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## Senate Task Force on Family Relations Court - Public Hearing, November 20, 1989

Senate Task Force on Family Relations Court

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**SR 7**  
**Senate Task Force on Family Relations Court**

**PUBLIC HEARING**  
**San Diego**  
**November 20, 1989**

Prepared by: Rebecca Gonzales  
Senate Office of Research



Requested by:

Senator Bill Lockyer, Co-chair  
Justice Donald King, Co-chair

December, 1989

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**SENATE TASK FORCE ON FAMILY RELATIONS COURT**

Senator Bill Lockyer, Co-Chair  
Justice Donald King, Co-Chair

**PUBLIC HEARING**

**SAN DIEGO**

**NOVEMBER 20, 1989**

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MATERIALS SUBMITTED TO THE TASK FORCE

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SENATE TASK FORCE HEARING

SAN DIEGO

NOVEMBER 20, 1989

JUSTICE DONALD KING convened the hearing: According to Senate Resolution 7, our role is to study, analyze, and develop recommendations to Judicial Council and Senate Rules Committee for statewide implementation of a Family Relations Division which will have coequal status with criminal and civil divisions.

Task Force has agreed to withhold taking position for or against combination of courts until after these public hearings because Attorney General's Child Victim Witness Committee, which developed recommendations, did so without public hearings. We thought there should be opportunity for public input. You see before you only part of the entire Task Force. However, your comments will be transcribed and passed on to all Task Force members. I will periodically mention our role and position.

JAMES D. ALLEN

(Submitted written testimony. See Attachment B.)

Attorney in private practice in San Diego. Certified Family Law Specialist, Chairman of Executive Committee of Family Law Specialists Committee of San Diego County Bar Association. Committee numbers approximately 65 and comprised of all San Diego County Bar Association members who are also Certified Family Law Specialists.

-- Do not practice in area of juvenile delinquency or dependency, nor do great majority of certified family law specialists in San Diego County.

- o While California Child Victim Witness Judicial Advisory Committee lumped family actions into juvenile actions, in practice very low incidence of crossover between two areas.

-- Proposed Family Relation Court as outlined in material provided, will reduce quality, level of judicial services presently provided to public who undergo dissolution process and will alienate members of Family Law Bar.

- o Perception, right or wrong, juvenile court overburdened to point of breaking down -- too many cases, not enough judicial, administrative personnel, facilities.
- o Juvenile court needs greater judicial, administrative



resources.

- o By merging existing family court with juvenile court, latter would have available additional judges, staff.
- o Immediate, inevitable result drastic diminution of quality of judicial administration in family law area due to priority, demands juvenile criminal justice system would place on additional judges, staff.
- o Losers litigants who otherwise have matters resolved in present family court -- particularly unfortunate since now are afforded quality of systematic justice at its highest level in recent memory.
- o San Diego Family Court offers example rare by today's standards of judicial administration -- it is working: caseload handled on current basis with efficiency that does not give short shrift to litigants or issues, not backlogged.
- o One reason for performance is extraordinary level of competence of judiciary -- blessed by bright, interested, energetic judges who have cared for family law and its administration -- several were certified family law specialists.
- o Bench and bar work in cooperation rather than as adversaries -- bar donates time equivalent of two additional full time judges.
- o If court combined to include juvenile court, reason for cooperation between bench and bar will be lost.
- o Chief drawback of proposed Family Relations Court is expanded, merged court will sink to level of its lowest bureaucratic common denominator.

JUDGE KING: My impression over last 10 to 12 years is San Diego probably had more competent family law judges than any other court in state. But your system, until it was changed a few years ago, tended to eat them up or burn them out and they left as quickly as possible.

A few years ago, San Diego became first court in state where family court had its own separate facility. I understand changes which have occurred are not solely related to getting a building that's devoted to family law. There's been changes in way family law cases have been handled, in structure of court itself. I wonder if you could make a few comments on that from a practitioner's standpoint.

A: Generally speaking, as far back as 10 or 12 year ago and since that point, we have had excellent judges. However, in many instances those judges had no family law experience prior to coming to domestic relations department and learned on job.

One major difference is appointments by Governor have included lawyers who were family law specialists. By putting practitioners on bench who have devoted professional practice to area, we have increased commitment. 10-15 years ago family law in San Diego was poor stepchild of civil administration of justice. I think that's changed because of symbiotic relationship of quality begetting quality.

Addressing issue of burnout -- had been petitioning powers that be to expand number of departments that handle family law exclusively so that so much caseload didn't fall on so few heads. This has happened. Maybe it is happenstance of new facility where we have 4 full-time courtrooms available and can co-opt a fifth when we get lucky.

JUSTICE KING: What should be an appropriate term to serve in family law assignment?

A: It has to be at least 2 years. Don't think you profit from knowledge, experience of sitting judge, particularly one who hasn't been family law practitioner prior to taking bench, until there's been at least two years of service. I think four years is about the outside.

We had proposal there be corps of family law judges. There would be separate roster of judges who would rotate in on 3 or 6 month basis so there would be perhaps 4 assigned to family law, 4 available for rotation for short periods of time -- those that have had experience, knew what to do.

JUSTICE KING: Would that be for the purpose of handling trials of longer cases or some other purpose?

A: Judicial burnout. I think everybody knows handling an OSC calendar day after day is incredibly wearing process, and if you're going to get long cause trials out, going to have to devote some judicial energy to doing that. Can switch people around only so much. Something that needs attention and has not received attention. Perhaps with more judicial appointments available we'll be able to do something about it.

JUSTICE KING: Been some movement to direct calendaring where cases are assigned in family law departments by filing number and those numbers that go to any particular judicial officer stay with that officer from initial filing until conclusion, including any post-judgement motions. Theory at least is it enables judges to both counteract burnout by handling variety of matters rather than doing nothing but OSC, for example. Secondly, may reduce number of motions made that sometimes occurs with change in judicial assignment. It also gives judge greater familiarity with parties, attorneys, issues in particular case.

On the other side of coin, it makes it a difficult assignment for someone who has had no family law experience because you are handling whole range of problems rather than just orders to show cause or whatever's first step in normal judicial assignment.

A: Addressing last issue first, awful lot of problems alleviated if not eliminated by appointment of attorneys who either specialize in family law or were certified as specialists in family law. By appointing those people to bench, considerably reduced learning curve or ignorance factor. Increases level of practice in family law.

Direct calendaring -- most of my colleagues are theoretically opposed to it. Although I used to be opposed to it, I have changed my position over years. I have seen luck of the draw is luck of the draw, whether it's a one-time shot or 4 or 5 times in a case. I think there would be some economy experienced by going to direct calendaring.

One problem is judge would have to expand ex parte hours -- once have judge who's familiar with facts, tendency to try short circuit system and handle difficulties, disputes on ex parte basis. Unless judges really control how ex parte handled, I think would be more use of ex parte as way to get instant resolution of difficulty.

JUSTICE KING: In Los Angeles, this change occurred over very strong opposition of Family Law Bar, and although I think there's some changing in that position, they're not fully convinced themselves yet either.

Governor has done best job of appointing people with family law experience to bench in San Diego any place in state. More appointments in those areas, the better off you are.

PATRICIA WYNNE: I understand that you said there isn't a high incidence of crossover cases between family law, juvenile and criminal law but when it does happen, it's a big problem. This is what we hear from children's advocates. Can you think of any way to get better coordination between systems once child involved in different courts?

A: I did a generalized review of all my cases and spotted between 4 and 6 cases in 19 years where I knew there were dual proceedings at some point. So incidence is very small. I will grant you it seems when there's a problem it's a great one. They get totally out of control.

My own observation is no one talks to anybody. You have people proceeding either in blissful ignorance or with bullheadedness simply not taking input from anybody. Is definite problem with coordination. I'm not sure what solution is. I don't think this is it. But I agree it is a problem.



JUDGE WILLIAM HOWATT, JR.: What about a position such as child advocate, an attorney for child in some stabilized or significant process that could be utilized to represent child in crossover cases?

A: I think that's an excellent idea. Again, I do think resources should be brought to bear on specific problem area. I think there are small amount of crossover cases and whatever can be done to shine some light on it is good.

JUDGE HOWATT: Are there facilities available for a combined court?

A: In San Diego, in my view, would be a major problem. Most things mentioned are handled in 2 different facilities, neither of which has physical capacity to handle them all. So end up with fragmented physical facility. A lot of theoretical benefit would be ability to have everything under one roof, which would simply not be possible in San Diego.

JUDGE HOWATT: Is there funding available to put together a unified court facility in San Diego Court?

A: Not that I'm aware of.

#### KATHERINE ASHWORTH

Certified Family Law Specialist. Practices in juvenile court and family law. Founder of Court Appointed Special Advocate Program that uses volunteers in juvenile court. Represented both children and parents in dependency, delinquency, family law, criminal court when children have been witnesses.

-- Welfare and Institutions Code Section 317 provides that when an attorney appointed for minor in juvenile court, attorney is mandated to look at all aspects, proceedings where child's interest might need to be protected and juvenile court will authorize payment.

- o Only applies if child a dependent.
- o If other proceedings in probate or criminal court or civil proceedings that need to be undertaken on behalf of child, that's already mandated under Welfare and Institutions Code.

-- My experience with family law echos exactly remarks of James Allen. My experience, overlapping cases between dependency and family law probably less than 10% and that's high.

- o Don't want to minimize importance of addressing needs of those children involved in overlap cases but really think combining family law, juvenile is like trying to destroy mosquito with a nuclear warhead -- absolute overkill and not

- going to solve problem.
- o Combining delinquency with family relations makes no sense to me because delinquency cases are criminal -- standard of proof different, goals of two systems absolutely different.
  - o In addressing problem of overlap -- there aren't alot of suggestions that I have as remedies -- improved communication between two systems.
  - o Is a mechanism now for family law and juvenile bench to meet -- have protocol for exit orders. When dependency case closed, there is statutory provision for exit orders: judge puts on two hats and sits as family law and juvenile court judge and makes orders regarding custody and visitation of children that are then entered into family law case.
  - o Also have procedure for opening up family law case when there is none -- when there is no marriage, no paternity action. Is done administratively by county clerk so there is some continuity when dependency is closed, orders can go into family law case. Department of Social Services has check-the-box order that is then entered in family law.
  - o One problems in exit order cases is juvenile court doesn't deal with money or child support. I have been told juvenile court judges, because they are superior court judges, can do child support at same time and they are going to do that. Eliminates one of problem in crossover cases.

