advises international corporations on compliance with anti-money laundering, sanctions, and antibribery regulations in the United States and the United Kingdom. Josh has extensive experience defending individuals in enforcement proceedings brought by British and American law enforcement agencies, including the Department of Justice, Securities and Exchange Commission, Commodity Futures Trading Commission, and Serious Fraud Office.



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TAB 5

Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

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Director and State Court
Administrator



JOHN MCCORMICK
Assistant Court Administrator

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“To unite and promote Nevada’s judiciary as an equal, independent and effective branch of government”

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Committee Meeting of July 21, 2023

Prepared by Margarita Bautista, Staff to Court Administration Committee

- Since the last report, the JCSN Court Administration Committee met on July 21, 2023.
- A quorum was not present and therefore no official action was taken.
- Chair Stocks gave a brief introduction about the committee and gave new administrators an opportunity to introduce themselves to the committee.
 - Melissa Bender, Henderson Municipal Court
 - Nohemi Cardiel, Incline Village Justice Court
 - Kamee Copeland, Wadsworth Justice Court
 - Melinda Davis, Pahrangat Justice Court
 - Haily Love, Eastline Justice and W. Wendover Municipal Court
 - Juanita “Jenny” Martin, Argenta Justice Court
 - Shaniya Williams, Hawthorne Justice Court
- The Administrative Office of the Courts (AOC) staff gave brief updates on the Data Governance-Data Repository and the IT project updates and asked members reach out to AOC staff if they have any questions or need anything and not to wait until an official meeting.

- Ms. Williams requested a copy of the draft e-filing rule amendments that will become an ADKT this fall. Ms. Stocks stated the draft would be circulated after the meeting.
- A legislative review was given to the Committee by Mr. McCormick about all the bills that went before the Legislature. Brief explanations were given about each bill followed by a question-and-answer session on the bills.
- Chair Stocks explained the Court Opportunity Recruitment for All (CORA) repository and how courts can use this repository to advertise vacancies within their courts.
- A draft of an ADA update and bench card was handed out to all those present at the meeting. This draft serves only as guidance for those courts who need assistance with implementation of a policy. The final copy of this policy is attached hereto as Tab A.
- The next meeting is scheduled for Monday, October 9, 2023, at 2:00pm.

TAB

A



ADA TITLE II RECOMMENDED GUIDELINES

Created: July 2023

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1. Introduction

Federal Policy

[Current ADA Title II Regulations](#)

[Current ADA Title II Regulations with navigation](#)

Purpose

Courts in Nevada need to be fully compliant with the requirements of the ADA, not only because it is the law, but because equal access to justice is a fundamental right.

As part of a state/local government you must:

- Communicate with people with disabilities as effectively as you communicate with others.
- Make reasonable modifications to policies, practices, and procedures where needed to make sure that a person with a disability can access the state/local government's programs, services, or activities.
 - If a state or local government has fewer than 50 employees, it is required to:
 - adopt and distribute a public notice about the relevant provisions of the ADA to all people who may be interested in its programs, activities, and services.
 - If a state or local government has 50 employees or more, it is required to:
 - adopt and distribute a public notice about the relevant provisions of the ADA to all persons who may be interested in its programs, activities, and services;
 - designate at least one employee responsible for coordinating compliance with the ADA and investigating ADA complaints; and
 - develop and publish grievance procedures to provide fair and prompt resolution of complaints under Title II of the ADA at the local level.
- Allow service animals to be with their person even if you have a no pets policy.
- Provide program access by ensuring that individuals with disabilities are not excluded from programs because existing buildings or facilities are inaccessible to them.
- Follow specific standards for physical accessibility when building or altering a building or facility.
- Follow specific requirements for ticket sales and testing accommodations.
- Conduct Self-evaluation of policies and procedures ideally every three years.

Modifications to these Recommendations

There will be modifications to these recommendations as necessary.

Goals

Adopt and implement an accommodation plan, including:

- Developing an ADA Policy Statement;
- Appointing an ADA Coordinator (if your court is lacking one);
- Developing a procedure for processing accommodation requests;
- Developing a grievance procedure;
- Notifying court users of your plan; and
- Ensuring effective communication in publications, websites, notices, and forms.

2. ADA Title II Review

Some of the information and illustrations included here have been taken from the [Americans with Disabilities Act Title II Technical Assistance Manual](#), and [ADA.gov](#). We have attempted to cover the basics of the law that need to be understood as a context for provision of reasonable accommodations, but do not intend it to be taken as a full explanation of the ADA rules.

Title II Accommodation Requirements

To provide access to qualified individuals with disabilities, the courts are required to:

- Make reasonable modifications to policies and practices,
- Remove architectural, communication or transportation barriers, and
- Provide auxiliary aids and services. A public entity should give “*primary consideration*” to the auxiliary aid or service requested by the individual with the disability.

Who is Protected?

The ADA defines disability as a mental or physical impairment that substantially limits one or more major life activities. ADA protection extends not only to individuals who currently have a disability, but to those with a record of a mental or physical impairment that substantially limits one or more major life activities, or who are perceived or regarded as having a mental or physical impairment that substantially limits one or more major life activities.

