

C hp 2

PERFORMANCE STANDARDS

PERFORMANCE STANDARDS:

- Baseline criteria
- Court criteria
- Courtroom criteria
- Legal procedures
- Psychological recovery criteria
- Proposed movement diagrams

PERFORMANCE STANDARDS:

Notion of a Family Court:

The notion of a Family Court is that of a specialist court catering for a wide range of family law issues. This court is equipped with staff skilled in and sensitive to family matters, with the aim of minimising trauma to families in conflict. The main features of such a court include the provision of social support such as alternate methods of resolving family disputes by a process of conciliation (such as counselling, and mediation, where appropriate); integration of services so that cases are treated holistically and efficiently, as domestic violence, child abuse, divorce, and child maintenance. These aspects are often linked with user friendliness.

The 1997 Hoexter Commission report set out certain basic principles fundamental to the concept of a Family Court, fleshing out the ideal structure for a Family Court Centre:

1. There are two components to a Family Court – a social support component and a legal component. Social support through counseling, conciliation and mediation is the first step, with legal adjudication seen as a last resort.

The objective is to ensure access to justice and to work towards promoting a greater social cohesion.

2. The provision of a number of family-related services under one roof to avoid multiplicity

3. That the court be separated, with an informal, cheerful atmosphere, sympathetic receptionist and child care facilities for court users.

4. That there be a central reception / help desk which would be the court users first point of encounter with the court, to assist with information, screen and possibly record and allocate family case number.

5. That all court personnel be selected on the basis of their empathic personalities and that they undergo training.

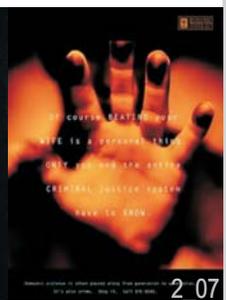
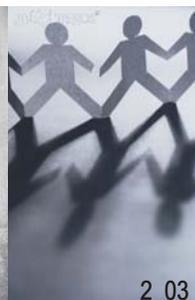
6. That services in the various components of the court be integrated (with staff skilled in all areas, that is, family violence, divorce, maintenance, child care).

7. That where necessary, the Family Court would also make referrals to other agencies, governmental and non governmental (NGO's).

8. That services be accessible and affordable.

(Mills. S, 2003 : 8-9)

Keeping in mind that Family Courts are different to general Courts or Magistrates Courts, it cannot be seen as a predominantly criminal Court structure. Therefore, the converging paths of defendants with plaintiffs, such as that of an amicable separation in a divorce case, is wholly acceptable.



COURT HOUSE STANDARDS:

Criteria:

Criteria set out for courts by Charles King Hoyt are as follows:

The multiple circulation systems needed in a Family Court must be separate systems of corridors or lobbies. The connections between the private corridors and the public lobby must be monitored by a receptionist in order to control access and maintain security. Detainee's use a special corridor, coming from the detention facility, to access the courtroom.

A set of resident chambers must be provided for the magistrates who live in the judicial district. These chambers are to be located away from the courtrooms, preferably near a law library. The magistrates secretaries serve both sitting and resident magistrates, but are best located near the resident magistrates chambers, away from the busy courtrooms.

The circulation system is an important factor in selecting appropriate locations for the various functions and departments in the building. The optimum location depends on interdepartmental communications, public convenience and security, as well as on factors like the volume of visitors and the frequency and nature of transactions that take place. One of the most important considerations is that circulation routes should be self evident.

The majority of visitors usually have destinations in administrative or social service departments. If these are all concentrated on the lower floors of the building, public access is considerably simplified. Some departments may even want a separate entrance off the sidewalk.

Centralization has the additional advantage of limiting traffic on courtroom floors to people directly concerned with court proceedings, thereby improving security.

The courtroom should occupy the midsection of the building. The library, magistrates chambers and other areas which require some privacy can be assigned the upper floors. This arrangement results in the division of the building into three zones - office area, courtrooms and private areas.

Further criteria are:
Judiciary:

The judiciary enter the building through a manned or otherwise restricted entry directly into their own secure area of the building. This area contains the judges retiring rooms and all areas devoted to judicial use. Invitees will always be escorted, and access for all will be either via the Magistrates entrance into the court or through staff areas. Each entrance will be via self-locking, secure door.

Legal Representatives:

Legal representatives enter the building via the main entrance, reaching their offices via the public circulation. These offices have easy access to courtrooms via the public concourse where they meet their clients.

