

# **FAMILY LAW PROJECT REPORT**

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## INTRODUCTION

Two thousand families file for divorce in Montgomery County in a year's time. Four thousand adults, many of whom have children, experience the pain, uncertainty and trauma associated with the dissolution of a family. The impact of this situation is felt in the schools, in the courts, in the place of business, and in many other facets of community life. The legal system is the institution most heavily involved in the divorce process, but other social agencies become entangled in the web of negotiation, dispute and arbitration that represents the divorce process. Yet, relatively little is known about the impact of the legal system itself upon the dissolution of the family.

The Montgomery County Commission for Women developed an interest in the legal process of separation and divorce in this county as an outgrowth of concerns expressed by many county residents both at "A Woman's Place", the Commission's activity, counseling and resource center, and at the offices of the Commission itself. Many citizens complained that the divorce process simply took too long and that there were few social services available in our county to provide parents or children of the divorcing family with the skills and supports necessary to cope with the process in a healthy, constructive fashion. Even now, "A Woman's Place" alone received over twelve hundred requests for assistance in legal and marital problems during the first six months of 1980. To more accurately identify where the problems lie in the legal process of divorce, for the purpose of bringing about community discussion and the proposal of solutions, the Commission undertook the Family Law Project.

The study was conducted in four steps: Phase I consisted of a review of Equity cases in the Circuit Court drawn from a randomly selected sample, to assess the length of time the divorce process takes in Montgomery County.

In Phase II, the records of the District, Circuit and Juvenile Courts were reviewed, to determine the extent to which families become involved with more than one court during a given time period surrounding a divorce.

Phase III attempted to learn how people actually view their own experiences in the legal process of separation and divorce, asking where they found the process most difficult, through the tool of a consumer questionnaire.

Finally, Phase IV represents an analysis of to what social services the various Courts have access, both to help families cope with this process and to make informed determinations on issues as important as child custody and visitation rights.

The major findings of the Family Law Project are that the divorce process is indeed lengthy, and that this length of time in itself creates a burden on already stressed families; that there are a significant number of families who will be involved in more than one court on family-related matters; that the human services available to the Circuit Court in no way match those available to the District and Juvenile Courts; and that this lack of support services is also identified by those experiencing the divorce process as an additional problem in itself.

Our thanks go to the many individuals in the Circuit, District and Juvenile Court who made this study possible. A very special note of thanks goes to Howard M. Smith, Clerk of the Circuit Court for Montgomery County, who used his computer facilities to help us develop the sample we studied from the Equity files, and to Pam Pearre, Administrative Assistant, who assisted in getting the materials we needed for training and orienting the volunteers at the Circuit Court.

Many thanks go to Louise Vaughn, who coordinated all of our work at the Juvenile Court and at the District Court.

We are especially grateful to Douglas Moore, Chief Judge of the Juvenile Court of Montgomery County, who so willingly gave us his time and knowledge. His experience in promoting a Family Court in Maryland helped us a great deal to understand the various issues involved in the Family Court.

Of course, the study could never have been completed without the countless hours of work given by our project volunteers; Judith Beaupre, Gloria Bloom, Florine Borak, Judy Cohart, Lynne Farabow, Mary Kamenjar, Pam Kaplan, Eleanor McKay, Ingrid Mangini, Janet Shine, Anne Sustrikt, Sylvia West, Marge Westley, and Sabra Wooley.

Linda Berg-Cross, Ph.D., Associate Professor at the University of Delaware, served as the project director for the four phases of the study. Joseph Kaminiski performed the statistical analyses.

Many thanks to Dr. Frederick Abramson whose expertise in the area of statistical analysis aided our data interpretation. We would also like to recognize the invaluable contributions made by Gail Herson, M.S.W., in the development of the data collection instruments and the coordination of the volunteers.

## PHASE I

### REVIEW OF THE 1977 EQUITY CASES IN CIRCUIT COURT

The purpose of this phase of the study was to assess how long the average divorce process actually took in Montgomery County for individuals who filed for divorce during the calendar year 1977. The year of 1977 was selected because it was felt that most of the divorce cases which commenced in that year would have been completed by April, 1980 (the month in which the Family Law Project volunteers reviewed the files at the Circuit Court).