Three categories of individuals are covered under Title II:

1. Individuals who have a physical or mental impairment that substantially limits one or more major life activities;
2. Individuals who have a record of a physical or mental impairment that substantially limited one or more of the individual’s major life activities; and
3. Individuals who are regarded as having such an impairment, whether they have the impairment or not.

Physical impairments include physiological disorders or conditions, cosmetic disfigurement or anatomical loss that affect one or more of the following body systems:

- | | |
|---|-----------------------|
| • neurological | • digestive |
| • musculoskeletal | • genitourinary |
| • special sense organs | • hemic and lymphatic |
| • respiratory (including speech organs) | • skin |
| • cardiovascular | • endocrine |
| • reproductive | |

Physical impairments would include, for example: paralysis, amputation, and other mobility impairments; blindness and low vision; deaf, hard of hearing and deaf-blind; speech impairment; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; HIV; tuberculosis; drug addiction and alcoholism.

Mental impairments would include intellectual disabilities, organic brain syndrome, emotional or mental illness and specific learning disabilities. Mental impairments would also include, for example:

- schizophrenia, bipolar disorder, and personality disorders
- traumatic brain injury, Alzheimer’s disease, organic brain syndrome and other cognitive impairments
- autism spectrum disorders
- specific learning disabilities—dyslexia (reading and related language-based learning disabilities); dyscalculia (mathematical disability); and dysgraphia (writing or fine motor skills deficit).

A key factor in determining whether an individual has a “qualified disability” is the “substantial” limitation of one or more “major life activities.” Major life activities include:

- caring for one’s self
- performing manual tasks
- walking
- seeing
- hearing
- speaking
- breathing
- learning
- working

Who is not Protected?

- Although drug addiction is considered an impairment under the ADA, this protection does not extend to addicts who are engaged in the current and illegal use of drugs.
- Homosexuality and bisexuality are not considered physical or mental impairments, and are, therefore, not covered under the protection of the ADA.
- The following conditions are specifically excluded from the definition of “disability”: transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, other sexual behavior disorders, compulsive gambling, kleptomania, and pyromania.
- Any individual who poses a direct threat to the health or safety of others is not considered a “qualified” individual. The ADA considers a “direct threat” to be a significant risk to the health or safety of others that cannot be eliminated or reduced to an acceptable level by the court’s modification of its policies, practices or procedures, or by the provision of auxiliary aids or services. The court’s determination that someone poses that risk must not be based on generalizations or stereotypes about the effects of a particular disability.

Determining whether a direct threat exists must be based on an individualized assessment that relies on current medical evidence, or on the best available objective evidence to assess:

1. The nature, duration and severity of the risk;
2. The probability that the potential injury will actually occur; and,
3. Whether reasonable modifications of policies, practices or procedures will mitigate or eliminate the risk.

Program Accessibility

Public entities have an ongoing obligation to ensure that individuals with disabilities are not excluded from programs and services because facilities are unusable or inaccessible to them. There is no “grandfather clause” in the ADA that exempts older facilities. Any accommodation provided by the courts will be at no cost to qualified individuals with disabilities. Such accommodations include:

- Architecturally renovating facilities to make them readily accessible to and usable by an individual with disabilities.
- Relocating a service to enable a person with a disability to participate.

- Obtaining or modifying equipment or devices (including videophones or TDDs, assistive listening systems, videotext displays, or publishing materials in Braille and large print).
- Providing qualified readers and interpreters.
- Providing reserved parking for a person with a mobility impairment.
- Allowing a person with a disability to provide equipment or devices that the public entity is not required to provide.

Reasonable Modifications of Policies and Procedures

A public accommodation shall make reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.

- A person who uses crutches may have difficulty waiting in a long line to vote or register for college classes. The ADA does not require that the person be moved to the front of the line (although this would be permissible), but staff must provide a chair for him and note where he is in line, so he doesn't lose his place.
- A person who has an intellectual or cognitive disability may need assistance in completing an application for public benefits.
- A public agency that does not allow people to bring food into its facility may need to make an exception for a person who has diabetes and needs to eat frequently to control his glucose level.
- A city or county ordinance that prohibits animals in public places must be modified to allow people with disabilities who use service animals to access public places. (This topic is discussed more fully later.)
- A city or county ordinance that prohibits motorized devices on public sidewalks must be modified for people with disabilities who use motorized mobility devices that can be used safely on sidewalks. (This topic is discussed more fully later.)

Effective Communication

A Court shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others. The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. In determining what types of auxiliary aids and services are necessary, a Court shall give primary consideration to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.

Some examples of solutions in relatively simple and straightforward situations:

- In a lunchroom or restaurant, reading the menu to a person who is blind allows that person to decide what dish to order.
- In a retail setting, pointing to product information or writing notes back and forth to answer simple questions about a product may allow a person who is deaf to decide whether to purchase the product.
- In a law firm, providing an accessible electronic copy of a legal document that is being drafted for a client who is blind allows the client to read the draft at home using a computer screen-reading program.

- In a doctor's office, an interpreter generally will be needed for taking the medical history of a patient who uses sign language or for discussing a serious diagnosis and its treatment options.

