MINUTES OF THE MEETING OF THE

LEGISLATIVE COMMISSION'S

SUBCOMMITTEE ON FAMILY COURTS

(Assembly Concurrent Resolution No. 32)

March 11, 1998

Las Vegas, Nevada

The third meeting of the Legislative Commission's Subcommittee on Family Courts (A.C.R. 32) was held on Wednesday, March 11, 1998, at 9:45 a.m. in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was simultaneously videoconferenced to Room 1214 of the Legislative Building, 401 South Carson Street, Carson City, Nevada.

SUBCOMMITTEE MEMBERS PRESENT:

Assemblywoman Barbara E. Buckley, Chairman

Senator Jon C. Porter

Senator Dina Titus

Senator Maurice Washington

Assemblywoman Ellen M. Koivisto

Assemblywoman Genie Ohrenschall

Assemblywoman Sandra Tiffany

Senator Ernest E. Adler was absent.

ADVISORY COMMITTEE MEMBERS PRESENT:

Dr. Philip Bushard, Director, Family Mediation Program, Second Judicial District Court

Elena Hatch, Chief Deputy District Attorney, Office of the Clark County District Attorney

Anna Peterson, Former Court Administrator, Eighth Judicial District Court

Dr. Steve Riddell, National Council of Juvenile and Family Court Judges

Madelyn Shipman, Assistant District Attorney, Office of the Washoe County District Attorney

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Bradley A. Wilkinson, Principal Deputy Legislative Counsel

Kevin C. Powers, Deputy Legislative Counsel

Allison Combs, Principal Research Analyst

Patti Adams, Secretary

Emiko Mitchell, Secretary

OPENING REMARKS

Chairman Buckley called the meeting to order at 9:45 a.m. and informed the Subcommittee that with Senator Washington's impending arrival in Room 1214 in the Carson City Legislative Building, a quorum would be present. Before opening remarks by the chair, Assemblywoman Ohrenschall disclosed that although she has joined a growing population of parents named as defendants in the family court system, she is not affected in any other way or fashion and notified the chair in addition to continuing her participation in the Legislative Commission's Subcommittee on Family Courts, she will also be voting on any issues before the Subcommittee.

Chairman Buckley stated that the goal of the interim study committee is to produce a report with recommendations for statutory and court rule changes. The report will then be given to the full Legislature, set to convene in January 1999, for their consideration of the recommendations. The chair advised the members of the audience that although the Subcommittee does not have the authority to investigate individual family court cases, the Subcommittee will look at the family court system as a whole, welcome testimony and make recommendations to improve the system.

For the third meeting, Chairman Buckley indicated the focus of the Subcommittee will be on the pending case load of the family court as compared to the civil and criminal courts, judicial rotation versus dedicated judges, strong chief judges and an overview of the various methods by which litigants enter the family court system. Chairman Buckley continued with an overview of the topics to be discussed in the fourth Subcommittee meeting, set for April 16. Among the topics for discussion are mediation, assessment and alternative methods of dispute resolution, family court services needed and the role of the children involved in family court proceedings.

Chairman Buckley asked for approval of the minutes for the Subcommittee's meetings of November 14, 1997 and January 21, 1998.

> ASSEMBLYWOMAN TIFFANY MOVED FOR APPROVAL OF THE MINUTES OF THE SUBCOMMITTEE MEETINGS HELD ON NOVEMBER 14, 1997 AND JANUARY 21, 1998, IN LAS VEGAS, NEVADA; ASSEMBLYWOMAN KOIVISTO SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

ROTATION OF JUDGES TO FAMILY COURT

The Honorable Myron E. Leavitt, Chief Judge, Eighth Judicial District

The Honorable Myron E. Leavitt, Chief Judge, Eighth Judicial District Court, provided the Subcommittee with his views on the issue of judicial rotation. When Judge Leavitt became the chief judge of the Eighth Judicial District Court, his primary goal for the court was to expedite the resolution of litigation. To achieve this goal, the Eight Judicial District Court judges agreed to divide the general jurisdictional duties between a civil and a criminal court. Based on their personal preference, the judges chose to join either the civil or the criminal court. Judge Leavitt informed the Subcommittee that the division of the duties has been effective in improving the efficiency in the case disposal rate. In the judge's opinion, the judges are elected as district court judges and should be able to perform the duties and responsibilities constitutionally required of district court judges, regardless of whether they are presiding over cases in the civil, criminal, probate or family court.

Judge Leavitt continued with remarks on the court analysis completed by Mr. Wiley and his associates. Despite disapproving of the cost of the analysis, the judge emphasized to the Subcommittee his intentions to implement the recommended changes listed in the report. The judge continued by highlighting the importance of judicial flexibility in assigning judges to the various district courts. Judge Leavitt described a situation in which he used judicial flexibility to reassign a visiting judge to sit in the place of Judge Gaston, unable to perform his duties because of illness, and to reassign another visiting judge to replace a resigning district court judge. The judge stated the examples

emphasize the importance of judicial flexibility in maintaining an efficient court system.

The judge informed the Subcommittee that judicial flexibility and separation of criminal and civil court judges were implemented by changing the court rules, not by legislative intervention. He further stated, in his opinion, implementing changes to the court system is better accomplished through amendments to the court rules rather than enacting legislation. Judge Leavitt explained that if the enacted changes are, in the end, not beneficial to the court system, the changes remain in effect until the Legislature reconvenes, reconsiders the matter and votes to revert the changes made in the previous legislative session. The judge stated the court would have much more flexibility in reverting changes that are not beneficial if they were initially implemented by court rules. Judge Leavitt continued with a discussion of the term "specialized judge." In his opinion, specialization, accomplished by completing specific courses offered by the National Judicial College, diminishes the importance of the judges' ability to handle all cases in all courts. To ensure consistency among the judges in the various courts, the court has completed a bench book for both the civil and criminal courts. The family court bench book is currently being finalized but is not yet available.

Judge Leavitt also commented on the proposed changes brought before the Subcommittee by Judge Gaston. He commended Judge Gaston on his work but remarked that the proposal still needs some minor improvements before it will be a workable model. As recommended in Mr. Wiley's analysis of the Eighth Judicial District Court, a court access center is in the process of being established, but will not be open by April 1, as Judge Leavitt had originally intended. When this center is open, it will provide pro bono services to people who do not have the financial means to obtain their own attorneys.

In closing, Judge Leavitt urged the Subcommittee to focus on Nevada Revised Statutes section 3.223. The judge stated this section stipulates that the family court shall have original and exclusive jurisdiction. By unanimous vote of the district judges of the Eighth Judicial District, Judge Leavitt, on behalf of the judges, urged the Subcommittee to consider removing the term "original and exclusive" from section 3.223 of the Nevada Revised Statutes. He further explained that removing the term "original and exclusive" will give the court the flexibility needed to transfer judges, on a voluntary basis, to other courts, when necessary.

Senator Washington expressed his concerns over previous testimony by Judge Gaston that indicated many judges do not wish to preside in the family court. The senator asked Judge Leavitt to comment on the availability of judges who will voluntarily preside in the family court. The judge indicated that he was aware of four or five judges who have expressed their willingness to become family court judges. Family court judges are presiding over a very emotional and difficult area of the law and, in Judge Leavitt's opinion, judicial rotation would greatly alleviate the problem of burn-out for these judges. Senator Washington also expressed his concerns that giving the courts the flexibility to transfer judges may adversely affect the case disposition times and the consistency of the decisions and asked the judge to comment on these issues. On the issue of consistency, Judge Leavitt indicated there are two mechanisms in place to assist in ensuring consistent judgments. The first mechanism is the family court bench book which provides the judges with procedural information. The second mechanism is the new, streamlined case management system which will alert the court to litigation which is not moving progressively through the system. Judge Leavitt continued with remarks on the court access center. He noted that a major advantage offered by the court access center will be providing guidance and advice to unrepresented litigants in the family court. While providing guidance will benefit family court litigants in accurately proceeding with their cases, it will also assist in preventing unnecessary delays and serve to expedite the resolution of litigation.

Assemblywoman Tiffany addressed the importance of a case management system able to track cases and to provide judicial public performance indicators. She asked Judge Leavitt to describe the budgetary process the court must follow to obtain the funding from the county commissioner's office. Judge Leavitt stated the first step is to obtain the funding to set up a case management system. He further indicated that the judges adopted a proposed model which is more streamlined than the version presented to the Subcommittee by Judge Gaston. Judge Leavitt reiterated his intention to implement the improvements recommended in Mr. Wiley's analysis of the Eighth Judicial District Court but noted that the changes did not need to be implemented through legislation. Ms. Tiffany requested that the judge comment on the priority given to the case management system by the court and if the case management system would eventually be funded. The judge responded by reiterating his intention to implement changes, such as establishing a streamlined case management system, recommended in Mr. Wiley's report; however, the first funding priority would be given to completing the court access center. The judge voiced his frustration with the bureaucracy he has encountered in establishing this court access center and further indicated the court would appear before the county commission to request the funding for this center in April. Judge Leavitt deferred further budgetary questions to his

court administrator, Charles Short.

Charles Short, Court Administrator, Eighth Judicial District Court, clarified the budgetary concerns raised by Assemblywoman Tiffany. In September 1997, the judges agreed to allocate $75,000 of the family court administrative assessment money to be reserved for improvements to the case management system. Mr. Short indicated that on March 6, the judges voted on a simplified case management model and have given their approval to Mr. Short to proceed with the expenditure of those funds through their software vendors and their internal staff. He informed the Subcommittee that improving the case management system is the highest priority of the Eighth Judicial District Court. In Mr. Short's approximation, it will be three months before a test system will be available for the court and its personnel to review and six months, from the date the judges approved the model on March 6, for the system to be fully operational.

In response to Ms. Peterson's concerns over judicial training, Judge Leavitt stated that in his judicial rotation system, the civil and criminal judges would be required to take family law courses at the National Judicial College prior to sitting in the family court. Dr. Riddell clarified that there are two judicial colleges in the state of Nevada, one of which is a nationally recognized judicial college specializing in juvenile and family court jurisdiction. Dr. Bushard asked Judge Leavitt whether, if the legislation to amend section 3.223 of the Nevada Revised Statutes is adopted, this would give him the administrative flexibility to assign judges where the need exists. The judge indicated this would be the intent of the legislative amendment he has proposed. One area of concern raised by the judges at their last meeting was deciding who would be responsible for judicial assignments. In Judge Leavitt's opinion, the chief judge should make the determination of assigning judges to the court where they are needed. Elena Hatch requested that Judge Leavitt comment on whether there will be an available pool of judges to volunteer for family court duties. In his experience, the judges view reassignment as part of their district court judge duties and, as a result, the court has not had a lack of judges available to serve in the family court. There are also four or five judges who expressed their willingness to serve in the family court to Judge Leavitt. In addition to the family court judge volunteers, there are additional judges available to serve in the family court on a temporary basis, when the need exists.

Judge Leavitt stated that the period of rotation, in response to Ms. Hatch's question, would be an issue for the judges to discuss, but estimated it would range anywhere from six months to two years. Ms. Hatch continued by requesting the judge comment on the argument that if judicial rotation occurs at six-month intervals, the judges will not be on the bench long enough to develop an expertise in that area of law in which they are presiding. In his personal experience, Judge Leavitt agreed he is a better judge now than he was when he began his judicial tenure. However, in his opinion, a judge becomes an expert when the constituents elect the judge into the position of district court judge. Responding to Ms. Hatch's last question, Judge Leavitt indicated that he believed the support for rotation was unanimous but was unsure if all the judges were in attendance at the meeting.

Chairman Buckley requested the judge to summarize how the proposed amendment to NRS 3.223 would positively impact the users of the family court. As examples, she asked if the intention would be to temporarily assign judges to assist in reducing the court back log or to provide fresh manpower to the courts. Judge Leavitt stated that both examples are advantageous to the court. He further indicated that the Clark County district court currently has enough court chambers to accommodate a few more judges, but the space will probably be inadequate by the year 2000. The plans for the Clark County district court will include assigning three new judges, given to the court during the last legislative session, to the civil court and expanding into the fourth floor of the district court house. Judge Leavitt informed the Subcommittee that judicial flexibility will enable the courts to better manage the case loads. The judge also remarked that if volunteers for judicial reassignment are not readily available, he proposed to give the preference to judges with seniority.

Assemblywoman Ohrenschall requested the judge's comments on proposing substantive changes, in addition to the proposed amendment to NRS 3.223, which would bring the family court more in compliance with the philosophy expressed by the United States Supreme Court in cases such as *Kent* and *In re Gault*. The judge commended the National Judicial College for their ability to bring judges up to date on recent litigation and recent decisions from the United States Supreme Court. Judge Leavitt continued by stating that if the proposed changes were made to NRS 3.223 today, he would reassign some of the family court judges to the civil court to assist with the civil case load until the additional judges can begin in January 1999.

Ms. Shipman continued with a discussion on the necessity of removing the term "original and exclusive" from the language in NRS 3.223 in order to assign family court judges. Because the judges are elected specifically as family

court judges and the statute states they have "exclusive and original jurisdiction," it is necessary to remove those words from the statute to allow any judge to sit in the family court, whether he was elected as a family court judge or not. Ms. Shipman informed the judge that Washoe county had two general jurisdiction judges temporarily assigned to handle all family court matters, in addition to the one judge elected as a family court judge. Both general jurisdiction judges have been transferred to the family court and, by legislative action, are family court judges and she indicated that this was done without any problems with the language as it exists in NRS 3.223. Judge Leavitt informed Ms. Shipman that the judges in Clark County are of the opinion that the term "original and exclusive" must be removed from the statute before a general jurisdiction judge may be reassigned to the family court, unless they are assigned on a temporary basis. He further indicated that he does not understand how Washoe County was able to reassign their jurisdictional judges under the language of this statute.

