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**MONROE COUNTY COURT MONITORS**

**REPORT ON THE FAMILY COURT**

**December, 1998**

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## REPORT ON THE FAMILY COURT

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## I. THE PROJECT

### Court Monitoring in New York State

The Fund for Modern Courts is a nonprofit, nonpartisan organization dedicated to improving the administration of justice in New York State. Since 1975, Modern Courts has sponsored court monitoring programs around the State, in which groups of citizens observe and evaluate their courts, report their findings, and issue public recommendations for improvement. Today, groups of court monitors are active in 16 counties.

Over the years, court monitoring has proven highly successful at:

- safeguarding the public's interest in the courts;
- creating and maintaining an ongoing, meaningful dialogue between citizens and their judiciary;
- making the courts more accountable and sensitive to the needs of the communities they serve;
- educating citizens about the daily workings of their courts;
- publicizing problems that exist in the courts;
- successfully urging those responsible for the courts (including court administrators, state legislators, local government officials, and others) to make improvements, particularly in how the courts serve the public and how their personnel treat the public; and

- creating a constituency of citizens who understand the problems facing the courts and who are supportive of the courts' efforts to obtain the resources necessary to do a satisfactory job.

In a monitoring project, volunteers observe proceedings in a particular court for a period of several months. The monitors use specially-designed forms that ask them to evaluate all aspects of the court's performance, from the demeanor of the judges to the physical conditions under which the court operates. Modern Courts then publishes the monitors' findings in a detailed report which is sent to the judges and court personnel observed, the administrators of the state court system, State and local legislators, the news media, and other interested parties.

Monitors come from all walks of life, and many have no prior experience with the legal system. The monitors are asked to look at the court from an outsider's viewpoint, which provides a fresh, common-sense perspective on how the courts can be improved.

Modern Courts' citizen court monitoring program has been influential in solving many of the problems that ordinary citizens face in the courts. For example, monitors' comments about litigants with young children in the Family Court have helped lead to the establishment of in-court child care facilities in numerous courthouses across the State. In other courts, the implementation of a "staggered" calendar, modeled directly on monitors' recommendations, has drastically reduced both waiting time and overcrowding. Monitors' repeated calls for decent housekeeping

and maintenance in the state's courthouses have led to a renewed commitment to courthouse upkeep by local governments and to major improvements in recent years. Monitors were also helpful in persuading the State Office of Court Administration to introduce a mandatory "civility training" program for all non-judicial court personnel.

On a larger scale, monitors' reports were instrumental in encouraging the State legislature to pass the Court Facilities Act of 1987, which has led to construction of desperately needed new court facilities around the State. In the Ninth Judicial District, for example, a new courthouse for the Dutchess County Family Court opened in 1997, replacing a deplorable facility that was decried by monitors in several reports. Other new courthouses are scheduled for construction over the next several years. Monitors' reports also influenced recent reforms to make jury service less burdensome.

Overall, citizen court monitoring has improved communication between citizens and the judiciary, heightened the court system's sensitivity to public needs, and helped to ensure that those needs are met.

### **The Monroe County Court Monitors**

For over 25 years, the Rochester Chapter of Church Women United (CWU) has conducted a citizen court monitoring program through its Task Force on Courts. In 1975, the Task Force on Courts began its association with the Fund for Modern Courts.

Sue Soper of Church Women United fills a dual role as Modern Courts' local coordinator and as coordinator of CWU's Task Force on Courts. Modern Courts provides project materials and other assistance; it also writes and publishes the final report, with editorial assistance

from the Task Force monitors. Previous reports that Modern Courts has issued in conjunction with the Task Force on Courts include a report on the Town and Village Courts of Monroe County in October, 1996.

For their latest project, the Monroe County monitors chose to evaluate the conditions in Monroe County Family Court. The Family Court deals with some of society's most serious problems, involving children and families in crisis. Because it is positioned near the bottom of New York State's hierarchical court system, it operates with fewer resources than the other "superior" courts. Moreover, little public attention is paid to the workings of the Family Court, since it often operates as a "closed" court (although recent rule changes have been instituted to open Family Court proceedings to the public and press; these are discussed later in this report). Thus, the Family Court has not received the same level of public scrutiny as other courts, and the result is that the need for improvements is not broadly recognized. Only by making the public aware of the actual conditions in the Family Court will needed reforms be instituted. This is the task upon which the citizen court monitors of Modern Courts and CWU's Task Force on Courts embarked in January, 1998.

At the outset of the project, monitors were asked to sign a statement of objectivity, certifying that they had not been a party to a case in the Family Court. In January, 1998, a project orientation meeting was held, which included presentations by the Honorable Ann Marie Taddeo, Supervising Judge of the Monroe County Family Court; Assistant District Attorney Tamara Guglin; Probation Department Supervisor Christine Hinds; Law Guardian Edward Orlando; and Department of Social Services attorney James Paulino. Modern Courts' staff explained the monitoring process and distributed materials for the project, including Modern Courts' *Family Court Monitoring Handbook* and copies of the evaluation forms that monitors complete after each

observation. Approximately 40 monitors participated in the Family Court project.

The following report is based on approximately 285 total observations by the monitors over a six-month period. Monitors were present in courtrooms every week from January to July, 1998. These regular observations gave the monitors sharp insight into the shortcomings that affect the Family Court's ability to serve the public properly. Monitors thus were able to suggest ways to increase efficiency and reduce delay, to lessen inconvenience to the public, to increase the apparent sense of "fairness," and to deal with the large numbers of children who accompany adults to court.

## II. THE FAMILY COURT IN NEW YORK STATE

In 1962, the New York State Legislature passed the Family Court Act, which created a statewide Family Court. The Family Court replaced the Domestic Relations Court of the City of New York and the Children's Courts outside New York City.

The Family Court was given jurisdiction over many issues involving children and families, including paternity, custody, visitation, child support, child abuse and neglect, and violence and abuse among family members. The Family Court does not have jurisdiction over divorce, separation, or annulment proceedings, which are heard in Supreme Court. Jurisdiction over adoptions is shared with the Surrogate's Court, which also oversees inheritances.

Unlike other courts in the New York State justice system, Family Court is not adversarial. It also is not a criminal court, and is not designed to mete out punishment for criminal offenses. Rather, it is a "remedial" court, in which a judge uses the professional staff of the court and of other governmental and private agencies to devise programs to resolve family problems. This distinctive approach is reflected in the unique terminology used in Family Court. Plaintiffs, complainants, and the prosecution are called "petitioners"; defendants are called "respondents"; trials are designated "fact-finding hearings"; and sentences are known as "dispositional orders." There also are no jury trials in the Family Court.

### Public Access

Although the Family Court technically is an open court (and has been since its inception), the sensitive and confidential nature

of proceedings has led many judges and court administrators to operate as though it were a closed court. In addition, most Family Court courtrooms are small and unable to accommodate large numbers of spectators.

In June, 1997, the Office of Court Administration issued new rules reaffirming that the Family Court is an open court, and directing that the public and press be given broad access. The rules, which became effective on September 2, 1997, provide that

The Family Court is open to the public. Members of the public, including the news media, shall have access to all courtrooms, lobbies, public waiting areas and other common areas of the Family Court otherwise open to individuals having business before the court. Judges may exclude the public only on a case-by-case basis.

The issue of public access to Family Court proceedings received heightened scrutiny during a recent and highly-publicized case in Westchester County, which involved a twelve-year-old boy, Malcolm Shabazz, who was accused of setting a fire that resulted in the death of his grandmother, Betty Shabazz. The media petitioned for access, while attorneys for the child and the County Attorney's Office sought to exclude the media on the grounds that the child was psychologically fragile. The judge who heard the case excluded cameras from the courtroom, but permitted two pool reporters to attend the proceedings, declaring:

Justice cannot prevail under a veil of secrecy or behind closed doors that do not open. Darkness must give way to light. In order to preserve the integrity of public proceedings, avoid the dissemination of misinformation,

enhance public confidence in the court system and promote a better understanding of the Family Court, these judicial proceedings must be open to the press.

On appeal, the ruling was unanimously upheld by the Appellate Division, Second Department.

### **Caseload**

When the Family Court began operations in 1962, no one foresaw such upcoming factors as the substantial increase in the divorce rate, the drug abuse epidemic of the 1970s and 1980s, and the emergence of child and domestic abuse as pressing societal problems. These and other conditions have contributed to an explosion in the Family Court's caseload. In 1995, 591,577 cases were filed in the Family Court statewide; in 1996, the number rose to well over 600,000 for the first time. Just ten years earlier, in 1985, only 391,322 cases were filed. While a staggering number of drug-related cases flooded the family and criminal courts in the late 1980s (the so-called "crack years"), more recently, the growth of Family Court filings has been spurred by increases in cases involving child custody, child support, and termination of parental rights.

### **Family Court Judges**

**Eligibility:** Outside of New York City, Family Court judges must be residents of the county in which they serve. (In New York City, they must be residents of the City.) All Family Court judges must be attorneys admitted to the bar for at least ten years before assuming office.

**Method of Selection:** All Family Court judges outside of New York City are nominated in countywide, partisan primary

elections and then elected in a countywide general election. (In New York City, Family Court judges are appointed by the Mayor by means of a merit selection process.)

**Tenure:** Family Court judges serve ten-year terms. If a judge is unable to complete a term, the governor appoints a judge to fill the vacancy until the next general election. Family Court judges may serve until a mandatory retirement age of 70, in contrast to Supreme Court justices, who may serve an additional six years, with biannual certification of mental and physical fitness.

**Salaries:** Salaries of Family Court judges are paid by the State of New York, but they vary from county to county. Family Court judges in Monroe County earn \$103,800. However, their counterparts in New York City, Long Island, and Westchester County earn \$113,000.

Despite action by the New York State Legislature in 1993 that substantially raised judicial salaries, these disparities linger, harking back to the period prior to 1977 when municipalities, rather than the State, were responsible for the costs of court administration.

In 1997, over 670,000 cases, covering 20 different types of proceedings, were heard in Family Courts across New York State. Currently, 263 judges and hearing examiners sit in these courts, which means that each judicial officer hears an average of more than 2,500 matters per year.

There are currently five full-time judges in Monroe County Family Court. Due to overwhelming caseloads, judges, court officials, and other interested parties have lobbied vigorously in recent years for the creation of a sixth judicial post in Family Court. Until May, 1998, such efforts went unheeded; in recent years, this reportedly has been due, in large

part, to Monroe County Executive John D. (Jack) Doyle's opposition to adding a sixth judge until the court became more efficient.

After the Monroe County Juvenile Justice Council issued a report in mid-May outlining the magnitude of rising Family Court caseloads, Mr. Doyle finally agreed to support legislation to create the sixth judgeship, and State Senator Michael F. Nozzolio introduced a bill to create the position, which would have taken effect January 1, 1999. However, the legislation failed once again. As reported in the Rochester *Democrat and Chronicle*, Democratic legislators blamed the demise of the bill on Mr. Doyle's insistence that it be linked to two unrelated and controversial measures: One would have created a Greater Rochester Sports Authority; the other would have exempted Monroe County from state bidding laws for its upcoming \$49.4 million jail expansion program. Mr. Doyle is reported to have denied promoting any such linkage.

In any event, plans reportedly still exist for an interim appointment of a sixth Family Court judge, to take effect in early 1999. However, the New York State Legislature first must pass a bill creating the sixth judgeship; the bill then must be signed by Governor Pataki. At that point, Governor Pataki could appoint an interim judge to hold the position until the next general election on November 2, 1999. To date, however, the Legislature has yet to pass legislation creating a sixth judgeship.

### **Hearing Examiners**

The position of Family Court Hearing Examiner was established by the New York State Child Support Enforcement Act of 1985 in response to federal funding regulations aimed at increasing and expediting collection of support payments.

Hearing examiners are not judges, but they are authorized to hear and make decisions on support and uncontested paternity matters. Decisions made by hearing examiners are binding. However, litigants dissatisfied with a hearing examiner's decision may object, and a resolution of the objection will be handled by a Family Court judge. Hearing examiners are not authorized to issue warrants or to hold individuals in contempt of court; they must forward requests for such actions to a judge.

Hearing examiners have greatly eased the burden on judges by hearing support cases, which can be time-consuming and tedious, and put growing demands on the court's time. The position also has proved to be a "training ground" for judges: Hearing examiners often advance to judicial office. Supervising Judge Ann Marie Taddeo began her tenure at Monroe County Family Court as a hearing examiner.

**Eligibility:** The Uniform Family Court Rules of the State of New York mandate that hearing examiners "shall be attorneys admitted to the practice of law for at least five years and shall be knowledgeable with respect to Family Court procedure, family law, and federal and state support law and programs."

**Method of Selection:** Candidates are appointed by the Chief Administrative Judge of the State of New York, after screening in each judicial district by a commission consisting of the district administrative judge, a Family Court judge, and a representative of the Chief Administrative Judge.

**Salaries and Tenure:** All hearing examiners in New York State earn \$75,828 annually. They serve three-year terms, with reappointment at the discretion of the Chief Administrative Judge.

There are four hearing examiners in Monroe County Family Court.