There are a variety of auxiliary aids and services. Here are a few examples.

- For individuals who are deaf or hard of hearing: qualified sign-language and oral interpreters, note takers, computer-aided transcription services, written materials, telephone headset amplifiers, assistive listening systems, telephones compatible with hearing aids, open and closed captioning, videotext displays, and TTYs (teletypewriters).
- For individuals with who are blind or have low vision: qualified readers, taped texts, Braille materials, large print materials, materials in electronic format on compact discs or in emails, and audio recordings.
- For individuals with speech impairments: TTYs, computer stations, speech synthesizers, and communications boards.

Website Accessibility

The Internet has dramatically changed the way state and local governments do business. Today, government agencies routinely make much more information about their programs, activities, and services available to the public by posting it on their websites. As a result, many people can easily access this information seven days a week, 24 hours a day.

Many people with disabilities use assistive technology that enables them to use computers. Some assistive technology involves separate computer programs or devices, such as screen readers, text enlargement software, and computer programs that enable people to control the computer with their voice. Other assistive technology is built into computer operating systems. For example, basic accessibility features in computer operating systems enable some people with low vision to see computer displays by simply adjusting color schemes, contrast settings, and font sizes. Operating systems enable people with limited manual dexterity to move the mouse pointer using keystrokes instead of a standard mouse.

Common problems and solutions:

- Images without text explanations cannot be interpreted by commonly used screen readers and Braille displays.
 - Add a simple text equivalent to each image to enable the user with a vision disability to understand what is displayed.
- PDF (Portable Document Format) documents or other image-based formats are often not accessible to blind people who use screen readers, text enlargement programs or different font and color settings to read computer displays.
 - Provide a text-based format, e.g. HTML (Hypertext Markup Language) or RFT (Rich Text Format) in addition to the PDF document.
- Video and other types of multimedia can prevent a deaf person from hearing the audio track or prevent a blind person from viewing the display.
 - Include audio descriptions and captions or transcript.

Making the Environment Accessible

No qualified individual with a disability shall, because a Court's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities of the Court, or be subjected to discrimination. Public entities have an ongoing obligation to ensure

that individuals with disabilities are not excluded from programs and services because facilities are unusable or inaccessible to them. There is flexibility in deciding how to meet this obligation – structural changes can be made to provide access, the program or service can be relocated to an accessible facility, or the program or service can be provided in an alternate manner. For example:

- If an application for a particular city program must be made in person at an inaccessible office, the city could allow a person with a mobility disability to complete and submit the application by mail or email.
- If a public library is inaccessible, staff can provide curb-side service for a patron with a mobility disability to check out and return books.
- If a court has ordered a person with a mobility disability to participate in a group anger-management program, and the program is located in an inaccessible facility, it is not acceptable to offer the program to him individually in an accessible location, because the group interaction is a critical component of the program.

There are certain aids or services that courts are not required to provide under Title II of the ADA. They include:

- Transportation to the courthouse;
- Personal devices (i.e. wheelchairs, hearing aids, or prescription eyeglasses);
- Personal services (i.e. medical or attendant care); or
- Readers for personal use or study.

The court cannot make changes to the law in granting an accommodation; it cannot extend the statute of limitations for filing an action because the requestor claims to have been delayed due to disability, nor can it provide accommodations that modify the terms of an agreement among parties.

Service Animals

Generally, a public entity shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability. Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a public entity's facilities where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go.

A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control.

A Court may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. A Court shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

A public entity may ask an individual with a disability to remove a service animal from the premises if:

1. The animal is out of control and the animal's handler does not take effective action to control it; or
2. The animal is not housebroken.

If a service animal is required to leave you must give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises.

Courts are not responsible for the care or supervision of a service animal.

Determining What Accommodation is Appropriate

When choosing an aid or service, Courts are required to give primary consideration to the choice of aid or service requested by the person who has a communication disability. The Court must honor the person's choice, unless it can demonstrate that another equally effective means of communication is available, or that the use of the means chosen would result in a fundamental alteration or in an undue burden. If the choice expressed by the person with a disability would result in an undue burden or a fundamental alteration, the public entity still has an obligation to provide an alternative aid or service that provides effective communication if one is available.

In determining whether a particular aid or service would result in undue financial and administrative burdens, a Court should take into consideration the cost of the particular aid or service in light of all resources available to fund the program, service, or activity and the effect on other expenses or operations. The decision that a particular aid or service would result in an undue burden must be made by a high-level official, no lower than a Department head, and must include a written statement of the reasons for reaching that conclusion.

Requesting Documentation of Need for an Accommodation

Requests for supporting documentation should be narrowly tailored to the information needed to determine the nature of the person's disability and his or her need for the requested accommodation. Appropriate documentation will vary depending on the nature of the disability and accommodation requested.

