CHILD ABUSE AND NEGLECT CASES IN THE COLORADO COURTS 1996-2000
-A REASSESSMENT-

Final Report
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Colorado Judicial Branch
Prepared by Daniel P. Gallagher in Consultation with the
Colorado Court Improvement Committee

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Executive Summary

The Colorado State Court Administrator's Office conducted an original assessment of dependency and neglect cases in Colorado in 1995 as part of the national Court Improvement Project funded by the federal government. This initial report looked at ten counties in Colorado: Jefferson, Denver, El Paso, Larimer, Morgan, Logan, Otero, Adams, Arapahoe, and Mesa. The report was published in 1996 and brought to light many problems associated with dependency and neglect cases. This reassessment is a follow-up to that original assessment and is intended as an evaluation of the improvements that have been undertaken since 1996. The major findings of this report are:

- In 1996 stakeholders indicated that the majority of dependency and neglect (D & N) cases were processed in a way that resulted in delay and not timely resolution. The reassessment shows that this perception has changed and stakeholders now feel that D & N cases are handled in a timely manner. In addition, statistical information from the court's data management system supports this perception.

- There has been vast improvement in courts meeting statutory timeframes from 1996 to year 2000. For example,

  - Nine out of the ten counties analyzed reduced the number of days from petition to adjudication. Meeting this deadline is significant since it signals the point at which parents may challenge the allegations in the petition. If the allegations are founded, the court will proceed to the treatment plan phase of the case. If the allegations are unfounded, the case will be dismissed. Denver reduced its average from 161 days in 1996, to 50 days in 2000 for cases involving children under six, (Expedited Permanency Planning Cases "EPP"). For non-EPP cases that number dropped from 161 days to 100 days. El Paso County improved from an average of 121 days in 2000 to 56 days in expedited permanency cases. Non-EPP cases dropped from 121 days in 1996 to 58 days in 2000. Arapahoe County improved from an average of 156 days in 1996 for EPP cases to 62 days in 2000. Non-EPP cases improved from 156 days in 1996 to 61 days in 2000.

  - Eight out of ten counties demonstrated an improvement in meeting the statutory timeframe for disposition. At the dispositional hearing, the court orders a formal treatment plan for the family. This event sets the stage for all future action in the case. For children under six, permanency planning hearings will be held beginning 90 days after the dispositional hearing. Families may begin to work toward a successful ending to their case. If parents are unable or unwilling to comply with the treatment plan, termination of parental rights is an option. Larimer County improved from an average of 63 days for EPP cases in 1996 to 37 days in 2000. For non-EPP cases they improved from 63 days in 1996 to 37 days in 2000. Adams County improved from an average of 40 days in 1996 to 17 days in 2000 for EPP cases. For non-EPP cases they improved from 40 days in 1996 to 18 days in 2000. Arapahoe County improved from an average of 60 days for EPP cases in 1996 to 17 days in 2000. For non-EPP cases they registered an

improvement from 60 days in 1996 to 21 days in 2000. Most counties showed marked improvement in this area.

- Significant problems existed in 1996 with children obtaining timely permanency hearings. In Mesa County 70% of cases had a permanency hearing that occurred over the statutory 18-month requirement. Now, only 5% of cases have a permanency hearing scheduled over 12 months. Similarly, Morgan County decreased from 63 percent over eighteen months in 1996 to 25 percent over twelve months in 2000. Denver improved from 41 percent over eighteen months in 1996 to 18 percent over twelve months in 2000. When held to the original 18 month standard, only 15 out of 1,519 cases had a permanency hearing over eighteen months. This equates to only .9 percent of all cases with a permanency hearing.

- The original assessment found that when termination of parental rights was the outcome of the case, children routinely waited up to five years for a termination hearing. For example in Denver 35% of the terminations took over three years to complete. Since that time, the average has been reduced to only 262 days for children subject to expedited permanency requirements. For non-EPP cases the average number of days was 382 days. Improvements in this area have taken place on a statewide basis. All jurisdictions in this reassessment showed an average number of days to termination between 200 and 300 days. For example, in Arapahoe County 70 percent of cases in 1996 took more than two years to reach a termination. The average number of days to termination in year 2000 EPP cases was 237. For non-EPP cases that number was 231.

- The reassessment shows that three districts with a significant caseload reduced the number of continuances granted. The original assessment showed that three of the largest counties granted continuances in one third of all D&N cases. The reassessment shows that this rate of continuance has been reduced significantly in all three counties. For example, in 1996, Denver granted continuances in 33 percent of all cases. This was reduced to 19 percent in the year 2000

- The original assessment lamented the lack of less adversarial methods of dispute resolution in D & N cases. Since 1996 seven major jurisdictions used mediation to improve outcomes in D & N cases. Additionally, cases may have had a case conference conducted by a court facilitator, or a family group decision-making conference that involved the parties and their family with the department of social services.

- Juvenile law as a whole is increasing in the degree of respect accorded to it. More than 85 percent of the stakeholders indicated that they appreciated handling D & N cases.

- Issues remain concerning the quality of representation of children by Guardians Ad Litem. However, in 1996 sixty-one percent of foster parents reported GALs never visited the children in their home. In year 2000, that figure has dropped to 41 percent, indicating GALs visit their children more frequently. The Office of the Child's Representative

(OCR) was recently created and their plan is to address many of the concerns surrounding guardians ad litem. The fact that the OCR exists is in itself an improvement from 1996.

- Fifty-eight percent of parents involved in the D & N court process reported that they are better off for the department's, and subsequently the court's involvement in their lives.

- Over 88 percent of GALs, county attorneys, and respondent parents' counsel felt that the way D & N cases are handled has improved since 1996.

- Over 66 percent of judicial officers felt the quality of representation, support/training for judges, and performance of agencies have improved since 1996.

I. Introduction

In 1993 Congress passed the Federal Omnibus Budget Reconciliation Act, also known as the Family Preservation and Support Act.[1] This act provided funding to individual states to improve the courts' handling of child abuse and neglect cases. With these grants the courts were to: 1) conduct an assessment of how state courts are handling child abuse and neglect cases, 2) develop a plan to improve the courts handling of the cases, and 3) implement the plan.

Colorado performed an initial assessment of Dependency and Neglect (D&N) cases in 1996.[2] This initial assessment identified specific areas of concern in the Colorado courts and recommended changes to address the areas of concern. The initial assessment was conducted in consultation with the Dependency and Neglect Court Assessment Advisory Council.[3] The Council crafted the many recommendations set forth in the initial 1996 report. Later, the Court Improvement Committee was charged with implementing many of the changes recommended by the initial assessment.[4] This report is to serve as a reassessment of improvements that the Colorado courts have made in the area of child abuse and neglect in light of the recommendations and the changes undertaken by the Court Improvement Committee and others.

The original assessment in 1996 analyzed over 47 factors, and made over 100 recommendations as to improvements in the system. The original assessment then set forth a 12-point plan to implement the recommendations.[5] From that time until the present, courts around the state have strived to implement many changes in their system. This report is not intended as a comprehensive review of every factor identified in the original assessment. Rather, selected factors have been identified for analysis. These selected factors were identified in 1996 as major deficiencies with the system. It must also be said that there is some difficulty in drawing a direct causal relationship between improvements that have been made in the D & N system and the

Court Improvement Project, which is directed by the Court Improvement Committee. The Court Improvement Committee worked hand in hand with many different agencies, and a culture of change has developed around how the courts handle child abuse and neglect cases. It is, however, fair to say that the Court Improvement Project helped facilitate many of the changes identified by this report.

Methodology

This report is based on several factors. The main components of this report deal with 1) an assessment of how Colorado has improved in meeting the various timeframes in D & N cases, 2) a discussion on the adversarial nature of the proceedings, 3) an assessment of any change in the perception of the importance of juvenile law, 4) improvements in the representation individuals receive in the child abuse and neglect cases, 5) the relationship between the various systems: court, attorneys, social services, and others, 6) improvements in training related to dependency and neglect, family violence, and families in general, 7) the appeals process, 8) the interaction between state and federal law, and 9) improvements seen in the dependency and neglect cases as a whole.

This report looks at the ten counties evaluated in the original assessment. These are Jefferson, Denver, El Paso, Larimer, Morgan, Logan, Otero, Adams, Arapahoe, and Mesa. These counties accounted for nearly 72 percent of the D & N cases filed in Colorado in any given year.[6] Surveys were sent to the major stakeholders in the system: judicial officers, county/city attorneys, guardians ad litem, respondent parents' counsel, court appointed special advocates, foster parents, county social workers, and parents. Additionally, many informational queries were run on the Judicial Branch's data management system, ICON, to determine the courts' compliance rates with statutory timelines for D&N cases. Dependency and Neglect

proceedings were also observed. The surveys from the stakeholders, and queries from ICON comprise the bulk of the information dealt with in this report.

Colorado's Court Process

In 1994 Colorado adopted HB 94-1178, which set forth expedited procedures to follow in D & N cases for children under six.[7] In all phases of the proceedings, if a child is under the age of six, the court and all parties involved are to assure that the child's case proceeds through court as rapidly as possible, the goal being for children to achieve permanency in a shorter timeframe. The expedited procedures mandated by HB 94-1178 were to be phased in over a ten-year period. It is commonly known as Expedited Permanency Planning (EPP), and the last county in Colorado became subject to EPP in January 2002.

Generally, Title 19, Article 3 of the Colorado Revised Statutes sets forth how a child and family are to be treated in a dependency and neglect action.[8] The following discussion is the process at its most basic level. A report of suspected child abuse may be made to the local department of social/human services. After an investigation, the child may be removed from his or her home. If a child is removed from the home pursuant to a court hold, the court has 72 hours in which to hold the temporary protective custody hearing.[9] If the child is removed from the home due to a police hold and placed in a shelter facility not owned by the department of social/human services, there is a 48-hour window in which to hold the first hearing.[10] The court generally makes determinations as to the appropriateness of the child remaining out of the home at this time[11] A specific finding must be made on the record at that time that remaining in the home would be contrary to the welfare of the child, or alternately that removal from the home is in the child's best interests. Practices vary slightly around the state after this point, but Chief

Justice Directive 96-08 directs the courts and judicial officers to set up procedures to have the petitions in dependency and neglect filed at the first hearing.[12]

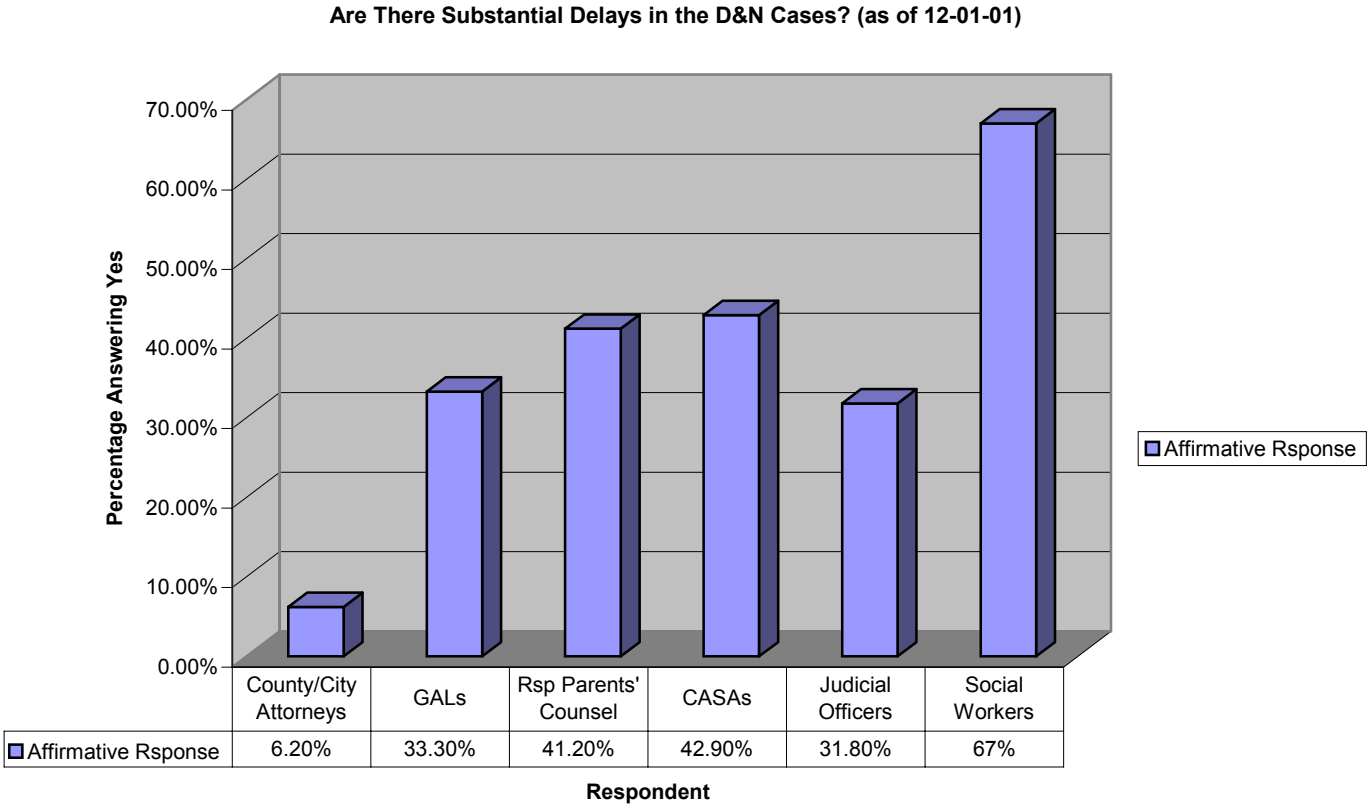
After the petition is filed and the parties have been served, an advisement on the petition needs to occur.[13] After the advisement the parent may admit to the facts in the petition. If this occurs the child is adjudicated dependent or neglected as to the respondent parent(s). In no case, however, may an adjudication be more than 60 days after service of the petition in cases where the child is under six, or 90 days from service if the child is six or older.[14] If the parents do not admit to the petition they have the right to a jury trial of six to determine if the facts in the petition are true.[15] Of course the parties may choose to have the judge conduct the trial. At this phase the standard of proof is preponderance of the evidence, or just over 50 percent.[16]

If the court or jury determines that the petition cannot be sustained by a preponderance of the evidence, the petition is dismissed and the court no longer retains jurisdiction over the matter. If the petition is sustained the local department of social/human services then has 30 days for a child under six, and 45 days for a child six or older to develop an appropriate treatment plan for the parents. This is referred to as the dispositional hearing.[17] For a child under six, the permanency hearing is then to be held within 90 days of the disposition.[18] It is anticipated that there be a permanent plan ordered for the child at this time. For a child six years or older the permanency hearing needs to take place within one year of the child's removal.[19] Children under the age of six must be placed in a permanent home within one year of the original placement out of the home unless the court finds that placement in a permanent home is not in the child's best interests.[20] If the parent is unable, or unwilling to comply with a treatment plan, or if no treatment plan can be devised, termination of parental rights is an option.[21]

This rough sketch of the D & N process is not meant to be a thorough review of how every child abuse and neglect court case proceeds through the system. There are always different ways in which a case can proceed. However, the above serves as the groundwork from which to view the specifics dealt with in this report.

II. Compliance with timelines

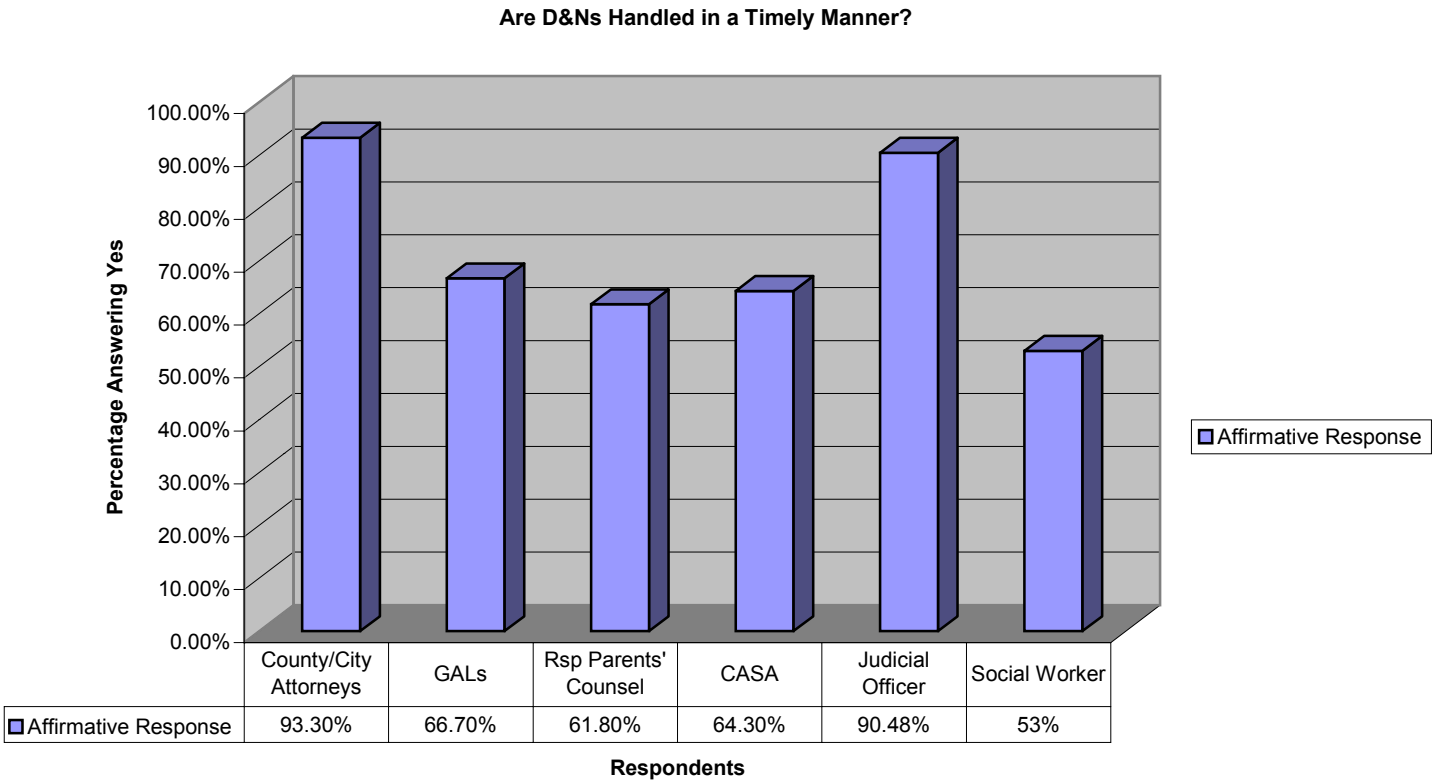
The original assessment found that there were numerous problems associated with meeting statutory timelines: "[d]ata from the assessment indicates that D & N cases are not handled in a timely manner and that substantial delays exist in most counties."[22] Responses show some division as to whether there is currently delay in the D & N court process. Stakeholders were asked whether there were substantial delays in the D & N cases. Each



	County/City Attorneys	GALs	Rsp Parents' Counsel	CASAs	Judicial Officers	Social Workers
Affirmative Rsponse	6.20%	33.30%	41.20%	42.90%	31.80%	67%

brought a slightly different perspective to the question of whether there are substantial delays. What is striking about the above chart is that the county/city attorneys as a whole did not believe there were substantial delays in the D & N proceedings, while their counterparts at the departments of social services found there were substantial delays in the D & N court process. The original assessment pointed to very long delays in the D&N cases as a whole. Currently, not

everyone agrees that there are substantial delays in the D&N process. A follow up question was asked of the stakeholders: whether D & Ns are handled in a timely manner? This again demonstrates a division of opinion between the various respondents.



	County/City Attorneys	GALs	Rsp Parents' Counsel	CASA	Judicial Officer	Social Worker
Affirmative Response	93.30%	66.70%	61.80%	64.30%	90.48%	53%

The chart above is reflective of data from December of 2001. This was but a slightly different way of asking whether there are substantial delays in the D & N cases. This chart agrees for the most part with the previous chart asking whether there were substantial delays in the D & N cases. However, nearly 32 percent of the judicial officers responding answered that there were substantial delays in the D & Ns. This contradicts the response from the same judicial officers, ninety percent of whom said D & Ns were handled in a timely manner. This could be the result of a different interpretation of the question.[23] While one can say that D & N cases are handled in a timely manner (i.e. timelines are adhered to, and cases move through the system), one could

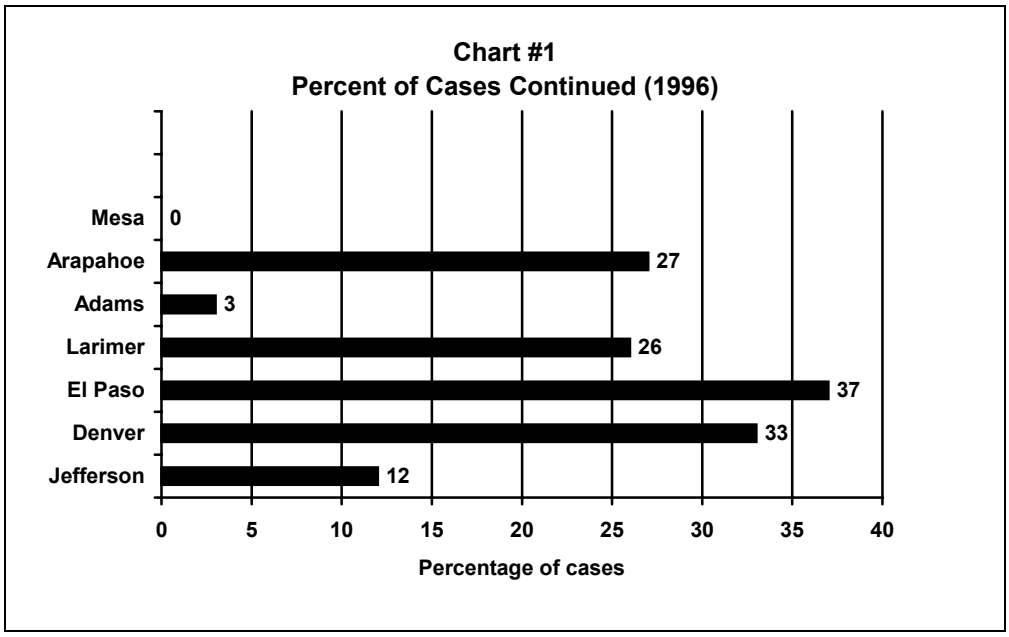
also say that there are substantial delays (time on the bench waiting for parties to be ready, problems setting hearings, waiting for reports, etc.) Looked at this way, the responses from the judges on the two questions are not truly contradictory.

That being the case, it is still heartening to see that in both questions, a majority believe that D & N cases are being handled in a timely matter. This contrasts sharply with the finding in the initial report that "…over half of all D & N cases are handled in a manner that results in delay, not resolution."[24] Though a subjective measure, the converse can be said today that, from stakeholder perceptions, more than three quarters of all D & N cases are handled in an timely manner.[25] The quantitative measurements, shown later, indicate that there is resolution.

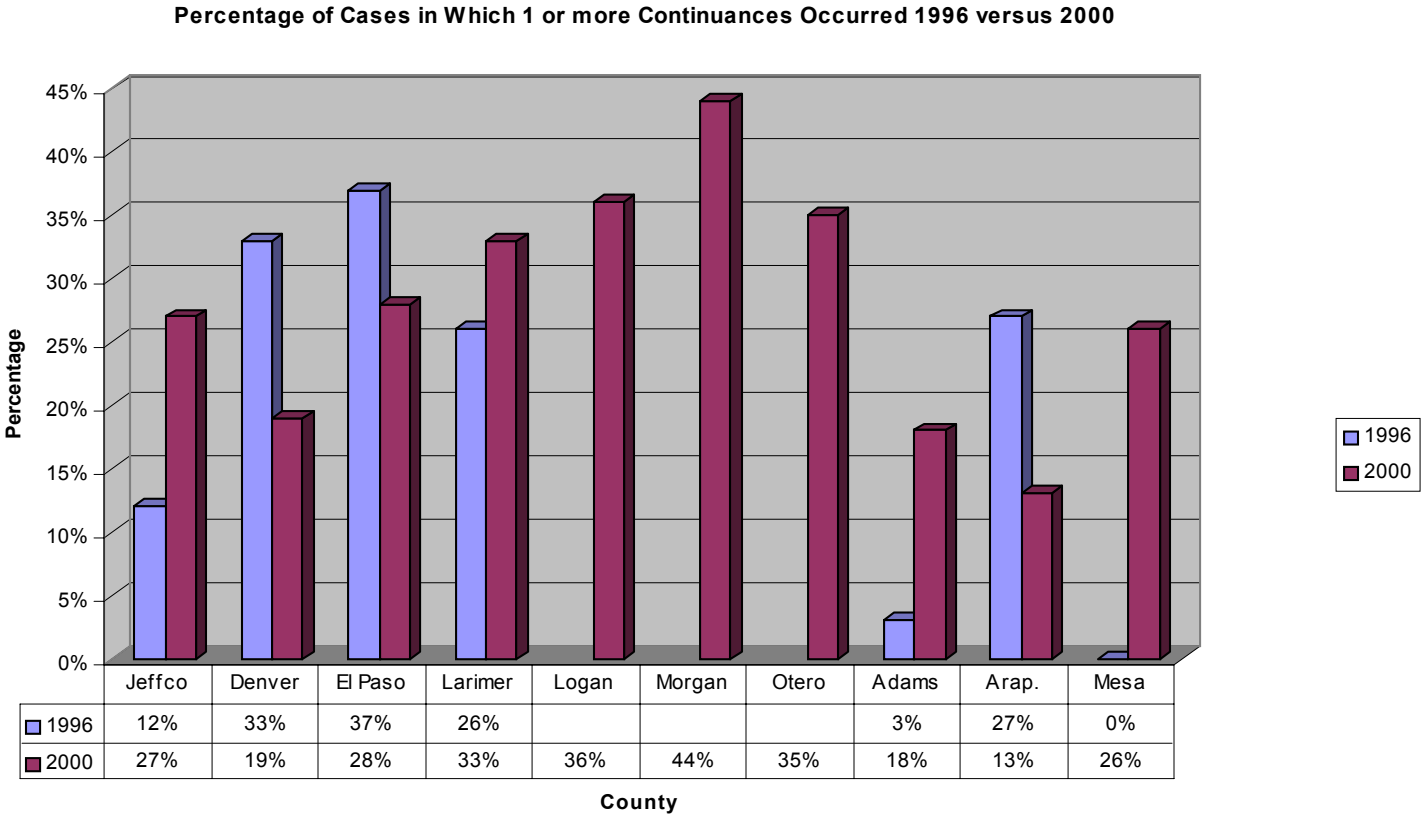
Continuances

The initial assessment revealed that a large number of cases were being continued. In fact, "…with the exception of Mesa, Jefferson, and Adams Counties, counties continued more than 25 percent of the cases scheduled."[26] Since the initial assessment, counties and the courts have made efforts to continue cases only in exceptional circumstances. C.R.S. § 19-3-104 requires that cases involving children under six "…shall not be delayed or continued unless good cause is shown and unless the court finds that the best interests of the child will be served by granting a delay or continuance." Additionally, Chief Justice Directive 96-08 paragraph 4 states that "[c]ontinuances will be granted by a Judicial Officer only upon a finding that a manifest injustice would occur in the absence of a continuance." This directive refers to all cases, not just those where the child is under six. So we see that in statute and Chief Justice Directive continuances are strongly discouraged.