A computer print-out of all divorce proceedings filed in 1977 was obtained from the Circuit Court's record office. Of the 2,048 divorces filed, a random sample of 236 cases was obtained (approximately 10%). The sampling procedure consisted of taking every 8th number listed on the computer print-out of Equity case numbers which were organized by the date of filing of the Bill of Complaint. Of these 236 cases, thirty were not used either because the file could not be physically located; or, although it was an Equity case, it was not a divorce case; or because needed docket entries were missing from the file.

Fifteen volunteers were trained to read the docket entries, fill out the Data Collection Sheet of the Family Law Project, Part I, and to code the data into the computer. The volunteers worked in teams of three to five individuals.

A total of 206 cases was sampled. These cases fell into three groups: 85% of the cases (175) had testimony on the merits of the case taken by a Master for Domestic Relations (DRM); 7% of the cases (15) had testimony taken by a Judge; 8% of the cases (16) had not been heard and were unresolved at the time of this study.

For the purposes of this project, it is assumed that all divorce cases heard on the merits by the Domestic Relations Masters are uncontested cases. It is further assumed that all cases heard on the merits by a Judge are contested cases.

The data collected by the volunteers and coded into the computers was analyzed to determine the average time the

divorce process takes from beginning to end.

For the 175 uncontested cases which were heard before the Domestic Relations Masters, the divorce process took an average of  $7\frac{1}{2}$  (7.49) months. However, an examination of the 31 cases which were either contested or unresolved, reveals something quite different. Only 15 of these 31 cases (48%) which were filed in 1977, had received a Decree of Divorce by the time our volunteers reviewed the files in April of 1980. The average length of time for the entire legal process was 16 months for these cases. The remaining 16 (52%) of the contested or unresolved cases in our sample took at least 28 months to complete the legal process. (i.e., Even if each of these cases had been filed in the last month of 1977, by the time the Family Law Project volunteers reviewed the files, 28 months had passed and the cases were still pending.)<sup>1</sup>

To put these figures into context, it is important to consider that during the period of time before a final decree of divorce is granted, issues vital to the lives of the families involved, such as who will have permanent custody of the children, the amount of financial support, what will happen to the family home and a lifetime's accumulation of assets, all remain undecided. According to our findings, in 52%, or over half of the contested cases, these highly emotional, and economically life threatening issues remain unresolved for far more than two years!

<sup>1</sup>It is important to note that, at this time, there are new laws in effect relating to the disposition of marital property upon divorce and to the provisions concerning the award of alimony. These laws were not in effect in 1977, the year the cases we studied were filed. It is impossible to predict currently whether these new laws will mean that it will take even longer to obtain a divorce in Montgomery County than it did for the cases we studied.

## PHASE II

### OVERLAP AMONG THE THREE COURTS

In Montgomery County, as in all other counties in Maryland, divorce cases are heard in the Circuit Court. Misdemeanor criminal offenses and juvenile matters are heard in the District Court for Montgomery County. (In other counties in Maryland, juvenile cases are heard in Circuit Court). Two Judges are specially assigned to hear juvenile cases in the District Court, although other District Court Judges may hear juvenile matters. In Phase II of this study, the Family Law Project Committee examined the extent to which the adult individuals and children involved in a divorce action at the Circuit Court were also involved in a misdemeanor criminal offense or a juvenile case over a restricted five year period of time surrounding the divorce.

A search of the District Court records was conducted for the names of the 412 individuals (206 couples) who had been studied in the Circuit Court. All 412 names were checked for in the files covering the years 1974 through 1979 inclusive. If a full name (first, middle and last) match was found, an address match was also required for further identification. This procedure tended to underestimate the true number of matched cases since undoubtedly many people moved after the filing of the Bill of Complaint (which was the document used in finding the address of each spouse). However, since the Court's records do not use social security numbers, definitive matches could not be made without address listings.

