Maine Court Improvement Project

Report of the Committee to

Study the Role of the Courts in Protecting Children

Assessment of Child Protection Proceedings
and
Recommendations for Improvement

Submitted to

The Maine Supreme Judicial Court

March, 1997

JOHN B. BELIVEAU
PRESIDING JUDGE
8TH DISTRICT COURT

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March 28, 1997

Hon. Daniel E. Wathen
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Re: Report of the Committee to Study the Role of the Courts in Protecting Children

Dear Chief Justice Wathen:

As you know, in the late Spring of 1995 you appointed a Committee to Study the Role of the Courts in Protecting Children. The distinguished volunteers who serve on that Committee have worked diligently for more than 18 months and their initial task is now complete. As Committee Chair, it is my pleasure to submit the results of their efforts for your review and consideration.

The attached Report is the product of research and discussion among people representing a broad range of interests. The participants included some who are directly involved in child protection cases, and others who shape the laws or who provide services to children and families. Committee members were actively involved in the study process, met on a regular basis, and freely shared their views. They were spirited, thoughtful and candid. The result is a comprehensive analysis of the current legal process, and a set of recommendations for improvement.

The Committee wishes to thank the Muskie Institute of Public Affairs at the University of Southern Maine for providing the research necessary to complete this extensive undertaking and Margaret Semple, our consultant. The Committee also wishes to express its thanks to you, Justice Wathen, and to Associate Justice Paul Rudman for the Supreme Judicial Court's ongoing commitment to improving the courts for children.

As this research demonstrates, child protection cases are procedurally and substantively unique under our law. Capable, knowledgeable, interested judges are critical to the process. The value of judges who are as skilled at case management as they are at factfinding cannot be underestimated. Well-trained, reasonable attorneys and Guardians *ad Litem* are also crucial for the sound resolution of cases.

With these facts in mind, the Committee has drafted a set of Recommendations designed to improve the court process and reduce the time children remain in foster care. It is now prepared to begin implementation. The Supreme Judicial Court's ongoing support of the Committee's work is a significant commitment to justice for children and their families.

Sincerely,

John B. Beliveau
Chair

JBB/pmc

Maine Court Improvement Project

Committee to Study the Role of the Courts in Protecting Children

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MAINE COURT IMPROVEMENT PROJECT

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Introduction

Throughout the United States in the last decade, the number of American children reported as abused or neglected has risen steadily. Maine has not escaped this trend. Every year thousands of Maine children are deemed to be at risk and in fact, by January, 1997, 2,623 Maine children were in foster care because they could not be protected in their homes.

For many children, protection from abuse or neglect is achieved only after formal legal action has occurred. As a result, state courts have assumed a major role in deciding how best to protect children from harm, rehabilitate families, or establish permanency for children who cannot return home. The cases are complicated and painful; and as the number of children at risk has increased, so too has pressure on the courts.

Recognizing the significant role of the courts in protecting children, in 1993 the U.S. Congress authorized a State Court Improvement Program designed to help the states better their practice in child protection and adoption proceedings. Included as part of the Omnibus Budget Reconciliation of 1993, this program contemplated that over a four-year period, states would spend Federal grant funds to assess their systems, suggest improvements, and implement change. The U.S. Department of Health and Human Services, Administration on Children, Youth and Families was the agency designated to receive applications for funding and to authorize grants.

In March of 1995 the Maine Supreme Judicial Court (SJC) applied for and was awarded funds to assess the State's child protection proceedings, and to recommend improvements. To carry out that mission, a study committee was convened and the services of a nationally-recognized research institute engaged. Work on the project commenced in the Fall of 1995, and continued throughout the following year and into the early months of 1997. This Report sets forth the results of those efforts.

I. Overview of Child Protection Proceedings in Maine

A Child Protection case in Maine usually begins when a child suspected of being abused or neglected is referred to the Department of Human Services (DHS). After it receives the referral, DHS evaluates the child's circumstances, and where necessary, assigns the matter to a caseworker for further investigation. Once a case is assigned, a variety of things may occur. DHS may decide that there is no need for intervention, and close the case; or it may work with the family on a voluntary basis to reduce the risk to the children; or finally, it may commence legal action by filing a Petition for a Child Protection Order at court.

When a Petition for a Child Protection Order is filed (usually by DHS), a number of legal protections fall into place. These include: appointment of a Guardian *ad Litem* for the child whose role it is to represent the child's best interests; court-appointed legal counsel for parents who cannot afford to pay for an attorney; the right to notice of all hearings and an opportunity to be heard; the right to have the matter decided by a neutral judge; and the right to appeal that judge's decision. The court established to provide these legal protections is the Maine District Court. This court hears Petitions for Child Protection and Petitions for Termination of Parental Rights.

Maine has 31 District Court locations around the state, grouped into 13 judicial districts. The District Court is part of a state-wide system consisting of the District Court, Superior Court and the Supreme Judicial Court. Presiding in the District Court are judges appointed by the Governor and confirmed by the State Senate, who serve on a full-time basis for 7-year terms, as do all other judges in the Judicial Department. Maine's 16 counties also maintain and administer county Probate Courts. These resolve adoption and guardianship cases and also Petitions for Termination of Parental Rights when the matter does not involve a child protection proceeding. Probate Judges are attorneys who are elected to serve on a part-time basis.

The Maine District Court is a court of limited jurisdiction which handles a wide range of cases . District Court judges address criminal misdemeanor and bail hearings; small claims; traffic cases; juvenile offenses; divorce, paternity and other family matters; protection from abuse orders; landlord/tenant; judgment creditor hearings and other civil claims valued at less than $30,000. It is an extremely busy court, coping not only with large general caseloads, but also with a steady increase in the number of Child Protection cases scheduled to be heard. Between Fiscal Years 1990 and 1995, for example, the number of Petitions for Child Protection filed in Maine's 31 District Court locations increased by 30.5%. As if these rising figures were not daunting enough, the District Court must also make room on its docket for the multiple hearings required by Child Protection matters, briefly described below.

A Child Protection case often begins with an emergency request to the court, asking for an Order for Preliminary Protection for a child thought to be in immediate risk of serious harm. If the judge issues an Order for Preliminary Protection, a full hearing on that Order must be scheduled within ten days. Often referred to as the "ten day hearing" the issue to be decided is

whether the child is in immediate risk of serious harm, and hence in need of ongoing court protection.