### **Judicial Hearing Officers**

As a means of handling the large caseload of the court and increasing efficiency, Monroe County Family Court utilizes personnel known as judicial hearing officers, or JHOs. JHOs are former and retired judges who are designated by the Chief Administrator of the New York State court system to serve as "quasi-judicial officers" of the court. They are assigned to a particular court on a per-diem basis, where they fill limited roles. In Family Court, JHOs may preside over custody and visitation cases, contested paternity proceedings, and domestic violence cases.

**Eligibility:** Only former and retired New York State judges are eligible to serve as judicial hearing officers.

**Method of Selection:** Judicial hearing officers are appointed by the Chief Administrative Judge of the State of New York.

**Salaries and Tenure:** Judicial Hearing Officers are compensated at a rate of \$250 per day.

At the time of monitors' observations, there were four judicial hearing officers in Monroe County Family Court. However, since the end of the project, Hon. Charles L. Willis has joined the court as a fifth judicial hearing officer.

**Appeals Process**

An appeal from Family Court is heard in the Appellate Division of Supreme Court. (New York State is divided into four Judicial Departments; appeals from the Monroe County Family Court are to the Appellate Division, Fourth Department.) Further appeals are brought before the Court of Appeals, New York State's court of last resort.

### III. THE MONROE COUNTY FAMILY COURT

#### **The Population It Serves: Monroe County**

Monroe County is located in western New York State. It is bordered on the east by Wayne County, on the south by Ontario and Livingston Counties, on the west by Genesee and Orleans Counties, and on the north by the province of Ontario in Canada. It has an area of 663.21 square miles.

Monroe County's estimated population for 1998 is projected at approximately 750,000, an increase from the 1990 census population of 713,968. Its county seat is Rochester, the third-largest city in New York State. As of 1996, Rochester's population was 221,594, a 3.8% drop from its 1990 population of 230,356.

#### **The Structure of the Monroe County Family Court**

The court currently has five judges, four hearing examiners, and four judicial hearing officers. Judges and hearing examiners serve rotating Intake Terms, which are divided into 2-week periods for judges and 4-week periods for hearing examiners. During the assigned term, the Intake judge or hearing examiner presides over all first appearances and schedules subsequent proceedings. Intake judges and hearing examiners also handle emergency cases, such as requests for temporary orders of protection, emergency child protective hearings, detention hearings, and issuance of warrants.

The Monroe County Family Court is located on the third floor of the Hall of Justice in

Rochester's Civic Center Plaza. The court comprises five courtrooms and four hearing rooms, distributed over the second and third floors of the courthouse. The office of the five hearing examiners double as hearing rooms.

#### **Caseload**

Reflecting statewide trends, the caseload of the Monroe County Family Court is climbing steadily. A total of 25,126 petitions were filed in 1997. The five Family Court judges presided over 14,777 of these petitions, resulting in an average of 2,955 cases per judge. The Family Court also reports that at least 80% of litigants are not represented by attorneys, which compounds the workload for judicial personnel.

There also have been particularly steep increases in the number of specific kinds of petitions filed in the Monroe County Family Court. The number of custody and visitation cases filed in 1997 increased 10% over the number filed in 1996, and the number of PINS cases increased 15%. For the same period, there was a 29% increase in foster care review cases, and guardianship cases increased 53%.

## IV. JUDGES

Following are the monitors' evaluations of each judge in the Monroe County Family Court. Monitors did not evaluate the judges' decisions or legal knowledge. Rather, they focused on their demeanor; their attitude toward litigants, attorneys, and court personnel; their efficiency in carrying out their duties; and their ability to maintain control of the proceedings. This section includes biographical and caseload data on each judge and summaries of the monitors' findings. The Honorable Ann Marie Taddeo, Supervising Judge of the Monroe County Family Court, is listed first. Thereafter, judges are listed alphabetically by last name.

### **Hon. Ann Marie Taddeo**

Hon. Ann Marie Taddeo is a graduate of the University of Rochester and the University at Buffalo Law School, which is part of the State University of New York. From 1979 to 1980, she served as a Genesee County attorney, and from 1980 to 1982, she worked for the New York City Law Department's Office of the Corporation Counsel. From 1982 to 1985, she was an Assistant District Attorney for Monroe County.

Judge Taddeo was appointed as a hearing examiner for Monroe County Family Court in 1985, and she remained in that post until 1991, when she was elected to the position of Family Court Judge on the Republican ticket. She was named Super-ising Judge of the Monroe County Family Court in 1994, and in 1995, she was named Acting Supreme Court Justice for the Seventh

Judicial District. Judge Taddeo currently holds both titles.

Judge Taddeo was observed by 30 monitors on 37 different days.

Monitors generally felt that Judge Taddeo was "patient" and "compassionate," and that she "listened well."

Many monitors praised Judge Taddeo's approach to litigants. She creates a "comfortable atmosphere -- tries to put petitioners at ease"; and "she exhibited competence and authority while remaining compassionate." Monitors were "impressed with her patience and considerateness in trying to accommodate persons needing to appear again." One monitor reported, "She got excellent marks for conducting sessions with patience [and] toughness." In describing one case, a monitor observed, "when dealing with an agitated [litigant] who had language difficulties and who seemed not entirely to understand the proceedings, [she] displayed skill in letting him say his piece until he had exhausted some of his anger. Then she ruled calmly."

Monitors also were impressed with Judge Taddeo's willingness to involve outside agencies in helping litigants resolve their problems. In one case, she sent for a representative from a substance abuse agency to help a family engaged in a custody battle. In another visitation case, a monitor praised her approach when an unrepresented litigants expressed an interest in having counsel appointed: She halted the proceedings and sent for a public defender. After an "initial interview" between the parties, the public defender, and the respondent's private attorney, "all parties returned and expressed interest in mediation -- all within an hour!"

However, other monitors were quite critical of Judge Taddeo's demeanor and ability to maintain control. Several monitors criticized her for appearing too casual: "This court seems more casual than others -- not smoothly carried out. It did not seem efficient or as effective as other [Family] Courts I have observed." As one monitor commented, "this wasn't the best organized session I have attended." Another monitor concurred, finding "rather loose maintenance of order and control of court proceedings." During a case involving a "contentious couple, [she] had difficulty maintaining order and control of a verbal attack."

Several monitors commented that Judge Taddeo "appeared not involved in matters" and "treated cases as though [they were] routine;" one monitor described her as "looking bored and uninterested." Another monitor felt that she "appeared a bit indifferent to the parties involved." Still another monitor noted that she "speaks clearly, listens well, etc., but I had the impression she was somewhat detached on this particular day." However, the monitor continued, "the trial was a long one . . . so perhaps this was the reason." On one day a monitor found her "quite perfunctory in the manner in which she carried out the proceedings," noting that she simply told two juveniles, "'Okay, you're free to go.' There was no attempt to communicate with them directly about the importance of the judicial process and the need to cooperate with Probation." Some monitors also "did not feel she always explained rulings clearly enough."

Several monitors were very concerned that Judge Taddeo "appears to be bored." Others felt that she "does not have a take-charge manner" and "doesn't show much enthusiasm for the job." One monitor felt strongly that there was "no dignity" in the courtroom, adding that "she has a rather flippant manner about her." Two monitors noted that,

on one day, "she walked into the courtroom carrying a mug and had a styrofoam cup nearby, also, and sipped from time to time. During a short recess, she sat quietly, looking into 'space' as if there was nothing to be done."

One of these monitors felt that, "in general, her affect was bland, and she often supported her head on her hand"; the other noted that "she yawned and at times appeared bored." On a subsequent day, another monitor reported that she "entered the courtroom carrying a glass of water, which is much less offensive than her usual large coffee mug, but which still seems none too professional." Yet another echoed this criticism, remarking, "[I] wish she would not enter court with a cup of coffee in her hand." Instead, they urged, court staff should have water placed at the judge's bench before the courtroom opens.

Monitors were divided on Judge Taddeo's audibility and clarity. Some monitors felt that she "speaks clearly"; according to one monitor, "everyone can hear her." Another noted that she "speaks loud enough, but not always clearly." In observing that "it wasn't easy to hear" her, one monitor reported that even a lawyer asked her to speak up. Several commented that "she speaks very softly." One monitor observed, "Judge Taddeo does not enunciate -- therefore sometimes I do not hear her clearly." During a subsequent observation, this same monitor reported, "I still find [her] difficult to hear."

Overall, however, the monitors felt that Judge Taddeo performed well. She "speaks clearly to everyone," "explains rulings clearly," is "in complete control," and uses "easy-to-understand terms." Several monitors emphasized her demeanor in dealing with young people. For example, she "spoke at length to a juvenile delinquent" and "spoke directly to one [teenager] about not messing up, so [he] could be allowed back into the community." One monitor observed, "She seemed concerned

about youth appearing before her." Another concluded, "She obviously cares greatly about the children who come before her. She's as good as the other judges I have observed -- and that's high praise."

### **Hon. Anthony F. Bonadio**

Hon. Anthony F. Bonadio is a graduate of the University of Rochester and Albany Law School. From 1960 to 1978, he was in private practice. From 1968 to 1972, he was first trial counsel for the Monroe County Department of Social Services, handling all child abuse and neglect cases in Monroe County. From 1976 to 1978 he served as a Monroe County legislator, and in 1979 he was elected to his current position of Family Court Judge on the Republican and Conservative tickets. In 1988, he was reelected to the same position. Judge Bonadio plans to retire from the bench at the end of 1998.

Judge Bonadio was observed by 28 monitors on 36 different days .

Several monitors had high praise for Judge Bonadio's patience and understanding. He "was very patient with a Vietnamese lady who needed explanations;" and "made sure that the Asian parents of a delinquent understood English, and what had transpired during the hearing." In a case involving a hearing-impaired child who needed a sign-language interpreter, a monitor observed, "I was pleased to see the judge so patient during the 'signing.'" Still another reported that he "listened to the parents of an infant -- I was surprised at how much they were allowed to say their feelings." Other monitors pointed out that he "was especially compassionate and concerned when addressing the youth before him." "He is great when children are involved in the courtroom -- I have seen him put them at ease in what could be a threatening situation." Judge Bonadio stresses

to parents the importance of "putting their children first."

However, several monitors expressed concern about Judge Bonadio's demeanor toward litigants. One described his performance as "mechanical," noting that he "demonstrated inconsistent eye contact and spent much of the time reading the related paperwork. There was little feeling of 'connecting' with the litigants."

Many monitors felt that Judge Bonadio did not "appear concerned or compassionate," and several others reported that he seemed impatient and "abrupt" with litigants. "At one point, he seemed to lose patience as a hearing was coming to an end and the litigants continued to confer with their attorneys. He said, 'You can talk with your attorneys later. I've got to get going here.'" In another case, "when a [litigant] asked a question, he responded with, 'Talk with your attorney.' He did not seem to be patient with [litigants] and seemed to want to hurry the proceedings along."

A monitor reported, "As the trial was progressing today, at about 11:55, he said, 'I want this trial over today. No one goes home until it's done.' As one observer commented, "He seems impatient and not willing to put up with any inconvenience in the court proceedings." In a trial involving a young boy, he "wanted an admission of wrongdoing in a short amount of time, but because the boy was not doing this, a trial was recommended." After a recess, "the boy came back and tearfully admitted the gist of the wrongdoing."

Several monitors emphasized their impression that "Judge Bonadio showed little compassion." One recounted a case involved a missing 16-year-old girl; her mother was "distraught" and "in tears." Judge Bonadio responded, "You can have her arrested," which

a monitor found "indifferent" and "totally unsympathetic." On the same day, another monitor observed that he "appeared almost disinterested, commenting, 'I'm judge and I said so.'" Also on the same day, a monitor reported that, when women asked for orders of protection, he responded, "Not today -- see your P.D. [public defender]"

Monitors also remarked that Judge Bonadio "did make light of some situations," and occasionally made "flip" comments. For example, one monitor observed a case in which both parents were incarcerated, and other relatives were petitioning for custody of the child. The judge "took a quick look as they entered the courtroom -- said, 'The whole family's in jail!' I felt the judge was totally lacking in compassion with this family, who were so distressed with the problems of their lives." This same monitor concluded, "I felt Judge Bonadio does not enjoy or find rewarding his job as a Family Court judge. He's overtaxed for sure!"

One monitor expressed concern about Judge Bonadio's approach: "He relies heavily on the lawyers' argument/counter-argument, etc. -- does not control proceedings well, especially in contests." The monitor added, "The judge will not guide proceedings. All is well if the litigants know what they're doing. But if there is a question or confusion, this judge is not going to clear it up." Another commented that he seemed to be "gruffer than most [other judges] when threatening jail if the respondent didn't cooperate. However," the monitor concluded, "the case merited tougher handling."

On the other hand, one observer found Judge Bonadio's approach to be particularly proactive in a case involving a juvenile who needed transport to a facility: "His comment was, 'This mother came to the system for help; now give it to her.'" This monitor also observed

that he "had excellent control of his courtroom. This was the first judge I have observed that has taken time to directly address the juveniles before him."