Admin Staff:

The general admin counter must be conveniently located to allow easy access for the public and for the legal profession. Accommodation is also provided for some specialised groups

Court Clerks: Who are responsible for business in specific courtrooms and who spend part of their day in court.

Ushers: Who spend part of their time in court and also attending to minor clerical work.

Listing Staff: Who are responsible for the planning and programming of the court timetable (list cases).

Public:

Except for the judiciary and separate car park users, all users enter the building by the main entrance door where space and facilities for security checks are provided. The arrival concourse contains the information/enquiry point and the cause list display, both of which should be clearly seen on entering. Waiting areas should be visually interesting, preferably with external views.

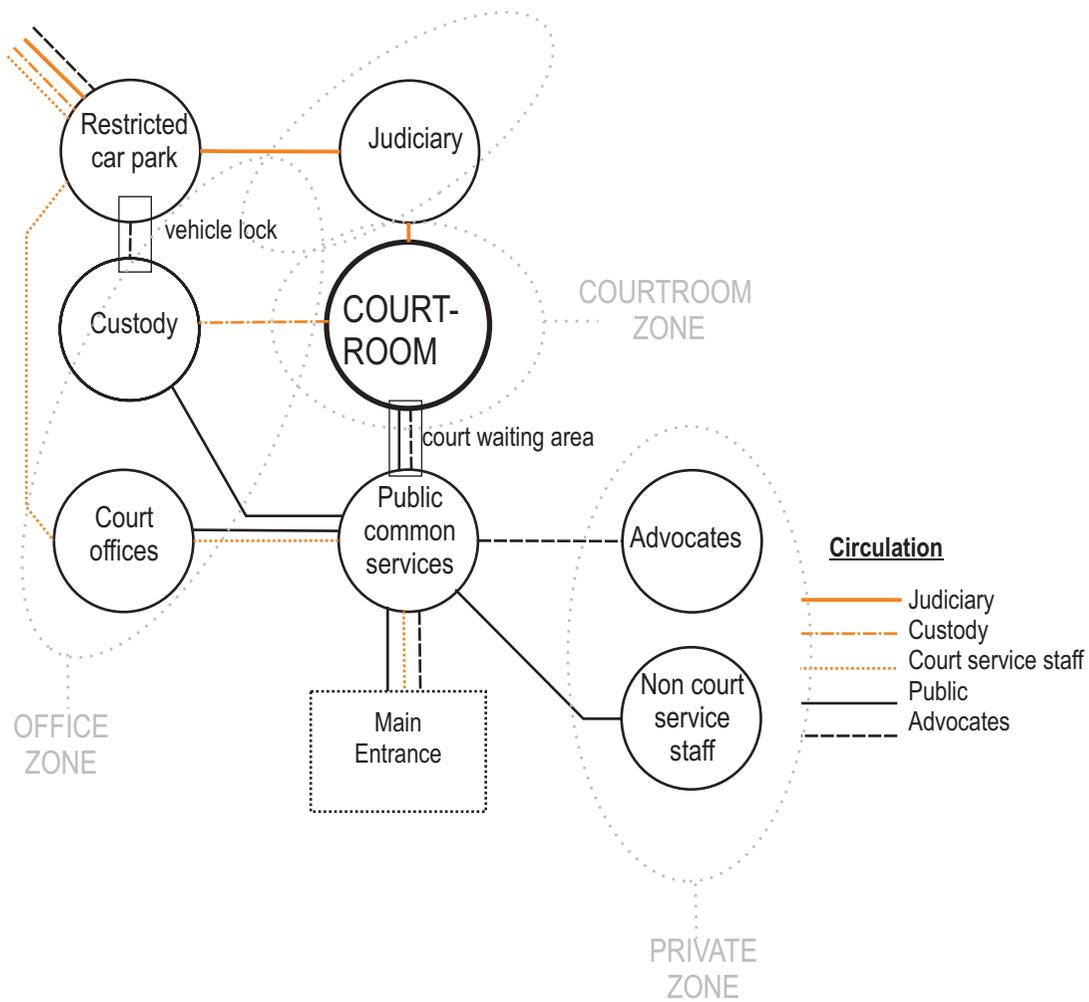
Detainees:

The detention centre or custody core is a self contained compartment within the court building designated for the temporary use of the prison officer. The prison officer's duties are to produce and retain prisoners in custody. It consists of the following principal parts, each separate from its neighbour and all non custody users:

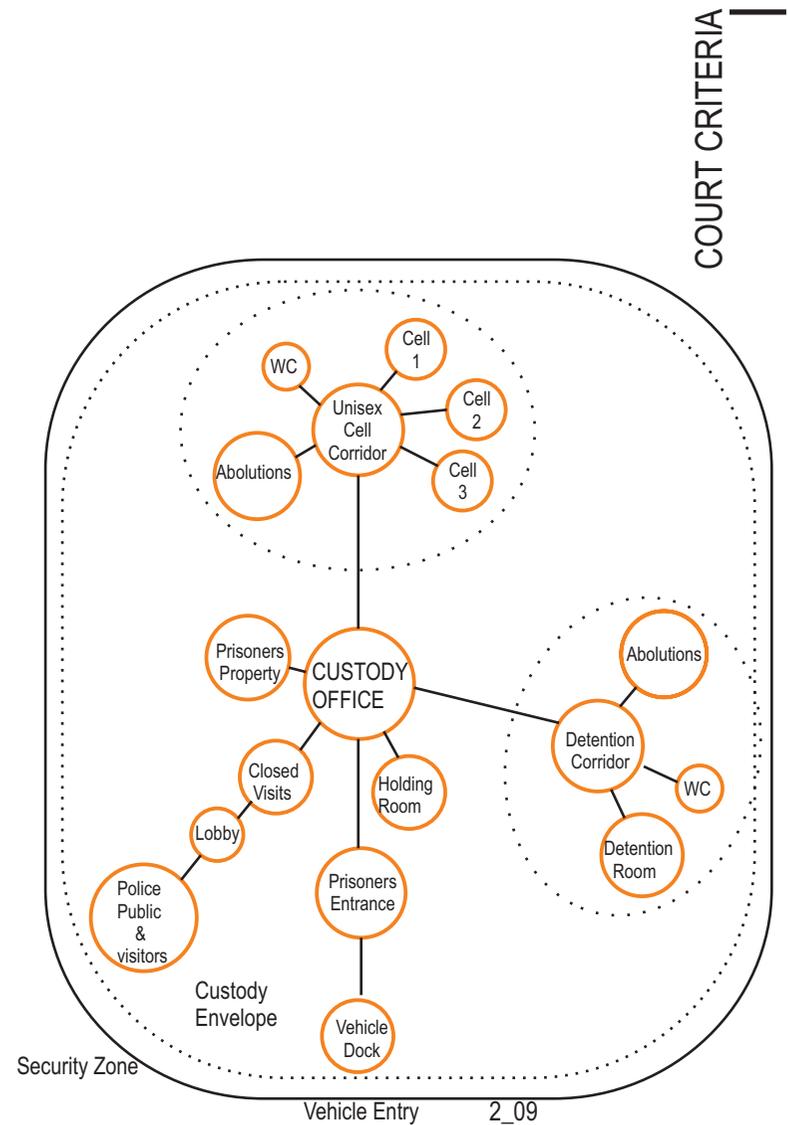
- The custody core
- The vehicle entrance
- The visitor's entrance
- Three independent secure connecting routes:
 - Custody core to vehicle dock
 - Custody core to courtroom entrance
 - Custody core to visitor's entrance

Containment requires the meticulous and consistent application of passive security measures. The designer must: give careful attention to all aspects of the design, devise a layout that will achieve a maximum control, use the building fabric and the facilities within to provide a secure envelope and deny the public direct view or contact with defendants while in the detention centre.

(Rainford. C, 1999:12-1 - 5)



2_08
Diagram showing the functional relationship and movement of a Courthouse



2_09
Functional relationship diagram for a detention centre.

COURTROOM STANDARDS:

Criteria:

A study of the Courtroom structure can be seen in a precedent study of the Atteridgeville Magistrates Court (a precedent to follow in chapter 3) informing on inner movement and access to it.