After the ten-day hearing occurs, the case is scheduled for a final hearing to determine if the child is "in jeopardy," and in need of protection. "Jeopardy" means serious abuse or neglect. If the Court finds that the child is in jeopardy, and issues an Order to protect that child, both State and Federal laws require the court to review the case from time to time. What this means is that every Child Protection case filed in District Court carries with it the obligation for multiple hearings.

In the light of these complex realities, the Committee to Study the Role of the Courts in Protecting Children commenced its work in the summer of 1995.

II. The Court Improvement Project: Organization and Approach

A. The Committee to Study the Role of the Courts in Protecting Children

Under the terms of the Federal State Court Improvement Program, Congress directed that participating States must spend first-year funds assessing current laws and practices, and developing a plan of improvement. Second, third and fourth year funds must be spent implementing improvements according to the plan. In order to carry out the first-year mission, on May 31, 1995, Chief Justice Daniel E. Wathen appointed a sixteen-member Committee to Study the Role of the Courts in Protecting Children ("the Committee"). Its mission was to "assess the way the courts handle child protection proceedings, develop and present to the Supreme Judicial Court an improvement plan, and assist the Court with the implementation of the plan."

Chaired by District Court Judge John Beliveau, the Committee was designed to include key stakeholders in the child protection process. As such, it included judges, attorneys, Court-Appointed Special Advocates (CASAs), court clerks, legislators, foster parents and personnel from the Department of Human Services and the Administrative Office of the Courts. The Committee established an Executive Subcommittee to prepare for meetings, and met on a regular basis. While the broad base of membership guaranteed disparate viewpoints and spirited discussion, all the participants were united in a desire to improve the court process to meet the best interests of children and families.

B. Issues to be Studied and Selection of a Contractor

Recognizing that it could not undertake the assessment required by Congress without assistance, the Committee drafted and published a Request for Proposals (RFP) in the summer of 1995. The RFP identified seventeen specific areas to be researched. These included: current

legal mandates; representation of parties; judicial time to prepare for and conduct hearings; completeness and depth of hearings; efficiency and timeliness of court hearings; uniformity of judicial practices, policies and procedures; training; court staff and their duties; caseflow management; use of technology; quality of Guardians *ad Litem* representing children; role of protection from abuse orders when child abuse is present; availability of services for children and parents; adoption proceedings in Probate Court; confidentiality and privilege issues; participant satisfaction; and community attitudes toward and participation in child protection issues.

In the Fall of 1995, the Committee contracted with the National Child Welfare Resource Center for Organizational Improvement, to help conduct the assessment. The National Resource Center is a division of the Edmund S. Muskie Institute of Public Affairs ("Muskie Institute"). By agreement of the parties, the Muskie Institute prepared data collection instruments for the Committee's review and approval; collected and analyzed the information, reported its findings to the Committee, and prepared a final report containing recommendations for improvement.

C. Data Collection and Other Research

1. Considerations

The Committee's first challenge was to design a research approach that would gather accurate information from significant participants, knowing that the number of stakeholders was large. Almost all child protection cases are complicated and involve many individuals. For example, the child who is the subject of the action has a Guardian *ad Litem*, who may be a Court-Appointed Special Advocate (CASA) Volunteer, or a court-appointed attorney. Legal counsel is usually appointed for parents although sometimes, separate counsel is required for each parent. The Department of Human Services is represented by Assistant Attorneys General (AAGs). There are many witnesses or service providers involved, including medical and mental health professionals, DHS caseworkers, foster parents, teachers and parents. It was important to the Committee and to the Muskie Institute researchers, that information and opinions be gathered from as many of these informed sources as possible

The second challenge was the population and geographical profile of the State itself. Maine is home to both urban and rural populations, and the District Court is widely scattered over its 16 counties. Because it was neither practical nor sensible to study each of Maine's 31 District Court locations individually, the Committee selected five sites from around the state for in-depth analysis. Portland and Lewiston were selected as representative of Maine's urban locales, and Skowhegan, Ellsworth/Machias and Caribou were chosen as representative of suburban/rural sites. Information from these five sites was augmented by additional data gathered on a statewide basis.

2. Research Methodology

At each of the five selected sites, in-depth individual interviews were held with the presiding judges, DHS caseworkers, DHS supervisors, Assistant Attorneys General (AAGs), Guardians *ad Litem*, and attorneys for parents. In addition, at each of the five study sites focus groups were held with DHS caseworkers and supervisors, attorneys for children and parents, community service providers; parents and foster parents. The information solicited in interviews and focus groups covered a wide range of topics, including positive and negative aspects of the court system; treatment of parties; quality of representation; availability of resources, time constraints and the like. In addition to the interviews and focus groups held at the five selected sites, hundreds of actual case files were reviewed at thirteen (13) District Court sites. The purpose of the review was to identify, among other things, timeliness of events, nature of abuse or neglect, and the nature and extent of factual findings in the court's orders.

Beyond the data gleaned from the five sites, information was also gathered on a statewide basis. Telephone interviews were held with District Court Judges statewide, and a written survey sent to all Superior and Probate Court Judges. Written surveys were also sent to CASA volunteers and to District Court Clerks. Statewide focus groups were held with children's advocates, teenagers in DHS placements and Assistant Attorneys General. Finally, a file review of a sample of appeals of Termination of Parental Rights cases filed with the Law Court was done, to examine timeframes for appeals filed in 1995.

The research commenced in February, 1996 and concluded approximately six months later. The amount of information collected was significant.

D. Development of Recommendations

After the research data was assembled, a detailed analysis was undertaken. The material was quantified, interpreted and measured against the requirements of State and Federal law, both of which had been reviewed early in the assessment. Programs and laws of other states were examined, along with data compiled by Maine's Administrative Office of the Courts. Finally, Maine's law and practice were evaluated in light of certain nationally-recommended standards. In particular, the Committee and the Muskie team referred to a 1995 document prepared by the National Council of Juvenile and Family Court Judges, entitled, *Resource Guidelines - Improving Court Practice in Child Abuse & Neglect Cases.* The *Resource Guidelines* are the only national standards currently in existence.