The chart below is the original chart from the 1996 assessment.[27]



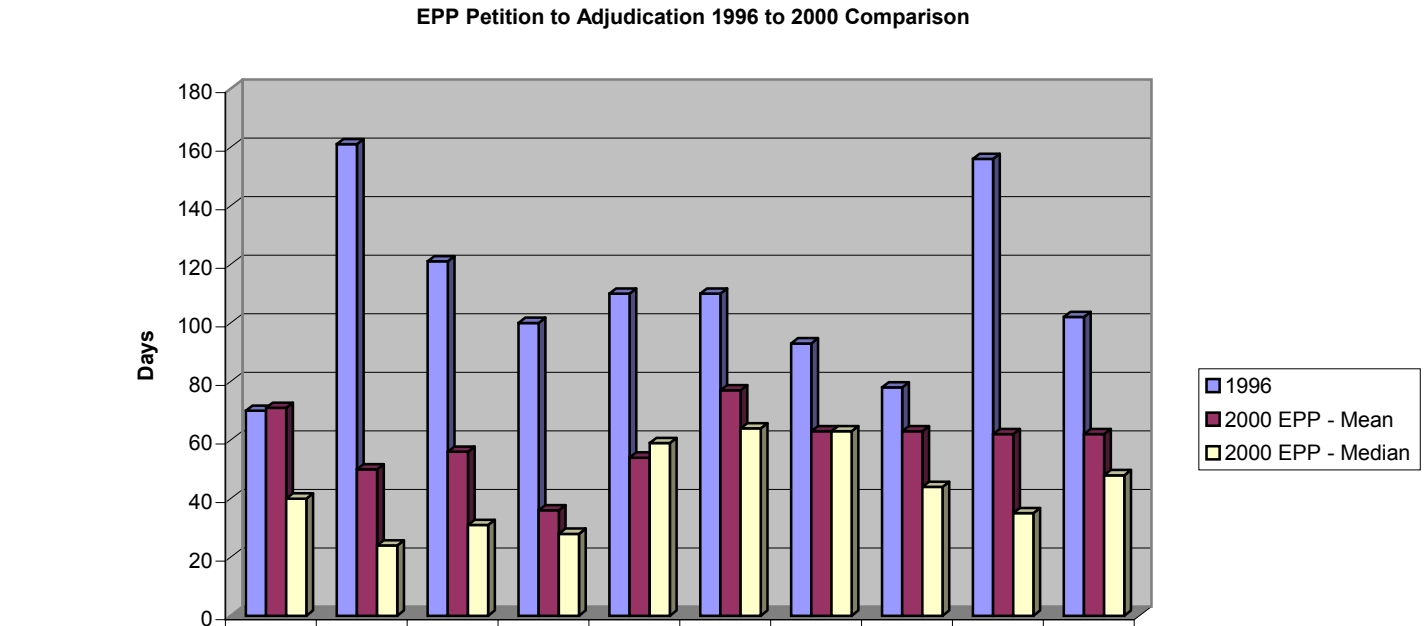
On the following page is a comparative chart detailing the percentage of continuances in calendar year 2000.[28] Continuance data in 2000 was determined by looking at the total number of cases in calendar year 2000 in comparison to the number of cases in which there was one or more continuance.[29] On a positive note, three of the largest jurisdictions, Denver, El Paso, and Arapahoe saw decreases in the number of continuances granted in a case. Both Denver and Arapahoe had dramatic decreases, and illustrate the work that has been done in those jurisdictions to address caseflow issues.[30] While there has been great improvement since 1996 in several counties, there is still room for improvement in future years.[31]



	Jeffco	Denver	El Paso	Larimer	Logan	Morgan	Otero	Adams	Arap.	Mesa
1996	12%	33%	37%	26%				3%	27%	0%
2000	27%	19%	28%	33%	36%	44%	35%	18%	13%	26%

Adjudication

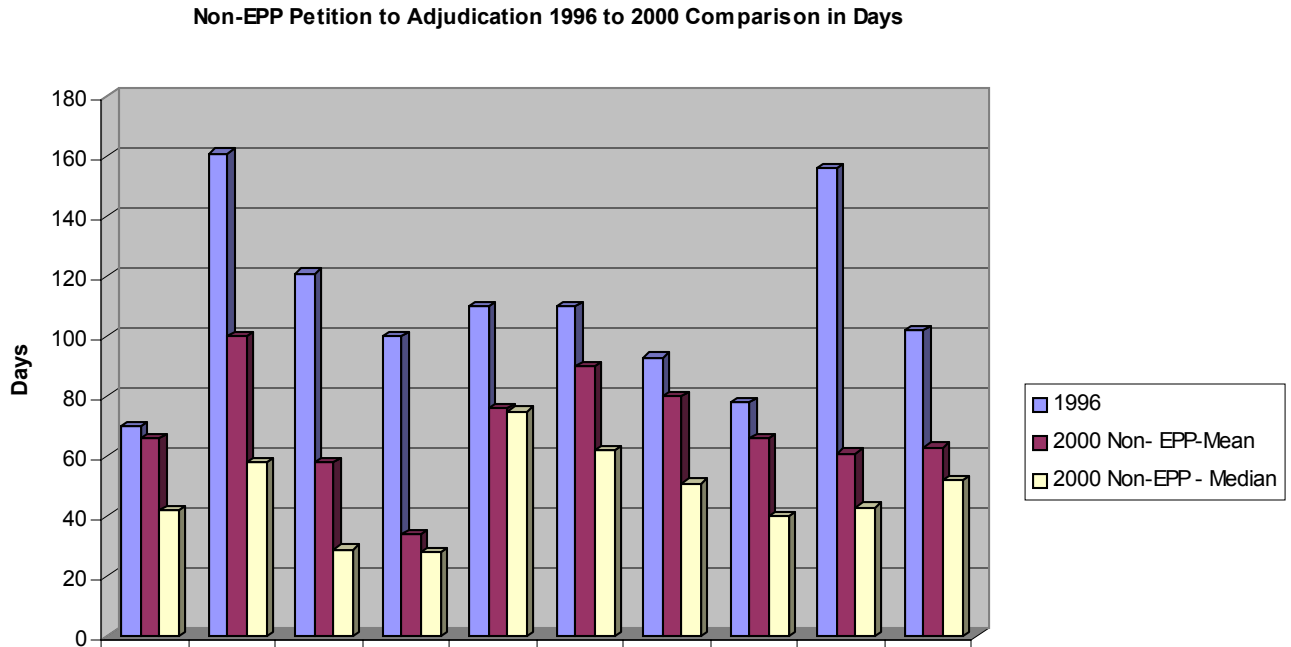
An adjudication must take place within 60 days of service of the petition in an EPP case, and within 90 days of service for a non-EPP case.[32] The original assessment, as seen in the charts on the following pages, found that days to adjudication varied widely within the ten reviewed counties.[33] For the purposes of this report, an average number of days was considered for review. As we can see from the chart below, the mean for most jurisdictions is very close to the 60-day requirement for adjudication in EPP cases. What is even more dramatic is the marked improvement that has occurred from 1996 to 2000 in almost all of the jurisdictions. For example Denver went from an average of 161 days in 1996 to an average of 50. That all the districts lowered their adjudication timeframes reflects positively on them.



	Jeffco	Denver	El Paso	Larimer	Logan	Morgan	Otero	Adams	Arap.	Mesa
1996	70	161	121	100	110	110	93	78	156	102
2000 EPP - Mean	71	50	56	36	54	77	63	63	62	62
2000 EPP - Median	40	24	31	28	59	64	63	44	35	48

Jefferson and Morgan Counties are the only jurisdictions where the mean number of days to adjudication in EPP cases is significantly over 60. However, looking at the median in these jurisdictions shows that outliers impacted both Jefferson and Morgan Counties. (The median is the absolute middle point and is resistant to outliers. Outliers are those numbers that fall well outside the overall pattern of the data. Using Jefferson County as an example, half the cases took less than 40 days and half the cases took more than 40 days.) Jefferson County had one case that did not have an adjudication until 477 days from the filing of the petition.[34] This is enough to skew the results of the distribution when looking at the average number of days from the filing of the petition to adjudication. Reaching an adjudication as quickly as possible is an important step in the progression of the case. There are many reasons this is important, not the least of which is

that the adjudication marks the point where the court gains jurisdiction over the parties, and parents can work informally on their treatment plan.[35]



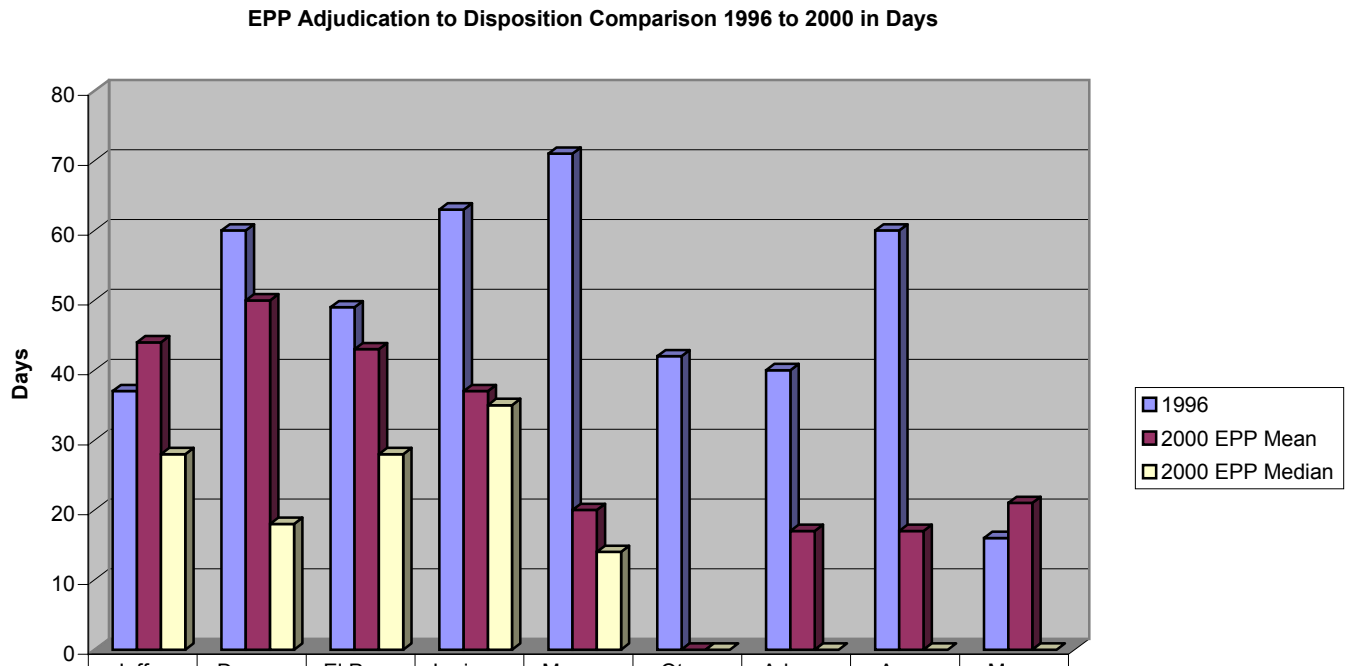
	Jeffco	Denver	El Paso	Larimer	Logan	Morgan	Otero	Adams	Arap.	Mesa
1996	70	161	121	100	110	110	93	78	156	102
2000 Non- EPP-Mean	66	100	58	34	76	90	80	66	61	63
2000 Non-EPP - Median	42	58	29	28	75	62	51	40	43	52

The chart above illustrates the mean and median number of days from filing of the petition to adjudication in Non-EPP cases. It is a very positive indication that every jurisdiction analyzed, with the exception of Denver, had an average number of days at, or below, the statutory timeline of 90 days. Once again, outliers contribute to some of this deviation. As the median is resistant to outliers, in looking at the medians for the counties, both charts show that adjudications are taking place in a timely manner. More importantly, both charts illustrate the fact that, universally, in the counties analyzed, there has been improvement from 1996 in the amount of time it took for children to be adjudicated dependent or neglected. As one of the concerns of the original assessment was that children are languishing in the system,

improvements that have occurred in the system since 1996 have dramatically reduced the amount of time children wait to be adjudicated.

Dispositional Hearings

Very few jurisdictions in the original assessment complied with the statutory requirement for dispositional hearings (at the time statutes required the disposition to occur within 45 days of adjudication). The original assessment found that "…completion of the dispositional hearing for respondent fathers does not occur within the statutory time frames in six counties."[36] As the following graphs will show there has been positive change since1996.[37]



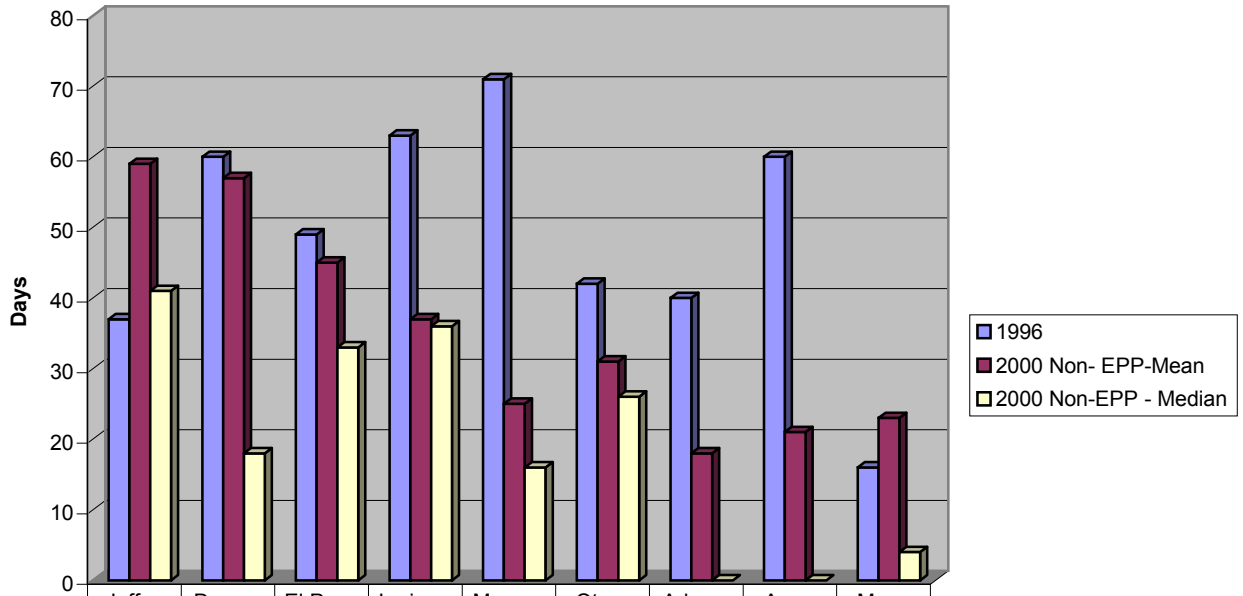
	Jeffco	Denver	El Paso	Larimer	Morgan	Otero	Adams	Arap.	Mesa
1996	37	60	49	63	71	42	40	60	16
2000 EPP Mean	44	50	43	37	20	0	17	17	21
2000 EPP Median	28	18	28	35	14	0	0	0	0

The above chart for calendar year 2000 EPP cases clearly shows the improvement from 1996 to the present. For example Morgan and Arapahoe Counties had average timeframes well over the

statutory limit. In 1996, this was articulated as a major problem in dealing with the D & N cases – that cases languish, with no sense of urgency. Through educational efforts, and increased visibility of the D & N cases, this issue has begun to be addressed.

The chart below reflects the change in Non-EPP cases from 1996 to 2000. Although the average number of days in many of the districts exceeds the 45-day statutory timeframe, it is to be noted that as a whole there is improvement from the 1996 assessment. For example, the average time in Arapahoe from Adjudication to Disposition in 1996 was close to 60 days. Now

Non-EPP Adjudication to Disposition 1996 to 2000 Comparison in Days



	Jeffco	Denver	El Paso	Larimer	Morgan	Otero	Adams	Arap.	Mesa
1996	37	60	49	63	71	42	40	60	16
2000 Non- EPP-Mean	59	57	45	37	25	31	18	21	23
2000 Non-EPP - Median	41	18	33	36	16	26	0	0	4

that county is down to 21 days, with a median of zero. Both Adams and Arapahoe Counties have a median of zero This is a very positive occurrence in that it indicates that, in these jurisdictions, at least half of the cases have an adjudication and a treatment plan taking place on the same day - as the General Assembly intended. Having a treatment plan available early in the case is

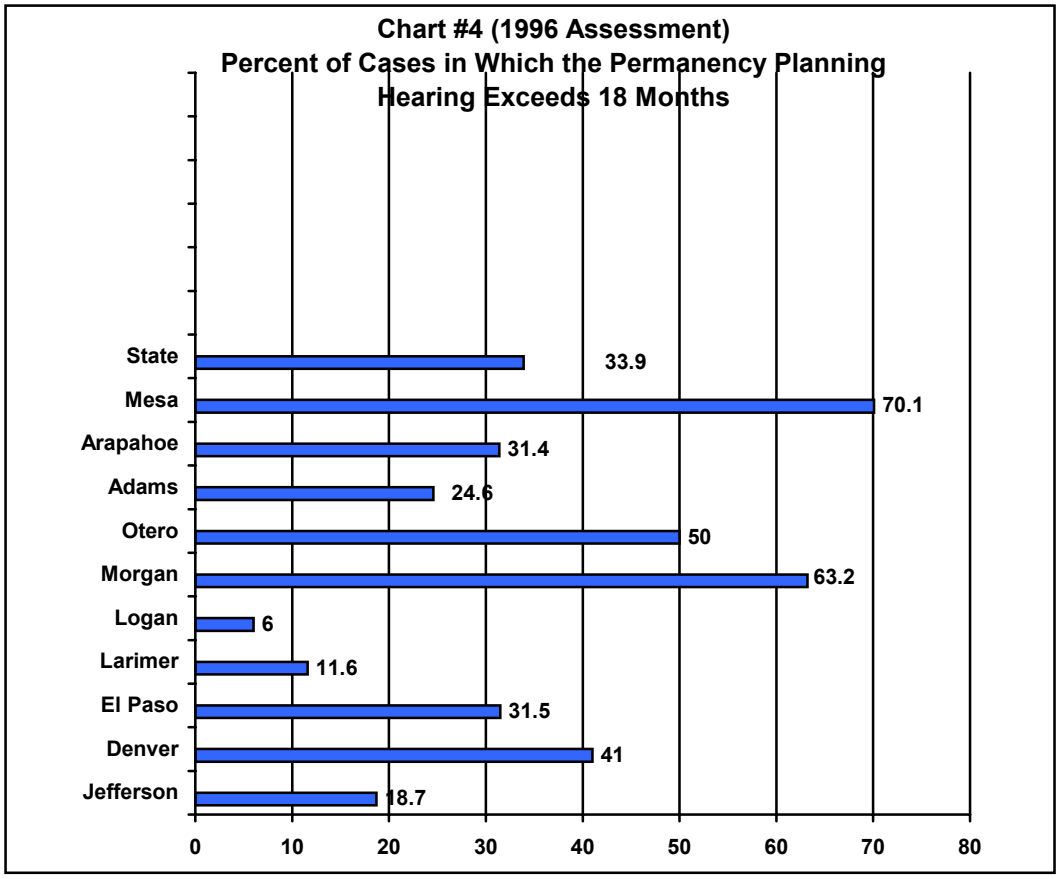
beneficial because it allows the parents more time to work on their issues. Parents should know upfront what is expected of them, with all parties working from the same design at the earliest possible juncture. While some jurisdictions have not improved, or have improved ever so slightly, it is to be noted that the data used for this assessment is for calendar year 2000 only. It is likely that the results would fare even better if we were to look at calendar year 2001 data for these districts.[38]

Permanency Hearings

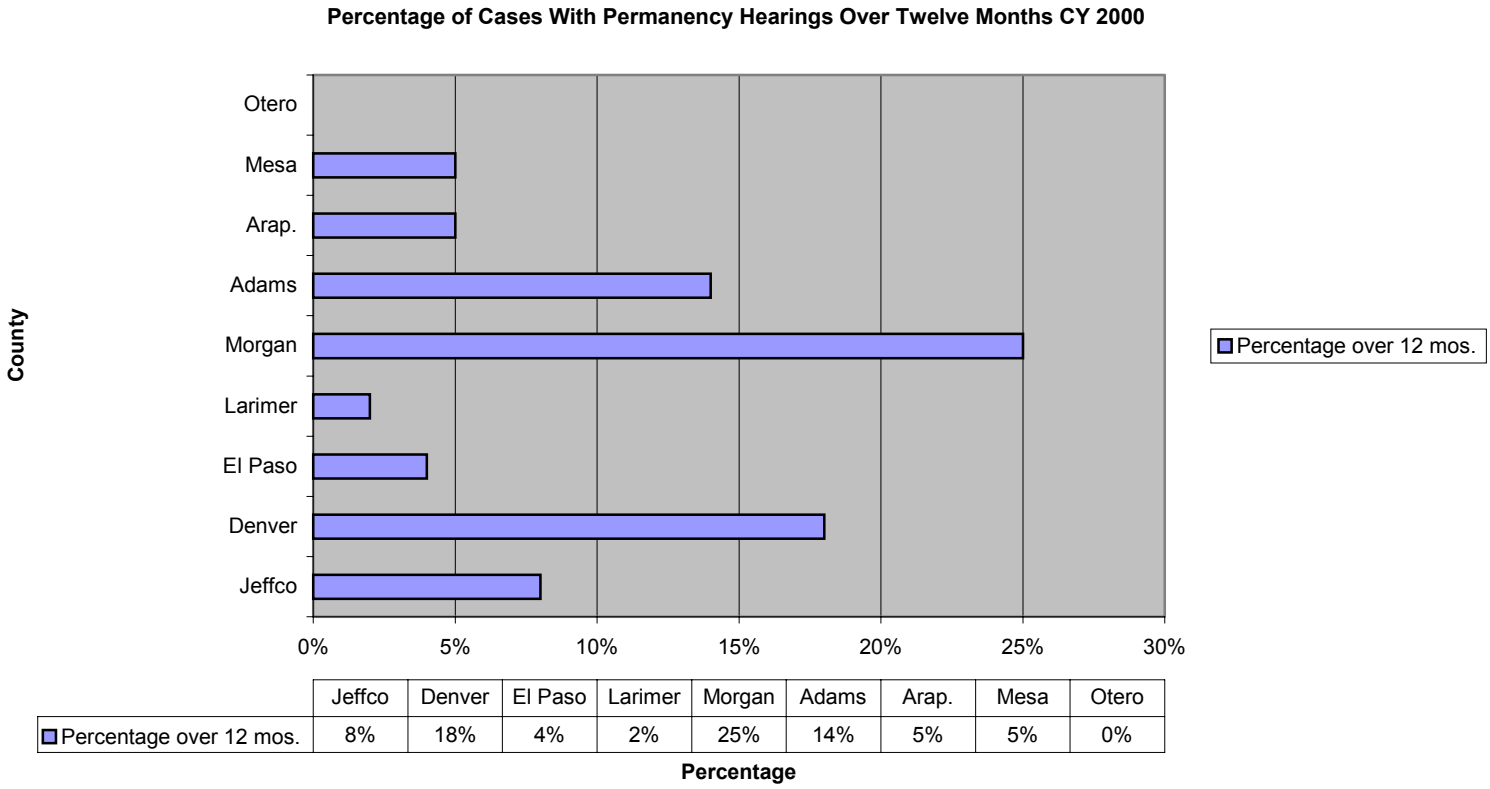
Certain measures were used in 1996 that are no longer applicable in a current evaluation. The original assessment looked at the percentage of cases in which the permanency hearing exceeded 18 months.[39] Since 1996 the statutes have changed, and the current standard to follow for permanency hearings is three months after the dispositional hearing for EPP cases, and twelve months after the date of the child's removal from the home in Non-EPP cases.[40] The original assessment found an astounding number of cases across the state not meeting the eighteen-month permanency requirement. On the following page is the original chart from 1996.[41]

For the sake of consistency, the measurement used for comparison to 1996 is the number of cases that exceeded twelve months for their permanency hearing in calendar year 2000. As can be seen from the chart dealing with the year 2000 data, the number of cases in which a permanency hearing was held above twelve months is quite low in almost all the jurisdictions. For example, in El Paso, Mesa and Otero, no more than five percent of the cases had a permanency hearing that was scheduled over 12 months.

This is significantly less than what had been reported in 1996. Seventy percent of the cases in Mesa County in 1996 lasted more than eighteen months.



50 percent of Otero's, and almost 32 percent of El Paso's cases in 1996 had a permanency hearing that exceeded the eighteen-month period. That every county reduced the amount of time in which a permanency hearing takes place is a testament to the efforts of these judicial districts to hold timely hearings. Much effort and education has been devoted to reducing the amount of time a child waits for a permanency hearing.



	Jeffco	Denver	El Paso	Larimer	Morgan	Adams	Arap.	Mesa	Otero
Percentage over 12 mos.	8%	18%	4%	2%	25%	14%	5%	5%	0%

Even if a different measure were used to look at the timelines, jurisdictions are still doing well. If the data for EPP and Non-EPP cases are examined with regard to the median and mean for permanency hearings, they show that cases are moving very quickly to permanency hearings.