-- Child victim witness -- Combining two courts doesn't address needs of children as victims and witnesses.

- o In San Diego, children don't testify in family court and very rare do children talk in chambers to judges -- family court bench discourages that.
- o Family Court Services are ones with training, expertise to deal with children.
- o In my experience, children seldom, if ever, testify in juvenile court.

-- One of real problems not addressed has to do with fact that family law really has no control over Child Protective Services or Department of Social Services filing petitions in juvenile court.

- o When family law bench sees real need for CPS involvement -- you can't get there from here. You can refer it to CPS and they may choose not to file.
- o If county council or district attorney and DSS decide not to file a petition, there's no recourse.
- o Family law court not an investigative body -- can't investigate allegations of abuse or neglect within context of family law even with Family Court Services.
- o Turnover in San Diego's Child Protective Services 41% -- to combine system that has that kind of turnover and problems involved in dependency action with family law court that is actually working makes no sense at all.

-- Other barriers.

- o There is no money for this.
- o Can't even get new courthouse built because of lawsuit that's going on with regard to tax money that was allotted.
- o In San Diego, a private organization is moving to build a family center that will consolidate services available for children coming into dependency but will not include new family law court on theory that private money cannot build public building.
- o Model situation in Orange County -- shelter is near juvenile court.
- o Combining two systems belies a real understanding of complexity of dependency cases.

-- Absolutely critical that judges, referees or commissioners assigned to family law or dependency serve for at least three years.

- o Critical they have training through judicial college, not only in family, juvenile law but also in child development, child abuse, neglect and children as witnesses.

-- Some opportunity to combine some functions of two courts.

- o Move legal guardianship of children from probate to family law.
- o Family Court Services does investigations for both family law cases and probate and works well because all people in same building.
- o In San Diego, adoptions and freedom from custody cases are done in juvenile court -- was a time when freedom from custody and control cases were on regular civil calendar and assigned to whomever available, whether or not had expertise in custody.

JUSTICE KING: In Los Angeles, a juvenile court commissioner raised problem of their inability to make child support orders when they do exit orders and I'm interested in your process. The problem she discussed was that provisions of Welfare and Institutions Code, under which dependency action is pending, doesn't give them authority to make an order for child support and she suggested we recommend to Legislature that that authority be given. Presently it only exists under Family Law Act or under a paternity proceeding. I'm interested whether you think juvenile court already has that authority or whether this procedure, where there is an exit into a family law proceeding or a paternity action where none has been filed, whether that accomplishes it.

A: I think that the authority is authority of superior court. Juvenile court judges are superior court judges. They're all part of same superior court with authority to do whatever needs to be done. It's not a separate authority.

JUSTICE KING: They only have jurisdiction to do what statutes provide in particular kind of proceeding they have before them. Problem they fell they have in Los Angeles is that Welfare and Institutions Code doesn't give them authority to make an order for child support. There has to be some proceeding, either under Family Law Act or under a paternity proceeding, to give them that jurisdiction. It seems like there's no reason why that shouldn't be the case, but it's a problem of what gives them jurisdiction when they're proceeding on one type of action and there's no statutory authority under that action to make such an order.

A: You're correct. I agree under Welfare and Institutions Code there is authority for exit orders into the domestic file. At same time, in practice, the domestic file is brought out to juvenile court so that judge essentially is sitting as family law and juvenile judge at same time. Obviously, something has to be filed in the domestic action, but logistically, it can take place at the same hearing.

JUSTICE KING: If there is that proceeding, I can understand it, but if there is not one -- you indicated in San Diego there is a process whereby either a family action is filed or a paternity action is filed. How is that done?

A: It is between court clerk and apparently court clerk opens up file, gives it a domestic number, and that gives you a domestic case in which to enter orders so if there's any modifications in future, is a case with orders already entered. It's an administrative task.

JUSTICE KING: Parties agree to accept service or submit jurisdiction in that proceeding.

A: Absolutely. Yes. Problem of trying to do child support in juvenile court are cases where there's aid, because district attorney has to be there. But in fact, our district attorney does have a presence in juvenile court and will continue in delinquency. So a logistical problem more than anything else to have district attorney, but with notice, should not be problem.

JUSTICE KING: The protocol you've developed when there are crossover cases, and then secondly, with regard to opening new files where there is no pending paternity or family law case -- is this done by local rule or by court policy?

A: Basically policy, not court rule. I don't want to confuse crossover cases with exit orders which are cases that are ending.

Also protocol on crossover cases. Used to be problem for family court and Family Court Services to see a CPS or DSS file. Now protocol where juvenile file or any file, even if there's no petition filed but there's been investigations on a case, that that file is available to Family Court Services and family court. I think that's been a real help because always been that shroud of

mystery that you can't find out facts because it's under confidentiality. My understanding is Family Court Services gets information just by calling and if it's real extensive, by actually reviewing file.

JUSTICE KING: In both instances it's done by court policy rather than a local rule.

A: Yes.

JUSTICE KING: That is one concern that has been raised in other places -- that there should be such a policy in every court. Most courts apparently do not have them. I think one thing we want to do is look those protocol or policies that exist and consider them in terms of recommendations we make.

MARK WILLIAMS

(Submitted written testimony. See Attachment C)

Staff counsel with Children's Advocacy Institute. Institute part of Center for Public Interest Law at University of San Diego School of Law, funded by Weingart Foundation to do a two-year study on various aspects of state policies affecting health and welfare of children including intake and investigation of reports of child maltreatment in San Diego County. I'm responsible for that study. Goals to work with people in county to identify ways to improve investigations of child abuse and neglect, intake reports and identify model legislation. A research attorney but do not practice.

-- Benefits family relations court could have in investigation of reports in family court.

- o A lot of allegations of abuse in family court and a lot of problems in investigating those allegations.
- o An attitudinal problem toward abuse, neglect allegations -- treated as strategic allegations, people fell like abuse, neglect alleged just to improve leverage in cases or out of bitterness, revenge or ill will.
- o For example, a person undergoing psychological evaluation said, "I have suspicion my daughter being sexually abused or sexually exploited," and described it to person doing evaluation. Evaluator, instead of thinking about allegation of abuse, concluded because she had made allegation that that reflected poorly on ability to parent children.
- o Another problem lack of resources to investigate allegations in family court. As much trouble Children's Services Bureau has with turnover, at least social workers are trained to look at abuse and neglect and have some resources.
- o Because abuse, neglect isn't being investigated in family court, tendency for equality of resources between parties to play a part in whether or not abuse, neglect investigated.

- o Coordination problem -- although number of cases is small, problem coordinating cases between juvenile and family court. They have a large impact.
- o Also problem coordinating cases among juvenile court judges and within dependency court itself.
- o Efforts being made in San Diego County to improve coordination of courts -- there is protocol for coordinating information between family and juvenile court. Also information link so two courts can share information on cases without having to meet all the time.
- o By combining courts could have one court with broader attitude, focus, range of powers, range of experts toward whole condition of child and family.

-- In San Diego County, public defender has Child Advocacy Center where they have investigators, social workers and attorneys who represent children in dependency proceedings.

- o This group is interested in expanding their representation into family court, as well as other administrative and judicial proceedings, such as special education and social security hearings.
- o Assigning court appointed special advocates to represent children -- I'm involved with Voices for Children and having advocate on behalf of child in family court would be useful to make sure cases being investigated, treated appropriately.

-- We support the investigative recommendations and we'd even go farther and suggest there be joint investigation in many cases between police officers and social workers.

- o National Center on Child Abuse and Neglect recently issued proposed research priorities for 1990 -- top of list is joint investigations between police and social workers.
- o I think some research money will be available for states, counties for pursuing joint investigations.

JUSTICE KING: You mentioned there are times when claims of abuse made and perception of family law court is it may be for strategic purposes and not seriously considered. Other side of coin that was presented is that there's benefit to courts being separated. If allegations made which, upon investigation by juvenile court, results in determination there's no basis for claim, that doesn't then come back into family court and prejudice party against whom unjustified claim was made.

If it was all one process, there was a feeling that although allegation may be made for strategic purposes, it's going to taint other party if judge is aware of that. I'd be interested in your comments on that.

A: I think that it does taint and that's the reason why I think that in many cases there is under-allegation...



JUSTICE KING: Whoever made this presentation suggested one benefit of dual system was that if allegation has sufficient basis to be pursued, it would be pursued in juvenile court. If it turns out there's no basis for it, may taint judges view in family court custody decision. That's a benefit of having two separate systems rather than having them combined.

A: If you are talking about allegations originally made in family court and then investigated by CPS, the court already is aware of allegations being made. And so, if there is any prejudicial value to it, it seems it would already exist. If it was unfounded, then court could make a proper decision saying it unfounded.

JUSTICE KING: You're probably assuming judge knows more than they usually do because of separation of hearings for temporary orders versus whoever hears it and contests custody issue somewhere down the line.

A: In general, I think it's valuable to have these cases investigated properly and I think there's more of a chance of them being investigated properly if they're seen by a single court than if there are two courts.

JUSTICE KING: The other point that was made to us is that information available as a results of a CPS investigation is not made available to family law court or FCS and that that should be available even though they decide not to pursue it. For example, in Sacramento we had a very graphic description of the terribly overburdened workload which CPS has there. I'd be interested in your comments on whether law shouldn't provide that these court adjunct agencies, whether CPS, Juvenile Probation Department or Family Court Services, shouldn't each have access to information that other possesses.

A: I agree. I think they should. I think that situation in Sacramento, with overburdened workload of CPS workers, is also true here. May not be to such a large extent as in Los Angeles. Turnover between 5 and 6 workers leaving a month. Varies.

JUSTICE KING: Assuming there's adequate compensation and other things, that's probably reflective of same kind of workload that's burning people out.

A: That's true. A lot of factors burn people out, but I think courts ought to have access to all relevant information.

JUSTICE KING: I think concern that was raised is that with an under-resourced system, whether we don't worsen he problem by requiring duplicative investigations.