After the assessment was under way, the Legislature approved some additional funding to improve the state's child protection efforts. The money derived from Federal sources, and was allocated out of the Department of Human Services' budget. While authorizing new DHS caseworker and AAG positions, the funds also created two new District Court Judgeships and

two support positions. The Legislature directed the Courts to devote the additional judge time towards reducing an existing backlog of Child Protection cases on the court dockets. Although creation of the new judgeships was unrelated to the Committee's assessment, that action anticipated a Committee recommendation that more judges were needed. With the addition of two new judges in September of 1996 the Committee was able to gather information about the impact of the new judgeships. For example, further information about District Court scheduling practices came to the Committee's attention; and Committee members were able to make suggestions to the Chief Judge of the District Court about the long-term use of extra judge time. These ideas have been included in the Committee's Recommendations.

On November 4, 1996, the Muskie Institute presented its final report to the Committee. The Muskie Institute's Final Report contained detailed factual findings and recommendations. Before taking action on that Report, the Committee circulated it to a number of people for review and comment. Among those asked to respond were judges, the Commissioner of the Department of Human Services, The CASA Director, the Director of the Children & Families Unit in the Department of Attorney General, and the Director of the Maine Foster Parents Association.

The Committee acknowledges the work of the Muskie Institute. The data collected and analyzed, and the recommendations put forward by Muskie form the basis of the Committee's own recommendations, and lay the goundwork for improving child protection in the Courts. Portions of the Muskie Institute Report are contained in the Appendix to this document.

Set forth below are the Committee's Recommendations. They have been developed in light of the Muskie Institute's findings and recommendations, and most of the explanatory material accompanying them is drawn from the Muskie Report. All the findings and recommendations were considered by the Committee in light of the nature of the District Court, the addition of two new judges, and the comments made by those who reviewed the Muskie Institute's Final Report.

RECOMMENDATIONS

A. The Role of the Court

Among the judges who preside in District Court, there are many different views about how Child Protection cases should be handled. Some judges take an active part in the cases by convening pre-trial conferences, overseeing the progress of cases, and encouraging parents on a one-to-one basis in the courtroom. Other judges take a more hands-off approach, and regard their role as that of a fact-finder and decision-maker when parties cannot agree.

Research in Maine and in other states strongly suggests that when the judge takes an active role the cases proceed more efficiently, events occur on a more timely basis, and there is a greater sense of satisfaction among the parties. Likewise, children and families benefit when their cases are heard by judges who *want* to hear child protection cases, and who hear each case from beginning to end. Judicial education about complex family issues also leads to better results.

Maine's District Court Judges also hold varied opinions about legal and procedural matters in Child Protection cases. Their opinions differ about whether certain kinds of evidence may or may not be admitted; what kinds of proceedings can occur without being recorded; whether parties should be required to appear at certain court events; or how much authority the court has to direct the work of the Department of Human Services. When different judges preside over separate stages of a protection case, the results can be inconsistent and confusing to participants.

Some participants thought that, because litigation tends to polarize people, child protection cases might better be resolved in a less adversarial setting, keeping in mind that some cases will require a full trial. Some judges use pre-trial conferences to encourage discussion, mediation and negotiation. This approach works best in areas where the judges maintain open lines of communication with the Department, the AAGs, attorneys and Guardians *ad Litem*, and where judges keep abreast of community resources. This approach also works best when judges try to keep informed about family dynamics, therapeutic methods, psychological and medical schools of thought, the effects of substance and domestic abuse, and the like.

The Committee recommends as follows:

Recommendation 1: Judges should actively oversee child protection cases.

Recommendation 2: The parties in each case, including uncontested matters, should appear in person before the judge.

Recommendation 3: Judges should, to the extent possible, be responsible for individual cases for the life of those cases.

Recommendation 4: The court should develop a benchbook and court rules to make practice in the various courts more uniform.

Recommendation 5: The court should consider adopting an optional alternative dispute resolution model to resolve child protection matters.

Recommendation 6: Judges in each region should convene key participants, including AAGs, parents' attorneys, Guardians *ad Litem*, DHS workers, court clerks, etc., on a regular basis to identify barriers to efficient case flow and to plan solutions for more effective case management.

Recommendation 7: The Chief Judge of the District Court should assign protective custody cases to those judges who have a preference for hearing these matters, as well as all other matters.

Recommendation 8: The court should develop procedures that enable a judge handling a child protection matter to determine whether there are other cases involving the same family, either in Maine or elsewhere, that may have a bearing on the child protection proceeding.

Recommendation 9: The District Court should monitor Termination of Parental Rights cases more closely, and should periodically review the status of children awaiting adoption.

Recommendation 10: The court should require the Dept. of Human Services to submit to the parties a written case summary prior to a final hearing and prior to a judicial review in every case.

Recommendation 11: In child protection cases, the court should inquire about the need for evaluations, tests and other services.

Recommendation 12: In each court order, the court should be clear and specific about the services to be provided and about the expectations the court has of each party to the action.

Recommendation 13: The court should be fully informed by the Dept. of Human Services concerning availability of services statewide.

B. Caseflow Management

The sheer number of cases on the District Court dockets, and the complexity and number of hearings which comprise a child protection case, all create caseflow management problems and scheduling difficulties. In many District Court locations, Child Protection cases are scheduled at the same time of day. This requires all parties to be present in court at the same hour, resulting in crowded courthouses where open negotiations are carried out in lobbies and in small conference rooms. Because adequate judge time is not always available, hearings may begin on one day, but if not finished, rescheduled for further hearing days, weeks or months later. While this situation has improved, it remains a problem. Parties awaiting final resolution of appeals filed in the Law Court also noted delays, although the Law Court no longer routinely grants requests for extension of time to write briefs, and has moved Termination of Parental Rights appeals to the top of the Court's docket.

District Court Judges note that the crowded calendar precludes time for them to research and write opinions. Parties complain of long hours at the court house waiting to be heard. Some attorneys note that occasionally, they receive notice of hearings so close to the hearing date that there is no time to prepare adequately, resulting in continuances. Attorneys also report that judges vary tremendously in their policies about the granting of continuances.

As was evident from the surveys returned by the District Court Clerks, there is no uniform docketing system for protective cases in the state. Court Clerks have never been provided with such training as would assist them in scheduling, docketing and caseflow management for protective matters. In some courts, the Clerk's office works closely with the AAG assigned to that court. Such a working arrangement appears to smooth the case management, because the AAG can provide the clerks with some idea of the amount of time a case might need, can identify especially pressing matters, and generally help to keep the cases moving.

