

FRIEND OF THE COURT CUSTOMER SERVICE REPORT

Executive Summary

In her January 15, 2003, letter to the Governor, the Attorney General, and all legislators, Chief Justice Corrigan acknowledged that the ever-increasing volume of family-court litigation had triggered a wave of complaints about the Friend of the Court. The Chief Justice promised that she would study the problem and then take steps to improve FOC customer service and reduce the number of complaints received by state officeholders. She asked the others to help by forwarding every FOC complaint to the Friend of the Court Bureau (FOCB) for analysis.

The FOCB has reviewed 434 complaint letters. About half were addressed directly to the FOCB. The remainder were forwarded by other state officials. The letters in both groups were substantively similar. The charts at the end of this report show where the letters came from and what issues they raised. This report summarizes the problems revealed by those letters and recommends solutions.

Support-enforcement issues are prominent at the moment because of delays caused by the MiCSES conversion. Setting those aside, most of the complaints resulted from either: (1) a misunderstanding of the FOC's proper role, or (2) state and local governments' collective failure to fully implement the grievance process created by §26 of the Friend of the Court Act ("the FOC Act" or "the Act") MCL 552.526. The ongoing MiCSES project will improve support enforcement. Education can minimize the misunderstandings. Fixing the grievance process requires that FOCs and the courts put their hearts into complying with the Act.

The Wayne County FOC office must be considered separately for two reasons. First, it accounts for disproportionate shares of the caseload and complaints. Second, it will require additional funding before it will be able to implement this report's recommendations.

Problem Statement

Family litigation is not a happy experience. The FOC must interpose itself between antagonists as a neutral agency. Even with its best efforts, the FOC cannot cure all that ails a dysfunctional family. That said, the collected complaint letters did reveal problems that must be addressed.

Forty percent of the collected letters complained about failures to enforce support orders promptly and correctly. The judicial and executive branches already are working hard to improve support enforcement. Several Supreme Court projects, including the FIDM (Financial Institution Data Match) and the NCP (Non-custodial Parent Work First Program) have increased collection rates. The recent successful effort to win federal

certification for MiCSES did hamper individual-case collection efforts, but we can now refocus on individual cases. MiCSES and that refocused effort will show results and shrink this category of customer complaints.

The second-largest group of complaints raised issues that fall outside the FOC's jurisdiction. People misunderstand the FOC's role and its relationship to the courts. Too many litigants -- and some public officials -- expect the FOC to do things that it simply cannot or should not do. For example, many letter writers faulted the FOC for not acting as an appellate court or at least trying to subtly circumvent a judicial ruling. In the name of constituent service, state officeholders sometimes reward litigants' ignorance of the FOC's proper role. They receive FOC complaints and are tempted to "do something" even when the FOC acted appropriately. As a result, litigants come to view state government as a tool for getting their way without following the FOC Act's procedures.

Third, too few litigants are even aware of the FOC grievance process. See MCL 552.526. Some of those who did file grievances have reported that their local FOC office did not respond promptly or that the FOC simply "denied" the grievance without providing a meaningful explanation. Many of the complaints now being fielded by legislators and the FOCB should have been framed as grievances and filed with the county FOC. A litigant who is not satisfied with the FOC's response to a grievance may file a second-step grievance with the circuit's chief judge.

Those current failings of the grievance process highlight a fourth problem. Although the FOC is an arm of the family court, some judges treat it as a parallel entity. They refer cases to the FOC and read its reports, but they do not actively supervise FOC operations. That lack of supervision allows correctable problems to fester. Litigants who cannot have their grievances redressed locally write complaint letters to state officeholders.

As stated in the executive summary, Wayne County presents special challenges because its FOC is understaffed and underfunded.

FOCB Recommendations

- (1) *Educate Everyone.* We need a top-to-bottom educational effort to inform litigants, attorneys, government officials, and the media about the scope of the FOC's statutory duties. That will increase customer satisfaction and reduce the number of misdirected complaints.

The FOCB should offer written and in-person training for legislators and their staffs. Doing so will help legislators and legislative staff deal effectively with future communications from constituents. If possible, the training should include some instruction on the root causes of family break-ups and the limited extent to which assigning additional duties to government agencies (especially without additional funding) can solve those problems.

The Michigan Judicial Institute should emphasize FOC operations in its curricula for all judges. Chief judges are directly responsible for supervising the FOC and the grievance process. The Supreme Court should remind chief judges of that duty whenever a reminder appears necessary.

Attorneys, too, should be targeted for FOC education. If armed with a clear understanding of what the FOC can and cannot do, they will have the first and best opportunity to inform their clients.

