



Citizen Court Monitoring

Report on
Suffolk County Family Court

September 2011

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It is desirable that the trial of causes of action should take place under the public eye, not because the controversies of one citizen with another are of public concern, but because it is of the highest moment that those who administer justice should always act under the sense of public responsibility, and that every citizen should be able to satisfy himself with his own eyes as to the mode in which a public duty is performed.

Justice Oliver Wendell Holmes
Cowley v. Pulsifer
137 Mass. 392, 394 (Mass. 1884)

This court above all others impacts so much on the lives of New Yorkers. The Chief Judge, myself and the administrative board all feel it is very important to make it clear that the court is open to public scrutiny and accountable to the public.

Hon. Jonathan Lippman
Chief Judge of the State of New York
Said while in the position of Chief Administrative Judge of the State of New York
about then Chief Judge Judith Kaye's 1998 opening of Family Court to the public

The Fund for Modern Courts wishes to acknowledge the generosity of the Long Island Unitarian Universalist Fund of the Long Island Community Foundation, which provided funding for this project. We also wish to recognize the outreach work of the League of Women Voters, the Long Island Area Counsel of Unitarian Universalists, the Retired and Senior Volunteer Program of Suffolk County, the New York State United Teachers Retiree Services, the National Association for the Advancement of Colored People, and Thomas Maligno, Executive Director of the William Randolph Hearst Public Advocacy Center. Mr. Maligno encouraged Touro Law Center students to volunteer as Citizen Court Monitors, and also provided access to the many advocacy organizations housed in the Hearst Public Advocacy Center. The Fund for Modern Courts also thanks Lewis A. Silverman, Associate Professor of Law and Director of Touro Law Center's Family Law Clinic. Mr. Silverman presented an introductory overview of Family Court to the Citizen Court Monitors.

The Fund for Modern Courts gratefully acknowledges the outstanding work of our Citizen Court Monitors: Carole Aquaviva, Eileen Coblens, Eileen Darwin, Manny Darwin, Matt Domanick, Loretta Ellington, Betsy Gaidry, Ruth Gately, Marie Gocs, Judie Gorenstein, Patricia La Ware, Harriet Leary, Marcia Leonard, Barbara Magaliff, Lois Maller, Bernard Markowitz, Thelma Markowitz, Mary McLaughlin, Paula Moore, Katherine O'Dette, JoAnn Alarios Paulsen, Ellen Pearlman, Harriet Pepine, Brenda Reiss, Norman Remler, Margaret Rissier, Lorraine Roberts, Judith Samuelson, Toby Silverman, Deborah Weiner, and Evan Weissblum.

The comments and findings contained in this report are not to be construed as an endorsement, either implied or express, of any candidate for any office. Any such use is unauthorized by the Fund for Modern Courts.

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EXECUTIVE SUMMARY

The Fund for Modern Courts (Modern Courts) conducted a Citizen Court Monitoring program in Suffolk County Family Court's Central Islip and Riverhead courthouses from May 2010 to March 2011. Volunteer Citizen Court Monitors (monitors) were recruited with the help of local organizations, including the League of Women Voters, the Retired and Senior Volunteer Program of Suffolk County, the Long Island Area Counsel of Unitarian Universalists, the New York State United Teachers Retiree Services, and Touro Law Center. Modern Courts provided in-depth training to monitors in order to give them a thorough understanding of Family Court's jurisdiction, daily operations, and importance for families and communities. Monitors made their observations using questionnaires that assessed courthouse facilities, conditions within individual courtrooms, judges' management of individual cases, and the availability of services for Limited English Proficient (LEP) persons.

Between May 2010 and March 2011, thirty-two monitors evaluated Suffolk County Family Court. They observed 246 cases involving 463 separate legal proceedings. The monitored cases included such issues as abuse and neglect of children, custody and visitation, domestic violence, juvenile delinquency, guardianship, and foster care review and placement.

Monitors were favorably impressed with many aspects of Suffolk County Family Court, but identified several areas in which improvements should be made. Based on monitors' assessments, Modern Courts makes the following recommendations.

Improve Signage to Facilitate Access to Courthouses, Courtrooms, and Clerk's Offices

Modern Courts recommends that Suffolk County Family Court review and augment existing signage in order to improve access to its courthouses and frequently visited locations within them. Monitors at both the Central Islip and Riverhead facilities reported that signs identifying the courthouses and providing directions from the parking lots were difficult to follow; monitors also found that signs providing directions within the courthouses were inadequate.

Provide Childcare and a Designated Children's Area at the Riverhead Courthouse

Family Court Children's Centers, first established in 1994, were created to "provide a safe, literacy-rich environment and an opportunity for positive interventions in the lives of vulnerable children."¹ The centers help insulate children from the sometimes disturbing issues addressed in Family Court, and allow parents and guardians to devote full attention to judicial proceedings, confident that their children are being cared for. Unfortunately, the New York state budgets for fiscal years 2010-2012 drastically cut funding and hours of operation for Family Court Children's Centers. Once funding for this critical program is restored, Modern Courts recommends that Suffolk County Family Court in Riverhead create a Children's Center. Modern Courts further recommends that the Central Islip Children's Center, currently operating on a limited schedule due to the budget cutbacks, nevertheless maintain a full commitment to its

¹ New York State Unified Court System. "Children's Centers in the Courts."
<http://www.courts.state.ny.us/ip/childrenscenter/index.shtml>.

mission, as articulated by the Permanent Judicial Commission on Justice for Children: “To provide a safe supportive haven for children in the courthouse, and a vehicle for connecting families to needed services.”²

Make Private Spaces Available for Parties and Their Counsel to Meet

Modern Courts recommends that Suffolk County Family Court provide private rooms or spaces in its Central Islip and Riverhead facilities where Family Court parties and their counsel or advocates can meet. Monitors observed no private rooms for private attorney-client interactions; monitors likewise found no designated areas where domestic violence victims and their advocates could confer in safety. Parties instead conferred with their attorneys and advocates in waiting rooms, hallways, and other public spaces. Given the importance of effective, private communication between attorneys and their clients, and the risks to which domestic violence victims are exposed when they meet with their advocates in hallways and public areas, Suffolk County Family Court should identify and designate appropriate meeting rooms within its courthouses. If the current economic climate makes extensive remodeling unfeasible, the court should seek out creative ways to use existing spaces to better promote the privacy and safety of Family Court parties.

Increase Access to Written Information on Court Procedures and Local Resources

Modern Courts recommends that Suffolk County Family Court keep its waiting rooms regularly supplied with a well-organized array of pamphlets, brochures, and other written materials on court procedures and community resources. While some written information was available at both courthouses, monitors found little information on topics pertinent to Family Court users. Suffolk County Family Court should seek ongoing assistance from community organizations to provide up-to-date information on local resources, and should take steps to ensure that written materials are accessible and well-organized.

Provide More “Upfront” Assistance, Particularly with Paperwork

Modern Courts recommends that Suffolk County Family Court create staffed “help desks” adjacent to its clerk’s offices. Monitors noted that there was no one outside or nearby the clerk’s offices to help court users fill out petitions, and many monitors had trouble finding the sign-in list for parties seeking counsel. At staffed help desks, petitioners could receive assistance and referrals could be offered for legal and social services. While help desks would ideally be staffed by full-time court employees, one (more affordable) alternative would involve partnering with local advocacy groups or other community organizations willing to furnish trained volunteer staff for this effort.

Provide All Requisite Interpretation Services

Modern Courts recommends that Suffolk County Family Court clerk’s office in Riverhead provide Spanish language services during all operating hours, and also recommends that the clerk’s office in Central Islip bolster its Spanish language services. New York law, Title

² *Id.*

VI of the Civil Rights Act, and Department of Justice guidelines obligate Suffolk County Family Court to provide full and equitable access to Limited English Proficient (LEP) persons. In light of Suffolk County's large LEP population, this is particularly necessary. Monitors observed that Spanish language assistance was only available at the Riverhead clerk's office on a part-time basis. They likewise observed that demand for Spanish language assistance at the Central Islip clerk's office exceeded its current availability. Given that Spanish speakers comprise the majority of Suffolk County's LEP population, such assistance should be fully and readily available during all operating hours.

Notify Limited English Proficient Persons of Their Rights to Assistance

Modern Courts recommends that Suffolk County Family Court install multiple signs near the entrances to each of its courthouses informing LEP persons of their rights to interpretation services and the steps they should take to access these services. The right to an interpreter is meaningless if one is unaware of it; LEP persons should be on notice, from the moment they enter the courthouse, that Suffolk County Family Court is committed and obligated to meeting their language assistance needs.