Examples of types of documentation include:

- Recommendations of qualified professionals
- Results of psycho-educational or other professional evaluations
- A person's history of diagnosis

Grievance Procedures

Public entities that have 50 or more employees are required to have a grievance procedure and to designate at least one responsible employee to coordinate ADA compliance. Although the law does not require the use of the term "ADA Coordinator," it is commonly used by state and local governments across the country. The ADA Coordinator's role is to coordinate the government entity's efforts to comply with the ADA and investigate any complaints that the entity has violated the ADA. The coordinator serves as the point of contact for individuals with disabilities to request auxiliary aids and services, policy modifications, and other accommodations or to file a complaint with the entity; for the general public to address ADA concerns; and often for other departments and employees of the public entity. The name, office address, and telephone number of the ADA Coordinator must be provided to all interested persons.

The grievance procedure should include:

- A description of how and where a complaint under Title II may be filed with the government entity;
- If a written complaint is required, a statement notifying potential complainants that alternative means of filing will be available to people with disabilities who require such an alternative;
- A description of the time frames and processes to be followed by the complainant and the government entity;
- Information on how to appeal an adverse decision; and
- A statement of how long complaint files will be retained.

Undue Burden

There are certain situations where a court is not required to provide accommodation. For example, the ADA does not require courts to take any action that would impose an undue financial or administrative burden. If it is believed that providing a requested accommodation would result in a fundamental change to the program or service, or that it would impose an undue hardship, the ADA Coordinator should be notified immediately. The decision about whether the accommodation request imposes an undue hardship on the court should be made by the presiding judge or his/her designee. The expense of making a program, service, or activity accessible or providing a reasonable modification or auxiliary aid may not be charged to a person with a disability requesting the accommodation.

3. Resources

- ADA.gov
- [ADA Best Practices Tool Kit for State and Local Governments](#)
- [National Network of ADA Centers](#)
- [Title II Technical Assistance Manual](#)
- [Guidance on the 2010 ADA Standards for Accessible Design](#)
 - Required for all buildings newly constructed or alterations after 3/15/2012
- [NCSC Courthouse Planning Guide](#)
- [Nevada Disability Advocacy and Law Center](#)
- [Equal Access Advocates](#)

4. Definitions

*Definitions were taken from [28 C.F.R. § 35.104](#)

** Definitions were taken from [28 C.F.R. § 36.104](#)

Auxiliary Aids and Services*

1. Qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;
2. Qualified readers; taped texts; audio recordings; Braille materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;
3. Acquisition or modification of equipment or devices; and
4. Other similar services and actions.

Disability**

With respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment. (Full ADA definition 28 C.F.R. § 35.108)

1. The phrase physical or mental impairment means --
 - i. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine;
 - ii. Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;
 - iii. The phrase physical or mental impairment includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism;
 - iv. The phrase physical or mental impairment does not include homosexuality or bisexuality.
2. The phrase major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
3. The phrase has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
4. The phrase is regarded as having an impairment means --
 - i. Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a private entity as constituting such a limitation;
 - ii. Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or
 - iii. Has none of the impairments defined in paragraph (1) of this definition but is treated by a private entity as having such an impairment.
5. The term disability does not include --
 - i. Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;
 - ii. Compulsive gambling, kleptomania, or pyromania; or
 - iii. Psychoactive substance use disorders resulting from current illegal use of drugs.

Facility*

All or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.

Other power-driven mobility device*

Any mobility device powered by batteries, fuel, or other engines—whether or not designed primarily for use by individuals with mobility disabilities—that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electronic personal assistance mobility devices (EPAMDs), such as the Segway® PT, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a

wheelchair within the meaning of this section. This definition does not apply to Federal wilderness areas; wheelchairs in such areas are defined in section 508(c)(2) of the ADA, 42 U.S.C. 12207(c)(2).

Public entity*

1. Any State or local government;
2. Any department, agency, special purpose district, or other instrumentality of a State or States or local government; and
3. The National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act).

Qualified individual with a disability*

An individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

Qualified interpreter*

An interpreter who, via a video remote interpreting (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include, for example, sign language interpreters, oral transliterators, and cued-language transliterators.

Qualified reader*

A person who is able to read effectively, accurately, and impartially using any necessary specialized vocabulary.

Service animal*

Any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

State*

Each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

Video remote interpreting (VRI) service*

An interpreting service that uses video conference technology over dedicated lines or wireless technology offering high-speed, wide-bandwidth video connection that delivers high-quality video images as provided in § 35.160(d).

Wheelchair*

A manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor, or of both indoor and outdoor locomotion. This definition does not apply to Federal wilderness areas; wheelchairs in such areas are defined in section 508(c)(2) of the ADA, 42 U.S.C. 12207 (c)(2).

Undue burden**

Significant difficulty or expense. In determining whether an action would result in an undue burden, factors to be considered include --

1. The nature and cost of the action needed under this part;
2. The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;
3. The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;
4. If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and
5. If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.

5. Contact

Please refer questions or recommendations to:

Administrative Office of the Courts
Supreme Court Building
201 S. Carson Street, Suite 250
Carson City, NV 89701-4702

E-mail: aocmail@nvcourts.nv.gov
Phone: (775) 684-1700

APPENDIX I: Document Samples



NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT

In accordance with the requirements of title II of the Americans with Disabilities Act of 1990 ("ADA"), the **[name of public entity]** will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

Employment: **[name of public entity]** does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under title I of the ADA.