Monitors generally felt that Judge Bonadio "spoke clearly and audibly." One monitor was able to hear "except when [he] glances downward at his desk." Another reported, "It is difficult to hear the judge when he reads in a fast, low voice." Still another observed, "Judge Bonadio speaks so softly that all I hear is a mumble." This monitor continued, "He speaks as if he is deliberately trying to keep observers from hearing." However, one observer pointed out that "he does not use a mike, which makes it difficult to hear everything he said, but he improved after asking us if we heard."

Finally, several observers praised Judge Bonadio's sense of fairness. He "did particularly well in assuring fairness and impartiality in these cases." One monitor described him as "a very impressive judge," with "outstanding command presence," while another noted that he "has a lovely sense of humor. I am sorry that he is retiring. I believe that it will difficult to find a judge who has his particular combination of qualities."

### **Hon. Joan S. Kohout**

Hon. Joan S. Kohout graduated from Skidmore College and Albany Law School. From 1974 to 1976, she was in private practice. From 1976 to 1980, she served as a staff attorney for the Monroe County Public Defender's Office, and from 1980 to 1988, she was the supervising attorney for the Family Court Section of that office. She received an interim appointment as Monroe County Family Court Judge in June, 1988 by then-Governor Mario M. Cuomo; she was subsequently elected to a full term in November, 1988, on

the Democratic ticket.

Judge Kohout was observed by 29 monitors on 35 different days.

Monitors consistently praised Judge Kohout as "calm," "patient," "considerate," and "firm." They commented frequently on her "concern for the people, especially the children, involved." Judge Kohout was "equally courteous to court personnel and to everyone appearing before her," "never appears hurried" and "takes time to explain." As one monitor stated, she "talked clearly to teenagers but firmly explained the rules." Another monitor confirmed this, observing, "When she speaks to children directly she makes sure they understand what is happening. She also compliments them if they are doing well." Yet another monitor noted, "She especially took pains to explain to a 'PINS child' his rights." In another PINS case, a monitor noted that "she addressed the young man and his mother directly, asking for suggestions to deal with the problem. She also made concrete suggestions." The monitor added, "The judge spelled out guideline rules for the young man in a straightforward, non-emotional way." As another monitor put it, "When dealing with youth, she was patient, considerate and gave them voice."

Monitors also consistently praised Judge Kohout's sense of fairness in dealing with litigants. "One had the impression she tried to make the right decision, even though each case presented many complex problems." "She was scrupulous in preserving every party's rights, even those who were absent." While she "made it clear she could not take sides," she ensured that the rights of all parties were observed, in one case "insist[ing] that a father, accused of a serious abuse charge, get counsel, explaining that anything he said could be used against him later in criminal court." She postponed another case "because she felt the

respondent . . . did not know enough English to follow the proceedings well. She said she would obtain a Spanish-speaking attorney." However, in a different case involving a Spanish-speaking litigant, a monitor reported that "she seemed a little bit impatient" when the litigant "only nodded. 'You have to speak to me,' she said. When the woman continued to nod her head, the judge didn't push further," despite the fact that litigants are required to respond audibly for the record.

In one case Judge Kohout "showed a high level of compassion toward a mentally ill woman whose family was filing an order of protection against her. She allowed the woman to express her feelings while applying the law fairly." Judge Kohout "tries very hard to explain to the people before her that by law she cannot always help them get the answers and solutions they want." As one monitor reported, "When she dismissed a petition, she explained fully the laws involved and why, with the evidence presented, the case was dismissed," and told the losing litigant what "her options" were.

Judge Kohout was also commended for being "flexible" in trying to accommodate litigants' employment schedules, asking "when it is convenient for people to come back." And she "addressed all participants by name, acknowledging those who were there (but not 'on stage') by name and relation to [the litigant]."

Monitors praised Judge Kohout's control of her courtroom: "Especially good was her combination of firmness and patience," noted one, while another observed that she "demonstrated quiet strength and good eye contact." This monitor reported that "when a father became angry and agitated, she was firm and calm . . . thus maintaining good control." Another monitor observed, "She made herself very clear without employing a scolding tone of voice."

In a case involving an "estranged couple [who] were very hostile to each other"; Judge Kohout "did not allow them to argue in court. She controlled a volatile situation very well." In a PINS case involving a teenage girl who monitors described as "out of control," noting that she "became violent" in the courtroom and that it "took 4-5 deputies to restrain her"; Judge Kohout saw to it that "order was maintained even under difficult circumstances." In one case, however, a monitor expressed concern that the judge appeared to be falling asleep: "The judge almost dozed off on the bench during a trial." The monitor added that her "eyes [were] heavy" and her "head nodding."

Finally, monitors commended Judge Kohout's willingness to explain proceedings to them. She "was very aware we were in the courtroom," and during recess, she "asked us if we had any questions." "Judge Kohout acknowledged the presence of the observer and invited questions and discussion of the court process." After speaking with her, one monitor reported that "Judge Kohout feels the new judicial hearing officers will not solve all the problems," since litigants now may have to split their time between the second and third floors of the courthouse, which may cause "extra confusion."

Most monitors were able to hear Judge Kohout clearly, although "there were times when she lowered her voice, and it was difficult to hear her." She is "very soft-spoken, but her demeanor engenders a calmness in her courtroom not found in all courts." Concluded one monitor, "For the first time, I could hear all the proceedings, as she speaks clearly and audibly and expects all to do so."

### **Hon. Michael J. Miller**

Hon. Michael J. Miller is a graduate of Syracuse University and Syracuse University

College of Law. From 1974 to 1989, he served as a Councilman for the Town of Brighton, and from 1986 to 1988, he served as Chair of the Monroe County Democratic Party.

In 1990, Judge Miller received an interim appointment as Monroe County Family Court Judge by then-Governor Mario M. Cuomo, and was subsequently elected to a full term on the Democratic and Conservative tickets.

Judge Miller was observed by 29 monitors on 39 different days.

Monitors consistently described Judge Miller as "patient," "respectful," "firm," and "fair." Judge Miller also got high marks for his demeanor in addressing litigants. One monitor, who described him as "fatherly," commented, "In my opinion, Judge Miller is the most compassionate, considerate judge I have ever observed," adding, "he lets them know he cares." Others noted that he "enters the courtroom with a smile for everyone," and "everyone in his courtroom is treated with respect." Monitors were "impressed by his courtesy, thanking respondents for coming to court." He "expressed gratitude to those who gave support to victims;" and was "very supportive of all the [litigants] regardless of their circumstances."

Monitors were "very impressed by his sincere manner with young people. He is firm, but is concerned about their welfare." They also were "pleased to hear him strongly recommend the PEACE [Parent Education and Custody Effectiveness] program several times and explain it well each time." Judge Miller "tries to do the best for the child;" in fact, according to one monitor, "it is apparent that the child before him is viewed as his own. He tries everything to save these young lives." This was echoed by another monitor, who felt that he "acts as if the child standing before him is a family member." He "always spoke directly to children," and he "tries to fit all the many pieces

together to come up with a reasonable disposition which is in the best interest of the children."

One monitor described a PINS case involving a child who was a student at the School of Arts. Judge Miller discovered that the child studied drawing. After praising the child's ability, Judge Miller asked, "Would you please draw something for me, and I will hang it in my chambers?" The monitor reported that the child "was all smiles and waved to the judge as he left." Another monitor commended Judge Miller for going "out of his way to facilitate attendance at schools," and observed that he was "also personally clearly touched by the adoption of an 11-year-old boy by a neighbor who had been caring for the child after his parents' death and grandmother's illness."

Judge Miller was praised for his handling of the teenagers who appeared before him. He "especially tries to break through the barriers with the teenagers" and he "recognized the teenagers, rather than speaking just to the law guardians." Judge Miller "talked directly to" teenagers, and "explained his decisions to them." As one monitor observed, he "spoke to the young man in a respectful way, not talking down to him." In one case, monitors reported that he congratulated a teenager, said he was "so proud of him," and "asked the deputy to present him with a sweatshirt the judge had brought"; this was a "high point for the entire courtroom!" Judge Miller "has a personal pride in many of the youth who appear before him, and is intensely interested in their welfare and future."

One monitor did appear to be mildly surprised at the bluntness of Judge Miller's language in dealing with juveniles: He told one, "You don't seem to give a damn," and told another, "You'll end up either dead or in prison . . . . You're not doing a damn thing with it." However, another noted that although Judge

Miller became a bit irate at a juvenile's attitude, "I could understand why."

Monitors described Judge Miller as "inherently fair" in his rulings and were "very impressed with the speed and efficiency with which he dispatched his cases -- without sacrificing fairness, and allowing all to speak." He "treats individuals as individuals" and "preserves the rights of all parties at all times." Judge Miller "gave adequate time and opportunity for [litigants] to consider options and their ramifications," explaining complicated issues such as DNA testing in great detail.

Judge Miller "does an excellent job with the complex, emotionally-charged cases that come before him." As one monitor concluded, "I am much impressed with Judge Miller . . . he really connects with the people in his court, eye to eye, and explains in simple ways what is happening and what they are agreeing to." This monitor added that Judge Miller "always explains why he cannot necessarily do what the petitioner wants." Only one monitor expressed specific criticism in this regard, reporting that, with requests for orders of protection, he "sometimes did not look at the woman," but appeared simply to go "through a legal ritual . . . . Although courteous, it was a very 'pro forma' exercise."

Monitors reported that Judge Miller was, "clear and audible." They also noted that he "always announces the number of the case clearly," and identifies "all the persons present," "including clients, witnesses, attorneys, and legal representatives." Monitors also observed that he "spoke to each [litigant] by name, including family members, [and] called attorneys by name."

On the whole, monitors had consistently high praise for Judge Miller's performance, describing him as "a great role model" and "an outstanding judge." In one case Judge Miller "took it upon himself to ask the deputy to look

into why a woman did not show up. She had been severely beaten once and he feared she was harmed again." Throughout busy days in court Judge Miller "continues to impress with his kindness and consideration of those before him." As one monitor stated, "It was a pleasure to observe in his courtroom," and another concluded, "Judge Miller was just perfect in all aspects."

### **Hon. Anthony J. Sciolino**

Hon. Anthony J. Sciolino graduated from Columbia College and Cornell Law School. From 1972 to 1976, he was an Assistant District Attorney for Monroe County, and from 1979 to 1986, he served as a member of the Rochester City Council. He was first elected to the Monroe County Family Court bench in 1987 as a Republican, and was reelected in 1996.

Judge Sciolino was observed by 27 monitors on 34 different days.

Monitors generally found Judge Sciolino to be "patient," "considerate," "supportive" and "compassionate." He "spoke clearly and firmly, yet in a gentle manner, showing caring and respect," and was "especially good at explaining rulings clearly. He waits for the person to respond positively that they understand . . . . He appears especially patient and considerate and shows respect for all. He is firm and remains in control, however." As one monitor put it, Judge Sciolino is "patient and never hurries," and he "talks to litigants with dignity and empathy."

Judge Sciolino "gave thorough, understandable explanations." He was described by monitors as "concerned but firm," "patient," "supportive and encouraging to petitioners and respondents" and "at times,

'fatherly.'" One monitor stated that "in all cases he was kind, concerned, compassionate but firm and strict as needed, but treated [litigants] all with respect and dignity." Echoing this, another monitor noted that Judge Sciolino "is very compassionate. He listens very intently, asks questions and makes sure all parties understand what is happening. He is very 'fatherly' and speaks very slowly, clearly, and points out the problems the parties could face."

Judge Sciolino "was very direct in explaining to both petitioners and respondents what their responsibilities were in working out some of the issues." One monitor observed, "He allowed adequate time for all parties, especially when many members of a family were involved." Another concluded, "It is always a pleasure to be in Judge Sciolino's courtroom. He is respectful of [everyone] involved, explains in language everyone with average intelligence can understand, is patient, yet knows how to 'cut through' the extra embellishment some respondents use."

Monitors also praised Judge Sciolino's approach in cases involving children. He "is genuinely concerned about the children" and "explains everything to children especially . . . thoroughly." He "cares about the children -- talks to them -- encourages them -- praises good reports from agencies." As one monitor put it, he "was very patient and considerate of each child brought before him."

In juvenile delinquency cases, Judge Sciolino "talked directly to the [respondents] and required responses from them." A monitor commented, "I liked the way in which he talked to the juveniles about their responsibility, the implications of their offenses, and the possible outcome."

Several monitors confirmed Judge Sciolino's dedication to the best interests of children, observing, "as children appear before

him he talks with the child about the child's responsibility for his or her behavior. He also talks with parents about their responsibility for the child. He practices tough love." Judge Sciolino was found to have "a very concerned and sympathetic approach to young people in court. He spoke to them kindly, encouraging them to follow rules and congratulating those who had successfully participated in court-appointed programs." In PINS cases, he "listened to the children, praised them for behaving, and explained rulings." Monitors also reported that he urged parents to obtain counseling, both for themselves and for their children. They noted that he "lectured parents on the responsibilities of parenting and strongly urged them to enroll in the PEACE program;" "he also complimented couples who were cooperative and flexible in arranging visitation schedules."