Finally, FOCs should take every opportunity to educate litigants *before* emotion-laden specific issues arise. That may require some mandatory education, e.g., requiring that litigants read a brochure or watch a video before meeting with FOC personnel. The FOCB can assist this effort, and assure uniformity, by creating appropriate brochures and videos.

- (2) *Fully Implement the Grievance Process Envisioned by FOC Act §26.* When a letter to a state officeholder raises an issue about a county FOC's office operations or employees, the writer *should be* told to file a grievance with that FOC. See MCL 552.526. The FOC's response to the grievance might satisfy the complainant. If not, the next step *should be* to file a grievance with the circuit's chief judge. *Id.* The Act does not envision the FOCB responding to individual grievances; the Bureau's statutory assignment is to prepare annual reports that provide an overview of grievance activity. See MCL 552.519(3)(a)(iv) and (d).

That is how the grievance process *should* work, but the reality is different. Many litigants do not know that they can and should file grievances. Some FOC offices are unable to investigate and respond (or they fail to request additional time to respond) within the 30 days that FOC Act §26 allows. Others simply "deny" grievances without any explanation. Moreover, regardless of whether an FOC processes the grievance correctly, relatively few litigants who disagree with an FOC's response know that the proper next step is to file a second-step grievance with the chief judge. The FOCB currently reviews every grievance and FOC response in order to monitor trends and detect the need for policy changes. Because of misinformation about the grievance procedure, the FOCB, legislators, and others receive complaint letters that should have been processed as grievances. When the FOCB must troubleshoot individual cases, that hampers its ability to perform its general oversight tasks.

That listing of what is wrong also shows what must be done to make the grievance process effective. At the county level, litigants, FOCs, and chief judges should follow the procedures prescribed by FOC Act §26. Interventions at the state level should encourage utilization of the grievance process as a first resort.

The FOCB recently promulgated (interim) SCAO Administrative Memorandum 2003-3, "Friend of the Court Complaint and Grievance Procedure." It took effect on February 18, 2003, and replaced an outdated 1984 document. The new

grievance guidelines will help FOCs and chief judges process grievances more effectively.

The education effort recommended in the previous section should highlight the grievance process. Once the proper mechanisms are in place, routinely distributing something as simple as a pamphlet explaining “How to File an Appropriate Grievance” will increase grievance utilization. The FOCB and the Supreme Court can monitor county FOCs and chief judges to make sure that the grievance process affords a real remedy.

Finally, the FOCB should modify the standard FOC grievance *reporting* form (SCAO Form 28) to require the following content: (1) summaries of complaints that the FOC found were nongrievable; (2) summaries of grievances that the FOC denied for lack of merit; (3) summaries of grievances that were acknowledged; and (4) any FOC policies that were changed in response to successful grievances.

- (3) *Improve Judicial Oversight of the FOC.* Chief judges must be educated about the inner workings of the FOC and the chief judges’ responsibility for supervising their local FOC offices. That should become a priority item at judges’ meetings and MJI seminars.

Chief judges should closely monitor FOC performance. For example, they might: seek customer input that will reveal performance problems; confirm that the FOC responds to grievances promptly and correctly; receive and review the FOC’s responses to all first-step grievances; and verify that litigants are informed about the opportunity to seek the chief judge’s assistance by filing a second-step grievance. When a second-step grievance is filed, the chief judge should not merely refer it back to the FOC; the new investigation should be conducted by someone not affiliated with the FOC.

Someone other than the FOC must be available to respond to customer complaints about the FOC. That “someone” ought to be the chief judge of the court that employs the FOC.

As required by the FOC Act, the FOCB should continue to review all grievances to collect data and spot patterns that may show a need for procedural changes. MCL 552.519(3)(a)(iv) and (d). Beyond that, unless there are exceptional circumstances, the FOCB should merely verify that the county FOC (first-step grievances) and the circuit chief judge (second-step grievances) have responded to grievances within the time allowed. If the FOC has not, the FOC or the chief judge should be notified. If a chief judge has not responded to a second-step grievance, the FOCB should remind that judge, establish a response deadline, and continue to monitor the file. If that does not work, the FOCB should notify the State Court Administrator or the Supreme Court, whichever is appropriate.

The FOCB should continue its management assistance projects, through which it audits county FOCs' performance and recommends changes to FOCs and their supervising chief judges.

Chief judges already must file an Annual Statutory [FOC] Review Report (SCAO Form 17) in which they evaluate the performance of their FOCs. See MCL 552.524. Most evaluations are perfunctory. The FOCB should modify the reporting form to require a more substantive evaluation.