Effective Communication: **[Name of public entity]** will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in **[name of public entity's]** programs, services, and activities, including qualified sign language interpreters, documents in Braille, and other ways of making information and communications accessible to people who have speech, hearing, or vision impairments.

Modifications to Policies and Procedures: **[Name of public entity]** will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in **[name of public entity]** offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of **[name of public entity]**, should contact the office of **[name and contact information for ADA Coordinator]** as soon as possible but no later than 48 hours before the scheduled event.

The ADA does not require the **[name of public entity]** to take any action that would fundamentally alter the nature of its programs or services, or impose an undue financial or administrative burden.

Complaints that a program, service, or activity of **[name of public entity]** is not accessible to persons with disabilities should be directed to **[name and contact information for ADA Coordinator]**.

[Name of public entity] will not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the cost of providing auxiliary aids/services or reasonable modifications of policy, such as retrieving items from locations that are open to the public but are not accessible to persons who use wheelchairs.

[Name of public entity]

GRIEVANCE PROCEDURE UNDER THE AMERICANS WITH DISABILITIES ACT

This Grievance Procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 ("ADA"). It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the **[name of public entity]**. The **[e.g. State, City, County, Town]**'s Personnel Policy governs employment-related complaints of disability discrimination.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:

**[Insert ADA Coordinator's name]
ADA Coordinator [and other title if appropriate]
[Insert ADA Coordinator's mailing address]**

Within 15 calendar days after receipt of the complaint, **[ADA Coordinator's name]** or **[his/her]** designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, **[ADA Coordinator's name]** or **[his/her]** designee will respond in writing, and where appropriate, in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the **[name of public entity]** and offer options for substantive resolution of the complaint.

If the response by **[ADA Coordinator's name]** or **[his/her]** designee does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the **[City Manager/County Commissioner/ other appropriate high-level official]** or **[his/her]** designee.

Within 15 calendar days after receipt of the appeal, the **[City Manager/County Commissioner/ other appropriate high-level official]** or **[his/her]** designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, the **[City Manager/County Commissioner/ other appropriate high-level official]** or **[his/her]** designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by **[name of ADA Coordinator]** or **[his/her]** designee, appeals to the **[City Manager/County Commissioner/ other appropriate high-level official]** or **[his/her]** designee, and responses from these two offices will be retained by the **[public entity]** for at least three years.

TAB 6

Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

KATHERINE STOCKS
Director and State Court
Administrator



JOHN MCCORMICK
Assistant Court Administrator

JUDICIAL COUNCIL OF THE STATE OF NEVADA

*“To unite and promote Nevada’s judiciary as an equal, independent and effective
branch of government.”*

COURT IMPROVEMENT PROGRAM SELECT COMMITTEE REPORT

Committee Members:

Justice Elissa Cadish, Chair	Fran Maldonado	Jennifer Rains
Judge Paige Dollinger	John McCormick	Kate Schmidt
Judge Gary Fairman	Jennifer Merideth	Jennifer Spencer
Judge David Gibson	Judge Michael Montero	Stacy Stahl
Crystal Hallock	Magistrate Kimberly Okezie	Magistrate Alison Testa
Amber Howell	Buffy Okuma	Janice Wolf
Wonswayla Mackey	Karen Perez	

Committee Meeting of July 7, 2023

August 18, 2023, JCSN Prepared by: Zaide Martinez, CIP Coordinator

- The CIP Legislative Subcommittee Bill (AB148) passed as amended on June 5, 2023.
- The Judicial, Court, and Attorney Measures of Performance (JCAMP) Data Team has been meeting regularly and has disseminated parent, youth, and professional stakeholder surveys.
- CIP consistently meets and collaborates with Community Improvement Councils (CICs) and child welfare agency representatives.
- CIP and the Mediator Training Center developed a Juvenile Dependency Mediation Program (JDMP) infographic and video for new attorneys participating in dependency mediation.
- CIP sponsored a total of 30 registrations for the National Association of Counsel for Children (NACC) Inaugural Race Equity Virtual Training Series. Following the trainings, CIP facilitated debriefing sessions for stakeholders who participated in the training series.
- CIP has been collaborating with the Tribes such as supporting the Te-Moak Tribe of Western Shoshone Indians of Nevada in their efforts to apply for the State-Tribal Partnerships to Implement Best Practices in Indian Child Welfare funding opportunity. This grant is instrumental in enhancing collaboration between Tribal and State Courts, prioritizing the best interests of Tribal children.
- The 2022-2023 Self-Assessment and Strategic Plan were submitted to the Children’s Bureau on June 28, 2023.
- The Annual Community Improvement Council (CIC) Summit will be held in Reno, Nevada at the Atlantis Casino, Resort, and Spa. The CIC Summit dates are as follows:
 - September 27, 2023, Judicial Officer Roundtable for judges and magistrates only
 - September 28-29, 2023, CIC General Summit for all CIC stakeholders

TAB 7

Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

KATHERINE STOCKS
Director and State Court
Administrator



JOHN MCCORMICK
Assistant Court Administrator

JUDICIAL COUNCIL OF THE STATE OF NEVADA

“To unite and promote Nevada’s judiciary as an equal, independent, and effective branch of government.”

