



Family Legal Care's Testimony to the New York City Council's Oversight and Investigations Committee, Public Safety Committee, and General Welfare Committee on Operational Challenges in Family Court

Monday, March 24, 2023
Remote Hearing
Gale Brewer, Chairperson

My name is Cathy Cramer and I am the Chief Executive Officer at Family Legal Care, formerly Legal Information for Families Today. Thank you to Chair Brewer and members of the General Welfare and Public Safety Committees for the invitation to testify about the operational issues families with cases in New York Family Court are facing.

On behalf of Family Legal Care, I'd like to thank the New York City Council for its continued support and focus on issues impacting New York's parents and caregivers in Family Court.

Family Legal Care's mission is to increase access to justice in New York State Family Court. We combine legal guidance, easy-to-access technology, and compassionate support to help unrepresented parents and caregivers self-advocate on critical family law issues, while working on reform that improves the system for everyone. We reach approximately 25,000 individuals throughout the state every year through our Family Law Helpline, legal consultations with both Family Legal Care staff and pro bono attorneys, community outreach workshops, Tech Hubs and digital justice tools, and our Legal Resource Guide library. Our work focuses on the cases where there is usually no right to assigned counsel, including child support, custody and visitation, and domestic violence.

Our organization was launched inside the Manhattan Family Courthouse in 1996, where we answered questions and distributed Know Your Rights pamphlets from a table in the lobby. **Today, we are the only legal services organization dedicated solely to empowering parents and caregivers to represent themselves in New York Family Court.** Our model of providing limited scope legal services is unique: we have found that when we help pro se litigants get started on the right track, and provide additional support as needed throughout their case, they are able to achieve positive outcomes for their families without full representation. In this way, we maximize the number of clients we can serve, both broadening and deepening our impact. Thanks to our decades of experience providing on-the-ground services, there is no organization that has a better understanding of the challenges pro se litigants face and the needs that are not being met by the Court.

I want to make clear that in discussing the challenges pro se litigants face, my intention is not to disparage Family Court. We work very closely with the Courts, and know that many caring,

dedicated people are doing the best that they can with the very limited resources they are given. The issues in Family Court are systemic, a result of an unnecessarily complicated Court structure and decades of underfunding, which you see in other courts across the state as well. However, the Family Courts in particular are understaffed and overburdened. 80% of litigants come to Family Court without a lawyer. These unrepresented litigants are disproportionately low-income, from communities of color, often undocumented immigrants, or speak monolingual Spanish or some other language. They are all navigating emotionally charged, extremely personal issues.

The Family Court was originally set up as a pro se court. The goal was for it to be user-friendly, and “the people’s court.” It is supposed to be a place where you can get justice for your family without a lawyer and without paying the expensive filing fees.

But the reality of this setup is that, as Jeh Johnson, Special Advisor on Equal Justice to the NY State Court system, has said, the Family Court, which mostly serves low-income families and people of color, is perceived as a “second-class court” and is “dehumanizing.” Fixing the Family Courts is a racial justice issue.

The Family Courts have been understaffed for decades, with not nearly enough jurists or support staff to handle the more than 200,000 cases filed in NYC every year. As a result, Family Court jurists have extremely high caseloads, which means extensive delays are common. Often, parents and caregivers end up waiting months for their hearing, and then have just ten minutes in front of a jurist to decide on their case. Jurists are shuffled in and out of Family Court, assigned there on a temporary basis. The understaffing of the Courts is especially pronounced now after the many retirements during covid. Our clients tell us that they struggle to get support from the court staff, and some clients have had their cases delayed because of inaccurate information received from court staff.