A number of monitors observed one case involving three children, who Judge Sciolino planned to interview privately in his chambers, without the warring parents present. One noted, "I was particularly impressed by his strong statement to adversarial parents about their responsibility to respect their children's rights and the privacy of his forthcoming session with them." Another added, "Judge Sciolino has developed a handout for parents going through divorce -- excellent!" "He is very concerned about the children he sees every day in court," this monitor concluded.

Some monitors observed proceedings on "Bring Your Child to Work Day," and noted that "several children attended court" with their attorney parents. "Judge Sciolino took a few minutes to explain Family Court and answer their questions. It was well done."

Monitors also commended Judge Sciolino's handling of adult litigants. He was "very patient with a gentleman who obviously was intellectually impaired -- he rephrased his questions until the man understood what he was asking." In one case, the judge "congratulated"

a woman who had remained drug-free for three months. "He was very supportive of her efforts." In another case, Judge Sciolino "was especially considerate of a young father."

Several monitors observed a case involving a "disturbed" woman "whose infant child was taken from her permanently by court order. [Judge Sciolino] listened, gave her time to argue, but was compassionately firm with her." In another case, he "handled a near-violent incident with quiet efficiency." And in a case in which the respondent "indicated he thought about committing suicide," Judge Sciolino "talked at length with him and in depth, which had a calming effect on the young man."

A monitor reported that Judge Sciolino "was especially effective with an overheated [respondent] who represented himself and insisted on speechifying. The judge warned: 'Don't use your size to intimidate people. The [respondent] replied, 'Don't I get a chance to speak? This is all bull. You're telling me how to behave?' Judge Sciolino then remarked, 'Just relax, Don't raise your voice. I'd hate to see you when you're excited.'"

Some monitors did criticize Judge Sciolino's demeanor in dealing with litigants. "At times he was impatient" and "made sarcastic remarks." Monitors noted that Judge Sciolino sometimes "editorialized," as when he commented to one set of adversarial parents that "peace negotiations with Vietnam were easier."

Overall, monitors praised Judge Sciolino's performance. "He seemed to care" and was committed to doing "the best he can." As one monitor concluded, his "courtroom was run in an exemplary manner."

## V. HEARING EXAMINERS

Following are the monitors' evaluations of each hearing examiner in the Monroe County Family Court. As in their review of the judges, monitors focused on qualities such as demeanor, attitude, efficiency, and ability to maintain control of the proceedings. Hearing examiners are listed alphabetically by last name.

### **Margaret M. Boldt, Esq.**

Ms. Boldt graduated from St. John Fisher College and Duquesne University School of Law. From 1983 to 1994, she was a staff attorney and assistant law guardian with the Legal Aid Society of Rochester, and from 1994 to 1998, she served as a Deputy County Attorney in the Children's Services Unit of the Monroe County Law Department. In January, 1998, she was appointed as a hearing examiner in the Monroe County Family Court by the Chief Administrative Judge of the State of New York

Ms. Boldt was observed by 20 monitors on 20 different days.

Monitors described her as "friendly," "respectful," and "courteous" to litigants, noting that she "spoke clearly in plain, understandable English." She "was relaxed and maintained a friendly, respectful tone in spite of a heavy calendar," and was commended for having "good eye contact and a caring, patient attitude." Ms. Boldt "never appeared to be condescending." In two "difficult cases where the respondents were hostile verbally, she conducted proceedings with dignity, compassion, and respect for all

parties." As one observer put it, "She runs a tight ship. She is friendly, respectful, and gives an air of efficiency while being very patient and considerate." Monitors did note, however, that "she could speak more clearly in stating the case and the names of the people present."

Monitors were especially impressed with her willingness to accommodate employment schedules so that litigants "would not need to lose more time from work." Ms. Boldt "always asked if employment was a problem with getting to court," adding that she "tried to work around the [litigant's] schedule. She also staggers the times cases are scheduled so that all litigants don't arrive at 9:00 AM.

In addition, Ms. Boldt earned high marks for sharing "child support payment charts with the respondents." One monitor added, "I'm not sure if everyone does this, but I do think it's a good idea for them to have a copy." Another monitor noted that she explained the paternity testing "procedure and payment policy carefully."

Monitors were also pleased to hear her "thank parties at the end of each case." Ms. Boldt's "courtroom was dignified and professional at all times." "Her courtroom was very much in order throughout the day." As one monitor concluded, "She does a good job."

**Ruben M. Garcia, Esq.**

Mr. Garcia did not respond to Modern Courts' request for biographical data.

Mr. Garcia was observed 21 times by 21 different monitors.

Several monitors felt that Mr. Garcia "appeared rushed" and "frustrated." He "kept pointing to the number of files he had to process and pushed to complete each case." Indeed, Mr. Garcia remarked to one monitor "about bureaucracy and passing the buck to him"; this monitor felt that Mr. Garcia was "impatient with petitioners." Nevertheless, other monitors described Mr. Garcia as "a very compassionate person," "extremely patient," and "extremely considerate."

Two monitors, however, felt strongly that Mr. Garcia should keep more to the point. "He has a slight tendency to lecture people on their failings," which the monitor found "not very effective." Describing him as an "interminable talker," another found it very inappropriate that Mr. Garcia "extolled the military experiences of his son" in the Gulf War for a full ten to fifteen minutes during open court.

Monitors recommended that Mr. Garcia "speak more slowly and articulate more clearly in order to make himself better understood." Nonetheless, monitors noted that he "explained in detail" what was happening during proceedings, and "he made sure he was understood."

**Diana M. Irizarry, Esq.**

Ms. Irizarry graduated from Wesleyan University in Middletown, Connecticut, and Antioch School of Law in Washington, D.C. From 1979 to 1980, she worked for Monroe County Legal Assistance Corporation, and from 1981 to 1987, she worked for the Legal Aid Society of Rochester, Inc. From 1987 to 1991, she served as Ombudsman and Legal Representative of the New York State Division for Youth. In 1991, Ms. Irizarry was appointed by the New York State Worker's Compensation Board as an Administrative Law Judge, a position she held until 1995. In 1995, the Chief Administrative Judge of the State of New York appointed her to her current position as hearing examiner for the Monroe County Family Court; in 1998, she was reappointed to a second three-year term.

Ms. Irizarry was observed by 18 monitors on 16 different days.

Monitors consistently described Ms. Irizarry as "efficient," "no-nonsense," "very clear," and "in charge." Overall, they also found her to be "patient," "knowledgeable," and "a very good listener."

Monitors praised Ms. Irizarry for keeping proceedings "to the point" to prevent parties from arguing with each other. However, Ms. Irizarry "recognizes that she can sometimes appear abrupt," one monitor noted. Another monitor felt that her method was "'pro forma' and didn't make for any change in the parties' behavior." This monitor felt that "her formal, cut-and-dried approach cut off communication."

Monitors gave Ms. Irizarry high marks for maintaining audibility by "repeatedly asking respondents to speak up," since the proceedings were recorded. However, noting that she concluded each case by saying,

"You're off," or "We're off" (referring to the taped record), one monitor observed that this "was not explained to litigants, and seemed to confuse them." Another monitor reported that Ms. Irizarry referred to every female litigant as "Miss," which the monitor found "strange and impersonal."

### **Roy H. Lockwood, Esq.**

Mr. Lockwood is a graduate of Dickinson University and American University School of Law. From 1975 to 1980, he served as a part-time arbitrator for the American Arbitration Association in New York. In 1975, he was appointed for a one-year term as a part-time hearing examiner by then-Family Court Judge Donald J. Corbett, Jr. In 1985, Mr. Lockwood was appointed to his current position as hearing examiner in the Monroe County Family Court by the Chief Administrative Judge of the State of New York.

Mr. Lockwood was observed by 17 monitors on 16 different days.

Most monitors found Mr. Lockwood to be very patient with litigants. Despite a large docket, "each case was handled timely and professionally. At no time did he rush anyone."

As one monitor observed, "As I looked over the docket, he had 74 cases in the morning . . . and he was still patient with the afternoon litigants." However, one monitor noted, "I do not feel that he has a compassionate or concerned demeanor. He seems burned out." Another reported that he "demonstrated very little eye contact with the [litigants]. He appeared to be totally engrossed in his paperwork throughout the morning."

Monitors gave Mr. Lockwood high marks for his detailed explanations to litigants. "He was especially thorough in explaining (several times) the limits of his jurisdiction." Mr.

Lockwood "makes it clear what he can and can't deal with, legally." He also referred litigants "to appropriate offices and then had them return to his room so that their business was completed in a single morning."

## VI. JUDICIAL HEARING OFFICERS

Following are the monitors' evaluations of each judicial hearing officer (JHO) in the Monroe County Family Court. As with their observations of the judges and hearing examiners, monitors focused on such qualities as demeanor, attitude, efficiency, and ability to maintain control of the proceedings. Judicial hearing officers are listed alphabetically by last name. Because judicial hearing officers are former or retired judges, the title "Judge" is used to refer to each JHO in this section.

### Hon. Leonard E. Maas

Hon. Leonard E. Maas graduated from the University of Rochester and from Syracuse University College of Law, where he was a Contributing Editor to the *Syracuse Law Review*. From 1953 to 1981, he was a partner at Maas, Weinstein, Hutchings & Vullo in Rochester. He was first elected to the post of Monroe County Family Court judge in 1981, and from 1988 to 1991, he served as supervising Judge of the Monroe County Family Court. After retiring from service as a full-time judge, he was appointed a judicial hearing officer by the Chief Administrative Judge of the State of New York. Among other current professional activities, Judge Maas is a member of the Chief Judge's Permanent Commission on Justice for Children and a member of OCA's Family Court Advisory and Rules Committee. He also has engaged in a significant number of professional activities and associations in the past: He was President of the Monroe County Bar Association in 1978, a member of the New

York State Bar Association's House of Delegates from 1978 to 1983, and Chair-man of the New York State Bar Association Civil

Rights Committee from 1962 to 1963.

Judge Maas was observed by nine monitors on seven different days. Several monitors praised Judge Maas's performance, describing him as "courteous," "unhurried with the litigants," "not threatening," and "very gentlemanly." "Businesslike" and "no-nonsense," he "did an excellent job of running the court" and was described by one monitor as "above average." In one case, he was commended for "listen[ing] to the child" and "prais[ing] her for behaving." Monitors also reported that Judge Maas consistently "opened court punctually" and "gave reasons for delays."

However, one monitor felt that Judge Maas performs his duties in "an impersonal manner." The monitor noted that "he does not introduce himself by name, eliminates greetings such as 'Good morning,' and does not indicate that he is a retired judge functioning as a [judicial hearing officer]." Another monitor, while acknowledging that Judge Maas "uses court times effectively," also thought he "seems a little impatient when the flow of cases is interrupted." One monitor felt that Judge Maas was ineffective "in moving cases along," noting that "every single case" on that day was adjourned "to be handled by Judge Taddeo at a future date." However, in a response to a draft copy of this report, Judge Maas noted that, on the day in question, he had substituted for Judge Taddeo, who was attending a meeting related to her duties as Supervising Judge; all cases were adjourned because they involved questions regarding the authority of a JHO to preside over the case.

### Hon. Paul I. Miles

Hon. Paul I. Miles is a graduate of the University of Buffalo and the University of Buffalo College of Law. He also attended graduate school at the University of Buffalo, majoring in philosophy. From 1950 to 1978, Judge Miles was in private practice, and from 1953 to 1976, he also served as a part-time village justice in Medina, New York. From 1976 to 1976, he was the Orleans County Attorney, and in 1978 he was appointed by then-Governor Hugh Carey as a County Court Judge in Orleans County. In 1978, he was elected to the same post on the Republican line, and was reelected in 1988. In 1990, Judge Miles was appointed by the Chief Administrative Judge of the State of New York to his current position as a judicial hearing officer in the Monroe County Family Court, and subsequently has been reappointed every two years. Judge Miles also participates in various other community activities: He is a member of the Medina Memorial Hospital Board, the Genesee Community College Foundation Board, and the Lakeside Hospital Board; he is President of the Albion Rotary Club; and he is a warden at St. Paul's Episcopal Cathedral in Buffalo.

Judge Miles was observed 29 times on 24 different days.

The monitors found Judge Miles to be "good in all respects" and "a very good judge": "He is very fair, listens well, has a sense of humor that serves him well. I could not find a fault with him or his court." Monitors praised his approach to litigants, noting that he "stressed the need for the parties to talk in several cases: lawyer to lawyer, petitioner to respondent." This approach benefited one couple who, although initially planning to go to trial over custody, agreed to go to the Center for Dispute Settlement instead.

Monitors reported that Judge Miles "speaks clearly and audibly," "tends to speak plainly, slowly and patiently," and uses "clear and easy-to-understand language." He appeared "involved with participants," "showed great concern for these families," and "seemed very interested in the welfare of children." "He stresses that he is there to help determine the best interests of the children." One monitor reported that, in deciding a custody petition, he "left no stones unturned" in questioning the child's father.

