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Introduction

Five years ago, when we first officially met and took on the role of Co-Chairs of the Permanent Judicial Commission on Justice for Children, we resolved that the Commission would produce reforms rather than reports. This document represents not a breach of that promise but an effort simply to inform you, in as brief and direct a fashion as possible, of what the Commission has been up to in its first half-decade.

Indeed, we believe the ensuing pages—describing the Commission’s three major initiatives—show that we have been fully faithful to the original commitment that the Commission would study and solve, rather than simply report on, problems affecting children in the New York State court system. The Commission has turned ideas into actions and we believe it has made a difference.

The Commission first studied the process for obtaining services for developmentally disabled infants and toddlers through the Family Court, and then worked to secure passage of legislation establishing a better system. We studied the problems of children brought to court by caretakers with no child care alternatives, and then worked to establish a network of Children’s Centers in courthouses across the State. We are currently studying New York’s foster care system, and expect to propose specific improvements in that area as well.

Why has this Commission been so especially effective? Being from the outset a permanent body allows us the opportunity to see that our efforts produce meaningful change, but it also challenges us for the future to assure that we remain productive and successful.

Unquestionably, high on the list of reasons is the Commission's membership. Our justice system members—judges and lawyers—contribute a wealth of firsthand experience with children in the courts. But we are also an interdisciplinary group, and our vision has been enlarged by the experiences of legislative and executive branch members, as well as representatives of fields such as medicine, social work, child development, education and child advocacy. We thus have both the immediacy of the court system insiders and the objectivity of the outside world. And fortunately all of our members, regardless of background, seem to share a common commitment to seeing projects through, from first inspiration to final implementation.

Perhaps above all else we have our outstanding Executive Director Sheryl Dicker—who brought to the Commission her own background as former child advocate, foundation project director and state official—to thank for five years of solid achievement. Sheryl, Deputy Director Sue Nadel and Children's Center Coordinator Pat Kennedy have been exceptional contributors to the work of the Commission.

We also thank Pace University School of Law, which houses the Commission staff, and the law firm of Proskauer Rose Goetz & Mendelsohn, which has provided the facilities for our many meetings.

We dedicate this report to our members and staff, whose extraordinary efforts produced these achievements, and to the children of New York State, on whose behalf these efforts are made.

Judith S. Kaye
Ellen Schall



Achieving Early Intervention

In 1991, the Commission began its first project. Key informants—people with special knowledge about poor young children and the courts—interviewed by the Commission described children displaying serious developmental delays and bemoaned the lack of appropriate services to address those problems. They also voiced dismay at New York’s failure to implement the Federal Infant and Toddler Early Intervention program for children with developmental delays, known as the Part H program. The Federal law establishes a comprehensive system of educational, therapeutic and family support services for children under the age of three with, or at risk of, developmental delay. Yet efforts to implement that law in New York were stalled. Unlike any other state in the nation, New York had a system that required the Family Court, under section 236 of the Family Court Act, to enter orders for pre-school special education services.

Based on the opportunity presented by the Federal Part H program and the pivotal role of the court in the existing system, the Commission established an Early Care Working Group to consider how it might best achieve reform. This Committee’s review confirmed that the existing system was seriously flawed. Unlike other judicial procedures, it seldom presented the Family Court with a controversy for adjudication. Analysis of the available statewide data also revealed geographic and economic differences in access, with

***A** mother in an upstate New York city has two children with special needs. The older child went through the Family Court order program and was enrolled in a segregated school for children with disabilities. In contrast, the younger child was referred to New York’s early intervention program, which arranged for speech therapy at her day care center and even trained the center staff to work with the child’s special needs. Through this experience, the mother has become more actively involved in the development of an appropriate service plan for her older child as well.*

poor children and children from rural areas less likely to be served. Furthermore, services were all or nothing. A child either received special education and related therapies in a special school, sometimes involving transportation for long distances, or no services at all. The State and Counties split the cost of these services, with no Federal reimbursement.

Armed with an understanding of the deficiencies in the existing system and the opportunities presented by the Federal law, Commission members met with legislators, service providers, local government officials and families in an effort to break the impasse that had stalled past reform efforts. The Commission joined with State legislators in sponsoring two public hearings focused on the existing system and legislation proposed to implement the Federal program.

