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New York Family Courts Say Keep Out, Despite Order

By WILLIAM GLABERSON

New York State's Family Courts were **ordered to be opened to the public** with much fanfare in 1997, supposedly allowing anyone to witness the cases of domestic violence, foster care and child neglect that inch through by the hundreds of thousands every year. But now, 14 years later, the Family Courts remain essentially, almost defiantly, closed to the general public.

Recent visits to the courts across New York City revealed officials and security officers routinely disregarding the open-courts rule in ways both large and small, direct and implied, insistent and even hostile.

Some courtrooms were locked, and many were marked with "stop" and "do not enter" signs. Court officers stationed at courtroom doors repeatedly barred a visitor, sometimes with sarcasm or ridicule, frequently demanding to know who he was and what he was doing. Armed court officers at times appeared so rattled by a visitor's efforts to enter courtrooms that, in several instances, a group of them nervously confronted the visitor, their holsters in easy reach.

On the fifth floor of Family Court in Downtown Brooklyn, where people waited in bleak assembly areas for their cases to be called, an officer was asked whether a member of the public could attend — as is permitted in other New York courts. "Not allowed, not in Family Court," he said flatly. Outside Judge Susan Larabee's courtroom in Manhattan Family Court, an officer flashed his badge and said disdainfully, "You don't just walk in." In Staten Island Family Court, three officers challenged a visitor even as they stood beneath a sign that took official note of the 1997 rule:

"The court is open to the public."

During one week in particular, a reporter tried to enter 40 courtrooms in the city's five Family Courts as a member of the public or a civic group monitoring the courts would. Entry was permitted to only five of the courtrooms, some where no case was under way — a closing rate of

nearly 90 percent. In those cases, the reporter did not identify himself. In other instances, officials insisted that, even for reporters, free access to courtrooms was not permitted.

In Brooklyn, a judge, Michael Katz, was quickly alerted to a visitor who had managed to slip briefly into a seat. “These proceedings are generally confidential,” the judge said.

But they are not, according to the law.

On Thursday, Edwina G. Richardson-Mendelson, the administrative judge of the New York City Family Courts, was told of the many blocked attempts to enter courtrooms. She said she was troubled to hear that courts around the city had not been open and said she planned a review. It was an opinion echoed by several other court officials apprised of the reporter’s efforts.

“We don’t have policies or rules for them to be ignored,” Judge Richardson-Mendelson said. “We’re a court of law, and law matters.”

American legal principles have long favored open courts as a check on government, and New York law has specifically said for more than a century that “the sittings of every court within the state shall be public.”

But by 1997, the Family Courts had been closed for decades, with rare exceptions. Critics said the chaos of the courts was amplified by their secrecy — a veil that had grown over the years with the support of many of the courts’ judges, lawyers and social-agency representatives. Closed courtrooms, critics argued, kept hidden the courts’ struggles, as well as the sometimes controversial ways they dealt with those who ended up in the resource-starved system plagued by delays.

Citing a need for accountability, the officials who issued the open-courts rule presented it as the centerpiece of an effort to reform Family Courts that were perennially in crisis. The rule was announced by Judith S. Kaye, the state’s chief judge at the time, and the chief administrative judge, Jonathan Lippman, now the chief judge. It stated bluntly, “The Family Court is open to the public,” and assured access to all courtrooms, lobbies and waiting areas. The only exceptions were to be after “case-by-case” decisions by judges after the presentation of “supporting evidence,” like a “compelling” privacy concern.

Not everyone wanted the courts open. Some judges and lawyers argued that Family Court should routinely shield the privacy of families in crisis and young people, including those charged with what would be criminal acts if they were adults.

Today, the culture of secrecy has hardly budged. Leah A. Hill, a Fordham Law School professor who has written about and practiced in New York Family Courts, said the courts were largely as unaccountable today as they had ever been, even though they can hold a central place in the lives of poor New Yorkers.

“There hasn’t really been a public discourse about what goes on in Family Court, and part of the reason is that it is a closed institution,” Professor Hill said.

Several lawyers who practice in the Family Courts said they had generally been opened only for the rare cases that drew wide public interest.

“The courtroom is pretty much closed,” said Susan Jacobs, the executive director of the Center for Family Representation, which has lawyers who handle cases in Manhattan and Queens. She said visitors would be shocked if they saw some of the routine proceedings in Family Court, like one in which, she said, the final decision to permanently strip a mother of her rights to her children took seven minutes.

The reporter’s recent visits were only to Family Courts in the five boroughs. But over the last year, the Fund for Modern Courts, a court-reform advocacy group, has suggested in two reports that Family Courts statewide may also have routinely ignored the open-courts rule.

The Modern Courts group sent court monitors to Family Courts in Suffolk County on Long Island and Washington County in northern New York. In both cases, they found the public was not often welcome.

“The public has a right to know how courts deal with children and families,” one of the group’s reports said. “It is no longer discretionary when closing the courtroom to the public is done 100 percent of the time.”

The reporter who made recent visits in New York City often declined to identify himself. But even when he identified himself as a reporter, there were difficulties. At the gray Family Court building on Sheridan Avenue in the Bronx, a large sign did not seem to allow for public access: “Only persons having official business will be admitted.”

Inside, hundreds of people milled about in dark waiting rooms watched over by uniformed officers and lined by closed courtroom doors. Babies cried. Case names were shouted.

In her courtroom, Judge Carol Sherman immediately called the reporter to the bench and said he had to present his credentials to the court clerk on another floor. An hour later, the first

deputy clerk, Nicholas Rapallo, said he had to get approval from the office of the state's chief administrative judge.

When that was granted, Mr. Rapallo first instructed that access was allowed only to Judge Sherman's courtroom. After another wait, he authorized entry to other courtrooms but said, "You have to let it be known who you are."

During the week that the reporter tried to enter courtrooms as a member of the public would, some officials and officers were antagonistic, with several saying explicitly that court policy was that the public was excluded.

In Queens, a uniformed captain, who declined to give his full name, mocked a visitor who presented a copy of the open-court rule. "The rule here is different," the man, Captain Beneri, said. "I know the rule a little better than you do."

On Staten Island, after the confrontation with the three officers, the visitor was directed to wait for the chief court clerk, William J. Quirk, to ask for permission. An hour and 20 minutes later, Mr. Quirk appeared at the clerk's window. He seemed startled when the visitor said he wanted to watch court proceedings.

"You have to answer my questions," Mr. Quirk shouted after a brief conversation, saying, "The court is not public in the sense that you just walk in."

The reporter's visits occurred early this month and late last month. On Thursday, judges and officials in some of the courts, including some of those who had barred entry, were asked for comment. Several of them acknowledged errors or misunderstandings of the open-courts policy.

Monica Drinane, the supervising judge of Bronx Family Court, said she had in response sent judges a new copy of a two-year-old memorandum reminding them that the court was to be open.

Carol Stokinger, the supervising judge of Queens Family Court, said staff members had been wrong in claiming a member of the public could not observe judicial proceedings. Fourteen years after the announcement that New York's Family Courts were open to the public, she was asked why there still seemed to be resistance to the idea. "I think it's a culture that has to be changed," she said.