While noting that he "still shows respect for everyone," some monitors reported that "he shows signs of impatience." He "seemed to hurry through some cases. He told one of the respondents, 'We don't have much time; we have a busy courtroom.' Though he did explain his rulings, when he had to repeat them his voice indicated impatience and annoyance." As a result, "the atmosphere in the courtroom seemed to suggest that the parties involved in the cases were not worth spending a lot of time on." One monitor reported that, "after talking to the [litigants] briefly, he said he couldn't spend any more time with them. They seemed to be asking legitimate questions."

On one occasion, Judge Miles became angry with a respondent who wanted a different lawyer, saying, "'You are going to have him [the respondent's current lawyer]; I will not permit wasting of taxpayers' money!'" A monitor added that he "went on about having been a judge for 28 years." Although Judge Miles was normally calm, on one day he "flared out" on three occasions, becoming upset at 4:15 PM "because he likes to leave at 4:30." Monitors pointed out that Judge Miles had an extensive backlog: On one day, his total pending caseload was 610 cases; on another, it was 602. According to one monitor, he "appears to be more of a paper-shuffler than a case disposer. Everything -- all 30 cases -- were adjourned without any effective action being taken, although there were many opportunities to dispose of cases."

Judge Miles received high marks for his willingness to explain proceedings to two high school students who were observing in court one day.

### **Hon. Glen R. Morton**

Hon. Glenn R. Morton graduated from the National Judicial College at the University of Nevada, the University of Buffalo College of Law, and the United States School of Naval Justice. His Juris Doctor was retroactively conferred in 1968. From 1967 to 1996, Judge Morton served as both County Court Judge and Surrogate for Genesee County. First elected in 1967, he was reelected in 1977 and 1987 on the Republican ticket. In 1996, he was appointed by Governor George Pataki as Supreme Court justice in the Eighth Judicial District, and in 1998, he was appointed by the Chief Administrative Judge of the State of New York to his current position as judicial hearing officer in the Monroe County Family Court.

Judge Morton was observed by 19 monitors on 12 different days.

Monitors consistently found Judge Morton to be "patient," "respectful," and clear in his explanations. One monitor described him as "human and kind, yet firm and fair," adding that "he appears to be a thinker who gives every benefit of the doubt to both parties."

Monitors praised Judge Morton's ability to deal with litigants in difficult situations. "He was especially convincing when he told one [respondent] that the purpose of the court was not to punish, but to see the behavior 'does not happen again.'" He told one litigant, "You're not paying attention. You're probably going to have a hearing whether you like it or not." The monitor who observed this added, "He was able to say this in a calm fashion without 'losing his cool.'"

Monitors reported that Judge Morton "handled each case with full attention and concern," and was "willing to take all necessary time to resolve disputes and bring cases to a satisfactory conclusion." He tries hard to get the parties to reach an agreement; a monitor described his style as "exceptionally good." Another monitor commended his handling of a "walk-in" petitioner who was visibly upset as sought a temporary order of protection. Judge Morton sat her "next to the bench, which made for a more personal and quiet contact" than simply seating her "in the middle of the courtroom."

However, some monitors felt that Judge Morton "could have done a better job in explaining allegations in several cases and explaining rulings." According to one monitor, he sometimes used "legal terms" that litigants "did not always understand." And while one monitor found that he "appeared to be very competent [and] was easy to understand, he showed little personality." The monitor asked "Was he bored?" However, this monitor noted that Judge Morton "did do a very thoughtful thing, running past 12:00 in order to accommodate parents who had their children with them."

While some monitors found Judge Morton's voice to be clear and audible, several described him as "soft-spoken" and had difficulty hearing him at times. One monitor reported that, during the first five cases on the calendar, the litigants "told the judge they couldn't hear." Another observed that "he had a tendency to lower his head and review notes while speaking. He also often raised his hand to his face as he spoke." When speaking directly to litigants, he sometimes turned his body toward them and then "would lower his voice to a conversational level." Several monitors suggested that Judge Morton use a microphone.

### **Hon. Maurice E. Strobridge**

Hon. Maurice E. Strobridge graduated from Syracuse University and Albany Law School. Judge Strobridge began his legal career in private practice with the law firm of Nixon, Hargrave, Devans & Doyle in Rochester, and eventually joined a colleague in private practice in Newark. In the 1960s, then-Governor Nelson Rockefeller appointed him as Wayne County District Attorney, and he was subsequently elected to a full term in that position. In 1986, Judge Strobridge was elected on the Republican ticket as a County Court Judge in Wayne County, a post he held until 1995, when he retired; as County Court Judge, he also served as Acting Supreme Court Justice for the Seventh Judicial District. In 1996, he was appointed by the Chief Administrative Judge of the State of New York to his current position as judicial hearing officer:

Judge Strobridge serves as a judicial hearing officer both for Supreme Court and for Family Court in Monroe, Ontario, Wayne, Yates, and occasionally Steuben Counties, as well as for the New York State Retirement Systems.

Judge Strobridge was observed by 17 monitors on 16 different days.

Monitors found Judge Strobridge to be "friendly," "relaxed," and "compassionate." They described him as "an ideal judge. He displayed all of the attributes that you would expect from someone in this position." "He makes everyone feel at ease. He is a good listener and also shows much compassion." He "runs a 'tight ship' with patience, clarity, calmness, politeness and dignity." In two instances where litigants were abrasive and rude, "[he] was able to keep order in a quiet, firm fashion." As one monitor commented, "He is a superb Judicial Hearing Officer."

However, one monitor felt that he "did not seem to be as concerned about the children as other judges," and was also concerned that

"he did not suggest any kind of counseling some of these couples obviously needed. Perhaps that is not his role . . . but I felt some advice might have helped."

Judge Strobridge generally "explained rulings clearly and repeated to make sure they were understood" and he "explained procedures well"; one observer characterized his efforts as "superb." However, some monitors were concerned that he still was not clear enough. One noted that, because the judges and hearing examiners are so familiar with the legal terms, "I think that it is hard for them to understand how some of the litigants have difficulty coping with what they are being told." Another felt that "orders of protection could have been explained more thoroughly," and noted that although "the term 'refrain from criminal activity' was used," it was "not always explained."

Other monitors expressed concern about Judge Strobridge's approach to orders of protection generally. One monitor contended that litigants "had to insist that they be protected." Two others witnessed a case involving a child with urgent medical needs, and reported that it seemed that Judge Strobridge "was not aware of the importance of getting the medical care and the medical card from the father." Both monitors later spoke with Judge Strobridge, and discovered that he had not been given information regarding how ill the child actually was. They suggested that he amend the order to include a command to provide the medical card, and they reported that he "took the suggestion readily," and had the order issued that same day. In a written response to a draft copy of this report, Judge Strobridge noted that before an order of protection can be granted, a petitioner must show "good cause." He added that, in those "few cases" where a petitioner has not been able to make such a showing, he tries to explain the reasons why he is unable to grant the order of protection.

However, other monitors praised Judge Strobridge's approach. For example, during his "gentle questioning" of a "walk-in" petitioner seeking an order of protection, the woman mentioned that she saw her alleged abuser in the building. Judge Strobridge "asked if she would like to be escorted out of the building," which she accepted. Another monitor noted that the orders of protection were available in "10 to 15 minutes."

## VI. ATTORNEYS

During the course of the project, monitors observed a variety of attorneys at work in Family Court, including law guardians, court-appointed attorneys, deputy county attorneys, assistant district attorneys, and attorneys in private practice. Overall, the attorneys received high praise for their efforts to provide proper representation under extremely difficult circumstances. As one monitor noted, "Family Court is a circus for attorneys . . . . We are fortunate in having such attorneys." However, as will be discussed later in this report, attorneys were frequently late or inadequately prepared, resulting in lengthy delays and a disproportionately high number of adjournments. In evaluating all of the attorneys, both public and private, who appear in Family Court, the monitors had two specific and consistent criticisms. While addressing the court, many did not speak loudly enough, or spoke too quickly to be understood. When not involved in a case, the attorneys then engaged in loud personal conversations at the back of the courtroom.

### Law Guardians

Under Section 249 of the New York State Family Court Act, the court "shall appoint a law guardian to represent a minor . . . if independent legal representation is not available to the child. In Monroe County, a law guardian supplied by Legal Aid is assigned to each courtroom. If an assigned law guardian has a conflict of interest, another is appointed from a panel of lawyers who have been approved by the Appellate Division, Fourth Department.

By protecting the legal rights of children, law guardians play an essential role in Family Court proceedings. Monitors were

generally impressed with the law guardians they observed in Monroe County Family Court, describing them as "well-prepared," "very knowledgeable about their cases," and "very good in representing the child's interests." One law guardian was described as "in tune with the youth" he represented; another "does a terrific job" and "puts the kids at ease." Singled out for their exceptional performance were Carol Eisenman, Edward Orlando, John Rivoli, Donald Scardino, and Brian Strait.

However, monitors did have some criticism of the law guardians. Several were faulted for conducting personal conversations in the back of the courtroom while other cases were being heard. Monitors also disapproved of a seeming lack of professionalism in the courtroom demeanor of one attorney: "He does not speak directly to the judge at the bench. When speaking to his client, his gaze is down or to the side." Of this same attorney, another observed, "I was somewhat surprised to notice that [his] jacket did not match his trousers. I had expected more from attorneys while in a courtroom."

Finally, a monitor objected to one law guardian's tactics, reporting that he "made a recommendation which was a 'dirty trick'." In a case involving a child who preferred to stay in a foster home, rather than to return to his own home, the law guardian suggested that the court simply transfer the child to yet another foster home, in order to make his own home seem more attractive. The monitor noted that the judge rejected the suggestion.

Overall, however, monitors were impressed with the law guardians' work. As a whole, they "were particularly articulate and on top of their cases." As one monitor concluded, "Law guardians do good work for the children."

### **Other Assigned Counsel**

Under Section 262 of the Family Court Act, indigent adult respondents are entitled to counsel in cases involving paternity, custody, visitation, family offenses, and termination of parental rights, in foster care and child protective proceedings, and in cases in which a citation for contempt of court is sought. In addition, indigent adult petitioners are entitled to assigned counsel in cases involving custody, visitation, or family offenses. The Assigned Counsel program is administered by the County of Monroe, and many of these attorneys are from the Monroe County Public Defender's Office and the Legal Aid Society. In addition, some attorneys are appointed by the court from a list approved by the Appellate Division.

### **Office of the Public Defender**

The Family Court Bureau of the Monroe County Public Defender's Office represents indigent litigants in a wide variety of Family court proceedings. Public defenders may be assigned to represent respondents in paternity actions, in child abuse and neglect cases, in custody and visitation cases, in support violation matters, in guardianship matters, and in contempt actions. They provide counsel to petitioners in revocation of guardianship proceedings, and in custody and visitation cases where the petitioner is the natural parent. They represent petitioners and respondents in family offense proceedings and writs of habeas corpus. Finally, public defenders represent parents in cases involving termination of parental rights, and natural parents in adoption and foster care cases. When a public defender is assigned to represent a litigant in Family Court, that public defender will continue to represent the client through any appeal.

As a general matter, monitors felt that the attorneys representing indigent litigants in Family Court performed extraordinarily well in the face of onerous conditions. As one monitor put it, "Public defenders amaze me. They are handed cases and are expected to represent people with a few minutes' consultation. They seem to do a good job with what they have." Another added, "The attorneys try issues by the seat of their pants, after a short conference with the client." After observing a case in which the public defender had just been assigned, a monitor asked, "How adequately can a client get legal representation after 20-30 minute conferences in the hall with attorneys?"

Monitors recounted numerous instances in which public defenders were required to represent clients on little or no notice. On one occasion, the assigned public defender was ill and another attorney substituted; as a result, "she was not informed regarding the cases, and under the circumstances, did a good job." In another instance an attorney who was "literally 'pulled in' for a case said, 'I need roller skates. I'm covering three courtrooms!'" Certain attorneys received special praise, including Pamela Bayer, Kathleen Detwiler, Tamara Guglin, and Brian Wirley.

The monitors' main criticism was not that the quality of the attorneys' performance is inadequate, but rather, that they are simply stretched far too thin to represent their clients effectively. For example, a monitor noted that on one day, "nine of the twelve cases we heard had to be adjourned because either the public defender wasn't prepared and needed more time or the law guardian hadn't had a chance to talk with one of the parents."

Another monitor described the following scenario, noting that it is a common occurrence in Family Court:

9:00 AM: 6 cases scheduled -- no activity in the courtroom. 9:35 AM: The

deputy indicates the wait is for attorneys. One attorney is meeting with a client; the deputy asks him to see another client at the same time.

Client B waits. 10:15 AM: The law guardian can't respond -- hasn't looked at the papers.

10:27 AM: Waiting for [a law guardian].

10:40 AM: The deputy says, 'Judge, we can't find [the public defender].' Also missing a law guardian's report.

Monitors repeatedly observed some variation on this situation, noting that court-appointed attorneys have too many clients assigned to them, are expected to be in too many courtrooms simultaneously, and have too little opportunity to meet their clients, much less to become familiar with their cases.

### **Government Attorneys**

Attorneys from the Monroe County Attorney's Office represent the Monroe County Department of Social Services, or the County generally, in a variety of cases: child abuse and neglect; foster care; juvenile delinquency; PINS; termination of parental rights; and child support and paternity cases where the children involved receive public assistance. Deputy county attorneys also may represent petitioners in child support and paternity cases.

