

**FINAL REPORT OF THE
COMMISSION ON FAMILIES IN THE COLORADO COURTS
August 2002
*Executive Summary***

Over 50 percent of all Colorado district court filings involve families. These family cases dominate dockets throughout the state requiring almost every judge in Colorado to handle family issues at some point in time. This compelling reality prompted Chief Justice Mary Mullarkey to create the Commission on Families in the Colorado Courts in January 2001. She directed the Commission to examine the ways in which Colorado courts serve families and to recommend changes that would improve policies, procedures, rules and laws that affect families involved in the judicial system.

This report sets forth the Commission's findings and recommendations, which are based upon information received from the Court Improvement Committee, public hearings and special meetings, and written submissions from the public and others who interact with the courts in cases involving families. The Commission developed these recommendations after extensive discussion, debate, and review.

The Commission found that Colorado's tradition of striving for excellence in the administration of justice is very much alive. Across the state, judges and court employees are working hard to do the best they can with the resources they have available to them. The Commission learned that judicial districts across the state have implemented innovative programs aimed at providing better service to families. These initiatives are set forth in Appendix IV of this report.

The Commission chose to focus on common themes or problem areas that appeared most in need of attention. Seventy-seven recommendations are organized according to twelve themes summarized in the following paragraphs. In addition, the Commission recommends continued study of the staffing pattern issues raised by these recommendations, and recommends that the Chief Justice appoint a standing oversight committee to ensure implementation of its recommendations.

Developing A Central Case Management Process for Cases Involving Families

The Commission found that a common problem with cases involving families is a lack of coordination and communication within the court system. The Commission recommends the implementation of a central case management process in each district, which may vary by district, but should, at a minimum, establish a process to provide complete information to the court concerning all past and current involvement of family members and related parties with the courts. This process should define procedures to transfer cases involving the same families to one judicial district, and/or the same county within a judicial district, and assign, to the extent possible, those related cases to one judge. Districts should utilize family court facilitators to achieve this coordination of cases and to monitor issues concerning the family. The goal of this coordinated approach is to avoid inconsistent and/or contradictory court orders, multiple and/or conflicting

treatment plans, and time consuming multiple court appearances by family members. Additional goals are to determine appropriate junctures in the case for judicial intervention, and provide for better-informed judicial decisions.

Providing Non-adversarial Alternatives

The Commission found that the inherent adversarial nature of the judicial system causes protracted cases, greater conflict between the parties and increased expense. The Commission recommends amendment of statutes and court rules to provide non-adversarial alternatives to the current procedures for family cases. The goal of this approach is to reduce conflict, costs and time.

Status and Roles of Judges and Magistrates

The Commission found that there is a perception that domestic and juvenile dockets are less demanding than civil and criminal dockets resulting in less respect for judges and magistrates assigned to hear family cases. The Commission recommends recognition of judges and magistrates for exceptional and innovative work with family dockets, and provision of support services from other professionals such as CASA volunteers, special advocates, mediators and mental health workers involved in family matters as appropriate to each case. The goal of this series of recommendations is to enhance the perception that the judicial system treats family cases with the same respect as all other cases.

Selection and Evaluation of Judicial Officers

The Commission heard reports of less than acceptable judicial behavior or performance. In view of the volume of cases involving families, the Commission recommends that the judicial selection and evaluation process recognize skills required to hear these cases. The goal of these recommendations is to educate nominating and performance commissions, and judicial applicants about the volume of this caseload, and the importance to the community of resolution of family disputes.

Training of Judicial Officers

The Commission found a need for special training in family issues for judges and magistrates hearing family cases. The Commission recommends training in the fundamentals of family law, and provision of docket coverage to allow adequate time for judicial education. The goal is to provide thorough and ongoing training for judicial officers to enable the courts to make better-informed decisions for families.

Community Involvement by Judicial Officers

The Commission found that judicial officers could assist in identifying resource gaps, and work with community groups to develop services to assist families in the community. The Commission recommends that judicial officers be encouraged to engage in community activities, and that the Code of Judicial Conduct should not prohibit these activities. The goal of this recommendation is to draw upon the expertise of judicial officers who are observing the problems and needs of the families in our communities on a daily basis.

Compensation and Training for Public Sector Attorneys

The Commission found that public sector attorneys who represent children may also have less status than their colleagues, receive less compensation, and have inadequate training. Recognizing that costs will increase, the Commission recommends that public sector attorneys who represent children should receive compensation comparable to that of public defenders and alternate defense counsel, and ongoing, high quality training. The goal of these recommendations is to provide children with the same quality of representation afforded to others in the judicial system.

Training and Mentoring for Private Attorneys

The Commission heard concerns about the practices and performance of private attorneys involved with family cases. The Commission considered a certification requirement for family law attorneys, but ultimately decided to recommend minimum continuing legal education requirements for attorneys practicing in this area, and to support volunteer mentoring programs. The goal of these recommendations is to assure quality representation on family issues.

Ethics, Professionalism, and Accountability of Attorneys

The Commission heard reports of unethical practices and a lack of professionalism by private attorneys practicing family law. The Commission recommends support of programs to build collegiality, and educational efforts to explore the role of attorneys in family disputes.

Accessibility and Availability of Legal Services

The Commission heard numerous concerns about the lack of, or inaccessibility to, legal services for families, and lack of information about the judicial process. The Commission recommends ongoing support of existing pro bono programs, development of uniform and consistent pro bono programs throughout the state, and consideration of funding for legal services.

Roles, Responsibilities, Guidelines, and Accountability of Professionals Who Interact with the Courts

The Commission found that families involved in the legal process are often confused about the roles, responsibilities and accountability of the various professionals involved in family cases. The Commission recommends that the Chief Justice appoint a committee, or assign to the recommended family issues oversight committee, the task of additional identification and definition of these positions, establishment of standards of practice and training requirements for each position, and establishment of a regulating authority to which each position is accountable.

Providing Support for Current Judicial Branch Efforts in the Areas of Pro Se Litigants and Domestic Violence and Restraining Orders

The Commission heard concerns about domestic violence issues, restraining orders, services for pro se litigants and a need for family-friendly facilities, and researched current initiatives in Colorado in these areas. The Commission recommends specific ongoing efforts in these areas to address the issues.