Time from Filing to Permanency Hearing (in days)

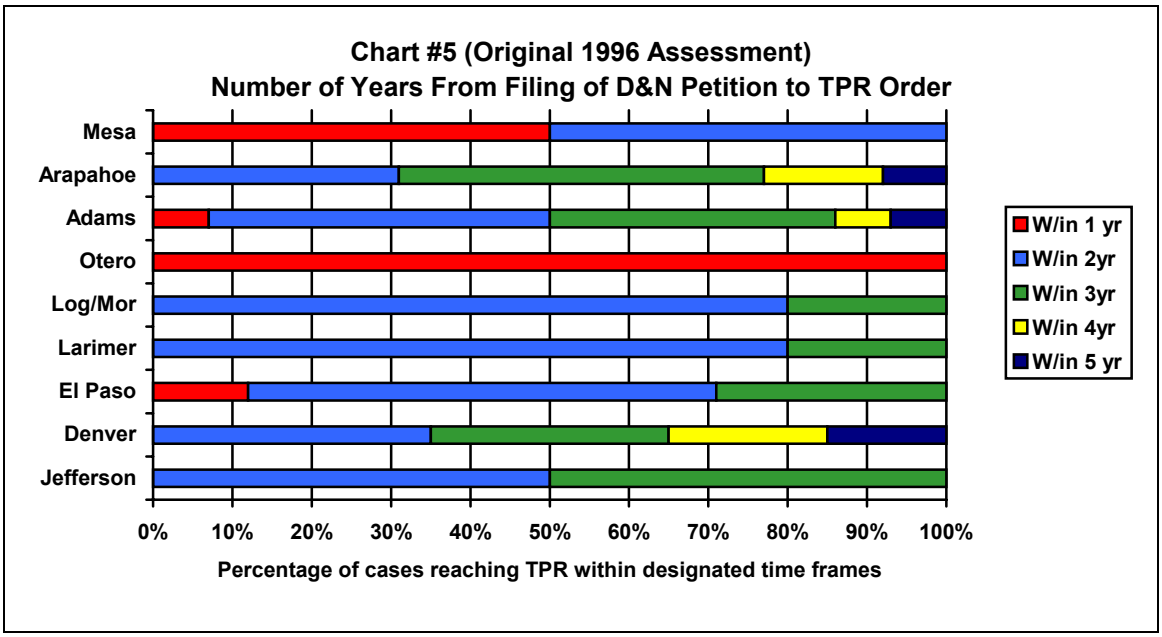
	Jeffco	**Denver**	**El Paso**	**Larimer**	**Morgan**	**Adams**	**Arapahoe**	**Mesa**	**Otero**
EPP Mean	128	123	121	132	283	251	110	105	
EPP Median	98	101	90	101	259	252	84	89	
D&N Mean	281	276	217	267	269	254	164	283	248
D&N Median	267	270	191	286	251	260	142	325	266

It is important to note that the average time for a permanency hearing in all of the cases is well under the twelve-month requirement. Both the median and the mean show that cases are moving

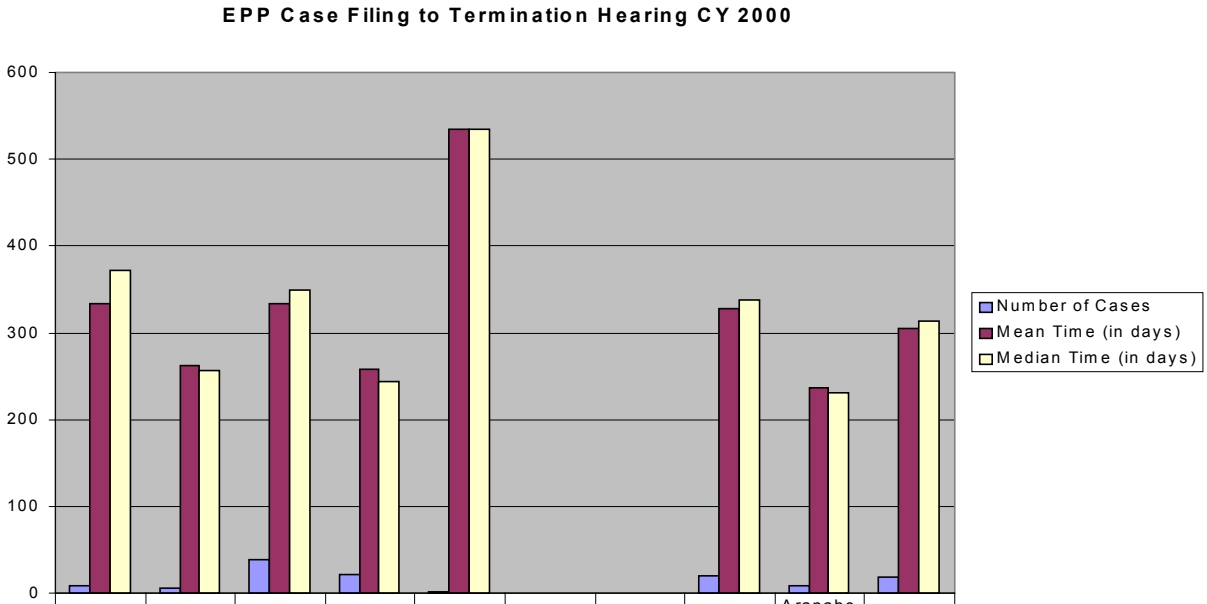
to permanency hearing rapidly and appropriately. Comparing both the EPP and Non-EPP data with the findings in the initial assessment shows improvement. In the original assessment seven of the ten counties had more than thirty percent of their caseload last eighteen months or more. Presently, a case that does not have a permanency hearing at eighteen months today is an extreme abnormality. There were fifteen cases for CY 2000 in which the permanency hearing was held over eighteen months. That is only 0.4 percent of the cases filed in Colorado, and 0.9 percent of the cases with a permanency hearing. This is a marked improvement over 1996, where 34% of the cases statewide had a permanency hearing exceeding 18 months.

Termination

As previously noted the initial report concluded that, "over half the D & N cases are handled in a manner which results in delay, not resolution."[42] One particularly poignant indication of this is the analysis of termination hearings. While there is no set statutory timeline to follow for termination hearings, it is an assumption that, if a parent-child termination is to occur, there should be some sort of an indication of this at the permanency hearing. Ostensibly the reason for a permanency hearing is to have a permanent plan.[43] If that permanent plan involves severing the parent-child relationship, it is safe to say that the termination hearing should take place as quickly as possible once the decision has been made.



The initial assessment concluded, as shown by the chart above, that "…in Denver 35 percent of the terminations took over three years to complete."[44] In fact, in Denver, it was not uncommon for a termination to take up to five years. In many of the other jurisdictions, it was also not uncommon to see a termination take up to three years. As the chart below indicates there has

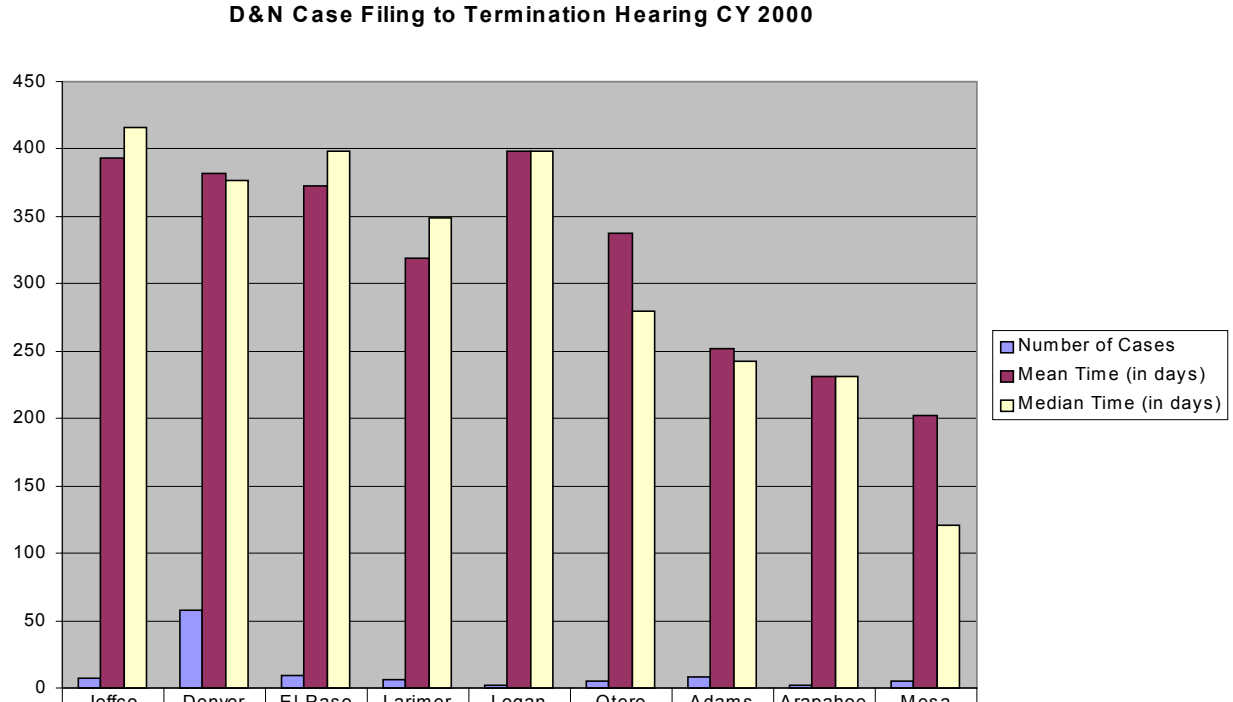


	Jeffco	Denver	El Paso	Larimer	Morgan	Logan	Otero	Adams	Arapahoe	Mesa
Number of Cases	9	6	38	21	1	0	0	20	9	18
Mean Time (in days)	334	262	333	258	535			328	237	305
Median Time (in days)	372	256	349	243	535			338	231	313

been a remarkable turnaround on this measurement.

The chart on the previous page indicates that the average amount of time a termination takes in an EPP case is in the two hundred and three hundred-day range.[45] This is not say that more terminations are occurring. Rather, the data indicate that when the decision is made to terminate the parent-child relationship, all the parties involved move quickly to schedule the hearing and see that it takes place. Terminations are occasionally a necessary part of a case when the situation warrants such action. When this occurs, children are made available for adoption, and parents are no longer subject to the jurisdiction of the court under the supervision of social services.

The data below for non-EPP cases show similar trends: terminations are proceeding more



	Jeffco	Denver	El Paso	Larimer	Logan	Otero	Adams	Arapahoe	Mesa
Number of Cases	7	58	9	6	2	5	8	2	5
Mean Time (in days)	393	382	373	319	398	338	252	231	202
Median Time (in days)	416	377	398	349	398	280	243	231	121

rapidly though the system in cases where this is appropriate. Interestingly, there is slight difference between an EPP and a Non-EPP case. As would be expected, the Non-EPP cases proceed slightly more slowly to termination than does the EPP case. Again, both of these graphs show the remarkable change that has occurred since 1996. The original assessment showed that, in most jurisdictions, terminations could take up to three years (even up to five years). When it is necessary to terminate, children are moving to termination more rapidly. In those cases where termination is the chosen option, children are being made available for adoption and hopefully being given a better chance to have a happy, healthy relationship with an adult caregiver in the future. The fact that children are no longer routinely waiting up to five years to have an ultimate decision made on their case is a definite improvement that the courts have seen since 1996.

Timeline Conclusion

As has been noted above, almost all of the factors analyzed indicate that the number of days children need to wait for an event to occur in a D & N case has been significantly reduced since the original assessment was conducted. Cases are being adjudicated more rapidly, have treatment and permanency plans in place in a shorter timeframe, and when termination is necessary, these events are taking place much more quickly than the original assessment indicated in 1996. Of concern is the fact that continuances appear to be on the rise in some jurisdictions. However, this negative is tempered by the fact that required events in the D & N case are proceeding with some degree of rapidity. As noted, most of the jurisdictions have shortened the amount of time for adjudications, dispositions, permanency hearings, and terminations. The improvement from 1996 is to be noted. As for the continuances, it is assumed that they are necessary and in the best interests of the child as required by Colorado law and Chief Justice Directive.

There is a very fine line that must be tread by the court when deciding these cases. It is a positive indicator that cases are moving through the system more rapidly than they had in 1996. With this consideration, courts are constantly mindful of parents' rights. The Due Process rights of parents are weighed very carefully against the best interests standard of the child. It is a constant struggle to keep these balanced, but it is one which judicial officers continually keep in mind when making these very difficult decisions.

III. Exploration of the Improvements

The initial report found that "[t]he nature of the proceedings often forces respondent parents into very defensive and polarized positions, and can severely decrease the level of cooperation."[46] The initial report posited that parents may focus anger on the department, while losing sight of what is best for their child. The adversarial nature of the proceedings may confuse parents, who could perceive the proceedings as a criminal matter. Since 1996 many efforts have been made to accommodate as many alternative ways to handle a case as possible, with the goal being to reduce the adversarial nature of the proceedings. For example many jurisdictions have mediation programs in place.[47] This is in conjunction with the Family Group Decision Making process that many departments of social/human services have for their parents.[48] Finally, the role of the Family Court Facilitator cannot be overemphasized.

The Family Court Facilitator is a court position that was created partly through the efforts of the Court Improvement Committee. They serve many roles, but function in the capacity of intermediary, liaison, problem-solver/trouble-shooter, evaluator, and a more informal arm of the court. For example, the facilitator monitors the cases to ensure they are meeting the required timelines. They can investigate those cases in danger of not meeting timelines, discover why that is so, and make recommendations as to how to keep the case on track. They conduct case conferences on identified cases where there is a problem that needs some attention. These informal conferences often result in a proposed solution to the case, which can then be approved by the judicial officer. Some facilitators have even been deputized to occasionally fill the role of an ill or unavailable magistrate. So while they play various roles, they are essential to the continued smooth running of the D&N cases and are a significant improvement seen since the

1996 assessment.[49] All three of the examples given above demonstrate an effort from the Colorado courts to handle D & N cases in a less adversarial manner.

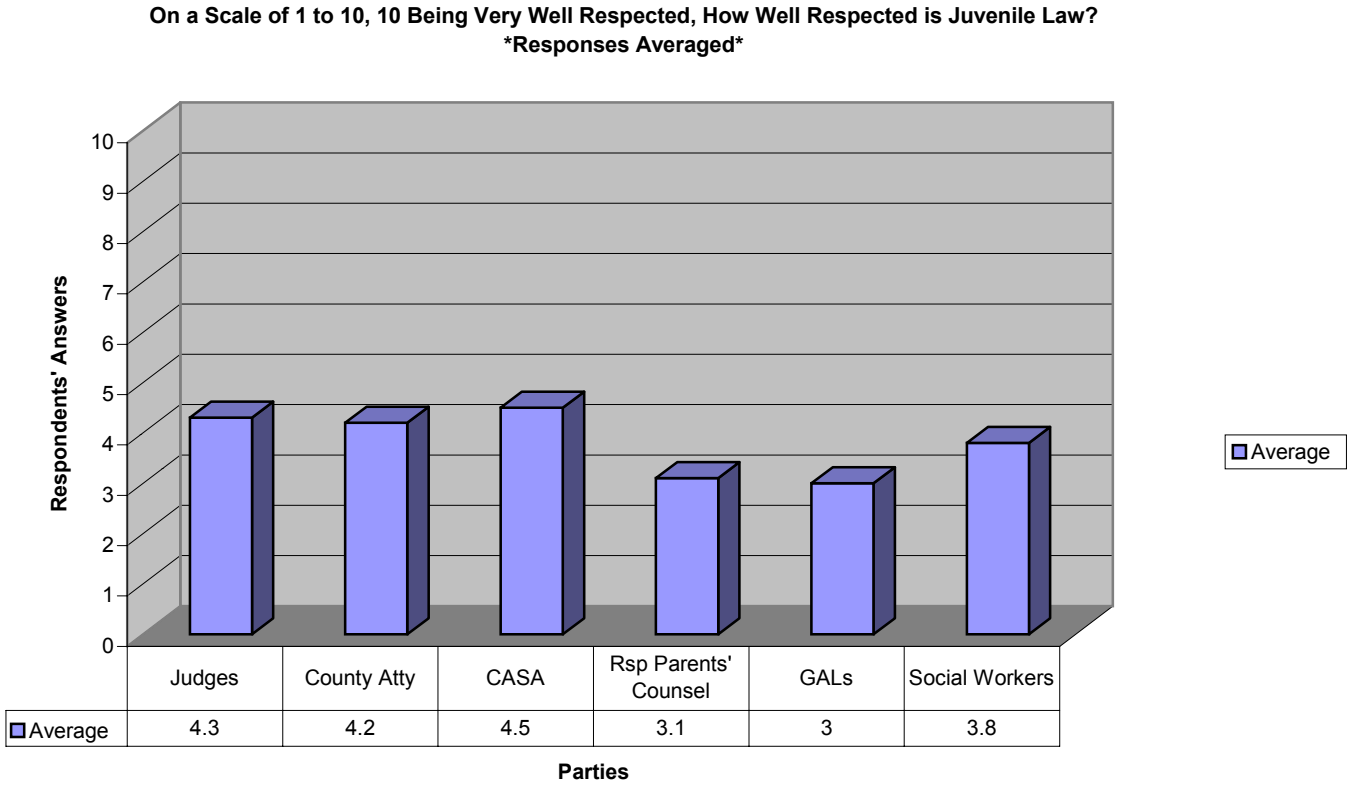
In 1999 the Center for Policy Research conducted an evaluation of mediation in the 4th Judicial District, which is the Colorado Springs area in El Paso and Teller Counties. The Center found, among other things, that: 1) despite initial resistance to the idea, the professionals involved in the child welfare system now view mediation as the best way to resolve disputes; 2) approximately 70 percent of the cases sent to mediation resolved all issues during the session and 20 percent reached an agreement on at least some of the issues; 3) mediated and non-mediated settlement agreements are quite similar; 4) mediated agreements enjoy better compliance than those that are not mediated; 5) mediation is cost effective and provides cost avoidance; and 6) mediation helps to avoid time delays.[50] As a whole, the increased use of mediation in the Colorado courts since 1996 has been a very positive movement in handling the D & N cases. Although only seven jurisdictions currently use mediation, several of the major districts, including El Paso County, routinely use mediation to help improve outcomes in their cases. The Court Improvement Committee has been active in supporting the use of mediation in the D & N cases, and indeed helped fund the evaluation of mediation in the 4th Judicial District.

The Center for Policy Research also did an evaluation of Family Court Facilitators in nine judicial districts. The Center found that "[t]he outcome of the case conference is typically a resolution of some or all of the issues that brought the case to conference."[51] Furthermore, the report points out that cases where there was a case management conference had a permanency plan in place more quickly than did those cases in which there was no case management conference.[52] This result was found to be significant at the 0.05 level (meaning that this result could occur by chance in only 5 out of one hundred cases). Case management conferences

provide yet another avenue for cases to proceed in a non-adversarial manner. Their use in the D & N cases has been validated, and their increased usage in the D & N cases is an improvement over the way all cases were handled in 1996. The array of options that a parent has now is greater, in that a case will not always be processed through the usual D & N court process that was articulated on pages 3-5. Again, the Court Improvement Committee was active in developing the court facilitation model statewide.

Importance of Juvenile Law

The original assessment "noted an overall lack of recognition for those working in this area of the law [and that] the importance of working with children and families is not generally recognized."[53] This can lead to increased burnout or reluctance to take the juvenile bench. It is difficult to ascertain efforts to increase the visibility and perceived importance of juvenile law within the State of Colorado. Respondents to the surveys indicate that there is still an issue with how well regarded the area of juvenile law is. For example, almost all guardians ad litem and respondent parents' counsel indicate that the compensation for undertaking these cases is woefully inadequate.[54] Such a payment scheme (they believe) devalues the importance of the work that all parties perform within this system. However, it must be noted that the rates for contract attorneys were raised since 1996. In 1996 respondent parents' counsel were paid $525 per case, with an hourly rate thereafter if the case moved to termination of parental rights. The current rate for these attorneys is $700 per case, with an additional $785 if the case moves to termination. Guardians Ad Litem were paid $550 per case in 1996, with an hourly rate for termination. Currently GALs are paid $1,040 per case, with an hourly rate if the case lasts over two years.[55]



The chart above indicates that individuals involved in the child abuse and neglect cases still perceive the area as not very well respected in which to practice. The parties were asked to rank on a zero to ten scale, ten being very well respected, how well respected they felt this area of law to be. The above responses are an average of those given by the stakeholders. As seen in the chart, the average answer was between three and four. This indicates that stakeholders still feel this area of the law is not very well respected. Delving deeper into the answers, 68.7 percent of the county attorneys answered between one and four; 69 percent of the GALs answered in the one and four range; 61 percent of the respondent parents' counsel answered within the one and four range; 64 percent of the social workers answered in the zero to four range; and 62.6 percent of the judicial officers polled responded in the one and four range. Cumulatively, two-thirds of those polled felt that the respect level of juvenile law fell within a range of zero to four.

However, on a positive note, several individuals indicated that they felt juvenile law was an extremely well respected area of the law. For example several judicial officers marked juvenile law in the eight or nine realm for respect. Even several respondent parents' counsel, GALs and county attorneys indicated they felt this area was well respected. This demonstrates the high regard that some judicial officers, and some practitioners, accord to this crucial area of the law.[56] While not a clear increase in the respect given to juvenile cases, it is seen as an improvement from 1996. The picture painted in 1996 was very bleak: "[j]uvenile matters do not appear to have the degree of 'status' associated with other areas such as criminal law"[57] There is growing recognition, however, both in the legal community and the larger community as a whole that this area is important and must be recognized as such.

To demonstrate the greater recognition accorded to these cases one only need look at the numerous Chief Justice Directives that have been promulgated since the original assessment in 1996. There are a total of three directives that specifically address D & N cases. Chief Justice Directive 96-08 deals with more expeditious handling of the cases, from appointed counsel at the first hearing, to recommending dispositions occur at the same time as adjudication. Chief Justice Directive 97-02 set standards for Guardians Ad Litem, including requiring training of the GALs, and mandating that the attorney visit the child at least once. Chief Justice Directive 98-02 set forth the memorandum of procedures (MOP) for the districts to follow in handling the D & N cases. Each district was to then report on progress made in implementing the MOP. Taken as a whole, the Chief Justice Directives indicate that substantial attention has been devoted to the issue of juvenile law, with direction and guidance being provided. However, there still needs to be focus on how well the local districts are doing in implementing these directives.

While practitioners and judicial officers may not feel juvenile law is accorded the respect it deserves, it is heartening to observe that there is almost universal appreciation from all parties for the work done in D & N cases. The chart on the following page shows that, for the most part, Colorado has the right people working with these types of cases. As one GAL said, "most of us are not in this business for the money, but because we believe in the importance of the work we do."[58] This is to be expected from people who have chosen to be in this line of work. Some individuals commented that they did not appreciate handling D & N cases. Only 2.4 percent of the GALs, 5.9 percent of the respondent parents' counsel, and 5 percent of the judicial officers answered as such. This could indicate the frustration that these individuals have in working with a case. This could also stem from a misinterpretation of the word "appreciate." It would be difficult for a judicial officer to appreciate terminating a parent's rights to their child every month or so. Similarly, it would be difficult for a caseworker to "appreciate" hearing graphic accounts of child abuse.

However, that some judicial officers may not appreciate handling these types of cases is indicative of a larger issue in the court system. As the Court Improvement Committee has pointed out in the past, "[f]amily cases are not necessarily the cases that judges voluntarily choose to handle because the emotional content is so stressful. Therefore, judges who are willing and committed to this area should be allowed to handle family area cases."[59] Every effort should continue to be made to bring individuals who derive satisfaction from working with family cases to the bench. Such commitment from the bench will increase the opportunity for better outcomes for children in the future.

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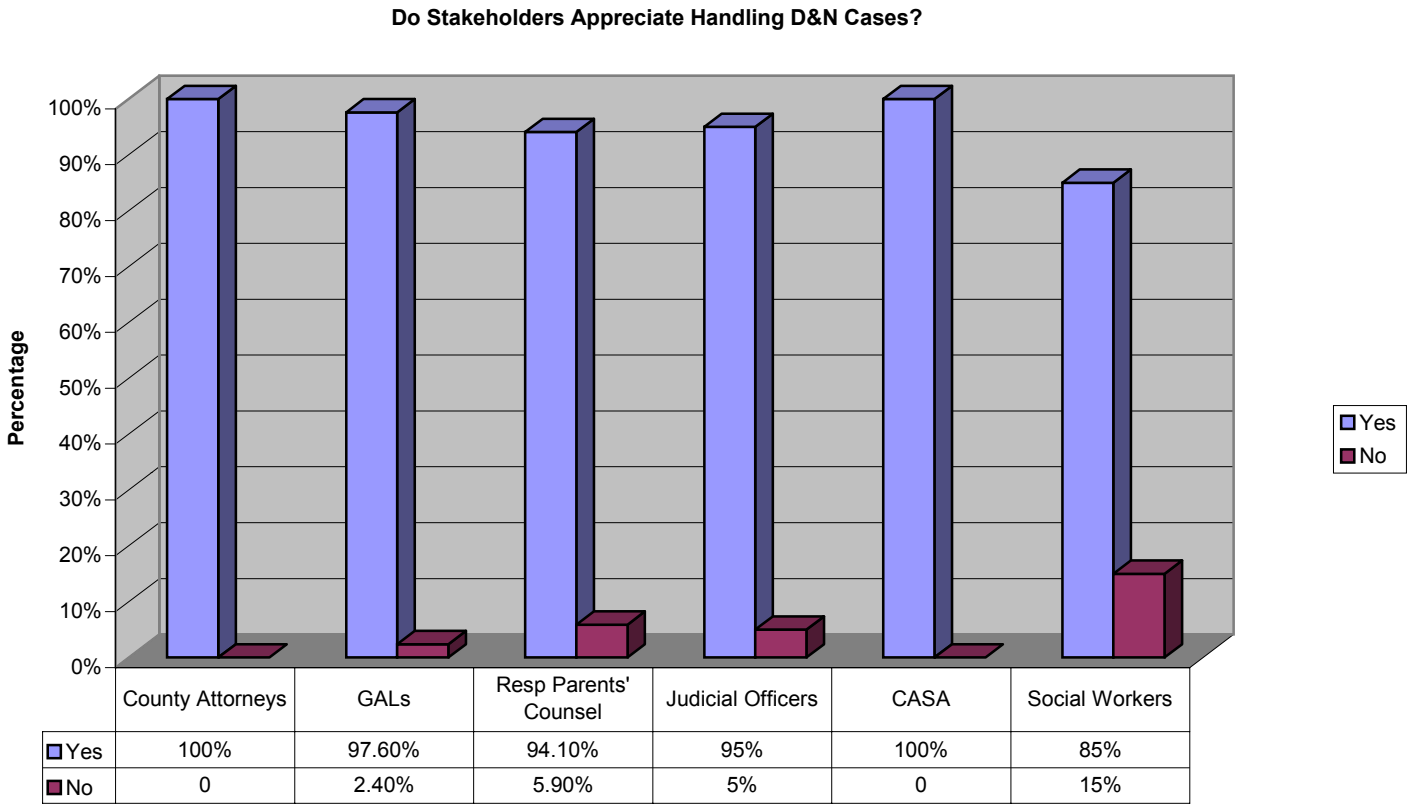
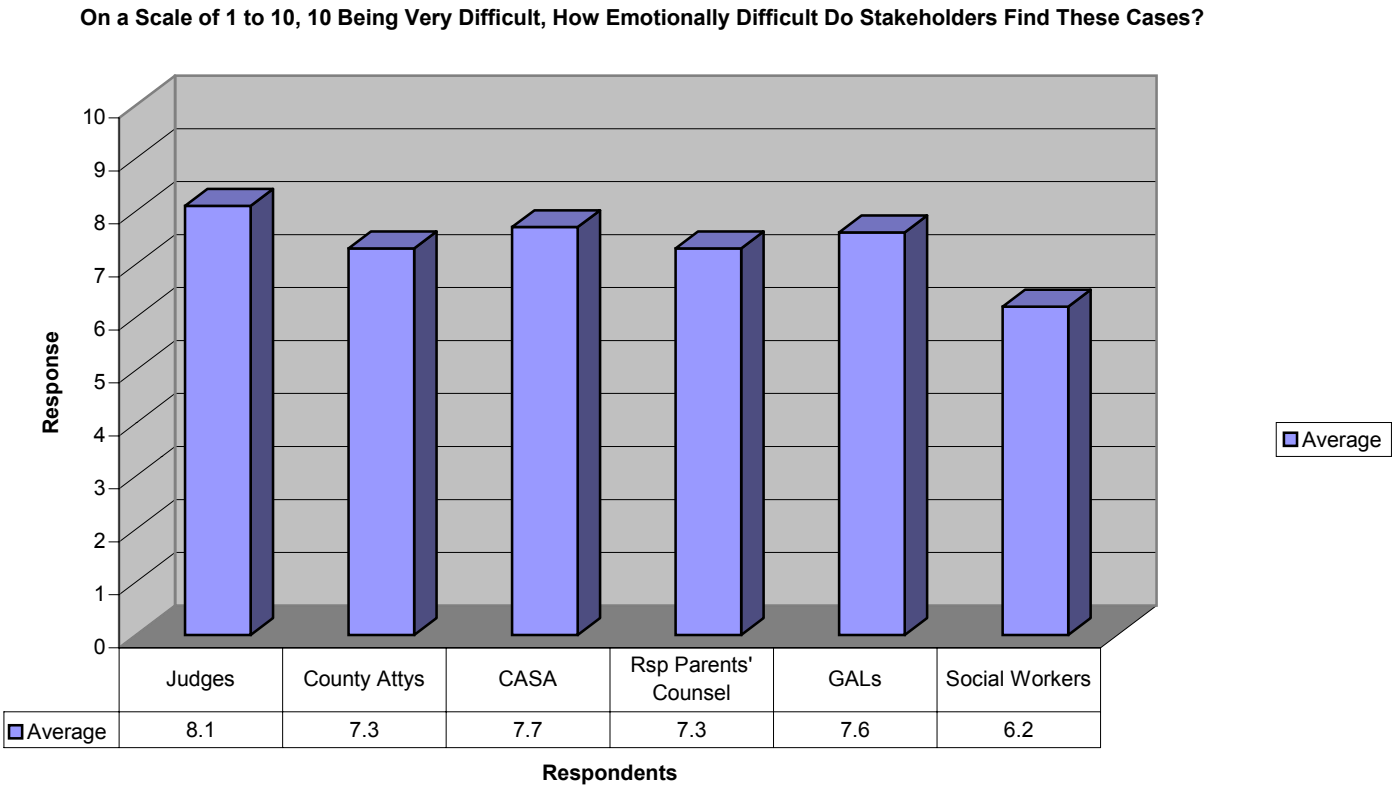


	County Attorneys	GALs	Resp Parents' Counsel	Judicial Officers	CASA	Social Workers
Yes	100%	97.60%	94.10%	95%	100%	85%
No	0	2.40%	5.90%	5%	0	15%

That some parties do no always appreciate handling these cases illustrates how difficult these cases can be. All parties involved in these cases cannot help but be emotionally affected by the events in the case. As you can see from the chart on the following page most of the respondents indicated that the emotional difficulty level was between a seven and a ten.[60] So, in addition to the respect level not being very high with these cases, parties indicate there is great stress associated with handling the cases as well. This accords with the original assessment finding that "D & N cases are handled in an emotionally charged and highly stressful environment, with little support."[61] As noted, the level of stress and difficulty in these cases has remained the same. However, as will be discussed later, there is somewhat more support for individuals in these cases than was present during the original 1996 assessment.