The Committee recommends the following:

Recommendation 14: The Chief Judge of the District Court should designate a judge to develop and coordinate a protective custody scheduling system statewide, and to implement other recommended changes.

Recommendation 15: The scheduling system should be designed so that contested hearings are begun and finished with minimum interruption.

Recommendation 16: The scheduling system should be designed to minimize waiting time at the courthouse for the parties.

Recommendation 17: Scheduling of protective custody cases should be done by the clerks' offices in consultation with the AAGs.

Recommendation 18: The clerks should receive training on caseflow management matters.

Recommendation 19: The District Court should establish minimum time standards for the progress of cases and adopt a policy on continuances.

Recommendation 20: The Chief Judge of the District Court and the Chief Justice of the Superior Court should develop a protocol that recognizes the priority of child protection matters.

Recommendation 21: The Law Court should adopt a policy on requests for extension of time for the filing of briefs in child protection cases.

Recommendation 22: The Superior Court and the Law Court should adopt an expedited calendaring process for child protection appeals.

Recommendation 23: The automated case management tracking system currently being developed should contain elements that permit Child Protectin cases to be evaluated.

C. Representation of Parties

Probably no topic in the course of this assessment generated more energy and discussion among respondents than did the subject of parties' representation. One central theme which appeared repeatedly was the need for training; both legal and non-legal. It was widely felt, for example, that non-lawyer participants, including CASA volunteers, DHS caseworkers and community service providers, all would benefit by a clearer understanding of how the legal process works, and why it works as it does. Non-attorneys are sometimes confused and offended by the inherently adversarial nature of a trial, and do not understand the judge's role as a neutral factfinder.

Lawyers, on the other hand, are generally understood as most capable when they not only have a good grasp of the legal issues, but also understand something about family dynamics, social services techniques, psychological testing methods, and therapeutic treatments. Not all lawyers have that knowledge. Representational styles differ, of course, and in some sense how a lawyer represents a client can be highly idiosyncratic. Consequently, it was widely reported that the progress of a case will vary according to "who is on the case." However, it was also generally agreed that cross-disciplinary training of the kind described above would result in better organized, better focused representation.

It is not uncommon for new attorneys, often those recently out of law school, to ask to be placed on the list of court-appointed counsel. However, because of the complexity of child protection cases, new lawyers should decline such cases until they have some experience or at the very least, until they have connected with a more experienced lawyer who can assist them.

While it is true that for the most part throughout the state members of the bar are willing to assist new lawyers, such help is not always available when needed.

While the Legislature recently provided funds for the Attorney General's Office to hire new child protection attorneys, AAG caseloads continue to be very high. Burdensome caseloads mean that AAGs are not always available for consultation with their clients or with other attorneys, and that new AAGs do not have much opportunity for training before being assigned to cover District Court.

The Court Appointed Special Advocates (CASA) program has been operational in Maine for more than ten years, and hundreds of volunteers have participated in the program. Because the role of the CASA volunteer is to act as the Guardian *ad Litem* and speak for the best interests of the child, the CASA volunteer provides critical information to the court and to the parties. As was repeatedly stressed during the research, training is the key to good child representation. CASAs in particular desired more training in the law and legal issues, as well as ongoing education about substantive protective matters.

For these reasons the Committee recommends the following:

Recommendation 24: The court should consider a mentoring program to be completed by new attorneys before they are assigned a child protection case. The court should permit new attorneys to observe child protection trials before being assigned to represent parents or serve as Guardians *ad Litem*.

Recommendation 25: Judges should provide feedback to all individuals representing parties in a child protection proceeding.

Recommendation 26: The court should provide training opportunities for parents' attorneys, AAGs and Guardians *ad Litem*, which would include information on minimum expectations of the court.

Recommendation 27: The Department of Attorney General should take steps to make trial practice among the AAGs more uniform, including establishing consistency regarding substantive presentation of cases, length of time required, direct and cross-examination of witnesses, etc. Additionally, the Attorney General's Office and DHS should provide cross-training on the roles and responsibilities of each agency.

Recommendation 28: The Department of Attorney General should examine its caseload assignments and total staff resources and, to the extent possible, reduce the caseloads of the AAGs handling child protection matters.

Recommendation 29: The court should consider a pilot project in which a group of attorneys working under contract handle child protection cases.

Recommendation 30: The court should examine a different structure for the administration of the CASA program. Possibilities include a program separate from the court as a private, non-profit organization or a program administered by a judicial employee.

Recommendation 31: The current CASA administration should provide more effective oversight, communication and consultation with CASA volunteers.

Recommendation 32: The Board of the CASA program should be expanded to include others, such as attorneys for parents, children and DHS, a representative of the Dept. of Human Services, a foster parent, a service provider, etc.

Recommendation 33: Judges should submit CASA evaluation forms on an ongoing basis.

Recommendation 34: The CASA program should increase pre-service training and provide continuing education and support for CASA volunteers.

Recommendation 35: The court should consider one or more pilot programs exploring different ways to represent children. For example, the court might consider appointing non-lawyer Guardians *ad Litem* in areas where no CASA volunteers are available.

Recommendation 36: A child protection practice manual for use by attorneys and CASA volunteers should be developed.

D. Statutory and Rule Changes

Overall, the Child and Family Services and Child Protection Act, *22 M.R.S.A. 4001 et.seq.*, was viewed as a sound, well-balanced law that adequately met the needs of parties and protected their rights. However, in light of the Committee's work, changes can be made to improve the law and court procedure. For example, among the options under consideration by the Committee presently are: streamlining hearings on whether a child is in immediate risk of serious harm and should remain in DHS custody pending a final hearing; evaluating methods to cope with non-cooperating adolescents who are in DHS custody; requiring judicial reviews for cases of children who are free for adoption; and eliminating the three-month waiting period for filing of a Petition for Termination of Parental Rights, under *22 M.R.S.A. 4052(2)*. Many more ideas have been offered. The Committee anticipates that a Subcommittee will be created to undertake a full study of possible statutory and rules changes.

Recommendation 37: The child protection statutes and court rules should be reviewed to determine what sections should be amended to conform with the committee's recommendations.

Recommendation 38: The court should explore statutory options to handle cases where a non-abusive parent is available to protect a child from abuse.