SPECIALTY COURT FUNDING AND POLICY COMMITTEE REPORT

Committee Members:

Justice Lidia Stiglich, Chair

Justice Linda Bell, Co-Chair

Judge Michael Montero, Vice-Chair

Judge Tom Armstrong

Judge Stephen Bishop

Judge Thomas Stockard

Chief Judge Cynthia Cruz

Judge Steven Dobrescu

Judge Ryan Toone

Senior Judge Deborah

Schumacher

Judge Jim Loveless

Chief Judge Lynne Simons

Judge Ryan Sullivan

Chief Judge Jerry Wiese

Judge Bitia Yeager

Committee Meeting of July 24, 2023

Prepared by: Stephanie Gouveia, Specialty Courts Statewide Coordinator

- The Committee reviewed and approved final allocations for fiscal year 24 specialty court funding. Each court has received an award letter denoting their budget for the year.
- The State Coordinator and Co-Chair of the Committee hosted a Nevada treatment court workers social hour at the National Association of Drug Court Professionals national conference in Houston, TX. Roughly 90 Nevada workers attended to network and make connections with treatment courts across the state.
- The National Association of Drug Court Professionals announced a change in name. Moving forward, it will be known as All Rise.
- The Las Vegas Justice Court has opened a new specialty court-Mental Health Court, presided over by Judge Nadia Wood.
- The 6th Judicial District completed a peer review with Judge Dobrescu and Judge Fairman from the 7th Judicial District in Ely, Nevada. Judge Schumacher and the Western Region Specialty Court are next to complete the process.
- The Nevada Specialty Court conference will be held October 16th-18th, 2024, in Reno, Nevada.
- The Specialty Court Funding & Policy Committee Guidelines & Criteria handbook has been updated to reflect changes in funding caps and removal of NRS 176.059 as necessitated by the passage of SB448. The committee requests the Judicial Council of the State of Nevada’s approval of the updated handbook.
- The next Specialty Court Funding & Policy Committee meeting will be October 13, 2023, at 12pm.

Tab 8

Items

Forthcoming

TAB 9

Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

KATHERINE STOCKS
Director and State Court
Administrator



JOHN MCCORMICK
Assistant Court Administrator

**JUDICIAL COUNCIL OF THE STATE OF NEVADA
NORTH CENTRAL REGIONAL JUDICIAL COUNCIL MEETING**

Friday, May 26, 2023

10:00 AM

Elko, NV

(Prepared by Jamie Gradick)

<p><u>Members Present:</u> Judge Randall Soderquist, Vice-Chair Judge Kenneth Calton Judge Bryan Drake Judge Denise Fortune Judge Kriston Hill Judge Al Kacin Judge Dee Primeaux Judge Kenneth Quirk Judge Mason Simons Judge Karen Stephens</p> <p><u>AOC Staff Present:</u> Jamie Gradick, Rural Courts Coordinator/Court Services Supervisor</p>	<p><u>Guests Present:</u> Sr. Judge Teri Feasel Jenny Martin</p> <p><u>Members Absent (Excused):</u> Judge Jim Loveless Judge Michael Montero</p> <p><u>Members Absent (Unexcused):</u> Judge Bill Gandolfo Judge Rob Hoferer Judge Jim Shirley</p>
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I. Call to Order

- Judge Soderquist, as Council vice-chair, called the meeting to order at 10:04 a.m.

II. Determination of a Quorum

- A quorum was present.

III. Approval of Meeting Summary

- The summary of the February 24, 2023 meeting was approved pending a minor correction.

IV. Business, Action, and Discussion Items

- AOC Updates

Supreme Court Building ♦ 201 South Carson Street, Suite 250 ♦ Carson City, Nevada 89701 ♦ (775) 684-1700 • Fax (775) 684-1723

Supreme Court Building ♦ 408 East Clark Avenue ♦ Las Vegas, Nevada 89101

- Ms. Gradick provided an update on the Certified Court Interpreter Program.
 - A series of surveys designed to examine and improve NCAJ Access to Justice Index “benchmarks” scores have been distributed to the courts. The CCIP coordinator thanks all those courts that have completed the surveys.
 - ◆ Attendees discussed the most recent survey; it was designed to be completed by parties using interpreters and should be offered in Spanish. Ms. Gradick will discuss this with the CCIP coordinator.
 - The CCIP coordinator will be on extended leave beginning in early July. Ms. Gradick and Mr. Seth Easley, with the AOC, will be handling CCIP matters in the coordinator’s absence.
- Ms. Gradick provided a brief overview of the AOC Grant Program’s FY24 cycle.
 - At this point, the AOC Grant Program will continue to operate as it has in the past; the next submission cycle will open July 1, 2023 and close July 31, 2023.
 - All materials and guidelines are available on the program’s webpage.
- Ms. Gradick informed attendees that the Jury Instructions Work Group of the Commission to Study Rules of Criminal Procedure has completed its work.
 - Pattern jury instructions are available via the Nevada Bar’s website; bar membership is required to access it. Ms. Gradick will provide the document to those judges who do not have membership.
- First Amendment Auditors and Courthouse Recordings
 - Judge Soderquist asked attendees for input regarding “First Amendment auditors” and policies addressing recording in the courthouse.
 - There have been an increasing number of “auditors” recording courthouse interactions and conversations with court personnel. Many are demanding and aggressive.
 - Attendees discussed the purposes of this; these are usually “influencers” who post the videos to social media accounts for “likes” and to gain followers.
 - Judge Kacin suggested that judges keep proceedings “boring” to discourage this behavior and informed attendees that he has discussed the issue with the local Sheriff’s office and is working on a possible order.
 - Attendees expressed confidentiality and privacy concerns, especially in family law cases.
 - Attendees expressed concern regarding a need for training; in some instances, law enforcement has allowed the recording despite privacy and security concerns.
 - Attendees discussed policies regarding these activities; most courts do not already have applicable policies in place.
 - Ms. Gradick will follow-up with Hans Jessup to see if any court in the 8th Judicial District have policies they’d be willing to share as examples.
- Community Service Reports