Finally, the FOCB should submit an annual FOC performance report directly to the Chief Justice. In addition to the statistical data that the FOCB currently compiles, the report should summarize the content of significant grievances and any new or proposed policy or rule changes that respond to those grievances.

- (4) *Help Wayne County.* Wayne County accounts for most of the FOC complaints. (see the county-by-county chart at the end of this report.) Major improvements there will require additional funding. Because a source of funds is not apparent, a total state-wide fix is not possible now. The attainable goals are a complete fix elsewhere and some meaningful improvement for the Wayne County FOC. This report's recommendations will advance both goals.
- (5) *Improve the FOC's Public Image and Self Image.* The FOC will anger some who are caught up in emotional family-court cases. To make matters worse, the FOC system has been the helpless lightning rod for criticisms of the *state's* conversion to MiCSES, a conversion mandated by *federal* law. The media have criticized FOCs in stories about MiCSES-caused problems and other FOC failings, both real and imagined.

Perception shapes reality. The FOC has had more than its share of bad press. That has hurt the FOC's public image and severely damaged FOC employee morale.

The courts and FOCs should make a much greater effort to publicize FOC successes. The stories are there, but good news goes underreported unless someone makes a special effort to collect it and push for its publication. The FOCB and the Supreme Court's Public Information Office should guide this initiative and advise local courts and FOC offices.

Conclusion

The Supreme Court should act to improve FOC customer service and customers' perception of that service. That will require both systemic changes and a major educational effort. If the Court takes those steps, customer complaints should decrease in number, especially those misdirected complaints now being received by state officials.

WHAT IS A GRIEVANCE?

In the Friend of the Court (FOC) system, a grievance is a written complaint filed by a person who believes that an FOC employee has acted improperly or that an FOC operational policy should be changed. The person must file the grievance with the local FOC office, using a standard form that the FOC office will provide. The FOC must respond to the grievance, in writing, within 30 days. In that written response, the FOC may (1) acknowledge the complaint as valid and summarize the corrective action that will be taken, (2) reject the complaint as invalid and provide an explanation, or (3) declare that the disputed issue is not one that may be raised in a grievance.

A person who is not satisfied with the FOC's response may file a second-step grievance with the chief judge of the court that the FOC serves.

If the county has an active Friend of the Court Citizen Advisory Committee, a grievance concerning FOC office operations (but not employee conduct) may be filed with the advisory committee instead of with the FOC office.

In most cases, using the grievance process allows complaints about FOC policies or employees to be resolved quickly, inexpensively, and without any court proceedings.

WHAT KINDS OF PROBLEMS CAN BE SOLVED BY FILING A GRIEVANCE?

Grievances can help with the following problems:

- an FOC employee's misconduct
- changing an FOC office procedure

Grievances may not be used to raise any of these issues:

- disagreement with the FOC's conduct of an investigation or the resulting FOC recommendation
- disagreement with a decision by a referee or a judge
- disagreement with provisions in a statute or a court rule
- complaints about an attorney
- complaints about a judge or referee
- complaints about non-FOC agencies, such as the Sheriff's Department or the Family Independence Agency

HOW DO I COMPLAIN ABOUT PROBLEMS THAT ARE NOT GRIEVABLE?

If you disagree with the FOC's investigations or the resulting FOC recommendation, you may explain your disagreement to a judge or referee during the next hearing at which the investigation or recommendation is considered.

If you disagree with a referee's opinion, you may file written objections with the court and schedule a hearing before a judge. If you disagree with a judge's decision, you may ask

the judge to reconsider the decision, or you may file an appeal.

If you disagree with a statute, you may ask your legislator to change the law. If you disagree with a court rule, you may ask the Supreme Court to change the rule.

Complaints about inappropriate conduct by an attorney may be filed with:

The Attorney Grievance
Commission 256 Marquette Building
243 West Congress Street
Detroit, Michigan 48226
(313) 961-6585.

Complaints about inappropriate conduct by a judge or referee may be filed with:

The Judicial Tenure Commission
P.O. Box 11319
3034 W. Grand Blvd.
Cadillac Place, 8th Fl, Ste 450
Detroit, Michigan 48202
(313) 875-5110.

Complaints about other agencies should be addressed to those agencies.

WHAT HAPPENS AFTER I FILE A GRIEVANCE?

The FOC or the chief judge will investigate and respond within 30 days. If a response cannot be provided within 30 days, you will be notified and told the reasons for the delay.

