

**Statement of the
Council for Court Excellence**

to the

United States House of Representatives

Government Reform

Subcommittee on District of Columbia

Regarding the

Performance of the District of Columbia Courts

June 5, 2002

Introduction

Good Morning, Madame Chair Morella and other members of the US House of Representatives Government Reform Subcommittee on the District of Columbia. Thank you for inviting the Council for Court Excellence to provide testimony at today's hearing on the subject of the review of the performance of the DC Courts. My name is Steve Harlan, and I have served as the Chair of the Council for Court Excellence since December 1998. Having served on the DC Financial Control Board and focused my oversight work there on public safety, I have a special interest in court operations and citizen participation and understanding of the Courts.

I am honored to present the views of the Council for Court Excellence to this Committee. For the record, let me summarize the mission of the Council for Court Excellence. The Council for Court Excellence is a District of Columbia-based non-partisan, non-profit civic organization that works to improve the administration of justice in the local and federal courts and related agencies in the Washington, DC area. Since 1982, the Council for Court Excellence has been a unique resource for our community, bringing together members of the civic, legal, business, and judicial communities to work jointly to improve the administration of justice. We have worked closely with Senate and House DC Subcommittees in the past on such issues as the DC Jury System Act of 1986 (setting the One Day/One Trial term of jury service), the DC Criminal Justice Coordinating Council and, throughout the past year, the development of the DC Family Court Act of 2001.

No judicial member of the Council for Court Excellence participated in or contributed to the formulation of our testimony here today.

Overview

Overall, we have found through our independent observation and analysis that the DC trial and appellate Courts possess an excellent bench. Their overall capacity has the potential and often the reality to provide this community with a high quality administration of justice.

Before addressing some of the areas where we believe the DC Courts could and should improve, it is important for the record to state that there are many examples where the DC Courts function well. For example, in the past this Committee has expressed concern about the Court's management of the Criminal Justice Act system. The Court addressed the concerns and we understand that indigent defense attorneys are paid much more promptly today than previously. The DC Drug Court, Domestic Violence Court, and Civil II Court each represent aspects of the trial court which appear to be functioning well and the DC Superior Court should be commended for the implementation of these courts.

There is room for some operational improvement, especially with respect to the openness of the Courts, and their ability to present timely data to the community that shows how

they are operating and progressing. Community understanding and knowledge of court operations is not as easy to quantify as other operational areas but it represents the one true test of Court performance. If the public is not provided with the information necessary to make an informed decision as to how their Courts are operating, the potential exists for miscommunication and misunderstanding. We are encouraged by the fact that the DC Courts are now undertaking a strategic planning process to focus on long-range planning and self-assessment using some of the nationally recognized performance standards. We are equally encouraged that the DC Courts have invited a variety of groups and individuals to make written comments and participate in discussions with the Court's strategic planning council.

Madame Chair, I would like to now focus our testimony and draw upon several recent reports and analyses of DC Superior Court operations which the Council for Court Excellence has done. These reports include: Court Observation, Grand Jury Reform, Criminal Case Processing and Police Overtime, Civil Case Processing, and Family Court Implementation.

Recent Reports and Analyses

1. Court Observation Projects

Beginning 16 months ago, in February 2001, we have undertaken two separate Court Observation programs whereby trained civic volunteers observe court sessions and provide comments on the Court's operations. The rationale underlying this project has been to provide members of the community a direct voice on how their courts are run and to provide the court with the fresh, common sense feedback and perspective of persons who do not frequent the court regularly. Our first study focused on the Civil Division of the DC Superior Court and involved 70 volunteers making 250 separate in-court observations. We are now concluding our second program, an observation of the criminal division of the DC Superior Court. This second report will be the result of intensive three-month in-court observations by 90 persons from all walks of life. From February through April, these individuals made just under 300 separate in-court observations, comprising 750 hours of observation time.

There were three major findings from these two DC Superior Court Observation projects. First, citizens experience confusion and difficulty finding where to go in the DC Courthouse. There is no general directory for the building and very limited general signage, and Spanish language signage. In July 2001, the Council for Court Excellence presented this concern to the Court and we are disappointed to find that the very same concern has been expressed nine months later in the second court observation project. The DC Courts should put greater near-term priority on this matter of public access. While it is clear that the Courts operate in an over-taxed building that was built to accommodate less activity, and fewer judges and staff, sufficient signage for citizens is needed.

Second, citizen observers are very impressed with our judges. The overwhelming majority of the 160 community volunteers who spent time observing DC Superior Court trials and hearings rated the proceedings they observed as being conducted courteously, with appropriate sensitivity to all concerned, and with clear explanations of what was taking place.

Finally, our court observers were very gratified and impressed to observe first hand the proceedings in the DC Drug Court. The community observers feel that this innovative court program needs to be better known in the general community.