Ensure that Courtrooms Are Consistently Open to Public Observation

Modern Courts recommends that Suffolk County Family Court immediately open all its courtrooms to the public. Monitors were told on numerous occasions that courtrooms are not normally open for public observation. This practice is a clear violation of Family Court regulations, which only allow courtrooms to be closed on a case-by-case basis, based upon supporting evidence, after judicial findings are made. A blanket prohibition on public observation conflicts with both Family Court regulations and the spirit of transparency appropriate to the courts.

Improve Courtroom Scheduling, Decorum, and Use of Microphones

Modern Courts recommends that Suffolk County Family Court judges schedule cases throughout the day, insist upon quiet and order in their courts, and use in-court microphones. Monitors observed that some judges scheduled all of each day's cases for 9:00 a.m., which led to confusion and noise in the courtrooms, a problem exacerbated in several instances when judges did not demand quiet and did not use readily available microphones. The effective administration of justice requires orderly courtrooms in which parties can clearly understand all proceedings.

Explain Orders of Protection More Thoroughly and Clearly

Modern Courts recommends that Suffolk County Family Court judges read all the provisions included in orders of protection aloud to the parties, remind parties of any procedural actions that must be taken before orders are fully effective, tell petitioners what steps to take if orders are violated, ask parties if they have any questions regarding orders, and provide information on supportive services available in the community. Monitors observed numerous instances in which judges rushed through orders of protection or instructed the parties to read the

orders at home. Orders of protection are critical to protecting victims of domestic violence and merit in-court readings and thorough explanations.

Emphasize Supportive Community Involvement in Juvenile Proceedings

Modern Courts recommends that in PINS and juvenile delinquency proceedings, Suffolk County Family Court judges should as much as possible favor community-based alternatives to detention or placement based dispositions as long as public safety is maintained. Although monitors commented on the time and apparent care judges provided to children, they also noted the placement of children in handcuffs when safety did not seem to be an issue. While monitors noted that judges frequently offered alternatives to placement or detention, they observed that children who violated probation were often sent to juvenile facilities. Approaches to juvenile justice that emphasize accountability-driven partnerships with families, schools, and community organizations are often more effective, humane, and financially affordable than detainment.

Begin Each Proceeding by Clearly Explaining the Issue and Relevant Background

Modern Courts recommends that Suffolk County Family Court judges begin each proceeding with a thorough, audible statement of the issue to be addressed and its relation to any relevant prior proceedings. Monitors observed instances where judges moved so quickly into proceedings that it was not clear whether parties fully understood what was transpiring. Clearly stating each case and its relevant background helps make proceedings more efficient and inclusive.

INTRODUCTION

The Fund for Modern Courts is an independent, statewide court reform organization committed to improving the judicial system for all New Yorkers. Our Citizen Court Monitoring program identifies problems that affect our state's courts and offers information and recommendations about how to make the courts more effective, fair and accessible to all residents of the state. By building relationships with community members, other advocacy groups, and state and local governments, Modern Courts works with all who want to ensure an independent, diverse and highly qualified judiciary.

History of the Fund for Modern Courts' Citizen Court Monitoring Program

Modern Courts began court monitoring in 1975. Citizen Court Monitoring is a statewide program that recruits non-lawyer, local volunteers to observe court proceedings in their communities. The monitors' findings and recommendations are published by Modern Courts and released to the public, court administrators, judges, court personnel, government officials, lawmakers, bar associations, civic groups, and the media.

Monitors are local volunteers who look at the courts from an average citizen's viewpoint, thereby providing common sense perspectives on how courts serve the public. During the monitoring project, these volunteers observe proceedings in a particular court for a period of several months, and complete forms designed to help them evaluate critical aspects of the court's performance, ranging from judges' management of courtroom proceedings to the physical conditions of the courthouses.

Over the past thirty five years, Modern Courts' court monitoring program has been influential in publicizing problems that exist in the courts; urging those responsible for the courts to make improvements, particularly in facilities and court operations; and educating the public about the daily functions and operation of the courts in order to create a constituency of citizens who understand the problems facing the court system and who support efforts to assist the courts to function more efficiently and effectively. Court monitoring has improved communication between the public and the judiciary, heightened the court system's sensitivity to public needs, and helped to ensure that those needs are met.

This report details the findings of our Citizen Court Monitors regarding the Suffolk County Family Court.

The Family Court of the State of New York

The Family Court of the State of New York was created in 1962 as a specialized court to hear cases involving children and families. Family Court judges handle a range of legal issues, including child abuse and neglect, adoption, child custody and visitation, domestic violence, guardianship, juvenile delinquency, paternity, persons in need of supervision (PINS), and child support. Family Court judges do not have jurisdiction to hear matrimonial cases or family-related criminal matters, even in cases pertaining to families already before them in another context (e.g., domestic violence). There are no jury trials in Family Court. Family Court's

unique procedures and the specific issues it addresses can make it a confusing place for even legally knowledgeable individuals.

Family courts are located in each county of the state; in New York City the family courts are part of a citywide Family Court. Family Court judges within New York City are appointed for ten-year terms by the Mayor, while Family Court judges outside New York City are elected to office for ten-year terms by the voters of the county in which each judgeship is located.

Judges preside over most Family Court hearings (trials). Support Magistrates hear child or spousal support and paternity cases. In certain larger counties, Court Attorney Referees hear custody, visitation, and foster-care cases and Judicial Hearing Officers (JHOs) hear some adoption and voluntary-placement foster-care cases.

Since 1998, the Family Court has been open to the public. The judge or support magistrate presiding over each case has the discretion to exclude the public from the courtroom under limited circumstances, if the case involves private issues that would embarrass or harm families and children, or for specific security reasons relevant to an individual case or proceeding.

Why Monitor Family Court: The Crisis in Family Court

Parties often appear in Family Court during times of personal and familial crisis. As Modern Courts' Family Court Task Force has reported, Family Court is facing its own ongoing crisis.³ It is under-resourced and burdened with the highest number of cases in the New York Court System. The New York State Senate Committee on the Judiciary reported that Family Court appearances are growing at an annualized rate of twenty-six percent, including some 2.5 million appearances in 2009.⁴ While addressing the needs of these children and families is a difficult task, it is a challenge that must be met. The demographic trends that have led to the crisis in Family Court are not likely to abate any time soon, especially in light of recessionary economic conditions that are further straining Family Court's already inadequate resources.⁵

The array of problems in Family Court is well documented. The problems include huge dockets; the failure of the state to create Family Court judgeships commensurate with dockets⁶;

³ The Fund for Modern Courts. "A Call to Action: The Crisis in Family Court: Recommendations for Leadership and Reform," February 2009, http://www.moderncourts.org/documents/a_call_to_action.pdf.

⁴ New York State Senate Committee on the Judiciary. "Kids and Families Still Can't Wait: The Urgent Case for New Family Court Judgeships," October 2009, <http://www.nysenate.gov/files/pdfs/Family%20Court%20Report.pdf>.

⁵ "A Call to Action: The Crisis in Family Court: Recommendations for Leadership and Reform."

⁶ New York City has not received a single new Family Court judgeship in 20 years, and Family Court is equally overburdened in some suburban and upstate counties. Legislation providing more judges for Family Court failed to advance in the 2011 legislative session. The 2011-2012 Budget presents enormous challenges for all of New York's courts, making the short-term prospects for an increase in the number of Family Court judges unlikely. One longstanding proposal, supported by Modern Courts, is to restructure the court system as a whole to simplify access and reduce costs. This would enable New York's Unified Court System to provide greater resources for Family Court. Modern Courts remains optimistic that Chief Judge Lippman, Governor Cuomo, and New York's legislature can together make this vital reform a reality.

unmanageable court calendars⁷; frequent adjournments that disrupt court proceedings and lessen the effectiveness of judges' orders; final decisions undermined by parties and actions not under Family Court jurisdiction⁸; the lack of standards for informing all parties, in advance of each court appearance, what proceeding is scheduled to take place, which often results in parties not being properly prepared for court appearances; parties' lack of legal representation and consequent misunderstanding of court actions; the paucity of publicly available information about how the system works; and the absence of adequate initial support for parties seeking court intervention, which often results in misfiled petitions and ineffective deployment of judicial and community resources.