Implementing uniform standards and rules, and communicating them to litigants when they first begin their cases would help reduce delays in Family Court. Delays are common because of the lack of uniformity in how cases are filed, and little to no communication about court procedures when litigants are beginning their cases in Family Court. Procedures vary across the state, in each of the city’s borough courthouses, and even from jurist to jurist within the same county. Every jurist is given discretion about the process in their court, but since litigants are not told at the outset what the expectations are, and since pro se litigants are held to the same standards of an attorney without the benefit of a legal education or training, many cases get dismissed on technicalities. Litigants must then start over. And when jurists leave, either because they were only assigned to Family Court temporarily or because they retire, their caseloads are reassigned to another jurist. For a litigant, this usually means delays, and the rules and process they had used earlier no longer apply.

Additionally, many families come to Court to address multiple issues. For example, someone may need to establish paternity for their child, so they can establish a custody arrangement, which will make it possible for them to obtain child support. Each of these issues are handled

separately in different cases, decided by different jurists, with different procedures for each of them, even though all these cases are tied so closely together.

The Courts also do not make child support a priority, but it is extremely important to families, and is a factor in 40% of the cases the Family Court hears. With child support, a custodial parent can meet the basic needs of their child – to pay for food, or housing, health insurance, and clothes. Having child support can be life-changing for a family. **We strongly believe that child support is a powerful but underutilized poverty prevention tool**, and that adequate child support can help prevent other issues before they need to be handled in Family Court, including domestic violence and abuse cases. In fact, many times the withholding of child support is another tactic that abusers use to maintain control in their relationship. Even so, child support is continually put on the back burner in Family Court. Many of our clients have filed Orders to Show Cause in their cases, asking for sooner court dates, or for temporary remedies to be put in place or suspended, but these are often denied.

During the pandemic, the New York City Family Court was only hearing cases that they deemed “essential,” but without clear guidance on what cases were “essential” or “emergencies.” The Court stopped hearing cases related to child support altogether, as they were clearly deemed “non-essential.” Custodial parents had no way to file for much-needed child support. And parents who were losing jobs and could not pay their child support orders could not seek any relief from the family courts, so child support debt continued to accumulate. In most child support cases, after an Order of Support is entered, they are administrated through the Office of Child Support Services. OCSS also handles administrative enforcements for non payment of orders. During the pandemic there was no pause for these administrative enforcements without a modified court order, but the Court that was not entertaining these cases. Family Legal Care in many ways acts as a bridge between Family Court and OCSS. We meet with them bimonthly and help facilitate and fast-track cases, but of course a small organization like ours cannot meet the overwhelming demand for relief.

Organizations like Family Legal Care and others have worked closely with the Court to close the serious justice gaps, but significant issues remain, and the Court’s bureaucracy ties our hands every day. Family Court cases are tracked through a portal called the Universal Case Management System (UCMS). When a litigant has a lawyer, either private representation or a court-appointed lawyer, everything related to their case, including information about scheduled hearings to previous decisions of the Court, is easy to find in the UCMS portal. However, legal services organizations like Family Legal Care, who provide legal advice and guidance but do not appear in Court with the litigant or on their behalf, do not have access to UCMS. This lack of access limits our ability to gain a clear understanding of a litigant’s case history, which in turn limits the level of advice and assistance we can provide unrepresented litigants. Our staff attorneys spend a significant amount of time in each consultation just trying to understand the facts of the case and explain it to the clients before we even get to providing legal advice and guidance. In addition to giving us valuable information about the outcomes of our clients’ cases, **increasing access to UCMS would make our work more efficient, and most importantly, increase access to justice for pro se litigants.** It would also reduce the number of unnecessary

or incorrect filings, ultimately speeding up proceedings, which would benefit litigants and jurists alike.