E. Other

Throughout the course of this assessment, participants volunteered innumerable useful observations. Of singular note was that in many District Court locations, sufficient modern technology is lacking, which slows the process down. In one court, for example, rotary phones are still in use, which limits the court's ability to conduct telephone conferences. Some respondents noted that their courthouses were crowded, and lacked privacy, conference rooms, or telephones. Other people expressed concern about the fact that if paternity is not established early in a child protection case, the issue can arise years later and create obstacles to adoption. Foster parents noted that they are often a resource for the court and a source of important information which is sometimes overlooked. Judges and DHS caseworkers talked about the particular problems and challenges presented when children are placed in DHS custody by way of the juvenile court.

But perhaps the most important message stressed in every location by every group of people, was the need for improved communication and training. Some of the necessary training is specific to particular groups. For example, AAGs parents' attorneys and and Guardians *ad Litem* were seen to benefit from workshop and training in trial skills, but opportunities are limited. At present, no library of District Court opinions on significant points of law is available. Such a resource could be valuable to practitioners on points of law that have never reached the Law Court. Cross-disciplinary training was everywhere recommended as necessary and valuable; but again, opportunities have been limited to date.

For these reasons the Committee recommends the following:

Recommendation 39: District Court facilities should be upgraded technologically.

Recommendation 40: The court should explore the use of foster parents in child protection proceedings, especially as witnesses in Judicial Reviews.

Recommendation 41: More cross-disciplinary training opportunities should be developed for judges, attorneys, DHS workers, foster parents, child development specialists, evaluators, psychologists, physicians, and other professional participants.

Recommendation 42: Judges, AAGs and GALs should receive specific training on DHS' adoption process.

Recommendation 43: The court should examine the handling of cases of children who have come into DHS custody through the juvenile process.

Recommendation 44: In all child protection proceedings, paternity should be established at the earliest opportunity.

Recommendation 45: A data base or library of significant District and Superior Court opinions should be developed so that on questions of law both judges and advocates have access to how those questions are being resolved across the state, and to promote uniform interpretation of the statute.

CONCLUSION

Extensive work has gone into this assessment. The Committee wishes to thank the members of the Muskie Institute team for the considerable time and effort devoted to the research and analysis. Special recognition is due several court employees who volunteered to compile information from court files. They are Melanie Adams, Pat Champagne, Karen Gagnon, Ulrike Gaynor, Anita Germani, Nancy Gildred, Penny Kendall, Jackie Kimball, Pat Lane, and Amanda Martin. In addition, the committee wishes to thank Mark Hardin, Esq., of the American Bar Association's Center on Children and the Law for the guidance he has given the group and also for his tireless efforts on behalf of the State Court Improvement Program. Finally, special thanks go to Wendy Rau, Esq. of the Administrative Office of the Courts for her capable management and coordination efforts throughout the term of this project.

Committee members have generously given of their time. All members provided substantial input into the recommendations contained in this report. The Committee respectfully urges the Supreme Judicial Court to consider and approve them at its earliest convenience.

APPENDIX

State of Maine

FINAL REPORT

to the

Committee to Study the Role of the Courts in Protecting Children

September, 1996

Prepared by

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I. INTRODUCTION

In the summer of 1996 while this research was being conducted, 2,550 of Maine's children were in foster care. Each of those children arrived in his or her foster home carrying very little in the way of worldly possessions but much in the way of hard personal history. They were children exploited or neglected by the persons responsible for their care; and for the most part the responsible adults were parents who, for one reason or another, could not or would not recognize and attend to their children's needs.

In Maine as in other states, children enter the foster care system by way of the courtroom, after the filing of a Petition for Child Protection Order. Most often the Petition is filed by the Department of Human Services. Once in Court, the children's lives and those of their parents are described, discussed, weighed and evaluated, often in intimate detail. Hundreds of questions are asked and answered and through that process the family's history is relayed to the ears of a neutral judge who must decide the best thing to do. In deciding, the judge needs to balance the integrity of the family's life against the safety and well-being of its youngest members. Few of the decisions are easy.

The role of the court in Child Protection Proceedings is crucial, and how well it works depends on the capabilities of all who participate, including judges, lawyers, Court Appointed Special Advocates, clerks, and witnesses from many different professions. The governing statute, the Child and Family Services and Child Protection Act (22 M.R.S.A. §4001 *et.seq.*) is the legal framework for the decisionmaking process. The Act describes the level of harm that must exist before a child can be removed from home, establishes the standard of proof, allocates rights and responsibilities, aims for family reunification if possible and, if not, provides a mechanism for children to be freed for adoption. The Act is a formal set of guidelines and legal procedures to provide protection to children at risk; but on the human side one judge summed up the essence of the work by saying: "I read the law and apply the law...but in doing so I imagine that the child is in my keeping...and I wrap my arms around him and keep him safe."

The purpose of this study is to examine in some detail how well the Child Protection Court system is functioning in Maine, and how well the state is carrying out its responsibilities under state and Federal law. Carried out over several months, the research included file reviews, surveys, and face to face interviews and focus groups with many enthusiastic, informative participants. It is hoped that the results of this research will enhance the work of the Maine District Court and that this in turn will improve the circumstances of children at risk and their families.

Overall, Maine's court system strives to meet the goal established by Federal and State law and to achieve permanency for children as quickly as is reasonably possible. The system as it currently exists generally works well and its participants are dedicated, hard-working individuals who care about the children they serve. Findings and recommendations suggested by this report should be perceived as suggestions to improve a system that has, over the past several years, been working hard and succeeding in making substantial improvements.

In looking at the Maine District Court system it is important to strive for uniformity of practice while recognizing the unique characteristics of each geographic area. These unique qualities make the system work in that area and it would be harmful to force the District Court located in Fort Kent for example, to adopt identical practices as those practiced in Portland. The recommendations suggested as well as the implementation plan that will be developed need to give the various court locations the opportunity to adapt uniform practices to suit their individual needs.

II. BACKGROUND

A. Federal and State Law

Increased state responsibilities toward abused or neglected children and their families have been reflected in a variety of legislation, one of the most significant of which is the federal Adoption Assistance and Child Welfare Act of 1980, P.L. 96-272, 42 U.S.C. Sections 620-627, 670-678. Major purposes of the Act include: (a) preventing unnecessary foster care placements; (b) ensuring timely and safe reunification with biological parents when possible; and (c) providing expeditious adoption of children unable to return home. Under the Act, a state court must engage in specific, detailed fact-finding.