Assemblywoman Tiffany stated that constituents are concerned about the quality and experience of the judicial candidates and inquired about the constitutionality of altering the qualifications for district court judges to include a minimum number of years in practicing law. Judge Leavitt replied the Legislature can change the qualifications for a district court judge. Ms. Tiffany responded that she is unsure that the Legislature does, in fact, have the authority to amend district judge qualifications and asked for Judge Leavitt's input on the qualifications of district court judges. When Judge Leavitt started practicing law, no one with less than twenty-five years experience in practicing law would consider running for district court judge. Today, the judge noted in many instances, judicial candidates have only worked in governmental agencies, such as public defender or deputy district attorney, and have not had any experience practicing law. These attorneys, under the suggested minimum law practice term, would be unnecessarily disqualified. Judge Leavitt suggested, instead, to include experience in governmental practice with the minimum law practice term to include a larger number of qualified judicial candidates. Chairman Buckley expressed that experience will not certainly ensure quality. Judge Leavitt concurred with the Chair's comments and added that the intent of the election process is, in part, to lay out the qualifications of the candidates to the constituents so that they may decide who is the most qualified person to fill the position of district court judge.

Dr. Riddell expressed his view that the family court should be presided over by judges who have a willingness to serve and experience in this specialized area of the law. As examples, Dr. Riddell provided background information on Judge Jordan and Judge Schumacher of the Washoe County family court. Prior to becoming family court judges, Judge Jordan and Judge Schumacher served as masters in the family court for a number of years. When elected as family court judges, they were able to bring their numerous years of experience into the family court. In Dr. Riddell's opinion, a case can be made that family court judges who have a desire to serve and make a commitment would certainly be a high priority, if possible.

Hunter Hurst, III, Director, National Center for Juvenile Justice

Hunter Hurst, III, Director, National Center for Juvenile Justice, and Director of the National Family Court Resource Center, provided the Subcommittee with his views on the issue of judicial rotation. In researching judicial rotation in the juvenile family courts eight years ago, Mr. Hurst told the Subcommittee there was very little existing information and he proceeded to research this issue on his own. In conducting his study, Mr. Hurst indicated that he excluded states with specialized judiciaries, such as Rhode Island or Utah and limited the focus to states with judicial rotation systems in place, with judges on the bench for at least ten years to include depth of experience. Additionally, Mr. Hurst's study was also limited to urban jurisdictions, where judicial rotation is a more critical issue to consider. In summary, Mr. Hurst stated that the interviews he conducted for his research indicated that judicial rotation did have strengths, but opinions varied markedly on what weight should be attached to the perceived strengths.

Mr. Hurst listed the frequently cited advantages to a system of judicial rotation:

1. Provides varied perspective for the judge, but it is incapable of producing the "complete judge."

1. Assists in judicial burn out, but it may not be the preferred means.

1. Provides some assurance that juvenile and family jurisdiction is just as important as any other aspect of the jurisdiction and enjoys equal status.

1. Productively manages judicial resources.

However, Mr. Hurst indicated that judicial rotation was seen as being overrated as a means to prevent judicial dynasties or getting more work out of judges who are interested in doing less. He then moved to a discussion of the frequently cited weaknesses of a judicial rotation system:

1. Contributes to the leaderless, "no-one-in-charge syndrome" prevalent in some juvenile and family divisions in the eleven states included in the study. In Mr. Hurst's opinion, this weakness is maybe the greatest failing of a system of rotation.

1. Discourages career specialization and is a strong disincentive to training.

1. Puts the judges at a disadvantage in dealing with probation officers, lawyers, prosecutors and social workers. Because these court personnel are constant in the family court while the judicial officers rotate, Mr. Hurst indicated that this increased the autonomy of the court while decreasing the accountability of associate judges, commissioners, masters and referees. In his experience in studying rotation systems, continuity is improved with the presence of masters and referees.

1. Greatly diminishes the judges' capacity to make independent and well-reasoned dispositions in urban communities with highly complex community resources. Mr. Hurst emphasized that this is not a matter of training, but is a matter of experience within the community in which the jurisdiction is being exercised.

1. Provides disincentives for the practice of one judge for one family. In a system of rotation, Mr. Hurst told the Subcommittee it is impossible to achieve or even aspire to a "one-judge-one-family" model in a system of rotation.

1. Encourages the use of master calendars as contrasted with individual calendars.

1. Diminishes the potency of the judiciary in the matter of fiscal appropriation for resources to support the operation of the juvenile and family division. He stated that this, in effect, eliminates any real authority in the community of jurisdiction on the matter of family court.

1. Precludes the possibility of developing respect for juvenile and family law that can only come from the wise interpretation of the codified word.

1. Puts the court in a default posture on the matter of what resources are developed to serve the needs of children and families within the court's jurisdiction.

1. Bases judicial assignments on seniority because the collective judiciary frequently cannot agree on a more reasonable means of determining assignments. Mr. Hurst stated, in his opinion, this is a very important problem in every multiple-judge court in this country. He continued by indicating that because judges are, by nature, very strong people, they tend not to select leaders easily and follow them even less easily. The complexity of juvenile assignments coupled with the lack of judicial preparation for the task, combined to produce an avoidance syndrome among the judiciary in large jurisdictions with short assignment periods. Mr. Hurst indicated that the state of California is the best example of a state struggling with "judicial family court avoidance syndrome." This has been such an ongoing problem in the state court rule was recently passed which encourages the judges to remain in the family court jurisdiction for at least three years with the ability to re-enlist in three years. In his view, Mr. Hurst stated that assignment to the juvenile family bench is sometimes used as a panoply for malcontent jurists, thereby further denigrating the assignment and further perpetuating the perception among the judiciary that juvenile and family assignments are to be avoided if possible. The least senior members of the bench are routinely assigned to the family court, further confirming the diminished importance of the jurisdiction.

1. Is not usually seen by the judges as a system free of imperfection and superior to other systems. In his interviews, Mr. Hurst found several judges who were of the opinion that specialization would be desirable if it could be accomplished in the court of highest general jurisdiction.

In referring to Nevada Revised Section 3.223, Mr. Hurst stated that Nevada has passed a strong statute which makes a strong statement about the desire and the need to have specialized family courts. Mr. Hurst emphasized that

removing the term "original and exclusive" from the language of this statute would not necessarily kill the family court, but it would be akin to issuing a license to put it to death. If the goal and intent of the family court is to better serve the families, rather than produce judicial harmony, Mr. Hurst strongly cautioned that specialization should not be eliminated. The issue of burn-out is one with merit because the family court has a demanding docket, but it can be dealt with apart from the need for rotation, possibly by implementing a court rule. He further stated that problems faced by family courts, such as the necessity of divorces being held in the family court versus the civil court when children are not an issue and providing resources for pro se litigation are shared by family court nationwide. It is Mr. Hurst's opinion that family courts that are not specialized are not capable of dealing with these problems.

Focusing on the Clark County family court, Mr. Hurst informed the Subcommittee that the problems in this court have been brewing for a number of years. In a community which has the growth rate that Clark County does, a large increase in the case load should have been expected. When Mr. Hurst compared Clark County to other urban jurisdictions three years ago, he stated Clark County was not working to its utmost efficiency. Now, with 400,000 more people and only two additional judicial officers, the family court is falling behind in its work load on a comparative basis. Another problem encountered by the family court is that the pay scale for family court judges is substandard and they are not able to attract the best qualified judicial candidates. Mr. Hurst also indicated that law schools do not train potential judicial candidates for family court and, furthermore, he stated he is not aware of any state which requires demonstration of proficiency in family law as a prerequisite to becoming a member of the bar. In most judicial colleges the family law requirement is restricted to a three-hour course on domestic relations. Mr. Hurst further indicated that it is rare for judicial colleges to require a course on matters of juvenile law or domestic violence, issues which arise frequently in the jurisdiction of family courts. It was the general opinion of the judges interviewed for Mr. Hurst's study that at least two years of direct service in the family court jurisdiction is the minimum service term for judges to maintain a firm comprehension of the issues in the area of family law. In conclusion, Mr. Hurst informed the Subcommittee that the service term will increase as the growth rate and urbanity of the jurisdiction increases because family court matters will become more complex as communities become more urbanized.

In response to Assemblywoman Ohrenschall's query on whether the rotation period mitigates the disadvantages to rotation, Mr. Hurst stated the disadvantages previously listed were the perceptions of the members of judiciary interviewed for the study. In his experience of visiting family courts throughout the nation, however, in most jurisdictions, a six-month rotation period will never allow the court to become efficient. In areas which are very urbanized, family courts will never overcome inefficiencies if rotation periods were less than three years. Mr. Hurst indicated rotation is a very subjective issue and there are varying opinions on the matter.

Senator Titus requested Mr. Hurst's comments on whether his eleven-state study distinguished between systems of judicial election, judicial appointment or use of some kind of a "Missouri Plan." She also asked him to comment on whether the type of system made any impact on the results of his study. Mr. Hurst informed the senator that the distinction was not made in the study, and in his opinion, his analysis would not be different if that distinction was factored into the study. He added, however, a difference would be made if an extraordinary action were to occur, such as appointing judges for twenty years or life. If judicial appointments are for six years or if a jurisdiction has a modified "Missouri Plan," such as his home state of Pennsylvania, it is Mr. Hurst's opinion that this will invariably gives the election of judges to large law firms, but it will not serve to improve the judiciary. In contrast, however, he stated that with appointed judiciary, the politics of running on a partisan basis is removed from the selection process. Senator Titus clarified her previous question and asked Mr. Hurst again to comment on whether the selection process would make a difference, overall, in how he would perceive the rotation of family court judges. Mr. Hurst commented that the method by which judges are selected will have more of an impact on issue of leadership than it will on the rotation of judges and has become an important subject in the area of court administration. In a system which selects judges by the election process, judges are more obligated to the constituents than to the administrative or presiding judge in maintaining their judicial careers. This occurrence is critical in preventing leadership, in Mr. Hurst's opinion. In any multiple-judge court, a strong person will be required to maintain leadership over the judiciary.

In closing, Mr. Hurst recommended that the Subcommittee consider using flexible jurisdiction and flexible authority in maintaining the workload and in resolving the issue of judicial burn-out. In his opinion, these are issues with merit in and of themselves and should be resolved with focused measures. Mr. Hurst further suggested that legislative intervention should not be necessary to deal with the issue of burn-out. Mr. Hurst urged the Subcommittee to consider giving the courts authority, if that authority is not already in place, to flexibly and voluntarily assign their judges to

the jurisdiction where the need exists.

Elena Hatch concurred with Mr. Hurst's assessment that family court judges are not different from other jurisdictional judges, but the emotional issues dealt with on a day-to-day basis in family court are very different from the issues in other courts. Ms. Hatch requested Mr. Hurst to expand on his comment that judicial rotation should be dealt with apart from rotation and to comment on whether or not rotation will solve more problems than it may create. Mr. Hurst stated, in his opinion, that judicial rotation would create more problems than it would solve. It would unquestionably give the administrative judge the authority to reassign judges who are not satisfied with their court duties or to place judges in areas where there is a need for additional judicial officers. Mr. Hurst cautioned, however, that moving unsatisfied judges is not a sufficient enough reason to institute a system of judicial rotation and additional mechanisms should be set in place to control this problem. He further suggested the possibility of using a method of judicial review which systematically entertains complaints about the performance of the judges.

Senator Washington commended Mr. Hurst for providing the Subcommittee with compelling testimony on the issue of rotation and said that the lack of leadership caused by rotation is a very expensive cost for the courts. He stated his appreciation for Mr. Hurst's assessment that the family court should be a part of the community network with social or religious services to provide extensive follow-up treatment for those litigants in the family court system. The senator requested Mr. Hurst's comments on whether he felt judicial rotation would limit the constituents' voice in choosing a judge based on their background, reputation and ability to serve the community. Mr. Hurst strongly agreed with the senator and stated it would very much limit that aspect of the election process. He further explained that the rotation issue is rooted in the state unified court system, which, in Mr. Hurst's opinion, presumes the primary need is to make efficient use of the judiciary rather than to serve the needs of the community. Mr. Hurst further informed Senator Washington that in his analysis of the advantages and disadvantages of a system of rotation, the disadvantages outnumbered the advantages eleven to four.

Assemblywoman Tiffany expressed her incredulity with Mr. Hurst's comment that changes are not necessary if a court is working inefficiently. Assemblywoman Tiffany expressed her concern that in a system which approves of rotation through certain jurisdiction and not others, a class-system distinction will be created between the jurisdictions of the court. Because Mr. Hurst was invited to speak before a family court study committee, he has limited his comments to family court issues. However, responding to Ms. Tiffany's concerns, he indicated that rotation is more acceptable in the criminal and civil courts because there are, as a rule, no service requirements in those courts. Rotation would not affect the civil and criminal courts as much because their focus is on presenting and adjudicating facts and issuing sanctions or remedies, whereas the family court is expected to resolve family matters. In conclusion, Mr. Hurst stated that continuity of litigation is also a factor of more importance in the family court than in other courts. Chairman Buckley indicated that this issue will bring very interesting debate in the final work session.