A: That's what I think is behind some of the recommendations on joint investigations as well, because same problems come into play with criminal investigation and dependency court investigations. I think that whenever you can streamline process to reduce number of people investigating same case, not only do you reduce workload, you reduce trauma to children.

HARRY ELIAS

Head of Child Abuse Unit in San Diego District Attorney's Office. Handle about 600 criminal cases a year, including either child sexual or physical abuse, or child homicide. Handle primarily only those cases that rise to level of felony so our involvement with either juvenile, family or civil court that deals with issues of child witnesses or child victims, is more or less indirect. Though don't make personal appearances, impact of what happens in those different courts has impact on our criminal case.

-- Nature of investigation in San Diego County -- have variation of inter-disciplinary team approach. All of our agencies, roughly 17 law enforcement agencies, respond to allegations of physical abuse, sexual molest at same time Child Protective Services does, if it appears criminal in nature.

- o Almost all children who have had a joint response by CPS and law enforcement are taken to Children's Hospital, where they are interviewed by licensed clinical social worker employed by hospital.
- o Interview videotaped, generally observed by either CPS responding worker and/or law enforcement officer or both.
- o Allegations of physical, sexual abuse where appears may be traumatic injury to child, child also examined by pediatrician or family practitioner and results documented on OCJP 925 forms specifically set out about a year and half ago for that purpose.

JUSTICE KING: When you say interview by LCSW is observed by either law enforcement or CPS or both, does that mean you're present in room or behind a two-way...

A: Actually two adjacent interview rooms. Middle corridor between those rooms has videotaping equipment and it's behind one-way mirrors. We let children know they're going to be observed and they know they're being videotaped. We think it's important for them to know that.

JUSTICE KING: Normally who is in room -- the LCSW and the child?

A: Usually yes. May be another participant but usually not. Have ability by knocking on glass or door to ask additional questions.

-- Two copies of interview made. One stays with Children's Hospital as part of medical record, other goes to law enforcement agency who's paying for cost of examination and is then shared with CPS if they need it.

- o Certified interviewer is something we sort of do here. I tend to think it's pretty good process.
- o Drawback -- most recent aspect of criminal defense to these kinds of cases is children are highly suggestible therefore whoever does interviewing is planting in child's mind allegations of molest.
- o By having licensed or trained interviewer, helps problem because a minimum level of training required but also exacerbates problem because of fact that there is a special kind of interviewer and then it must mean there's something unique or suggestible about children.

JUSTICE KING: From your perspective, I would think it's certainly better to do it that way than to have a tape by an interviewer whose perspective was only from law enforcement.

A: To be honest with you, I'm not as concerned as about who does interview as with their particular skills at both interviewing children and their knowledge of cognitive skills of children. It works well here because our physical environment makes it more amenable -- kids feel safer in that environment.

-- Purpose of videotape is to reduce number of interviews.

- o Succeeded to small extent -- nature of system, when variety of different court hearings, systems that require children be interviewed over and over again in different settings.
- o If there is juvenile and family law case and, assuming judiciary has expertise, training in area of child development, you're better off with a single court.
- o Find it hard to believe, that a domestic case which rises to level of juvenile court setting, that what happens in juvenile court won't impact on family law case.
- o Multiple courts also allows one to play off against other.
- o If issue in juvenile court is to decide what's in best interest of child and proper placement, and issue in family court is custody -- those issues are so interrelated would streamline case flow to have single judge address all those issues, if judge and all participants are well trained.
- o Would limit number times child needs to come into courtroom and times may need to be interviewed.
- o Not number of times child has to talk about what happened but number of different people child has to face -- our office has gone to vertical prosecution, meaning that one deputy D.A. is assigned case in beginning -- that deputy's responsibility to handle case through all hearings so that both child and family see same face from beginning to end.

JUSTICE KING: Is it your understanding that that generally occurs in prosecutorial offices throughout the state?

A: In most major jurisdictions. Most larger D.A.'s offices have formed special vertical prosecution units to handle either child abuse or combinations of child abuse and other sexual assaults. Difficult for smaller offices just because hard for them to allocate one deputy to handle only those kinds of crimes when may not be enough of volume and tend to have greater turnover, it seems, either moving from one office to another or just leaving and going into private practice within their community.

California's D.A.'s Association has had a specific subcommittee on sexual assault where we deal with issues of child sexual assault and made it our purpose to advocate vertical prosecution.

-- Easiest way, I think, to handle these issues is to form a new division of the superior court.

- o Will alleviate trauma to children and to parents involved and in long run will speed resolution of cases.

JUSTICE KING: Would you combine the criminal process that deals with children or children as victims?

A: I know the A.G.'s report indicated he didn't think that was possible. I don't know if you can combine the two processes together. I do believe you can combine enough that relates to portions of child testimony to reduce number of times child testifies.

-- Biggest disadvantage is there's no guarantee that once molest or abuse occurs and is reported, all three legal proceedings will commence. Going to commence proceeding in family court; will commence proceeding in juvenile court, because Child Protective Services obligated to act quickly; probably will commence proceeding in criminal court if child competent to testify and sufficient evidence but no guarantee commence domestic proceeding.

- o Had number of cases where allegation made by child that they've been molested by one of parents. Non-offending parent is sort of betwixt and between -- doesn't know who to believe, is not initiating or has not yet initiated domestic action and may wait for outcome of other parallel proceedings before domestic action has occurred.
- o Advantage of family relations court, matter can be resolved in one proceeding.
- o Love to find a way to combine all three, to basically form children's court -- number of domestic cases have absolutely nothing to do with children -- whole issue probably a division of property or termination of marital status.

-- Good suggestion that judges be assigned to these particular courts for extended periods of time and, hopefully, be based on their interest to go into those particular courts.

- o Other participants involved should have required training relative to children.

-- Kids in Court program for children who have to testify in criminal court setting. In conjunction with Children's Hospital's Center for Child Protection.

- o Purpose to make courtroom itself a less traumatic place.
- o Different people speak to our children -- not only social workers but judges, both from municipal court and superior court, court officers, primarily bailiffs.
- o Children allowed to role act, if you will, a courtroom setting, having nothing to do with their particular case, and role setting has absolutely nothing to do with molest or abuse but a chance to be in a courtroom on number of occasions before they actually have to testify just so physical presence of room itself and physical locations of the respective players is not so scary and new to them on their first entry into system.
- o Feel we have better chance of children testifying both accurately, candidly, therefore credibly as they possibly can.

JUSTICE KING: Is this program just for children who are going to be involved in testifying in the criminal process?

A: At present, yes.

JUSTICE KING: How long has it been in operation?

A: For about two years and I've talked with the social worker who runs it -- Molly Treadwell -- and I think over 400 children have been through the court school. We've just opened another one up in our Vista courthouse because, as you know our county is physically large and we have a whole separate superior court division in Vista. It's all volunteers right now.

JUSTICE KING: Is it administratively under the D.A.'s office?

A: No. It's structured through Center for Child Protection. Administratively dealt with at our offices because we're sort of in control of the physical plant, if you will. We have all cases so social worker can come and look at our cases to find out about ages of children, who may actually be going to court, how soon to schedule them. We work with presiding judges of both superior and municipal court to get access to courtroom in evening.

We're fortunate in being able to use courtroom right adjacent to children's waiting room. We have a children's waiting room in our superior/municipal courthouse as well as a children's waiting room in my office.

JUSTICE KING: You're fortunate to have children's waiting rooms. In San Francisco we have absolutely nothing.

A: I know Nancy Stretch, the D.A. in San Francisco who's a member of the Sexual Assault Unit, and we've talked about need to do that. I think we've had pretty aggressive bench in terms of being willing to accommodate and be accepting. We've had some pretty good volunteer help from outside.

Fiscally, it's been a problem. Was discussion about actually reconstructing one courtroom to make it a little more child friendly but not make it so permanently child friendly, like a living room or a den, that can't be used for other hearings. Perhaps toning down the harshness -- it's harsh to kids, it's not harsh to us. I think most lawyers tend to go into courtroom looking for air of formality a courtroom provides because it helps bring out seriousness of occasion but everything's just too big for these little guys and gals that come in.

JUSTICE KING: I don't know about your juvenile courts, but I'm impressed by what you're saying about your process and I know that since the family law court in San Diego has gotten a separate building, their facilities for their Office of Family Court Services are probably better than anywhere else in the state.

#### JUDGE JUDITH McCONNELL

Twelve years on the bench -- 10 on superior court and two on municipal court. Five years in juvenile court as presiding judge for about four years and served on family court for about four months. Served as chair of Senate Task Force on Family Equity.

-- Executive Committee of the Superior Court has taken a position on the legislation establishing the three pilot courts to do a family relations court and the Executive Committee would like to be considered as one of those three pilot counties.

-- Have long tradition in San Diego of excellence in both family and juvenile courts. Long ago recognized some of concerns raised by Attorney General's Task Force and began working on improving communications, relationships between family and juvenile courts.

- o First step I took when I was in juvenile court to establish joint meetings of family and juvenile court judges because clear there were issues of concern to both benches.
- o As a result of meetings, which includes attorneys who regularly appear in those courts, established reciprocal



orders by presiding juvenile and family court judges so information developed through Child Protective Services could be acquired by family court judges and information acquired through Family Court Services available to juvenile court judges.

- o Prior to this, had been an understanding that all this information was confidential and no sharing of information between CPS workers and Family Court Services workers. Attempted to eliminate problem by blanket reciprocal orders, waiving confidentiality of those agencies.
- o Also attempted program of cross-training of judges, which didn't go very far, because seemed important that family court judges have an understanding of what was going on in juvenile court and likewise that juvenile court judges have an understanding of what was going on in family court.
- o Have a joint family, juvenile court committee which includes all judges of both family, juvenile court which meets regularly to address issues common to both courts.
- o My understanding, under current practice, once child protective issue arises in family court, court immediately refers it to Child Protective Services and does not take action at all if there is a dependency court action pending.
- o Also my understanding that dependency court has uniform exit orders, so that when they feel juvenile court jurisdiction is no longer necessary, orders can be entered in juvenile court and case returned to family court.

-- Still problem of overlap, although think by virtue of our great cooperation among judges have been able to eliminate some of problems involved in overlap.