In addition, the court or an administrative review board must review a foster care child's status at least once every six months; and the court must hold a hearing no later than 18 months after the original out-of-home placement to determine a permanent plan for the child.

Beyond the requirements of the Federal Act, state courts have additional duties imposed by state law. In Maine, state law requires that the Court make findings and enter orders regarding temporary custody of children whose circumstances pose an immediate risk of serious harm, (22 M.R.S.A. § 4034) enter final protection orders (22 M.R.S.A. § 4035); review the cases on a timely basis and enter appropriate orders regarding further protection (22 M.R.S.A. § 4038); and make a variety of findings about services to be offered or provided to the family in order to rehabilitate and reunify the family, the child's best interests, compliance with the protection order, and other significant matters.

As a result of these federal and state requirements, courts today are required to hold frequent, complex hearings. While in the past a child abuse and neglect hearing might be attended by only a social service caseworker and parents, hearings now involve parents and their attorneys, Assistant Attorneys General (AAG) representing the Maine Department of Human Services, (DHS); Court Appointed Special Advocates (CASAs) and occasionally grandparents, children, foster parents, putative fathers, relatives and other interested parties. Hearings are frequently lengthy and complex, encompassing medical and psychological reports, and testimony by expert witnesses in areas of medical and psychological research that are continually evolving.

B. Reports of Child Abuse and Neglect

Across America, over the ten years between 1984 and 1993, the number of children involved in reports of abuse and neglect rose steadily and steeply from under two million to almost three million, a rise of 68 percent. In 1984, 28 out of every 1,000 children were involved in reports of abuse or neglect.

By 1993, the count had risen to 43 out of every 1,000 children (*Child Abuse and Neglect: A Look at the States*, Child Welfare League of America, 1995).

In Maine, the number of children reported as abused and neglected is significant for a state with a population slightly over 1.2 million people. In 1994, 4,769 cases of child abuse and neglect were substantiated, constituting a rate of 15.2 per 1,000 children aged 0-19. This figure is slightly higher than the national rate of 14.3 per 1,000. In 1994 there were 18,457 requests for child abuse and neglect services made to the Department of Human Services, of which 11,991 were screened out. Of the remaining 6,466 cases deemed appropriate for Child Protective Services, two-thirds were assigned for services and one-third were not assigned due to lack of available resources. *(Maine Kids Count 1995-96 Data Book).*

The number of Petitions for Child Protection Orders filed in the Maine District Court has risen steadily. In FY 1990 there were 506 such filings, while in FY 1994 the figure was 628. By FY 1995, filings had increased to 722, an increase of 30.5 percent between FY '90 and FY '95. (*Administrative Office of the Courts*).

C. The Judicial Response to Child Abuse and Neglect in Maine

Responsibility for adjudicating and reviewing cases of child abuse and neglect rests with the District Court, which also has responsibility for a wide range of criminal and other civil matters. In addition to hearing Petitions for Child Protection Orders and conducting Judicial Reviews of those orders, the District Court also has jurisdiction over Petitions for Terminations of Parental Rights (22 M.R.S.A. § 4055 et.seq.) Parents who are aggrieved by an Order of Child Protection may appeal that order first to the Superior Court and then to the Supreme Judicial Court sitting as the Law Court. Persons whose parental rights have been terminated in the District Court may appeal that order directly to the Law Court.

The District Court is located in 31 separate locations throughout the state. Currently there are 27 District Court judges and two Administrative Court judges hearing child protection cases. Two of those judges were recently appointed to fill judicial positions created by the Legislature specifically in response to court needs arising from the press of business relating to child protection cases.

District Court judges do not specialize in any particular area of law, and all hear child protection cases docketed in courts over which they preside. Judges receive their court assignments from the Chief Judge of the District Court. A District Court judge may hear cases in several different locations in any given month, or may be assigned to hear cases predominantly in one or two locations. Judges are assisted in managing the docket by the District Court Clerks and their staffs, but are

otherwise generally unassisted in carrying out their function to hear cases, resolve disputes and issue orders.

In response to the number and complexity of child protection cases, the District Court judges and court staff have devised a variety of caseflow management strategies. In some locations, pretrial conferences that include the presiding judge are a routine part of every case, with the judge providing significant oversight, while in other locations pretrial conferences are held only in cases which cannot be resolved by agreement. For contested cases, some courts employ a "trailing docket" system, in which a specific number of cases are scheduled to be heard sequentially over a set period of days. If the first case on the list is resolved without the need for a trial, then the next case on the list (the case that has "trailed behind" the first) is automatically in order for hearing.

Other courts do not employ a trailing docket but commence a contested case on a date certain and, if it does not finish on that day, place the matter on the next available trial day. This can mean that a case is heard over the course of several days, with the hearing days being several weeks or even months apart.

District Court judges routinely work collaboratively with each other, with the court clerks and with Assistant Attorneys General, parents' attorneys and Guardians ad Litem to manage the docket. All have participated in multi-day judicial symposia designed to increase their knowledge and understanding of child protection and domestic violence issues. These symposia have been funded by Federal training funds provided through Title IV-E of the Adoption Assistance Act. There is also representation from the bench in multi-disciplinary efforts to enhance understanding of issues related to child abuse and neglect, including membership on the Child Death and Serious Injury review panel and the Child Abuse Action Network funded by the Children's Justice Act.

D. The Role of Federal Grant Funds for Court Improvement in Child Abuse and Neglect Matters

Recognizing the significant changes in the duties of state courts in child abuse and neglect proceedings, Congress in 1993 created grants to state courts designed specifically to assist States to evaluate and improve the ways these cases are conducted and managed in the courts. This program provides for $35 million over a four-year period; five million dollars for FY 1995 and $10 million each for FY 1996 through 1998.

States receiving grants must conduct self-assessments describing and evaluating court performance, and subsequently establish plans for improvement which lead to implementation. These

self-assessments must address several questions, including how well courts are fulfilling federal requirements; whether they are making appropriate placement decisions; whether they properly handle termination of parental rights; and whether they establish permanent placements for children who cannot return home.

E. Purpose and Scope of The Study in Maine

This study addresses the Congressional requirement for a comprehensive assessment of the Court's performance in each of the critical areas identified above. To fulfill this requirement, the Chief Justice of the Maine Supreme Judicial Court appointed the Committee to Study the Role of the Courts in Protecting Children. This Committee, in conjunction with the Administrative Office of the Courts, issued a Request for Proposals to conduct the research, make recommendations and design implementation strategies for Court improvement as contemplated by the Federal grants.