The search of Juvenile Court files was similar. The volunteers checked the Juvenile Court files for the years 1974 through 1979, inclusive, for the names of all children whose parents had been studied in the Circuit Court. If a full name match for the child was found, the names of the one or two parents listed in the Juvenile Court records also had to match. Address matches were not considered imperative here since it was thought that some children might be living with relatives or in foster care and have different addresses. However, an address match for every parent and child name match was located in the course of the study.

The results of the District Court cross check were as follows:

- (a) Of the 412 individuals in our sample, 42 (32 males and 10 females) were charged with an offense during the time period investigated. The overlap factor (involvement in more than one court) here was thus about 10%.
- (b) 9 women and 24 men were charged only once. 6 men and 1 woman had 2 separately dated offenses; 1 man had 3 separately dated offenses; and 1 man had over 14 separately dated offenses.
- (c) We were able to obtain the files for 25 of these 42 cases. In 20 of these, the offenses were committed between the date of the Bill of Complaint and the date of the Divorce Decree. Of the remaining 5 cases, in one, the offense was committed a year before the Bill of Complaint was filed and in 4 cases the offenses were committed the year after the Divorce Decree.
- (d) In the 25 case files examined, 16 of the 27 offenses charged were "assault and battery". 15 of the 16 "assault and battery" charges were family related. Another 5 offenses were family incidents, including breaking and entering, destruction of property, disorderly conduct, and trespassing. Thus, 20 of the 27 offenses (74%) were family related. In 5 of the remaining cases, the offenses were economic crimes. They included: misuse of credit, welfare fraud, misuse of employment benefits, and telephone misuse. There was also one case of fraud and larceny.

The Juvenile cross checks found that:

- (a) Of the 83 files reviewed, 5 of the children seen in Circuit Court were involved with the Juvenile Court System during the time period studied.
- (b) Two children had charges of delinquency against them during the time studied and 3 children were found to be children in need of assistance.

Information provided to the Family Law Project Committee by the Montgomery County Office of the Maryland National Capital Park and Planning Commission placed the 1977 population of the over 19 years old age group at 382,630; under 19 years old, at 192,982; and under 10 years old group at 108,590. Data provided by the Juvenile Court states that, not counting rehearings, the

## FAMILY LAW PROJECT REPORT

Montgomery County Government  
Commission For Women

### EXECUTIVE SUMMARY

The Montgomery County Government Commission for Women has issued its Family Law Project Study based upon a selected sample of litigants initiating the divorce process in Montgomery County in the calendar year 1977. The Project was divided into four phases:

- (1) An examination of 206 court files to determine the time frame for divorce in Circuit Court;
- (2) A cross check of court files to determine the extent of the overlap of litigants in divorce cases in Circuit Court with other Courts in the County;
- (3) A Consumer survey of the selected sample indicating how the litigants view the system; and
- (4) A social Agency survey to determine what social services are available through the Court system to aid litigants in the various County Courts.

The study found that the divorce process is lengthy. Uncontested cases took an average of seven and one half months to complete and of the contested cases studied, over half were not completed by the time the study was conducted in April of 1980 - at least twenty-eight months after the cases were first filed. The completed contested cases (less than half of the contested cases studied) took an average of sixteen months to complete.

The study found that about ten percent (10%) of the adults seeking divorce in the Circuit Court were also seen in the District Court for a family related criminal offense during the period of time surrounding the divorce.

The study found that the litigant "consumers" of the divorce process expressed concern over the length of time it takes to get divorced and over the lack of support services to divorcing families.

Finally, the study's survey of the various Social Agencies which provide service to the Courts of Montgomery County found that the Circuit Court, where all divorce takes place, has virtually no services available to the parties of a divorce case, while criminal cases in the Circuit Court, and cases heard in the Juvenile and District Court Systems have access to a wide array of social services. The study found further, that the Circuit, District, and Juvenile Court Systems are not coordinated in any formal way regarding the judicial process or the Social Agency referral process.



Court heard 2,169 delinquency cases, 374 children in need of supervision, and 582 children in need of assistance cases in 1977. When these figures were compared, it was determined that the children of the divorcing families which we found in our study were not seen in Juvenile Court any more frequently than children in the general population of Montgomery County.