Courtroom environment:

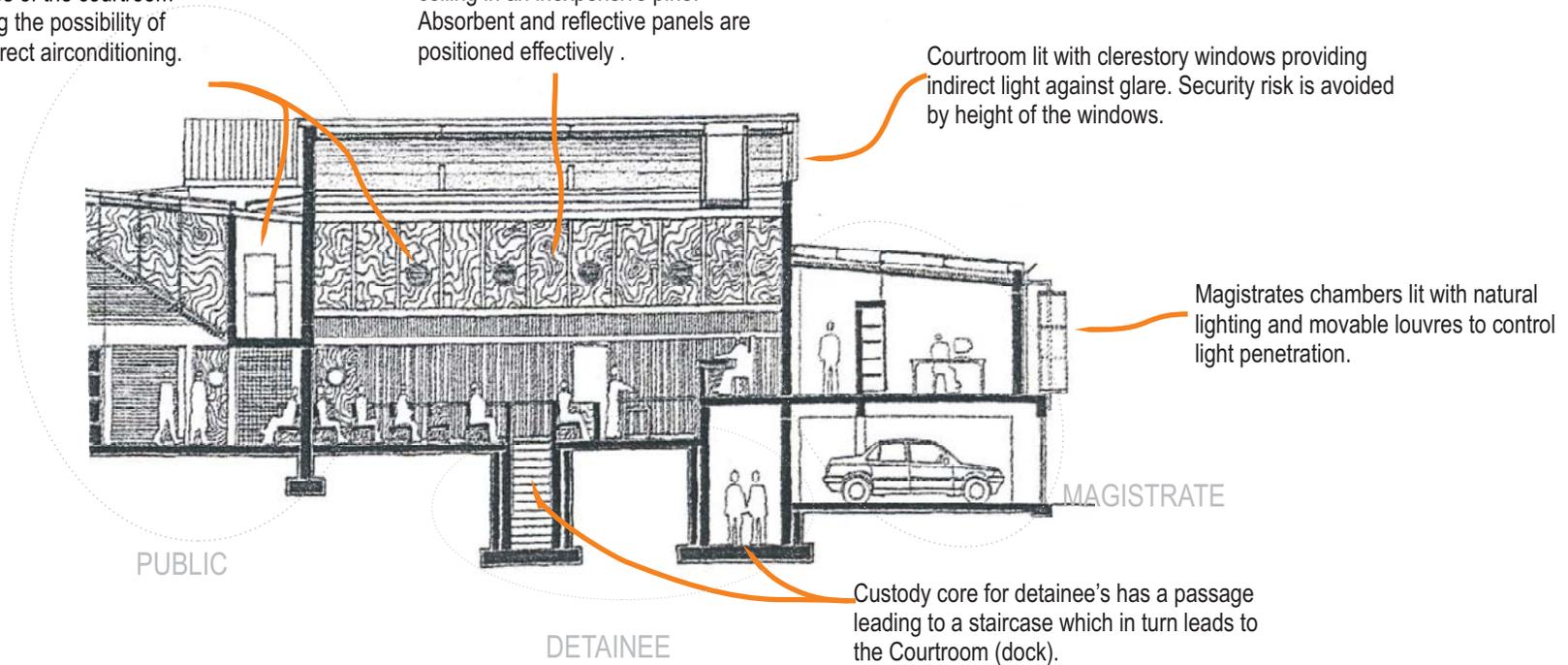
A well detailed comfortable court room, with efficient and simply managed ventilation, lighting and acoustics.

Mechanically ventilated courtrooms with hidden condensor units. Its outlets are located to the sides of the courtroom therefore, reducing the possibility of discomfort from direct airconditioning.

Courtrooms are clad from floor to ceiling in an inexpensive pine. Absorbent and reflective panels are positioned effectively.

Courtroom lit with clerestory windows providing indirect light against glare. Security risk is avoided by height of the windows.

Magistrates chambers lit with natural lighting and movable louvres to control light penetration.



Custody core for detainee's has a passage leading to a staircase which in turn leads to the Courtroom (dock).

Courtroom access:

Courts are penetrated by 'fingers' from the public atrium. Timber benches allow for conversation nooks

The witness enters the court from an opposite side as to the defendant. Recessed timber benches are used for strategies or conversation, if the private witness room is not necessary.

The detainee enters the dock through a separate passage from the detention facility downstairs. This passage leads to the courtroom via the use of stairs.

The public enters to the side of the court. They are placed at the near end of the courtroom and have a general view of the proceedings.

The defendant enters in an opposite side to the court as the witness. No prison-like appearance is apparent at the dock, allowing for a comfortable environment.

A private discussion room for the defendant and their legal representative is located next to their respective entrance.

The Court Marshal helps bring evidence to the Magistrate and is located close to him.