After a protracted legislative battle, New York implemented the Federal law with passage of the Early Intervention Laws of 1992 and 1993. These laws now create an entitlement program for children with, or at risk of, developmental delay and other disabilities to ensure that they and their families have access to a comprehensive system of educational, therapeutic and family support services. These cases no longer pass through Family Court, reducing that court's dockets by more than 15,000 cases.

Most importantly, the new early intervention system has improved the lives of children in New York State. In 1991, 7,000 children received services, mostly in segregated settings. Today, over 22,000 children receive individually-tailored early intervention services that may include only one therapy or an array of services. The program now serves more children in rural areas, and over 40 percent of children in the program are poor and receive Medicaid. The majority are served in community-based settings rather than segregated schools of the old system. And apart from improved services, the cost is less per child under the new system, with Federal funds used to defray some of the expense.

When a teenager in an upstate urban county gave birth to a low birth weight baby, the infant was identified as being at risk of developmental delay by New York's Early Intervention Screening and Tracking System. As part of the program, a public health nurse visited the young mother's home shortly after she left the hospital to check on the mother and child. After a screening of the baby indicated developmental delay, home-based early intervention services were started and the mother was enrolled in parent training classes. The classes and services enabled the young mother to work with her child's disabilities and to return to school to earn her GED.



Creating Children's Centers in the Courts

Every day hundreds of young children are brought to New York State's courthouses, because their caregivers have nowhere else to leave them. Their presence in the waiting rooms, hallways and courtrooms precludes the full participation of caregivers in important judicial proceedings, jeopardizes the well-being of children and compromises orderly, efficient court operations. To provide a safe haven for children in the courts, the Commission spearheaded a statewide system of Children's Centers in the courts.

Transforming a problem into an opportunity, the Commission created the Children's Centers to provide a two-pronged service: quality drop-in child care services to children while their caregivers attend to court business, and a site—possibly the only place until a child enters school—where families can learn about and gain access to vital services.

In 1993, with funding from the New York State Legislature and a unique partnership with the Department of Social Services, the Commission issued a request for proposals (RFP) for not-for-profit agencies to operate Children's Centers. Through this process, six centers were established in Buffalo, Albany, Rochester, Yonkers, Manhattan and Staten Island. Based on the success of the first six centers, the Commission obtained State and Federal funding in 1994, and then again in 1995 for the start-up and enhancement of Children's Centers in the courts. Currently, 14 Children's Centers operate throughout New York State. In 1996, the Children's Centers served more than 35,000 children.

Having surveyed the Children's Centers users, we know they are among New York's most vulnerable children. Most of the children receive Aid to Families with Dependent Children and/or Medicaid benefits. Many of those covered by Medicaid are not receiving vital supple-

mental food and nutritional counseling services to which they are entitled through the Federal Women, Infants and Children (WIC) program. An alarming number of the children have chronic health problems or other disabling conditions. And fewer than ten percent of the children are enrolled in any early childhood education program. The needs of these children make the service connections component critical.

Through a variety of State and Federal funding sources, the Commission is testing three models to help link poor children and families with essential services. First, Children's Center staff have been deputized to make service connections. In addition to providing information and referral services, all Children's Center staff have been trained to begin the enrollment process for the NYNEX Lifeline telephone service and WIC. Second, three Centers (Rochester, Buffalo and Brooklyn) are staffed with specialized workers whose sole job is making service connections. Third, staff from other agencies such as Head Start have been outstationed at the Centers to link children with vital services.

In 1995, through a unique joint project with the national Head Start program, two Head Start family workers were outstationed at the Children's Centers in Albany and Staten Island. Their sole caseloads are derived from the children served by the Centers. Their task is to

Children's Center for Erie County Family and County Courts

Romanita Pinto, former director of the Buffalo Children's Center, frequently went out of her way for the children and caregivers who came into the center. During the first winter the center was open, one of Buffalo's infamous snowstorms blew off the lake while a young mother was in court on an emergency. The mother stopped by the Children's Center to check on her three children who were safely engaged in activities there and confided to Romanita that she had nowhere to stay that night. Romanita asked if she might call a housing shelter for the woman and when she agreed, Romanita made the necessary arrangements. Because no transportation was available, Romanita drove the family to their destination herself so that this mother and her children would not have to walk a long distance in the dark and snowy night to get to the shelter.

enroll (not merely refer) families in Head Start as well as other essential services. In the first year and a half of operation, the Head Start family workers connected more than 800 families to essential services, including 90 children who are attending Head Start and 276 children who have been enrolled in the WIC program.