- o My experience, while there is overlap between different court systems, not huge overlap -- would say in years I was in juvenile court less than 10% of cases that I dealt with in juvenile court were in family court.
- o Though not huge problem, did feel that making sure there was coordination was important issue that had to be addressed.
- o Could do it administratively, without legislative changes.

-- Coordination or overlap between criminal court and other areas.

- o Would strongly oppose any attempt to take criminal cases involving domestic violence, child abuse or child molest and put them in anything other than full blown criminal court.
- o Taken years to see these issues taken seriously and if we put them in some other court, we are treating them as less serious crimes than they truly are.

-- Assignments of judges.

- o Years ago, family assignment seen as punishment -- junior judge assigned, few judges volunteered. Felt they had to do their time and get out of there.
- o Not the case in our county for a number of years -- fortunate in having family court specialists appointed to our bench who want to serve in family court or other judges who have had family court experience who want to continue in assignment.
- o In my opinion, family court assignment has become one of most specialized of all assignments.
- o Never forced judges to go into juvenile court assignment -- voluntary assignment and not one easily passed out. Really want the best to go to juvenile court and I plan on continuing that tradition. Assignment important -- appellate review process not much recourse to people who have suffered at hands of juvenile court judge who's doing an injustice.

-- No formal rotation policy.

- o Was a time when had one judge serve for 17 years with three referees.
- o General understanding that assignment would be two years, though never quite worked out that way.
- o My personal belief is it takes some time to learn what's going on in juvenile or family court and would like to see people serve at least 2 to 3 years.
- o Do think there is burnout factor -- I myself experienced it and an injustice to litigants to have someone who is worn-out by onerous, overwhelming tasks facing judges in juvenile and family court.
- o Don't think judges should be forced to stay more than 5 years and maybe 3 or 4 years would be best -- anything less deprives them of opportunity to become real specialists in court.

-- Referees.

- o Currently have 4 referees in juvenile court and 4 judges. In process of adding 2 judges to court and personally feel that we should have judges in these assignments.
- o Referees wonderful, both in family court, where we have 2 and in juvenile, where we have 4, but have had in the past some bad experiences with those people.
- o Judges are a little bit more accountable than referees.

-- Have our probate court in same building as our family court That's just a fluke -- not as result of any major policy decision.

- o Are moving minors compromises from civil court to probate court.

-- Mistake to make people feel that if they go into juvenile or family they must spend minimum number of years because going to discourage judges from volunteering for assignments if they feel that a determinate sentence facing them.

- o Presiding judge should feel free to remove a judge who isn't doing a really good job in assignment.

-- One of main concerns is lack of resources when have very hotly contested child custody or visitation cases and I compare my experience in juvenile court.

- o In juvenile court, can always appoint attorney to represent child -- can get best attorney available to represent child.
- o In juvenile, can order psychological evaluation of child, parent, have social worker investigate, report on what's going on.
- o In family court, unless family wealthy, do not have those kinds of resources -- a constant source of frustration where felt children maybe in danger by virtue of conflict going on between parents but I, as a judge, did not have resources in family court to do what I felt could or should have been done to make sure child's interests were being protected.

-- To make assignments more attractive to judges:

- o Give judges who serve in family, juvenile court more pay, more support staff and maybe a little more R&R time, then going to attract best quality judges you can find.
- o Family court moved more than juvenile court to raise its prestige -- partly because family law has become such a lucrative practice and juvenile law has never been lucrative and isn't likely to become so.

-- Using child's testimony from preliminary in the juvenile court.

- o Won't work -- criminal process moves much more slowly than juvenile dependency process, at least in our court.
- o Though not always able to abide by time standards in the W&I Code, much more expeditious than criminal case.
- o Can't spare child necessity of testifying in both dependency and criminal court but, in most cases, child not required to testify in dependency court anyway.

-- We did experiment with closed-circuit television in our court. Manufacturer donated system to court for a trial period. Unfortunately, was a trial period because system didn't work.

- o While we were trying to get it set up, child would be fidgeting, fussing and was much easier just to go ahead and

take testimony using other means of protecting child.

- o I would take child's testimony in chambers and parent could be sitting right outside door so child couldn't see parent but parent could hear everything child was saying and child knew parent out there listening. Always made sure children were not deceived in that regard.

JUSTICE KING: I would be interested in your estimate of the percentages of children who testify in dependency cases.

A: I'd say less than 10%. Frequently, parties will stipulate that judge can talk to child in chambers so child not actually testifying but does make statement to judge. I found that a very common practice and usually that was with regard to disposition, not jurisdiction.

In jurisdictional area, because of liberal rules of evidence and use of reports, rarely necessary to have child actually testify in dependency court. May be local legal culture but most of our attorneys, parents do not force children to go through that ordeal.

JUSTICE KING: With regard to length of term of assignment, I assume what you're saying is that it would fine to have a standard of judicial administration that says this is an appropriate term but that there should not be either California rule of court or statute that attempts to fix it inflexibly.

A: Absolutely. I think that would be terrible. A lot of assignments in our court are considered not too desirable. One of them is civil law and motion. If you told a civil law and motion judge they were going to be there for 3 years, they wouldn't come on the bench. We want to attract best and brightest of the bar and they won't do it if they fear they're doomed to some unattractive assignment for a long period of time.

#### JUDGE SHERIDAN REED

On San Diego Superior Court for 9 years and judge for close to 11. During that time, had opportunity to serve in domestic relations for period of almost 18 months. Served in juvenile court for almost 4 years, approximately 2 as presiding judge. Currently, doing adult criminal assignment and have also served in civil court. Not had any assignments, except during holiday rotations, which are 1 or 2 days, on probate or mental health calendars.

-- In some way, complexities of matters relating to families have to be simplified for public, as well as for bench. Whether that means combining courts, reallocating cases, readjusting manner in which people brought before court, I'm uncertain. But I think something has to be done because neither court nor public are being served in manner which cases are now dissected and in which they appear in our dockets.

- o This has worked in past to somewhat divide, conquer these areas of law, which are so critically important to public yet have taken on a place on court system which is, if not secondary, is tertiary or worse.
- o Issues relating to families do not get attention, time, judicial manpower, space in court in terms of buildings and facilities or funding they deserve. Aspects of Attorney General's Task Force report addresses those issues.

-- Start out with premise that dealing with families involves dealing with children and dealing with children, at least in other disciplines, requires special training.

- o Psychiatrists, for example, must have extra training in order to be child psychiatrist.
- o Things about children which distinguish them from adults -- their comprehension, manner in which child thinks, developmental process.
- o Children, by and large, are less sophisticated and less experienced than most of the adults with whom we deal.
- o These things require special knowledge, skill and training.
- o Judges become very skeptical about excuses offered by parents to avoid visitation.
- o My experience in domestic court is judges hearing family relations matters had no special training in juvenile law -- unaware, untrained in areas of Welfare and Institutions Code dealing with dependency.
- o Family law judges have not, in general, served in juvenile court, not had benefit of special training in child molest, abuse, or of addictive processes and results of addiction.
- o These areas fairly routine aspects of training gleaned by juvenile court judges, not necessarily initially, but over period of time.
- o In addition, experts testify on issues of child development, judges become exposed to and somewhat sophisticated about child's capacity as it relates to testimony, questioning, perception, memory -- many things that are helpful when assess child's testimony.
- o Don't get that special training in family court.
- o No special training in criminal court when it comes to trying matters in which child is a witness -- on how to protect witness, what constitutes harassment, child development, what are appropriate questions to ask witness.

-- Combination of divisions -- having court which would combine civil child, family, and human relations matters-- I think is ideal.

- o I don't know that it is at all practical given the growth in our courts, but is an ideal.

-- Child interview specialist is, again, an ideal. I say that because of education I got in juvenile court relating to child development and distinctions experts make in manner in which 3 year old thinks as opposed to a 6 year old.

- o Are developmental stages where average child is very concrete, incapable of abstract thinking and abstract thinking important for relating historical events, thinking back to a previous time.
- o Abstract thinking important for most of questions lawyers tend to ask children -- lawyers don't tend to be very concrete when ask questions related to child's body. Tend to be embarrassed about language of body, refer to body parts in very nonspecific terms and children are extraordinarily concrete thinkers.
- o Having someone interview a child who is skilled, trained in child development and to preserve interview at early stage of proceeding would be very helpful.

-- In custody cases, custodial parent who is making a complaint of abuse or molest, works very hard to have matter transferred to juvenile court and non-custodial parent, against who allegation is being made, works very hard to maintain it in domestic court.

- o If matter handled in juvenile court and dependency finding made, parent against whom allegation has been made works very hard to resolve matter sufficiently so exit orders can be made so matter transferred back to domestic relations.
- o Lives of prosecutors made more difficult if matter is handled first in juvenile because testimony child may have given or because of statements parent may have given.
- o It is a issue about which there seems to be a lot of unnecessary complexity.

-- My experience, particularly in juvenile court, is that adults can be involved in several court processes.

- o Assume child has complained parent molested them and child in custody of other parent -- there is domestic relations matter pending, dependency matter pending, and district attorney's office is looking at whether or not to prosecute.
- o In talking to parents or children, sometimes even social workers and lawyers, they get proceedings all mixed up and really can't remember what has happened in which proceeding.
- o Not able to compartmentalize as we are.



-- Definitely problems to be addressed. I'm not certain having a supercourt is possible.

- o Ideally, having one judge trained in each area who could handle or at least supervise all issues related to molest, whether family relations or juvenile or criminal issues, I think would be extraordinarily helpful.
- o Would minimize amount of court and judge time spent and better serve family.
- o Given practical realities including manner in which courts divided, different buildings that we have, jurisdiction of county councils and district attorneys, influence of private bar and their economic interests -- all has to be taken into account.

-- Length of assignments in specialty courts.

- o My personal opinion -- important to have lengthy assignments in specialty courts.
- o Also important to have judges who are willing to put in after-hours work, to do necessary self-educating to undertake those assignments.
- o To simply say judge must stay in juvenile for period of 3 or 4 years would not be helpful.
- o Would like to see Judicial Council encourage counties not only to solicit interest of judges and try to assign them accordingly but also to encourage them to stay in those assignments long enough to be fruitful.
- o Takes period of time to learn not only law but psychology of being family law judge.
- o Takes longer to learn what's necessary in juvenile court -- not only do you have law and psychology, have all agencies you have to call upon to adequately assist families.
- o Critical judges going to juvenile understand family law and vice versa.
- o Also critical judges doing criminal matters which relate to family violence, whether violence is sexual or otherwise, be educated in areas of juvenile and family law -- particularly in areas that relate to child witnesses, family dynamics, for purposes of sentencing.