Another common barrier to justice for pro se litigants is outdated technology, particularly the Family Court website and lack of electronic filing system. **The Family Court needs to build an effective, user-friendly website (including mobile website) that comprehensively informs the public of current court operations and provides guidance to unrepresented litigants.** The website should be available in multiple languages. The Family Court sections of the current Unified Court System website provides limited, unclear, outdated, and inaccurate information. It is extremely difficult to navigate from the homepage to the Family Court section and even more difficult to find forms litigants need. The forms that are available are hard to fill out without a computer or PDF-editing software, but many pro se litigants only have access to a mobile device. The website is mostly in English and excludes non-English speakers from obtaining crucial information. Family Legal Care has created digital justice tools to help fill the gaps in the Court's online resources. Our Family Law Navigator helps litigants understand which forms they need for their specific situation, and our Guided Court Forms make it easy to fill out this paperwork from a mobile device.

Additionally, Family Court does not use an electronic filing system, and currently uses a submission portal called EDDS. However, this system does not provide litigants or attorneys with document access or issue a docket number of a summons. **Family Court should speed up adoption of NYSCEF**, the electronic filing system used throughout much of the New York State Court system, in Family Court to the fullest extent permitted by law, with appropriate support for unrepresented litigants.

Currently, most hearings and trials for the unrepresented litigants we serve are happening virtually. For the litigants who have access to technology, this is a positive change. They no longer have to take a day off work, secure childcare, and spend hours traveling to and waiting in a courthouse. But what about the many parents and caregivers whose only access to Wi-Fi is at their closest library or subway station?

Family Legal Care developed the Tech Hub Program to help these parents and caregivers. At our Brooklyn, Queens, and Bronx Tech Hubs, we have all the computer equipment an unrepresented litigant will need to attend their virtual hearing or submit documents related to their cases. By providing a safe, quiet space with computer equipment and a stable internet connection, we are able to increase access to the Courts for litigants who have nowhere else to turn.

Thousands of pro se litigants are impacted by the digital divide, and the Court must do more to make virtual proceedings more accessible for all litigants using the Courts to seek justice for their families.

Our recommendations to fix the systemic issues in Family Court are as follows:

1. End the “two-tiered system” and provide a sense of dignity, fairness, and partnership by enacting uniform procedural rules and standardized procedures across the Family Court system.
2. Provide more funding to hire additional jurists, translators, clerks and other personnel.
3. Address court delays by requiring an initial hearing related to custody and visitation and child support to be held within a reasonable deadline from the date that a petition is filed.
4. Provide UCMS access to Family Legal Care and others providing legal assistance for pro-se litigants.
5. Improve the pro-se litigant experience.
 - Better communication and education about court procedures.
 - Clear and simple forms, in multiple languages.
 - Clear explanations of how to prepare for their case.
 - Create a welcoming and safe environment with jurist training, particularly in cultural competency and interacting with pro-se litigants.

The communities with the fewest resources, a disproportionate number of whom identify as people of color, are bearing the brunt of the Court’s systemic failures. The Court’s decisions touch the lives of thousands of children and families with profound, long-lasting effects on their safety, economic security, health, and well-being.

I would like to share the story of one our clients with you. Lidia is a monolingual Spanish-speaker and undocumented immigrant. She has four children with her estranged husband, the non-custodial father. There was abuse throughout their relationship with the father, and a temporary order of protection was in place when she called us. The father had not been providing any financial support for the children, leaving Lidia to pay all the back rent and other expenses, even though she works part-time while he has two steady jobs and earns much more money. She reached out to Family Legal Care for help with filing for child support. Our Staff Attorney explained how child support was calculated, what documents to submit, procedure related to the Office of Child Support Services works, and how to serve the father the required documents. They also helped draft the petitions, provided step-by-step instructions for finalizing and filing, them, and provided some of our Spanish Legal Resource Guides. We also referred her to the City Bar Justice Center to help her get legal representation in housing court for an issue with her landlord. She said that before Family Legal Care, she had no idea what the process would be, and was very nervous since the forms were in English only. With our help, Lidia will be able to initiate her case and self-advocate to get the financial support her children deserve.

Strong families are essential to the welfare of our great city, and fixing these operational challenges in Family Court is vital to increase families’ access to justice.

Thank you for your time and support.