If the investigation shows that the issue is

not within the FOC's control, the FOC or chief judge will tell you that and explain in writing why the problem cannot be addressed through an FOC grievance.

If the investigation confirms that a problem exists within the FOC office, the friend of the court or chief judge will take appropriate correction action and notify you, in writing.

If the issue is grievable but fails to disclose a problem within the FOC office, the FOC or the chief judge will explain that finding in writing. Even if the investigation's findings are negative or inconclusive, the FOC or the chief judge may change an FOC policy if your grievance has shown that there is a better way to do things.

When a grievance concerning FOC office operations is filed with the county citizen advisory committee, the committee will investigate the grievance and make recommendations to the FOC or the chief judge.

WHO ELSE CAN I TELL ABOUT MY COMPLAINTS?

A grievance is the most effective procedure for filing a complaint about the FOC.

Although you may contact your state or federal legislator, the governor, the president, or anyone else, FOC's are bound by strict rules of confidentiality that prohibit sharing information about your case with any of those government officials. Only by

filing a proper grievance can your concerns be addressed effectively.

WILL THE FRIEND OF THE COURT PUNISH ME FOR FILING A COMPLAINT?

No. The grievance process is designed to bring your concerns before a person who makes FOC policy decisions and manages the FOC office. If you think you have been treated unfairly because you filed a grievance, you have the right to file that same grievance with the chief circuit judge, who hires and supervises your local FOC.

WHAT DO I DO IF I DO NOT GET A TIMELY ANSWER TO MY GRIEVANCE?

If you do not receive an answer within 30 days (allowing reasonable time for mail delivery), you should send a copy of the grievance and a cover letter stating that you did not receive a timely response to:

State Court Administrative Office
Friend of the Court Bureau
P.O. Box 30048
Lansing, MI 48909

HOW EXACTLY DO I FILE A GRIEVANCE?

Use SCAO Form No. FOC 1a. Your local FOC office will provide blank forms. No one will question your request. FOC office employees will answer questions about how to complete the form. While completing the

form, you should:

- write as neatly as possible
- provide the names and addresses of the parties in the court case. (This will help the person who investigates the grievance.)
- provide the name of the county in which the case is pending
- check the box indicating the category that best fits your complaint
- summarize your complaint
- mail or deliver the completed form to the FOC office, the chief judge's office, or the citizen advisory committee's office
- keep a copy for your records

WHAT SHOULD I SAY IN MY GRIEVANCE?

Include anything that you think will help the person investigating the grievance to make a good decision. This might include:

- specific dates
- a statement of what happened and why you think it was wrong
- names of the FOC
- the remedy that you are requesting

Do not include any of the following in your grievance:

- personal attacks or name calling (These add nothing and hurt your own credibility.)
- complaints about the law (The FOC office must obey the law.)
- complaints that merely state a conclusion without any support facts

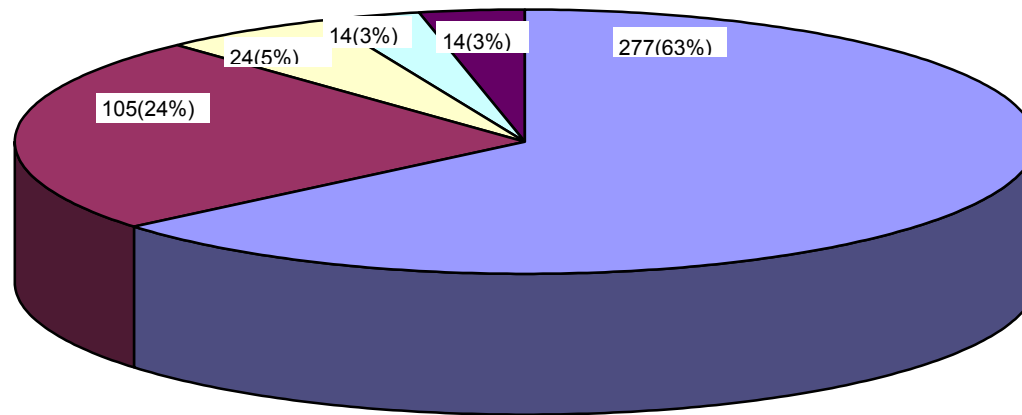
(For example, don't say that someone was rude, say what he or she did or said that offended you.)

WHERE CAN I GET GRIEVANCE FORMS?

All FOC offices have grievance forms. You also can get grievance forms on the internet at <http://courts.michigan.gov/> or by contacting:

State Court Administrative Office
Friend of the Court Bureau
Michigan Hall of Justice
P.O. Box 30048
Lansing, Michigan 48909
(517) 373-4835.