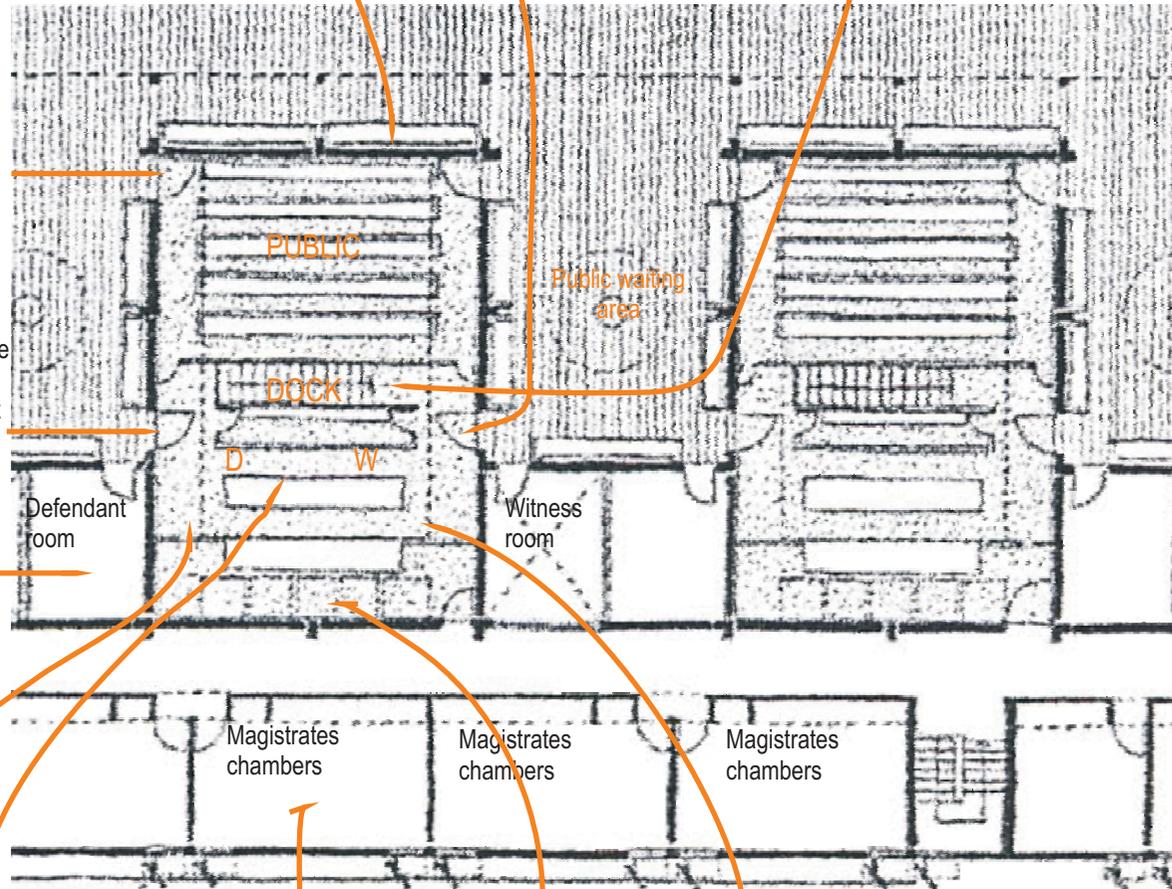
The Attorney or Advocate representing the defendant has a visual axis with the magistrate. The counsel benches are wide enough to hold large and numerous documents that are often in use.

The Magistrate chambers are separated from the public domain and the Magistrates themselves access the court from their own entrance.

The Magistrate presides over the courtroom with a full unobstructed view.

The Court interpreter keeps a transcript of the trial and consequently must be able to see and hear everyone..

2_11
Analysis of courtroom criteria.



COURTROOM CRITERIA

LEGAL PROCEDURES:

Avenues taken:

The current Family Court pilot projects cater mainly for poor, disadvantaged families and communities, who would not be able to afford legal representation. The legal procedures in achieving the required outcome of the user can be seen as follows:

Procedures undergone by potential users of a pilot Family Court:

- Potential divorcee:

- Enquiries office in divorce facility.
- Legal concepts explained and summons form completed.
- Case registered and case number issued at sheriffs office.
- Summons issued to other party.
- Mediation before trial allowing for a settlement instead of trial.
- TRIAL.
- Presiding officer during custody dispute refers to the Family Advocate (whose role remains that of enquiring into the best interest of children in divorce).