The Honorable Scott Jordan, Family Court Judge, Second Judicial District

The Honorable Scott Jordan, Family Court Judge, provided the Subcommittee with his views on the issue of judicial rotation. Judge Jordan informed the Subcommittee that he concurred with Mr. Hurst's arguments against eliminating the specialized family court. The judge also emphasized the importance of family court judges taking on leadership roles in the community. Judge Jordan stated that the Washoe County family court judges have been actively involved in initiating many community services such as the Children's Cabinet, Family Drug Court, Statewide Family Academy, County Domestic Violence Task Force, and others. The judge cautioned the Subcommittee that this community leadership, which Mr. Hurst spoke of during his testimony, would be lost if specialized family courts were eliminated.

Judge Jordan responded to the testimony provided by Judge Leavitt. He indicated that the judge's proposal was two-fold. First, on a local level, there would be authority to exchange or rotate family court judges with general jurisdiction judges, for a period of time, as long as both parties agree to do so voluntarily. Secondly, the chief judge of the local district court would have the authority to reassign judges to accommodate case load demands either on the general jurisdiction civil/criminal or the family court jurisdiction. In response to Judge Leavitt's first proposal, Judge Jordan indicated that he is not strongly opposed to temporarily rotating judges provided that it is done on a voluntary basis and that the period of the exchange is long enough to enable both judges to adequately learn and perform their jobs. However, Judge Jordan expressed his deep concern in eliminating the term "original and exclusive" from the language of Nevada Revised Statutes 3.223. Judge Jordan explained if the language "original and exclusive" is eliminated, all distinctions between the family division and the rest of the court will also be eliminated and the chief

judge will have the ability to reassign any judge to any jurisdiction. While the elimination of this language would not be the death knell of the family court, Judge Jordan cautioned that it would certainly be an opening in which the family court could be eliminated and urged the Subcommittee to research other avenues to resolve this concern. Responding to the second proposal to shift assignments, the judge expressed his concerns that this would undermine the whole functioning of the family court. Judge Jordan indicated that the primary reason the family court judges were given original and exclusive jurisdiction was to prevent the reassignment of the family judges to the criminal court, where the defendants have the constitutional right to a speedy trial, when there was an overcrowded criminal case load. The judge reiterated his concern that the removal of the term "original and exclusive" from the statute would make it possible for the family court judges once again to be called into service on the criminal case load, further aggravating the problem of lack of resources within the family division.

Although the discussions presented have focused on the domestic relations calendar of the family court, Judge Jordan strongly urged the Subcommittee to bear in mind that the full jurisdiction of the family court is very broad. In addition to the divorce and paternity cases, the family court jurisdiction also includes the juvenile court, both abuse and neglect cases, juvenile delinquency cases, guardianship cases, termination of parental rights, adoptions, mental health, domestic violence protection orders, child support enforcement and various other non-criminal family-related cases. In closing, Judge Jordan stated that the broad jurisdiction of the family court requires that the judges serving in the family court have a great breadth of knowledge. He requested the Subcommittee keep these issues in mind when considering reforms which will serve the best interests of the clients of family court.

In response to Senator Porter's concerns that the rotation issue is an ongoing problem between the juvenile and family court of Clark County, Judge Jordan stated it was his understanding that in Clark County, there are currently two judges removed from the domestic calendar to handle juvenile court issues, one judge to handle juvenile delinquency cases and one judge, on a part time basis, to handle the abuse and neglect cases. The judge informed Senator Porter that he was not prepared to comment on whether or not that was a realistic allocation of district judges within the family division. The senator further requested Judge Jordan to describe the division of the family and juvenile court duties in Washoe County. Judge Jordan indicated that two judges, Judge McGee and Judge Schumacher, each have about 25% of the juvenile case load, but the majority of cases are heard by the masters of the family court. With the use of masters and considering the size and case load of Washoe County, the judge stated there is not a demand for a full-time judge devoted to juvenile matters. Judge Jordan also confirmed that although the judges are only receiving 25% of the total juvenile cases, Washoe County is striving to reach the "one-family-one judge" goal and any further cases involving one family will be sent to the same judge. In circumstances where one family will have a case heard by the district judge and another case heard by a master, Judge Jordan indicated that Washoe County attempts to lessen inconsistent rulings by encouraging communication between the master and the judge. The judge also informed Senator Porter that he is currently the administrative judge in the Washoe County family court, but the responsibility of assigning judges to cases is done at the administrative level at the filing office. Each time a new case is filed, a computer search is done to determine if the litigants have previously appeared in the court. If they have, the case is automatically assigned to the same judge that presided over the original case.

In response to Assemblywoman Koivisto's question, Judge Jordan summarized two significant differences between the family court systems in Washoe and Clark County. First, the case load is substantially different. The judge indicated that the per-judge case load for Clark County judges is approximately twice that of a judge in Washoe County and he further indicated that high case load figures will put significant pressures on the system. Second, all of the Washoe County judges work together to create consistent policies and procedures used throughout the court. In Judge Jordan's opinion, the same teamwork does not appear to exist in Clark County, which is a problem that may not be addressable until the personal issues between the judges are resolved. He further stated that the departure of Judge Marren and the upcoming election may impact the judicial interaction in Clark County. Judge Jordan reiterated that the interpersonal issues between the judges, particularly with a lack of a strong chief judge, able to impose consistency among judges, is a significant issue in terms of the perception the community will have of the court and the work product produced by the court.

Assemblywoman Ohrenschall asked Judge Jordan to specifically address the localized procedures, particularly those procedures which protect the constitutional rights of juveniles in the court, which have made the Washoe County family court system so successful. In addition, Ms. Ohrenschall asked the judge to comment on what rights the children are entitled and at what age are they entitled to those rights. Judge Jordan thanked the assemblywoman for recognizing the success of the Washoe County family court but asked for clarification on whether she wished him to speak in terms of the juvenile court or the family and domestic relations court. In response to Judge Jordan, Ms.

Ohrenschall indicated she was referring to all aspects of the court. In each court, what exactly are the rights of the juvenile, in view of old decisions such as *In re Gault* which holds that juveniles are persons within the Fifth and Fourteenth Amendments of the United States constitution and within the meaning of the Bill of Rights, for most, if not all constitutional protections. The judge explained that the *In re Gault* case involved juvenile delinquency and child abuse and neglect issues. In Washoe County, every case where a juvenile is charged with an offense, status or delinquent, counsel, or public defender, is appointed for that juvenile but was unable to comment on whether Clark County shared this procedure. In response to Ms. Ohrenschall's query, Judge Jordan indicated that every child charged through the juvenile system is entitled to counsel, regardless of their age. In addition, by statute, a guardian ad litem is appointed to every child who is the subject of a child abuse and neglect case. Judge Jordan indicated that this is accomplished through the use of the Washoe County Court- Appointed Special Advocate program, which, in the judge's estimation, has more advocates than the Clark County CASA program. In domestic relations cases, Judge Jordan's experience has found the best way to serve the children in these cases is to get their cases out of the "contested-trial mode" as quickly as possible. Mandatory settlement conferences in every divorce case, referral of every divorce case with children to mediation and resolving pre-trial motions without hearings are a few of the mechanisms in place in Washoe County to ensure the cases are expedited out of the "contested-trial mode." Assemblywoman Ohrenschall commented that whenever the outcome may be removing the child from his parents, into either an institution or a foster setting, no matter how it is described as protective custody for the best interests of the child, the mere upheaval in that juvenile's life does have certain punitive aspects and that constitutional guarantees, therefore, may very well be looked at and probably should be in those court-protection cases, not just in delinquency cases. Ms. Ohrenschall requested Judge Jordan comment on whether or not children in abuse cases are appointed counsel and, additionally, does counsel take orders from the children, if so, at what age. Judge Jordan emphasized that the Court-Appointed Special Advocates are not attorneys and, additionally, attorneys are not appointed to children in the abuse and neglect system because there are not sufficient resources to provide such services. The judge stated the primary responsibility of the CASA is to advocate what they determine to be is in the best interests of the child, regardless of the child's age, based on their investigations. As the child matures and is more able to formulate his own opinions, the CASA, as well as the judges, will give more weight to the child's wishes.

Senator Washington wished to comment on Judge Jordan's emphasis on specialization, consistency and community cooperation. He commended Judge Jordan, as well as Judge McGee and Judge Schumacher, for providing their leadership on a community level in Washoe County. Senator Washington requested the judge's comments on two issues, judicial training, as discussed by Mr. Hurst, and child custody jurisdictional concerns when one parent resides in another jurisdiction. In response to the judicial training, Judge Jordan indicated that there are two statutes currently in effect in Nevada regarding this matter. The first statute applies to all district judges in the state, including family court judges, and requires every new district judge to go through the three-week general jurisdiction course at the National Judicial College. Judge Jordan informed the Subcommittee that this is an excellent program that trains judges in a variety of aspects of conducting themselves as judges. The second statute applies specifically to the family division judges and provides that new family court judges must, in addition to three-week general jurisdiction course, also take a juvenile and family court course at the National College of Juvenile and Family Law. Judge Jordan further expanded that the National College of Juvenile and Family Law, located in Reno, is a facility nationally recognized for providing the best training in juvenile and family law. The Legislature saw the importance of specialized judicial training when establishing the family courts and Judge Jordan strongly urged the Subcommittee to maintain this training as part of the package of the specialized family court system. Addressing Senator Washington's child custody concerns, Judge Jordan stated the law is clear that if a parent, residing in a separate county from the other parent, files for divorce or custody of his or her children, the parent has the right to file in his or her county of residence. Conversely, the defendant, the parent that did not file, has the right to request that the venue be changed to his or her county of residence. The judge stated it is conceivable for each parent to seek separate custody orders in their respective county of residence. In the judge's opinion, the only solution to this situation is communication between all of the judges, as provided in the legislation enacted to resolve jurisdictional disputes over who should resolve these issues, the Uniform Child Custody Jurisdiction Act.

Judge Jordan stated, in response to Assemblywoman Ohrenschall, that there is not a fixed rule on a specific age at which children are allowed to express their opinions; it is done on a case-by-case basis. Among the three family court judges in Washoe County, Judge Jordan expressed that he is the strongest opponent to consulting children in family cases. It is the judge's opinion that it is in the best interest of children to keep them out of the process until they are into their teenage years. The judge explained if the children are put into a position to choose one parent over another, it may reinforce the children's feeling of responsibility for the divorce.

Chairman Buckley assured Judge Jordan that in recommending improvements to the Southern Nevada family court system, the Subcommittee will give careful consideration to the fact that the Washoe County family court system is functioning well and they will attempt not to disturb the Northern Nevada family court users. In closing his testimony, Judge Jordan wished to clarify that in speaking on the judges actively participating in the community, he did not mean to imply that the Clark County judges are not just as active in their community as their Washoe County counterparts.

CASELOAD OF THE FAMILY DIVISION AND

NEED FOR ADDITIONAL JUDGES AND PERSONNEL

Charles J. Short, Court Administrator, and Christina M. Chandler, Assistant Court Administrator, Eighth Judicial District

Charles Short, Court Administrator, and Christina Chandler, Assistant Court Administrator, Eighth Judicial District, provided the Subcommittee with statistics on the case load of the Clark County family division and submitted the report, "Caseload of the Family Division and the Need for Additional Judges and Personnel." (Exhibit B) Before beginning his testimony, Mr. Short suggested that the Subcommittee consider the study on this issue done by the National Center for State Courts. There are three main approaches which are used to measure judicial need, population, case-inventory and average case-weight. Mr. Short suggested to the Subcommittee to determine the judicial need in Nevada, the population approach is the best indicator. As comparison, Mr. Short indicated that California used the case-weighted approach which accounts for the average time per civil, criminal and family case and multiplies this figure by the number of cases. In Colorado, it is set by statute that one judge in the urban courts is assigned to every 1500 domestic cases, with a lesser standard set for the more rural areas.

In the Second Judicial District, the population approach indicates there are three family law judges for every 100,000 people. In the Eighth Judicial District, there are eight family law judges for approximately 1.3 million people. Mr. Short indicated that if per capita equity were established between Washoe and Clark County, the Eighth Judicial District would have thirteen family court judges.

Christina Chandler clarified the statistics found on page four of their report, "Caseload of the Family Division and the Need for Additional Judges and Personnel." (Exhibit B). In Washoe County, there are 2.5 judges dedicated to the approximate case load of 2,500 cases, approximately half of the total case load handled by the judges in Clark County. Ms. Chandler stated these figures represent the quality of justice, the quality of time and the litigants' inability to have the opportunity to express themselves to the court. Typically, the judges will have twelve to fifteen cases on a calendar day, which allows for approximately ten to fifteen minutes of the judge's time for each case. Ms. Chandler broke down the fifteen-minute total time to five minutes for a defendant, five minutes for a plaintiff and five minutes for a judge to render a decision regarding custody, spousal support, visitation, parenting plans, divided assets and other very serious matters. She expressed her doubt good decisions can be rendered on such issues of importance in an allotted time of fifteen minutes. In closing, Ms. Chandler stated that the community involvement in providing input on the improvements necessary to family court system is also vitally important to the courts.