Modern Courts believes one way to shed light on the crisis in Family Court is by observing and monitoring its daily operations. Court monitoring also provides community members with an opportunity to better understand the court system, an aspect of our government seldom subject to close public scrutiny. Frequently, monitors not previously familiar with the nuts and bolts of courtroom activities can identify and comment on unsettling issues that are seldom given a second thought by those who regularly practice in Family Court. These same fresh perspectives quite often lead to common sense solutions.

In Suffolk County Family Court, the Citizen Court Monitors made observations that urgently speak to the need for reform. Modern Courts has used these observations and community input to develop the practical recommendations set forth in this report. While even the most effective judges and court personnel cannot fully overcome the present crisis facing Family Court, Modern Courts' recommendations can help Suffolk County Family Court to make better use of available resources in facing this challenge.

OVERVIEW OF SUFFOLK COUNTY FAMILY COURT MONITORING PROJECT

Suffolk County is situated on the eastern end of Long Island. The 2010 U.S. Census lists its total population at 1,493,350, an increase of 5.2% from the 2000 census.⁹ The Suffolk County Family Court operates out of two courthouses, one in Central Islip, the other in Riverhead.

The Fund for Modern Courts Citizen Court Monitoring Program in Suffolk County Family Court took place from May 2010 to March 2011. Funding for the project was provided by the Long Island Community Foundation. Monitors were recruited from a variety of community organizations, including: the League of Women Voters; the Retired and Senior Volunteer Program of Suffolk County; the National Association for the Advancement of Colored People; the Long Island Area Counsel of Unitarian Universalists; New York State United Teachers Retiree Services; and Touro Law Center.

⁷ "A Call to Action: The Crisis in Family Court: Recommendations for Leadership and Reform."

⁸ *Id.*

⁹ U.S. Census Bureau. "State and County Quick Facts, Suffolk County, New York," 2010, <http://quickfacts.census.gov/qfd/states/36/36103.html>.

Orientation and Training

On April 30, 2010, Modern Courts held an orientation meeting for potential monitors. Touro Law Center generously offered use of their facilities for this meeting. Denise Kronstadt, Modern Courts' Deputy Executive Director and Director of Advocacy, and Constance Lynch, Director of Court Monitoring, gave attendees an overview of the Citizen Court Monitoring Program and a brief explanation of monitors' responsibilities.

Twenty-six of the thirty men and women at the orientation meeting returned to Touro Law Center for Citizen Court Monitor training on May 14, 2010. Ms. Kronstadt and Ms. Lynch gave an overview of Family Court and its place in New York's Unified Court System, went over the practical details of court monitoring, showed monitors how to use Modern Courts' monitoring forms, and reviewed the standards of conduct to which monitors should comply. Guest speaker Lewis A. Silverman, Associate Professor of Law and Director of Touro Law Center's Family Law Clinic, provided a thorough introduction to family law and some of the issues that monitors could expect to encounter.

Monitors began visiting the courthouses shortly after completing training. Through regular phone calls and in-person meetings, Ms. Lynch maintained close contact with the monitors during the program. Modern Courts also held an additional mid-program meeting with monitors to review issues and concerns.

Monitors were community members with a keen dedication to children, families, and the court system, and included former teachers, social workers, writers, and physical therapists. Each monitor understood the demanding schedule of the program, the painful issues they were likely to encounter, and the serious nature of their task.

Monitoring Forms and Surveys

The monitors used four separate questionnaires to create a comprehensive assessment of Suffolk County Family Court. Each of the questionnaires posed a series of specific questions which the monitors were asked to supplement with their own observations.¹⁰

The General Monitoring Form sought information on courthouse facilities, safety and security, maintenance, access to information, the availability of assistance for litigants, and accessibility. The Courtroom Survey covered the same topics, but with a focus on individual courtrooms. The Case Monitoring Form assessed individual cases, with an array of questions addressing how judges managed each case, the role of court officers, the availability of attorneys, and numerous other matters relevant to the proper conduct of judicial proceedings. The Language Survey asked monitors to review the court's treatment of Limited English Proficient (LEP) persons and the availability of interpretation services.¹¹

¹⁰ The surveys are attached as Appendix A.

¹¹ Shortly after monitoring commenced, Modern Courts' partners at the Hearst Public Advocacy Center at Touro Law Center expressed concerns about whether Suffolk County Family Court was providing adequate assistance to LEP persons. Responding to these concerns, Modern Courts developed the Language Survey, which asks a series of questions aimed at assessing whether a court is meeting its obligation to provide full access to LEP persons. In

Concluding Meeting and Project Recap

“I was glad to be a part of it. I found it interesting, I found it challenging, I found it disturbing, and I found that there were some cases that for days I couldn’t get out of my mind. Would I do it again? In a heartbeat. I think it’s a wonderful project, and I’m hoping that anything that comes from it in a positive way to change things will happen. I’m hoping that it will happen.”—Citizen Court Monitor, April 15, 2011

After all of the monitoring forms were submitted, Ms. Kronstadt and Ms. Lynch met with monitors to listen to their experiences, concerns, and observations. Many of the monitors’ insights have been incorporated into this report. Monitors said that they were pleased to have been a part of the project, and were hopeful that Suffolk County Family Court would respond to their concerns.

In all, thirty-two monitors observed Suffolk County Family Court. They monitored the Central Islip and Riverhead courthouses for eleven months, from May 2010 through March 2011. The monitors observed 246 cases. Because each Family Court case may include more than one type of legal proceeding, the monitors observed some 463 separate proceedings within those 246 cases.

Proceedings addressed such issues as abuse and neglect of children, domestic violence, paternity, juvenile delinquency, custody and visitation, support, guardianship, and foster care review and placement. The monitors observed parents brought to court in shackles, a young boy who appeared alone before the judge because his attorney had forgotten him, a mother who suggested that the judge send her son to jail, and a thirteen-year-old accused of raping a ten-year-old. They also saw some of the remarkable things that Family Court can help facilitate—a child overcoming drug addiction, a victim of domestic violence receiving much-needed assistance, and a child who wrote the judge a letter thanking him for everything he had done for her.

This report does not intend to point out any individual judge’s strengths or weaknesses.

COMMENDATIONS BASED ON COURT MONITORS’ OBSERVATIONS

Modern Courts commends Suffolk County Family Court for several areas in which the court performs particularly well. Court monitors were impressed by how easily and quickly they were able to enter the Central Islip and Riverhead courthouses, the spacious physical layout of the courtrooms, the professionalism and politeness of courthouse personnel, and many of the judges’ hard work and commitment in the face of large and emotionally demanding caseloads.

order to attain a sampling of Language Surveys sufficient to draw fair and meaningful conclusions, Modern Courts extended Suffolk County Monitoring through March 2011; Modern Courts would like to give special thanks to those monitors who generously prolonged their monitoring commitment to help collect this valuable information.

Lines to Enter Courthouses Are Short and Security Screenings Are Efficient

Long lines outside courthouse entrances and slow security screenings are common throughout New York, but monitors found neither of these problems in Suffolk County Family Court. One hundred percent (100%) of monitors at both the Central Islip and Riverhead facilities reported that they did not encounter long lines getting into the courthouse.

At the Riverhead facility, one hundred percent (100%) of monitors also reported that they did not encounter long lines getting through security. Central Islip was slightly less efficient, with seventy-six percent (76%) of monitors reporting that they did not encounter long lines getting through security. However, a monitor's observation that "the security line was held up because the security officers were helping a woman who evidently could not find the room or office she was looking for" suggests that the reason for the delay was not attributable to the court officers, but rather to Central Islip's insufficient signage and lack of a staffed help desk or information center.

Courtrooms Provide Adequate Space for the Safety and Comfort of All Parties

Many of Modern Courts' previous Citizen Court Monitoring projects have encountered cramped and outdated courtrooms in which judges and parties are so close together as to raise serious safety concerns regarding in-court fights or attacks. The Suffolk County Family Court courtrooms in both Central Islip and Riverhead, however, have been designed so that parties are appropriately separated. One hundred percent (100%) of monitors found that there was sufficient distance between the parties and the judge, and sixty-seven percent (67%) found that there was a safe distance between the parties in the event that an argument occurs. Monitors also commented that the courtrooms were "well-equipped" and "well-maintained."