2. *Criminal Division*

A. *Grand Jury Reform*

The Council for Court Excellence completed a major policy report last July examining the grand jury system. As you know, the grand jury operates under the authority of the DC Superior Court but with a great deal of day-to-day involvement by the prosecutor, who in the District of Columbia is the United States Attorney. Madame Chair, our July 2001 report contained many important recommendations. On a practical level, we urge the DC Superior Court to take steps now to reduce the size of the grand jury, and to further reduce the amount of time citizens spend on grand juries. And, to relocate the Superior Court grand juries from the present inappropriate home in within the U.S. Attorney's office to the appropriate Court building.

B. *Criminal Case Processing and Police Overtime*

Regarding the Council for Court Excellence March 2001 report on our year-long study of police overtime for prosecutorial and court hearings, we commend the Congress for two things you have done. First, you gave the DC Criminal Justice Coordinating Council demonstration funding of \$1 million a year for the last two years to enable experimentation and testing of new approaches.

Innovative programs like the DC Community Court are the direct result of Congress providing modest risk capital to the DC Superior Court and other criminal justice agencies. We urge Congress to continue this useful support next fiscal year.

The second critically important thing Congress has done is to hold the Courts, the Police, and other DC criminal justice agencies accountable to deliver a more efficient criminal justice system to DC residents. Periodic oversight hearings by the Congress are essential and we believe they should continue annually at least.

3. *Civil Case Processing*

Another subject in which the Council for Court Excellence has examined court operations is civil case processing. The efficiency and quality with which the DC Superior Court and the DC Court of Appeals resolve civil cases has a tremendous impact on the community. Recently, we concluded a year-long study that found that civil case processing in the DC Superior Court remains efficient and makes good use of court resources and time. In 1989, we undertook our first study of civil trial case processing,

along with recommendations for improvement. The DC Superior Court responded with a comprehensive civil case delay reduction plan. In our 2002 report we looked back and assessed the past ten years. We found that the reforms implemented by the DC Superior Court in 1991 significantly reduced the time from civil case filing to disposition. We were gratified to document ten years later that the DC Superior Court continues to manage most types of civil cases, using the single case assignment system, promptly and efficiently. Importantly, there is much greater case scheduling certainty than before the Court implemented their reforms. Trials and other civil court proceedings are held on the date set, and when held over, are heard by the Court within a day or so of when initially calendared.

Our recent report documents that, as of 1999, the DC Superior Court Civil Division disposes of 81% of its cases within 12 months, 86% within 18 months, and 99% within 24 months, a very good record.

4. Family Court Implementation

The final major court improvement area in which the Council for Court Excellence has been engaged over the past 2 years is the facilitation of the joint work by the City's public officials to reform the child welfare system, and specifically to meet the challenge of implementing the federal Adoption and Safe Families Act of 1997. We believe that the DC Superior Court has done an excellent job preparing the Family Court case management plan, and that the plan provides a clear initial blueprint for implementation of the new Family Court. We commend the Court both for the inclusive, collaborative process they followed in developing the plan and for the quality of the resulting document. The case management plan submitted to the Congress, in our opinion, fully embraces both the letter and the spirit of the Family Court Act of 2001. Once fully implemented, this plan should yield better, more consistent, and more expeditious service to everyone who has business before the Family Court, especially the City's abused and neglected children.

In our opinion, both the Superior Court's actions to date in assigning judges and selecting magistrate judges for the Family Court, and the Court's case management and training plans laid out in the document match the act's policy requirements. Furthermore, the Court proposes to complete the phase-in of all case management changes several months before the October 2003 18-month implementation deadline. For all of this, we applaud the Court, and especially Chief Judge Rufus King, Family Court Presiding Judge Lee Satterfield, and Family Court Deputy Presiding Judge Anita Josey-Herring, for their strong leadership and commitment to the success of this planning process.

The Court has made an excellent start and is building momentum, but there are many details that remain to be worked out and there is a long way to go to capitalize on the promise of the changes already specified. Three areas are of particular interest to the Council for Court Excellence, based on our work over the past 2 years. First, calendaring practices of the judicial officers. Second, support staffing and business process re-engineering. Third, training and cross-training programs.

Specifically, we and others want to know more detail about how the Family Court plans to manage the judicial officers' mixed-caseload calendars. While Congress is primarily interested in child abuse and neglect cases, those cases represent only 22% of the Family Court caseload, according to the Court's transition plan, and thus many court users are focused on other portions of the Family Court's overall caseload. The detail of the Family Courts calendaring, or case scheduling, practices will determine whether service improves or declines for the 78% of the Family Court caseload which is not child abuse and neglect.