Before proceeding to Subcommittee questions, Chairman Buckley noted the presence of several guests: Senator Mike Schneider, Judge Steel and Judge Fine, both from the Eighth Judicial District Court. In response to the judicial per capita equity discussed earlier, Senator Titus asked if the problems of the Clark County family court would be resolved with the funding of five additional judges. Mr. Short informed the senator that the complexity of the court system would not benefit from simply adding judges; issues such as access, consistency and timeliness will also need to be addressed. Senator Titus asked Mr. Short if he would specifically recommend the addition of five family court judges. He indicated that in the January hearing of the judges' legislative committee, a bill draft request was proposed which would create judicial per capita equity between Washoe and Clark County by the addition of five family judges in the Clark County family court. In adding five judges, Mr. Short informed the Subcommittee that he must seek funding from the county manager's office, the county commission and the Legislature. In response to Senator Titus' request to calculate the approximate cost per judge, Mr. Short indicated that the cost of a judge has two pieces. The first piece, the portion funded by the Legislature, is approximately $125,000 per judge, per year. The second piece, the portion funded by Clark County, ranges between $500,000 to $600,000 per judge, per year.

OVERVIEW OF THE

STRONG CHIEF JUDGE MODEL

The Honorable Myron E. Leavitt, Chief Judge, Eighth Judicial District, and The Honorable Jeremiah S. Jeremiah, Chief Judge, Rhode Island Family Court

The Honorable Myron E. Leavitt, Chief Judge, Eighth Judicial District, and The Honorable Jeremiah S. Jeremiah, Chief Judge, Rhode Island Family Court, provided the Subcommittee with an overview of the strong chief judge model. Judge Leavitt told the Subcommittee that one of his first actions as the new chief judge in Clark County was to increase the term of the chief judge to two years, equal to Washoe County . He stated his strong support for an empowered chief judge and indicated that it is a leadership position which requires a lot of work. Judge Leavitt indicated that the job of chief judge has gone through many changes since he took over the position. Among the changes, the judge informed the Subcommittee that the administrative duties have increased. In his schedule, Judge Leavitt stated that maintaining the judicial county budget is almost a full-time responsibility. With the administrative responsibilities, Judge Leavitt indicated that his judicial duties include supervising the grand jury, taking jury indictments, presiding over probate court, handling bond calendars and bond forfeitures and maintaining one-half of the civil load. As a result of the abundant work load between the administrative and judicial duties, Judge Leavitt suggested to the Subcommittee that the chief judge should be limited to the administrative duties and not maintain a judicial calendar.

As he previously testified in the morning session, Judge Leavitt reiterated his support of rotating judges on a voluntary basis. If volunteers are not readily available, the judges with the most seniority will be given first preference. Because judges are elected officers with equal authority with the chief judge, it is very difficult to discipline judges who do not wish to cooperate with the chief judge. Judge Leavitt further recommended that in this situation, chief judges should be given the authority to sanction judges by reporting them to the Nevada Judicial Discipline Commission to receive a private reprimand. With the increasing population and case load in Clark County and 200 court employees, Judge Leavitt stated the chief judge must be a leadership position that has the authority to accomplish tasks to respond to the need of the people. Additionally, the chief judge should be given the authority to flexibly assign the judges where the need exists. In closing, Judge Leavitt indicated that his proposals could be accomplished through amending the court rules rather than enacting new legislation.

Before proceeding to questions from the Subcommittee, Chairman Buckley wished to note the presence of Senator O'Donnell and thank him for his presence during the meeting. In response to Assemblywoman Tiffany's question, Judge Leavitt indicated that the court administrator, not the chief judges, has the oversight responsibilities for the 200 court employees. The judge indicated that the administrators occasionally bring problems to him for resolution. As the court administrators are paid from the county budget and judges are paid from the state budget, Ms. Tiffany asked the judge to comment on whether the chief judge has any oversight authority over the court administrators. Judge Leavitt informed Assemblywoman Tiffany that he and the court administrators have a strong system of communication. He also remarked that the judges do have the authority to fire the court administrator.

The Honorable Judge Jeremiah S. Jeremiah, Chief Judge, Rhode Island Family Court, in addition to providing an overview of the role of the chief judge in the Rhode Island court system, also provided an informational packet on the Rhode Island court system (Exhibit C). Judge Jeremiah stated that, in 1961, the family court was a division of the general jurisdiction courts of Rhode Island. At that time, the general perception of the family court was poor and Judge Jeremiah described instances where chief judges assigned judges to family court as a form of disciplinary action. When it became apparent litigants with domestic problems were not receiving the service they needed, the Rhode Island Legislature established the unified family court, which dealt with domestic as well as juvenile matters. The Rhode Island family currently has eleven judges, one chief judge, three full-time masters and two part-time masters. Judge Jeremiah informed the Subcommittee that their court is the only non-unionized court in the state of Rhode Island, despite the fact that during Judge Jeremiah's twelve-year tenure as chief judge, four attempts have been made to unionize the court.

Judge Jeremiah explained that the Rhode Island family court handles about 28,000 new cases yearly. In comparison, the judge stated that the general jurisdiction courts have approximately 16,000 new cases per year, with twenty judges handling that case load. In addition, the masters handle approximately another 20,000 reciprocal cases, which

includes admission of paternity and child support. Judge Jeremiah reminded the Subcommittee that unlike a civil or criminal case that is decided by verdict, family court cases can be without closure. Often times, the cases return to family court many times for various reasons, such as changing visitation or support orders.

The judge outlined the current judicial assignments for the family court in Rhode Island: the juvenile calendar has three judges, Department of Children, Youth and Families calendar, which handles the children or abuse and neglect cases, has three judges, and the domestic calendar has three judges. In Washington, Newport and Kent Counties, three judges handle all the case calendars on a daily, rotating schedule.

Judge Jeremiah indicated that once a child is adjudicated, the child is sent to the Department of Children, Youth and Families for rehabilitation, but the court maintains the responsibility of overseeing what programs are being administered by the DCYF. If the report from DCYF notes "unsuccessful unification" with child and parents, the family court will hear the case on the termination of parental rights. The judge indicated that the Rhode Island family court started their case management program approximately one year ago. Out of 3800 divorce cases, 95% of the cases reached resolution within eight months. Seven percent were over a year old. In DCYF cases, three mediators have joined the staff to perform mediation services, which will expedite, where necessary, the termination of parental rights to allow these children to be put up for adoption as quickly as possible. Judge Jeremiah indicated that their case resolution time goal is 189 days.

The judge informed the Subcommittee that the judges are not elected; they are appointed for life by the governor with the advice and consent of the Rhode Island State Senate. As a result, Judge Jeremiah emphasized the importance of the chief judge having control over the court. He indicated that the extra compensation is given to the chief judge because of the additional responsibilities given to the person in the position, but the administrative duties are handled by the court administrator. Judge Jeremiah stated that he maintains a full judicial calendar in addition to his chief judge responsibilities.

The judge continued with a discussion of the methods he uses in his court to maintain an efficient resolution of family court cases. Judge Jeremiah has a person on the court staff who contacts each judge on the calendar, on a daily basis, to determine if the judge needs assistance in handling that calendar's case load. If they do not need assistance, the judge may be reassigned cases from another calendar to provide help in maintaining that case load. Judge Jeremiah stated that this flexibility allows for the overall case load to be divided among the judges. The judge cited several court rules which have allowed the Rhode Island family court to operate more efficiently. One rule provides that if a case is expected to take more than three days to try, it is it is transferred to Providence County, where there is a stronger judicial staff, in terms of number of personnel. Judge Jeremiah described another rule which states if there are three continuances by the court, not the attorneys, the case is placed on a special calendar and heard immediately. Expanding on the reasoning behind this rule, the judge stated if the court is not able to hear the cases due to time constraints, for example, this rule serves as a mechanism to ensure that there is no break down in the litigation process, particularly in visitation and custody cases, where it is very important to hear these cases as quickly as possible.

Judge Jeremiah explained to the Subcommittee that, in the judicial appointment process in Rhode Island, the governor submits a list of five judicial nominees to a nominating committee, which will review and provide recommendations to the governor. The judge stated that the review not only asks the nominees about their scope of knowledge of the law, but also asks about their ability to communicate and understand the issues facing the family court. In response to the testimony given to the Subcommittee earlier, Judge Jeremiah stated it was their practice to discuss cases with the children, but not in open-court circumstances. The judge stated the Supreme Court has provided that great weight must be given to the feelings of children aged fourteen years and older. He concurred with Judge Jordan's comments that the burden of choosing one parent over another should never be placed on children. Judge Jeremiah indicated that it is important for the children to realize that they are entitled to their mother and father's love and to understand it will be the court, not the children, making the final decision.

The judge commented on Judge Leavitt's proposal on a two-year term for the chief judge. Judge Jeremiah expressed his view that a strong chief judge is needed for efficient case management and, for that reason, a two-year term would not be sufficient. The Rhode Island family court has investigative powers, which, as an example, can be used to substantiate allegations made by one parent against another. The court investigator will study the situation and report their findings to the court. In addition to investigative powers, Judge Jeremiah indicated the Rhode Island family court also has the authority to provide counsel to litigants and to perform immediate drug and alcohol testing. He further

remarked that mediation is not required in their state. When the divorce is filed, the litigants are notified of their option to seek mediation and they are given a list of court-approved mediators. However, mediation is mandatory in the Department of Children, Youth and Family Services cases.

Unlike Nevada court-appointed special advocates, Judge Jeremiah told the Subcommittee that Rhode Island court-appointed special advocates are attorneys working on the court staff. In addition to the seven CASA attorneys, the court also employees five social workers and clerical support staff. The CASA attorneys represent every child before the court in a case of neglect or abuse and their parents receive a public defender. If there is conflict between the parents, the other parent is appointed an attorney. Judge Jeremiah indicated this is done to ensure that all the parties involved in DCYF cases receive attorney representation. A public defender represents all juvenile maters except for status offenses. In cases where there is conflict with the public defender, the juvenile will be represented by a court-appointed attorney. Judge Jeremiah indicated the Rhode Island family court budget for appointed counsel was in excess of $850,000 last year. The total payroll budget of the court is approximately $9.4 million a year, with a total overall budget of $10.5 million. In conclusion, Judge Jeremiah stated that they are reaching their goal of resolution in 189 days because the case management system works well with a powerful chief judge.

Assemblywoman Koivisto asked Judge Jeremiah to comment on whether reassigning judges to hear cases on busier calendars disrupts the continuity of litigation for the families. The judge indicated that while the Rhode Island court has attempted to follow a "one-family, one-judge" model, it has only worked to an extent, but all family court cases are cross-referenced. For example, if a person files a complaint of domestic violence, the clerk is required to check domestic and juvenile records to see if there are any other cases pending for the same litigant. If there are previous cases, the case will go to the domestic calendar to be heard by the same judge.

Ms. Peterson asked Judge Leavitt to clarify the method by which the chief judge is chosen among the judges. Judge Leavitt indicated that the chief judge is chosen by a judicial election process. It is a two-year term, and, by rule, the chief judge may not succeed himself. The judge informed Ms. Peterson that he currently maintains a full calendar in addition to his chief judge responsibilities such as supervising two grand juries, taking grand jury indictments and handling bond forfeitures. Judge Leavitt also indicated that he has occasionally heard criminal cases because there was not a judge available to take the case. With the population growing rapidly in Clark County, the judge informed the Subcommittee that it is becoming increasingly difficult, as chief judge, to maintain the responsibilities as well as a full judicial calendar. The judge expressed his primary concern as being the lack of communication between the judges. He further indicated a lot of his time is spent resolving issues between the judicial staff.

Ms. Peterson also asked Judge Jeremiah to comment on the method by which the judges are chosen in Rhode Island. The judge noted that the judges, including the chief judge, in Rhode Island serve for life, appointed by the governor, with the advice and consent of the Senate. In response to Ms. Peterson, Judge Jeremiah expressed his view that a two-year tenure for a chief judge is not sufficient to maintain the calendars faced by the family court. The judge cited one potential problem which may occur with a short-term chief judge. In situations where a judge is not happy with the current chief judge, that judge may decide to be uncooperative until the chief judge's two year tenure is over. Judge Jeremiah emphasized the importance of communication in resolving some of these internal problems and his judges, at least once a month, meet to discuss the various issues and problems they are facing in the court. He also emphasized the importance of understanding the litigants and their problems. After a court-attorney conference is held on a particular case, Judge Jeremiah informed the Subcommittee, the litigant is called in for a litigant-court conference to cover the same material. He stated this reduces misinformation from attorney to litigant that can sometimes occur and it also gives the litigants an opportunity to be a part of the litigation process. In Rhode Island, complaints about the judiciary are filed with the Judicial Tenure Review Committee. Because of the emotional issues involved with the family court, Judge Jeremiah indicated that more complaints are filed against his court than other jurisdictions. In response to Ms. Peterson, the judge indicated that he receives approximately 10% more pay than the other judges as monetary incentive for fulfilling the responsibilities of the chief judge. He reiterated that, during the judicial nomination process, the issues of the family court are discussed and the judges that come into Judge Jeremiah's court must want to work with family issues. In closing, he informed Ms. Peterson that the selection of the judges in Rhode Island has never been by election.

Chairman Buckley requested the judge's comments on the formal grievance mechanism in the Rhode Island family court. Judge Jeremiah informed the Chair that he makes every effort to increase the public's awareness that they can communicate with the chief judge's office if they are experiencing problems in the court. In some instances, litigants have written seeking assistance because they disapprove with the final decision. Judge Jeremiah notifies these litigants

they have the right to appeal the decision, but the chief judge does not have the authority to change a judge's decision. The judge indicated that the court will try to accommodate those litigants who have not received service efficiently because the court was too busy. Another litigant accommodation remarked on by Judge Jeremiah was on the court rule which places priority on the cases where litigants are traveling in from over one hundred miles away. Chairman Buckley remarked that one of the criticisms the Subcommittee has heard from the Nevada family court litigants is there is no formal grievance mechanism in place to lodge complaints and indicated this issue will be discussed on the next agenda.