Courthouse Personnel Are Helpful and Courteous

Monitors' comments reflect a very favorable impression of Suffolk County Family Court personnel, particularly court officers. On numerous occasions, monitors noted that court officers provided them with copies of courtroom schedules, which made it considerably easier to keep track of monitored cases. Court officers gave directions, and sometimes helped explain courtroom proceedings. Monitors described court personnel as "exceptionally helpful," "friendly," and "accommodating to us as monitors but also to the public they serve."

Judges Oversee Large, Complex, and Emotionally Demanding Dockets

Monitors' observations in Suffolk County reflected the heavy burden that Family Court and its judges face¹³. Monitors noted that some judges had as many as one hundred proceedings

¹³ Modern Courts has long advocated for the integration of New York's eleven courts of lesser jurisdiction into a single, unified court. Among the arguments for doing so is that Family Court currently bears a disproportionately large share of the judicial workload.

scheduled for a single day.¹⁴ Family Court cases are often quite complex, can involve numerous proceedings and parties (many of whom are unrepresented), and often defy easy resolution, instead requiring ongoing court involvement. Furthermore, Family Court addresses a number of emotionally charged issues, and demands a greater degree of judicial empathy and patience than many other courts. New York’s Family Court judges try cases of absolutely vital importance under unusually demanding conditions, and Modern Courts commends them for their efforts.

RECOMMENDATIONS BASED ON COURT MONITORS’ OBSERVATIONS

Improve Signage to Facilitate Access to Courthouses, Courtrooms, and Clerks’ Offices

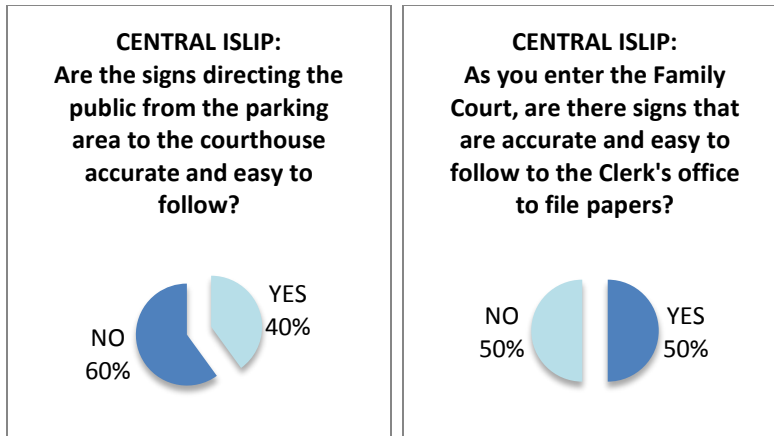
“There is a sign on Carleton Ave directing people to the Courts. There are these buildings. I had never been there before, I couldn’t tell one from the other. There should be signs... designating Family and Criminal Court. I think that the signs should be attached to the outside of the buildings so that they can be seen from the parking lot. As of now, I had to walk up to each building and look for a small sign. Once inside the Family Court Building and clerk’s office there should be more signs, perhaps on a stand, listing and pointing in which direction to go for court rooms, order of protection, etc. Once inside this area I had to ask which window served what. I found it very difficult to find what I was looking for.”—Citizen Court Monitor, October 4, 2010

Courts can be intimidating and confusing places. First-time or infrequent visitors often find navigating court facilities especially daunting, and care should be taken to help them get to their intended destinations. Both the Suffolk County Family Court in Central Islip and the Suffolk County Family Court in Riverhead have some signs providing directions to various court locations, but many of the monitors felt that these signs did not give adequate guidance to Family Court users.

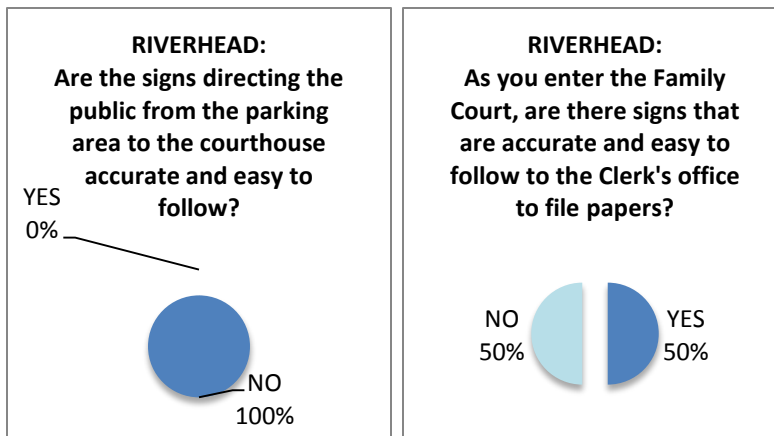
Observations

A majority of monitors found that the signage outside the Central Islip location was not accurate and easy to follow, with several noting that larger signs within the parking area would be helpful. Within the Central Islip courthouse, half the monitors reported that the signs providing direction to the clerk’s office were likewise inadequate, although several made note of the court officers’ professionalism and courtesy in offering guidance.

¹⁴ Monitors also observed, however, that many of these proceedings were adjourned or postponed because attorneys or parties were not present or prepared. As discussed later, more efficient scheduling may be one way for Suffolk County Family Court judges to better manage their heavy caseloads.



At the Riverhead location, monitors were unanimous in agreeing that outside signage could be improved. Fifty percent (50%) also thought that the signs providing direction to the clerk’s office were insufficient.



Recommendations

Modern Courts recommends that Suffolk County Family Court review and augment existing signage so as to better identify both its courthouses and frequently used locations within them. Visitors to Central Islip’s Cohalan Court Complex and the Riverhead facility should be able to clearly tell, from the street and from any location within the parking lot, where to go to access the Family Court. Once new visitors enter either Family Court location, signage should provide clear direction to each courtroom and clerk’s office. Suffolk County Family Courts should be easily accessible, and installing signage understandable to new visitors is necessary to achieve this aim.

Provide Childcare and a Designated Children’s Area at the Riverhead Courthouse

“A mother with two toddlers and an infant in a stroller...was overwhelmed with the children.”—Citizen Court Monitor, October 13, 2010

“People don’t know what to do, they just sit there, and with little ones. There’s no babysitting whatsoever.”—Citizen Court Monitor, April 15, 2011

It should come as no surprise that children are frequently present in Family Court facilities. Since 1994, many of New York’s courthouses, including the Suffolk County Family Court in Central Islip, have offered childcare in designated Children’s Centers. The Children’s Centers allow parents and their counsel to focus more effectively on court proceedings, keep children from distracting other court users, and help protect children from what can at times be a rather upsetting environment. The Suffolk County Family Court in Riverhead, however, offers neither childcare nor a designated area for children. Notwithstanding the financial constraints imposed on Family Court by New York’s state budget for fiscal year 2011-2012, providing these elements would benefit children and their parents, and make court proceedings more orderly and effective.

Observations

As mentioned above, at the Riverhead courthouse, monitors found that there was no separate area for children, nor was childcare provided. Monitors observed that the Central Islip Children’s Center offered childcare, but only during some of the courthouse’s operating hours.

Monitors’ comments about the courthouse environment underscore the importance of providing childcare amenities. As the monitors noted, Family Court can be a “very confusing,” “very noisy,” “totally chaotic” place where “everyone [is] talking at the same time” and one can easily have a “problem understanding.” A party attempting to interact under such conditions while also tending a child may have trouble doing either activity well; furthermore, disruptive children can make it difficult for other parties to attentively follow court proceedings, especially in an already busy courtroom.

Monitors also observed numerous cases dealing with matters to which children ideally should not be exposed, and since Suffolk County Family Court lacks private conferencing spaces, parties and their counsel prepared for these proceedings by discussing them in public waiting rooms. In its courtrooms, Family Court has taken many steps to shield children from the traumatizing aspects of proceedings,¹⁵ but such efforts are undermined when these same children must sit in a waiting room where parties and their counsel confer regarding “drug and alcohol abuse,” “children subjected to violence and sexual abuse by their siblings and father,” a “respondent in a psychiatric facility [who] attacked his wife in front of their child, then went into the street and masturbated,” or a “mom [who] after an argument threw a knife at her daughter.” The mere fact that a child has entered a Family Court facility does not justify carelessly exposing that child to the full range of disturbing subjects therein addressed; adequate childcare services can help ensure that that children who come to Family Court experience no trauma beyond whatever situation brought them there in the first place.