- Potential victim of domestic violence (Adult or child) :

- Enquiries office in domestic violence facility.
- Legal concepts explained and forms handed out.
- Forms completed and handed back to clerk.
- Clerk checks signs affidavit and processes the case.
- Files are sent to a magistrate specifically dealing in these cases; protection orders and a suspended warrant of address are granted.
- The magistrate prepares a notice to abuser stating the date of hearing.
- TRIAL.
- Magistrate grants a final protection order and a suspended warrant for the abusers arrest.

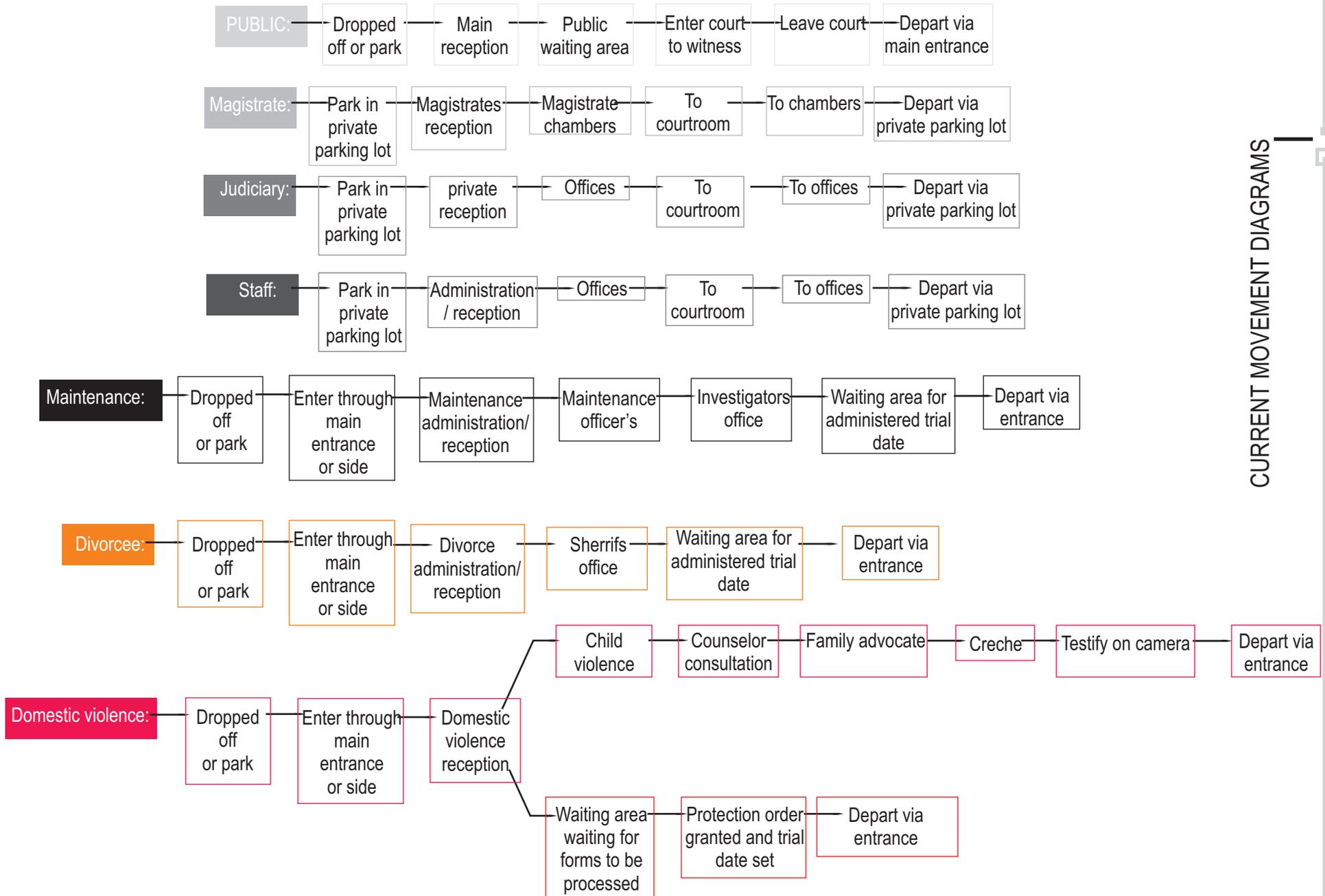
Procedures undergone by potential users of a pilot Family Court:

- Potential maintenance claimer :

- Enquiries office in maintenance facility.
- Legal concepts explained and form completed.
- Completed forms given to maintenance officer.
- If settlement has previously been ordered by the court then the claimer may claim their moneys from the cashiers.
- If not, both parties must return on the date specified on forms and undergo an informal maintenance inquiry where a maintenance officer attempts to reach a mediated settlement.
- If there is no settlement reached, both parties go before a magistrate who gives a return date for a 'quantum trial'.

MOVEMENT DIAGRAMS:

Journey's derived from legal procedures:



CURRENT MOVEMENT DIAGRAMS

BASELINE STUDY

PSYCHOLOGICAL RECOVERY CRITERIA:

Criteria:

“Family violence imposes excessive coping demands on survivors of any age. Recovery requires a combination of the survivor's hard work and the commitment by formal and informal helpers to promote a healthy recovery environment.” (Andrews, A, B. 1990:230)

People who have suffered by another family member confront many exceptional challenges while coping with the consequences of victimization. Family violence can be seen to be an exceptional stress factor. This stress can challenge the survival skills of the person and can also erode the support adjusting the stress.

According to authors of the Handbook of stress; Moos, R, H & Billings, A, G: coping involves adjusting cognitions, feelings and behaviours in response to environmental events, including changing the environment if necessary. An adaptive coping method would be an acknowledgment of what has occurred, expressing ones feelings about it, using social help, engaging in task focused behaviour, exercising and relaxing.

People who do not seek help often develop bodily and psychosocial stress symptoms. The need for a proper coping intervention is even more apparent when the survivor is a child as “the demand of coping with trauma or extraordinary stress can interfere with a child's future development. When a child copes with maladaptive behaviour, the parents stress may be increased, leading to an even higher risk to psychosocial and physical harm.” (Andrews, A, B. 1990: 208)

Because family violence occurs behind closed doors the disclosure of the victimisation by the survivor to someone else is seen as a critical moment. This critical moment can cause even greater stress, crisis or trauma. Survivors may not be prepared for such a situation and are left to deal with 'secondary victimisation'. This is already apparent in the Johannesburg Family Court pilot project, as adequate counselling has not been incorporated.