What is significant to note, however, is the 10% of our total sample of 206 couples or 412 adult individuals involved in Circuit Court within the 5 year period immediately surrounding the year the divorce was filed. If the findings of this study can be generalized to the over 2,000 cases, or 4,000 individuals who file for divorce in Montgomery County each year, then we can expect that 400 people who either are, or will be filing for divorce in the Circuit Court, will also be involved in the Criminal District Court within a relatively short time span, and some will be seen in Juvenile Court as well. Yet, neither court may be aware of the family's involvement with the other!

### PHASE III

#### CONSUMER QUESTIONNAIRE

The purpose of this phase of the study was to assess how citizens perceived their experiences in various aspects of the divorce process. The original impetus for this part of the study came from the many divorcing women who called A Woman's Place asking for assistance, support, or guidance through some phase of their divorce. A questionnaire was prepared which attempted to quantify and objectify the types of problems most frequently encountered.

The consumer questionnaire and a cover letter were sent to the same individuals in the Phase I sample. The questionnaire consisted of 13 items that were to be ranked on a seven point scale to indicate the degree of difficulty each presented to the individual during the divorce. Respondents had an opportunity to write explanations for all high rankings (5 or over).

394 questionnaires were mailed to the addresses listed in the divorce files. (12 individuals were not sent questionnaires because no home address was listed.)

Of the questionnaires sent, 228 were returned by the mail marked no longer at that address with no active forwarding address. We assumed that the remaining 166 were delivered. Of the 166 questionnaires, 32 (19%) were completed and returned. This is an acceptable rate of return for a questionnaire of this sort.

9 of the returned questionnaires were from men and 23 were from women. 11 of the respondents had children, 21 did not.

The four problems most frequently identified by the respondents as being the most difficult during the divorce process were:

- (1) Finding emotional supports for the children;
- (2) Waiting for the Bill of Complaint to be filed;
- (3) Waiting for the date of the Master's hearing; and
- (4) Finding emotional supports for themselves.

These four concerns are similar to the kind of complaints which had been expressed to the Commission through clients at

. A Woman's Place and confirm the impression created that the legal process of divorce takes a long time, that the length of time itself is experienced as difficult, and that support services to families during the lengthy and often painful process are not always available.

## PHASE IV

### SOCIAL AGENCY SURVEY

The purpose of this part of the study was to assess the number and kinds of services available in our county to individuals who appeared before the various courts and whose cases related to some intrafamily problem.

Directors of several agencies in our county were interviewed to determine how the services of their departments interacted with our county courts on family problems. A questionnaire was disseminated within the various agencies to supplement the Commission's research of this aspect of the problem.

Our study found that in the Circuit Court, when cases regarding the legal dissolution of a family are processed, almost no social services are tied directly to the court. This is not true of the District Court or the Juvenile Court.

- A. Circuit Court - All services available to the District Court, are available to the Circuit Court for Criminal cases, but not for Equity (divorce) cases. The Circuit Court does have its own in-house service unit called the Court Investigator's Office which is used to assist the Court in making appropriate custody determinations when custody is contested in a domestic proceeding. The Court Investigator's office is staffed by only two part-time social workers and an administrator. In calendar year 1979, 151 "home-study" investigations were done for the purpose of aiding the court in its custody determination. The home-study investigation consists of a home visit and detailed interview by the Court Investigator with each of the parents seeking custody. However, if further background investigations or psychological analysis is necessary in any particular case, the Court Investigator's Office has neither the authority nor the resources to conduct the kind of in-depth analysis required. Nor are any counseling or support services for divorcing families available to litigants through the Court Investigator's Office.
- B. Juvenile Court - A variety of social services are available to families who present themselves to the Juvenile Court. The Montgomery County Health Depart-

ment provides an Office of Court Evaluations and Services located at the Juvenile Court building itself. The court evaluations and services team is a multi-disciplinary group composed of a full-time clinical psychologist, psychiatric social worker, community health nurse, pupil personnel worker, educational diagnostician, and a pediatrician. Several consulting psychiatrists constitute the part-time staff. The team provides comprehensive evaluation of court-involved juveniles and their families, including assessment of social environment, educational abilities and disabilities, physical health and psychological or psychiatric status.