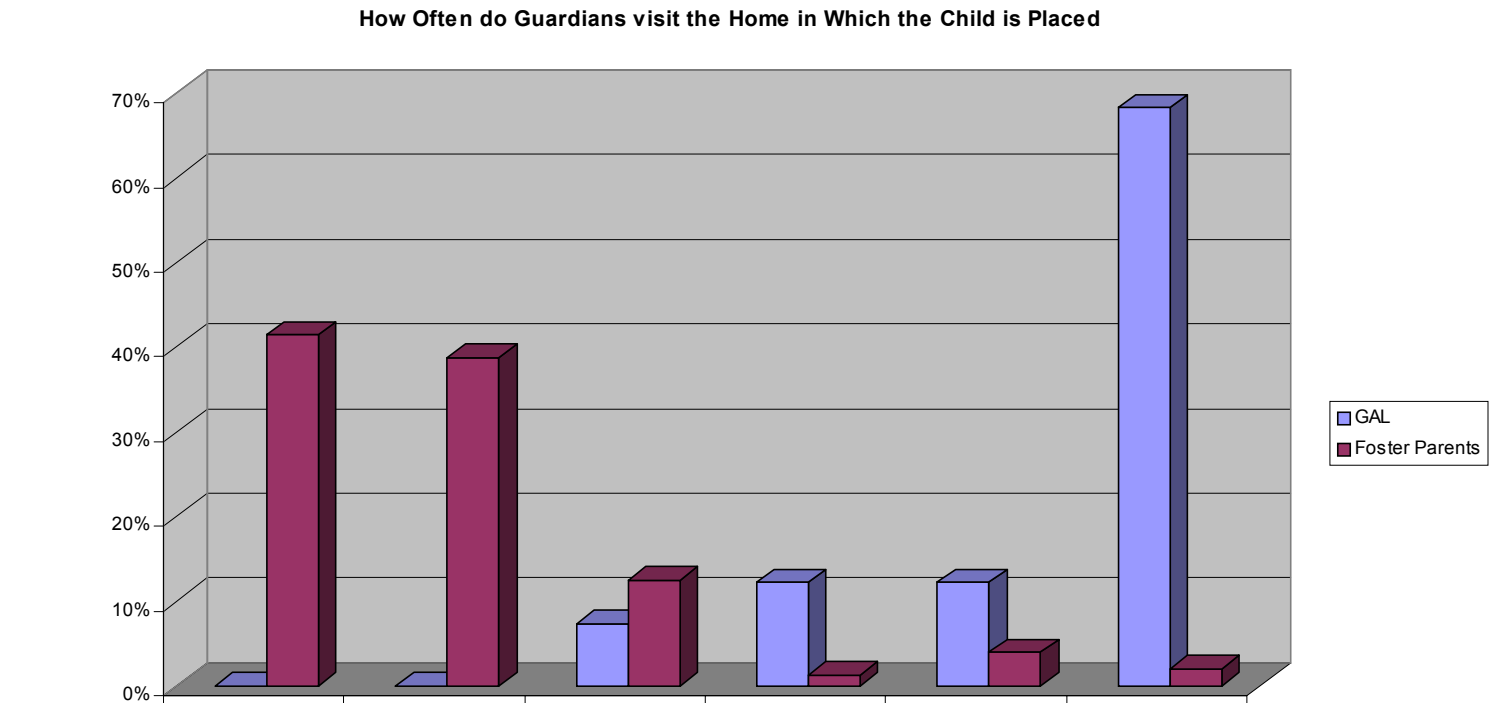


Representation

This was an area of major concern in the initial assessment. Though there have been improvements in this area, this continues to be an area of concern. As was discussed earlier, the amount of financial compensation received by both GALs and respondent parent's counsel may encourage such individuals to do the minimum amount of work required. The initial assessment remarked the very same thing.[62] Though the amount of compensation has been raised since 1996, significant work still needs to be done in order to adequately compensate attorneys for performing this kind of work.[63]

Soon after the original assessment was performed, the Chief Justice of the Colorado Supreme Court promulgated both Chief Justice Directive 96-08 and 97-02. Both were aimed at addressing some of the concerns brought to light by the original assessment.[64] CJD 97-02 was designed to set some standards around the representation of children by GALs. In this directive

GALs were mandated to acquire at least ten hours of continuing education relating to childhood development. They were also required to visit the child at least once in his/her placement. The current survey responses indicate that this latter requirement has been complied with sporadically at best from the perspective of the foster parents.[65] From the point of view of GALs, they have complied with this requirement.



	Never	Rarely	Occasionally	Often	Usually	Nearly Always
GAL	0%	0%	7.30%	12.20%	12.20%	68.30%
Foster Parents	41.40%	38.80%	12.50%	1.30%	3.90%	2.00%

As can be seen from the chart above, the responses from GALs and foster parents are almost mirror images of one another. Forty-one percent of foster parents report that GALs "never" come to visit the child. Sixty-eight percent of GALs, on the other hand, report that they "nearly always" visit the child in placement.

While 41 percent of foster parents report GALs never visit their home, this is an improvement over what was reported in 1996. The original research noted that "sixty-one percent of foster parents surveyed stated that guardians ad litem had never visited children who

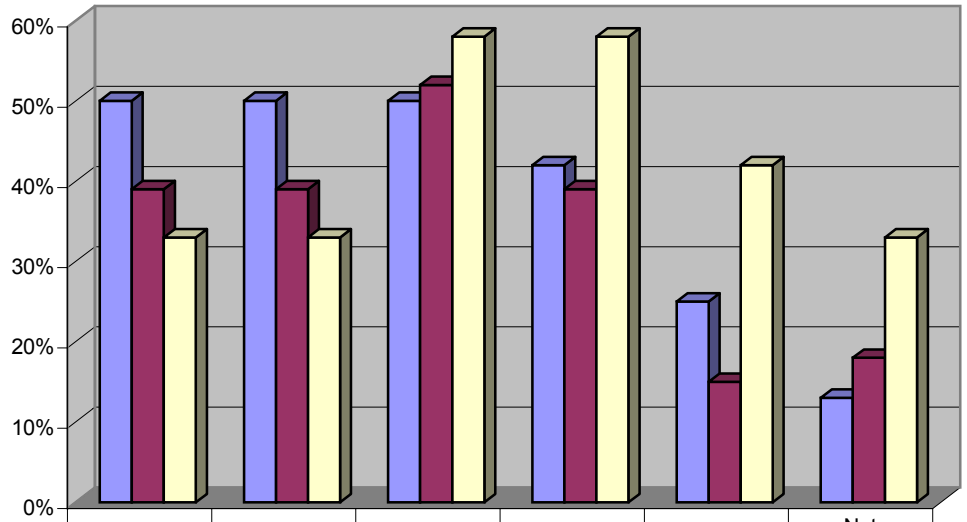
were placed in their foster homes."[66] So there is some indication from foster parents that GALs are making more of an effort to visit children in the foster parent's home.

The responsibility for the GALs now rests in a newly created state agency called the Office of the Child's Representative (OCR).[67] Formerly each individual district had the oversight for their GALs. It was the local judicial district that ensured GALs adequately represented their children, as well as ensured compliance with the requirements of CJD 97-02. In response to reports that GALs needed more centralized oversight, the OCR was created. The Office of Child's Representative will have payment authority, as well as the ability to censure and remove GALs who are not meeting their responsibilities.[68]

The Director of the Office of Child's Representative has traveled statewide assessing the needs with regard to GALs, and is developing a rigorous training program aimed at improving the understanding of family issues. "Children are best served by the legal child welfare system when lawyers understand the social, psychological as well as legal implications of a case and what those mean developmentally for the child."[69] The belief is that the OCR will bring much needed assistance to the guardians ad litem as a whole, and to the system in general. This increased oversight from 1996 is an improvement in the system that, although relatively new, is hoped to improve representation for children in the future.

Respondent parents' counsel must represent the parents in their dependency and neglect action. As noted they do so with a minimum of resources, including time and compensation. The original assessment pointed out perceived weaknesses of the attorneys. "Weaknesses identified were that some attorneys do not meet their clients, are unprepared, or do not spend enough time with their clients."[70] The chart on the following page reflects some of the same concerns currently. The county attorneys, GALs, and CASAs were asked to evaluate the

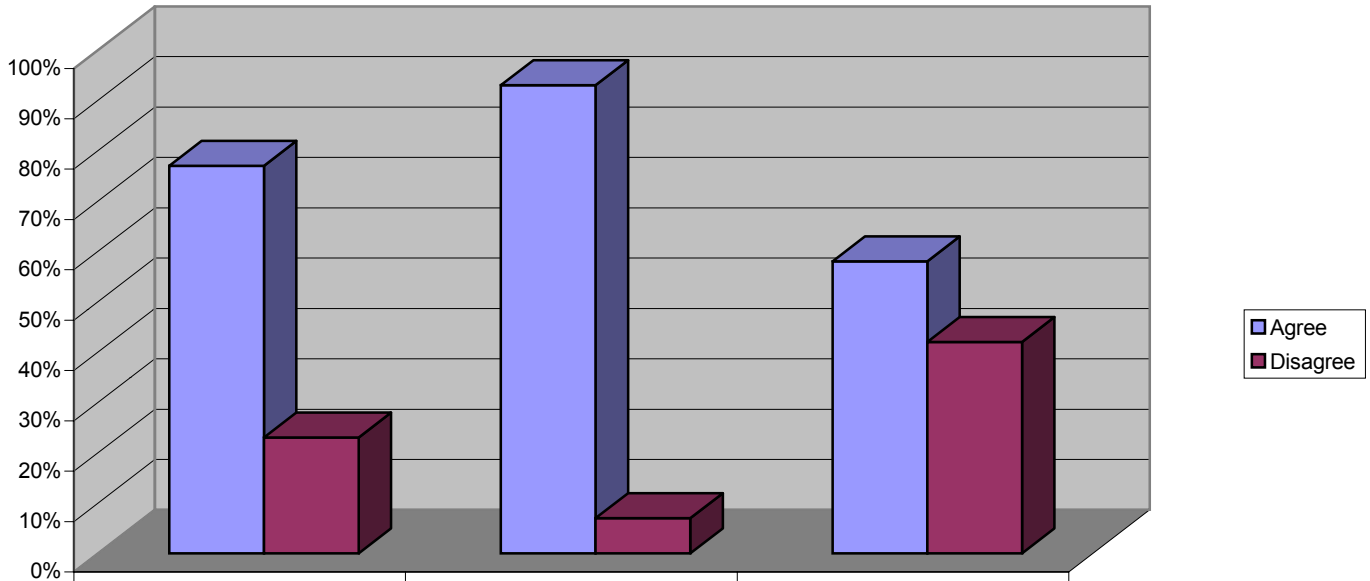
Perceived Weaknesses of Respondent Counsel



	Too Many Cases	Not EnoughTime	Do Not See Clients	Do Minimum Required	Unprepared	Not Aggressive in Rep
County Attorney	50%	50%	50%	42%	25%	13%
GAL	39%	39%	52%	39%	15%	18%
CASA	33%	33%	58%	58%	42%	33%

weaknesses of respondent parents' counsel. The chart shows that over half of those polled indicated that there are significant concerns over whether the respondent parents' counsel see their clients. Other identified concerns are that they do the minimum that is required in representing their clients.[71] It is difficult to compare the perceptions of individuals from 1996 to 2000, as much of the original assessment was of a qualitative nature. However, it is fair to say that the same concerns exist today as did in 1996. Considerable time, effort, money, and energy must be dedicated to remedying this situation.

Client Satisfaction Survey
(Q: Individual is better off because because of involvement with the County Social/Human Services Department)



	Providers	GAL	Parents
Agree	77%	93%	58%
Disagree	23%	7%	42%

Parents involved in the child welfare system naturally express concern over their involvement with the departments and the court. Few surveys from parents were returned, but those that were returned indicate dissatisfaction with how the cases proceeded, and what was done in the course of the case. This contrasts slightly with the results of a report that the Colorado Department of Human Services conducted, not only of parents, but GALs and providers as well. The Department asked the question, "Overall, I (my clients, my family, my child) am better off because of involvement with the County Social/Human Services Departments..."[72] Fifty-eight percent of parents indicated that they were better off because of the local department's involvement. Although there was no initial finding of client satisfaction in 1996, the fact that in 2001 there is this level of satisfaction is a positive step forward.

While not a paid representative of the child, there has been an increased use of Court Appointed Special Advocates (CASAs) in the State of Colorado. CASA programs utilize trained community volunteers to assist in monitoring a child's progress through the D&N process. At the time of the original assessment, five CASA programs existed in the state. Currently there are twelve CASA programs throughout the state (with more being planned), and a centralized Colorado CASA organization whose function is to assist local CASA programs in program and resource development. CASA programs are generally perceived as being very healthy for the system. Over 90 percent of those polled indicated that CASA volunteers genuinely care about the child. Over 80 percent polled indicated that one of the major strengths of the CASAs is that they spend time with the child. As the original assessment pointed out, "CASA volunteers spend more time with the children than caseworkers and guardians ad litem, provide an 'outside community' perspective to the process…and offer additional resources to the cases, especially in the investigative and service identification areas."[73] That CASAs have continued to increase, and that their involvement in the cases is generally valued and respected, is a general improvement that can be seen in the cases from 1996.

Relationship Between Agencies

The initial assessment pointed out several difficulties with inter-agency relationships. These included problems with caseworker reports, compliance with regulations that require the court to make mandatory findings in order to maintain federal funding eligibility, accountability of all system players, caseworker turnover, and compliance with the Interstate Compact on the Placement of Children.[74] Many of the initial comments are centralized around a general lack of communication and cooperation between the various stakeholders in the system. Since 1996 efforts have been made to increase inter-agency cooperation. For example, as mentioned,

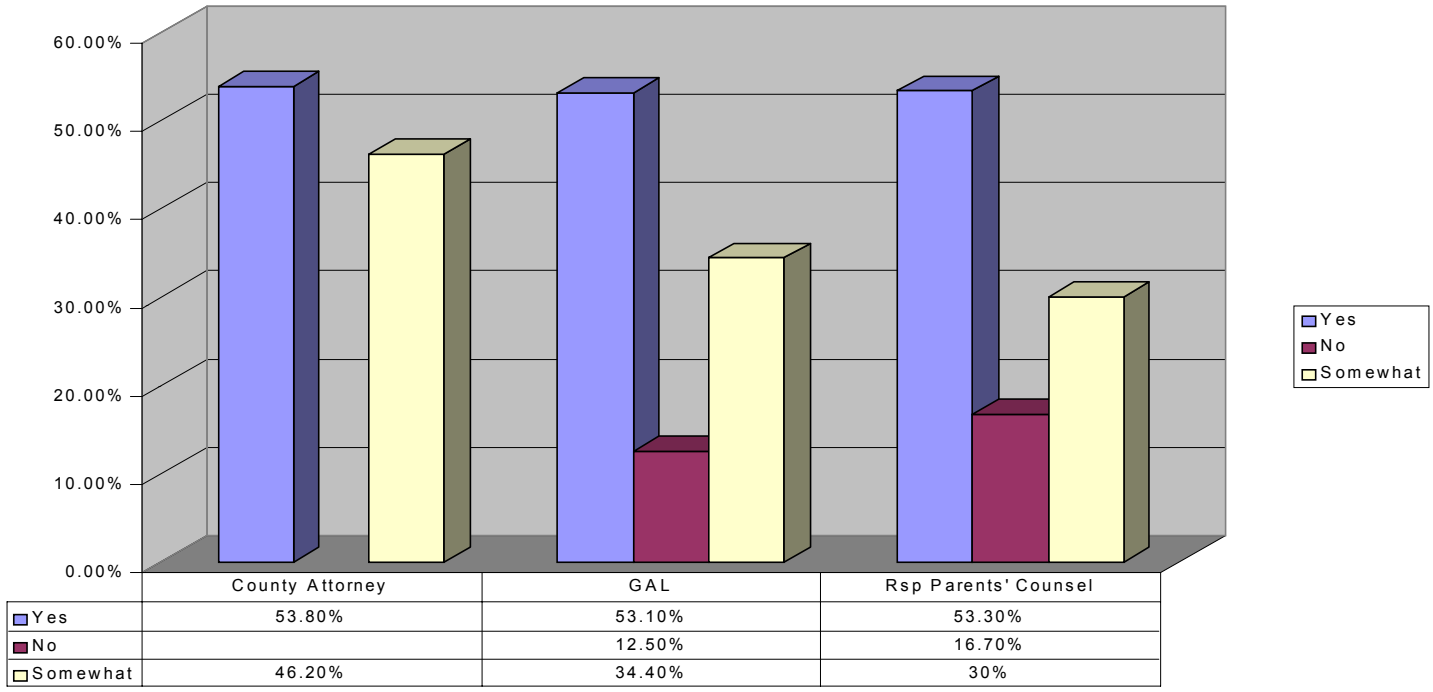
expedited permanency planning was implemented by the legislature in 1994. The Colorado State Judicial Branch, as represented by the Court Improvement Project Coordinator, and the Colorado Department of Human Services traveled the entire state addressing implementation of the expedited procedures. Local EPP gatherings were comprised of attorneys, judicial officers, caseworkers, and court staff and personnel. Such meetings have helped foster a greater sense of cooperation and commitment by those invested in the system.

Court Improvement staff, in conjunction with the Department of Human Services, has also traveled the state in order to address the various aspects of the Federal Adoption and Safe Families Act. At the time of this writing, the entire state has been covered, again with the audience being comprised of attorneys, judicial officers, caseworkers, and court staff and personnel. These cross-systems trainings have helped foster a greater sense of collaboration and cooperation across the local agencies and have been mostly well received. An additional benefit to these trainings has been increased awareness of the federal laws and regulations in relationship to Colorado's laws.

To generally assess stakeholders' thoughts with regard to the D & N court process a question was asked of them. They were asked whether they thought the way D & N cases were handled in Colorado has improved over the past five years. There was not resounding agreement on this, though over 50 percent of those polled indicated that they did feel the way D & N cases were handled has improved. The chart on the following page graphically represents this.[75]

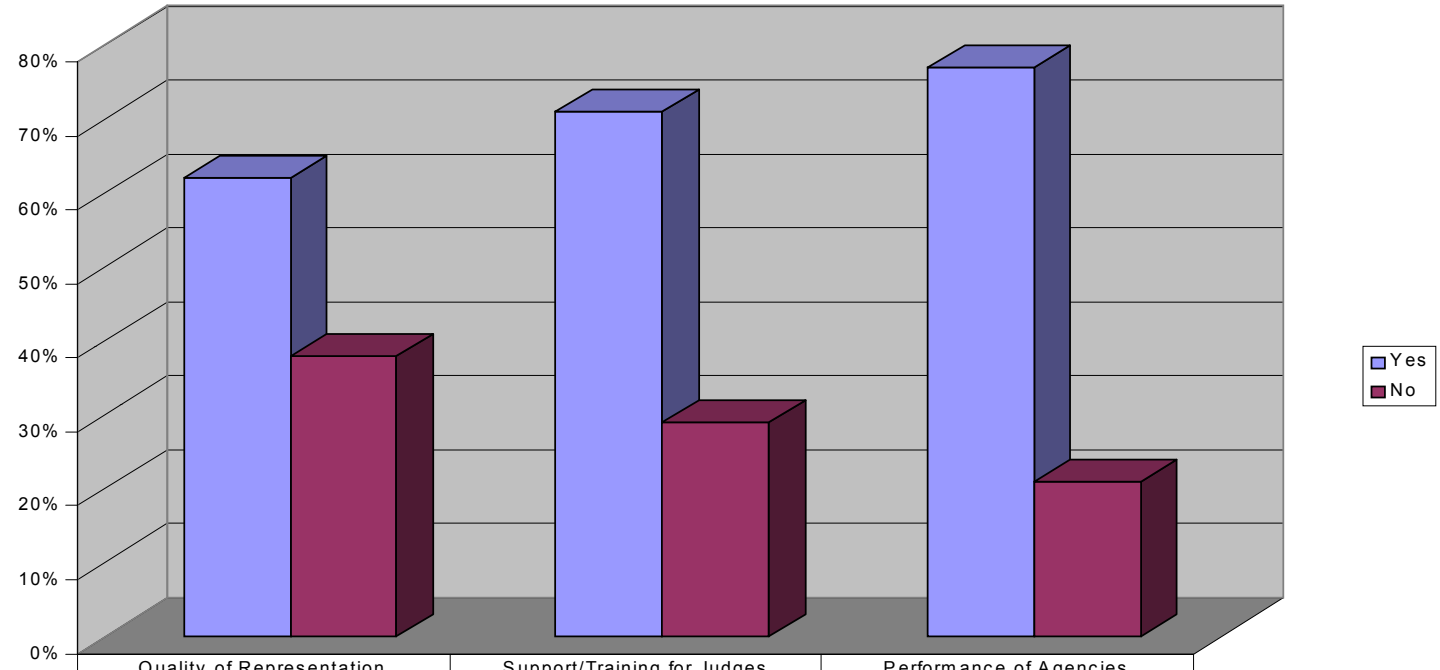
Judicial officers were asked similar questions, but their responses were focused on three different areas: quality of representation, support/training given to judges in this area, and performance of outside agencies. They were asked whether these areas had improved in the past five years. Sixty-two percent felt the quality of representation had improved.

General Improvement



	County Attorney	GAL	Rsp Parents' Counsel
Yes	53.80%	53.10%	53.30%
No		12.50%	16.70%
Somewhat	46.20%	34.40%	30%

Judicial Perception of Improvement



	Quality of Representation	Support/Training for Judges	Performance of Agencies
Yes	62%	71%	77%
No	38%	29%	21%

Seventy-one percent felt training for judges had improved, and seveny-seven percent believed the performance of outside agencies had improved since 1996. Overall, a majority of judicial officers have perceived improvement over the years.

As commented previously, the perception in 1996 was that cases were undertaken with little or no outside support. As is noted above, 71 percent of the judicial officers polled believed that the amount of support/training given in the D & N area had improved over the past five years. Numerous trainings are offered to judicial officers and attorneys in the area of child development, and particular developments in the law. The newly developed Office of the Child's Representative will vigorously pursue training for GALs, as well as serve as a centralized resource for attorneys practicing in this area of the law.

Training

In 1996 "[t]raining was identified as one of the highest areas in need of improvement, specifically for guardians ad litem, respondent parents' counsel, county attorneys, judges, and magistrates."[76] Court Improvement and State Judicial have made training for judges, magistrates, and others a priority over the past five years. In addition to the mandatory Judicial Conference, many judges and magistrates attended the yearly Family Issues Conference. This conference has been sponsored in part by the Court Improvement Project.[77] Topics presented at this conference have included Dr. Bruce Perry's childhood trauma theories, secondary trauma and how it impacts judges, the relationship of diagnoses to a child's life, child development in general, high conflict divorces, substance abuse, and various issues of family violence in general. This is an incomplete list, but demonstrates the commitment to training that has developed through the initiative of the Court Improvement Project and others.

In addition to the Family Issues Conference, each year judicial officers, court staff, and child welfare practitioners participate in the Colorado Department of Human Services' Child Welfare Conference. The Court Improvement project has contributed substantial resources to allow this participation each year. As one former judicial officer remarked, "the conference truly changed the way I did my job. It helped me become a better magistrate."[78] Judicial officers in general have echoed this comment, saying that the conference is one of the best they have ever attended.

Several other trainings have been spearheaded by the Court Improvement Project, including "Dusting off the Cobwebs on Your Robes," and an Indian Child Welfare Act training in June of 2002 featuring Judge William Thorne from the Utah Court of Appeals, and ICWA expert Ms. Valerie Lane. Supplemental training has been provided to individual judges and staff. For example, judicial officers and staff have received assistance from the federal grant in order to attend programs focused on child welfare, delinquency, and the prevention of child abuse and neglect. Support for judicial officers is demonstrated by the number, quality, and depth of the trainings held since 1996.

Additionally, Court Improvement project staff has traveled the state several times updating court staff as to D & N timeframes and computer coding issues. Because there is sometimes such a high turnover in this area, repeated trainings are necessary. This area was targeted as needing improvement by the original assessment: "[c]ourt staff did not appear to be sufficiently trained with respect to dependency and neglect time frames or data entry codes."[79] Increased use of the proper codes enables accurate data collection from which to measure improvement. The several trainings given so far have been successful, and increased usage of proper coding is taking place around the state. Correct coding is crucial to enable the State and

the local districts to monitor their ongoing cases. Without data to demonstrate problem areas and successes, there is no way of knowing how or where to improve.