Complaint Letters Reviewed by Friend of the Court Bureau February 1 to July 1, 2003

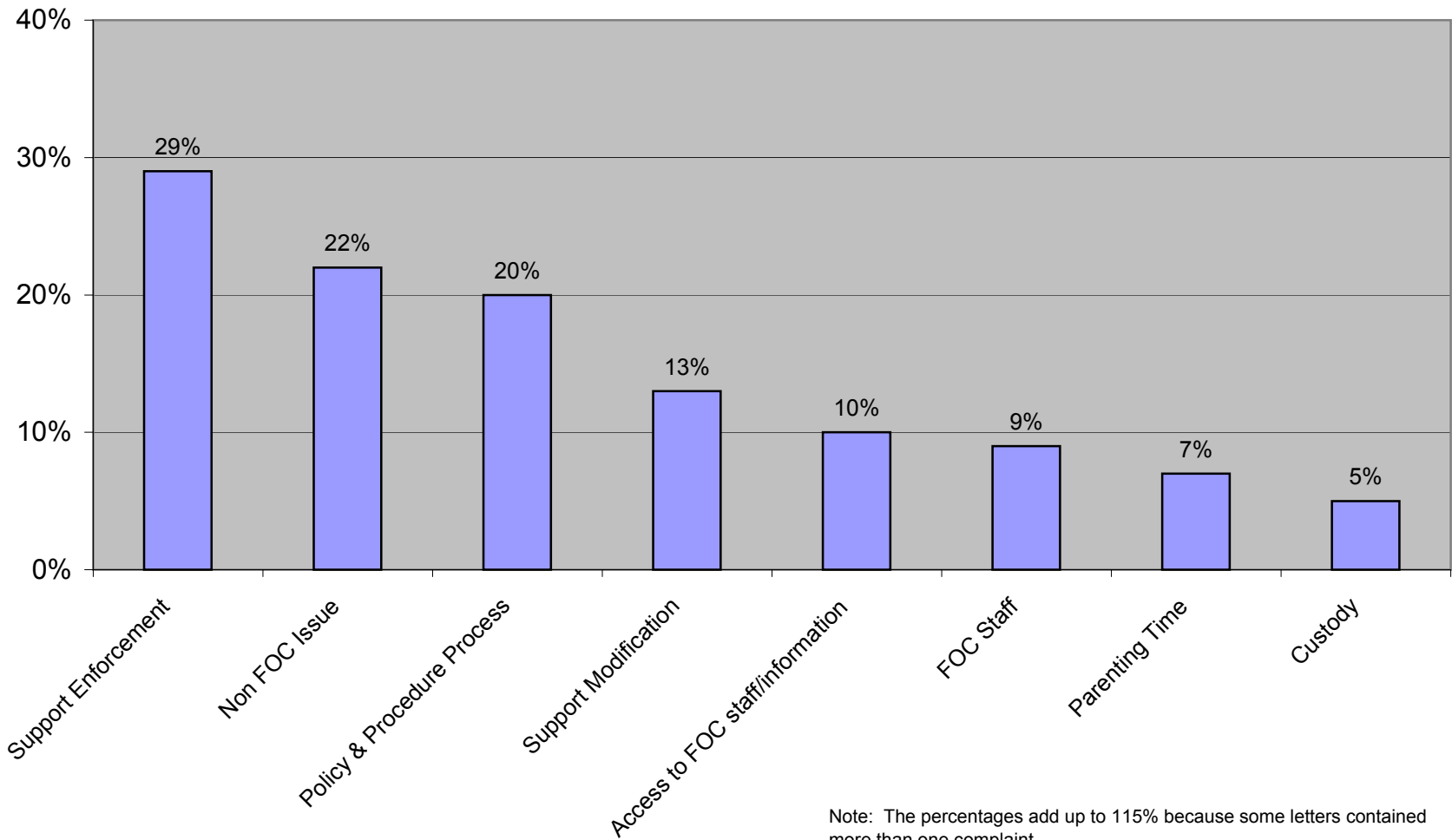


Original Letters sent to:

- Friend of the Court Bureau
- Governor
- House of Representatives
- Attorney General
- Senate

Note: A total of 534 letters were reviewed by the Friend of the Court Bureau from February 1, 2003 to July 1, 2003.

Types of Complaints Reviewed by the Friend of the Court Bureau February 1 to July 1, 2003



Complaints Reviewed By County by the Friend of the Court Bureau February 1 to July 1, 2003

Note: These seven large counties accounted for 232 of the 534 total complaints.