In cooperation with the Montefiore Medical Center's Children's Health Project, the Commission has developed a second outstation project. A mobile medical unit placed outside the Manhattan Family Court provides health care, health education and linkages to comprehensive care for children served by the two Manhattan Children's Centers—one in Family Court and a second, across the street, serving Civil, Criminal and Housing Courts.

The Children's Centers have attracted wide attention and requests for help in developing new Centers around the country. Our manual, *A Good Place For Children: A Guide to Starting, Building and Operating Children's Centers for New York's Courts*, has been disseminated to judges, social services officials, child care providers and other interested persons throughout the country. The Children's Centers have welcomed as visitors judges, court officials and even White House staff.

Expanding and strengthening our system of Children's Centers and helping others to replicate the model elsewhere will continue to be central to the Commission's goal of serving children in the years ahead.

Children's Centers for Monroe and Erie Counties

The harsh winters in Buffalo and Rochester have inspired the Children's Center staff in both locations to create a "Mitten Tree." During the first week of October, these centers send a notice out to courthouse staff announcing the creation of the Mitten Tree and soliciting donations of hats, gloves, mittens, socks and scarves for the tree. When a child comes into the center without one of these items, staff members encourage the child to choose a pair of mittens or other article of warm clothing to take home.

Children's Center at Albany County Family Court

Two weeks after Jayne Dygert began her tenure as Head Start Family Worker at the Albany Family Court Children's Center, Tina arrived at the center with her three children, aged 18 months, 2¹/₂ years and 4 years. The children stayed at the center while Tina sought an emergency order of protection.

Jayne arranged for emergency shelter for Tina and her children that night and helped her fill out applications for emergency food stamps and Medicaid for her children. Over a period of approximately four months, Jayne had frequent contact with Tina. She helped Tina enroll the four-year old in the Head Start program, obtain child care for the two younger children and sign up for the Workfare program. A year later, Tina has a job and an apartment, the oldest child is in kindergarten, the second child is in Head Start, and the baby is in licensed day care. While these may seem like modest advances, a great deal of time and effort were required to assist this parent through a bureaucratic system that otherwise could have overwhelmed her.

Children's Center for Manhattan Civil, Criminal and Housing Courts

When a young mother brought her 2¹/₂-year-old child to the Children's Center at Manhattan Civil Court, the head teacher Miriam Candelario noticed the child did not speak while interacting with the staff and other children. When the mother returned from her court proceeding, Miriam tactfully asked about the child's verbal skills. The mother stated that it was "normal" for the toddler not to be speaking. Using one of the center's pamphlets on New York's Early Intervention Program, Miriam discussed the average child's verbal skills at that age and recommended that the mother set up an appointment to have the child screened. On a return visit to the Children's Center a month later, the parent reported that she had taken the child to be examined, and as a result the child had begun sessions with a speech therapist.



Improving Foster Care Proceedings

In 1993, Congress provided four-year funding to the highest court of each state to assess and improve foster care, termination of parental rights and adoption proceedings. Pursuant to Federal legislation, New York's highest court, the Court of Appeals, designated the Commission to carry out this effort in New York. The first year of funding for the project is allocated for assessment purposes, the remaining three years for reform efforts.

In authorizing funds, as part of the larger Family Support and Preservation initiative, Congress recognized that significant improvements in the child welfare system also depended on improvements in court process. Over the last two decades, reforms in Federal and State law have increased the number of issues, hearings and parties before the court. Additionally, problems of crack, HIV-AIDS and homelessness have made child welfare cases more complex and demanding. Yet the resources allocated to the courts hearing these cases have not kept pace with the changing needs.

To ground its work within a larger conceptual context, the Commission is conducting the required assessment and undertaking two additional research efforts. First, it is reviewing court and social service delivery innovations in other states to assess their possible applicability here. Second, the Commission is reviewing the history of the Family Court in New York State, successful and unsuccessful court interventions, and court reform within the context of child welfare and other social reform efforts in New York and nationally.