Generally, monitors found that the deputy county attorneys did a good job; some were especially impressed with Deborah Owlett, David Van Varick, and Scott Westervelt.

A monitor described one deputy county attorney as "very pleasant to all concerned" and "periodically, appropriately humorous." The monitor added that he "explained in detail how the amount of the support payment was determined." Another described him as "respectful," noting that he "doesn't preach," and "gives everyone as much of a break financially

as possible." Another deputy county attorney was described as having a "warm personality," and as being "very patient and considerate" and "respectful." Monitors observed that he "often explained the mathematics of the support orders," and one monitor added, "He even explained some decisions to me when the parties were not present." However, one monitor felt that he "had a very hard-nosed, aggressive attitude in getting all he could for the county." This monitor noted that one "respondent became angry and upset when he couldn't get a specific answer" from the attorney regarding how to prove disability.

One deputy county attorney consistently received high praise from monitors.

In describing her work in Hearing Examiner Boldt's room, a monitor commended her for displaying "clarity, patience, kindness, and efficiency too." This same monitor continued, "For the first time, I heard an attorney explain the concept of 'personal service.' These two people, working together, show that quantity of cases can be matched with civility and caring. What a team!" Another observed that the attorney was "gracious, smiled frequently, explained things in detail, and complimented fathers for having the required information. Monitors had only one major criticism of this attorney: Numerous observers reported that she spoke too rapidly to be understood. As one monitor put it, "Granted that she had a lot of information to give out; still, I felt many of the [litigants] had no idea what she was talking about."

In contrast, another deputy county attorney, was described as "very intense," "abrupt," and having a "scowling demeanor." According to this same monitor, she "wrote furiously without looking at clients and rarely spoke to them except to bark out a demand." Another monitor agreed, observing that she "never looked up or made eye contact when introduced to the respondents." This observer

added that the attorney was "writing continually, and only occasionally spoke to the respondents, talking quickly, with minimal eye contact, almost as if the litigant was not there." In her defense, however, another monitor noted that she was covering for others, and described her as "overworked" and "hounded."

### **Private Attorneys**

Family Court litigants often cannot afford to retain private counsel. Occasionally, however, private attorneys will represent clients in Family Court.

Overall, monitors found that private attorneys represented their clients well. One noted, "They seemed to be very well-prepared -- unusually so. They were very good at negotiating compromises." In one case, however, "a private attorney stated that she did not have access to needed documents prior to court"; in another, a "lawyer was chided for not getting important information to the respondent's lawyer before appearing. The judge told him important court time was being wasted while the information was being read."

Finally, although most private attorneys were generally well-behaved, a monitor reported an "exception" who "was rude, feisty, gum-chewing, and sometimes speaking out of turn. He had to be reprimanded by the judge."

## VII. SOCIAL SERVICE AND SUPPORT AGENCIES

The goal of Family Court is to help children and families in crisis overcome their problems. To accomplish this objective, Family Court relies on numerous governmental and non-governmental agencies to assist troubled families. During this project, monitors observed representatives from many of these agencies at work in Family Court, acting as advocates for parties involved and providing progress reports on children and others who have been placed under their supervision.

The primary County agencies represented in Monroe County Family Court are the Department of Social Services (DSS), the Child Support Enforcement Unit (which is part of the Monroe County Finance Department), and the Department of Probation.

### Department of Social Services

DSS representatives appear in court in a variety of capacities. DSS is responsible for child protective services: It investigates allegations of abuse or neglect, and if it finds intervention necessary, it petitions the Family Court on the child's behalf. DSS also assists the court in cases involving adoption or foster care placement, and its Child Support Enforcement Unit aids persons seeking determinations of support and helps to collect support payments.

Monitors generally found DSS representatives to be "professional," "well-prepared," although one monitor observed

that one representative to be "clearly overwhelmed." Overall, however, they received high marks for accomplishing much with few resources. One monitor concluded, "They do a significantly good job, with little preparation, and represent the interests of parties involved too often in 'lost' lives." Another added, "all agency representatives showed professionalism and respect in the courtroom."

### Department of Probation

In certain cases, the Department of Probation assists the Family Court with "intake." Before filing a petition, a petitioner is instructed to speak with a representative of the Department of Probation, who can either attempt to resolve the case informally or refer it to mediation, thereby avoiding commencement of formal hearings. If the case cannot be resolved informally, the representative may assist in preparing the petition. In addition, Probation representatives screen litigants seeking orders of protection and send them to the judicial hearing officers.

The Probation Department also supervises those persons who have been sentenced to probation, and provides the court with reports on offenders' behavior, in order to assist the judge in determining the proper disposition of the case.

Monitors generally commended the performance of Department of Probation representatives. One monitor noted, "They seemed very concerned with the clients' welfare in most cases." Another concluded, "All appeared to be familiar with each case, were articulate, and did a competent job."

### **Private Agencies**

Several private agencies and groups play roles in the Family Court; some directly assist the Family Court in resolving litigants' problems, others provide special services and resources for litigants in need, and still others perform evaluative and protective functions. Examples include Alternatives for Battered Women (ABW), the Center for Dispute Settlement; Court Appointed Special Advocates (CASA), the Hillside Non-Secure Detention Facility, the MEN's Group (Men's Education for Nonviolence), PEACE (Parent Education and Custody Effectiveness), and St. Joseph's Villa. An alcohol abuse evaluator, furnished by the National Council on Alcoholism, is also on the staff of the court.

Monitors generally commended the work performed by these organizations, noting that their efforts serve an integral function in the Family Court's mission to aid families and children in crisis.

## IX. OTHER COURT PERSONNEL

Non-judicial court personnel have an enormous impact on the public's perception of the Family Court, and on the quality of justice that is dispensed. A typical litigant spends much time outside the courtroom, dealing with petition clerks, court officers, and other court personnel.

In most courtrooms, one to three court clerks, one or two court officers, and sometimes a court reporter are present. Occasionally a foreign language or American Sign Language interpreter is available. Generally, monitors found their behavior to be "very pleasant," "efficient, helpful, and polite." However, in one case, a monitor found it "highly inappropriate" that a court assistant and a trainee "showed obvious signs of sympathy toward one of the respondents" and "verbally expressed this after the case was adjourned."

### Court Clerks

Family Court clerks are an integral part of the court's operations. Part clerks sit with the judges in the courtrooms and are responsible for scheduling and other case management duties. Petition clerks staff the intake desks where litigants come to file petitions, and assist them in the preparation of petitions. A petition is a written document that forms the basis for a Family Court proceeding, and it is essential that they be prepared quickly and accurately.

Generally, the monitors found the clerks to be very "helpful" and "courteous."

However, they were disturbed by the appearance of one young college intern who

was assisting a clerk, reporting that she was "inappropriately dressed" in a "very short tight skirt and tight revealing tank top"; monitors felt that this did not convey "a very good impression of court dignity." In a written response to a draft of the this report, Chief Clerk Robert Norton confirmed that the intern, who worked at the court only a short period of time, was not an employee of the Monroe County Family Court. He also noted that the employees of the Clerk's Office at the Monroe County Family Court always dress in a dignified manner appropriate to the Family Court environment. This is supported by the observations of the monitors themselves, who found the intern's attire to be a departure from that of Family Court employees.

### Court Officers

Uniformed court officers are responsible for providing security in the courtrooms and waiting areas. They also assist with clerical duties. It is a court officer's responsibility to keep track of the parties who have appeared for a hearing, and to gather the participants when the case is called.

Monitors were generally impressed by the conduct of the court officers; several singled out Officers Anthony Stirpe and David Merrick for particular commendation.

One monitor reported that an officer "went out of his way to make sure I knew what case was being heard and what was happening." Another added, "They were very welcoming to us." One monitor described an encounter between an officer and a young Latino man: The officer "told the young man that he had taken Spanish in high school and he

was working hard to pronounce the boy's name correctly. He joked, 'I want to impress the judge.' He really seemed to be connecting with the young man." The monitor added that this officer is "always friendly, courteous, helpful -- he takes his work seriously and seems to relate well to everyone."

However, monitors did find some cause for criticism. One officer "couldn't maintain the flow of people." Another "walked around but never announced which case was being heard. He seemed unaware that he had any particular duties." In addition, because officers "continually went in and out of the courtroom to round up parties," the result was "a banging door every 30 seconds." Monitors also criticized officers for talking in the courtroom: "The judge did admonish one deputy for carrying on a conversation with someone in the back of the courtroom. She was asked to continue the conversation outside of the courtroom."

One monitor severely criticized the officer for his behavior in two separate incidents. In one case, a warrant was issued for a woman who was not present when her case was called at 3:00 PM, although the monitor had seen her try the door at 1:30 PM. The monitor informed the officer that she had seen the woman trying to get in, to which he responded, "I hope she didn't break her arm! Everyone heard him." On another occasion, the officer saw the same monitor trying the door of the courtroom at 1:45 PM, when the first afternoon case was scheduled. According to the monitor, the officer said, "You can keep right on trying the door. It won't be open until I get all the attorneys." The monitor concluded, "His attitude is questionable. I detected arrogance!!"

In a written response to a draft of this report, Peter Gentile, Supervisor of Court Security, noted that during the course of the

project, officers were forced to respond twenty-one separate security incidents in the Family Court facilities. Such incidents included felony warrant arrests, criminal misconduct, physical assaults, other disruptive and unruly conduct, resisting arrest and criminal contempt, medical emergencies, and threats made to judicial personnel and attorneys in the court. Officers must also be available on a daily basis, he added, to maintain order and security and to help calm agitated or frightened litigants and children in an often volatile and intimidating environment. The monitors' findings supported this analysis: they found most officers to be generally both responsible and responsive to the needs of the litigants and the court.

### **Court Reporters**

Court reporters are responsible for producing official transcripts of court proceedings. Not all judicial personnel in Monroe County Family Court utilize court reporters; some courtrooms are equipped with microphones to record proceedings.

***Electronic Recording:*** Taping of court proceedings has been permitted in New York State since 1992, when it was introduced as a two-year experiment in the Court of Claims and the Surrogate's Court. The experiment has since been extended and expanded to other courts, including the Family Court. Under the current statute, certain Family Court proceedings cannot be taped; court reporters are required for juvenile delinquency, PINS, and family offense cases.

Monitors generally had little to say about the reporters, although one observer did note that one "court reporter was constantly yawning and made no attempt to turn away or put a hand in front of his mouth." Monitors generally were much more concerned with the electronic recording system. The system

sometimes malfunctions, and the "recording device occasionally has to be reset and the case reheard." In addition, the system's occasional inoperability can delay the opening of court. One monitor asked, "Are litigants informed that the proceedings are being recorded? In writing, ahead of time? This is not done orally, except on occasion to ask petitioners to speak into the microphone."

### **Court Interpreters**

Foreign-language and American Sign Language interpreters are often utilized to translate court proceedings. The Monroe County Family Court also provides translating services for litigants who do not speak English or are hearing-impaired. There is one full-time, Spanish-speaking interpreter on the Family Court staff, and the court occasionally will "borrow" another interpreter from the City Court. With one day's notice, interpreters for other languages usually can be provided. Family Court staff have expressed their hope to hire a second full-time foreign language interpreter within a year.

Generally, monitors reported that interpreters were available when needed. Most often, parties needed a Spanish-speaking interpreter. Occasionally, however, interpreters were needed for other languages. In one instance, a monitor observed proceedings involving a Sudanese couple where the interpreter "knew both parties." The monitor noted that "he stated he would interpret literally" but wondered "if he would truly be unbiased and translate back to the court and attorneys literally."

Monitors also reported a few instances where a sign-language interpreter was provided for hearing-impaired participants. Monitors found most inter-preters' work to be "excellent." However, several reported delays

while interpreters were found, and one "interpreter left before the scheduled time and the case had to be postponed." According to Family Court staff, arrangements for hearing-impaired litigants can be made with advance notice. Judge Bonadio's courtroom contains "assisted listening devices" for litigants with only some impairment. For those who are unable to hear at all, the court will arrange for an American Sign Language interpreter.

## X. COURT OPERATIONS

### Caseload

As noted in Section III, the Monroe County Family Court handles an extremely large caseload. In 1997, a total of 25,126 petitions were filed, and the five Family Court judges presided over 14,777 of these petitions, resulting in an average of 2,955 cases per judge. According to the Monroe County Family Court's own analysis, at least 80% of litigants appear *pro se* – in other words, they are not represented by attorneys.

In 1997, there were substantial increases over 1996 figures for the total number of petitions filed for certain kinds of proceedings. Custody and visitation cases filed in 1997 increased by 10% over 1996 figures, while PINS cases increased 15%. For the same period, there was a 29% increase in foster care review cases, and guardianship cases increased 53%.

### Case Assignment

Since 1986, the New York State courts have operated under the Individual Assignment System (IAS). Under this system, the judge who presides over a case at intake generally will handle the case through disposition. The rationales for this system are efficiency and familiarity: The judge who presides at intake is likely to be more familiar with the circumstances of the case, and thus is likely to issue a better-reasoned decision. In Family Court, the IAS is taken yet another step: Not only does one judge handle a

particular case from start to finish; if a family returns to court with other business, the new matter usually will be assigned to the same judge who handled the previous case.