-- Status of juvenile and family courts throughout state indicated by numbers of referees and commissioners allocated to those courts as compared to other courts.

- o Frequently, subordinate judicial officers appear first in family and juvenile courts.
- o Have 4 referees in our juvenile court and 2 acting commissioners in our domestic court. Don't have any referees or commissioners anywhere else in superior court.
- o Mixed feelings -- would prefer referees who are educated in area, who have dealt with issues often 15 or 20 years, than disinterested judge or one assigned to court for a period of year or 2 because they're useless during that initial phase.

- o Unless and until there is attitude change on part of superior court toward importance of judicial matters, having referees and commissioners in these courts is best thing for public because they're knowledgeable, skilled and can be fired if they're not doing job, unlike judge.

JUSTICE KING: It seems you were saying that, on juvenile side, a certain amount of development of judge's expertise in areas like child development, how children think, how they perceive, comes from on-the-job training. Do you think the present judicial education programs for juvenile judges are inadequate?

A: Yes. There is a juvenile law institute and there's a one-day program at the summer college and I believe there are materials passed out at the one-week orientation session for superior court judges, but those don't deal with child development, for example. They don't put into concrete terms capacities of children as witnesses and how those change from year to year. Doesn't put into perspective, opinions, some national, some which seem to be more regional, as to what are physical indications of molest. There is a consensus among the medical community on many issues relating to abuse, neglect and molest that I think most of the bench is totally unaware of.

Many areas really can and should be addressed on a much broader basis than has been done in the past. These are not issues that should be relegated to those willing to serve in juvenile court. I think they're issues that are important for the entire bench. The problem that we have encountered -- at least in San Diego -- is that not everybody cares. Not everybody wants to know or is willing to learn. But at least it could be offered.

JUSTICE KING: One sign of that may be when they began, I believe in 1980, the continuing judicial studies program, there were to be one-week programs in civil, criminal, family and juvenile law. There were to be really in-depth interactive do-it kinds of programs, both to develop skills and knowledge. They never got enough signed up for juvenile program for it ever to be held.

You didn't express your view as to what you would see as an appropriate length of the family or juvenile assignment.

A: It is a minimum of 4 years before a judge is truly effective in either one of those assignments. And certainly if those assignments were combined in any way, it would be even more important.

JUSTICE KING: I'm not sure there's anything we or the Legislature or the Judicial Council can do about this, but it soundes like you were suggesting that the Governor, in making appointments to the bench, should consider, as one factor at least, the interest the potential appointment might have in serving in juvenile and family court.

A: I think that's very important. I know that our local bar was very instrumental in getting some people appointed to our bench who were seriously interested in domestic relations and who have made a major difference in our domestic relations court in terms of the status. The same has not yet occurred for juvenile, although there are a number of judges who are beginning to volunteer for the assignment.

It is important and the concept of a career or semi-career in a particular area of judging is one that should be promulgated. I think the whole concept of mandatory rotation on the superior court should be looked at, at least insofar as it puts judges into jobs in which they're poorly educated to do the work that they're called upon to do immediately.

**DR. DAVID L. CHADWICK**

(Submitted written testimony. See Attachment D)

Pediatrician. Director of Center for Child Protection at Children's Hospital in San Diego which deals with problems relating to child abuse. See about 1,500 child a year who are thought to have been either physically abused, sexually abuse or neglected. Do the validation, verification, elimination by medical process of examination and, in cases of sexual abuse, by interviewing children as well.

Was instrumental in writing language for original Child Abuse Reporting Law in 1962. Go to dependency court once or twice a month and that's what I want to talk about -- not so much domestic court, where I have no personal experience with custody issues, although I am peripheral to those cases at times.

-- Recommend we eliminate adversarial proceedings from dependency court all together or at least in most cases. I realize what a radical and difficult suggestion that is.

- o Observed court over a 25-year period and have seen gentle, rather inquisitorial and simple process proceed to a very complex, adversarial one in which all parties are represented by attorneys.
- o Attorneys trained to argue and nothing wrong with that but effect is to prolong proceedings and don't think it necessarily produces any greater level of fairness, wisdom, or compassion -- all essential to good dependency court decision making.
- o 85-90% of cases headed for reunification after children removed.
- o In process of reunification, children must be made safe and that must begin and take place with parents who abused or neglected them or they wouldn't be there in most instances.
- o Those behavioral changes must begin with acceptance of

responsibility but first must give up denial and adversarial proceedings to accept responsibility. Prolong denial and increase hostility, bitterness and, to a considerable extent, is antithetical to reunification.

-- Would like to see better trained judges.

- o Reforms suggested in that area are wonderful -- longer periods of service, specific training, all of that.
- o Also like to see judge in charge of proceedings. Now attorneys own court -- should put judge in charge.
- o Should have judge asking most of questions.
- o Judge could be assisted by whatever technical people he or she chooses and those people report to court, not to Department of Social Services, although they might be on loan and certainly would have similar skills to those developed in Department of Social Services.
- o Think if procedure like that were developed, caseload would become less formidable, things would be handled more quickly, fairer, more compassionate decisions made and better results of what we're trying to do -- get children back into an ever widening circle of affection that really supports child and family.

JUSTICE KING: I would applaud what you are saying and I think it's not only true in juvenile proceedings, it's true in family law and I think it's true in our general civil proceedings. It's my view that our system is a monster and creates a lot of the problems and too often leaves people worse off by having gone through it than they were before.

I've got a project in San Francisco where I'm trying to do something differently in family law cases and I am in charge. I am the case manager and attorneys and I are part of a team, but I'm leader of team. Involving parties more in less formalized kind of proceeding where we sit around a table and talk. A lot is done over the telephone -- no one can file a paper in a case without calling me first and asking my permission. Result is that in these 30 cases, not a single piece of paper has been filed, not a single hearing has been held and little over 20 of the cases have been resolved and not only is it much less expensive to parties financially, less expensive emotionally.

Surprised to find that most people are looking for a fair result with as little expense as possible as soon as time will permit. I haven't found any parties -- at least in my sample of 30, which may be too small -- who really want to fight. They're often disappointed in the normal system where they find they have to come into court and fight. I don't know enough about juvenile side of things but I suspect there are a lot of parents who really just want to find out how they can get through system and correct whatever problems are and be helped.

I think our system is very complicated, expensive process in which we force people to be pitted in an adversarial role against each other and my impression is most people really don't want to be in that role. They really do want to achieve a fair result with as little emotional and financial expenses as possible. So I agree with what you are saying.

A: I'm delighted to hear it.

JUSTICE KING: You and I may be the only two in the state.





**ATTACHMENT A**



AGENDA FOR SR7 TASK FORCE PUBLIC HEARING

San Diego  
November 20, 1989

<u>TIME</u>	<u>SPEAKER</u>
10:00 - 10:20	James Allen Family Law Specialist of the San Diego County Bar Assn. San Diego, Ca
10:20 - 10:40	Katherine Ashworth Attorney at Law San Diego, CA
10:40 - 11:00	Mark McWilliams Attorney at Law Children's Advocacy Institute University of San Diego San Diego, CA
11:00 - 11:20	Harry Elias, Chief Child Abuse Unit Office of the District Attorney County of San Diego San Diego, CA
11:20 - 11:40	<del>Ana Espana, Attorney at Law Child Advocacy Unit Public Defender's Office County of San Diego San Diego, CA</del> <i>to attend</i>
11:40 - 12:00	<u>OPEN MIC</u>
12:00 - 2:00	<u>LUNCH</u>
2:00 - 2:20	Judge Judith McConnell Assistant Presiding Judge San Diego Superior Court San Diego, CA
2:20 - 2:40	Judge Sheridan Reed Judge of the Superior Court San Diego County, Juvenile Division San Diego, CA
2:40 - 3:00	David L. Chadwick, M.D. Children's Hospital and Health Center San Diego, CA
3:00 - 3:20	<u>OPEN MIC</u>



**ATTACHMENT B**



CALIFORNIA STATE SENATE TASK FORCE  
ON FAMILY RELATIONS COURT

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Testimony of James D. Allen

I am James D. Allen, an attorney in private practice in San Diego, California. I am a Certified Family Law Specialist and am currently the Chairman of the Executive Committee of the Family Law Specialists Committee of the San Diego County Bar Association. Our Committee numbers approximately sixty-five and is comprised of all San Diego County Bar Association members who are also Certified Family Law Specialists.

I would like to make it clear at the outset that I do not practice in the area of Juvenile Court delinquency or dependency proceedings, nor do the great majority of Certified Family Law Specialists in San Diego County. While the Task Force, or at least the California Child Victim Witness Judicial Advisory Committee, lumped "family actions" in with "juvenile actions," in practice there is a very low incidence of crossover between the two areas.

The consensus is that the proposed Family Relations Court, at least as outlined in the provided material, will reduce the quality and level of judicial services presently provided to members of the public who are undergoing the marriage dissolution process and will alienate members of the family law bar as well.

There is a perception, right or wrong, that the Juvenile Court system, at least in San Diego County, has become overburdened to the point of breaking down. There are too many cases and not enough judicial and administrative personnel and facilities. There is rarely enough time for in depth and subtle inquiry, much less decision making. There seems little argument with the proposition that the Juvenile Court system needs greater judicial and administrative resources.

By merging the existing San Diego Family Court with Juvenile Court, the latter would have available additional judges and staff. However, we

believe that the immediate and inevitable result would be a drastic diminution of the quality of judicial administration in the family law area due to the priority of demands which the juvenile criminal justice system would place upon the additional judges and staff. In San Diego County, as in almost every other area, we have experienced firsthand the sapping of civil trial capacity in order to meet the ever-burgeoning demands of the criminal justice system. Given the exigencies of an in-custody juvenile criminal proceedings versus a spousal support modification proceeding, were only one courtroom available for hearing there is little doubt which matter would be heard and which matter would be continued. Given the statutory and practical priorities, the present Juvenile Court could double or perhaps even triple before the increased capacity would have absorbed the present needs.