The Request for Proposals identified seventeen specific areas to be researched. These included: current legal mandates; representation of parties; judicial time to prepare for and conduct hearings; completeness and depth of hearings; efficiency and timeliness of court hearings; uniformity of judicial practices, policies and procedures; training; court staff and their duties; caseflow management; use of technology; quality of representation of children provided through the CASA program; role of protection from abuse orders when child abuse is present; availability of services for children and parents; adoption proceedings in Probate Court; confidentiality and privilege issues; participant satisfaction; and community attitudes toward and participation in child protection issues.

The Committee hired the National Child Welfare Resource Center for Organizational Improvement of the Edmund S. Muskie Institute of the University of Southern Maine to conduct the research requested. Working closely with the Committee, the Project Team gathered data, conducted an analysis including looking at other state practices and policies and presents its findings and recommendations to the Committee in this report.

F. Practice Standards

The practice standards utilized here are drawn from *Resource Guidelines: Improving Court Practice in Child Abuse & Neglect Cases* as promulgated in the Spring of 1995 by the National Council of Juvenile and Family Court Judges. These guidelines, endorsed by the American Bar

Association (ABA) and the Conference of Chief Justices, were developed by a committee of the National Council, comprised of active member judges who were joined by representatives from the National Conference of Chief Justices and the American Bar Association Judicial Administration Division. According to the *Resource Guidelines*, "Staff of the National Council of Juvenile and Family Court Judges and its research arm, the National Center for Juvenile Justice, worked in conjunction with committee members and consultants to develop these recommendations to help guide the acquisition and allocation of judicial resources. The *Resource Guidelines* are recommended for use by judges, court personnel, social service workers, attorneys, and related professionals." The *Resource Guidelines* set forth procedural steps for each hearing, timeframes for hearings, and describe the necessary preconditions for thorough and timely hearings. These *Resource Guidelines* are currently the most widely endorsed nationwide standards in the country and are the focus of the many state court improvement projects. These are the only guidelines for abuse and neglect cases. Based on the working experience of operating courts, notably Hamilton County Juvenile Court in Cincinnati, Ohio, these guidelines provide a basis for comparison, and a prescription for quality assurance. Their applicability in multiple jurisdictions with varying resources, laws, and policies will be tested in the future.

III. METHODOLOGY

In conjunction with the Committee to Study the Role of the Courts in Protecting Children, (the Committee), the Maine Court Improvement Study focused its research efforts on five sites: Portland and Lewiston as representative of urban sites, and Skowhegan, Ellsworth/Machias, and Caribou as representative of suburban/rural sites in Maine. Four research methods were utilized in each of the five sites: 1.) A review of case files including two samples from District Court files and one sample drawn from the docket of appeals to the Law Court; 2.) A written survey of Superior and Probate Court Judges, CASA volunteers and District Court Clerks. 3.) Individual interviews of District Court Judges, AAGs, CASA volunteers and the Director of the CASA program, foster parents, DHS personnel, and attorneys; 4.) Focus groups held with children's advocates, AAGs, DHS personnel, attorneys, service providers (primarily therapists and evaluators handling child protective cases), foster children and foster parents. Individual interviews, phone surveys and focus groups also were held with statewide contacts who worked in areas other than the five selected urban/suburban/rural test sites. A survey for parents was disseminated through their attorneys, DHS, and people organizing parenting classes at the five target sites. In addition, the Resource Center utilized relevant data available from the Department of Human Services and the Administrative Office of the Courts.

A. Maine District Court File Review; Law Court Appeals Review

The Resource Center case reading of court files included two samples, one from 1990 and one from 1993. The 1990 sample consisted of all cases for which the initial petition for court jurisdiction was filed at some point during the 1990 calendar year. The number of cases each location contributed to the sample was based on the number of cases filed in each court location during 1990. The sample, which included 113 cases, represented approximately one third of the total cases filed during 1990, following this proportion, each location contributed approximately one third of the cases filed there during 1990. The specific cases chosen were selected using numeric sequences derived from a table of random numbers. The only location in 1990 where it was not possible to follow this rule of proportion was in Rumford, where only one case was filed in 1990, therefore that one case was included in the sample.

The 1993 sample consisted of cases filed during the second quarter of 1993, resulting in a total sample size of 138 cases. In this instance, the cases were pulled by counting through one quarter of the cases filed in each court location, and drawing the second 25 percent of cases filed in each location during calendar year 1993.

Both samples represent examples of what is known as a cohort sample. A cohort sample is one in which some significant event occurred for all members of the universe at about the same time. Cohort samples have the advantage of allowing a longitudinal view of the history of each case and of having the differences in what happens to each case unaffected by differences related to time period. Children entered the system at the same time and the cases were governed by the policies and practices in effect at that time. The remaining differences can be ascribed to differences in the characteristics of the families and children and to the treatment they received from the system.

The cohort samples provide an answer to the question: what is likely to happen to a child who comes under court jurisdiction? Two samples were selected to provide different views of information from two different time periods. The year 1993 was chosen because it represents not only a time period close to the present, thus revealing how courts currently act, but also a time period sufficiently far in the past that the majority of cases can expect to have been resolved by this time. A second year, 1990, was chosen to provide a longer term view. As will be discussed below, a significant number of children remain under court jurisdiction longer than three years according to a review of the 1993 cases. From 1990 one would expect more terminations of parental rights and more complete information about how long children remain in the system.

In addition to the District Court file reading, thirty-one cases which were appealed to the Law Court in 1995 were examined. Twelve counties were represented in the sample. The purpose of this sample was to gather information on the parties filing, the Law Court's decision and, most importantly, the length of time between filing of the notice of appeal and the final decision by the Law Court.

B. Focus Groups

Focus groups were held at each study site. Each focus group discussed:

1. The positive and negative aspects of the Maine Child Protective Court System, including court facilities, judge's attitudes, and docketing.

2. The positive and negative aspects of the representation of parties,

including children (both attorney GALs and CASAs), parents and DHS;

3. The impact of other agencies (including community service providers, DHS, police departments, etc.) or of the schedules of various parties and witnesses on child protective proceedings;

4. Experiences with and suggestions for improvement with regard to the timeliness of proceedings and the amount of time participants are required to spend in court;

5. How well the participants are treated in the Court;

6. How well the participants feel the judge understands the issues.

Suggestions for improvement were elicited with respect to all focus group topics.