When a divorce is filed in the Rhode Island family court, Judge Jeremiah explained that the litigants will, at that point, know the dates of the case management conference, the pre-trial hearing and the trial. The judge reemphasized the importance of including the family court litigants in the conferences because it is necessary for them to be included in the litigation process.

Judge Leavitt also indicated he receives similar letters in his office. The majority of the letters state the litigants' feelings of being abused by being in court. To substantiate abuses, the court has implemented the use of in-court video cameras. Judge Leavitt indicated the videos have allowed the court to determine the invalidity of many of the complaints aimed at the judges. Senator Porter requested Judge Leavitt's comments on what options the sitting judge has in terms of using the in-court video camera. The judge stated he would not want to see his image used negatively in a competitor's campaign advertisement. The senator asked again what would be the consequences of a judge refusing to use the video camera in his court room. Judge Leavitt indicated that the judge has the option to not use the video camera. The judge explained that the video camera system used by the family court is voice-oriented, which pans automatically toward the speaker. The videotape is provided by the litigants who are before the court and returned to the litigant as a record of their court appearance. Senator Porter stated he was unsure Judge Leavitt responded to his original question and asked him again, if the judges can decide not to have a video camera in their court room. In response, Judge Leavitt indicated the judges may elect to turn off the video equipment and added that the cameras are not used at all in the civil and criminal courts because the judges did not want the video equipment installed in their courts. Asked by the senator to expand on this issue, Judge Leavitt explained that a majority of the judges in the civil and criminal court opted not to use the video camera. He further stated that the use of the equipment in the family court is relatively new and is still considered to be in the experimental stage. In closing, he reiterated his opinion that the term of the chief judge should be limited to two years. Senator Porter requested Judge Leavitt's comments on what the primary concern is of the judges who do not wish to use the video camera. Judge Leavitt stated that the issue of the judge's images negatively used in a campaign advertisement was not the only issue of concern; the videotapes may also give an unfair picture of the what occurs in court. Senator Porter asked if the chief judge required the video cameras to be used, would it still be an option for the judges to turn off the equipment. Judge Leavitt remarked on the financial aspect of installing the video cameras. The senator asked for clarification that, currently, the use of the cameras is at the discretion of the judge. The Judge responded that the judges have ready access to a button on their desk to turn off the equipment.

Ms. Peterson clarified Senator Porter's question to Judge Leavitt by asking the judge if the chief judge has the authority to force the family court judge to use the video equipment. The judge indicated that the chief judge does not have this authority. Judge Jeremiah informed the Subcommittee that video equipment is not used in his Rhode Island court, but the chief judge would have the authority to enforce the use of the cameras, if it became necessary, with administrative rules. In Judge Jeremiah's opinion, the chief judge is responsible for ensuring that decisions from the court are made in a timely, efficient matter. Administrative orders provide that if a chief judge requests a judge to make a decision, the decision must be made within a certain time limit. If the judge's calendar is too full, Judge Jeremiah indicated that he may take the judge off the calendar so that he may focus his time on the decision to be made.

Chairman Buckley asked Judge Jeremiah to address the sanctioning ability of the chief judge under the court rules of the state of Rhode Island. The complaints are reported to the Judicial Tenure Committee, who can suspend, sanction, or terminate employment, if need be. Assemblywoman Tiffany requested Judge Jeremiah to expand on the case management system used in the Rhode Island family court and to comment on whether it has performance tracking abilities. The current case management system used by Judge Jeremiah's court is a combination of personnel and case management software. The statistics are available in the quarterly report, which includes information on how many cases were heard and how many cases were disposed of on all the calendars. At the close of every case, the litigants and the attorneys are provided with court evaluation forms so that they may provide feedback on the court's performance. The evaluations are forwarded to Judge Jeremiah and the performance evaluation is kept confidential

between him and the judge being evaluated. If a problem is indicated by the performance evaluation forms, Judge Jeremiah indicated it is his responsibility to communicate with the judge to resolve the issues. The judge also indicated that the case management system provides information on how many cases are being disposed of on a daily basis.

In response to Assemblywoman Tiffany's request to focus on the computer versus manual functions of the case management system, Judge Jeremiah indicated that their computer system will track cases on a daily basis, indicate how many times a case has been before a judge and indicate the disposition of a case. In addition, the case managers have the primary responsibility to ensure that the case is progressing within the set time limits. Continuing to respond to Ms. Tiffany, Judge Jeremiah also stated that both the court staff and the case management system serve as triggers for potential case problems. The computer system will generate dates for conference, pre-trial and trial, but the domestic violence clerk, for example, will have the responsibility to check to see if any other domestic cases are pending when a litigant files a complaint of domestic violence. If there is a case pending, the domestic violence request for an ex parte order goes to the judge hearing the domestic case.

Judge Jeremiah informed the Subcommittee that the Rhode Island family court has basically two ports of entry, or methods by which the litigants enter the family court system. The matter may be filed with the domestic relations clerk department, which handles all domestic relations and domestic violence matters, or the matter may be filed with the juvenile clerk's department, which handles all the juvenile and Department of Children, Youth and Family Services' matters. The judge further stated that the clerks are required to sit on any calendar and are used interchangeably, where the need exists.

In response to Assemblywoman Tiffany's question, Judge Jeremiah informed the Subcommittee that his court employs 163 people. The judge expressed his disinclination toward requesting additional judges for his court. He further recounted an incident where a national study evaluated the Rhode Island family court and recommended the addition of several judges. When Judge Jeremiah refused to accept this analysis and returned the report for a re-evaluation, the final report recommended the implementation of a case management system, which is how their system was established. Judge Jeremiah further stated, in response to Senator Porter, that his authority to enforce court orders may be done by holding litigants in contempt, and possibly incarceration, which does happen with some frequency. As an example in support cases, a person charged with nonpayment of support will be sent to the ACI, Adult Correction Institution, if it is established that the litigant had the ability to pay, but did not. This person will remain incarcerated, one day at a time, until he is able to arrange payments for support. Attempts are made to work with litigants who are in contempt for violation of an order in domestic relations matters, but if the person is consistently in contempt, they will also be incarcerated in the Adult Corrections Institution. Judge Jeremiah expressed his opinion that it is useless for judges to make court orders if they are not able to enforce them if the orders are not followed.

Senator Porter requested the judge to expand on the success of public defenders representing juveniles in his court. Judge Jeremiah stated every juvenile is entitled to representation, whether by public defender or another attorney. The judge provided a scenario to the Subcommittee: If two children are involved in a break and entry and each child is blaming the other, one child may be represented by the public defender. The other child may be appointed an attorney selected from a court-approved list of attorneys, at the pay rate of $30 per hour. In DCYF cases, the CASA attorneys serve to represent the children and Judge Jeremiah indicated that these attorneys have a heavy case load, representing anywhere from 500 to 600 children. To assist in their cases, the CASA attorneys have staff support from social workers, who provide investigative services to the attorneys. Judge Jeremiah informed the Subcommittee that in cases of neglect and abuse, a prosecutor represents the Department of Children, Family and Youth Services, a public defender or private attorney represents the parents and a CASA attorney represents the child.

In comparison, Senator Porter requested Judge Leavitt's comments on the appointment of representation for juveniles in Clark County. Judge Leavitt indicated the Clark County procedures are very similar to the procedures in Rhode Island. If the child is involved in a juvenile case, they are appointed an attorney from a court-approved list. Responding to Senator Porter, the judge noted that the child is usually represented by a private attorney, but stated if there is no representation, the court can appoint one. In some instances, the public defender can become involved in these cases. The judge further informed Senator Porter that the responsibilities of the public defender in juvenile matters is very similar to what Judge Jeremiah described in his court. Judge Jeremiah noted that prior to the establishment of the Court-Appointed Special Advocates Department thirteen years ago, the children were represented by private attorneys. The judge stated that, in his experience, certain attorneys were appointed more than other attorneys to represent the children. At that time, Judge Jeremiah informed the Subcommittee that the budget for

appointed counsel was in excess of $4 million. Since the inception of the CASA program, that budget has been reduced to approximately $750,000.

Judge Leavitt noted that Charles Short, Court Administrator, Eighth Judicial District, reminded the judge that the public defender represents juveniles accused of crimes. In response, Senator Porter requested clarification on Charles Short's figures which indicated that 70% of the families in family court are not represented by an attorney and that $10 million is spent annually by Clark County to defend the criminal, but no money is expended to assist the low-income litigants. Judge Leavitt stated that if these figures were true, the Clark County family court is in the process of establishing services to these litigants. He reiterated the court's plan to implement a court access center which will assist litigants in the way of legal advice from volunteer lawyers, receipt of proper court forms and information on how to correctly fill out the court forms. Chairman Buckley responded to Senator Porter's concerns on the statistics and noted it was her recollection that Mr. Short was referring to domestic cases and cases where a temporary order was being sought for domestic violence. In criminal cases, the guilty receive free counsel. In contrast, litigants in domestic situations or domestic violence cases often do not have the financial means to hire attorney representation. Chairman Buckley further clarified that it is constitutionally required that counsel is appointed in a juvenile proceeding, both in the juvenile court and the criminal court. Joining the panel, Charles Short informed Senator Porter that he was, in fact, referring to family law cases when he supplied those statistics at the previous meeting. He further clarified that in juvenile cases, the public defender represents the delinquency, but there is open debate on whether the public defender is responsible for representing children in abuse and neglect cases. Although it is not statutorily required, Mr. Short indicated that the family court is fortunate because Clark County is funding the appointment of counsel in abuse and neglect cases. Mr. Short suggested that the appointment of counsel to represent children in these cases may be an area for the Subcommittee to further investigate. He responded to Senator Porter, reiterating that the figures he supplied in previous testimony was in reference to family law cases and informed the Senator that the family court does, in fact, still have problems that need to be addressed.

In response to Ms. Peterson's request, Judge Jeremiah indicated that the percentage of pro se divorce cases is very small in Rhode Island, approximately 5-6%. However, in domestic situations, the pro se figure is significantly higher. In divorce cases, Judge Jeremiah indicated that litigants do have some option in terms of attorneys who provide their legal services at a reasonable cost in uncontested divorces. However, it is the litigants in domestic violence cases which raise the most concern for equal representation in the family court. As is often the case in domestic violence situations, the litigant will be self-represented while the perpetrator of the domestic violence will be attorney-represented. To assist the unrepresented litigants in domestic violence cases, the judge indicated that the Rhode Island family court has a contractual agreement with a local legal services department to provide representation. Unfortunately, the judge stated approximately 5,000 cases were filed in his court last year and the contractual agreement will only provide for a maximum of 150 cases in a year. In his opinion, Judge Jeremiah stated that the Rhode Island Public Defender is of the impression that his duties are restricted to representing criminals and should be educated on the need of representing juveniles and DCYF litigants. The judge further indicated that Rhode Island has five public defenders working with juvenile cases, but, until recently, the Department of Children, Youth and Family Services calendar only has two public defenders. When his court received a $90,000 court-improvement grant, Judge Jeremiah received permission to transfer the money to the public defender's office on the condition that the office would hire another public defender to work with the court. Currently, the DCYF calendar now has three public defenders and a part-time public defender. Judge Jeremiah expressed his concern that when the grant is depleted, he may lose this public defender.

Judge Jeremiah, responding to Ms. Shipman, indicated that there is a strong bench bar committee in Rhode Island and the bar does not favor mediation because it takes the cases away from the attorneys. He reiterated that mediation is not mandatory, except in cases on the DCYF calendar, but the court strongly suggests mediation, especially in child custody cases, to the litigants and provides them with a pamphlet and a list of court-approved mediators. Ms. Shipman indicated to the Subcommittee that as a result of the RFP process and the county agreement to go forward to fund defense, Washoe County does have representation in child protective services cases from the probable cause hearing onward, completely through the process. Additionally, she indicated there is public defender representation in temporary protective order cases, temporary protective order violations and in child support actions. Ms. Shipman stated that while this program is not completely free of problems, they are hopeful it will provide benefits in terms of expedited litigation.

Assemblywoman Ohrenschall requested Mr. Short to clarify his statements on the representation provided in abuse and neglect cases, funded by Clark County. Mr. Short informed Ms. Ohrenschall that the public defender's office

does provide representation to juveniles in delinquency matters, but they see abuse and neglect cases as a civil proceeding and have not agreed to represent these individuals. However, he further indicated that the judges have appointed counsel for the parents and, occasionally, for the children on a case-by-case basis. In response to Ms. Ohrenschall's statement, Mr. Short stated that if he had previously said that appointed counsel for parents and children were routinely done, he would retract that prior statement because the public defender does not represent individuals in abuse and neglect cases. Further responding to the assemblywoman, Mr. Short stated that representation is not provided by the court to individuals in domestic violence cases.

OVERVIEW OF ENTRY INTO THE

FAMILY COURT SYSTEM

Thomas L. Leeds, Esq., Master, Eighth Judicial District Court

Thomas L. Leeds, Esq., Master, Eighth Judicial District Court, provided the Subcommittee with testimony on the various ports of entry into the family court system. Mr. Leeds also provided the Subcommittee with a presentation and written testimony entitled, "Port of Entry Approach to Family Court," (Exhibit D). Before beginning his testimony, Mr. Leeds noted that he was given approval by the judges to come to the hearing and share his opinions to the Subcommittee. At the request of Assemblywoman Tiffany, Mr. Leeds indicated he has visually summarized the various entry ports into the family court system. In his presentation, the current entry system into the family court is shown as the "smokestack system," while Mr. Leeds' proposed entry system is the "port of entry" approach. The port-of-entry approach will provide front-end services for all families, regardless of how they have made entry into the court system, which will result in improved efficiency, less duplication and more consistent outcomes.