The losers in such a scenario would be the litigants who would otherwise have their matters resolved in the present Family Court. This would be particularly unfortunate since those litigants are now afforded a quality of systematic justice at its highest level in recent memory. The San Diego Family Court, if not unique, certainly offers an example rare by today's standards of judicial administration; namely, it is working. Generally speaking, the caseload is being handled on a current basis with an efficiency which does not give short shrift to the litigants or their issues. While the caseload is heavy, it is not backlogged. Parties are afforded their day in court within reasonable time limits which are generally met. While volume has increased with the increase in the population base, the Family Court has not experienced the sort of paralysis which has siezed so many other sectors of the system.

One obvious reason for this performance is the extraordinary level of competence of the judiciary who have served in our court during the past four or five years. It is no secret that we have been blessed by bright, interested and energetic judges who have cared for family law and its administration. Several were Certified Specialists in Family Law prior to taking the bench; all have become specialists in an increasingly complex area of the law. This is not to say that our Juvenile Court has been any less endowed; it too has seen in recent years a succession of highly motivated



and competent judges rotate through its departments. However, because of the fundamental difference in nature between juvenile delinquency and dependency proceedings and dissolution of marriage actions, the one area has been susceptible to amelioration and the other has not.

One central reason that San Diego Family Court works is that the bench and bar work in cooperation rather than as adversaries. The number of hours donated by private practitioners to the administration of justice in Family Court is truly staggering. One estimate is that the donated time is the equivalent of two additional full-time judges, and this estimate may be conservative. Lawyers regularly give their time to conduct settlement conferences, to act as judges pro tempore both for hearings and trials, and to meet and confer with the judiciary in an effort to make the system a success. If the Family Court is amalgamed to the existing Juvenile Court, the reason for this cooperation will be lost. Certainly there is an element of "self-interest" involved; if your own practice is made smoother and easier through an overall improvement in the administration of the system, then there is every good practical reason to contribute some of your own time and energy to those ends. If family law cases lose priority and judicial attention, then the reason for this cooperative effort will be eliminated.

To reiterate, the chief drawback of the proposed Family Relations Court is that the expanded and merged Court will sink to the level of its lowest bureaucratic common denominator. What is presently an excellent, efficient and highly specialized Family Court will be swallowed up by a larger Family Relations Court; there is not the slightest reason to expect the new entity to show an overall improvement in the administration of justice. The end result is that a part of the system which is presently working would be lost to the members of the public who use it.



**ATTACHMENT C**





University of San Diego

Children's Advocacy Institute

Center for Public Interest Law

November 20, 1989

The Honorable Senator Bill Lockyer, Co-Chair  
The Honorable Justice Donald King, Co-Chair  
Senate Task Force on Family Relations Court  
Senate Office of Research  
1100 J Street, Suite 650  
Sacramento, CA 95814

Dear Senator Lockyer and Justice King:

Thank you for giving me the opportunity to testify before the Task Force. The written summary of my testimony is attached.

The Children's Advocacy Institute (CAI) is working on several issues affecting the health and welfare of children, including the intake and investigation of child maltreatment. In the course of our research we have discovered problems with the investigation of child maltreatment in family court which are detailed in my testimony. First, there is a pervasive attitude that allegations of maltreatment in family court are fabricated, despite evidence to the contrary. Second, the family court lacks the proper tools to investigate these allegations. Third, the inequality of resources between parties in family court often have a decisive effect on the response to maltreatment. Fourth, coordination between family court and other courts is lacking in many instances.

Among the many ways of attacking these problems, CAI supports the Child Victim Witness Task Force Report recommendation that a Family Relations Court be established. Such a court would have greater resources, perspective and inclination to treat allegations of maltreatment appropriately.

ATTACHMENT C

Alcalá Park, San Diego, California 92110 619/260-4806  
1535 Mission Street, San Francisco, California 94103 415/431-7430  
926 J Street, Suite 709, Sacramento, California 95814 916/444-3875

Reply to:  San Diego Office •  San Francisco Office •  Sacramento Office

Senate Task Force on Family Relations Court  
November 20, 1989  
Page Two

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Our research has also discovered problems in the way protective services workers and law enforcement agencies coordinate their investigations, including problems in transporting children removed into protective custody, jurisdiction, communication, duplicate reporting and administrative requirements, authorization of and payment for evidentiary examinations, and perceptions on the correct course of action for individual families.

The Child Victim Witness Task Force has made many valuable recommendations to address these problems as well. CAI supports the concept of joint investigations by protective services and law enforcement personnel, including comprehensive interviews in child-oriented settings by trained interview specialists. San Diego County has some elements of such a system in place, following the Huntsville model. The National Center on Child Abuse and Neglect (NCCAN) has made joint investigations its top priority in funding research and projects in 1990.

Thank you again for accepting our input. Please call me at (619) 260-4806 if you have any questions or need additional information.

Very truly yours,



Mark McWilliams  
Staff Counsel

TESTIMONY OF MARK McWILLIAMS, STAFF COUNSEL  
CHILDREN'S ADVOCACY INSTITUTE (CAI)  
BEFORE THE SENATE TASK FORCE ON FAMILY RELATIONS COURT  
NOVEMBER 20, 1989  
SAN DIEGO, CALIFORNIA

My name is Mark McWilliams, and I am Staff Counsel for the Children's Advocacy Institute (CAI) at the University of San Diego School of Law. CAI supports the creation of a Family Relations Court, believing it will benefit children and victims who are involved in the court system, particularly family court and juvenile dependency court. CAI further supports the concept of comprehensive interviews of maltreated children by trained interview specialists.

**The Children's Advocacy Institute**

The Children's Advocacy Institute is a project of the Center for Public Interest Law (CPIL), a nonprofit academic center of the University of San Diego School of Law. CAI and CPIL have offices in San Diego, San Francisco and Sacramento.

CPIL trains law students in public interest law, focusing on California regulatory agencies, and publishes the California Regulatory Law Reporter. Over the past ten years CPIL has engaged in over thirty advocacy projects in a wide range of areas, from state open meetings requirements to utility ratepayers' organizations. More recently, CPIL was instrumental in reforming California's discipline system for attorneys. Professor Robert C. Fellmeth, Executive Director of CAI and CPIL, was appointed by the state Attorney General to monitor the

implementation of a new discipline system at the State Bar. CPIL is currently working with state legislative leaders to implement similar reforms in the disciplinary system for physicians.

CAI was formed in February 1989 with a grant from the Weingart Foundation to study and advocate for change in several areas affecting the health and welfare of children. CAI is guided by an active Board of Advisors, including Paul A. Peterson, a prominent San Diego attorney with the law firm Peterson & Price; Dr. Birt Harvey, president-elect of the the American Academy of Pediatrics; Dr. Quynh Kieu, Professor of Pediatrics at UC Irvine and President of the Indochinese and American Women's Association; Thomas A. Papageorge, Deputy District Attorney and Assistant Director, Special Operations, for the Los Angeles District Attorney; Sam Williams, Los Angeles attorney and former president of the State Bar of California; the Honorable Leon Kaplan, Judge of the Los Angeles County Superior Court, Juvenile Court Division; and Gloria Perez Samson, Principal, National City Junior High School. In addition to Professor Fellmeth, CAI staff includes Steve Barrow, Director of Policy Advocacy, and Terry Coble, Director of Policy Research, in Sacramento; Jim Wheaton, Supervising Attorney, in San Francisco; Julianne D'Angelo, Supervising Attorney, in San Diego; and myself.



### Child Maltreatment Study

One of CAI's research areas is the intake and investigation of child maltreatment. Using San Diego County as a case study, CAI staff is performing an empirical study to determine how the myriad of federal, state, and local programs interact to affect child abuse detection and routing. Following the recent San Diego County Grand Jury report on the juvenile dependency system, the staff is identifying problem areas in the detection and routing of child abuse cases, and the coordination of services and information at the entry point into the system. The project will produce a final report, Child Protection in San Diego County, and model legislation which may apply to child protective systems statewide sometime in early 1990.

Child Protection in San Diego County is the first in a series of reports on specific issues involving child welfare. Future reports will deal with child care availability and the coordination of services at the state level. Child Protection in San Diego County is based on extensive interviews with social workers, law enforcement officials, mandated reporters, service providers, court workers, victims and their families, and experts in child maltreatment policy in California and the nation. There is also significant reference to the extensive literature in the field and innovative programs in other counties and states.

### Problems in Family Court

I am the staff member primarily responsible for completing Child Protection in San Diego County. In the course of my research I have been contacted by several people regarding the detection and investigation of child maltreatment in the course of dissolution proceedings. My background is in research, not practice in these courts. But I have talked with a wide variety of people -- practitioners, court officials, and parties -- who have consistently illustrated several problems in this area.

A great many instances of abuse and neglect are discovered in dissolution proceedings. Judge Leonard Edwards of the Santa Clara County Superior Court, drawing on findings by Thoennes and Pearson, estimates that 2-10% of all custody/visitation cases involve allegations of sexual abuse. Many professionals believe that sexual abuse in particular frequently surfaces in Family Court because either an impending family crisis (such as dissolution) prompts the report, or the prospect of the alleged abuser leaving the household makes reporting seem safer to the child.

The family court system fails to identify and investigate abuse in a proper manner. First, (there is a pervasive attitude that abuse allegations are fabricated for strategic reasons in custody disputes. This attitude persists despite studies which show the rate of false reports in family court closely matches

the overall false rate (2-10%). Although the environment is changing, abuse, neglect and exploitation allegations are historically viewed with skepticism in Family Court. These allegations are alternately overalleged, falsely for strategic purposes, and underalleged, for fear that they will be viewed strategically, meaning that false allegations of abuse may affect custody while potentially meritorious allegations are disbelieved. The attitude has a more subtle and insidious effect in assessments by experts, who tend to view an allegation of abuse as a sign of parental unfitness on the part of the reporting parent rather than on its face as possible abuse.