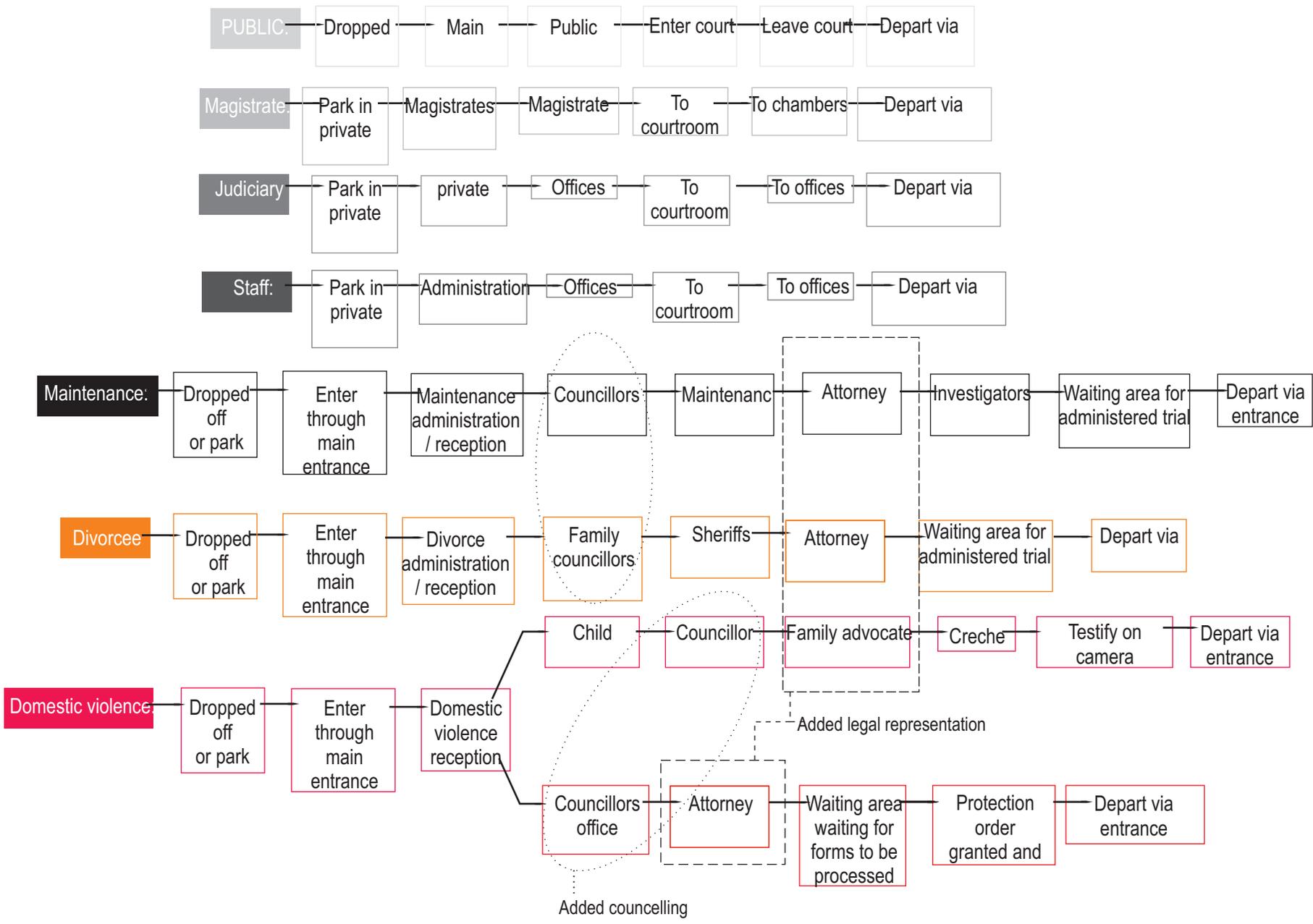
The goal of crisis and recovery interventions are to assist the survivor in coping through the ordeal and beyond, averting any residual damage, and promoting the growth of the survivor to be able to avert future similar challenges.“ Recovery services are most effective if they are initiated in the crisis period. In some cases of family violence, the assessment also serves the purpose of collecting evidence for legal purposes.” (*ibid*; 221). These types of helping professionals promote a healthy recovery environment, imperative to an institution such as a Family Court.

Family violence survivors can neither change nor forget their past. However, with the help of counsellors they can at least share their problems, and be assured of an empathetic shoulder enabling them to move on and face brighter futures.

Established criteria through the present set up of the Family Court pilot projects.

The Family Court pilot projects at present do not entirely have the facilities, nor do they completely promote the adjunct collaboration of counsellors. Due to this half hearted approach to dealing with victims of family violence and family law the proposed Family Court on Paul Kruger street will be primarily focussed on providing the appropriate infrastructure for counselling and mediation.

Furthermore, in the hopes of establishing a greater success in the result of the Family Court; the objective will be to create a greater social cohesion with the implementation of legal representation to all. This will result in an environment where there is no distinction between social and financial class thus, allowing for a greater efficacy and understanding of appropriate legal interventions.



PROPOSED MOVEMENT DIAGRAMS

LIMITATIONS AND DELIMITATIONS:

DELIMITATIONS

Facilities will include:

- Incorporate framework of Pretoria University students to pedestrianise Paul Kruger str,
- Dual functional courtrooms,
- Magistrates chambers with changing rooms,
- Law library,
- Archival space,
- Maintenance facilities,
- Domestic violence facilities,
- Trauma counselling,
- Bank payment facilities,
- Admin and accounts call center,
- Child welfare and social workers facilities,
- Two separate creches for child victims and for non-abused children,
- Open playground for child victims and non-victimized children,
- Storage,
- Detention cells,
- Security,
- Basement parking,
- Informal trading facilities facing street between National Library,
- Rain water harvesting,
- Adaptive re-use of Synagogue,

LIMITATIONS

Facilities will exclude:

- Incorporating the current framework of Paul Kruger str,
- Adhering to Permissible height of 8 storeys,
- Sole functional courtrooms,
- Clinic,
- Tourist information centre,
- An architecture of public exclusion,
- Training facilities for staff,
- Adoption facility,
- Deceased estates,
- Canteen,
- Air conditioning plant rooms.