Mr. Leeds also indicated that in addition to his overhead presentation, he will provide the Subcommittee with three specific proposals. The first proposal is to establish a requirement to address the needs of the children at the beginning of each case, regardless of the entry approach. To accomplish this, Mr. Leeds indicated that three questions must be asked to determine the child's needs:

1. Does the child involved have a father with a name on the birth certificate?

1. Does the child have a means of financial support, in the form of a support order being actively monitored and enforced, if necessary?

1. Does the child have a relationship with both parents, subject to protection against domestic violence?

Continuing his recommendations, Mr. Leeds reiterated his suggestion from the previous hearing and, again, urged the Subcommittee to amend the Nevada child support guidelines to include consideration for other families that a child support obligor may be responsible for. The amendment should also consider the inclusion of the cost of day care as a part of the formula calculation rather than as a deviation factor. Mr. Leeds noted that the various entry points into the family court system are represented by colored smokestacks in his representation, similar to the color filing system he presented to the Subcommittee at the last hearing. The smokestacks are representative of the various courts in the Clark County district court. He indicated that he used smokestacks to represent the courts because generally, litigants who are not able to seek relief from one court must leave that court and start a new case in another forum.

The largest smokestack is representative of the divorce court. Mr. Leeds stated that these cases are presided over by a family division judges. In this court are the divorce cases, post-divorce motions and some other various cases. The family court judge in this court can refer parties to mediation, mandatory by statute, enter support orders, order a custody evaluation and issue the divorce decree after a trial, if necessary. As a point of example, Mr. Leeds informed the Subcommittee that to actively enforce a court-order for child support by having the employer remove the support from an employee's wages, additional steps must be taken. The party must either pay an attorney to send the order to the employer or has to start a new proceeding in the child support court, represented by the green smokestack.

Mr. Leeds indicated that he and Ms. Hatch, a member of the advisory committee, work in the green smokestack, or child support court. Litigants entering this court may be seeking enforcement of an order they have received from

another court, establishment of child support or modification of existing child support. Mr. Leeds noted the duplication of effort between the child support court and the divorce court in that both courts hear post-divorce motions to modify child support and hear requests for establishment of child support. He further indicated that as a child support master he hears requests from married custodial parents, divorced parents, as well as parents who were never married. In the situation he mentioned earlier with the support being taken out of wages, Mr. Leeds stated that he issues such recommendations to enter such a child support order, but the order is dependent upon approval by the presiding judge. At that point, the child support court will issue a wage-withholding order, automatically sent by the district attorney's office to the non-custodial parent's employer. Mr. Leeds indicated that this is a matter which the child support court addresses but is not automatically addressed in the family court. Because Mr. Leeds' office has no jurisdiction or authority over issues of child custody or visitation, parents paying support and seeking visitation rights to their children must leave the child support court and file a new motion in the divorce court, although the mediation office is across the hall in the family court campus. In another example, Mr. Leeds stated if a mother has indicated that there has been a threat of physical abuse by the father, who has received child support orders at his place of work, that mother cannot seek relief in the child custody support court and must be referred to another court, possibly the temporary protective order court, or the "T"-smokestack in Mr. Leeds' presentation.

In the temporary protective order court, requests are heard for protection against domestic violence. The domestic violence commissioner can issue child support and child visitation orders, which last for 60 days. Again, however, for other services, the litigants must leave the court to file a new motion in another court. If the child's parents are not married and the father is not named on the child's birth certificate, a paternity action must be filed and a motion for custody brought into the divorce court before the issue of child visitation can be considered. In another example, if the custodian wishes to enforce an established, permanent child support order, the case must be started in the child support court. Mr. Leeds expressed his concerns over non-enforcement of child support orders leading to victims of domestic violence returning to their abusers. He emphasized that he was not implying fault or criticism on the family court personnel, but, in his opinion, some of the problems have been as a result of a system which has gradually created courts to address the community needs as they have arisen.

Continuing, Mr. Leeds informed the Subcommittee that the problems of Clark County are not unique. He noted that the national census figures indicate that divorce rates and marriage rates, nationwide, are decreasing; whereas, the co-habitating, non-married households are increasing at a high rate. Citing specific statistics, Mr. Leeds informed the Subcommittee that between 1970 and 1984, 28% of non-marital births were to intact families with co-habitating parents. This figure increased by a third from the years 1990 to 1994, to a total of 38% of non-marital births to co-habitating parents. Based upon these figures, more children are born out of wedlock than are affected by divorce. Mr. Leeds indicated that these families have been described as "fragile families," because non-marital households have statistically shown to be less stable than married households.

Mr. Leeds indicated that these fragile families are coming into the family court system in increasing numbers, nationwide, and all states are attempting to cope with this new population. He further stated that the traditional family court system was designed to assist the traditional, divorcing family, and it is a system which is systematically organized, but not systematically organized to meet the needs of the fragile families. In summarizing his smokestack system approach, Mr. Leeds indicated that in the final drawing, all the lines entering and leaving the smokestacks are representative of litigants who must leave and then enter another jurisdiction to receive relief in their family case.

In Mr. Leeds' "port-of-entry" approach, the smokestacks are replaced by ports of entry, points where litigants enter the court, all entering into one family court system. The first tribunal would ask the three basic questions to determine the need of the children. If any question can be answered negatively, Mr. Leeds proposed that that family should be directly referred to the agency which specializes in the issues indicated by the negative answers. He further indicated that the IV-D program, working in conjunction with the child support agencies, specializes in establishing paternity and establishing and enforcing child support. In addition, the court also works with a mediation agency which specializes in assisting families work out problems. In Mr. Leeds' opinion, the parents would be more inclined to cooperate and have a better chance of resolving their issues in an amicable way if the needs of the family were addressed and served at the front-end of the litigation process.

Commenting on his reasons for advocating the inclusion of more factors in the calculation of child support amounts, Mr. Leeds stated that child support should be as necessary as death and taxes and indicated it is an opinion shared by the child support community. The Nevada Supreme Court has stated that a judge must make a subjective determination to deviate from the child support formula. It has become increasingly common for parents to have child

support obligations for children from previous relationships and families, but this factor is still considered a deviation in the calculation of the formula. Additionally, the amount of support provided by the formula is often less than it costs for the custodial parent to provide day care, which is also a deviation from the calculation. Mr. Leeds indicated that in both of these instances, a judge would have to address the issues to determine the subjective deviation. He further proposed that if these two deviations were included in the child support calculation, the judges would be free to apply their time towards more complex issues. In closing, Mr. Leeds indicated that his proposals could be accomplished as simply as giving authority to the masters to directly refer people to the services they need.

Chairman Buckley requested Mr. Leeds' comments on how asking the three specific questions will improve the system for the court users. Mr. Leeds used a scenario he obtained from Judge Fitzgerald of Kentucky, in a child well-being seminar. In this scenario, a co-habitating family comes to the family court by the domestic violence port of entry because of an episode of domestic violence. Judge Fitzgerald suggested it would be a much more efficient system if the paternity issue is determined as the family enters the court. If the perpetrator is the father of the child, he would be instructed to go to the child support agency and sign the acknowledgment of paternity to arrange for support to be established. Mr. Leeds noted that Judge Fitzgerald had commented the father would be more likely to attempt resolution of visitation issues and be more inclined to cooperate with the court. He contrasted this system with the court system in place in Clark County. In the same situation, the domestic violence commissioner may issue a visitation order, if the father's name is noted on the birth certificate. If the father's name does not appear on the birth certificate, the man would be instructed to follow the procedures to include his name on the certificate. In the scenario, Mr. Leeds stated that there is an existing child support order, but it is not enforced, and, after a few months, the mother contacts the child support agency to inquire on the status of the child support. At this point, Mr. Leeds informed the Subcommittee that the child support agency must start the process from the beginning, locating the father and sending an investigator out to serve the man. Continuing, Mr. Leeds indicated that by the time this family reaches his child support court, approximately nine months have passed. In his experience, he stated that the mindset of the father would be more focused on paternity and support without visitation issues. Additionally, Mr. Leeds suggested that if the emotional and financial needs of the family were met, possibly by referring the family to the appropriate service agency, at the onset of the case, they would be better served by the court system.

Assemblywoman Tiffany commended Mr. Leeds on his proposal and asked for his comments on any effects that a strong chief judge and judicial rotation would have, if any, on his proposed system. In response, Mr. Leeds strongly emphasized it was his intent to provide the proposal as one component of the overall improvements needed, not as the only means by which to fix the family court system. He further noted that his proposal would allow the agencies who are specialized in family services, such as the child support agency and the mediation program, to handle the disputes at the onset of the case and allow the family division judges to concentrate on areas where there are legitimate disputes and complex issues. In Mr. Leeds' opinion, this would allow the agencies, such as the child support court, to act as the court support staff, as originally intended. In terms of the effects of judicial rotation on his proposed system, Mr. Leeds responded that they are two separate issues. In response to Assemblywoman Tiffany on the issue of judicial rotation in a strong chief judge model, Mr. Leeds stated that because he is a non-elected specialist in the family court, he would be inclined to follow Judge Leavitt's opinion on the issue.

Assemblywoman Ohrenschall addressed her concerns that by placing the judges on the bottom of the port-of-entry approach to relieve the burden of the judges, a large bureaucracy might be created as a side effect of the system. She asked Mr. Leeds to address any possibly constitutional improprieties that may come from the delegation of judicial powers in his proposed system. He clarified that in cases such as the traditional divorce and juvenile cases, his proposal would not channel or shield a judge away from a case. In comparing the European inquisitorial system of justice to the adversary system used in the United States, Mr. Leeds indicated to Ms. Ohrenschall that it has been his experience that the inquisitorial approach is necessary to uncover the facts in the 50 to 60 cases that come to his office on a daily basis. Citing a statistic found in a law review article, Mr. Leeds indicated that there is insufficient funding available to provide the judges necessary for the twenty million child support cases in this country. He additionally indicated that the inability of the country to handle this increasing case load is also due to the increasing number of fragile families.

Responding to Senator Porter, Mr. Leeds indicated that it is his opinion that the changes he has proposed should be possible to implement without legislative action. He further stated that he presented his proposal to create a dialogue of the family court issues which need to be addressed. However, legislative action would be necessary to amend the child support formula because the Nevada Supreme Court has indicated that judges may not judicially impose their own support formula. In terms of providing direct referral services to the families, Mr. Leeds indicated a statute may

be framed which would require the three questions to be asked in every case which enters the system and would allow for the families to be directly referred to the service agency which is best able to provide assistance. Mr. Leeds expressed his opinion that regardless of whether initiatives are implemented judicially or legislatively, the focus of the court should be on the children and their needs. Responding to Senator Porter, he also indicated that he has spoken to the judges and they have given him approval to provide this presentation to the Subcommittee. Additionally, Mr. Leeds indicated he will provide his assistance to the judges to develop a more specific plan of proposal for the Legislature or the Supreme Court on these matters. Senator Porter expressed his view that the least amount of legislative intervention necessary to resolve some of the issues would be preferable. The senator further commented that it was his hope that resolution can occur without the encouragement of the Legislature.

Responding to Assemblywoman Tiffany, Mr. Leeds indicated that although it is his opinion the three questions should be asked in every case, they are not being routinely asked. He indicated it is his opinion that by asking these questions in a straightforward matter, the system would be improved. Ms. Tiffany expressed her concern that asking these questions in such a direct manner would create authoritative questions. Mr. Leeds indicated his presentation is more of a systemic proposal to process family court cases and address these specific issues at the onset of the cases. Often times, the issue of paternity may not be addressed until the litigants appear in court addressing a child support complaint. If the issue of paternity was addressed prior to this court appearance, Mr. Leeds indicated it would expedite the litigation process. In his opinion, he stated that the current system was not designed to address the needs of the fragile, non-traditional families who are becoming more the norm in society. In addition to addressing the needs and weeding out the litigants who are avoiding their responsibilities, Mr. Leeds stated his proposal would also give those parents who are diligently attempting to maintain their relationship with their children access to the family court. He further indicated another advantage in asking these questions at the front end would be providing the court users with knowledge of services that they may otherwise not know exists and the services could be provided when the tension is most acute.

In response to Assemblywoman Tiffany, Mr. Leeds stated that he has been working with the presiding family judge as well as the other family judges to create specific proposals which may be presented to the Legislature. Just in the past few weeks, Mr. Leeds indicated that he, the presiding judge and Judge Steel have discussed a proposal which would change the numbering system of the files to help create more consistency among the cases. However, he indicated this was still a work in progress with specific aspects still being discussed. Mr. Leeds expressed his hope that if legislation is a part of the proposal, and there is consensus among the judges, then the judges and the court can collectively provide a more specific proposal to the Legislature.