Second, the family courts lack the necessary tools to (investigate and respond to abuse allegations. Often, Family Court counselors investigate the allegations independently, as part of their general responsibility to prepare a custody investigation report under Civil Code Section 4602, and make recommendations to the court. The counselors have full access to CSB records but may not be trained in investigative work and do not have a long-term involvement with any one case. Counselors do not have the same resources to conduct these investigations, such as the ability to order evaluations paid for by the agency, and occasionally will report the allegations to the San Diego County Children's Services Bureau (CSB) to bring greater resources to bear. Nor does the Family Court have the power to remove the child from the home, meaning that information from

children is always gathered in an atmosphere where parents or other family members can influence or threaten the child.

Third, the inequality of resources between the parties and the litigious nature of dissolution proceedings in family court often has a decisive and debilitating effect on the well-being of children. Dissolution proceedings are governed by special rules but are subject to the gamesmanship which generally pervades civil litigation. Delaying tactics, harassment, and vexatious actions inflate the costs of these actions immensely, crippling one or both parties and making outcomes less dependent on the truth and more dependent on survivability. The party with direct practical control over the family's resources carries an immense advantage in these proceedings. The tendency of courts to award joint custody extends the warfare beyond the end of the proceedings indefinitely and is often used as a bargaining tool by fathers to force concessions in other areas such as support. Cases go on for years, with children caught in undetected or unbelieved abusive environments or, at the very least, caught in the parental crossfire.

Fourth, there is little coordination in most counties between juvenile courts and family courts. Frequently the courts will be handling cases simultaneously and may issue conflicting orders, sometimes within the same county, sometimes between two or more counties. Recent changes in state law now suspend custody determinations while dependency proceedings are pending.

San Diego County has set up a protocol for coordination of these cases between courts and is now completing a system whereby each court has access to information from the other.

### Approaches and Solutions

One way to represent the interests of children in family court is to expand the responsibility of advocates representing children in dependency court to other proceedings under Welfare and Institutions Code Section 317. The Public Defender's Child Advocacy Center is experimenting with this approach, monitoring family court activities involving children who are in the middle of simultaneous dependency proceedings.

Another way to monitor abuse allegations in these cases is to provide for independent Court-Appointed Special Advocates to follow dissolution cases. CASA intervention may be less valuable in these cases because the issues to be investigated are different; in dissolution, the issue is whether or not abuse occurred rather than whether or not the child is being treated properly by all parties involved in the action. Still, this level of independent investigation is often valuable in ensuring the protection of children's interests.

The most comprehensive solution would be to combine the courts into a single Family Relations Court as advocated by the Attorney General's Child Victim Witness Task Force. The Task Force Report concluded:

Having all family relations civil actions consolidated in one division would lend itself to consolidating and coordinating proceedings and having one judge sit in all family relations matters relating to a child or family. It would ensure more accurate fact-finding, effective decisions by the court, and consistent court orders on behalf of the child and family.

Specifically, the Family Relations Court would have greater resources and inclination to treat abuse allegations seriously. The Court would have access to a broader range of experts to consider all aspects of family functioning. The Court would also have a broader range of options in placing removed children by issuing family court orders. Most importantly, however, the combined Family Relations Court would benefit from a broader perspective on child and family life and could begin to break down many of the narrow assumptions generated by the specific separated practices in family and dependency court.

#### **Comprehensive Interviews**

In the course of my research I have also looked into the need for coordination in the investigation of child maltreatment. I have concluded that joint investigations, including comprehensive interviews in child-oriented settings by trained interview specialists, are critical in ensuring thorough fact-finding and reducing trauma to children.

### Coordination Problems

Further coordination of investigation is needed at the ground level -- in the initial investigation of abuse reports by social workers and police officers. The current informal cooperation works at times but also creates coordination problems.

One example occurs when CSB workers transport children to Hillcrest Receiving Home at the request of law enforcement. Law enforcement assumes that by giving the child to CSB to transport they are no longer responsible for monitoring the child's whereabouts in the system, which is not always true. The result is that inquiries from dependency court on the child often turn up no record in the law enforcement agency, and children are "lost" in the system. Greater coordination and explanation of reporting responsibilities are required to solve this problem.

Another example arises in law enforcement investigations and initial response when abuse, neglect and exploitation crosses jurisdictional lines. San Diego County has 19 law enforcement jurisdictions, so an incident of abuse originating in one jurisdiction involving a child going to school in another jurisdiction and detected by a doctor in a third jurisdiction may create gridlock over who is going to respond, particularly in criminal investigations or when law enforcement personnel are needed to remove the child to a shelter. The County law

enforcement agencies have overcome a similar problem in the area of narcotics investigation by forming a countywide task force which investigates drug cases using pooled resources. An approach like this might work well in abuse investigations.

A third example arises when CSB social workers cross report abuse, neglect and exploitation to law enforcement but use the wrong terms (e.g., ask for "assistance" rather than "investigation," which is proper because in many cases law enforcement has primary responsibility for investigation). Use of the improper language results in a lower priority being assigned to the case by the law enforcement agency, thus delaying the response and creating friction among the workers, and in a general inability to collect data on the law enforcement caseload. Greater coordination and a universal protocol for reporting abuse to law enforcement would improve this situation.

A fourth example is the possibility of duplicate reporting. Often abuse may be detected simultaneously by several people -- neighbors, teachers, doctors, etc. Slight discrepancies in the dates of these reports may exist due to imprecise recordkeeping or investigation and can often result in the same incident being reported more than once. This has implications for data collection and prior report histories both at the county and state level.

Separation of police and social work investigators also results in duplicative report requirements, increased paperwork



between agencies in the form of formal cross-reporting, and missed opportunities for cross-training between the two groups, particularly in investigative techniques for social workers and family preservation considerations for patrol officers.

The basic underlying problem with separate jurisdictions is that each agency thinks that it alone has the child's best interests at heart. For example, San Diego County Sheriff Duffy said in a training videotape that "deputies are the only ones who have the best interests of children" in mind. The SB 1195 Task Force echoed this sentiment in noting that most parties want to do what is best for the child, but they differ on what that best interest is and who needs help. This attitude is critical in creating tension between police and social workers who often compete in making the appropriate decision in abuse investigations.

#### **Comprehensive Examinations and Interviews**

The need for comprehensive examinations and combined interviews by trained interview specialists has been extensively discussed by the California Attorney General's Child Victim Witness Task Force. The Task Force recommended that facilities be developed for child-oriented investigation and interviews in one place in each county, following the Huntsville model, in order to reduce the systemic trauma inflicted on children. The Task Force focused on creating a child-friendly environment,

reducing the number of interviewers, and reducing the number of interviews. The Task Force report identified the essential elements of such a program:

- \* A child-oriented interview setting.
- \* Comprehensive interviews conducted by a Child Interview Specialist.
- \* Interdisciplinary child interview protocols.
- \* Memorialized interviews (by audio or video tape).
- \* Team review of cases.
- \* Medical examinations by trained professionals.
- \* Assignment of child advocates.
- \* Provision of appropriate mental health services.

The report recommended pilot projects to test the concepts in three counties.

San Diego County has many of the elements of this approach in place in various agencies. The Center for Child Protection conducts comprehensive, videotaped interviews in special child-oriented interview rooms with one-way mirrors. Children are interviewed by CCP social workers trained in developmentally appropriate interview techniques and cross-trained in medical and legal issues. Evidentiary examinations are performed by professionals trained in detecting signs of abuse using the latest techniques developed through CCP's growing research and training function. Limited mental health services are provided

as well. Child advocates are available nearby at the Juvenile Court through Voices for Children, the Public Defender, or panel attorneys. Other agencies are following suit by developing at least some elements of a comprehensive, child-oriented approach.

Progress needs to be made in further implementing the Task Force recommendations. Although some comprehensive interviews are taped, many agencies still conduct their own interviews. Some agencies are reluctant to tape any interviews because of their availability to defense investigators and possible impacts on prosecutions as well as uncertainty over admissibility in court and possible reversal on appeal. (Ironically, a major barrier to bringing criminal charges in maltreatment cases is the fear of subjecting children to multiple court appearances.) This attitude is understandable given the uncertain status of videotaped testimony in court, particularly criminal trials; however, once the question of admissibility is resolved, these interviews should be taped so children aren't continually traumatized by investigators. In the words of one defense attorney, "a good investigation benefits everyone" and may reduce the number of cases actually requiring hearings by inducing guilty pleas or early dismissals when charges are not warranted.

Most importantly, there are often problems in getting evidentiary examinations because of conflicts over who must pay. CSB is wary of paying for exams because of the cost, and many police departments do not have an examination budget so will not

always order them when necessary. Further, administrative staff do not always understand the need for comprehensive examinations and are thus wary about authorizing them. The District Attorney's office is currently working on an arrangement to bring all exams under the umbrella of a single long-term county contract, which would be beneficial to children but not to CCP since the county has historically been very stingy in negotiating rates.

#### **Team Investigation**

Cooperative investigation is quite valuable in identifying the needs and abilities of organizations to solve problems, exchange information on cases and trends, and support each other.

The advantages of team investigation are numerous. First, each member of the team can interview significant people separately yet simultaneously. Second, the team members can consult with each other in assessing the situation. Third, each team member gains an important perspective into the role of the other members.

Additional case review by a multidisciplinary team makes case work even more effective. First, review by a multidisciplinary team helps ensure a coordinated response. For instance, in a normal case of a broken limb, where abuse may not be detected, a medical professional suspected child abuse and reported the suspicion to CSB. The investigator brought the case

to a multidisciplinary team review, where other members recognized the family and disclosed a pattern of abuse. The proper referrals were made and a petition filed right away. This coordination also makes service provision easier. Other cases involving the same abuser, family or victim are brought to light by sharing the case information. Likewise, lost cases may be found by other team members.

Second, coordinated recordkeeping in the meetings helps develop a better individual record and also helps coordinate recordkeeping in other agencies. The seemingly innocent issue of recordkeeping and measurement of efforts comes up time and time again in the child abuse field, and it is a problem with team approaches as well. The Kempe Center's START Program Evaluation concluded:

Record-keeping again created unanticipated problems. ... One of the most frequently absent forms of information was related to the outcomes of the referred cases. ... There was no contact following the resolution of the case. This problem was recognized. The evaluation built a two-phased follow-up into the study. First, a team member re-contacted the caller to find out about the progress or resolution of the case. In addition, the evaluation team members later called the people who had requested START support. ...