¹⁵ With the exception of juvenile delinquency cases, children are almost never called to appear in a courtroom for Family Court proceedings. When a judge deems conversation with a child necessary, that conversation is normally conducted *in camera* (privately, often in the judge’s chambers). When a child requires in-court advocacy, an appointed law guardian speaks on the child’s behalf; generally, the child is not present during these proceedings.

Recommendations

Modern Courts recommends that the Suffolk County Family Court in Riverhead offer childcare within the courthouse. While it would be optimal if childcare was provided through a Family Court Children’s Center, if funding for such a center is not available, Suffolk County Family Court should at the very least provide designated, separate spaces for children and attorney-client conferencing. Suffolk County Family Court should also explore public-private partnerships in which community volunteers would offer childcare services at the Riverhead courthouse.¹⁶ Providing childcare and a designated children’s area will allow parents and guardians to focus on court proceedings more effectively, keep children from disturbing other court users, and help shield children from unnecessary exposure to traumatic and inappropriate subjects.

Make Private Spaces Available for Parties and Their Counsel to Meet

“I did not observe any private conference rooms available for client/attorney discussions. In discussion with various personnel over many visits, there is overall agreement that it would be very beneficial to have access to private conference rooms rather than having to conference in the very public sitting area.”—Citizen Court Monitor, October 4, 2010

New York gives statutory recognition to attorney-client privilege, the presumption that communications between clients and their attorneys are protected and confidential.¹⁷ When a court’s lack of private conferencing spaces means that conversations with counsel are conducted in public, however, this right becomes less meaningful, particularly for parties and attorneys whose financial limitations and resources preclude extensive conferencing outside the courthouse. When a party is an alleged domestic violence victim, concerns for that party’s safety make private conferencing spaces especially necessary. Neither the Suffolk County Family Court in Central Islip nor the Suffolk County Family Court in Riverhead provide adequate facilities for conferences between parties and their counsel, nor do they adequately safeguard domestic violence victims and their advocates or counsel.

Observations

At the Suffolk County Family Court in Central Islip, Court Monitors found that there were no separate spaces or rooms available for parties and their counsel to confer, nor were there any designated conferencing spaces or rooms for victims of domestic violence.¹⁸

¹⁶ Such partnerships could also be used at the Family Court Children’s Center in Central Islip to help lessen the impact of recent budget cuts by providing childcare during the hours when professional staff members are not available.

¹⁷ N.Y. C.P.L.R. 4503 (MCKINNEY 2011).

¹⁸ A small number of the Central Islip monitors found that spaces for client-attorney conferencing and domestic violence conferencing *were* available. Similarly, a small number of the Riverhead monitors differed from the majority in finding client-attorney conferencing spaces to be available. Review of the court facilities and the monitors’ comments suggests that these monitors may have regarded certain public but less heavily used court areas as separate or designated spaces.

Court Monitors made similar findings at the Suffolk County Family Court in Riverhead. No separate spaces or rooms for conferences between parties and their attorneys were available, nor were designated spaces or rooms for meetings between domestic violence victims and their advocates or counsel.

Recommendations

Modern Courts recommends that the Suffolk County Family Court provide private rooms or spaces, at both the Central Islip and Riverhead facilities, where Family Court parties and their counsel can confer. Modern Courts further recommends that both the Central Islip and Riverhead facilities create conferencing rooms specifically for victims of domestic violence. These rooms should be designed to protect domestic violence victims through safeguards such as separation from generally accessible court areas and proximity to court officers in the event that intervention becomes necessary.

Given the current economic climate and construction's significant logistical challenges and expenses, Modern Courts recognizes that it may be difficult to fully implement these recommendations. However, the important confidentiality and safety concerns implicated by the current lack of private meeting spaces strongly suggest that Suffolk County Family Court should make the creation of such spaces a priority. In the short term, the court at the very least should seek out ways in which existing spaces can be better used to facilitate communication between parties and their counsel and to safeguard domestic violence victims. Examples of such measures might include assigning opposing parties to separate waiting rooms, or designating "quieter" spaces that would be more conducive to conferencing.

Increase Access to Written Information on Court Procedures and Local Resources

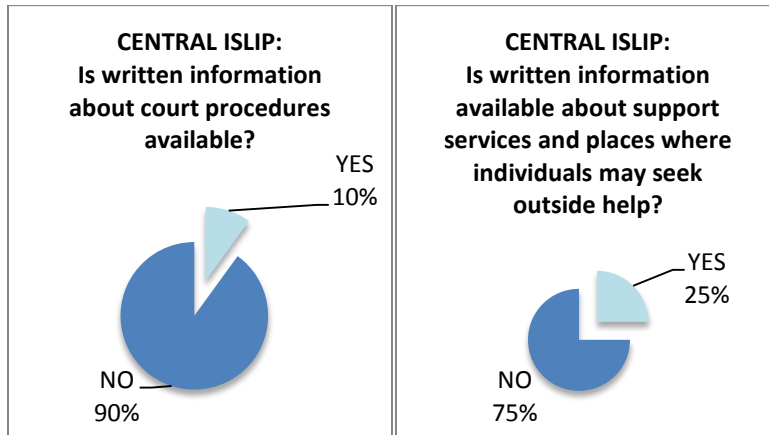
"Referee was somewhat impatient with petitioner because she could not understand why he could not take any action. She left in tears, not really knowing what to do."—Citizen Court Monitor, November 1, 2010

Family Court can be an intimidating and confusing place, and people often come to the court at particularly difficult moments in their lives. Frequently, individuals are unaware of their legal rights and responsibilities, or are unsure what procedural steps are necessary to obtain the court's assistance. Most do not have counsel.¹⁹ Additional help with many matters closely related to Family Court proceedings is often available from local social service providers, government agencies, and other community groups, but court users may be unaware of its availability. By providing more comprehensive and better organized written information regarding both court procedures and local resources, Suffolk County Family Court can help court users to obtain the assistance most appropriate to their respective situations.

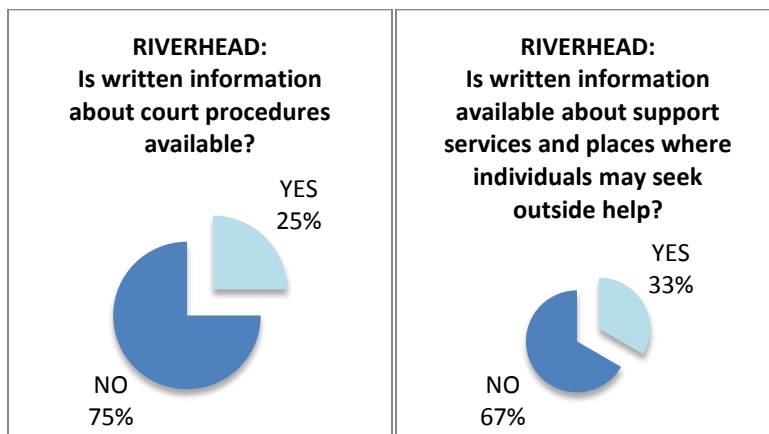
¹⁹ In 2009, an attorney was present for the petitioner for every court appearance in 6% of Family Court cases; an attorney was present for the respondent for every appearance in just 5% of Family Court cases. New York State Unified Court System. "Representation of Parties in Supreme Civil, Family, and Local Civil Court Cases." October 14, 2010. <http://www.nycourts.gov/ip/nyu2j/pdfs/Judge%20Fisher's%20Testimony.pdf>.

Observations

At the Suffolk County Family Court in Central Islip, the majority of monitors found that written information about court procedures, support services, and outside agencies offering assistance was not available. However, a significant minority of monitors reported that these materials were present. Modern Courts investigated this discrepancy, and found that while some written information was available, its presentation, scope, and organization was such that even monitors specifically tasked with seeking out these materials were frequently unable to do so.



Monitors encountered the same problem at the Suffolk County Family Court in Riverhead; while some were able to find written information about court procedures, support services, and outside agencies, the majority could not. Once again, further investigation by Modern Courts revealed that inadequacies in the display, scope, and organization of these materials made it difficult for even trained observers to find them. As one monitor noted, the “place where there should have been all these brochures [was] not very clear and not well organized at all.”