Assemblywoman Ohrenschall indicated that her constituents' primary complaint on the family court system is that it is a creeping bureaucracy which is not open to the public, does not have clear rules as to what is supposed to occur at what times and is not held accountable for its actions. Mr. Leeds responded that he presented his testimony from the perspective of the child support community. He informed the Subcommittee that, statistically, child support programs using an objective formula that includes as many factors as possible will yield child support awards consistent with the simple models which require a lot of judicial time and individual attention. Mr. Leeds concurred on the argument it would be best to have a judicial decision made in every family case, but numerically, it is very difficult to achieve this ideal. In his opinion, he stated if the premise that children deserve support is accepted and it is possible to maintain support with a bureaucratic system, the outcome will justify that trade off. In an anecdote which highlights judicial time being used where court-support staff time would have been more appropriate, Mr. Leeds commented on observing a court hearing in which a family court judge was presiding over a case in which an itemized medical bill was being discussed line by line. He agreed that the litigant was due the reimbursement of the medical costs but argued that the issues might have been better handled in another forum, perhaps through Ms. Hatch's office, with the assistance of her trained staff. Ms. Ohrenschall asked for Mr. Leeds' comments on whether he believed more openness in such hearings may act as a substitute for election accountability. He responded that child support hearings are open to the public; however, paternity hearings are closed by statute.

In response to Ms. Hatch, Mr. Leeds indicated that he has based his model on the needs of the children. Addressing whether he would advocate a similar approach or childless litigants seeking assistance, he indicated that the divorce court has the exclusive jurisdiction in this area and would be of more assistance to these litigants. Mr. Leeds further indicated his proposal would be most advantageous to parents who enter the family court system through other points of entry. Ms. Hatch also requested Mr. Leeds' comments on the availability of standard choices in proceeding with litigation. Under his proposal, Mr. Leeds indicated judges would maintain all the authority they currently have in controlling their court rooms. He further stated it was his opinion the model provides additional components which

are lacking in the traditional system. Ms. Hatch expressed her concerns that the model may contain built-in delays. Mr. Leeds indicated that he is not aware of delays, but stated, with the Subcommittee's assistance, any possible delays can be dealt with as this interim study continues. He also stated the proposal would be a more efficient way to avoid these delays by asking the three questions at the onset of the case, rather than relying on Ms. Hatch's office to do backtrack investigative work down the litigation process. In terms of cost and personnel considerations, Mr. Leeds informed the Subcommittee that by channeling the specialized activities to the appropriate specialized court staff, the system will become more cost efficient because there will be less duplication of effort between the courts. Additionally, he suggested the funds freed from not hiring more judges could be used to increase the child support agency staff. Mr. Leeds, responding to Ms. Hatch, indicated it was his opinion that his proposed system would fit into the existing framework of the family court system and further indicated that integration of the various systems that serve the needs of the children would create the most efficient method to provide those needs.

Dr. Bushard discussed the lack of support of the Rhode Island bar for mandatory mediation and requested Mr. Leeds' comments on how the Nevada bar may react to his port-of-entry approach model. In addition, he asked for comment on the possibility of internally structuring a pro se clinic using his model. Before responding, Mr. Leeds expressed his opinion that a model should not address the needs of the attorneys. Because of the statutory salary cap, Mr. Leeds indicated that the parents who can afford to hire representation are probably receiving the maximum child support amounts. He further stated that the low-income litigants unable to hire representation do not represent an earnings loss to attorneys. Mr. Leeds also indicated there are unique cases which will require the use of an attorney. Responding to Dr. Bushard's second question, Mr. Leeds stated he is in support of opening a pro se clinic. In previous discussions with people working in the Maricopa County, Arizona court, Mr. Leeds indicated one very helpful component was providing guidance to litigants as to where they will need attorney representation and where they will not. Mr. Leeds suggested to the Subcommittee that the pro se clinic, rather than acting as counsel and providing legal advice, should act as a referral source for litigants new to the family court and direct them to services which may provide legal assistance.

PUBLIC TESTIMONY

Before beginning public testimony, Chairman Buckley noted that, in addition to providing individual case data, it would greatly benefit the Subcommittee to receive suggestions on reforms to the family court. The chairman also cautioned the people testifying to notify the Subcommittee if their testimony will include references to cases heard in front of judges present at the meeting. Additionally, at the request of Chairman Buckley, several people who have provided testimony to the Subcommittee in this series of meetings will appear before the Subcommittee to present their views and suggestions on the family court.

The Honorable Frances-Ann Fine, Eighth Judicial District Court Family Court Judge

The Honorable Frances-Ann Fine, Eighth Judicial District Court Family Court Judge provided the Subcommittee with comments on the Clark County family court system. First, Judge Fine extended her appreciation to the Legislature for providing the legislative hearings addressing the problems of the constituents and expressed her hope that, together with the judges, the Legislature will be able to provide solutions which will benefit the entire community.

Judge Fine informed the Subcommittee that when the family court division began its operation in 1993, the six initial family court judges were immediately overwhelmed by the 500 per judge backlog handed down from the civil and criminal judges who had previously presided over the family cases. Judge Fine stated the common goal of the judges was to provide services to the families and children through a dedicated family court.

Judge Fine commended the Washoe County family court judges, Judge McGee, Judge Jordan and Judge Schumacher, on their successful efforts on establishing an efficient family court system, but indicated to the Subcommittee that comparisons between Clark County's alleged failure and Washoe County's success are somewhat unfair. She expressed her pride in her court and her colleagues in resolving 98% of the cases within one year and indicated that many procedures have been streamlined in the last five years to make this resolution rate possible. Judge Fine, expressing her concerns that all the focus on the family court has been negative, stated that the accomplishments of the Clark County family court have gone unseen. She listed several improvements and new services provided by the Clark County family court which have been very successful, including:

- Establishment of summary divorces which eliminated the need for litigants to appear in court.
- Establishment of night court, which has allowed litigants to be a part of their litigation process while maintaining their work schedules.
- Twenty-four hour fax temporary protective order accommodations, which includes on-call masters and judges to provide additional services.
- Mandatory mediation, statistically proven to provide resolution before a trial becomes necessary.
- Court involvement in the missing and exploited children program which assists in returning children who have been wrongfully removed from the Clark County jurisdiction.
- Establishment of a pilot program, with funding from a grant received from the State of Nevada, designed to assist the child support division's services to parents who are not receiving visitation rights to their children. Although there seems to be some dispute as to whether the parties will be automatically sent to Mr. Leeds, Judge Fine indicated the program will attempt to resolve the family disputes through mediation and produce an order which will be signed by the judge. If an agreement cannot be reached, the case will automatically be returned to a family court judge. Judge Fine indicated she will be the first judge at the family court to utilize this new program.
- Court involvement in the community, for example, speaking at schools and mentoring students.

The Honorable Diane Steel, Eighth Judicial District Court Family Court Judge

The Honorable Diane Steel, Eighth Judicial District Court Family Court Judge, stated that she was not presenting formal testimony but made herself available to answer any questions of the Subcommittee. Judge Steel discussed Mr. Leeds' proposed model and indicated, in her opinion, that it may be an avenue by which the court may proceed to the "one-judge-one-family" system. She further commented that, as Mr. Leeds stated previously, improved consistency in cases may be accomplished by something as simple changing to a different case numbering system. Judge Steel was not sure whether the proposed changes would require legislative action or court rule changes.

Chairman Buckley stated one of the advantages to having an interim committee on a specific area, for example, is if the Subcommittee believes exploration of such an idea would be beneficial, then this area can be included in the Subcommittee study report. Later, if it is determined that the changes can be better accomplished through the local level, by local policy or court rule, the Subcommittee does not need to be involved. If the determination is that a statutory change will be needed to implement the recommendations, the Subcommittee can include and endorse this recommendation in the full report presented to the Legislature. Chairman Buckley thanked Judge Steel for her comments and stated that the Subcommittee will be looking forward to the results of the planning in regard to Mr. Leeds' model.

Talia Zeer submitted written testimony on her child custody case, a "Las Vegas Sun" article titled, "9-Year Old Caught in Own Iraqi Squabble," dated January 18, 1998, and also submitted to the Subcommittee a videotape of her court proceedings (Exhibit E). Mrs. Zeer provided the Subcommittee with information on her child custody case involving her adopted nine-year old daughter and her daughter's biological, Iraqi parents who have stated they misunderstood the adoption consent because it was written in English. She urged the Subcommittee to act on this problem immediately because she feels her daughter is in danger of losing the only family she has known. Chairman Buckley thanked Ms. Zeer for her testimony and informed the other Subcommittee members that they may contact Brad Wilkinson, Principal Deputy Legislative Counsel, to obtain the tape for viewing.

Douglas I. Carley provided the Subcommittee with testimony on his divorce and child custody case and in addition, provided written testimony, submitted an editorial he wrote for the "Las Vegas Review-Journal," titled "Fixing Family Court: Back-Room Deals, Gender Bias Are Problems," and included an outline of the events in his family court case, (Exhibit F). Mr. Carley expressed his concerns with the family court judges conferring together on family cases. He gave the Subcommittee a summary of his family case, including the violent episodes displayed by his ex-wife, both toward himself and toward his children. Mr. Carley further expressed his opinion that confidential files should be open to the review of all the parties involved in the case, not just to the attorneys or the judges. Continuing,

Mr. Carley commented on the Family Mediation and Assessment Center reports, the first one giving him custody of his children with the aid of a baby-sitter shortly after his heart surgery and the second one which reverted custody of his children to his ex-wife due to his health condition. He further indicated to the Subcommittee that his family has suffered from the emotional and physical abuse inflicted on them by Mr. Carley's ex-wife.

Steve Allshouse provided the Subcommittee with testimony on his divorce and child custody family court cases. In providing brief background on himself, Mr. Allshouse indicated that he is a master sergeant in the Air Force at Nellis Air Force Base. In his opinion, Mr. Allshouse stated the obstacles to providing for his children's best interests have highlighted the need for improvements to be made in the family court. At the time the divorce was filed, Mr. Allshouse indicated that he and his wife had been married for twenty years and have had four children. Although he agreed that everyone should be treated fairly and equally in the court, Mr. Allshouse expressed his discontent that no weight is given, in cases such as his, to the family which has considerable investment in the marriage. In Nevada, he stated the grounds for divorce are incompatibility and non-co-habitation for one year. Mr. Allshouse expressed his disapproval of the non-co-habitation length being shortened from five years down to one-year, as it is currently set. He further expressed his opinion that the family court did not give his family a chance to stay together. Mr. Allshouse noted that he did not agree to the divorce but was never given the occasion to protest the action in the family court proceedings. In his opinion, the family court can create unnecessary hardships on a family. In his case, the two older children were given the choice of which parent to remain with and they elected to live with their father, with the two younger children to remain with the mother. In spite of the fact that Mr. Allshouse and his ex-wife have split custody and their incomes levels are similar, Mr. Allshouse has been ordered to pay child support, and, as a result of the obligation, he was forced to declare bankruptcy. Mr. Allshouse informed the Subcommittee of the unfairness involved when child support obligations are forced on a parent, when the ex-spouse has equal income levels and equal custody, simply because the state laws indicate that one parent must pay child support. Additionally, Mr. Allshouse indicated to the Subcommittee that his Nellis Air Force housing privileges for the four-bedroom house are being revoked because he does not maintain 50 percent custody of the children. In closing, he told the Subcommittee it is, in his opinion, unfair to allow the children to choose or favor one parent over another.

Chairman Buckley indicated to Mr. Allshouse and to the members of the public that anyone wishing to submit written materials or testimonials to the Subcommittee may do so by sending the material to Bradley A. Wilkinson, Principal Deputy Legislative Counsel, at the Legislative Counsel Bureau. The submitted material will be photocopied and distributed to the members of the Subcommittee for their review.

Tod Brenbarger presented the Subcommittee with testimony about his on-going family court case. He concurred with Judge Leavitt on the issue that there should not be judges specially devoted to family court cases. In his opinion, deviation from the two current forms of law, civil and criminal, is a deviation which will result in the creation of a new, unjust form of law. Mr. Brenbarger informed the Subcommittee that many of the family court problems originate from the family court services being offered. Commonly, Mr. Brenbarger stated that it will be the Family Mediation and Assessment Center which will handle the cases, not the judge, unless there is an evidentiary hearing, which is not a guaranteed right in family court. He further indicated that the FMAC social worker will hear the litigants' case and will, in turn, present their report to the judge. In his opinion, these reports are an interpreted, corrupt version of the facts and the litigants are never given a chance to defend themselves or speak on the issues presented in the report. Mr. Brenbarger further opined that the separation of the family court from other jurisdictions perpetuates the perception that the family court is under different laws than other jurisdictional courts and the family court litigants' are entitled to different rights. In closing, Mr. Brenbarger informed the Subcommittee that the use of masters is a primary violation of due process, declared unconstitutional by the Nevada Supreme Court in *Kosner v. Kosner,* 1962.

Responding to Chairman Buckley, Mr. Brenbarger indicated that there were two case assessments done by the Family Mediation and Assessment Center, both were found to be insufficient because the reports did not address pertinent matters, such as financial ability to take care of the children. Chairman Buckley indicated that the Legislature has received numerous complaints on the assessment process of the Family Mediation and Assessment Center and the court has acknowledged because of the increasing demands of a large work load, many FMAC reports are unreliable and of poor quality. Mr. Brenbarger informed the Chair that he was told by an FMAC social worker that FMAC was not an investigative authority and did not have investigative responsibilities. Chairman Buckley stated that Mr. Brenbarger's problems with FMAC have been typical of the problems mentioned by constituents and the Family Mediation and Assessment Center will be discussed on the next agenda.