Training in the area of the Indian Child Welfare Act was identified in the original assessment as being an area in which there was need for improvement.[80] The assessment stated that "[s]everal of the judicial officers interviewed indicated that they had no experience in handling children governed by this act."[81] To help remedy the perception that judges were unaware of the Indian Child Welfare Act law, training was held at the 2001 Judicial conference. This training was well received, and as mentioned, there was a follow-up training in June of 2002. This training involved judicial officers, county attorneys, guardians ad litem, social services supervisors, family court facilitators, and respondent parents' counsel. The training was in conjunction with the Colorado Department of Human Services, the Court Improvement Committee and North American Indian Legal Services. In 1996 the report noted that judges might not know how to apply the Act. There were concerns that Indian children were not being identified in D&N cases, and as such, the Tribes were not being notified of their right to intervene and to possibly assume jurisdiction. Strides have been made, though, as evidenced from the ICWA trainings and passage of a recent ICWA bill.[82] However, continued focus on this area is warranted.

Appeals

The 1996 assessment identified various concerns associated with filing D & N appeals in Colorado. The report noted that, "…delays in the appellate process impact the lives of children and increase the uncertainty in their lives….[T]he appellate courts should…develop methods to expedite these cases."[83] Currently, all appeals of D & N cases are to "be given precedence on the calendar of the appellate court over all other matters unless otherwise provided by law."[84] As

such, this is now the regular practice of both the Colorado Court of Appeals and the Supreme Court. Both the Court of Appeals and the Supreme Court take very seriously the charge of expeditiously deciding these cases. They are well aware that children's lives are in the balance. Both courts implemented internal procedures which have dramatically reduced the duration of these appeals.

An aggrieved party may file an appeal of the district court's judgment with the Court of Appeals. Once the record on appeal is prepared and filed, the briefs submitted, and the appeal becomes at issue, the case is immediately assigned to a panel of Court of Appeals judges. Oral arguments are held and, once assigned, the court issues an opinion in an average of ten days. An aggrieved party is then entitled to file a Petition for Rehearing and, subsequently, a Petition for Writ of Certiorari with the Colorado Supreme Court. Because the record on appeal has already been prepared and filed with the Court of Appeals, petitions for writ of certiorari move very swiftly in the Supreme Court. The Colorado Appellate Rules provide 45 days in which to file the Petition for Writ of Certiorari, together with any Opposition and Reply Briefs. The average amount of time a D & N matter is pending in the Supreme Court is actually only 44 days since the certiorari petitions are immediately assigned if either the Opposition or Reply Brief is not filed. [85]

Both the Court of Appeals and Supreme Court have established procedures that move these cases as quickly as possible, while protecting the parties' rights to due process. All juvenile cases are given expedited status throughout the appeal process. In the Court of Appeals, motions for extensions of time to file the record are handled exclusively by the chief judge and are permitted only for good cause shown, with no further extensions. These procedures are resulting in real improvement. In 1996, the average amount of time from filing the notice of

appeal to issuance of an opinion was 396 days; that time frame now stands at 286 days, an improvement of 28%. This significant change is encouraging. However, if additional improvement is to occur, revisions to the time frames permitted in the appellate rules must be considered. The rules presently allow up to 219 days for the appeal to become "at issue" in the Court of Appeals.[86] The actual average amount of time it takes for the record on appeal to be filed is currently 113 days. Of the 286 days it currently takes to resolve a D & N appeal, 40% of that time is devoted to preparing and filing the record in the Court of Appeals.

Both appellate courts in Colorado have worked hard at improving the aspects of the D & N appeal that are within their control. However, if additional improvements are to occur, study of the actual time requirements to file the notice of appeal, prepare and transmit the record on appeal, and file the various briefs must be undertaken. Additionally, the Colorado Appellate Rules must be revised.

IV. Conclusions

The Court Assessment Advisory Council developed the recommendations in the 1996 report. They also developed the twelve-point implementation plan to be followed in order to improve the way D & N cases are handled in the Colorado Courts.[89] The preceding pages demonstrate the numerous changes that have taken place over the years since 1996. Of those twelve points of the implementation plan, many of them have been undertaken, and this report has delved into some of the changes associated with the recommendations. Not all of the recommendations were formally addressed by this assessment, though progress has been made on many of the Council's recommendations.

For example, timeframes have been dramatically reduced since the advent of the Court Improvement Project. Much time, effort, and dedication by many individuals went into ensuring that timeframes in the cases were being met to the extent possible. Additionally, progress has been made in opening up as many avenues as possible to resolve these very sensitive cases. The increased use of mediation, family group decision making, and case conferences by court facilitators is an improvement over the system five years ago, where many cases proceeded through the same courtroom setting. There is also some improvement in individuals' perception of juvenile law. However, this is a slow change that will continue to occur over time. The increased visibility to this area in the courts (with the development of court facilitator positions, and numerous trainings) heightens the level of recognition this area of the law receives.

As noted, training is also an area that has been heavily emphasized. The numerous trainings that have taken place since 1996 have markedly increased the knowledge base of the judicial officers and practitioners. As for practitioners, work continues to need to be done to improve the level of representation received by both children and respondent parents. There is

some indication GALs are visiting their clients more often, and with the creation of the OCR, the quality of GALs will continue to improve. Respondent parents' counsel poses a separate problem, and will need to be further examined in future years.

As a whole, the culture of change, and the willingness to look at weaknesses in the system and attempt to correct them, has improved the way D & N cases are handled in Colorado since 1996. The systemic nature of this area of the law requires that all stakeholders strive to work together in order to improve outcomes for children and families within the court system. Colorado is continuing to be guided by the best interests of the children and will continue to improve the processing of these cases in the future.

Endnotes

[1] Pub. L. No. 103-66

[2] Laurie Shera, Child Abuse and Neglect Cases in the Colorado State Courts (1996).

[3] Members of the Advisory council included: Judges D. Richard Toth, Dana Wakefield, Michael C. Villano, Kenneth K. Stuart; Magistrates Tina Olsen and Theresa Spahn; Adoree Blair - foster parent representative; Art Lucero, Denver City Attorney; William Webb - guardian ad litem; Deborah Gans - respondent parent counsel; Bonnie-Boyce Wilson, Pam Hinish, and Emily Tracy - Department of Human Services; Oneida Little - Administration for Children and Families; Trudy Strewler - CASA of Colorado Springs; Irene Cook - Denver CASA; Shari Shink - Children's Legal Clinic; Dan Brinker - Colorado Judicial Institute; Gerry Moore - Judicial Advisory Council; and Laurie Shera, Jan Bouch, and Mary Winston Donworth - Office of the State Court Administrator.

[4] The Court Improvement Committee is currently comprised of Judges Charles Buss, John Vigil, Karen Ashby, Melvin Okamoto, J. Steven Patrick, J. Stephen Phillips, Cheryl Post, Dana Wakefield, Carol Haller, J. Robert Lowenbach, and Karen Metzger; Magistrates Christine Chauche, David Furman, Pam Gagel, Steve Schapanski, Evelyn Hernandez Sullivan; Family Court Facilitator Carolyn Mclean, and Oneida Little from the U.S. Department of Health and Human Services.

[5] This implementation plan included: 1) Developing, implementing, funding and evaluating case manager pilot projects in Adams, Denver and El Paso Counties, 2) Developing a CASA project to improve and expand the use of CASA volunteers, 3) Developing, conducting and funding a interdisciplinary D & N Training Conference, 4) Simplification of caseworker court reports by the Judicial Branch and the Department of Human Services, 5) Coordination of the Judicial Branch and the Department of Human Services to revise discrete case plans to include court treatment plans, 6)Representatives from the Judicial, Department of Human Services, and the Colorado Bar Association should develop a plan which address notification, attendance, use of Foster Care Reviews for staffings, improving communication and acceptance issues to improve the use foster care reviews, 7)Develop procedures and statutory revisions to expedite the appellate process, 8) Feasibility studies should be conducted regarding on-site child care and the development of an informational kiosk system, 9) Office of the State Court Administrator staff should provide technical assistance to judicial districts to assist in the monitoring of guardian ad litem compliance with Chief Justice Directive 96-02, 10) No later than July 31, 1996, the Advisory Council shall submit recommendations regarding the contract guardian ad litem and respondent parents counsel system to the State Court Administrator, 11) The State Court Administrator's Office will ensure cooperation and coordination with the Colorado CASA program to implement CASA programs on a statewide basis, and 12) The Dependency and Neglect Court Assessment Project Advisory Council will forward suggestions for statutory or rule changes to the Chief Justice of the Colorado Supreme Court.

[6] In Fiscal year 2001 the ten counties totaled 2377 D & N cases out of the 3313 filed in Colorado.

[7] Concerning the Placement of Young Children and Making an Appropriation in Connection Therewith, Colo. Session Laws p. 2052 (1994).

[8] Colorado's laws dealing with child abuse and neglect cases are a reflection of numerous years of revision to comply with federal law such as the PL 105-89, The Adoption and Safe Families Act, as well as an attempt to accord with Volume VII of the Colorado Department of Human Services.

[9] C.R.S. § 19-3-403(3.5) (2002).

[10] C.R.S. § 19-3-403(2) (2002).

[11] One of the purposes of the temporary custody hearing is to determine if continued custody of the child with the department "…is appropriate and in the child's best interests." C.R.S. § 19-3-403(3.6) (2002). The court "shall make a finding that reasonable efforts have been made to prevent unnecessary out of home placement…[or]…that the child is seriously endangered and an emergency situation exists which makes it reasonable not to make reasonable efforts to prevent the removal of such child." Id. Additionally, C.R.S. § 19-1-115(6) requires, *inter ali*a, that when a court enters an order removing a child from its home, or continuing the out of home placement of the child, a finding must be made that continuation in the home would be contrary to the child's best interests, and that reasonable efforts have been made to prevent the removal of the child from the home.

[12] C.R.J.P. 4 (2002) states that the filing party has ten days from the date the child is removed from custody to file the petition.

[13] Again C.J.D. 96-08 directs the court to conduct an advisement on the petition at the first hearing if the petition is available. C.R.J.P. 4.2(a) (2002) states that "[a]t the first appearance before the court, the respondent(s) shall be

fully advised by the court as to the rights and the possible consequences of a finding that a child is dependent or neglected."

[14] C.R.S. § 19-3-505(3) (2002).

[15] C.R.S. § 19-3-202(2) (2002).

[16] If the child is of Native American descent the Indian Child Welfare Act (ICWA) mandates that the standard of proof at an adjudication is clear and convincing evidence. If the case proceeds to termination the standard is beyond a reasonable doubt. The ICWA is found at 25 U.S.C §§ 1901-63.

[17] C.R.S. § 19-3-508(1) (2002). C.J.D. 96-08 requires courts to work with their local departments to enable dispositions to occur at the same time as adjudications. C.R.S. 19-3-505(7)(b) states that "it is the intent of the General Assembly that the dispositional hearing be held on the same day as the adjudicatory hearing whenever possible." However, there is natural variance between districts due to the district's size, composition, and staffing.

[18] C.R.S. 19-3-702(1) (2002).

[19] Id.

[20] C.R.S. § 19-3-703 (2002).

[21] *See* 19-3-602 *et. seq.*

[22] Laurie Shera, Child Abuse and Neglect Cases in the Colorado State Courts 21 (1996).

[23] The difference between the county attorneys and social workers illustrates a basic perceptual gap between the parties. Social workers very well could be looking at delays in terms of how things are going for the child, i.e. finding placements for the child, therapy, and other services. The nature of the system is that this takes time. The attorneys may be seeing that the necessary events in the case generally take place on time, with few delays. However, there is a difference between merely having events take place, and setting up treatment/placement for the child and family.

[24] Id.

[25] This of course takes into consideration that, from at least two perspectives (the judicial officers and county/city attorneys), there is over 90% agreement with the statement that D & Ns are handled in a timely manner.

[26] Laurie Shera, Child Abuse and Neglect Cases in the Colorado State Courts 21 (1996).

[27] Id. Morgan, Logan and Otero Counties were excluded from the chart due to the small number of cases.

[28] Calendar year 2000 cases were chosen because this was the most complete data at the time this report was being prepared. It must be noted that the data for all of the 2000 charts were gathered from Colorado's Informational system – ICON. ICON is only as valid as the data being entered into the system. User error, and erroneous information is sometimes entered into the system. However, the Judicial Branch is continuously making efforts to improve the data integrity of ICON.

[29] The greatest number of continuances occurred at the permanency, dispositional, advisement, and review hearings.

[30] While work has been done around the state on caseflow management techniques, jurisdictions such as Denver and Arapahoe routinely meet to discuss better strategies of handling their cases.

[31] Jurisdictions continue cases for any number of reasons: missing court reports, ill-prepared parties, unacceptable treatment plans or family services plans, scheduling conflicts, and missing parties (just to name a few reasons). In many instances it is in the best interests of the child that the hearing be continued – to allow more time for a placement to be explored, or for family therapy to be adequately developed. Continuances, while one measure of improvement here, are not always a negative occurrence. As required by the Chief Justice Directive, judicial officers are oftentimes noting in the minute order that the continuance was in the best interests of the child. However, special attention should be given to the requirements in Chief Justice Directive 96-08 paragraph 4 which prohibits the continuance of a case unless a manifest injustice will occur.

[32] C.R.S. § 19-3-505(3) (2002).

[33] The original assessment also found there was a difference between respondent mothers and fathers in both time to adjudications, and dispositions. For the purposes of this report the average number of days detailed in the 1996 report for both respondent mother and father have been averaged together to yield a more descriptive number. Comparisons between the respondent mother and father have been disregarded for this report, with the measure being whether an event occurred in a particular case and the time period in which that event occurred.

[34] This is certainly not to say that a case with no adjudication for over 400 days is acceptable or desirable. However, unusual circumstances do occur, and there will always be exceptions.

[35] Many jurisdictions have a system where the parents can begin working on their treatment plan before the adjudication. Informally, the local departments have a plan in place that has been developed with the help of input from parents and their attorneys. However, before adjudication takes place, the case is in a bit of limbo, and the

parents may be hearing that, until adjudication takes place, there is no need to move forward with treatment or other efforts.

[36] Laurie Shera, Child Abuse and Neglect Cases in the Colorado State Courts 24 (1996).

[37] Logan County is omitted from this analysis because there was no data available on ICON.

[38] The reason this is so is that Denver became an EPP designated county in November of 2000 and Adams was designated EPP in 2001. The number of EPP cases in calendar year 2000 is therefore very small. Denver County has been working very hard since that time to implement effective policies and procedures dealing with effective case management, and EPP in particular.

[39] Formerly the requirement for Permanency hearing was that it be conducted as soon as possible, but in no instance later than eighteen months after removal of the child from the home. C.R.S. § 19-3-702(1) (1995). In 1994 the General Assembly enacted HB 1178, which put into place the expedited procedures of EPP. It was at this time that the permanency hearing for children under six was determined to need to occur three months after the dispositional hearing. The legislature allowed ten years for this implementation to occur. Therefore, at the time of the initial assessment, many counties were still following the eighteen month timeframe for permanency hearings. *See* Colo. Session Laws p. 2057 (1994).

[40] HB 1307 in 1998 required the permanency hearing in a non-EPP cases to occur at twelve months after the date of the child's removal. *See* Colo. Session Laws p. 1421 (1998).

[41] Laurie Shera, Child Abuse and Neglect Cases in the Colorado State Courts 26 (1996).

[42] Laurie Shera, Child Abuse and Neglect Cases in the Colorado State Courts 21 (1996).

[43] There is a very fine line to walk between the parent's due process rights, and the state's *parens patriae* responsibility to look after those children that are being abused or neglected. This report takes no position on the appropriateness of termination hearings, but rather points out the factual changes that have occurred since 1996 in how the courts deal with terminations.

[44] Laurie Shera, Child Abuse and Neglect Cases in the Colorado State Courts 27 (1996).

[45] Logan, Morgan, and Otero were not well represented by this measure. As previously noted information for this report was gathered from Colorado's data management system It is possible that the data for terminations was not properly entered on the system.

[46] Id. at 31. Furthermore, critics of the current D & N system have pointed out that "[c]ases were being settled in the halls, without all the relevant parties present; parties did not seem to understand the process, and what they were supposed to do; parents already felt powerless and left out, and these feelings were further enhanced when the parents were not included in the decision making process; these feelings of helplessness led to the parents' distrust of the social worker." Pamela Airey, Comment: It's a Natural Fit: Expanding Mediation to Alleviate Congestion in the Troubled Juvenile Court System, 16 J. Am. Acad. Matrimonial Law 275, 287 (1999).

[47] As a statewide trend, the 1st, 2nd, 4th, 9th, 17th, 19th, and 20th Judicial Districts all use mediation in their D & N cases. These districts report that mediation is helping resolve difficult issues in a non-adversarial setting. However, the current budget situation has forced the elimination of mediation in the 2nd Judicial District. Many of those mediations, though, have been picked up by the family court facilitator for Denver.

[48] Family Group Decision Making involves parents meeting with their families in a non-threatening environment with the department of human/social services to look at what has brought the child and parents to the attention of the department. The Denver Department of Human Services, for example, requires almost all of their cases to go through a Family Group Decision Making Conference before the case proceeds past the temporary protective custody hearing. Denver reports positive results from this, including greater involvement by the extended family, and more investment on the part of the parents in their treatment plans.

[49] Court Facilitators are now in all 22 districts in Colorado. Some facilitators work exclusively on D & N cases, while others work on domestic cases. Others perform a combination of D & N and domestic duties. As mentioned, those that do D & N work perform what are called Case Conferences, or Staffings. These are usually ordered by the court and are intended to address specific issues that arise in the cases and that can be addressed outside of the courtroom

[50] *See Generally* Nancy Thoennes, Dependency Mediation In Colorado's Fourth Judicial District, (1999).

[51] Nancy Thoennes, Court Facilitation in Colorado's Juvenile Courts 31 (2000).

[52] Id. at 33

[53] Laurie Shera, Child Abuse and Neglect Cases in the Colorado State Courts 35 (1996).

[54] As wrote one attorney who represents respondent parents, "[I]t is ridiculous that a respondents' counsel is paid approximately $700 for as much as 2 years worth of work when the so called experts receive 80-100 dollars per hour for their very limited involvement. Even 45-55 dollars per hour grossly undervalues the legal services which need

desperately to be provided…Shame on you for supporting this sham representation scheme." Survey Response, Respondent Parents' Counsel - Colorado State Court Administrators Office (2001).

[55] These figures come from Financial Services Division of the Colorado State Court Administrator's Office. While this is still low, the GAL's rate has increased nearly 100% since 1996.

[56] It is also of note that GALs and respondent parents' counsel responded lower than other individuals. This indicates that others (judicial officers, CASAs, etc.) may respect the area of juvenile law more than do the GALs and respondent parents' counsel.

[57] Laurie Shera, Child Abuse and Neglect Cases in the Colorado State Courts 35 (1996).

[58] Survey response, GALs – Colorado State Court Administrator's Office (2001).

[59] Court Improvement Committee, Colorado Courts' Recommendations for Family Cases 30 (2001). The discussion paper also points out that the area of juvenile and family law in general is oftentimes used as a "training ground" for inexperienced judicial officers. The paper later goes on to say that every effort should be made by judicial districts, as well as nominating commissions, to appoint experienced, knowledgeable individuals to handle posts in juvenile and family law.

[60] Eighty-one percent of the county attorneys , Seventy-nine percent of the GALs, seventy-six percent of the respondent parents' seventy-seven percent of the judicial officers, and seventy-one percent of the CASA volunteers fell within the 7-10 range of difficulty. It goes without saying that if you create a system in which the work is highly stressful and there is little respect or money accorded to it, small pleasure will be derived from it. It is almost a recipe for dissatisfaction.

[61] Laurie Shera, Child Abuse and Neglect Cases in the Colorado State Courts 35 (1996).

[62] "Negative aspects of the contract system include a feeling that the provisions of the contract and the pay provided do not promote quality representation. In fact 50% of individuals expressed the concern that the contract system encourages contractors to perform at a minimum level." Id. at 45

[63] The compensation scheme creates a bit of a vicious cycle. Attorneys are not paid enough to make a decent living so they take more cases. The more cases they take, the less effective representation either a child or a respondent parent receives. If a contract attorney is required to take 200 cases over the course of several years in order to make a living, it is the rare and exceptional attorney that would be able to adequately prepare for each hearing, and represent that client in the best way possible.

[64] Chief Justice Directive 96-08 deals with early development of case plans expediting adjudications and dispositions, hearings in general and reports.

[65] Personal comments from the foster parents reflect a mixed impression of how the GALs are doing. On the one side responses were received stating "we have obtained counsel because we felt our son had inadequate representation in the GAL, so we paid to get him and us a lawyer. The GAL is a disgrace." While this is an extreme statement, many of the personal comments from foster parents reflected a similar view to this. There were not all negative comments. Many foster parents commented that their experience with the GAL was very positive. As said one, "[o]ur GAL was awesome! They asked about age appropriate behaviors, how visits were going, how social worker was doing." In short it is dangerous to make a blanket statement about the performance of all GALs. Some are doing superlative jobs, some are not, and some are in the middle. The surveys reflect this division.

[66] Laurie Shera, Child Abuse and Neglect Cases in the Colorado State Courts 49 (1996).

[67] HB 00-1371 was the enacting legislation for OCR. Concerns over GALs included that "attorneys who represent children are not as competent as other attorneys in the court room; the attorneys lack necessary and special training in children and family issues; they are underpaid and/or carry too high of a caseload to effectively represent the children…." Office of The Child's Representative 2001 Report 3 (2001).

[68] The OCR is in the process of awarding GAL contracts for this fiscal year. In one major jurisdiction, four GALs are not having their contract renewed. So the process of more stringent reviews of GAL contracts to retain more competent attorneys is well under way.

[69] Office of The Child's Representative 2001 Report 6 (2001).

[70] Laurie Shera, Child Abuse and Neglect Cases in the Colorado State Courts 46 (1996).

[71] However, it must again be noted that, unlike many other areas of the law, the respondent parents' counsel are paid one flat fee for most of the case. Contrast this to attorneys handling divorce proceedings, where the attorney could ask for up to a $5,000 retainer. Billing at an hourly rate after the retainer is absorbed, the divorce attorney is adequately compensated for the amount of time actually spent on the case. There is an incentive for the attorney to dedicate more time to the case and its complex issues. D & N cases are just as complex, and deserve the same amount of attention as do any other cases. A similar comparison could be made with the public defenders office. An entry level PD earns $41,280 per year and only handles a certain number of cases based on ABA standards (A

typical public defender handles 150 felonies, 400 misdemeanors, and 25 appeals per year. However, 97% of these cases are handled in pleas at the onset of the case).

[72] Colorado Department of Human Services – Administrative Review Division, Client Satisfaction Services Survey 2001 14 (2001). The original question actually read "Overall, I (my clients, my family, my child) am better off because of involvement with the County Social/Human Services Departments (or the Division of Youth Correction). The survey itself was not limited to the child welfare population, but was, rather addressed to those involved in the DYC system as well. The above chart has been modified and excerpted with the permission of the Administrative Review Division.

[73] Laurie Shera, Child Abuse and Neglect Cases in the Colorado State Courts 53 (1996).

[74] Id. at 57-61.

[75] Respondent parents' counsel had these positive remarks to make: "better personnel are getting involved in the case," "D & N matters proceed in a timely manner. Social Services more willing to provide services and alternative services and pay for same." Negative comments included, "It's gotten worse. I have been doing this for over 12 years and the system has not improved primarily because the law is bad." Guardians also had mixed remarks. In the positive: "Yes, as the knowledge base of EPP and ASFA increase, things get better." Negative comments were indicative of system wide problems: "The law right now is more interested in closing cases in a period of time than really doing what is in the best interests of children. The issues are insufficient resources and funding, especially in EPP cases." County attorneys noted that "cases don't drag on for years" and that "[t]he quality and training of caseworkers has greatly improved." However, there is a concern that "[t]he emphasis on expedited permanency planning has resulted in a system where social services moves right to termination without providing services." Such comments, and others like it, indicate the mixed perception that exists within the community.

[76] Id. at 69.

[77] Because of cuts in the training budget of Judicial the Family Issues Conference is not being held in 2003.

[78] Interview with Theresa Spahn, March 2002.

[79] Laurie Shera, Child Abuse and Neglect Cases in the Colorado State Courts 69 (1996).

[80] The initial assessment commented that "[t]he Task Force on the Recodification of the Children's Code recommended that language be adopted that specifically refers to and incorporates the Act in the Colorado Children's Code." Id. at 77. Although this has not yet happened completely, HB 02-1064 was signed into law and became effective July 1, 2002. It places in statute the ICWA requirement of notice to the tribe.

[81] Id. at 77.

[82] Colorado HB 02-1064 requires judicial officers to inquire at the very first hearing as to Indian ancestry. The county departments are required to make active efforts at reunification, as well as to continually inquire as to the possible Indian heritage of the minor child.

[83] Laurie Shera, Child Abuse and Neglect Cases in the Colorado State Courts 65 (1996).

[84] C.R.S. § 19-3-608(1) (2001).

[85] Information on the court of appeals provided by John Doerner, clerk of the Court of Appeals. Information for the supreme court provided by Mac Danford, clerk of the Supreme Court.

[86] The notice of appeal is required by appellate rule 4(a) to be filed within 45 days of the judgment of the trial court. The record on appeal, including any transcripts of lower court hearings, and any exhibits needs to be sent to the Court of Appeals within 90 days of filing of the Notice of Appeal pursuant to appellate rule 11(a). The opening brief shall be filed within 40 days of the filing of the record. The answer brief must be filed within 30 days, and any reply brief by the appellant must be filed within 14 days pursuant to rule 31. The case is then considered "at issue" once all these steps have been satisfied. This is 219 days, though parties can ask for extensions and certain steps sometimes take longer to accomplish .

[87] Laurie Shera, Child Abuse and Neglect Cases in the Colorado State Courts 65 (1996).

[88] While the opinions in the case are released at this time, the official mandate may not issue for several weeks since an aggrieved party may file a Petition for Rehearing in the Court of Appeals, or a Petition for Writ of Certiorari in the Supreme Court. The mandate returns jurisdiction to the lower court to either implement its previous judgment, or if reversed, to conduct further proceedings..

[89] *See supra note 4*

Appendices

Appendix A – Selected Compiled Survey Responses

Foster Parent Survey Responses (edited for brevity)

1) How many foster children are in your home today?

44.7% Rated 1 23.4% Rated 2 13.5% Rated 3 6.4% Rated 4
4.3% Rated 5 1.4% Rated 6 6.4% Rated 7

2) How many foster children (total) have you cared for?

19.3% Rated 1 14.1% Rated 2 11.1% Rated 3 4.4% Rated 4
5.2% Rated 5 1.5% Rated 6 44.4% Rated 7

3) What is the average length of time children stay with you?

43.7% more than a year 31.8% more than six months 17.2% three to six months
4.6% one to three months 2.6% less than one month

4) How often, per child or family, have you talked to the guardian as litem appointed to represent the children in your case?

40.8% Rated 1 18.5% Rated 2 15.4% Rated 3 4.6% Rated 4
3.8% Rated 5 1.5% Rated 6 15.4% Rated 7

5) Was this contact initiated by the guardian ad litem?

55.9% Yes 44.1% No

6) What percentage of the contact is by phone?

38.2% 0-15% 19.1% 91-100% 13.2% 46-60% 12.5% 76-90% 6.6%
16-30% 5.1% 31-45% 5.1% 61-75%

7) If you initiated phone calls, please rate how quickly you received a response, 10 being extremely quickly, 1 being very slowly?