Recommendations

Modern Courts recommends that more pamphlets, brochures and other written materials pertinent to the needs of people who come to court should be available in waiting areas. In

addition to offering accessible and clearly written guidance regarding court procedures and the preparation of court submissions, the court should seek and welcome ongoing assistance from community organizations to provide up-to-date information on local resources, such as family support programs, domestic violence help, mental health services, and substance abuse counseling. Just as importantly, the Suffolk County Family Court should make a concerted and ongoing effort to ensure that these materials are located, displayed, and organized in such a way that court users can easily find and access them.²⁰

Provide More “Upfront” Assistance, Particularly with Paperwork

“At the other end of the very crowded waiting room is a ‘Court Help PC’. The computer (w/ a printer) was not on and I could not figure out how to turn it on.”—Citizen Court Monitor, June 15, 2011

“Petitioner wanted to add to her description of abuse. Referee said he could only consider what was in her written petition and that did not add up to a family offense. Referee suggested that she hire an attorney and file for divorce or refile the petition. Referee did nothing to help petitioner—she could be in danger.”—Citizen Court Monitor, November 1, 2010

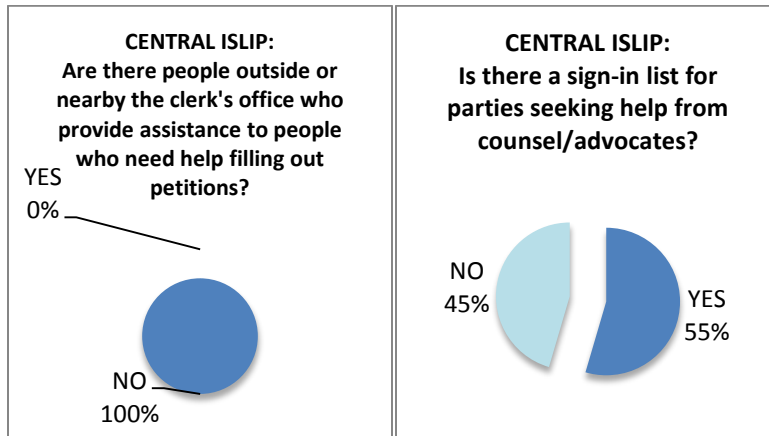
Many parties in Family Court appear without counsel, and a Family Court appearance is quite often merely part of a larger personal and familial change, upheaval, or crisis. As mentioned above, brochures and written materials can help court users to access legal and community-based services. In many instances, however, court users have needs that even a very well-stocked brochure rack cannot fully address.

Courts can significantly increase their accessibility and overall effectiveness by offering greater levels of “upfront” assistance, including help filling out petitions, general legal advice, and referrals to local service providers. These initial efforts can help ensure that by the time parties actually enter the courtroom, they have a real sense of their legal rights and responsibilities, and are taking steps to address the underlying circumstances that brought them to court in the first place. The Suffolk County Family Court offers very little upfront assistance, which may explain some of the confusion and inefficiency in its courtrooms.

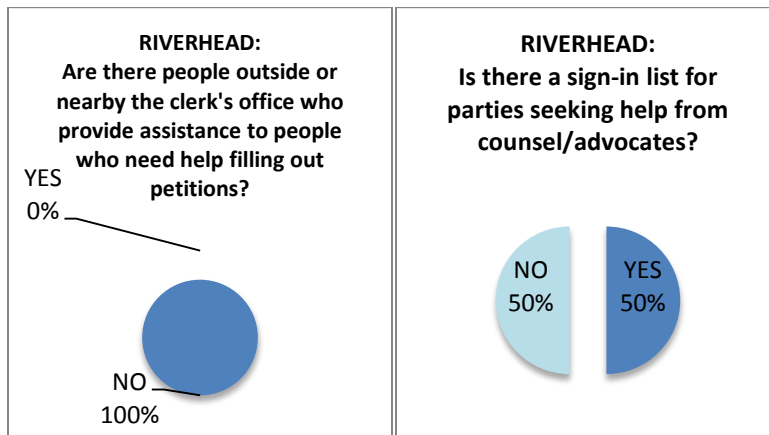
Observations

At the Suffolk County Family Court in Central Islip, there is no “help desk” to assist court users in filling out petitions and to provide information about available services. While there is a sign-in list to help connect court users with advocates, the absence of a help desk means there is no obvious place to look for such a list; forty-five percent (45%) of Court Monitors tasked with finding this list were unable to do so.

²⁰ Legal Information for Families Today (LIFT) provides free legal information and support to families throughout New York State to help them to understand their legal rights and court process regarding their family law matters. As part of its service, LIFT provides Family Courts with written materials which cover all aspects of Family Court proceedings in English and other languages. Suffolk County Family Court would benefit from this well-established resource. Please see their website www.liftonline.org.



Court Monitors observed similar conditions at the Suffolk County Family Court in Riverhead. Perhaps relatedly, they also noticed that parties frequently filled out petitions incorrectly, lacked representation, and were poorly prepared for their court appearances; because of this “proceedings got very disorderly,” “little progress was made each time a case went before a judge,” many cases required “additional time for something to take place before the case went back on the judge’s docket,” and “adjournments were common.”



Recommendations

Modern Courts recommends that Suffolk County Family Court improve its upfront services by providing staffed help desks either inside or adjacent to its clerk’s offices. While this component would preferably be staffed by full-time court personnel, budgetary realities suggest that in the short-term, other staffing options may be appropriate. Given the urgent need for improved upfront services, Modern Courts suggests that Suffolk County Family Court consider contacting local non-profit legal services providers that might be willing to furnish trained volunteer staff for this initiative.

Suffolk County Family Court should also ensure that court facilities are adequately supplied with functioning, up-to-date computers and printers, so court users can generate petitions and other necessary documents. Computers are now a vital component of access to

justice, and will become increasingly essential as New York continues its gradual move toward a completely electronic petition-filing system.

Provide All Requisite Interpretation Services

“First I asked for una orden de proteccion and she smiled but didn’t answer back. I asked again, then she said family.”—Citizen Court Monitor, April 21, 2011

Limited English Proficient (LEP) persons have a firmly established right to the interpretation services necessary for equitable access to New York’s courts. Two distinct but closely related bodies of jurisprudence and legislation support this right. First, due process requires that LEP persons be provided adequate interpretation in all judicial proceedings to which they are a party.²¹ Second, prohibitions against discrimination on the basis of national origin, as set forth in Title VI of the Civil Rights Act, mean that state services and facilities, particularly in vital areas like the court system, must be reasonably and meaningfully accessible to LEP persons.²² Suffolk County Family Court generally meets its due process obligation to consistently provide interpreters inside its courtrooms, though there may be room for improvement in the quality of interpretation provided. Outside the courtrooms, however, several significant changes must be made to ensure that Central Islip and Riverhead courthouses, and the services offered therein, provide sufficient accessibility to LEP persons.

Observations

Within the courtroom, monitors found that when necessary or requested, the Suffolk County Family Court provided translation services, though there were instances in which monitors felt that judges should have used their discretion to appoint an interpreter, even in the absence of a party’s direct request for one. Modern Court’s partners in the Long Island Language Advocates Coalition (LILAC), particularly those advocates who are themselves bilingual, have also expressed serious concerns about the quality of interpretation provided.

Outside the courtroom, monitors found instances in which Suffolk County Family Court failed to provide full access to LEP persons. New York requires that clerks’ offices provide

²¹ This right was officially encoded in 2007, N.Y. Unif. Trial Ct. § 217.1(a), and has long been recognized in New York’s courts. See *People v. Ramos*, 26 N.Y.2d 272, 273 (N.Y. 1970); *Yellen v. Baez*, 676 N.Y.S.2d 724, 726 (N.Y. Civ. Ct. 1997); *Lizotte v. Johnson*, 777 N.Y.S.2d 580, 586 (N.Y. Sup. Ct. 2004).