In the Monroe County Family Court, an "Intake Term" has been established. Judges and hearing examiners serve rotating Intake Terms. The Terms are divided into 2-week periods, during which the current Intake judge or hearing examiner presides over all first appearances, schedules subsequent proceedings, and handles emergency cases, such as requests for temporary orders of protection and the issuance of warrants.

The judges, hearing examiners, and judicial hearing officers vary in their approach to case disposal. Some regularly adjourn cases in which a party fails to appear, while others dismiss them outright. Some judges adhere to the traditional practice of scheduling all cases at 9:00 AM and working through them case by case throughout the day. Others have adopted some variation of a staggered calendar, scheduling some cases at 9:00 AM, some at 10:00 AM, etc. Monitors were very critical of those judges who have failed to adopt staggered calendars, and gave high praise to those who have implemented them.

### Delays and Adjournments

Monitors reported that delays and adjournments were rampant in Monroe County Family Court. Monitors found that there were two fundamental causes of delays and adjournments: lateness or failure to appear by litigants, and lateness or failure to appear by attorneys.

For example, during an observation in Judge Taddeo's courtroom, one monitor noted that the "court officer explained (outside of court) that none of the six scheduled cases was ready, as the law guardian was still busy interviewing the respondents." Another monitor, observing in Judge Bonadio's courtroom, reported that the deputy informed the judge that "the people were all present at court but they weren't quite ready to come in - still talking with lawyers in the hall." The monitor added that Judge Bonadio responded, "Get them in here even if they aren't ready!"

One monitor attributed some of the delays to the fact that parties are not aware that they can be represented by counsel, and observed: "I question why parties were not informed prior to the hearing." However, the monitor was informed that petitioners were told of the right to counsel at the time of application. Apparently, concluded the monitor, many petitioners decide they want an attorney once they are at the hearing and the opposition is represented by an attorney.

However, even when delays were due to litigants themselves, monitors noted that this was not always their fault. One monitor was informed by a deputy that "jurors are allowed through the metal detectors before litigants, so while litigants may be 'on time,' they may not make it into the courtroom for quite awhile." This same monitor reported that a clerk also attributed the delays to a "lack of public defenders." Another monitor reported the complaint of one attorney: "All of the other courts start on time; Family Court never does. Attorneys hate to come here, and that's why Family Court gets a bad rap."

Monitors also were quick to point out that not all delays were the fault of litigants or their attorneys. One monitor reported that there were "no reasons given for what I believe was a total failure of punctuality, which

engenders disrespect for the court by parties. Virtually no respondents appeared in court . . . . Nevertheless, court should start promptly." This monitor noted that this "lack of promptness in opening court," which was common in most courtrooms, "leads to a lack of respect for judges and lawyers by people, many of whom have had to leave work to attend court." Another monitor commented, "As I sat in the courtroom waiting for the session to start, one officer was sitting in [Judge Morton's] chair, looked at me, and said with disgust something like, 'Put in your notes that the judge isn't here.'" This monitor added, "In addition to being 50 minutes late, when told [only] five minutes were needed before the next case would be ready, the judge left for 17 minutes."

Delays occasionally resulted from other circumstances. In Judge Kohout's courtroom, monitors reported significant "delays in transporting prisoners" to the courthouse. "Judge Kohout says this is a big problem -- she said there are not enough sheriffs to transport people."

Delays also occurred due to equipment malfunction. For example, in Judge Maas's courtroom, a monitor reported that "the judge was ready to begin at 9:15 AM, but the recording machine was inoperable. The deputy stated that they had the same problem last time." In Judge Strobridge's courtroom, "there was a computer malfunction that delayed the hearings for approximately twenty minutes."

Monitors reported that some delays were explained. For example, on some days it was explained that Judge Sciolino was presiding over adoption proceedings in his chambers before opening court. Monitors noted that he or other court personnel consistently explained these and other delays.

### **Computerization**

At the time of monitors' observations, the domestic violence court had begun partially-computerized operations on a trial basis. For litigants seeking orders of protection, clerks used a computer to generate orders within a half hour of the party's hearing. All temporary orders of protection are now generated by computer in the courtroom.

Currently, the court is working with the Monroe County Support Collection Unit, which eventually will install its case management system software in the Monroe County Family Court. Once it is installed, all orders will be available either the same day or the next day. The Monroe County Family Court also is part of a Joint Application Development (JAD) project, co-sponsored by the Office of Court Administration and the New York State Child Support Enforcement Unit. Under this project, the Family Court has been designated a "Child Support Management System (CSMS) pilot court": CSMS is purchasing personal computers and software to be installed in the hearing examiners' rooms. With this system, hearing examiners will be able to access litigants' certification of arrearages, payment histories, etc.

In addition, all courtrooms are equipped with networked computers. Judges have access to the Internet, the court's intranet, Westlaw, research software on CD-ROM, and Wordperfect. Litigants' histories are also on file, accessible electronically by each judge's

court clerk. Judicial hearing officers do not have computers that are linked to this network, but do have personal computers with access to Westlaw. The court also utilizes Advanced DB Master (ADBMD), which is database software; it currently runs a DOS-based version of ADBMD, but is in the process of upgrading to a Microsoft Windows NT version, which will provide greater flexibility. Finally, Family Court staff also hope to initiate an electronic filing system, and estimate that such a system could be available in approximately three years.

### **Domestic Violence Part**

In March, 1998, the Monroe County Family Court established a domestic violence part, which handles family offense cases exclusively. Formerly, when people came to court to request an order of protection, they were sent to the intake judge on duty. Now, they are directed to a separate area of the courthouse that is devoted expressly to the domestic violence part. In addition, they are given a folder containing detailed information, including the proper forms, a copy of *The Family Court & You* (a guide to navigating the Family Court), and the location of shelters for victims of domestic violence.

Since the monitors completed their observations, the domestic violence part has been expanded and relocated to the second floor of the courthouse. It includes a courtroom used solely for family offense cases, which is assigned its own clerks and court officers who serve that court exclusively. The courtroom also contains a computer used to generate temporary orders of protection while the petitioner waits. Petitioners now leave the courthouse with temporary orders in their hands, and the orders are filed with the central registry within 24 hours.

The domestic violence part also includes an office staffed jointly by representatives from Legal Aid and Alternatives for Battered Women (ABW), an organization which aids victims of domestic violence in the Rochester area. In addition, outside the courtroom is a separate “petitioners’ waiting room,” reserved exclusively for petitioners in family offense cases: This segregates victims of domestic violence from their alleged abusers, limiting the possibility that they may be intimidated by the respondents, and reducing the potential for tension and violence. In addition, advocates from Legal Aid and ABW can now be sure that every person in the waiting room is a petitioner in a family offense case, and can more efficiently referral these persons to other organizations that aid victims of domestic violence.

Supervising Judge Taddeo presides over the domestic violence part on Mondays, and judicial hearing officers share duties on a rotating basis during the remaining four days per week. On a given day, judicial personnel may process as many as 25 re-quests for orders of protection. According to ABW’s Legal Advocate, the total number of family offense petitions has increased by roughly 30% over the number filed at this time last year.

Monitors did express some concern about the new domestic violence part. Often, a person seeking an order or protection must also resolve custody, visitation, support, or other issues. Monitors noticed that some petitioners, after receiving a temporary order of protection in the domestic violence part, were then shuffled to other areas of the court to take care of such related issues.

However, the separate domestic violence part is likely to help to ensure that petitioners and their families will be protected. The domestic violence part was designed to streamline the process for petitioners who need only an order of protection, or who need

temporary relief until they can resolve other issues, such as custody and visitation. Moreover, the judicial personnel who preside in the domestic violence part have the authority to address certain related issues when granting temporary orders of protection: They may issue orders establishing temporary custody of children, temporary visitation rights, and temporary support. In addition, when a petitioner who appears in the domestic violence part already has a case pending in the Family Court, the clerks in that part will coordinate with the other judge, hearing examiner, or JHO assigned to the case, who may decide to assume jurisdiction over the order of protection as well.

The monitors voiced the belief that adding a sixth full-time Family Court judge would permit more efficient allocation of cases, and would provide additional staffing resources for the domestic violence part.

## X. COURT FACILITIES

### Audibility

Monitors were continually frustrated by a lack of audibility during court proceedings. While they reported being able to hear all or most of the time in the rooms of Judicial Hearing Officers Maas and Morton and Hearing Examiner Boldt, they found that inaudibility was still a frequent problem in other courtrooms: Participants are often soft-spoken, and attorneys and litigants frequently must address the court with their backs to the public area of the courtroom. The monitors felt that judges should encourage participants to speak louder, noting, for example, that Judge Taddeo "never encouraged anyone to speak up"; they also urged that litigants and their attorneys be provided with microphones.

Monitors also pointed out that while the hearing examiners' rooms are equipped with microphones to record proceedings, they are not used to amplify. Monitors repeatedly recommended that microphones be used for amplification by all parties in all rooms.

Other factors also impaired audibility. In several courtrooms, monitors reported "too much background noise from opening and closing doors constantly." In some cases, "the waiting room is just outside the door and the people waiting are very noisy." In some courtrooms, the door itself "bangs loudly." One monitor summarized the situation in Judge Taddeo's courtroom: "This is a large courtroom with many distractions -- paging in the waiting room, noises in the waiting room, the phone ringing, the fan from the heating system

blowing, people entering the courtroom, lawyers whispering in the back of the courtroom, and the

door slamming whenever anyone enters or leaves. It is difficult to hear in the back of the room."

Monitors also criticized attorneys, court personnel, and litigants for conducting personal conversations during court proceedings.

### General Physical Facilities

Monroe County currently is planning significant renovations to the Hall of Justice; the projected completion date is May, 2000. The County put the project up for bid on October 13, 1998; if a bid is approved, workers will begin to move courtrooms and offices on December 4, 1998. Scheduled changes include the following: addition of small rooms to serve as private conferencing space for attorneys and clients; improved noise control; additional magnetometers and queuing space at the main building entrance; construction of a new entrance pavilion; addition of a fully-accessible restroom on the third floor; and addition of running water to and relocation of the Children's Corner. Once the renovation is completed, there will be seven courtrooms on the third floor; facilities for five hearing examiners and their staff, two offices to be shared by the four judicial hearing officers, a waiting room, a records room, and the clerk's office all will be located on the second floor. However, at the time of the monitors' observations, the renovation project was still in the planning stage.

The five judges of the Monroe County Family Court hear cases in courtrooms, as do the judicial hearing officers. Hearing examiners must preside over cases in rooms which also function as their own offices. While all of the hearing examiners' rooms are the same size, some appear

smaller than others, due to the arrangement of the furniture in the respective rooms.

Monitors described Judge Taddeo's courtroom as "large," "well-lit," and "clean." However, several noted that its large size created audibility problems. Judge Bonadio's courtroom seats 48 people; monitors also had difficulty hearing in his courtroom. However, Judge Bonadio had added plants, an aesthetic touch which pleased some of the monitors: "This is by far the most attractive courtroom. Windows and many plants add to its atmosphere, and make it seem less threatening." Similarly, Judge Sciolino's courtroom, on the other hand, was described as "pleasant," "well-lit," and "well-appointed," with "enough seating for all." Both Judge Bonadio's and Judge Sciolino's are located away from the public waiting area, which reduces noise, and both have windows, which provide good natural light.

Both Judge Miller and Judge Kohout have courtrooms with adjacent "semi-private" waiting areas, which monitors found "loud" and "distracting." In addition, "the flushing of toilets can be heard" from the bathroom next to Judge Miller's courtroom. Monitors also raised concerns about safety and accessibility: There were "two large cuts in the carpet where everyone walks," with "strings hanging out," and the armchairs presented difficulties for large people.

Monitors described Ms. Boldt's hearing room as "small, yet adequate for the purpose served" and "comfortable." It is "a very 'roomy' and pleasant room compared to some of the other rooms of hearing examiners." Because the room double's as Ms. Boldt's office, one monitor noted, she "stated that it was difficult to complete desk work with the constant interruptions."

Mr. Garcia's room, on the other hand, was described as "small," "warm," and "airless." One felt that "it appeared somewhat cluttered," while found it "uncomfortable to be that close to [litigants]."

Ms. Irizarry's room is also "small." While one monitor found that its size made it appear "less intimidating than courtrooms," two others noted that it made it difficult for a woman in a wheelchair to navigate to the table.

Similarly, Mr. Lockwood's room was described as "very tight." Monitors also noted that the glare from the "long windows" behind Mr. Lockwood's seat places his face in "silhouette," "making it difficult to see his facial expressions." One monitor also reported, "Mr. Lockwood feels he needs a private office so when he gets a phone call he can respond."

Monitors generally described Judge Maas's room as "good," but one monitor noted that "the seats are badly in need of recovering." While Judge Miles's courtroom is "small," most monitors felt that it is "adequate" and "comfortable." However, noise from the waiting area outside filters into the courtroom. One monitor also noticed that "three overhead lights were out."