The Federally-mandated assessment includes a statewide overview. The statewide overview, which has been completed by the Commission, consists of three parts: an analysis of

New York State and Federal law, an overview of the foster care population in New York State and of Family Court child welfare activity, and the results of a statewide survey of key actors (other than judges) in the processing of child welfare cases in New York State. The analysis indicates that New York State is largely in compliance with Federal law. To the extent that there are deficiencies, they lie in practice rather than law.

Developing a profile of the foster care population in New York State provided us with a better understanding of the children in care and their experience with both the child welfare and court systems. This profile was based on the only reliable data available statewide: the Central Register of Child Abuse and Maltreatment, the Child Care Review Service and the Office of Court Administration's data on Family Court petition activity. There are several key findings of the profile:

- ◆ There were 60,847 children in foster care in December 1993 (the last year for which there were complete and reliable statewide data). There were 16,900 admissions to foster care in 1993 with 61 percent (10,425) from New York City. No other New York county had as many as 5 percent of the State's admissions or as many as 1,000 admissions per year. Erie County, with the next largest number of admissions, has only 900 admissions to foster care each year. More than half of the counties in the State—33 of 57 counties plus New York City—average only three foster care admissions per month compared to New York City's monthly average of 957.
- ◆ Nearly three-quarters of the children in foster care from New York City are children of color compared with about one-third elsewhere in the State. The ages of the children are clustered

At each annual court review of a five-year old's foster care case, the Department of Social Services assured the judge that they were working on getting the child adopted. After two and a half years, DSS filed a petition to terminate parental rights, which the judge granted. The child was now free for adoption, yet no action on the adoption had been taken and the child remained in foster care. At a court hearing to review the child's status, the judge discovered that although the foster care unit said it had sent the child's records to the adoption unit, the adoption unit had no records. Consequently, after three years all the records had to be reconstructed and the entire adoption process restarted. The future of the child remains yet to be decided.

disproportionately at both ends of the spectrum: 34 percent of the children in New York City and 20 percent of the children upstate are under age two. This trend is growing statewide with one-third of the admissions in Erie, Onondaga and Monroe Counties, and 59 percent in Nassau County, under the age of two. By the same token, 30 percent of the children upstate and 20 percent of the children in New York City are adolescents.

- ◆ Fifty-eight percent of the children from New York City and 33 percent of children from the rest of the State have been in foster care continuously for more than three years. Forty-six percent of New York City children are placed in kinship care (approved relative homes) compared with only seven percent in the rest of the State. Children in kinship care are more likely to remain in care for more than three years: 66 percent of children in kinship care in New York City were in care for more than three years compared to 51 percent of those in non-kinship placements.

The Commission then focused on how children in foster care are treated in court. Questionnaires were sent statewide to law guardians, respondents' counsel, Court Appointed Special Advocates (CASAs), attorneys employed by County Departments of Social Services (DSS) and County DSS commissioners. There are several key findings from the survey:

- ◆ There is little continuity among caseworkers and attorneys in processing cases. Preparation for hearings in cases with contested issues is limited statewide, particularly in voluntary placement cases with contested issues. Little time is spent investigating alternative services, talking to service providers, visiting children and finding out how they are doing in school. Only a small percentage of attorneys indicated that they typically introduce evidence regarding reasonable efforts or service delivery.
- ◆ Delay is a major problem. Petitions are not being filed on time, particularly in New York City. Throughout the State there is an average of three adjournments at each stage of the process. The length of adjournments is significantly longer in New York City—approximately seven weeks per adjournment in comparison to four statewide.

- ◆ There is a pattern of noncompliance with court orders. In New York City, only 30 percent of respondents said that DSS always or usually complied with court orders compared with elsewhere in the State where respondents reported a higher compliance rate. The percentage of those surveyed who said that parents or other respondents always or usually complied with orders is only 13 percent in New York City and large counties and 24 percent in small counties.

In addition to these quantitative studies, the Commission conducted interviews, meetings and focus groups with judges, court administrators, law guardians, counsel for respondents, agency attorneys, child advocates, adoptive and foster parents, social service commissioners, child welfare historians and social scientists to gain a more qualitative understanding of the issues and dilemmas faced by individuals involved in the child welfare and court systems.