15.6% 0 11.0% 1 8.3% 2 5.5% 3 6.4% 4 7.3% 5
3.7% 6 4.6% 7 17.4% 8 10.1% 9 10.1% 10

8) Did the children in your care attempt to contact the GAL by phone?

19.5% Yes 80.5% No

9) If they did attempt to contact the GAL by phone, how quickly was the response, 10 being extremely quickly, 1 being very slowly?

21.1% 0 18.4% 1 7.9% 2 5.3% 3 5.3% 4 5.3% 5
5.3% 6 7.9% 7 13.2% 8 5.3% 9 5.3% 10

10) How often, on a per child, per family basis, do guardians ad litem visit the children in your home?

41.4% never 38.8% rarely 12.5% occasionally 1.3% often 3.9% usually 2.0% nearly always

11) Consider your most recent experience with a guardian ad litem. How knowledgeable was that individual about what was happening in the foster child's case, 10 being very knowledgeable and one being not knowledgeable at all?

13.1%	0	10.9%	1	8.8%	2	1.5%	3	3.6%	4	6.6%	5
4.4%	6	5.1%	7	14.6%	8	16.1%	9	15.3%	10		

12) Did the guardian ad litem request information from you with respect to the child?

57.6% Yes 42.4% No

13) What did the GAL ask?

4.4% nothing 2.2% how was she doing 93.3% Other

Other Answers: He asked to talk to the child. ... How was school going? Any problems in the home? ... nothing other than to introduce himself and how was the child doing. ... standard questions ... What was going on in our case. ... health, behavior, sleep, etc. ... Our GAL was awesome! They asked about age appropriate behaviors, how visits were going, how social worker was doing. ... well-being ... how are they, what is progress, do you need services, excellent GAL in case. ... How child was doing in our home, is child getting medical care. ... Behavior, conversation relating to past or present, my concerns ... How the case was going, how child was fitting into our family, did we have any concerns. ... medical, emotional well-being. ... about school, health, and happiness. ... About their well being and progress. ... the GAL contacted me one time, two weeks after placement. He asked if the child was in my home- he wasn't sure where he was. ... about their care, behavior, habits, likes, dislikes ... How was the child doing, were they responding to care. ... Did the child need anything. ... How they are doing. What are the child's wishes. ... How they were behaving ... current situation ... how the child was doing, how they were doing in school. ... no contact at all ... have never met the GAL in 7 years ... Child's development ... med records and meds they are on. ... no contact with any of the 8 children I have had in my home!!

14) Do you receive notices of hearing regarding the children in your care?

57.7% Yes 42.3% No

15) If so, have you ever attended the court hearings?

68.0% Yes 32.0% No

16) Have you ever spoken in court?

58.4% No 41.6% Yes

17) Has the judge or magistrate been polite and respectful toward you while you were in court?

98.7% Yes 1.3% No

18) Have you ever felt the need to obtain counsel?

54.5% No 45.5% Yes

19) What problems have you encountered as a foster parent related to the court system?

None, the case workers isolate us from the court system. ... none ... poor support/communications. appear like it doesn't work as is the perception. ... The frustration die

to slow speed at which things get accomplished- length of time to return phone calls amount of time between court dates especially. ... a small child went home to grandparents' that had a previous abuse record toward their own child ... none ... not being heard and having my reports discounted. ... Very slow process!! ... Too many delays- my opinion as the person raising and caring for the child counts for nothing. ... none ... caseworker ill-prepared to give testimony defense attorney. did not present any procedural arguments on behalf of client. ... We had a child in the EPP program and it took the courts system 2 yrs plus to get to adoption. ... Slow and frustrating- favors parents, even when, they are immature and selfish and drags cases out too long! ... none ... No voice at hearings, judges should know how the children react to visits with bio parents/siblings, etc. ... getting medical aid and dental aid quickly. It took too long. Child had to miss out on sports at school because we couldn't get physical soon enough. ... convoluted DHS system. Court system is in a constant state of flux- i.e. different county attorneys, etc. Foster children easily fall through the cracks. ... The GAL and caseworker did not keep us informed and did not heed our wishes during the process. ... not enough concern for the children ... Length of time to finalize adoptions and the lack of time when a court date..... Judge not listening to what those concerned with child. Not taking the child's interest to heed. ... none ... Very little support in encouraging the children to make good decisions. Also feel child is often given opportunity to make decisions they are not capable of making. ... We have obtained counsel because we felt our son had inadequate representation in the GAL so we paid to get him and us a lawyer. The GAL is a disgrace. We've not been to court yet, we're still waiting for a date to finalize our adoption. ... Not knowing what is going on- never see court reports and parents (biological) do not relate info well to the child or me. ... Only the scape goat statement as relayed by all workers that the court recognizes "minimally adequate parenting" as sufficient. We don't provide nor do we accept minimally adequate. These children have fought for each breath they have taken up to this point and deserve the best care we can provide. ... Some late notification from lawyers is all. they were from the DA's office in regards to a criminal trial. ... none ... caseworkers and GALs cannot represent the best interests if they never ask foster parents about these children. GALs cannot look our for the best interest of children if they don't know who these children are or have not spoken to the foster parents about these children. ... Judges and magistrates don't always make decisions that are best for the child. The child is not represented i.e., good GALs and no input from foster parents. ... Treated as we don't have the right to say what we feel is in the best interest of the child. ... none ... none ... not knowing what things are court ordered and when ... no one- GAL, caseworker, etc ever seems to know where things are at or what's going on. ... none ... slow termination appeal process ... none ... He wouldn’t' let me show pictures of the 2 boys. He make the decision based on his own experience not on what the mother had or had not done. ... Not being informed without myself being very persistent. ... slow moving, but thorough and effective. ...

GAL Survey Responses (edited for brevity)

1) What percentage of time at work do you spend on D&N cases?

10.8% 50% 10.8% 70% 10.8% 80% 8.1% 40% 8.1% 75% 5.4% 20%
5.4% 25% 5.4% 30% 5.4% 60% 5.4% 99% 5.4% 100% 18.9% Other
Other Answers: 90% ... 45% ... 5% ... 15% ... 55% ... 85% ... 4%

2) On a scale of 1 to 10, 10 being very difficult, how legally difficult do you find the D&N cases?

35.7% 5 21.4% 4 11.9% 2 9.5% 7 7.1% 8 7.1% 9
4.8% 3 2.4% 6 0.0% 0 0.0% 1 0.0% 10

3) On a scale of 1 to 10, 10 being very difficult, how emotionally difficult do you find the D&N cases?

23.8% 8 19.0% 9 19.0% 10 16.7% 7 7.1% 6 4.8% 5
2.4% 1 2.4% 2 2.4% 3 2.4% 4 0.0% 0

4) On a scale of 1 to 10, 10 being extremely well respected, how respected is this area of the law?

28.6% 3 19.0% 2 11.9% 1 9.5% 0 9.5% 4 9.5% 5
9.5% 7 2.4% 6 0.0% 8 0.0% 9 0.0% 10

5) I appreciate handling D&N cases.

97.6% Yes 2.4% No

6) There are substantial delays in the D&N cases.

66.7% No 33.3% Yes

7) D&Ns are handled in a timely manner.

66.7% Yes 33.3% No

8) When are you appointed to the case?

75.6% Shelter/Detention 43.9% Advisement 0.0% Adjudicatory Hearing 0.0%
Treatment Plan Hearing 0.0% Appearance Review 0.0% Permanency Plan Hearing 0.0% Termination

9) If appointed at the Shelter hearing, do you participate?

78.4% Yes 21.6% No

10) As a part of your job do you ensure that hearings are set within timeframes?

94.9% Yes 5.1% No

11) How often are timeframes adhered to in the D&N cases?

39.0% usually 31.7% nearly always 22.0% often 4.9% occasionally 2.4% never 0.0% rarely

12) Do you attend training to keep abreast of new developments in the area of dependency and neglect?

100.0% Yes 0.0% No

13) How many hours per year would you estimate you attend D&N training?

40.5% 6-10 23.8% 16-20 16.7% 11-15 7.1% 21-25 7.1% 26+ 4.8% 0-5

14) Are your reports to the courts submitted:

76.2% both 19.0% verbally 4.8% in writing

15) How often do you visit the home the child was removed from?

35.7% occasionally 26.2% nearly always 21.4% usually 16.7% often 0.0% never 0.0% rarely

16) How often do you visit the home the child was placed in?

68.3% nearly always 12.2% often 12.2% usually 7.3% occasionally 0.0% never 0.0% rarely

17) How often do you speak with the child's therapist?

31.0% nearly always 26.2% occasionally 26.2% usually 16.7% often 0.0% never 0.0% rarely

18) How often are you informed of changes in placement?

31.0% nearly always 28.6% often 23.8% usually 14.3% occasionally 2.4% rarely 0.0% never

19) How many times a month, on average per case, do you meet with your client in the D&N case?

62.5% 1 20.0% 0 10.0% 2 2.5% 3 2.5% 4 2.5% 5
0.0% 6 0.0% 7 0.0% 8 0.0% 9 0.0% 10

20) How often do you agree with the recommendations of social services?

52.4% often 26.2% usually 21.4% occasionally 0.0% never 0.0% rarely 0.0% nearly always

21) On a scale of 1 to 10, 10 being very satisfied, how satisfied are you with the compensation you receive for the D&N cases?

17.5% 0 17.5% 2 12.5% 3 12.5% 4 12.5% 7 10.0% 1
7.5% 5 5.0% 6 5.0% 8 0.0% 9 0.0% 10

22) How often do you have meetings with judicial officers to generally discuss how the D&N cases are being handled?

34.1% never 22.0% bi-annually 19.5% quarterly 19.5% annually 2.4% weekly 2.4% monthly

23) Have you noticed any changes in the past five years in how the D&N cases are handled?

81.1% Yes 18.9% No

24) If you have noticed changes, how beneficial have those changes been? On a scale of 1 to 10, 10 being extremely beneficial, please mark you feelings on the matter.

25.0% 5 15.6% 6 12.5% 8 9.4% 1 9.4% 7 6.2% 2
6.2% 3 6.2% 4 6.2% 9 3.1% 0 0.0% 10

25) How often do you talk to your client before the day of the hearing?

31.0% often 21.4% occasionally 21.4% usually 19.0% nearly always 7.1% rarely 0.0% never

26) How often do you talk to the caseworker before the day of the hearing?

26.2% often 23.8% usually 21.4% occasionally 19.0% nearly always 9.5% rarely 0.0% never

27) How often do you investigate alternative services that might be provided to your client?

51.2% occasionally 29.3% often 14.6% usually 2.4% rarely 2.4% nearly always 0.0% never

28) How often do you interview service providers before the day of the hearing?

37.5% occasionally 25.0% usually 20.0% often 15.0% rarely 2.5% nearly always 0.0% never

29) How often are the D&N cases continued for any reason?

61.9% occasionally 16.7% rarely 16.7% often 2.4% never 2.4% usually 0.0% nearly always

30) Are the following aware and knowledgeable of available services for children and families?

Judges and Magistrates

90.0% Yes 10.0% No

Guardians ad Litem

95.0% Yes 5.0% No

Respondent Parent's Counsel

78.9% Yes 21.1% No

CASA Volunteers

65.6% Yes 34.4% No

Attorneys Representing Social Services

84.6% Yes 15.4% No

Caseworkers

95.0% Yes 5.0% No

31) How often do children achieve permanency within the required timeframes?

39.0% usually 29.3% often 19.5% occasionally 9.8% nearly always 2.4% rarely 0.0% never

32) How often do the parties meet and discuss the matter prior to the:

Adjudicatory Hearing

23.1% rarely 23.1% usually 20.5% often 17.9% occasionally 10.3% nearly always 5.1% never

Dispositional Hearing

33.3% occasionally 23.1% often 20.5% rarely 15.4% usually 7.7% nearly always 0.0% never

Permanency Hearing

28.9% occasionally 26.3% often 21.1% usually 18.4% rarely 5.3% nearly always 0.0% never

Termination Hearing

28.9% usually 26.3% nearly always 18.4% occasionally 18.4% often 7.9% rarely 0.0% never

32) What are the strengths of respondent parents' counsel?

95.2% Understand the system 85.7% Knowledgeable about the law 85.7% Advocate for parents 73.8% Adequate courtroom demeanor 59.5% Well prepared 14.3% Other

Other Answers: advocate for families ... depends on individual completely ... know about the case ... pleasant to work with. ... One counsel, Mark Workman, is top notch. The rest are horrible for a variety of reasons. ... work for low pay

33) What are the weaknesses of respondent parents' counsel?

51.5% Do not advise/see clients 39.4% Too many cases 39.4% Not enough time 39.4% Do minimum required 18.2% Not aggressive in representation 15.2% Unprepared 27.3% Other

Other Answers: Not civil, poor courtroom demeanor, downright mean. ... these answers apply to most, not all ... not paid enough for work ... weak or unresponsive respondents ... lack of client contact is often the client's fault so it makes it very hard for counsel to be prepared. ... under paid so of course they do the minimum. ... too many counties- conflict ... undercompensated ... cooperation from respondent parents with their attorney is minimal

34) What are the strengths of the Guardians ad litem?

100.0% Genuinely care about children 95.1% Understand the system 90.2% Devoted to the best interests of the child 80.5% Knowledgeable about the law 65.9% Well prepared 7.3% Other

Other Answers: answers pertain to most, not all ... seeing the child is important but not nearly as important as having contact with all the treatment and care providers involved. ... Obviously there is a varying range of abilities but truly, I believe Larimer County has some of the best GALs.

35) What are the weaknesses of the Guardian ad litem?

56.2% Not enough time 50.0% Too many cases 31.2% Do not advise/see clients 31.2% Do minimum required 21.9% Not aggressive in representation 6.2% Unprepared 31.2% Other

Other Answers: answers apply to most, not all ... not paid enough money for work ... rely too heavily on DHS ... Almost never confer with Respondent Counsel ... hard to keep abreast of all treatment providers and to get them to provide information- GALs should not have to track down parents to get releases signed to get info on the child. It should be automatic. ... badly paid so of course they don't see their clients. ... not able to keep scheduled appointments due to slow court docket. ... undercompensated ... rubber stamp for Human Services ... lack of resource- placement alternatives, foster care ineffective in some cases.

36) What are the strengths of the CASA volunteers?

77.8% Genuinely care 75.0% Spend time with the child 52.8% Offer outside/unbiased view 38.9% Well trained 36.1% well prepared 8.3% understand system 8.3% Other

Other Answers: none in this county ... not enough exposure to rate ... committed

37) What are the weaknesses of the CASA volunteers?

68.8% Not knowledgeable about the law 53.1% Not experienced 37.5% Inconsistent 31.2% Too attached 28.1% Other

Other Answers: unrealistic ... don't always understand the system ... not aggressive in court with opinions ... not knowledgeable in practical resources and practical problems of alcohol/drug abuse, etc. ... they don't understand how badly SS and GALs are at raising children. ... 10% of volunteers can demonstrate weaknesses, but the program does weed them out. ... Too busy with their personal lives to devote meaningful time to the case. ... not the best training ... Simply agree with Human Services. Fail to understand that parents have rights too. Do not want to get to know parents. Basically useless.

38) What are the strengths of the Caseworkers?

89.2% Knowledgeable about available services 67.6% Genuinely care 62.2% Knowledgeable about parent-child interaction 29.7% Well prepared 16.2% Knowledgeable about the law 5.4% Other

Other Answers: use the "system resources" ... work within the confines of their system

39) What are the weaknesses of the Caseworkers?

72.5% Too many cases 55.0% Stereotype parents 45.0% Focus on system, not child 35.0% Too little time 7.5% Unprepared 2.5% Do not see child 17.5% Other

Other Answers: too rigid, refusal to communicate with parent's counsel. ... unwilling to commit DHHS to spend money or provide services- unwilling to see family dysfunction. ... condescending toward parents ... change in caseworkers ... so much time in court ... Do not written reports on a timely basis. ... Fail to support parent. Fail to encourage parent.

40) What are the strengths of attorney representing social services?

92.7% Knowledgeable about the law 70.7% Well prepared 58.5% Genuinely care
41.5% Familiar with resources 22.0% Excellent litigation skills 2.4% Other

Other Answers: 2 of the 3 are good. The 3rd is not prepared and poor litigation skills. Not as knowledgeable.

41) What are the weaknesses of attorneys representing social services?

60.6% Too many cases 33.3% Unfamiliar with resources 15.2% Unprepared 27.3% Other

Other Answers: Blindly support position of caseworker. ... sometimes too aggressive and unwilling to negotiate. ... failure to properly control the Dept. of Human Services ... unwilling to advise client- caseworker's word is law. ... unfamiliar with case ... under paid, don't stay long enough ... different attorney covering case at times ... needs to not take them so personally ... Not interested in resolving cases. Don't see to want to compromise.

42) What are the strengths of Judges and Magistrates?

92.1% Knowledgeable about the law 71.1% Fair and impartial 57.9% Genuinely care 42.1% Active in settling the case 42.1% Sensitive 2.6% Other

Other Answers: our magistrate is excellent!

43) What are the weaknesses of Judges and Magistrates?

48.1% Partial to one point of view 48.1% Too busy 29.6% Volatile 11.1% Unfamiliar with the law 7.4% Uninterested in the cases 25.9% Other

Other Answers: need for getting through the cases scheduled within the time allotted can appear like insensitivity. ... too many cases ... some stereotype parties ... overly controlling without following the law ... no knowledge of the dynamics and take on the role of defense attorney ... none ... In a hurry. Stereotype all D&N cases.

44) In your experience, has the way D&N cases are handled improved in the past 5 years?

53.1% yes 12.5% no 34.4% Other

Other Answers: Yes. s the knowledge base of EPP and ASFA increase, things get better. ... lack 5 years of D&N experience to say. ... No. ... yes and no ... time requirements/compensation ... Have only been practicing D&Ns for 2 years ... nope ... little ... Absolutely- primarily die to court changes. ... stayed about the same though cases involving young child expedited now ... not much

Please elaborate on your answer above in 44:

Guardians ad litem often sides with the county attorney and social services rather than rendering independent opinion in the best interest of the child. ... not enough money paid to make the work profitable. Too many GALs take the money and don't see the clients. ... GALs sometimes do not meet with respondents. ... The system as a whole has stopped providing services and views termination of parental rights as the optimal solution. ... The law right now is more interested in closing cases in a period of time than really doing what is best for the children and families. The

issues are insufficient resources and funding, especially in EPP cases. When you can't get kids, parents and families evaluated within a reasonable period of time, when you can't get parents into treatment because there are not sufficient or proper facilities available, when we lose good therapists because the department squabbles with them over $200.00 payments, when a parent or child does not show for an evaluation and the therapist charges them for their time, we are not serving the best interests of the children or the families. It is not a question of whether an attorney has 1 or 1,000 cases. The question is whether the resources are available for the attorneys to do their jobs without the resources they can't. Most of us are not in this business for the money, but because we believe in the importance of the work we do, and you discredit us by even thinking about limiting what # of cases we can handle. ... Compensation is too low for GALs, thus, they must accept too many cases to make a living. If additional GALs are appointed, then GALs must take outside work. ... Generally, more expedient time frame for hearings, judges are not as overwhelmed with the number of cases. EPP also keeps case moving on an expedited basis, but overall, it is unknown if it will really help children. ... Normally, GALs will follow the recommendations of DHS. Some GALs are aggressive, others passive. However, it is my belief that a GAL should always have an opinion and be willing to express that opinion. ... In the past two years time lines have been tightened. ... GALs vary widely. However, caseworkers and therapeutic believe GALs do nothing and therefore do not communicate or notify of staffings and then complain that GALs don't do things they were never notified of. ... Concerning #35 and #37 some of these weaknesses are present with some attorneys some of the time. I am unable to answer these questions as written because it sounds like an across the board criticism, which would not be accurate. Moreover, the weaknesses which are present are generally the result of a need to try to stay in business where the net hourly rate is quite low and thus usage of time must be handled very efficiently and time must be used where it will do the most good for the children. ... Poor compensation. ... All courts seem much more attentive to time frames. Cases do not usually drag on for 2+ years like they did about 5-6 years ago. Some cases do need to take longer but judges are responsive to the needs of these cases. Services such as community mental health have gone downhill.

County/City Attorney Survey Responses (edited for brevity)

1) On a scale of 1 to 10, 10 being very difficult, how legally difficult do you find the D&N cases?

25.0% 5 18.8% 2 18.8% 7 18.8% 8 12.5% 6 6.2% 4
0.0% 0 0.0% 1 0.0% 3 0.0% 9 0.0% 10

2) On a scale of 1 to 10, 10 being very difficult, how emotionally difficult do you find the D&N cases?

56.2% 8 12.5% 3 12.5% 7 6.2% 5 6.2% 9 6.2% 10
0.0% 0 0.0% 1 0.0% 2 0.0% 4 0.0% 6

3) On a scale of 1 to 10, 10 being extremely well respected, how respected is this area of the law?

25.0% 3 18.8% 4 12.5% 5 12.5% 6 12.5% 7 6.2% 0
6.2% 1 6.2% 2 0.0% 8 0.0% 9 0.0% 10

4) I appreciate handling D&N cases.

100.0% Yes 0.0% No

5) There are substantial delays in the D&N cases.

93.8% No 6.2% Yes

6) D&Ns are handled in a timely manner.

93.3% Yes 6.7% No

7) As a part of your job do you ensure that hearings are set within timeframes?

93.8% Yes 6.2% No

8) How often are timeframes adhered to in the D&N cases?

56.2% usually 25.0% nearly always 12.5% often 6.2% occasionally 0.0% never
0.0% rarely

9) Do you attend training to keep abreast of new developments in the area of dependency and neglect?

100.0% Yes 0.0% No

10) How many hours per year would you estimate you attend D&N training?

25.0% 6-10 25.0% 16-20 18.8% 21-25 18.8% 26+ 12.5% 11-15 0.0% 0-5

11) How often do you speak with the child's therapist?

40.0% occasionally 26.7% rarely 20.0% nearly always 13.3% often 0.0% never
0.0% usually

12) How often are you informed of changes in placement?

40.0% nearly always 26.7% usually 13.3% occasionally 13.3% often 6.7% rarely 0.0% never

13) How many times a month, on average per case, do you meet with the caseworker in the D&N case?

42.9% 2 35.7% 1 14.3% 3 7.1% 10 0.0% 0 0.0% 4
0.0% 5 0.0% 6 0.0% 7 0.0% 8 0.0% 9

14) How often do you agree with the recommendations of social services?

62.5% usually 25.0% nearly always 12.5% often 0.0% never 0.0% rarely 0.0% occasionally

15) How often do you have meetings with judicial officers to generally discuss how the D&N cases are being handled?

40.0% quarterly 26.7% never 20.0% bi-annually 6.7% monthly 6.7% annually 0.0% weekly

16) Have you noticed any changes in the past five years in how the D&N cases are handled?

100.0% Yes 0.0% No

17) If you have noticed changes, how beneficial have those changes been? On a scale of 1 to 10, 10 being extremely beneficial, please mark you feelings on the matter.

46.2% 7 15.4% 6 15.4% 8 7.7% 3 7.7% 9 7.7% 10
0.0% 0 0.0% 1 0.0% 2 0.0% 4 0.0% 5

18) How often do you talk to the caseworker before the day of the hearing?

43.8% usually 37.5% often 12.5% nearly always 6.2% occasionally 0.0% never 0.0% rarely

19) How often do you interview service providers before the day of the hearing?

33.3% rarely 33.3% occasionally 13.3% usually 13.3% nearly always 6.7% often 0.0% never

20) How often are the D&N cases continued for any reason?

62.5% occasionally 18.8% rarely 18.8% often 0.0% never 0.0% usually 0.0% nearly always

21) Are the following aware and knowledgeable of available services for children and families?

Judges and Magistrates

93.8% Yes 6.2% No

Guardians ad Litem

100.0% Yes 0.0% No

Respondent Parent's Counsel

93.8% Yes 6.2% No

CASA Volunteers

76.9% Yes 23.1% No

Attorneys Representing Social Services

93.8% Yes 6.2% No

Caseworkers

93.8% Yes 6.2% No

22) How often do children achieve permanency within the required timeframes?

50.0% usually 43.8% often 6.2% occasionally 0.0% never 0.0% rarely 0.0% nearly always

23) How often do the parties meet and discuss the matter prior to the:

Adjudicatory Hearing

31.2% occasionally 25.0% often 25.0% nearly always 18.8% usually 0.0% never 0.0% rarely

Dispositional Hearing

37.5% usually 31.2% occasionally 25.0% rarely 6.2% often 0.0% never 0.0% nearly always

Permanency Hearing

43.8% occasionally 31.2% often 18.8% usually 6.2% rarely 0.0% never 0.0% nearly always

Termination Hearing

37.5% nearly always 18.8% rarely 18.8% usually 12.5% occasionally 12.5% often 0.0% never

What are the strengths of respondent parents' counsel?

100.0% Understand the system 87.5% Knowledgeable about the law 87.5% Adequate courtroom demeanor 68.8% Advocate for parents 25.0% Well prepared 6.2% Other

Other Answers: reasonable in their approach- they know what battles are worth fighting.

24) What are the weaknesses of respondent parents' counsel?

50.0% Too many cases 50.0% Not enough time 50.0% Do not advise/see clients 43.8% Do minimum required 25.0% Unprepared 12.5% Not aggressive in representation 25.0% Other

Other Answers: often don't hear from client until day of hearing (not their fault) ... Not paid enough to provide better representation. ... underpaid ... This is a hard question- all the resp pt attorneys are not the same ... they also face the same problem with the courts as the GALS.

25) What are the strengths of the Guardians ad litem?

100.0% Understand the system 81.2% Genuinely care about children 68.8% Knowledgeable about the law 62.5% Devoted to the best interests of the child 37.5% Well prepared 6.2% Other

Other Answers: independent of DHS ... know when to take a firm stand on an issue.

26) What are the weaknesses of the Guardian ad litem?

58.3% Do minimum required 50.0% Too many cases 50.0% Not enough time
50.0% Do not advise/see clients 41.7% Not aggressive in representation
8.3% Unprepared 25.0% Other

Other Answers: Are not well paid so we are losing some of the better ones. No monetary gains in doing an excellent job. ... Not paid enough to have more in-depth involvement. ... Because the court has input into the GAL contract, the GALs often feel hampered in any ability to voice concerns about court.

27) What are the strengths of the CASA volunteers?

90.9% Genuinely care 81.8% Spend time with the child 63.6% Offer outside/unbiased view 36.4% Well trained 27.3% well prepared 9.1% understand system 0.0% Other

28) What are the weaknesses of the CASA volunteers?

75.0% Not experienced 66.7% Not knowledgeable about the law 50.0% Inconsistent 41.7% Too attached 16.7% Unprepared 16.7% Other

Other Answers: Not enough volunteers to staff all appropriate cases. ... again, this is a generalization- all CASAs are not the same.

What are the strengths of the Caseworkers?

93.8% Knowledgeable about parent-child interaction 87.5% Knowledgeable about available services 87.5% Genuinely care 56.2% Well prepared 6.2% Knowledgeable about the law 12.5% Other

Other Answers: work hard in a challenging system ... hard working and efficient

29) What are the weaknesses of the Caseworkers?