Judge Morton's courtroom is "spacious" - - "more than needed, actually," was how one monitor characterized it. Another monitor observed that this "courtroom is not as traditional as other courts," although some felt that was an advantage, as domestic violence cases are heard there.

Judge Strobridge's courtroom was also described as "very large," "well-lit," and "comfortable." Monitors were pleased to report that "it is easier to hear in this courtroom because people who are waiting are not directly outside the room. There is a hallway separating the court from the waiting facilities."

Monitors consistently found the court's restrooms to be inadequate. The women's restrooms were frequently characterized as "dirty" and "in terrible condition," and the toilets,

occasionally, as "nonfunctional." There often is no toilet paper. Toilets often are difficult or impossible to flush, and several stalls have no latches on the doors. As one monitor put it, "If there are not funds to redo the ladies' room, at least they could put locks on the doors, and clean and repaint it." Another monitor observed, " It gives me the impression they don't care about the public -- women do not like to use a stall you can't lock." Other monitors noted that they had reported the problems to court personnel, who "seemed not to take it seriously." In June, a monitor reported that the door locks in the women's restroom finally had been replaced.

Monitors also found problems with the men's restroom: Throughout the project, a "flushometer valve" on one urinal needed to be "repaired or replaced," and periodically, it was "not clean."

Monitors had an additional complaint regarding restroom facilities: The Children's Center has no running water whatsoever. Several monitors noted that "hand washing is very important" for young children, and expressed concern that no toilet facilities are available for them. However, as part of the County's renovation of the Hall of Justice, it has promised that the Children's Center will be relocated to an area next to the women's restroom, and running water will be installed.

### **Access for the Disabled**

Monitors observed that while some areas of the Family Court appear to be accessible to those with physical disabilities, other areas do not.

In Ms. Boldt's room, there was "plenty of room for a wheelchair to pass through the door." Another who observed in Judge Maas's room felt that there was access, but noted that "it would be a long walk for someone who was on crutches or has to use a cane."

Monitors pointed out that Judge Miles's courtroom is the "best court of all, since it is on the first floor," and "is close to the Fitzhugh Street entrance . . . where there is an elevator from the garage up to the first floor." Still other monitors reported that a participant in a wheelchair was "brought in with no delay" to the courtroom.

Monitors disputed the accessibility of all courtrooms, however: One felt that while the courtroom itself was accessible, "gaining the floor from the garage or ground floor was not;" another felt that it was "accessible but difficult." They observed that all third-floor rooms appear to be roughly equal in terms of accessibility; the biggest challenge lies in reaching the third floor. Several monitors also reported that the women's restroom was not sufficiently accessible; one observed that "none of the stalls would accommodate a wheelchair."

## XI. RECOMMENDATIONS

1. ***County Executive Jack Doyle and the New York State Legislature should immediately fulfill their commitment to create a sixth Family Court judgeship.*** Monitors consistently found that the Family Court judges were overextended. Despite the presence of hearing examiners and judicial hearing officers, many issues can be heard only by a Family Court judge. Ever-expanding caseloads force the judges to dispense “assembly-line justice.”

Earlier this year, Mr. Doyle, who had previously opposed the creation of a sixth judgeship, dropped his opposition, agreeing that “the number of Family Court judges in Monroe County should be increased from five to six.” The State Senate thereafter approved the creation of the judgeship, and the Assembly was expected to do likewise. However, Senator Michael Nozzolio of Seneca County, who introduced the legislation, subsequently asked the Senate to reconsider its vote, and the bill was abandoned.

As reported in the *Rochester Democrat and Chronicle*, Democratic legislators blamed the demise of the sixth judgeship on Mr. Doyle’s insistence that the bill be linked to two unrelated and controversial proposals: One would have created a Greater Rochester Sports Authority, and the other would have exempted the county from state bidding laws when its \$49.4 million jail expansion project is put up for bid. Mr. Doyle is reported to have denied promoting any such linkage.

Regardless of where the fault lies, the bottom line is that the sixth judgeship is long overdue and desperately needed. The monitors urge Mr. Doyle and state legislators to stop holding the children and families of Monroe County hostage to politics, and to work together to create the sixth judgeship immediately.

2. ***The New York State Legislature should enact Chief Judge Judith S. Kaye’s court restructuring proposal.*** New York State Chief Judge Judith S. Kaye and Chief Administrative Judge Jonathan Lippman recently proposed a constitutional amendment to the State Legislature. The amendment would raise the status of the Family Court, so that its clientele would no longer be forced to suffer the indignities, inconveniences, and lack of attention that result from its current position, in which it is treated as the “stepchild” of the court system. The amendment would replace the current complex maze of courts of limited jurisdiction with a much simpler and less hierarchical structure. It would reduce the number of trial courts to two, from the current total of nine. The Family Court would be merged into Supreme Court, and a Family Division of Supreme Court would be created. By raising the status of family matters, the proposal would ensure that such cases would no longer be relegated to a “lower” court. Like all proposed amendments to the State Constitution, the Kaye plan must be passed by two consecutive State Legislatures; it then must be ratified by the voters in a state-wide referendum.

In 1997, the Office of Court Administration implemented a "Family Court Action Plan," designed to remedy many of the problems endemic to the Family Court as it is currently constituted. The monitors commended OCA's efforts, but see court restructuring as an essential next step in resolving these issues. Because the Family Court, which serves families and children in crisis, addresses some of New York's most pressing societal problems, the Senate and Assembly should reintroduce the Kaye plan and give it first passage.

3. ***The New York State Legislature should pass a constitutional amendment providing for nonpartisan merit selection of Family Court judges.*** Judicial elections tend to reward political connections rather than qualifications, and create the potential for conflicts of interest and the appearance of impropriety. A genuine merit selection system would help to ensure that the Family Court, which has a great impact on the lives of ordinary citizens, is staffed with the best-qualified judicial personnel available.
4. ***The New York State Legislature should increase compensation for assigned counsel, and the County should hire additional public defenders.*** Court-appointed attorneys are paid a mere \$40 per hour for in-court work, and only \$25 per hour for out-of-court work. These rates have remained unchanged since 1986. It is especially important that attorneys be compensated adequately for the time spent outside of court preparing a case. This is particularly true in Family Court, where much of a client's case may depend upon out-of-court work and research. In addition, there are far too few public defenders to handle the court's enormous caseload; monitors urge

that funding be increased both for hiring new public defenders and for providing adequate compensation to assigned counsel.

5. ***All Monroe County Family Court judges, hearing examiners, and judicial hearing officers should implement staggered calendars to reduce waiting time.*** While some judicial personnel have already implemented staggered calendars, most still require *all* litigants to arrive at 9:00 AM. Thus, some parties whose cases are scheduled for 9:00 AM find that their cases are not heard until later afternoon, or worse, adjourned to another date. As monitors repeatedly noted, most Family Court litigants must arrange to take time off work to appear, and being forced to wait all day or to return is a significant hardship. Monitors recommend that all judicial personnel implement a staggered calendar for both morning and afternoon session, so that litigants can better budget the time they need to allocate for court.
6. ***The Monroe County Hall of Justice should post at least one additional metal detector at the front entrance, to reduce waiting time and speed processing.*** Monitors reported that the Family Court's consistent delays stemmed in part from the problems of gaining entrance to the Hall of Justice itself. At the time of monitors' observations, only one metal detector was in place at the door to the front entrance. People were forced to wait in long lines outside the building, regardless of the weather, while people filed into the Hall of Justice one at a time, and the doors were not opened until 9:00 AM. Thus, while litigants often arrived well in advance of a 9:00 AM appointment, they might not even enter the building until much later, resulting in significant

delays for court proceedings. As part of the renovation project, the County has promised that there will be a "generous queuing area," as well as four magnetometer stations.

7. ***Sheriff Meloni should work with the Family Court to coordinate efficient transfer of litigants who are in secure detention.*** Monitors repeatedly found that significant delays occurred due to problems with transporting respondents who are being held in secure detention. The Monroe County Sheriff's Department is responsible for transporting detainees to Family Court to appear. However, the Sheriff's Department's budget has been cut, while the court's transport needs are growing. The Department also must pick up detainees from a variety of locations; inevitably, these parties rarely arrive at court at the appointed time. This results in lengthy delays and frequent adjournments which adversely affect the court, the attorneys, and other parties involved. Monitors recommended that the County provide the Sheriff's Department with additional funding to provide for adequate transport, and that Sheriff Meloni work with the Family Court judges and staff to reconcile scheduling of cases involving parties in secure detention. For example, the Sheriff's Department might arrange to transport detainees at a particular time of day, and the judges and clerks might calendar cases involving prisoners only at those times.
8. ***In conjunction with the Community Legal Intake and Referral Project, the Family Court should provide an information desk and personnel available to provide information to the public.*** Many members of the public arrive at Family Court without counsel and with no idea where they must go or what

they must do. Monitors recommended that the Family Court work with the Community Legal Intake and Referral Project to set up an area in the lobby of Family Court devoted specifically to providing guidance to the public. Monitors also suggested that the information desk provide basic, jargon-free information on how to file a petition, on obtaining counsel, on how to obtain an order of protection, etc. They also recommended that maps of the Family Court facility be made available, as well as a general user's guide that litigants can take with them.

9. ***Representatives from the Department of Probation and the clerk's office should screen petitioners more thoroughly to ensure that they are assigned to the proper judge, hearing examiner, or judicial hearing officer.*** Petitioners who already have a case pending in Family Court often will return for a related matter; instead of being assigned to the judge handling the earlier matter, such petitioners frequently are assigned to a different judge (or, in the case of those seeking orders of protection, to a judicial hearing officer), who then must transfer the case. Monitors recommended that court personnel conduct more in-depth screening to ensure that petitioners are assigned properly the first time, thus reducing adjournments and delays.
10. ***To discourage "no-show" litigants, if petitioners who fail to appear do not provide a valid excuse, they should be charged a nominal fee to refile a petition.*** Currently, no fee is charged to file a petition in Family Court. While monitors agree that Family Court proceedings must remain accessible to those in lower income brackets, they repeatedly observed that the lack of a filing fee encourages

people to treat their court dates cavalierly.

While monitors generally support the current policy of charging no fee to file a petition in Family Court, they urge that this policy should apply only to a party's *initial* filing. If the party fails to show and cannot provide a valid reason, at least a nominal fee should be charged for any subsequent filing.

11. ***Additional waiting area and conferencing space should be constructed to provide waiting litigants with privacy and to prevent noise from the hallways from interfering with court proceedings.*** Participants are forced to wait outside the courtrooms in cramped waiting rooms or open hallways until their cases are called, and noise from these waiting areas filters into the courtrooms themselves, making it difficult to hear proceedings. Unfortunately, these waiting areas generally are the only areas available for clients to confer with their attorneys. Not only do clients have no assurance that their "privileged" conversations with attorneys are truly private, but they are often forced to discuss their cases with their adversaries sitting only a few feet away. As part of the renovation of the Hall of Justice, the County has promised to create small private conferencing rooms. The monitors urged the County to keep its promise to construct the rooms. They also recommended that the Family Court judicial personnel enforce use of the new space by refusing to permit conferencing in courtrooms.

12. ***Courtroom doors should be replaced or repaired so that they close quietly.*** Family Court courtrooms generally are very small, with little seating capacity. Dozens of cases may be calendared for one day, and often each case involves multiple parties, all of whom are forced to

wait in the waiting rooms and hallways outside the courtrooms. Every time a court officer calls a new case, and every time a party, attorney, or other participant enters or leaves a courtroom, the heavy courtroom doors bang shut, disrupting the proceedings. Monitors recommended replacement of the doors, or, failing that, installation of some sort of muffling device. As part of the overall renovation of the Hall of Justice, the Monroe County Maintenance Department is evaluating the problems created by the doors, and has stated that its plans include provisions for noise control.

13. ***The Monroe County Family Court should take additional steps to improve audibility.*** Currently, hearing officers' rooms are equipped with microphones for recording purposes only. In other rooms, no microphones are available. Monitors recommended that microphones be installed in all courtrooms and hearing rooms to amplify proceedings, and that they be provided not only to judicial personnel but to attorneys and litigants, as well. They also urged that judicial personnel consistently require all participants to speak loudly enough to be heard.

14. ***Restroom facilities, including a sink, should be added to the Children's Corner.*** Currently, there is no running water at all in the Children's Corner. Monitors have repeatedly noted that this presents a significant health hazard for children: Not only are there no bathroom facilities immediately available, but there is no means for them to wash their hands. The County has stated that, as part of its plans to renovate the Hall of Justice, the Children's Corner will be relocated to an area next to the women's restroom, and will have running water.

15. ***Adult restroom facilities should be properly maintained and repaired.*** Throughout the project, monitors complained about the condition of the bathroom facilities. In the women's restroom, several stalls did not latch, and the toilets themselves were difficult or impossible to flush. In the men's restroom, the flushometer valve on one urinal needed repair or replacement. Latches in the women's restroom were not repaired until June (although monitors had reported them to court staff consistently since January); the

County is reportedly looking into the problems with the flushing system. Monitors also recommended regular cleaning and maintenance of all restrooms.