Recommendations for a treatment and disposition based on the team's findings are made to the judges and other agents of the court. When necessary, inpatient evaluations are arranged through Montgomery General Hospital. In addition to complete evaluations, consultation is available to judges, the Montgomery County Office of the State Department of Juvenile Services, and the Montgomery County Public Schools.

The Department of Social Services provides assistance to children who are believed to be neglected, abused, or exploited, and to their parents and other adults having permanent or temporary care, custody or parental responsibility, to prevent continuing physical or emotional neglect or injury and to provide the minimum essentials of care for the child's healthy growth and development.

The Department of Social Services can petition the Juvenile Court for a finding that a child is in need of assistance when the Department decides that there is evidence of abuse and neglect and the parents are unable or unwilling to use help to improve child care or protect the child from further harm.

The Juvenile Services Administration handles cases involving children in need of supervision (CINS). The CINS cases are those referred to the Juvenile Services Administration involving children who are in need of guidance, treatment, or rehabilitation because they are habitually truant, habitually disobedient,

ungovernable or beyond control, deport themselves so as to injure or endanger themselves or others, or commit an offense applicable only to children. Additionally, once a child is either found delinquent or in need of supervision, the Juvenile Services Administration assigns to the child, a worker who assists the Court in making an appropriate disposition in that particular case and will monitor the child in question and inform the Court whether the disposition is going according to plan.

- C. District Court (Criminal) - The District Court also has at its disposal, the assistance of several social agencies which can aid the Court in determinations and dispositions in family related problems.

If an individual seen in District Court has an alcohol related problem, the Montgomery County Health Department Division of Alcoholism and Alcohol Related Problems has an offenders clinic which counsels and aids a referred individual concerning his or her alcohol problem.

The Montgomery County Health Department's Abused Persons Program is also a referral source for cases of family problems seen in District Court. The Montgomery County Health Department's project TASC (Treatment Alternatives to Street Crime) is another referral source for District Court. The typical TASC client has a drug or alcohol related problem. If, however, child or spousal abuse is one of the charges leading to a TASC referral or an issue which arises during TASC's diagnostic workup, the individual treatment plan would identify the abuse problem as one which requires attention.

As can be seen from the above described social services, the Circuit Court which hears all divorce cases has only extremely limited services available to the litigants in a divorce and their families. On the other hand, the District Court and Juvenile Court have a much wider range of services available to the individuals who appear in those courts and to their families.

## CONCLUSION

Based upon the data discussed in the study, two basic problems emerge concerning the divorcing process in Montgomery County:

1. Time delays in obtaining a divorce, and,
2. Finding support services for divorcing families.

Comments received on the consumer questionnaire indicating that the above two problems were of primary importance in the divorcing process are confirmed by the analysis of the social service supports available to divorcing families in our Circuit Court.

Thus, the Commission for Women strongly recommends that a combined effort on the part of our courts, county government, and interested citizens be made to reduce the time it takes citizens of Montgomery County to obtain a divorce and to widen the scope of social services available to divorcing families. While it is presently outside the scope of this study to take a position on specifically how time reductions can be accomplished in the divorcing process, the Family Law Committee of the Commission for Women has discussed the alternatives of:

1. Increasing the number of judges on our Circuit Court,
2. Increasing the number of masters who serve our Circuit Court, or,
3. Initiating a Family Court with comprehensive jurisdiction over all family matters.

The idea of having all legal matters relating to a family handled by one court is a compelling concept. Surely it makes sense to have juvenile, domestic, and criminal matters relating to a particular family go through one court system and the services offered by that system. Most jurisdictions do not handle family matters this way; however, it is a concept which is gaining recognition.