As to the child abuse and neglect system, the Court's calendaring practices will also determine how frequently Child and Family Services Agency (CFSA) social workers and Office of Corporation Counsel (OCC) attorneys will need to be in each of the 25 courtrooms (15 judges and 10 magistrate judges) handling child abuse and neglect cases. The way the Court organizes for Family Court judicial hearings has a great impact on the resource needs and management practices of CFSA and OCC, and on how much time CFSA social workers will have available for their primary responsibility -- to provide direct services to our City's children and families.

The DC child welfare system will not improve unless the plans and reforms of the Court, CFSA, and OCC are fully synchronized, and unless the performance of all participants in the DC child welfare system improves. Over the past year, we at the Council for Court Excellence have been eyewitnesses to a new positive spirit of genuinely shared responsibility among the leaders of the Family Court and DC executive branch agencies. This makes us quite hopeful that, over the next 14 months, the remaining important details of calendaring DC Family Courtrooms, reducing the number of courtrooms hearing abuse and neglect cases from 60 to less than 25, and matching judicial teams with social worker and attorney teams will be worked out in a manner and on a timetable which meets each Agency's needs and results in improved productivity and service to city residents. We urge the Congress and this Committee to review progress on this matter periodically over the next 18 months of implementation, and we pledge that, to the best of our ability, the Council for Court Excellence will do likewise.

Our second area of remaining concern is Family Court support staffing and business process re-engineering. The Court's transition plan emphasizes the organization and assignment of the caseload among the judicial officers, with little description of the Family Court support staffing infrastructure and case management processes. This initial focus is understandable, given both the 90-day deadline and the plan topics mandated in the statute. Yet lawyers, other court users, and concerned civic groups like the Council for Court Excellence have a strong interest in the staffing and processing topics, and we read the plan to understand how it will work on the ground on a daily basis.

The quality of life for DC Family Court users (and presumably for judicial officers as well) is affected as much by what happens outside the courtroom as by what happens within it. The plan simply lists the various job titles within the Family Court, with brief

descriptions of general functions, and notes: The Court is preparing an estimate of the number of different types of personnel, pending the completion of a staffing study now in progress. We are unaware if that staffing study includes a full examination of the business processes followed within the Family Court. If it does not, we urge the Court and Congress to seek such an examination to determine if re-engineering those back-office Family Court Clerk's Office processes could yield efficiencies, economies of scale, improved morale and job satisfaction, and better service to the public and court users alike. We offer any appropriate assistance from the Council for Court Excellence to ensure that such a management study can take place promptly. And we urge that the Court offer a timetable for completing the back-office planning process.

Our third and final topic of concern is training and cross-training. We commend the Court for laying out in its transition plan an ambitious agenda of training topics and training initiatives. The Court plans quarterly in-house training for Family Court judicial officers and staff. Court-appointed attorneys who practice in the Family Court will also be required to participate in periodic training. In addition, cross-training will be planned and presented for Court and stakeholder personnel. Many details and logistics must be worked out to maximize the efficiency and the effectiveness of all of this training, including how it will all be jointly scheduled well in advance to accommodate all participants planning. We suggest this as a further topic for Congress and this Committee to review periodically over the next 18 months of implementation. The Council for Court Excellence has already offered to provide any appropriate help to the Court and other Child Welfare Leadership Team stakeholders to plan these training initiatives and to carry out the plans.

Conclusion

As for other areas in need of improved operational performance, we would like to highlight several. First, as I said at the onset, the willingness of the DC Courts to demonstrate their improvements and performance to the community through regular, publicly released, and timely statistics will encourage public understanding. Statistics -- by case type, time data, ADR case types with settlement rates and amounts, jury data, data on probate -- will highlight trends and enable the Courts to objectively assess whether or not their operational plans need adjustments. Successful design and implementation of the Court's planned Integrated Justice Information System is a critical element to this commitment to transparency of statistics.

Second, public distribution of Court budget priorities will enable the community to make input as to whether or not those priorities match the trends and focus on the issues of importance to the citizens the Courts serve. We encourage the DC Courts to consider analyzing all of their operational data against the American Bar Association standards, as a number of other States do, and publicly show the community their progress.

Third, now and in the coming years, as the number of *pro se* litigants continues to increase generally, and in specific areas, our Courts will need to address self-service opportunities at the Courthouse and electronically to handle the public's interaction with

the Courts. Careful planning, innovation and coordination with the professional staff for efficient processing are areas the Court could begin to focus.

Fourth, Madame Chair, the majority of our testimony today has addressed trial court issues. It is important that the needs of the DC Court of Appeals be understood and addressed as well. We have long been troubled by delay in the appellate court. It was a concern ten years ago and remains so today.

We thank this Subcommittee for your policy and fiscal leadership in overseeing the DC trial and appellate Courts in the District of Columbia. We thank the DC Courts for the plans it has laid out for itself and the manner in which it has received our various recommendations. We look forward to working with the DC Courts and with the Congress as you continue to bring planned reforms to fruition. I am happy to answer your questions at this time.