75.0% Too many cases 62.5% Too little time 25.0% Focus on system, not child
25.0% Stereotype parents 12.5% Unprepared 6.2% Do not see child
6.2% Other

Other Answers: adolescent workers are not as prepared a other social workers.

30) What are the strengths of attorney representing social services?

86.7% Knowledgeable about the law 86.7% Genuinely care 86.7% Familiar with resources 73.3% Well prepared 60.0% Excellent litigation skills 6.7% Other

Other Answers: know system ... ability to negotiate

What are the weaknesses of attorneys representing social services?

76.9% Too many cases 15.4% Unfamiliar with resources 7.7% Unprepared 23.1% Other

Other Answers: none ... too little time ... cases are extremely complex

31) What are the strengths of Judges and Magistrates?

93.8% Genuinely care 87.5% Knowledgeable about the law 75.0% Fair and impartial 43.8% Sensitive 37.5% Active in settling the case 12.5% Other

Other Answers: judges only ... Judge is wonderful, magistrate is not, can't evaluate them the same, in the same situation.

32) What are the weaknesses of Judges and Magistrates?

40.0% Partial to one point of view 40.0% Too busy 40.0% Unfamiliar with the law 40.0% Volatile 40.0% Other

Other Answers: One really rude judge, one certain magistrate is not interested in the cases. ... magistrates only ... none ... the magistrate is erratic in demeanor ... frequently insensitive or overly controlling of case/issue ... does know the law, can make very appropriate/creative rulings on occasion.

In your experience, has the way D&N cases are handled improved in the past 5 years?

53.8% yes 46.2% Other

Other Answers: timelines for permanency shortened, mediation helpful at times ... yes and no ... yes, for the most part ... Yes, it is now more timely- issues are evaluated sooner and permanency come quicker. ... no ... many recent changes, too soon to tell.

Please elaborate on your answer above in 32:

Other than the fact that the magistrates and judges are always late getting on the bench it's generally a nice group of people- court staff also pleasant. ... Services have not kept pace with the shorter time frames. Beginning to see termination of parental rights quickly in drug cases where parent is rehabilitable but has a small relapse which is expected in treatment. this can be to the detriment of the child. ... I think the cases are handled more timely. Children remain out of the home for shorter periods . However, the feds and state seem to occasionally value form over substance, i.e. changing language from long term foster care to OPPLA. ... The emphasis on expedited permanency planning has resulted in a system where social services moves right to termination without providing services. ... Cases don't drag on for years. Between SS monitoring and the court's, cases are brought to conclusion much more quickly. Our county is willing to be creative with perm. allocation of parental responsibilities. ... Time frames being met. EPP good. ... EPP and its shortened timeframes, CASA, mediation all provide positive benefits. ... more focus on permanency quickly ... I've been doing D&Ns for over 18 years. The expedited time frames, while stressful, are definitely an improvement when dealing with kids lives. The quality and training of caseworkers has greatly improved.

Feel free to add an other comments you would like regarding how D&N cases are handled in Colorado. Your input is greatly valued.

Seeing an increase in children with reactive attachment disorders and a lack of qualified foster and adoptive families with the training to work with the child. ... I have one permanency planning hearing which has drug on for over 2 days and is still unfinished because the respondent’s attorney is challenging the permanency plan of long term foster care. (He is on probation for sexual assault of his step daughter and cannot be around any children.) A normal attorney would stipulate to changing the plan away from reunification with this father. I think extremely argumentative attorneys should be excluded from D&Ns. ... Too many goofy cases! ... The Bench needs to be more responsive to the Bar. It's frustrating to practice in an are for years, and be ignored by the Bench when it comes to organization, docket control, etc. Bench-Bar meetings should be often and meaningful interactions, not just lectures.

Appendix B – Chief Justice Directives

DIRECTIVE 96-08

SUPREME COURT OF COLORADO

Office of the Chief Justice

DIRECTIVE CONCERNING THE PROCESSING OF DEPENDENCY AND NEGLECT CASES

The following policies are adopted to improve the timeliness and quality of the courts' handling of dependency and neglect cases. This Directive specifies the responsibilities of judicial officers in managing this caseload. These policies are intended to encourage the early provision of services to children and families and reduce the times needed for courts to reach all major case events, including, as appropriate, the return home of children, approval of other permanent plans, and termination of parental rights.

Elements of this Directive affect procedures of departments of social services, county attorneys, guardians ad litem, respondent parents' counsel, and service providers. Therefore, each district is to work collaboratively with representatives of those groups to develop procedures to implement these policies. Districts are to meet with these individuals and have a plan in place by January 31, 1997.

1. Early Development of Case Plans.

    a. Each district shall collaborate with the local department of social services to develop mechanisms to have interim treatment plans available 30 days after the child's removal or the filing of the petition, whichever is earlier. To the extent possible, interim treatment plan formats should be based on the revised discrete plan formats to be introduced statewide in early 1997.

    b. Each district shall develop procedures to appoint a guardian ad litem in all cases prior to the first hearing in any case. Guardians ad litem shall participate in shelter care hearings whenever possible.

    c. Respondent parents should be ordered at the first hearing conducted in the case to provide the court and agency with the names and addresses of noncustodial parents and other relatives in order to expedite notice to absent parents and to permit departments of social services to conduct a relative placement study within 30 days of the shelter hearing whenever possible.

2. Expediting the Timing of Adjudication and Disposition Hearings.

    a. Each district shall collaborate with local departments of social services, county attorneys, guardians ad litem, and respondent parents' counsel, to develop procedures to ensure that petitions are filed at the first hearing conducted in all or most actions. When the petition is available at the first hearing, the court shall conduct the advisement at that hearing.

b. Each district shall collaborate with their local departments of social services, county attorneys, guardians ad litem, and respondent parents' attorneys to develop procedures to facilitate case disposition on the same day as adjudication.

c. If disposition does not occur at the same time as adjudication, then it should take place within 30 days.

3. **Hearings and Reports.**

a. Courts shall employ case management techniques designed to allow an early determination of the issues that will require the presentation of evidence at the hearing or trial.

b. Courts shall require guardians ad litem to appear at all hearings and report orally on the status of the case. If the guardian ad litem has good cause not to appear, the court shall require the guardian to file and serve on counsel for the agency and parents a written report, in lieu of appearance, at least five days in advance of the hearing. Sanctions may be imposed when the report is not filed and served as required.

c. Courts shall require reports from departments of social services to be filed and served at least five days in advance of hearings. Sanctions may be imposed when the report is not filed and served as required.

d. Courts shall encourage departments of social services to use the new combined Discrete Case Plan/Court Treatment Plan formats for court reports. The new formats will be distributed by the Department of Human Services in the near future with a requirement that the new formats be used statewide after April 1, 1997.

4. **Continuances**

Continuances will be granted by a Judicial Officer only upon a finding that a manifest injustice would occur in the absence of a continuance.

5. Reports.

Each district shall provide to the State Court Administrator a report of its progress in implementing the elements of this Directive six months from the date of the issuance of the Directive. For any element not implemented, an explanation of the reasons for not adopting the procedure as well as a description of any alternative report.

Signed this day of Dec

Anthony F. Vollack, Chief Justice

SUPREME COURT OF COLORADO
Office of the Chief Justice

DIRECTIVE CONCERNING COURT APPOINTMENT OF GUARDIANS AD LITEM, SPECIAL ADVOCATES, COURT VISITORS, AND ATTORNEY REPRESENTATIVES AND OF COUNSEL FOR CHILDREN AND INDIGENT PERSONS IN TITLES 14, 15, 19 (DEPENDENCY AND NEGLECT ONLY), 22, 25, AND 27

The following policy is adopted to assist the administration of justice through (1) the appointment and training of guardians ad litem, special advocates, court visitors, and attorney representatives appointed on behalf of child(ren), wards, or impaired adults in all cases and (2) the appointment of counsel for children and adults under Titles 14, 15, 19 (dependency and neglect only), 22, 25, and 27. This policy does not cover appointments made pursuant to Titles 16 and 18 nor appointments of counsel in juvenile delinquency matters pursuant to Title 19. Appointment of counsel in juvenile delinquency matters is addressed in Chief Justice Directive 97-01.

I. Statutory Authority

A. The federal and state constitutions and various Colorado statutes provide authority for the appointment of guardians ad litem, special advocates, court visitors, attorney representatives and counsel, and counsel for adults for indigent persons in certain civil actions.

B. State funds are appropriated to the Judicial Department and to the Office of the Child's Representative (OCR)[89] to provide for representation in dependency and neglect cases and in certain other cases in which the party represented, or the party's parent or legal guardian, is determined to be indigent.

II. Indigency Determination

A. The person for whom representation is requested or, in the case of children, the responsible party, must be indigent to qualify for court-appointed representation at state expense pursuant to Titles 14, 15, 22, 25, and 27 and for representation of respondents in a dependency and neglect action under Title 19. Such person(s) must also be indigent for the court or OCR to authorize payment of certain costs and expenses. The parent or legal guardian of a child in a dependency and neglect action under Title 19 need not be indigent for the appointment of a guardian ad litem for the child.

B. An indigent person is one whose financial circumstances fall within the fiscal standards set forth in Attachment A.

C. All persons requesting court-appointed representation to be paid by the state on the basis of indigency must complete, or have completed on their behalf, application form JDF 208 ("Application for Court-Appointed Counsel or Guardian ad Litem") signed under oath, before an appointment of counsel at state expense may be considered. Form JDF 208 must be completed for the appointment of a guardian ad litem at state expense in all cases except dependency and neglect cases under Title 19 and Truancy cases under Title 22. Form JDF 208 must be completed for the appointment of counsel at state expense in all cases except mental health cases under Title 27 in which the respondent refuses to or is unable to supply the necessary information.

D. If, in the best interests of justice, a tentative appointment of legal counsel or a guardian ad litem for the party is necessary, such appointment may be made pending a final decision regarding indigency. If a review of a person's application shows that the person is not indigent and the person is not qualified to have court-appointed representation at state expense, the court may order the person to reimburse the state for any justifiable fees and expenses as a result of representation provided from a tentative appointment of legal counsel or a guardian ad litem.

III. Appointment of Guardians ad Litem, Special Advocates, and Attorney Representatives

A. A guardian ad litem must be appointed for a child in a dependency and neglect action pursuant to Title 19, regardless of a determination of indigency.

B. A guardian ad litem may be appointed in the child's best interest for a child in a truancy action pursuant to Title 22, a juvenile delinquency action pursuant to Title 19, or for a juvenile charged as an adult in a criminal case, pursuant to Title 19 when a conflict between parent and child exists.

C. An attorney representative or special advocate may be appointed in the child's best interest for a child in a domestic relations case pursuant to Title 14. The court shall enter an order for costs, fees, and disbursements against any or all of the parties. When a responsible party is indigent, the state will pay the attorney representative or special advocate at the rates established in Section VII.D. and VII E. for the portion of authorized fees and expenses for which the indigent party is responsible.

D. A guardian ad litem may be appointed for a parent or guardian in dependency and neglect proceedings who has been determined to be mentally ill or developmentally disabled, unless a conservator has been appointed, pursuant to Title 19.

E. In formal proceedings involving trusts or estates of decedents, minors, protected persons, and in judicially supervised settlements pursuant to Title 15, a guardian ad litem or court visitor may be appointed to represent the interest of a minor, an incapacitated, unborn, or unascertained person, or a person whose identity or address is unknown, if the court determines that a need for such representation exists.

F. A guardian ad litem must be appointed for any child under age 15 who is a ward of the Department of Human Services, or for any minor who objects to hospitalization, in a mental health proceeding pursuant to Title 27.

G. A guardian ad litem may be appointed for an infant or incompetent person who does not have a representative and who is a party to a civil suit.

H. A guardian ad litem may be appointed for a child in a paternity action pursuant to Title 19, and must be appointed for a child who is made a party to the action unless the child has another representative or is in privity with the state. The appointment terminates upon permanent orders. An appointment may be reactivated after permanent orders for a limited purpose and duration to represent the child's interests in matters concerning custody, child support, guardianship, or parenting time.

I. A court visitor shall be appointed for an allegedly incapacitated person who does not have counsel pursuant to Title 15.

J. Upon the filing of a petition for involuntary commitment of alcoholics or drug abusers, a guardian ad litem may be appointed for the person if the court deems the person's presence in court may be injurious to him or her pursuant to Title 25.

K. Upon the filing of a petition for emergency or involuntary commitment of alcoholics or drug abusers, counsel may be appointed for the person pursuant to Title 25.

IV. Appointment of Counsel for a Juvenile

Counsel may be appointed at state expense for a child in a truancy matter under Title 22 if adjudication is previously entered and the child is served with a contempt citation or for any matter under Title 19 if the court deems representation by counsel necessary to protect the interests of the child or other parties.

V. Reimbursement to the State for Court-Appointed Representation

A. For all appointments described, the court shall review the indigency status of the responsible party or estate at the time of appointment and, if feasible, at the time of case closure. In the case of a court visitor appointment, the petitioner and/or the allegedly incapacitated person may be ordered to pay all or a portion of the visitor's fees and expenses if they are not determined to be indigent. If the court determines, at any time before or after appointment of counsel, guardian ad litem, special advocate, court visitor, or attorney representative, that the responsible party(ies) or estate has the ability to pay all or part of the costs for representation or other costs, the court shall enter a written order that the person(s) or estate reimburse all or part of those costs to the registry of the court for transmittal to the state general fund. The order of reimbursement shall constitute a final judgment and may be collected by the state in any manner authorized by law.

B. Collections of fees and costs related to court-appointed representation may be referred to the Collections Investigator, a private collector with whom the Judicial Branch has contracted, or to the Central Collections Service in the State Division of Central Services.

C. Costs for representation provided to indigent persons may be assessed at the fixed hourly rate for court-appointed counsel for the number of hours reported by counsel to the court. Court costs may also be assessed, including costs for transcripts, witness fees, and costs for service of process. In addition, the responsible party(ies) may be required to pay costs of collection.

VI. Guidelines for Appointment of Counsel, Guardians Ad Litem, Special Advocates, Court Visitors, or Attorney Representatives

A. The court shall maintain a list of qualified attorneys from which to make appointments of counsel, guardians ad litem, attorney special advocates, and attorney representatives. For appointment types that fall under the responsibility of the OCR, that office shall make attorneys available to the court to accept such appointments.

B. Any attorney not under contract with the Department who requests appointments (non-OCR appointment types) must submit to the chief judge a request with an affidavit of qualifications for such appointments. The judge, in his or her discretion, may approve additions to the list at any time. An attorney must submit an updated affidavit every three years to ensure that he or she is maintaining his or her qualifications for such appointments. Attorneys desiring to receive appointments through the OCR must be approved to receive such appointments according to that office's policies and procedures.

C. The judge or magistrate shall consider the number of an attorney's active cases, the qualifications of the attorney as provided, and the needs of the party requesting representation when making appointments.

D. The court may also appoint a qualified person other than an attorney as a special advocate or court visitor when the appointment of an attorney is not mandated by statute. The court shall also maintain a list of qualified persons to accept appointments as non-attorney special advocates, court visitors or investigators from which the judge will make appointments.

E. All appointments shall be made pursuant to a written Order of the Court. The order shall specify the:
   1. authority under which the appointment is made;
   2. reason(s) for the appointment;
   3. scope of the duties to be performed; and
   4. terms and method of compensation (including indigency status).

   Sample Orders of Appointment are attached as Attachments B and C.

F. The appointing judge or magistrate shall monitor the actions of the appointee to ensure compliance with the duties and scope specified in the order of appointment.

VII. Guidelines for Payment by the Department (non-OCR appointments)

A. The fees and expenses for court appointees will be reimbursed either (1) on a monthly basis at the set rate per case established by the Colorado Judicial Department for appointments made under contract, (2) on a case-by-case basis for itemized payment orders detailing the appointee's time spent and expenses for appointments not covered by contracts with the Department, or (3) in accordance with the procedures established by the Branch under other contract agreements.

B. Court costs for all state-paid appointments shall be billed to the appointing court and, if approved, paid by the appointing court. Court costs include such items as: witness fees, witness expenses, service of process, language interpreters, mental health examinations, transcripts, and discovery costs. Payment of all court costs shall be in accordance with applicable statutes, Chief Justice Directives, and other policies and procedures of the Department. Out of state investigation travel expenses incurred by the appointee shall be submitted to the court using form JDF 207 with the appropriate travel receipts attached.

C. The Department contracts with individual attorneys for court-appointed representation on a state fiscal-year basis (July 1 through June 30) at rates established by the Department. Claims for payment by attorneys for appointments made under contract shall be made in compliance with the procedures specified in the contract. Claims for payment not covered by contracts with the Department shall follow the procedures described in Attachment D.

D. For appointments that are not made under a contractual agreement, the following maximum hourly rates for reimbursement by the Department are established (no payment shall be authorized for hourly rates in excess of these scheduled rates):

MAXIMUM HOURLY RATE

	In court/Out of court
Court-appointed Counsel	$50.00/ 40.00 per hour (effective 1/1/91) $55.00/ 45.00 per hour (effective 1/1/01)*
Guardian ad Litem, Attorney Special Advocate, or Attorney Representative	$50.00 / 40.00 per hour (effective 1/1/91) $55.00/ 45.00 per hour (effective 1/1/01)*
Non-Attorney Special Advocate	$20 per hour
Paralegal, Legal Assistant, or Law Clerk	$20 per hour
Court-authorized Investigator	$25 per hour
Court Visitor	$25 per hour

*for work performed on or after January 1, 2001

E. Maximum total fees that may be paid by the Department for court-appointed counsel, investigators, special advocates, or attorneys are established as follows:

MAXIMUM TOTAL FEE PER APPOINTMENT
(Effective January 1, 2001)

Title 19 -- Dependency and Neglect Matters	
Respondent Parent Counsel	$2,000.00
Non-Attorney Special Advocate	$1,000.00
Title 19 -- Other Matters (i.e. delinquency GAL, support, adoption, paternity, etc.)	
Attorney Special Advocate	$1,000.00
Non-Attorney Special Advocate or Guardian ad Litem	$ 500.00

Titles 14 and 15	
Counsel (probate only)	$2,000.00
Attorney Representative, Special Advocate, or Guardian ad Litem	$2,000.00
Non-Attorney Guardian ad Litem or Special Advocate	$1,000.00
Court Visitor	$ 500.00
Titles 22, 25, and 27	
Guardian ad Litem (attorney)	$ 500.00
Guardian ad Litem (non-attorney)	$ 200.00
Counsel	$ 500.00

Appeals

Counsel; Attorney Guardian ad Litem, Special Advocate, or Attorney Representative	$2,000.00

F. Under no circumstances shall the total fees exceed the maximums outlined without a detailed written motion and detailed written order showing the specific special circumstances that justify fees in excess of the maximum (see procedure in Attachment D, paragraph D). If a court-appointed attorney chooses to use the support of a paralegal, legal assistant, investigator, or law clerk, the fees of the support person shall be added to the fees of the attorney. The combined fees, inclusive of expenses, of the attorney or non-attorney representative and other support staff shall not exceed the total maximum outlined.

G. To maintain effective representation by court-appointed counsel and to provide basic fairness to attorneys and others so appointed, the State Court Administrator is directed to review the fee schedule established in this CJD for court-appointed counsel every three years, commencing in the year 2000, and to submit a report to the Colorado Supreme Court on or before October 1 of that year, and every third year thereafter, with recommended adjustments to the fee schedule.

H. Attorneys shall maintain records of all work performed relating to court appointments and make all such records available to the Judicial Branch for inspection, audit, and evaluation in such form and manner as the Branch in its discretion may require, subject to attorney/client privilege.

VIII. Payment of Fees and Expenses for OCR Appointments

A. Claims for payment of fees and expenses for OCR appointments shall be billed and submitted to the OCR in accordance with that office's policies and procedures.

B. Maximum total fees per appointment, inclusive of expenses of the appointee and other support staff, shall be as set forth by the OCR.

IX. Appeals

A. The trial court shall determine the need and statutory requirement for appointment of private counsel on appeal. Where applicable, determinations of indigency should be made in accordance with the procedure described in section II.

B. Requests for payment (non-OCR appointments) shall be filed on Form JDF 207 (Colorado Judicial Department Order For Payment Of Fees) with the appellate court and must contain a copy of the order appointing counsel to represent the indigent person on appeal. An appellate court judge, or designee, shall carefully review all requests for payment submitted to the court for approval.

C. The maximum total fee allowable on an appeal shall be in accordance with the maximum fees outlined in VII E.

SECTIONS X, XI, and XII APPLY ONLY TO ATTORNEYS, SPECIAL ADVOCATES, COURT VISITORS, AND ATTORNEY REPRESENTATIVES APPOINTED ON BEHALF OF CHILDREN, WARDS, OR IMPAIRED ADULTS, AND DO NOT APPLY TO APPOINTMENT OF LEGAL COUNSEL.

X. Training of Guardians ad Litem, Special Advocates, and Attorney Representatives Appointed on Behalf of Children, Wards, or Impaired Adults

A. Attorneys appointed as guardians ad litem, special advocates, or attorney representatives shall possess the knowledge, expertise, and training necessary to perform the court appointment, and shall be subject to all of the rules and standards of the legal profession.

B. In addition, the attorney guardians ad litem, attorney special advocates, and attorney representatives shall obtain 10 hours of continuing legal education, or other courses relevant to an appointment that enhance the attorney's knowledge of the issues in representation, per legal education reporting period. The court shall require that proof of such education, expertise, or experience be on file with the court at the time of appointment.

C. In those cases in which a non-attorney is appointed as a special advocate, court visitor, or guardian ad litem, the non-attorney shall also demonstrate the knowledge, expertise, and training necessary to fulfill the terms of the appointment. The court may determine whether the individual's knowledge, expertise, and training are adequate for an appointment, and may require the individual to demonstrate his or her qualifications.

XI. Duties of Guardians ad Litem, Special Advocates, and Attorney Representatives Appointed on Behalf of Children, Wards, or Impaired Adults

The individual appointed shall diligently take steps that he or she deems necessary to protect the interest of the person for whom he or she was appointed, under the terms and conditions of the order of appointment, including any specific duties set forth in that or any subsequent order. If the appointee finds it necessary and in the best interests of the child(ren), ward, or impaired adult, the appointee may request that the court expand the terms of the appointment and scope of the duties.

A guardian ad litem or special advocate in a dependency and neglect case shall specifically:

1. Attend all court hearings and provide accurate and current information directly to the court (*Although another qualified attorney may substitute for some hearings, this should be the exception.*).
2. At the court's direction and in compliance with 19-3-606(1), C.R.S. (2000), file written or oral report(s) with the court and all other parties.
3. Conduct an independent investigation in a timely manner, which shall include, at a minimum:

    a) Personally meeting with and observing the child(ren)'s interaction with the parents or proposed custodians when appropriate;
    b) Personally meeting with and observing the child at home or in placement;
    c) Personally interviewing the child (if age-appropriate);
    d) Reviewing court files and relevant records, reports, and documents;
    e) Interviewing, with the consent of counsel, respondent parents;
    f) Interviewing other people involved in the child's life; and
    g) When appropriate, visiting the home from which the child was removed.

    Duties (f) and (g) may be performed, under the supervision of the appointee, by a qualified person other than the appointee.
4. In cases in which the parents or child are living or placed more than 100 miles outside of the jurisdiction of the court, the requirements to personally meet with and interview the person are waived unless extraordinary circumstances warrant the expenditure of state funds required for such visits. However, the appointee shall endeavor to meet the person if and when that person is within 100 miles of the jurisdiction of the court.
5. Continue to perform all duties listed above as necessary to represent the best interest of the child for the duration of the case unless relieved of such duty by the court.

6. All attorney guardians ad litem and special advocates paid by the state shall submit a standard affidavit of compliance (see Attachment F) to the presiding juvenile judge, or chief judge by February 1 of each year for appointments made in the previous year. Affidavits shall be submitted in each district in which the attorney is appointed. For any cases in which the attorney has not complied with the above requirements, a standard exception form shall be attached to the affidavit. Copies of the affidavits and attachments shall be submitted to the OCR (for guardians ad litem) and to the Office of the State Court Administrator (for special advocates) by the attorney. The standard affidavit of compliance and exception form shall be developed by the OCR (for guardians ad litem) and the Office of the State Court Administrator (for special advocates) and made available to all guardians ad litem and special advocates by the court.

An individual appointed as a special advocate pursuant to Section 14-10-116, C.R.S. (2000) shall follow the specific terms of the order of appointment, which will include the filing of a written report with the court, but may not include all of the other duties described in paragraph XI.B.

An attorney appointed as a guardian litem in all other proceedings, including juvenile delinquency, paternity, relinquishment, probate, mental health, and truancy cases, shall perform all duties as directed by the court, which may include some or all of the duties described in paragraph XI.B.

XII. Duties of Judges and Magistrates

A. Judges and magistrates shall ensure that guardians ad litem, special advocates, and attorney representatives involved with cases under their jurisdiction are representing the best interests of children, wards, or impaired adults and performing the duties specified in this order.

B. In providing this oversight, judges and magistrates shall:

1. Routinely monitor compliance with this directive;
2. Encourage local bar associations to develop and implement mentor programs which will enable prospective guardians ad litem, special advocates, and attorney representatives to learn these areas of the law;
3. Encourage local bar associations to establish committees to oversee guardians ad litem, special advocates, and attorney representatives;
4. Meet with guardians ad litem, special advocates, or attorney representatives at the first appointment to provide guidance and clarify the expectations of the court; and
5. Hold periodic meetings with all practicing guardians ad litem, special advocates, or attorney representatives as the court deems necessary to ensure adequate representation of children, wards, or impaired adults.

XIII. Complaints

A. For all court-appointed attorneys, including counsel, guardians ad litem, attorney special advocates, and attorney representatives, complaints concerning alleged violations of the Colorado Rules of Professional Conduct shall be filed with the Colorado Supreme Court Office of Attorney Regulation Counsel.

B. All complaints regarding the performance of any state–paid guardian ad litem, attorney special advocate, court visitor, or attorney representative shall be submitted to the district administrator. The district administrator will forward the complaint to the presiding juvenile judge, probate judge or, if appropriate, chief judge of the district and the Office of the State OCR (for OCR appointments), unless a conflict exists due to the judge's involvement in the case described. If a conflict exists, the district administrator will forward the complaint to another judge designated for that purpose. If the reviewing judge, district administrator, the Office of the State Court Administrator or the OCR (for OCR appointments) determines that an attorney acting as a guardian ad litem, special advocate, or attorney representative may have violated the Colorado Rules of Professional Conduct, the information shall be filed with the Colorado Supreme Court Office of Attorney Regulation Counsel. Pursuant to C.R.C.P. 251.31(1)(2), Regulation Counsel shall advise the reporting judge or the State Court Administrator of the results of its investigation, and shall similarly advise the OCR if the appointee against whom the complaint was lodged falls under that office.

C. Copies of all written complaints and documentation of verbal complaints regarding state-paid guardians ad litem, special advocates, court visitors, or attorney representatives shall be forwarded by the district administrator to the Office of the State Court Administrator or the OCR (for OCR appointments).

XIV. Sanctions

A. All contracts with the Judicial Department and OCR for appointments addressed in this Chief Justice Directive shall include a provision requiring compliance with this Chief Justice Directive. Failure to comply with this Directive may result in termination of the contract and/or removal from the appointment list.

B. Judges and magistrates shall notify appointees that acceptance of the appointment requires compliance with this Directive, and that failure to comply may result in termination of the current appointment and/or removal from the appointment list.