²² See *Lau v. Nichols*, 414 U.S. 563, 569 (1974). Department of Justice (DOJ) guidelines specify that recipients of federal funds should gauge their LEP access obligations on several factors, including the importance of the services that the agency provides and the number of LEP persons likely to use the agency’s services. See Department of Justice. “Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons” (June 18, 2002). During Fiscal Year 2011, the 10th Judicial District (Suffolk County) is scheduled to receive \$248,472 in DOJ Justice Assistance Grant support; Family Court addresses issues of vital importance to both the parties involved and their communities; and U.S. Census Bureau data shows that 116,215 Suffolk County residents (8.2% of the overall population) speak a language other than English at home and report speaking English less than “very well,” 73,362 (5.2% of the general population) of whom are Spanish speakers. See “2005-2009 American Community Survey 5-Year Estimates, Suffolk County, New York,” http://factfinder.census.gov/servlet/ADPTable?_bm=y&-geo_id=05000US36103&-qr_name=ACS_2009_5YR_G00_DP5YR2&-ds_name=ACS_2009_5YR_G00_-lang=en&-redoLog=false&-sse=on.

interpretation services,²³ but when a monitor visited the Suffolk County Family Court clerk's office in Riverhead, she was told that the Spanish interpreter "is usually in two days a week and they tell people to come back when she's there." At the clerk's office in Central Islip, a monitor who sought Spanish language assistance reported that the "woman at the window asked an advocate [who was not a court employee] to help me, she said she didn't speak Spanish." While bilingual advocates who happen to be in the halls of the court may provide assistance when it is requested, these advocates are usually working on behalf of existing clients; their willingness to help does not relieve the clerk's office of its obligation to provide interpretation services. Similarly, one monitor noticed that the probation office in Central Islip distributes a form that "asks the petitioner to bring an adult that speaks English." Although the probation office should be commended for attempting to address the problem of inadequate interpretation services, requesting that court users provide interpreters is a less than optimal means of ensuring equitable access. Monitors also found that few security officers and other courthouse personnel spoke Spanish. Finally, monitors received several conflicting accounts of a "language line" or "language phone," but no definitive explanation of when this service is provided or how it works.

Recommendations

Inside the courtroom, as an initial step toward addressing concerns that some court interpreters may be less than proficient, Modern Courts recommends that the Suffolk County Family Court staff responsible for confirming interpreters' qualifications should, upon request, provide interested advocates and parties with verification that they have done so. Additionally, when even small doubts regarding an interpreter's efficacy arise, judges should scrupulously exercise their obligation to review that interpreter's qualifications.²⁴

Outside the courtroom, the Unified Trial Court's requirement that clerks' offices provide interpretation services, Title VI of the Civil Rights Act, DOJ guidelines, and Suffolk County's large LEP population²⁵ conjoin to create a broad mandate for LEP persons' equitable access to Suffolk County Family Court. Modern Courts recommends that the clerk's office in Riverhead offer Spanish language services during all operating hours, and that the clerk's office in Central Islip increase its staffing of Spanish proficient persons such that clerks no longer find it necessary to ask advocates for assistance. Additionally, clerks should regularly be reminded of their obligation to connect LEP persons with interpretation services. Suffolk County Family Court should train all court officers in how best to assist LEP persons, and should also consider making scheduling and hiring decisions such that there is at least one Spanish-bilingual court officer at each court entrance. Lastly, if the "language line" or "language phone" is being used to ensure compliance with New York's court rule that clerk's offices may provide interpretation "by telephone or live audiovisual means,"²⁶ then it is imperative that all clerks understand what this component does and how it works.

²³ N.Y. Unif. Trial Ct. § 217.2.

²⁴ The Unified Court System provides judges with a benchcard that lists a series of questions for determining an interpreter's proficiency. N.Y. State Unif. Ct. Sys., Court Interpreter Manual and Code of Ethics (2008).

²⁵ See fn. 21.

²⁶ N.Y. Unif. Trial Ct. § 217.2.

Notify Limited English Proficient Persons of Their Rights to Assistance

“There is no signage indicating that an interpreter is available or that you have the right to an interpreter.”—Citizen Court Monitor, June 15, 2011

LEP persons’ broad right to interpretation services means relatively little if they are unaware of it. From the moment that LEP persons enter the courthouse, Suffolk County Family Court should aim to provide them with full notice of the court’s obligation to provide language assistance.

Observations

Although monitors found Spanish-language signs listing court hours of operation, and prohibiting smoking, cell phones, and eating, they did not see signs in Spanish, or any other language, informing LEP persons of their right to interpretation services. For the parties involved, Family Court cases are crucial, life-changing events. LEP persons should never muddle through such proceedings due to their unawareness of available language assistance. A monitor observed one “obviously upset” LEP respondent who “had to make another court date because he interpreted the order of protection wrongly.” This unfortunate situation might not have arisen had the respondent been fully aware of his right to interpretation services.

Recommendations

Modern Courts recommends that the Suffolk County Family Court in Central Islip and Riverhead install signs near the entrance to each courthouse that inform LEP persons of their rights to interpretation services and direct them to the court clerk’s office where these services can be accessed, or, if assistance in a given language is not immediately available, provide a telephone number through which interpretation can be arranged. Modern Courts suggests that these signs be in Spanish, Russian, French, Chinese, and Korean, languages representative of Suffolk County’s linguistic diversity and into which many Unified Court System documents have already been translated.

Ensure that Courts Are Consistently Open to Public Observation

“We had to wear our badges to get in.”—Citizen Court Monitor, October 4, 2010

In 1998, New York opened the Family Court to the public, providing “access to all courtrooms, lobbies, public waiting areas and other common areas of Family Court.”²⁷ While judges may, on a case-by-case basis, exclude the general public from the courtroom, they must do so “based upon supporting evidence” and must “make findings prior to ordering exclusion.”²⁸

²⁷ N.Y. COMP. CODES R. & REGS. tit. 22, § 205.4 (2011).

²⁸ *Id.* The Family Court Act specifically provides that the general public may be excluded from juvenile delinquency proceedings. N.Y. FAM. CT. ACT. § 341.1. However, judges are still empowered to do so *only* on a case-by-case basis, based upon supporting evidence, and after making findings.

On several occasions, monitors were told that badges identifying themselves as Citizen Court Monitors were necessary to gain courtroom admittance. This strongly suggests that Suffolk County Family Court is not providing the public full access to its courtrooms.

Observations

While monitors were allowed free access to Suffolk County Family Court courtrooms, many monitors reported that this access was not available to the general public. One court monitor was informed by court personnel that “in Suffolk County Family Court no one is allowed in the courtroom and it’s not an open courtroom, but we were because we had our badges.” On another occasion, a court officer said that “they didn’t want other people in the family coming in because they’ve had problems with other people in the family having fist fights and carrying on, so the courts are closed, you can’t just walk in unless you have the badge.” On a third occasion, a court clerk explained that in Family Court, “we don’t allow just anybody in because we’re concerned about family fights.” Throughout their time monitoring, monitors reported that they were specifically requested to wear badges identifying themselves as Citizen Court Monitors.

Recommendations

Modern Courts recommends that Suffolk County Family Court immediately open its courtrooms to public access. A general fear that at some point a fight might break out does not justify a blanket restriction on public access, nor does it justify barring family members. As mentioned above, Family Court courtrooms may only be closed on a case-by-case basis, based upon supporting evidence, after judicial findings. All Suffolk County Family Court judges, clerks, court officers, and other courthouse personnel should be informed of the public’s right to see firsthand how the court deals with children and their families, and this change should be implemented without delay.

Improve Courtroom Scheduling, Decorum, and Use of Microphones

“Problem of noise from people entering and leaving courtroom throughout session. I noticed that nearly all the cases were scheduled at 9 a.m. As a result, many people waited long periods of time. Often they left before their case came up.”—Citizen Court Monitor, September 2, 2010

Family Court is one of the most overburdened courts within New York’s Unified Court System. Dockets are long, cases are complex, and parties are frequently unrepresented. Under these circumstances, effective courtroom management can be difficult, but these same circumstances also make it vital. In Suffolk County Family Court, the court monitors found that imprecise scheduling, a lack of courtroom decorum, and infrequent use of courtroom microphones led to inefficiency, disorder, and inaudibility.

Observations

On numerous occasions, monitors observed judges who scheduled their entire daily dockets for 9:00 a.m. Not surprisingly, this created significant courtroom confusion. Monitors noted that “many people waited long periods of time” and “often they left before their case came up.” For attorneys slated to represent multiple clients in a single day, this scheduling method was particularly problematic, and frequently “attorneys could not be found even after much paging.” Additionally, it was observed that some judges had extremely busy dockets, while others handled significantly fewer cases each day.

Scheduling all of the day’s proceedings for the same time contributed to a lack of decorum in many of the courtrooms. Monitors observed a “problem of noise from people entering and leaving courtroom throughout the session,” as parties waiting for their cases to be called moved between the courtroom and waiting areas. Monitors found the courtrooms “noisy” and reported that it was “very hard to hear.” Often, judges did not ask those making noise to be quiet.