Cornelis Vilders provided the Subcommittee with testimony on the divorce and child custody case of his son, Martin Vilders, who provided separate testimony. In addition to testifying, Mr. Vilders also submitted written testimony to the Subcommittee, (Exhibit G), which included a newspaper article from the "Las Vegas Sun," dated January 30, 1998. Mr. Vilders indicated it has been two-and-a-half years since he and his wife has had contact with his grandchildren, Keith and Warren. He stated his son filed for a no-fault divorce seeking the termination of an unhappy marriage, and since the filing over four years ago, his son has been incarcerated six times and is currently serving a three-year probationary term. Mr. Vilders also stated he had been incarcerated by the family court, too. He expressed his opinion that the family court has further intimidated Martin and his colleagues through abusive and malicious prosecution. Mr. Vilders recommended the Subcommittee establish a family ombudsman office with strong oversight authority to act as a formal grievance mechanism and to provide assistance to family court litigants. In closing, Mr. Vilders urged the Subcommittee to correct the problems in the family court before the devastating effects of the court system will reach the entire social structure of the country.

Aurora Buxton provided the Subcommittee with testimony on her child custody case. She indicated that she has been in family court litigation since December 1995 and she has not seen her eleven-year-old daughter since January 1997. Ms. Buxton indicated the loss of her daughter's custody began when she suspected her daughter had been sexually molested by her ex-husband. When her daughter was examined at the Sunrise Children's Hospital, Ms. Buxton indicated the report stated there was evidence to suggest she was a victim of sexual trauma. She further indicated that she lost custody of her daughter after a reporting the sexual molestation to the Henderson Police Department. Ms. Buxton stated that the assessment done by the Family Mediation and Assessment Center reported it would be in the best interests of both her daughter, Kathleen and Lisa, at that time, eight-and-a-half and fourteen-and-a-half, respectively, to remain together in the custody of their mother. She indicated in addition to child support, Ms. Buxton is responsible for her ex-husband's legal fees of approximately $50,000, in spite of the fact that he is a wealthy individual. In response to Assemblywoman Ohrenschall, Ms. Buxton indicated that both of her daughters have been abused either physically or financially. She informed Ms. Ohrenschall that her other daughter had college money, from her family, set aside but the funds were returned to her father during the proceedings. Although both daughters indicated their father touched or tickled their genital areas, the Henderson Police Department told Ms. Buxton there was insufficient evidence to indicate sexual molestation.

Steven Dempsey testified that there is deliberate misuse of time in the family court to decrease the efficiency and timeliness of court decision and that money was the determining factor in getting a decision made in case. Mr. Dempsey suggested sanctioning attorneys who are responsible for prolonging court proceedings, restricting judges to one judicial term and creating an oversight authority with accountability. Closing his testimony, Mr. Dempsey expressed his opposition to the creation of a pro bono program.

Mitzi Wright provided the Subcommittee with information on her divorce and child custody cases. Ms. Wright stated it was her experience that regardless of the issues, the treatment of the litigants in the family court is dependent on which judge is presiding over the case. She suggested to the Subcommittee that the judicial sanctioning must be enforced when judges are not complying with the litigants' rights as they are constitutionally guaranteed. Mr. Wright informed the Subcommittee that her ex-husband, recently re-married to an attorney, is a convicted batterer. She further indicated that she has been bombarded with litigation, which is provided at no cost to her ex-husband because of his relationship with the attorney. Ms. Wright told the Subcommittee that she is not in any financial position to defend herself against the litigation and noted that she has been incarcerated four times during these proceedings. The last incarceration, a week before the hearing, occurred because she was taking her child to therapy because he is traumatized and distressed by being forced to live with a batterer and a woman who does not want children. Prior to the custody case, Ms. Wright had sole custody of her child for eight years and stated her ex-husband is proceeding with litigation to avoid the obligation of child support payments. In spite of having numerous medical records substantiating the abuse she has received from her ex-husband, she stated Judge Jones gave custody of her child to her ex-husband. In her opinion, Judge Jones trivialized the history of domestic violence in her case. Ms. Wright expressed her primary concern that she is now financially devastated and is in no position to comply with all the court orders to pay legal fees.

Thomas Gaule provided the Subcommittee with testimony on his experiences with several judges in the family court system and informed the Subcommittee that he is opposed to the system currently in place and believes that the family court has no jurisdiction over the family.

Martin Vilders provided the Subcommittee with testimony on his divorce and child custody proceedings. Mr. Vilders

father, Cornelis Vilders, provided separate testimony earlier in the hearing. Before beginning his testimony, Mr. Vilders commended the Legislature for studying the problems within the family court. He concurred with earlier testimony that providing the psychological abilities, common sense and compassion needed in family court cases is necessary and, as a result, family court specialization is very important. Mr. Vilders encouraged the Subcommittee to continue its investigation into the family court to ensure the judges are abiding by their oaths. He further indicated that he would be able to provide all the documentation to substantiate the testimony of his father, Cornelis Vilders. He also concurred with Mr. Dempsey on the point that, often, money is the overriding factor in a family court case.

Carolyn Williams provided the Subcommittee with testimony on her divorce case, which began in April 1994 and is still in front of the courts. Ms. Williams informed the Subcommittee that property she had given to her mother was removed from her possession in lieu of approximately $75,000 in attorneys' fees. Her experiences in the family court have prompted her to take paralegal training from the University of Nevada-Las Vegas. In closing, Ms. Williams urged the Subcommittee to keep in mind these are the problems of the individuals which will require individual attention.

Robert Bedwell provided the Subcommittee with information on his wife's child custody case. He stated that his wife's case was very similar to the cases previously presented to the Subcommittee involving Judge Jones. His wife had a child out of wedlock and after two years, the father filed for paternal rights. After a doctor determined her child had been sexually abused by his natural father, Judge Jones did not allow the doctor to present this information in court testimony. Instead, Mr. Bedwell indicated that the father, making an $18.00/hour income, was ordered to pay only $46.15 every two weeks. Mr. Bedwell urged the Subcommittee to protect the rights of the family court victims, the children involved in these cases.

Lori Guiliano provided the Subcommittee with her experiences with the family court. Although Ms. Guiliano is not directly involved in a family court case, she has been directly effected by the ongoing family court case involving her boyfriend, Martin Vilders, who provided his own testimony earlier. She recounted the situation involving the child protective services calling her at work inquiring about Mr. Vilders' whereabouts. When she could not give Mr. Vilders' specific whereabouts, Ms. Guiliano indicated that the child protective services worker became increasingly belligerent and threatened to come over to Ms. Guiliano's house to investigate, threatened her financially and threatened her about her daughter. She also recounted another situation in Judge Gaston's court room in which she indicated she was making facial expressions which upset the bailiff. Ms. Guiliano stated that the bailiff asked her settle down or leave. When Ms. Guiliano agreed to leave, the bailiff grabbed her arm and informed her she would not be able to leave the court room. She indicated that she was wrestled to the ground, handcuffed and then incarcerated until the court proceedings were finished.

Lisa Stiller provided the Subcommittee with testimony on her child support and custody case which began in Oregon. Before beginning with information on her case, Ms. Stiller indicated in addition to her experiences in the family court, she is also a member of the media and is familiar with the issues in that aspect. Ms. Stiller commended the Las Vegas Review-Journal for publicizing her story last summer, which, she believes, brought her some relief in her family court case. At the time her ex-husband was awarded custody of the children, the judge cited an inequity in income and did not award any child support to the ex-husband because Ms. Stiller had recently lost her school district job due to tax cuts. After Ms. Stiller's ex-husband moved to Nevada with the children, she also moved in 1995. Shortly thereafter, Ms. Stiller's indicated her ex-husband went to court to get child support awarded to him. In addition to the child support obligation, Ms. Stiller stated she was also $10,000 in arrears. However, she commended her attorney, Brian Steinberg, for assisting her in finally gaining joint custody of her children and is now seeking to revoke the child support because she does share custody with her ex-husband. She concurred with previous testimony regarding the treatment litigants have received in Judge Jones' court room and with Mr. Carley's testimony that courtroom connections are important to have a successful case outcome. Ms. Stiller also concurred with the testimony on the injustices being done by the Family Mediation and Assessment Center. She, too, was evaluated and indicated the final report included inaccuracies relating to her job history and her confidential psychology report from Oregon. Although there were inaccuracies in her evaluation, Ms. Stiller informed the Subcommittee that she was never given the opportunity to testify in her defense and the negative report led to the judge originally denying Ms. Stiller joint custody of her children. In addition to her financial hardship, Ms. Stiller stated her family, trying to assist her, has spent over $30,000 in legal fees and is in financial dire straits, also. Ms. Stiller indicated that her family court case is now before the Nevada Supreme Court to revoke the child support payments she is now paying her ex-husband, who is an affluent man with $1.2 million in assets. Ms. Stiller urged the Subcommittee to have sympathy and empathy for the children involved in these family court cases. In closing, Ms. Stiller also urged the Subcommittee to not take the

public testimonials lightly.

Marguerite Kaye provided the Subcommittee with testimony on her divorce case. In her divorce case, Ms. Kaye indicated that Judge Gaston acted as both the arbitrator and the ruling judge. Since her case has been closed, Ms. Kaye indicated she has nothing to gain by providing testimony to the Subcommittee, except to urge the Subcommittee to provide recommendations to prevent other litigants from going through the same problems she did in her case.

Mary Branum provided the Subcommittee with testimonial on the positive aspects of being a single-parent family. Ms. Branum expressed her disagreement with the term "fragile family," used in Mr. Leeds' testimony. She informed the Subcommittee that as a single parent, she is a stronger parent than she had ever been while still married and indicated that she and her daughter are enjoying life as a "fragile family." In closing, Ms. Branum expressed her hope that the stigma attached to being a single-parent family would be removed because it can be very enjoyable.

There being no further business, the meeting was adjourned at 5:00 p.m.

Respectfully Submitted,

Emiko Mitchell

Committee Secretary

Approved:

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Assemblywoman Barbara E. Buckley

Chairman

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Date

LIST OF EXHIBITS

Exhibit A is the Legislative Commission's Subcommittee on Family Courts (Assembly Concurrent Resolution Number 32) booklet prepared by the Subcommittee staff. The material used by the Subcommittee and the presenters is divided into fourteen sections:

- Section I: Agenda for March 11, 1998
- Section II: List of Subcommittee Members, Staff and Advisory Committee
- Section III: Assembly Concurrent Resolution Number 32 (1997)

- Section IV: Las Vegas Sun Newspaper Article—January 22, 1998
- Section V: Las Vegas Sun Newspaper Article—January 22, 1998
- Section VI: Las Vegas Sun Newspaper Article—January 23, 1998
- Section VII: Las Vegas Sun Newspaper Article—January 24, 1998
- Section VIII: Las Vegas Sun Newspaper Article—February 7, 1998
- Section IX: Las Vegas Sun Newspaper Article—February 8, 1998
- Section X: Las Vegas Sun Newspaper Article—February 14, 1998
- Section XI: Las Vegas Sun Newspaper Article—February 20, 1998
- Section XII: Las Vegas Sun Newspaper Article—February 20, 1998
- Section XIII: Las Vegas Sun Newspaper Article—February 21, 1998
- Section XIV: Legislative Meeting Calendar

Exhibit B is the report entitled, "Caseload of the Family Division and the Need for Additional Judges and Personnel," referred to in the presentation by the Eighth Judicial District Court Administrator and Assistant Court Administrator, Charles Short and Christina Chandler.

Exhibit C is the informational packet presented to the Subcommittee by the Honorable Judge Jeremiah S. Jeremiah in his testimony on the role of the strong chief judge in the Rhode Island family court. The informational packet includes reports entitled, "State of Rhode Island Family Court: Overview of its Departments and Functions," "Strong Chief Judge of the Family Court," and "Why a Unified Court System?" Also included in the informational packet: "The Budget of the Judicial Department of the Rhode Island Family Court," "Domestic Case Management Statistics," "Family Court Domestic Caseflow Model," Section 8-10-14 of the Rhode Island General Laws, "Administration of operation of family court," and Section 8-10-15 of the Rhode Island General Laws, "Family court administrator."

Exhibit D is the report entitled, "Port of Entry Approach to Family Court," used in the testimony and overhead presentation by Thomas L. Leeds, Master, Eighth Judicial District Court.

Exhibit E is the written testimony provided by Talia Zeer, detailing the child custody case concerning her adopted daughter possibly being returned to her biological parents in Baghdad, Iraq. In addition to her written testimony on her case, Ms. Zeer submitted an article from the "Las Vegas Sun," January 18, 1998, titled "9-year-old Caught in Own Iraqi Squabble," and an update on that article, also from the "Las Vegas Sun," undated. Ms. Zeer also submitted a videotape of her family court proceeding.

Exhibit K is an editorial written by Douglas I Carley and published by the "Las Vegas Review-Journal", dated July 11, 1997, titled "Fixing Family Court: Back-room Deals, Gender Bias are Problems." Mr. Carley also included a second page to his editorial detailing his divorce and child custody cases, which was not published by the "Las Vegas Review-Journal." Additionally, Mr. Carley submitted to the Subcommittee an outline of the events and their dates of occurrences which have led to his family court case involving the custody of his children.

Exhibit G is the written testimony by Cornelis Vilders, detailing the problems his son, Martin Vilders, who also testified, has had with obtaining custody of his children, Keith and Warren. Mr. Vilders also submitted a newspaper article from the "Las Vegas Review-Journal," dated January 30, 1998, written by Cathy Young. The title of the article is not visible on the photocopy.

Exhibit H is the "Sign-In Sheet."