Directive 98-02

SUPREME COURT OF COLORADO

Office of the Chief Justice

DIRECTIVE CONCERNING PERMANENCY PLANNING
IN DEPENDENCY AND NEGLECT CASES

The following polices are adopted to expedite the permanent planning and placement for all children subject to Dependency and Neglect actions. It is the responsibility of judges handling these cases to ensure that the issue of permanent placement for dependent and neglected children is addressed within twelve months of a judicial finding of abuse and neglect or sixty days after the child's removal from home. Districts are responsible for developing case processing procedures that will enable the courts to reach the twelve month goal. These policies are intended to reduce the time needed for courts to reach approval of permanent placement plans for children.

The State Court Administrator's Office will provide a ***Memorandum of Procedures*** (MOP) to serve as a model for districts to use in adopting case processing procedures and specifies the responsibilities of judges, districts, and the State Court Administrator's Office in implementation of these policies.

Case Processing Procedures

Each district shall adopt case processing procedures to implement this directive in collaboration with the local department of social services, county attorneys, guardians ad litem, and respondent parents' counsel. These procedures shall have the following factors.

1. "Front-loading" of key processes including: early identification of needed services, timely notification of parents and interested family members, early assessment and evaluation, and advanced preparation of meaningful treatment plans.

2. Procedures to clearly define the objectives and specific actions which need to take place to assure that court hearings are meaningful.

3. Procedures which provide offer parties opportunities to resolve issues consensually in a non-adversarial problem solving environment.

The ***Memorandum of Procedures*** (MOP), which was developed by case managers and recommended by a committee of judges and magistrates, is designed meet this time frame and is

intended to serve as a model for districts to consider. This procedure was designed based on current resources available to districts.

Responsibilities

The following responsibilities are assigned:

1. Districts will collaboratively develop a uniform set of procedures which will ensure that permanency is considered by the court within twelve months of the shelter hearing or the filing of a petition. District's are encouraged to utilize the MOP provided with this directive. However, a district can use other procedures if they meet the objectives of the directive or the MOP is not feasible given local legal culture or available resources.

2. Judges will implement the procedures adopted by their district.

Reports

Each district shall report on the progress in implementing a local case processing procedure to the State Court Administrator's Office by July 31, 1998. Annually, the chief judge shall report to the chief justice on the effectiveness of these procedures. The State Court Administrator's Office shall provide periodic reports to the districts on the how well they are meeting the time frames.

Signed this _____ day of February, 1998.

_____

Anthony F. Vollack, Chief Justice

Memorandum of Procedures for Chief Justice Directive 98-02

Executive Summary

Chief Justice Directive 98-02 requires districts to work collaboratively with local departments of social services, county attorneys, guardians ad litem, and respondent parents' counsel to develop local policies and procedures which will focus on permanency for children within twelve (12) months of the earliest of, a judicial finding of abuse and neglect or sixty days after the child's removal from the home.

The attached Memorandum of Procedures was developed through consultation with the Court Improvement Advisory and Implementation Committees, D&N case managers, juvenile judges and magistrates, guardians ad litem, respondent parents' counsel and SCAO staff. The intent of the Memorandum of Procedures is to serve as a useful guidance to districts in developing local policies and procedures in accordance with CJD 98-02, without limiting local flexibility. The ultimate goal, permanency for children, can be reached far more readily if the Judiciary and the Department of Human Services have a process in place which meets the requirements of state and federal legislation as well as internal mandates.

The attached Memorandum of Procedures is designed as a model case process, outlining major case events in terms of purpose, process, and benefits. The Memorandum of Procedures reflects the intent of CJD 96-08 as well as recommendations contained in Settlement Agreement, the American Bar Associations *Resource Guidelines in the Handling of Abuse and Neglect Cases* the Child Welfare and the Colorado Judiciary's report *Child Abuse and Neglect Cases in the Colorado State Courts*.

If you have any questions regarding the Memorandum of Procedures, please contact Dan Hall or Melinda Taylor at (303) 861-1111.

Memorandum of Procedures

I. Preliminary Protective Proceeding (Detention or Shelter Hearing)

A. Purpose. To make a determination as to temporary custody and appropriate placement of the child, to ensure that all respondent parents are identified, represented by counsel and understand the D&N process (including potential consequences of the D&N petition and permanency options), and to facilitate early case assessment and provision of services.

B. Process.

1. Timing. A Preliminary Protective Proceeding is to be held in every case within 48 or 72 hours of the date of Intervention (exclusive of weekends and holidays), unless an earlier hearing is mandated by statute. The date of Intervention is the date on which the child is removed from the home, the D&N petition is filed, or DSS/DHS requests protective supervision, whichever occurs first.

2. Critical Tasks. The following critical tasks are to be completed at or before the Preliminary Protective Proceeding (and must be completed prior to the Settlement Opportunity discussed in Section III below):

a. Pre-appointment and notification of GAL

(1) Responsible party may be the division clerk, deputy clerk responsible for D&N cases, D&N Case Manager, or DSS/DHS.

b. Pre-appointment and notification of respondent parents' counsel

(1) Responsible party may be the division clerk, deputy clerk responsible for D&N cases, D&N Case Manager, or DSS/DHS.

(2) Respondent parents' counsel should be available to meet with parents at least 30 minutes prior to the Preliminary Protective Proceeding (Detention/Shelter Hearing).

(3) Applications for Court-Appointed Counsel should be made available and completed prior to the Preliminary Protective Proceeding (Detention/Shelter).

c. Identification and notification of all respondent parents (including putative fathers)

(1) Responsible party is DSS/DHS.

d. Identification of potential relative placements (if child has been removed)

(1) Responsible party is DSS/DHS. Respondent parents' counsel and GAL should also inquire as to possible relative resources and communicate such information immediately to DSS/DHS.

e. Preparation and filing of DSS/DHS report

(1) A written report may not be required by the court if, under local procedure, all pertinent information is included in the D&N petition and the caseworker makes a verbal report to the court at the Preliminary Protective Hearing.

f. Preparation and filing of D&N petition or Motion for Informal Adjustment

(1) Responsible party is the County Attorney.

3. Actions to be Taken at Preliminary Protective Hearing (Detention/Shelter). The following actions are to be taken at the Preliminary Protective Proceeding:

a. Appoint GAL;

b. Appoint respondent parents' counsel, if eligible;

c. Advise respondents as to rights, potential consequences of the D&N petition and permanency options;

d. Determine need for continued placement (if removal has occurred);

e. Enter orders regarding temporary custody, visitation, necessary evaluations and services;

f. Enter protective orders, if necessary;

g. Inquire as to the identity and location of respondent fathers(s) if not named in the petition and amend the petition accordingly;

h. Inquire as to the whereabouts of non-appearing parents and efforts to locate and notify them;

i. Authorize service by publication, if appropriate;

j. Inquire as to potential relative placements and status of investigations (order should be flexible enough to permit change of placement or custody to a relative prior to the next scheduled hearing upon agreement of the GAL and caseworker);

k. Inquire as to applicability of Indian Child Welfare Act (ICWA);

l. File and serve D&N petition;

m. Rule on Motion for Informal Adjustment; and

n. Set the following hearings:

(1) Plea Hearing within 45 days from the Date of Intervention (Date of child's removal from home, date D&N petition is filed, or date DSS requests protective supervision)

(2) Permanency Planning Hearing within 12 months from the Date of Intervention in non-EPP cases and 6 months in EPP cases

(3) Review hearing in informal adjustments

(4) Continued Preliminary Protective Hearing for non-appearing respondents

4. Non-Appearing Respondents. In the event a respondent parent is not notified or fails to appear at the Preliminary Protective Hearing (Detention/Shelter), a continued hearing is to be held prior

to the Settlement Opportunity for the purpose of advisement and appointment of counsel. Notice of the hearing and the D&N petition are to be served on any non-appearing respondent by DSS/DHS. Other notices are to be in conformity with the Colorado Rules of Juvenile Procedure and the Colorado Children's Code.

C. Benefits.

1. Elimination of one court hearing by combining detention/shelter/temporary custody hearing with initial/advisement hearing, resulting in more efficient use of judicial resources and professionals' time

2. Less delay resulting from unknown or missing respondent parents

3. Early identification and assessment of potential relative placements (including early initiation of ICPC process) resulting in earlier placement of children, on a temporary or permanent basis, with appropriate relatives

4. Engagement of interested family members in the D&N process (particularly, permanency planning) from the beginning of the case

II. Settlement Opportunity

A. Purpose. To afford the parties and counsel an opportunity to meet face to face in a non-adversarial, problem-solving environment to share information, to discuss issues, to identify a preliminary permanency goal, and to reach consensus on how to achieve that goal.

B. Process.

1. Timing. A Settlement Opportunity should occur prior to the Plea Hearing in all contested cases except informal adjustments pursuant to C.R.S. 19-3-501.

2. The Settlement Opportunity may take a number of forms (including settlement conference, mediation, D&N Case Manager conference, or family group conferencing or decision-making) but should include the following elements:

a. The parents, caseworker, GAL, County Attorney and respondent parents' counsel must be included. Other parties, including the child, service providers and CASA volunteers, may be included as appropriate.

b. It should be conducted in an environment of joint problem-solving.

c. It should be conducted by a neutral third party (judicial officer, trained D&N mediator, trained facilitator, or D&N Case Manager).

3. Case Differentiation. Not all D&N cases need to proceed along the same procedural track or within the same time frames. The case differentiation approach outlined herein is designed to expedite permanency in those cases that can or should proceed to permanency sooner than 12 months and to reduce future delays in achieving permanency by pursuing concurrent permanency planning where appropriate. The parties should discuss and attempt to reach consensus as to the appropriate categorization of the case, course of action, and time frames based on the facts and circumstances of the case at the Settlement Opportunity.

a. Informal Adjustments/Continued Petitions

(1) Type of Cases. Uncontested cases in which the parties agree as to the treatment issues and the parents demonstrate a commitment to addressing such issues by cooperating with DSS/DHS, voluntarily participating in recommended services designed to keep the child in the home or to return the child within 6 months, and participating in regular visitation with the child (if removed from the home). In informal adjustments, the parents must admit the factual allegations underlying DSS/DHS intervention as required by statute at the Preliminary Protective Hearing. In continued petitions, the parents must enter admissions to the petition at the Plea Hearing but no adjudicatory order will enter at that time.

(2) Review Guidelines. A review should be conducted at 3 months and 6 months from the Date of Intervention.

b. Protective Supervision Cases

(1) Type of Cases. Cases in which the child is not removed from the home but DSS/DHS maintains protective supervision.

(2) Review Guidelines. In cases where the child is not removed from the home, no Permanency Planning Hearing or placement review is mandated by statute. It is recommended that the court review these cases every 3 months to determine if continued supervision by DSS/DHS and the court is warranted.

c. Reunification Cases

(1) Type of Cases. Uncontested cases in which reunification with at least one parent is identified as the preliminary permanency goal and that parent agrees to a treatment plan reasonably calculated to achieve reunification within 12 months from the Date of Intervention.

(2) Review Guidelines. At a minimum, a review should be conducted at 3 and 6 months, the Permanency Planning Conference conducted at 9 months and the Permanency Planning Hearing conducted within 12 months from the Date of Intervention (Date of removal of child from home, date of filing of D&N petition, or date DSS requests protective supervision whichever occurs first).

d. Concurrent Permanency Planning Cases

(1) Type of Cases. Uncontested cases in which at least one parent has appeared, expressed a desire to work toward reunification and agreed to a treatment plan but certain risk factors are present that suggest reunification may not be successful. Risk factors include: history of prior involvement with DSS/DHS for similar issues; history of severe physical abuse or habitual pattern of physical injury toward child or sibling; history of sexual abuse where perpetrator is in denial; chronic substance abuse (prior treatment efforts have been unsuccessful); adolescent parent functioning at a low level; custodial parent's inability to identify and meet the child's needs due to a developmental disability, mental illness, and/or physical or mental incapacity; and removal and/or termination of parental rights as to other children. Under C.R.S. 19-3-312(5), concurrent permanency planning is required if the petition alleges that the child is dependent or neglected under C.R.S. 19-3-102(2) (habitual pattern of physical or sexual abuse involving another child). In these cases, DSS/DHS is to explore alternative permanency plans concurrently with reunification. The use of family group conferencing or

decision-making to develop an alternative plan with the family is encouraged. Efforts should be made to place the child in a potentially permanent relative placement or foster/adopt home.

(2) Review Guidelines. At a minimum, reviews should be conducted at 3 and 6 months, the Permanency Planning Conference conducted at 9 months and the Permanency Planning Hearing conducted within 12 months from the Date of Intervention.

e. Expedited Permanency Planning Cases [for EPP districts]

(1) Type of Cases. Cases in which at least one child is under the age of 6.

(2) Review Guidelines. The initial review should be conducted at 3 months and the Permanency Planning Hearing conducted within 6 months from the Date of Disposition.

f. Accelerated Permanency Planning Cases

(1) Type of Cases. Uncontested cases in which the parties agree to a permanency plan (other than reunification) and there is no reason to delay the adoption of the permanency plan. Examples include cases where the child can not be maintained in a family setting and requires long-term residential care due to the mental, physical, psychological and/or cognitive condition of the child and cases where neither the parents nor the child (at least 16 years old) is willing to work toward reunification and emancipation is appropriate.

(2) Review Guidelines. The initial review should be conducted at 3 months and the Permanency Planning Hearing conducted within 6 months from the Date of Intervention.

g. Early Termination Cases

(1) Type of Cases. Cases in which no appropriate treatment plan can be developed for either parent due to abandonment under C.R.S. 19-3-604(1)(a) or parental unfitness under C.R.S. 19-3-604(1)(a). The finding that no appropriate treatment plan can be developed should be made at the Plea Hearing. Efforts should be made to place the child in a potentially permanent relative placement or foster/adopt home as soon as possible.

(2) Review Guidelines. The initial review should be conducted at 3 months. If there are interested family members, family group conferencing or decision-making should occur prior to the review. If no alternative plan is developed by the family, the court should order that a Motion to Terminate Parental Rights be filed and set for hearing within 90 days.

h. Contested Cases

(1) Type of Cases. Cases in which no admission to the petition or default judgment is entered at the Plea Hearing.

(2) Review Guidelines. The Contested Adjudicatory Trial is to held within 90 days of the Preliminary Protective Proceeding (45 days of the Plea Hearing), whenever possible. If the Contested Adjudicatory Trial is not set within the 90-day statutory period and the child has been removed from the home, a

placement review must be held within 90 days of the Date of Intervention. EPP cases are subject to a placement review within 60 days of the Date of Intervention (Date of removal of child from home, date of filing of D&N petition, or date DSS requests protective supervision whichever occurs first).

C. Benefits.

1. Fewer contested adjudications and dispositions

2. Early development of treatment plans and provision of services

3. Greater "ownership" of treatment plan by respondent parents who have actively participated in developing the treatment plan

4. Fewer court appearances to achieve disposition resulting in more efficient use of judicial resources and professionals' limited time

5. More efficient docket management and case tracking

6. Less delay in achieving permanency by identifying high risk cases early on, proceeding with concurrent permanency planning or early termination as appropriate, and placing children in potentially permanent placements as early as possible

III. Plea Hearing

A. Timing. The Plea Hearing is to be held within 45 days of the Date of Intervention (except in the case of informal adjustments pursuant to C.R.S. 19-3-501.)

B. Uncontested Cases

1. Purpose. To accept admissions to the petition, to enter the adjudicatory order, to adopt the treatment plan, and to establish the parents' commitment and ability to comply with the terms of the treatment plan.

2. Process.

a. In uncontested cases, the parties should be prepared to proceed to adjudication and disposition at this hearing. In the rare case where the treatment plan is not available or adopted at this hearing, a Dispositional Hearing must be set within 30 days.

b. A written report and treatment plan is to be filed by DSS/DHS and served on the parties and counsel at least one week prior to the hearing, unless otherwise ordered by the court. If disposition is not to occur at this hearing, an interim treatment plan must be filed with the written report.

c. The following actions are to be taken by the court at the Plea Hearing:

(1) Accept admissions to the petition;

(2) Enter default judgment as to any non-appearing respondent who has been served;

(3) Review the terms of the treatment plan with the parents and inquire as to the parents' willingness and ability to comply with the terms of the treatment plan;

(4) Advise the parents as to the potential consequences of not complying with the treatment plan, including termination of parental rights;

5) Adopt the treatment plan or make a finding that no appropriate treatment plan can be developed;

(6) Set the initial review hearing (within 90 days of the Date of Intervention if the child is in placement); and

(7) Set a Dispositional Hearing within 30 days, if necessary.

d. Written notice of the initial review hearing is to be sent to the foster parents or other custodial adult and any non-appearing respondent by DSS/DHS.

3. Benefits.

a. Earlier adoption of treatment plans and provision of services

b. Fewer court appearances by combining adjudication and disposition into single hearing

c. Greater "buy-in" by parents

C. Contested Cases.

1. Purpose. To enter a denial of the petition and to move the litigation forward.

2. Process.

a. In contested cases, the Plea Hearing should be treated as a pre-trial conference to narrow the issues and to enter such orders as are necessary and appropriate to move the litigation forward. Since the parties have already participated in one Settlement Opportunity, the parties should be prepared to stipulate as to uncontested facts and identify contested issues at the Plea Hearing.

b. The court should take the following actions at a contested Plea Hearing:

(1) Set the case for a Contested Adjudicatory Trial (within the 90-day statutory period, if at all possible)(EPP cases within 60 statutory period);

(2) Set the matter for a placement review within 90 days from the Date of Intervention, if the Contested Adjudicatory Trial is not set within the statutory period and the child has been removed from the home;

(3) Order the parties to participate in another Settlement Opportunity prior to the Contested Adjudicatory Trial; and

(4) Enter such case management orders, scheduling orders and/or protective orders as are necessary and appropriate under the facts and circumstances of the case.

3. Benefits.

a. More productive use of judicial and professionals' time by treating the Plea Hearing as a pre-trial conference to move the litigation forward

IV. Contested Adjudicatory Trial

A. Purpose. To determine whether the allegations in the petition have been proven.

B. Process.

1. Timing. A Contested Adjudicatory Trial is to be held within 90 days from the Preliminary Protective Proceeding (45 days after the Plea Hearing) or as soon thereafter as is practical.

2. The parties must participate in a Settlement Opportunity conducted by a judicial officer, trained D&N mediator, or D&N Case Manager prior to the Contested Adjudicatory Trial. A draft treatment plan must be distributed by DSS to the parties and counsel at least one week prior to the Settlement Opportunity.

3. If all issues are resolved at the Settlement Opportunity, the parties should be prepared to proceed to adjudication and disposition on the scheduled trial date and notify the court that the trial date can be vacated (or an earlier date set by the court at the time the trial is vacated).

4. If all issues are not resolved at the Settlement Opportunity, contested issues should proceed to trial on the scheduled trial date. Continuances will be granted only upon a finding that manifest injustice would occur in the absence of a continuance.

5. The parties should be prepared to proceed to both adjudication and disposition on the date set for the Contested Adjudicatory Trial. If the petition is sustained at the trial and if a treatment plan is not available or adopted at the trial, a Dispositional Hearing must be set within 30 days.

C. Benefits.

1. Continuing opportunities for the parties to resolve adjudication and dispositional issues prior to trial in a non-adversarial, problem-solving environment

V. Reviews

A. Purpose. To review the need for continuing placement (if the child has been removed), progress on the treatment plan, and the continued appropriateness of the permanency goal.

B. Process.

1. Timing. The initial review should be an appearance review held within 90 days of the Date of Intervention (45 days after the Plea Hearing). The type and timing of subsequent reviews will depend on the facts and circumstances of the case. As previously discussed, in certain circumstances, the case may proceed directly to permanency planning or termination.

2. Persons Involved. Respondent parents (whose parental rights have not been terminated), the child (if age appropriate and the hearing does not interfere with school), respondent parents' counsel, GAL, caseworker, County Attorney, CASA volunteer, foster parents or other custodial adult, and service providers, if possible, should be present at review hearings. Service providers may submit a written report in lieu of an appearance.

3. Written notice of the next review hearing should be sent to any party by DSS/DHS, including foster parents or other custodial adult, who did not appear at the prior review.

4. The court should consider the following issues at every review:

    a. Need for continued placement and appropriateness of placement;

    b. Continued appropriateness of permanency goal;

    c. Whether the treatment plan or proposed services need to be modified in light of additional information or changed circumstances;

    d. Progress on treatment plan goals; and

    e. Parental involvement and interaction with child.

5. A written report must be filed by DSS/DHS and served on the parties and counsel at least one week prior to any scheduled review, unless otherwise ordered by the court. The report should include a placement history and a discussion of the developments in the case since the last hearing or review, the progress on the treatment plan, the continued appropriateness of the permanency goal, and the parents' participation in visitation and interaction with the child.

C. Benefits.

1. Early identification of problems in cases and opportunity to address problems through amendments to treatment plan or permanency goal

2. Accountability for agency action or inaction

3. Continuing opportunity to assess parental involvement with child and commitment to parenting

VI. Permanency Planning Conference

A. Purpose. An opportunity for parties and professionals to meet face to face to share information regarding treatment plan and permanency plan issues, to discuss and reach a consensus as to the most appropriate permanency plan for the child, and to develop an action plan for achieving the permanency goal.

B. Process.

1. The Permanency Planning Conference is a meeting facilitated by a D&N Case Manager, judicial officer, trained mediator or trained facilitator to develop a permanency plan and prepare for the Permanency Planning Hearing. The Permanency Planning Conference may be accomplished through family group conferencing or decision-making conducted by a trained facilitator. Participants may include the parents, the child (if age appropriate), interested family members, GAL, caseworkers, CASA volunteer, service providers, therapists, foster parents or other custodial adult, counsel and the facilitator. In some cases, it may be appropriate to conduct the Permanency Planning Conference in two stages - a preliminary meeting with professionals only followed by a meeting with all parties.

2. The end result of the Permanency Planning Conference is a written report which outlines the permanency goal and the specific actions to be taken to achieve that goal (tasks to be completed, party responsible, and time frame) prepared by the facilitator or DSS/DHS.

3. If the proposed permanency plan is termination of parental rights, the termination process and alternatives (including relinquishment) must be explained to the parents. If any parent expresses a desire to voluntarily relinquish parental rights, relinquishment counseling should be scheduled as soon as possible and completed by the Permanency Planning Hearing.

C. Benefits.

1. Non-threatening opportunity for parents to participate in making permanency decisions for their child

2. Improved communication among parties and professionals regarding permanency issues in advance of the Permanency Planning Hearing

3. More productive use of professionals' limited time by better coordinating and consolidating case staffings, meetings, and conferences

4. Focus on the permanency goal and implementation of the goal in advance of the Permanency Planning Hearing

5. Greater accountability of professionals and parents

VII. Permanency Planning Hearing

A. Purpose. To adopt a specific permanency plan for the child and to take significant steps toward implementing the permanency plan.

B. Process.

1. Timing. The Permanency Planning Hearing is to be held within 12 months of a judicial finding of abuse and neglect or sixty days after the child's removal from the home, whichever is sooner, (6 months in EPP cases).

2. A written report and any proposed amendments to the treatment plan must be filed by DSS/DHS and served on the parties and counsel at least one week prior to the Permanency Planning Hearing, unless otherwise ordered by the court.

3. The Permanency Planning Hearing should be more than just another review. The Permanency Planning Hearing is to make a definitive, long-term decision regarding the permanent placement of the child. Accordingly, the parties should be prepared to take whatever steps are necessary to implement the permanency plan at the Permanency Planning Hearing.

a. Reunification at or before Permanency Planning Hearing. If reunification occurs as of the Permanency Planning Hearing, the court should set a time period for continuing supervision by DSS/DHS, if necessary. A review should be scheduled after that date to determine if continuing supervision is necessary or the court's jurisdiction can be terminated.

b. Reunification on a date certain beyond the permanency planning hearing (not to exceed 6 months from the date of the Permanency Planning Hearing). The court must make specific findings as to the extenuating circumstances justifying reunification as the continued permanency goal. The court must find that the parents have made significant progress on the treatment plan, that there is a substantial probability that the child will be returned home within 6 months, and that reunification is in the best interest of the child. The court should adopt amendments to the treatment plan, as necessary. The case should be set for an appearance review after the scheduled return date. If the child is returned home by the review date, the court should determine if continuing supervision is required or the court's jurisdiction can be terminated. If the child is not returned home by the scheduled review date, an amended permanency plan must be adopted and implemented at the review hearing.

c. Termination. The Motion to Terminate Parental Rights should be filed at the Permanency Planning Hearing and set for hearing within 90 days. The court should reappoint the GAL and counsel for purposes of the termination proceedings and authorize service by publication as to missing parents at the Permanency Planning Hearing.

d. Relinquishment. Relinquishment counseling should be completed prior to the Permanency Planning Hearing and the relinquishment petition filed at the Permanency Planning Hearing. If all the statutory prerequisites to relinquishment have been met, the relinquishment petition may be heard at the Permanency Planning Hearing.

e. Permanent Custody. The permanent custody motion should be filed at the Permanency Planning Hearing. If uncontested, the motion may be heard at the Preliminary Planning Hearing. Otherwise, the matter should be set for hearing as soon as practical.

f. Guardianship. The guardianship motion should be filed at the Permanency Planning Hearing. If uncontested, the motion may be heard at the Permanency Planning Hearing. Otherwise, the matter should be set for hearing as soon as practical.

g. Independent Living. The case should be transferred to the appropriate unit within DSS/DHS (if not already done so) at the Permanency Planning Hearing. The child should be in a placement with an emancipation component or receiving services to develop independent living skills. Reviews should be conducted every 6 months unless the circumstances warrant more frequent reviews.

h. Long Term Foster Care. Reviews should be conducted every 6 months unless the circumstances warrant more frequent reviews.

C. Benefits.

1. Adoption of a permanency plan within 12 months and achievement of permanency goal within 18 months from the Date of Intervention (in most non-EPP cases).

2. Reduction of time spent in non-permanent out-of-home placements

3. Reduction in foster care costs

4. Earlier identification, initiation, and completion of termination proceedings, thus making children available for adoption sooner

VIII. Termination of Parental Rights

A. Purpose. To determine whether there are statutory grounds to sever the parent/child legal relationship and whether termination is in the best interest of the child.

B. Process.

1. The Motion to Terminate Parental Rights is to be filed at the Permanency Planning Hearing and set for trial within 90 days.

2. The Statewide Assessment Report contains a number of recommendations regarding termination proceedings. These recommendations are to be incorporated into a model Case Management Order for use in termination proceedings.

a. The motion for appointment of an expert witness is to be filed within 10 days after the Motion to Terminate Parental Rights is filed.

b. Expert reports must be distributed to all parties at least 15 days prior to the termination trial as required by statute.

c. Continuances will be granted only upon a finding that manifest injustice will occur in the absence of a continuance.

3. Upon termination of parental rights, the case is to be set for a post-termination appearance review within 60 days for purposes of adopting a post-termination placement plan. A written report is to be filed by DSS/DHS and the GAL and served on the parties and counsel at least one week prior to the review. Subsequent reviews will be set by the court based on the facts and circumstances of the case.

C. Benefits.

1. Earlier placement of children in permanent homes

2. Reduction of time spent in foster care and corresponding costs

3. Greater judicial accountability for post-termination disposition, including adoption