Given the size and complexity of New York's child welfare and court systems, the Commission has targeted issues and geographic areas for further research. This phase of the research, conducted by the Vera Institute of Justice, is centered on outcomes, not process, and is geared to gaining a truer understanding of the experiences of youth in foster care as they move through the court system. We are studying, in particular, children who entered the foster care system before the age of one and are still in foster care, and children who are between the ages of 16 and 18 in foster care. Five counties were selected for this outcome study: Bronx, Erie, New York, Oswego and Suffolk. Once all the research is complete, the Commission will concentrate its efforts on developing improvements for the Family Court's handling of foster care matters that better meets the needs of children and families.

In New York City, a five-year old has been languishing in foster care for the last three years while her birth mother has been in and out of drug treatment programs. A petition to terminate parental rights was filed at one point, but it was withdrawn to permit the mother to continue treatment. At the latest court hearing, the judge extended the child's placement in foster care for another year, warning the mother that this would be her last chance to prove she could stay drug-free and care for the child. In the meantime, four years will have elapsed in the life of a young child before a final determination is reached.



Conclusion

Over the past five years, the Permanent Judicial Commission on Justice for Children has worked hard to improve the lives of children who come into contact with our State court system. We are proud of the achievements outlined in this report, and we look forward to building on these successes in the coming years.

“ . . . the concept of PERMANENT Judicial Commission on Justice for Children denotes the unequivocal commitment to ALWAYS work on behalf of children . . . The plight of children of our State will always demand close scrutiny, particularly from those of us who have been entrusted to serve in public offices.” Roger Green • Member, New York State Assembly • Chair, Committee on Children and Families*

*“The melding together of judges, lawyers, government officials, researchers, and academics has led to astonishing success . . . could well be called the ‘Permanent Commission on Expediting the Implementation of Good Ideas for Kids’ or the ‘Permanent Commission on Cutting Through Red Tape and Ending Bureaucratic and Legislative Inertia’ . . . an irresistible formula for progress and hope!” Charles Sims, Esq.**

“The Children’s Centers serve a vital function for families. The bright smiles on the children’s faces as they played speak for the program’s success.” Carol Rasco • Assistant to President Clinton for Domestic Policy

“ . . . pivotal in the passage and implementation of the Early Intervention Laws of 1992 and 1993 . . . the Commission insured that the best interests of children—not just a quick fix—were achieved.” Frank Zollo • Former Director, Early Intervention Program, New York State Department of Health

“The Children’s Centers are vital because children are the forgotten victims of court action.” Helene Weinstein • Member, New York State Assembly • Chair, Judiciary Committee

*“The Commission has established a commanding presence in the field of child welfare, combining a unique blend of historical analysis and futuristic reform. As a permanent Commission, it offers an enduring presence for analysis and reform in statewide child welfare legislation and activity.” Mary Kelly, Esq.**

“It is a joy to see the shining faces of the children in the Children’s Centers who might otherwise have to face the grim reality of court proceedings.” Angela Mazzarelli • Justice of the Appellate Division, New York State Supreme Court

“The Commission’s work in helping to achieve the Early Intervention Law simplified access to services for disabled young children by moving these petitions out from the jurisdiction of Family Court. It also placed decisions regarding the appropriateness of a program for a particular child into the hands of those closer to the provision of service.” Alana Sweeny • Executive Director, New York State Council on Children and Families*

“ . . . every aspect of our work is approached thoroughly and creatively in a comprehensive and cross-systems context . . . The Commission produces action-oriented results that effect positive change for New York State’s children.” Elba Montalvo • Executive Director, Committee for Hispanic Children and Families*

“The work of the Commission establishing the Children’s Centers in the courts across the State has been a tremendous accomplishment that has benefited not only the litigants and the court staff and judges, but has enhanced the quality of the children’s lives.” Sharon Townsend • Supervising Judge, Erie County Family Court*

*“ . . . a strong voice for those without a concerted voice of their own—poor children under five years of age.” Lucia Whisenand, Esq.**

“As a Family Court Judge, I can say that it was a real boon to the Court to have petitions for funding early education for children with disabilities removed from the Court’s jurisdiction. These cases were not true ‘controversies’ requiring judicial intervention, and both the parties and the Court have been better served under the new Early Intervention law.” Michael Gage • Administrative Judge, New York City Family Court*

“The Children’s Centers in New York State Courts are an inspiration to the rest of the country. We need to cherish children wherever they are found and most certainly in courthouses. I commend Chief Judge Kaye for her vigor and vision.” Sheila Murphy • Presiding Judge, Sixth Municipal District Circuit Court of Cook County, Illinois

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