It is important to note that this series of phone calls required a significant amount of time, both from team members and evaluators. Not only did one have to deal with returning calls to people who were out of the office or who had changed jobs but also it was discovered that many law enforcement officers and social service representatives did not know how the case had been resolved.

Even though the experience in the START Project was frustrating, the team was able to recognize the problem and begin to work toward a solution. Without the team approach, no follow-up on these cases would have been initiated.

Third, the multidisciplinary team can be useful in countering automatic assumptions and prejudices. For instance, in one team meeting there was an unusually specific focus on the problems of denial by non-abusive parents, in one case claiming this denial by the non-abusing parent as a reason to remove the child. Many workers also assumed that parents were lying about their kids. The multidisciplinary team can be useful in countering these biases and resolving treatment and response issues in thorough, accurate ways.

Several team approaches exist in San Diego County. The Center for Child Protection convenes team case conferences every Wednesday to discuss individual investigations. There is a great deal of informal consultation between law enforcement and CSB workers on individual calls. Other team approaches deal with systemic investigation issues. The Interagency Task Force brings together police investigators and social workers to discuss strategies. Liaison positions between CSB and law enforcement agencies have been developed, and further liaisons between CSB and public health nurses are in the process of formation. The Child Abuse Coordinating Council brings together interested participants to discuss common issues facing all professionals in

the field.

The Child Advocacy Team at UCSD Medical Center also has a weekly case conference with CSB, and CSB investigators consult with the medical professionals when investigating the reports. As a result, both reporters and workers have a mutual understanding of their respective roles in reporting and investigation.

#### **Joint Investigation**

The best structure is joint investigation through a task force for investigating abuse cases made up of law enforcement officers and emergency response workers. Social workers and law enforcement officers could work together under the same roof and across jurisdictions. All calls would be directed to the abuse hotline, which would have central responsibility for assigning response teams. The team could file one report, with copies sent to the appropriate home agencies. Evidentiary exams could be requested from a common pool trust fund.

How would such a joint task force work in a typical case? The hotline receives a report of child abuse, which is referred to the joint investigative unit. Emergency response workers and patrol officers trained in child maltreatment issues belong to this unit. A unit supervisor evaluates the complexity, setting and severity of the report and assigns either a patrol officer, an emergency response worker, or a team to investigate the

report. If one team member is sent, he or she consults with an on-duty counterpart by radio after making initial contact. If this first contact shows that more investigation is needed, a second investigator may be sent out to work with the first.

If no further investigation is needed, the investigating team makes a direct referral to treatment and support services as appropriate. If further investigation is needed, the team conducts it. The team may consult with one of several multidisciplinary review teams which specialize in particular types of abuse. If interviews or examinations are required, the team takes the child to Children's Hospital or other appropriate place for a comprehensive interview by a trained specialist and/or an evidentiary examination. The interview is taped and available for review by all subsequent investigators, including defense investigators and advocates representing the child.

Investigations to determine the need for services, the need for Juvenile Court intervention, and the appropriateness of criminal prosecution are carried on simultaneously by the joint investigation task force. When appropriate, criminal charges are referred to the District Attorney, who sits in on selected multidisciplinary hearing panels.

Throughout the investigation, the task force maintains a single investigative file. Cross-reporting and state data collection responsibilities are handled singly by the team. The team's law enforcement connection allows access to criminal



history and other records. Investigative results are forwarded to the service unit when the investigation is closed.

The investigators may provide brief crisis intervention if such intervention would resolve the problem in one visit, but are otherwise not responsible for provide treatment or support services. Even one-time intervention reports are referred to service agencies.

Police officers and social workers each add unique strengths to joint investigation. Police officers generally receive superior training in investigation and can identify instances where criminal prosecution of perpetrators would be appropriate. Social workers receive superior training in family preservation work and can more readily identify families amenable to treatment and support services. The two working together can add both these strengths to investigations and teach each other.

In summary, the task force approach reaps many of the advantages of coordinated investigation and team review:

- (1) Better cross-training and sensitization
- (2) Common equipment and technical resources
- (3) Common language and better communication
- (4) No overlap in investigation or interviews
- (5) Clear, primary responsibility for investigations
- (6) Flexible response by team members together or alone
- (7) Better investigation
- (8) Better family preservation/crisis intervention work

- (9) Combined resources = better investigations
- (10) Less paperwork, simpler cross-reporting
- (11) Access to criminal history
- (12) Better use of evidentiary exams
- (13) Integration of family court investigations
- (14) Increased prosecution

Team investigation was pioneered at the Children's Advocacy Center in Huntsville, Alabama, for use in criminal prosecutions. The concept has been extended to selected dependency cases involving physical and sexual abuse by many agencies, including San Diego's Center for Child Protection. There are few examples where team investigation is used at the initial stage or in all cases, including neglect. (Ironically, neglect cases probably benefit the most from thorough investigation.) Pima County, Arizona uses investigation by police officers and social workers together in many cases. The National Center on Child Abuse and Neglect (NCCAN) has identified joint investigation as its number one priority in awarding research and project grants in fiscal year 1990.

#### **Children's Centers**

Children's centers have been advanced as places where comprehensive team investigations and service provision could occur. There are two proposals in San Diego County which would combine new emergency shelters with facilities for comprehensive

investigations and coordination of efforts. One is in San Diego itself, developed through a public-private partnership by the Child Abuse Prevention Foundation, while the other is being developed as a private nonprofit institution by Casa de Amparo, the contract shelter in North County. Both centers are making progress and are in various stages of planning. They are modeled after the Orangewood Children's Center in Orange County.

Casa de Amparo, for example, is working with the Center for Child Protection to set up a satellite center at their proposed new shelter. The CCP satellite would not only do evidentiary examinations for North County abuse cases but would also provide health care for all children coming into the shelter and health screening for all foster children in the area. (The Center would in fact be a resource center for foster parents where training, day care and support would be available.) Mental health screening would also be done by Casa personnel, as Community Mental Health resources are nearly nonexistent. Services would be guaranteed through the "health passport" system currently being explored by David Chadwick at CCP. Casa would recruit local pediatricians to take a few Medi-Cal cases and would also set up a clinical program for social work and education students to augment resources.

The new shelter would also include a juvenile courtroom where a county Juvenile Court judge would hold dependency hearings on selected days of the week. This development would

encourage North County attorneys to become involved in juvenile cases, perhaps improving the quality of representation by bringing in new blood. Casa has discussed the possibility of setting up a clinic through USD Law School where students could become certified to represent children in court.

A comprehensive children's center should also include offices for child advocates such as Voices for Children and independent programs like the Public Defender's Child Advocacy Center. The Child Advocacy Center uses a multidisciplinary approach to represent children, employing attorneys, social workers, paralegals, investigators, and volunteers to address the child's overall needs and provide support as well as to fully develop the facts in children's cases. Although this program would be better as an agency independent of the District Attorney, Public Defender, or County Counsel, its multidisciplinary approach is critical not just to adequately understand the child's case but also to monitor the official social work being conducted by CSB. These options are being considered by the center planners.

Thank you again for the opportunity to present our views. Please call the Children's Advocacy Institute at (619) 260-4806 if you have any questions or need further information.

**ATTACHMENT D**





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Center  
for Child  
Protection

with 505-843-  
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November 20, 1989

Justice Donald King  
Task Force on Family Relations Court  
Senate Office of Research  
1100 J. Street, Suite 650  
Sacramento, CA 95814

Dear Justice King:

This letter is intended to provide a written record of my testimony given earlier today at the San Diego County Board of Supervisors Hearing Room in San Diego during the recent public hearings held there by the Task Force.

You may recall that I am a pediatrician, that I have spent my career in two California children's hospitals in Los Angeles and San Diego, that my interest in child abuse and neglect goes back to the 1960's, and that I participated in the writing of the original model child abuse reporting law in 1962. I have testified in the Juvenile Court in dependency matters over one hundred times, and I am very familiar with all aspects of the "system" that deals with children and their families after abuse or neglect occurs and is reported. I am much less familiar with the domestic court, although I have some idea of what happens there especially in cases involving child custody. Generally, I favor ideas which recommend the consolidation on child and family matters into common courts, although, in past years, attorneys who specialize in dissolutions have consistently been able to derail such efforts in this community.

My ideas about improving the judicial process involving children and families are much more radical than a simple consolidation of courts. I favor the virtual elimination of adversarial proceedings from dependency hearings, and the institution of a much simpler (and hopefully more intelligent and gentler process in which the judge (assisted by whatever resource persons he or she may need) asks almost all the questions and guides the hearing with a firm hand. Lawyers representing the parties, if present at all, would only be allowed to speak when spoken to, and then only briefly. Most witnesses would be examined only by the judge.

Since most children whose cases reach the juvenile court are likely to be reunified with their families after a period of

rehabilitation, the emphasis of the reunification plan would be the family's clear acceptance of responsibility and the willingness to undertake personal change sufficient to avoid future harmful behaviors toward their child. Adversarial proceedings emphasize denial of responsibility and tend to delay initiation of behavioral changes, often indefinitely.

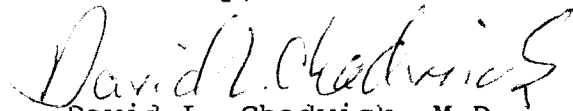
Cases which met the criteria for rapid initiation of permanency planning at the first juvenile court hearing after detention might need to be tried using adversarial proceedings, however, when such proceedings followed parental failure to comply with reunification plans, The hearing could probably be of the simplified type. "Vertical" management of cases by individual judges over long periods would probably be a good idea in most cases.

I realize that changes of this sort might require considerable discussion, and that many attorneys may oppose them. In answer, I recommend that a special commission containing opposed attorneys, be required to spend forty hours in the San Diego Juvenile Court in the company of a group of intelligent private citizens, and then defend their position to the same group.

Perhaps the best way to get something of this sort started is on a limited and "experimental" basis in one or two parts of the State. If that were to be the cases, I would hope that San Diego might be a trial site.

Thank you for listening to me and for your attention to this important matter.

Sincerely,



David L. Chadwick, M.D.

cc: Honorable Napoleon Jones  
Elizabeth Berger