The League of Women Voters of Maryland presented a concise analysis of the pros and cons of a Family Court the following way in a Program Brief published in 1979:

"Proponents of family courts share a philosophical belief that the interest of the state and the individual are best served when family legal problems are viewed in the context of the family. In a criminal case for example, guilt or innocence must be determined whether assault and battery is between married persons or strangers. But the sentence might be considerably different in the family situation if a plan that will restore the family unit seems viable. In a family court system, this approach of serving the needs of the family, the state, and the individual is extended to all areas of law dealing with the family. The goals vary from administrative change to speed up case processing to rewriting the law to create new methods for filing and hearing family legal matters. The methods to reach the goals vary but are expected to provide 1) Experienced judges, consistent in decisions and familiar with services; 2) Money savings by avoiding duplicated services, consolidating cases and reducing delays; 3) More community support for services as status of family matters increases.

"Opponents of family courts form two groups. One group maintains that family courts are subject to the abuses which grew out of the informal atmosphere in the juvenile courts. This argument is concerned primarily with the reduction of valid legal matters to sociological studies and the resultant loss of individual rights and court dignity. It also suggests that establishment of a family court is an attempt to make social ills go away by handing them over to a court which has both authority and services. The remaining opponents take the position that without adequate funding a family court cannot improve on the present methods and adequate funding will never be provided. Other negatives in the family court discussion area 1) The lack of statistical evidence of the efficacy of family courts; 2) The belief that success is keyed to judges and not organizational change, and 3) The expense.

"Even among family court advocates there are substantial differences in how a family court should be organized. Most supporters agree, though, that the jurisdiction should be broad and that the court should be a division of the highest trial level. These prerequisites are considered essential to give the court the scope and status to command respect of the legal community and to secure services from the legislature. Differences occur first in the matter of



judicial selection and length of assignment. Judges may be assigned by request, on the basis of temperament and training, or by rotation. Since the family court is expected to develop expertise on its bench, some favor unlimited tenure and assignment by choice. Others maintain that the emotional toll in family law and the need to maintain status in the court require the rotation of all judges to the division.

"Provision of services is also subject to dispute. Should the court set up counseling services, shelter care, alcohol and drug abuse programs to work with existing services? When available services are insufficient, the family court may not be effective. Finally, implementation of court changes may be done through legislation or judicial rules. Some feel that legislation cannot allow for developmental adjustments while others maintain that changes to the court system should be made with the discussion and deliberation of the legislative process. In either case there must be a decision as to statewide implementation of local choice. Guides on family courts advocate uniform statewide systems with equal funding."

As our data shows, support services available at the Circuit Court level (where more than two thousand families per year present themselves for divorce), are meager. However, at the Juvenile Court level and at the District Court criminal level, a wide array of social services are available to county citizens involved in the court process. We have found that many families will be involved with all three courts. The Circuit Court "consumers" studied in our project told us that it was difficult to find emotional supports for themselves and their children while going through the divorce process. If the services available to the Juvenile Court System and the District Court Criminal System could be made available to divorcing families in the Circuit Court Systems, some of the stress of the divorcing process may be alleviated. Perhaps some of the time delays could be shortened and perhaps judges could make decisions regarding the dissolution of families with at least the degree of added confidence provided by expert social and mental health consultation.

Finally, we want to point-out that since the time frame in which this study was conducted, one judge and one master have been added to serve the Circuit Court for Montgomery County. However, at the same time, as mentioned previously, two new laws relating to divorce (i.e. Marital Property and Alimony) have been enacted.

The Circuit Court in Montgomery County has never been given the resources or the authority to deal with the many non-legal family related problems arising out of, and impacting on a divorce case. Our study suggests that perhaps the role of the court in divorce should change.

By whatever method is to be used, it is now important for courts and human service agencies in Montgomery County to work together to ease the divorcing process for the more than four thousand (4,000) citizens of our county who are involved in divorce each year.

## FAMILY LAW PROJECT BIBLIOGRAPHY

A Bibliography of over seventy resource materials, booklets, documents, texts, reports and others, has been developed as part of the Family Law Project. This Bibliography has been placed on file in the Commission for Women topical library, in the Commission's offices at 150 Maryland Avenue, Rockville, Md. The information is available to the public during office hours, weekdays, 8:30 a.m. to 5:00 p.m.

## MONTGOMERY COUNTY GOVERNMENT

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