In some of the courtrooms, the problem of noisiness was exacerbated by judges who did not use court microphones. In one instance, a monitor noted that “they had microphones out, and the court officer took them away before the parties came in,” after which the monitor “was unable to hear what was going on.” This lack of amplification created a vicious circle in which, because those sitting in the courtroom were unable to hear the proceedings, they were much more likely to talk amongst themselves during them, making it even more difficult to follow the proceedings. Monitors “missed a lot of questions” because they were unable to hear. Court officers explained that the “amplification system does not work well,” and that some judges disliked using it because “the feedback was annoying.”

Recommendations

Modern Courts recommends that Suffolk County Family Court judges schedule cases throughout the day rather than scheduling them all for 9:00 a.m. While scheduling all of a day’s cases for the same time may be slightly more convenient for the judge trying them, it significantly inconveniences parties and attorneys, and makes courtrooms and waiting rooms unnecessarily crowded, chaotic, and noisy.

Modern Courts also recommends that two steps be taken to make courtroom proceedings more audible. First, judges should be less permissive of people talking or otherwise disrupting courtroom proceedings. Second, microphones should be used during all courtroom proceedings, preferably by all parties, but at the very least by judges and witnesses. If the amplification systems currently available in Suffolk County Family Court are deficient, they should be replaced by ones that are more suitable.

Modern Courts notes that while enhanced audibility will primarily benefit the parties appearing in Family Court, it will also help Suffolk County Family Court to better meet its obligation to provide public access. The public’s right to observe court proceedings entails the

right to hear them, and the decision to open Family Court to public observation means relatively little if proceedings are inaudible.

Explain Orders of Protection More Thoroughly and Clearly

“Judge asked a number of litigants during this day if it was okay not to read orders of protection in court. When they agreed, which all did, [the judge] just told them to read the orders at home.”—Citizen Court Monitor, April 4, 2011

Family Court plays an essential role in keeping victims of domestic violence safe, and orders of protection are one of its primary means of doing so.²⁹ It is very important that the parties understand the terms of these orders and their limitations. Judges can increase the effectiveness of orders of protection by taking steps to ensure that the parties fully comprehend both the orders and any procedural requirements relevant to those orders.

Observations

Monitors observed numerous situations in which judges did not read orders of protection aloud in court and did not explain to petitioners what to do if the orders were violated. Perhaps relatedly, monitors also reported several instances in which parties had to return to court because they misunderstood the court’s orders and the steps they needed to take upon leaving the courtroom. In one case, an “order of protection had to be re-issued because petitioner did not follow instructions to have it properly filed.” Frequently, judges “did not ask if the parties had any questions” when imposing orders of protection.

Monitors also observed many other instances in which orders of protection were carefully and thoroughly explained, and parties were given adequate opportunity to ask questions. That several Family Court judges are already taking time to ensure that orders of protection are fully understood strongly suggests that this practice can be implemented throughout Suffolk County Family Court.

Recommendations

Modern Courts recommends that Suffolk County Family Court adopt at a minimum four specific policies to ensure that Orders of Protection are adequately understood. First, all orders of protection should be read aloud by the judges that issue them; even when the respondent is not present in the courtroom, an in-court reading helps make petitioners more aware of the extent to which they are protected. Second, judges should always remind parties of any outstanding procedural actions necessary for orders to take full effect. Third, petitioners should always be informed of the steps to take (e.g., calling the police) if an order of protection is violated. Fourth, petitioners (and respondents when present) should always be asked if they have any questions regarding imposed orders of protection.

²⁹ See N.Y. FAM. CT. ACT § 842 (2011); N.Y. COMP. CODES R. & REGS. tit. 22, § 205.74 (2011).

Emphasize Supportive Community Involvement in Juvenile Proceedings

“I know there are certain times that they have to put the young boys in shackles because they had to arrest a kid... but they did it in the courtroom and I’m not sure if that is what they’re supposed to do.”—Citizen Court Monitor, April 15, 2011

Family Court judges regularly face the difficult decision whether or not to place child offenders in placement or detention facilities. Though debate on the subject remains lively, much evidence suggests that a rehabilitative, community-based approach to juvenile crime is preferable to detention or placement in terms of both subsequent recidivism and financial cost.³⁰ Suffolk County Family Court should as much as possible favor decisions that keep children out of facilities and that creatively engage community resources as long as public safety is maintained.

Observations

Monitors observed that several judges demonstrated a preference for keeping children out of placement or detention facilities when community-based alternatives were available. However, in thirty-nine percent (39%) of decisions involving child defendants, monitors reported that the child was sentenced to a placement or juvenile detention facility. Furthermore, monitors also reported numerous instances in which a child appeared in the courtroom in handcuffs or a prison uniform. Modern Courts also notes that Suffolk County organizations have expressed serious concern that too many juveniles are sent to facilities or detention by Suffolk County Family Court judges in situations that would be more appropriately and better addressed through accountability-driven partnerships with families, schools, probation officers, and local service providers as long as public safety is maintained.

Recommendations

Modern Courts recommends that in cases involving child offenders, Suffolk County Family Court judges should thoroughly consider, and as much as possible favor, community-based alternatives to facility or detention-based punishments.

Begin Each Proceeding by Clearly Explaining the Issue and Relevant Background

“Judge was not very clear in explaining cases.”—Citizen Court Monitor, April 11, 2011

“The only way I knew what the case was about was that the attorney for DSS came over and explained it to me.”—Citizen Court Monitor, October 6, 2010

Family Court cases can be complex, involving multiple parties, proceedings, and appearances before the court. Parties are often unrepresented, and many parties who do have counsel have had limited opportunities for pretrial conferencing. Given these circumstances, there may be occasions in which a party in Family Court does not know with complete certainty

³⁰ Zimring, F. E. *American Juvenile Justice*. New York: Oxford University Press (2005). See also Scott, E., & Steinberg, L. *Adolescence and Crime: Rethinking Juvenile Justice*. Cambridge, MA: Harvard University Press (2008).

why he or she is there. Suffolk County Family Court judges can address this situation by beginning each proceeding with a clear explanation of the issue that the court is considering, a brief description of the case's prior history, and other relevant background.³¹

Observations

Monitors observed numerous instances in which judges moved very quickly into the substance of the case without clearly stating the issue to be addressed or its relation to prior proceedings. Monitors described certain proceedings as "rushed," and noted that several judges were "not very clear in explaining cases." Monitors found this particularly troubling as there were often long waits between cases. In one monitor's words: "I could sit in a courtroom for 30-45 minutes with nothing happening. Once a case was being heard, it moved so quickly that I was left wondering if the parties involved understood everything that was going on."

Recommendations

Modern Courts recommends that Suffolk County Family Court judges begin each proceeding with a thorough, audible statement of the issue to be addressed and its relation to any relevant prior proceedings. Modern Courts also recommends that judges make a more consistent effort to be clear and detailed in their explanations throughout each proceeding. Judicial clarity is especially important in Family Court. Many Family Court cases do not have the simple resolutions (fines, awards of damages, or incarceration) one sees in other courts. Rather, cases are frequently resolved by requiring a party to do or refrain from doing certain contextually specific activities. Because of this, successful implementation of a Family Court judgment is particularly dependent on how well the parties understand the proceedings that gave rise to it.

CONCLUSION

During eleven months of observation, monitors identified several areas in which Suffolk County Family Court can make improvements. Fortunately, they also observed hard-working, dedicated judges and courthouse personnel capable of making these changes happen.

Courthouse facilities should be improved by increasing signage, adding a staffed childcare room to the Riverhead courthouse, and creating private spaces where parties and their counsel can meet. Court users' understanding of how Family Court works and what community resources are available should be improved by increasing access to written information and providing more upfront assistance, preferably through staffed help desks. The rights of LEP persons to interpretation services and full courthouse access should be unequivocally realized, and LEP persons should be notified of these rights. Transparency and efficiency should be improved by fully opening courtrooms to public access, scheduling cases throughout the day, managing courtrooms more effectively, and using microphones during all proceedings. Judges

³¹ Taking the time to explain proceedings thoroughly may seem challenging in the context of a busy courtroom schedule, but it is far from impossible. For example, during a recent Modern Courts assessment of the Washington County Family Court, ninety-seven percent (97%) of monitors found that the judge "fully explained the proceedings in an understandable manner." The Fund for Modern Courts. "Report on Washington County Family Court." January 2011.

should actively engage parties in achieving positive outcomes by explaining proceedings and orders of protection more thoroughly and emphasizing supportive community involvement in juvenile proceedings.

APPENDIX