- Judge Primeaux participated in a mock trial project with local elementary students.
- Judge Quirk hosted elementary students at the courthouse for a presentation on the court system.
- Judge Simons presented to local criminal justice students from the high school.
- Judge Fortune participated in “National Reading Week” with local elementary students.
- Judge Calton invited local forensic science students to observe court and hosted a Q and A session.
- Senior Judge Feasel spoke with Battle Born Academy students about the judicial system and being a judge.
- Other Items and Discussion
 - Judge Fortune asked for input regarding whether a court administrator and/or clerk could be appointed as a judge pro tem.
 - Attendees briefly discussed the appointment process and budgeting limitations.
 - Judge Simons commented that, he believes, there’s an opinion that addresses this issue and discourages the appointment of court personnel since court staff may have access to information that a judge shouldn’t.
 - Attendees discussed juvenile civil traffic and the “clean up” bill (SB 104).
 - The amendment contained inaccurate language; the bill places jurisdiction with “justice court” instead of “juvenile” court. Different courts have been interpreting/applying the language differently.
 - Judge Soderquist informed attendees that the NJLJ voted to appoint a workgroup to develop a uniform civil infraction fee schedule but not all limited jurisdiction judges are members of the NJLJ association so an “approved” schedule wouldn’t be completely “uniform” for all courts.
 - Attendees discussed the version being used by the AOC’s Trail Court Service Desk; parts of this version do not match what the courts are using.
 - Concern was expressed regard Brazos not returning calls to the courts or the PDs.
- Informational Documents
 - Ms. Gradick provided a brief overview of the ADKT 0582 Final Recommendations and informed attendees that recommendations had been submitted to the appropriate recipient; the Commission to Study the Rules and Statutes Governing the NCJD has completed its work.

V. Future Meetings

- The next North Central Regional Judicial Council meeting will be held August 25, 2023 at 10:00 am in Austin.
- The next Judicial Council of the State of Nevada meeting will be August 18, 2023 at 2:00 pm.

VI. Adjournment

- The meeting was adjourned at 11:45 am.

TAB 10

Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

KATHERINE STOCKS
Director and State Court
Administrator



JOHN MCCORMICK
Assistant Court Administrator

JUDICIAL COUNCIL OF THE STATE OF NEVADA

SUMMARY

SIERRA REGIONAL JUDICIAL COUNCIL MEETING

Friday, July 14, 2023

12:00 PM

<p><u>Members Present:</u> Judge John Schlegelmilch, Chair Judge Tom Armstrong Judge Cheri Emm-Smith Judge Paul Gilbert Judge Thomas Gregory Judge Kristin Luis Judge James Russell</p> <p><u>Guests Present:</u> Ms. Maxine Cortes</p> <p><u>Administrative Office of the Courts (AOC)</u> <u>Staff Present:</u> Jamie Gradick, Rural Courts Coordinator/Court Services Supervisor</p>	<p><u>Members Absent (Excused):</u> Judge Leon Aberasturi Judge Richard Glasson Judge Tom Stockard Judge Camille Vecchiarelli Judge Nathan Tod Young</p> <p><u>Members Absent (Unexcused):</u> Judge Eileen Herrington Judge Doug Kassebaum Judge Mike Lister Judge Lori Matheus Judge Ben Trotter Judge James Wilson</p>
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I. Call to Order

- Judge Schlegelmilch, as chair, called the meeting to order at 12:15 pm.

II. Determination of a Quorum

- A quorum was not present.

III. Approval of Meeting Summaries

- Approval of the January 13, 2023 meeting summary was tabled for a future meeting.

IV. Business, Action, and Discussion Items

Supreme Court Building ♦ 201 South Carson Street, Suite 250 ♦ Carson City, Nevada 89701 ♦ (775) 684-1700 · Fax (775) 684-1723

Supreme Court Building ♦ 408 East Clark Avenue ♦ Las Vegas, Nevada 89101

- AOC Updates
 - Ms. Gradick provided an update on the Certified Court Interpreter Program.
 - A series of surveys designed to examine and improve NCAJ Access to Justice Index “benchmarks” scores have been distributed to the courts. The CCIP coordinator thanks all those courts that have completed the surveys.
 - The CCIP coordinator will be on extended leave beginning in early July. Ms. Gradick and Mr. Seth Easley, with the AOC, will be handling CCIP matters in the coordinator’s absence.
 - Ms. Gradick provided a brief overview of the AOC Grant Program’s FY24 cycle.
 - At this point, the AOC Grant Program will continue to operate as it has in the past; the next submission cycle will open July 1, 2023 and close July 31, 2023.
 - All materials and guidelines are available on the program’s webpage.
 - Ms. Gradick informed attendees that the Jury Instructions Work Group of the Commission to Study Rules of Criminal Procedure has completed its work.
 - Pattern jury instructions are available via the Nevada Bar’s website; bar membership is required to access it. Ms. Gradick will provide the document to those judges who do not have membership.
 - Ms. Gradick provided attendees with a brief overview of the water law judges’ pilot program, training, and appointment processes as approved in the recent ADKT 0576 Order.
 - Judge Schlegelmilch commented on the design of the training and encouraged all rural district court judges to attend.
- Community Service Reports/Updates
 - Judge Schlegelmilch participated in a Kids’ Fun Day event for the 4th of July.
- Other/Discussion
 - Attendees briefly discussed funding concerns for appointment of senior judges.
 - A suggestion was made that the Supreme Court host an education event for just rural court district judges.
 - Ms. Gradick commented that this is something she has talked to the AOC’s Judicial Education unit about previously. There has been discussion about incorporating a rural court break-out session at the regular education conferences for both district court and limited jurisdiction judge groups.
 - Attendees expressed concern regarding increasing difficulty hiring law clerks in the rural courts.
 - Attendees expressed concerns with the Department of Indigent Defense (DIDS).
 - Judge Emm-Smith commented that municipal courts are being required to go through DIDS to appoint defense counsel but don’t qualify for reimbursement funding like the justice courts do.
 - Attendees discussed a lack of participation at these meetings; a suggestion was made to consider potential changes to meeting time, venue, and/or structure.
- Informational Documents
 - ADKT 0582 Final Recommendations

V. Future Meetings

- The next Sierra Regional Judicial Council meeting will be held October 13, 2023 at noon.

- The next Judicial Council of the State of Nevada meeting will be August 18, 2023 at 2:00 pm.

VI. Adjournment

- Judge Schlegelmilch adjourned the meeting at 12:50 pm.

TAB 11

Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

KATHERINE STOCKS
Director and State Court
Administrator



JOHN MCCORMICK
Assistant Court Administrator

JUDICIAL COUNCIL OF THE STATE OF NEVADA

"To unite and promote Nevada's judiciary as an equal, independent and effective branch of government."

SUMMARY

SOUTH CENTRAL REGIONAL JUDICIAL COUNCIL MEETING

Monday, June 19, 2023

Tonopah, NV

(Prepared by Jamie Gradick)

<p><u>Members Present:</u> Judge Steven Dobrescu, Chair Judge Stephen Bishop Judge Michele Fiore Judge Danielle Johnson Judge Jennifer Klapper Judge Dorothy Rowley Judge William "Gus" Sullivan Judge Kirk Vitto</p>	<p><u>Nevada Supreme Court Staff Present:</u> Almeda Harper, Court Services Analyst</p> <p><u>Members Absent – Excused:</u> Judge Mike Cowley</p> <p><u>Members Absent – Unexcused:</u> Judge Mike Coster Judge Gary Fairman Judge Nola Holton Judge Robert Lane Judge Kimberly Wanker</p>
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- I. Call to Order
 - Judge Sullivan, as vice-chair, convened the meeting.
- II. Determination of Quorum
 - A quorum was present.
- III. Approval of Meeting Summary
 - The summary of the January 23, 2023 meeting was approved.
- IV. Business, Action, and Discussion Items
 - AOC Updates
 - Ms. Harper provided an update on the Certified Court Interpreter Program.
 - A series of surveys designed to examine and improve NCAJ Access to Justice Index "benchmarks" scores have been distributed to the courts. The CCIP coordinator thanks all those courts that have completed the surveys.

- The CCIP coordinator will be on extended leave beginning in early July. Ms. Gradick and Mr. Seth Easley, with the AOC, will be handling CCIP matters in the coordinator's absence.
- Ms. Harper provided a brief overview of the AOC Grant Program's FY24 cycle.
 - At this point, the AOC Grant Program will continue to operate as it has in the past; the next submission cycle will open July 1, 2023 and close July 31, 2023.
 - All materials and guidelines are available on the program's webpage; please reach out to Jamie Gradick with questions.
- Ms. Harper informed attendees that the Jury Instructions Work Group of the Commission to Study Rules of Criminal Procedure has completed its work.
 - Pattern jury instructions are available via the Nevada Bar's website; bar membership is required to access it. Ms. Gradick can provide the document to those judges who do not have membership; please reach out to her if you need a copy.
- Other/Discussion
 - None
- Informational Documents (*Portions of this discussion were inaudible*)
 - ADKT 0582 Final Recommendations

V. Future Meetings

- The next South Central Regional Judicial Council meeting: TBD
- The next Judicial Council of the State of Nevada meeting: August 18, 2023 @ 2:00 pm.

VI. The meeting adjourned.