Focus groups were held at all five study sites with the following groups:

- DHS caseworkers;
- DHS supervisors;
- Attorneys for children and parents;
- Community service providers; and
- Parents and foster parents involved in the court system.

Additionally, state-wide focus groups were held for

- Advocates for children;
- Teenage children in DHS placements; and,
- Assistant Attorneys General.

A total of 27 focus groups were held.

C. Targeted Interviews

Targeted interviews were conducted at the five study sites. Representatives from the following groups were interviewed at each study site:

- DHS caseworkers;
- DHS supervisors;
- Assistant Attorneys General handling child protective cases;
- Attorneys for children and parents
- CASA volunteers;
- Judges

Interviewed in addition were: the Director of the DHS Bureau of Child and Family Services (BCFS) and another senior official at BCFS; two foster parents; and two parents. In-depth telephone interviews were held with 11 District Court Judges statewide.

The interviews covered a broad spectrum of issues related to the court including:

- Level and length of experience of respondents;
- Workload;
- Staff support;
- The judicial determination of "reasonable efforts";
- Court approval of voluntary placements;
- Periodic reviews conducted by the Court;
- Appointment of counsel and/or CASA volunteers;
- Caseflow management;
- Pretrial Conferences;
- Continuance policies;
- Contested hearings, including estimates of time lines for different contested matters;
- The representation of parties;
- The representation of DHS;
- The performance and role of CASA volunteers;
- The participation of other parties and participants in court proceedings (extended families, foster parents, private service providers);
- DHS input into the Court process;
- Community resources and services;
- Judicial powers and role;
- Court facilities;
- Training;
- Perceptions regarding the effectiveness of statutes, rules, and practice; and
- Recommendations for improvement, and additional comments.

A total of 46 face-to-face individual interviews were held, along with 11 additional telephone interviews with District Court judges.

D. Mail Surveys

Written surveys were mailed to all persons who were individually interviewed at the five sites. Separate survey instruments were mailed to all District Court Clerks. Of primary interest in the mail surveys was information relative to caseflow management, docketing practices, the amount of time elapsing between various court events, continuance practices and the like. In addition, written surveys were mailed to 15 Superior Court judges and 16 Probate Court judges. Written surveys requesting

information from parents were also distributed to parents' attorneys, DHS, and people organizing parenting classes in each of the target sites, with the request that they be forwarded to parents.

Written surveys were distributed to 400 present and former CASA volunteers (66 were returned because the list provided included people who had moved from the area.) Ninety-four CASA volunteers responded to the survey.

E. Cross-cutting Aspects of the Methodologies

The methodologies chosen for the Court Improvement Project enabled the study team to examine the research questions from a number of different perspectives, both qualitative and quantitative. A content analysis was performed for each component of the study. Responses were compared within each category interviewed or examined and within each site. This information was then compared to other categories and across the different methodologies. This allowed the study team to examine the perceptions of interview respondents and focus group participants and compare these perceptions to the findings of the docket review, the file review, and survey respondents. Cross-checking allows the study team to present findings with a greater level of confidence.

IV. DESCRIPTION OF THE FILE REVIEW POPULATION

From the samples obtained through the case file reading, we can describe the children and families whose cases come before the court. Although this demographic information has no real significance in terms of how the court works, it is of interest to understand more about the population served.

A. Description of the Population

1. Gender There was a small difference between the two samples in the proportions of children of each gender. In 1990, 55 percent of the children were male, while those beginning court jurisdiction during the second quarter of 1993 were almost evenly split between males and females, with 49 percent of the population male and 51 percent female.

2. Ethnicity In both samples the court records failed to note the child's race or ethnicity for roughly three-fourths of the cases. For the cases in which race or ethnicity was recorded, 74 percent of the 1990 sample were White, compared to 90 percent of the 1993 sample. There were no African-Americans in either sample.

3. Age In both samples, the largest number of children were of pre-school ages. Fourteen percent were six months or younger, 19 percent one year or younger and 26 percent two years or younger. Forty-one percent were five years of age or younger and the median age was 83 months, just under seven years of age. In contrast, 27 percent of the children were thirteen years of age or older.

Table 1
Age at Time of Initial Court Petition

Age	1990	1993
Under 2	26.1%	24.8%
2-5	15.5%	15.8%
6-9	25.3%	16.5%
10-13	11.5%	15.8%
14-18	21.7%	27.1%

4. Family Structure

With such a young population, it is not surprising that none of the children in the sample were themselves parents. Moreover, very few of the children had a mother or father who was under the age of eighteen. In 1990, five percent and in 1993 two percent of the children's mothers were under eighteen at the time the child came into court jurisdiction. In both years only one percent of the children's fathers were under 18.

Table 2
Family Structure at Time of Initial Court Petition

Family Structure	1990	1993
Two-Parent Family	28.3%	36.6%
Parent and Step-Parent	17.4%	10.9%
Parent and Companion	14.2%	14.9%
Parent and Relative	1.1%	2.0%
Single Parent	26.1%	21.8%
Non-Parental Relative	6.5%	5.0%
Other	6.5%	9.0%

In both years the largest proportion of the children lived in two-parent families at the time of the initiation of court jurisdiction. Twenty-eight percent of the children in 1990 and 37 percent of the children in 1993 lived with both of their parents, while another 17 and 11 percent respectively lived with one parent and a step-parent. Thus, 46 percent of the children beginning court jurisdiction in 1990 and 48 percent of those entering court jurisdiction in 1993 lived in families with two parents, even though break-out between families with step-parents and those with both of the child's own parents was different. In both years, between 14 and 15 percent of the children lived with one parent and the parent's live-in companion, while 1 and 2 percent respectively lived with one parent and a non-parental relative. Single parents with no other adults in the household were also prevalent, constituting 26 and

22 percent of the cases in the sample. The child's mother was employed in 28 percent of the cases in both years and the father's in 47 and 51 percent in 1990 and 1993, respectively.

5. History of Abuse

More children in the 1993 sample, 90 percent compared to 82 percent in 1990, lived in families with a previous history of abusive behavior. Mothers were less likely to have been the abusers in 1993 (63 percent of the cases compared to 74 percent in 1990), while the father was more likely (57 percent of the cases compared to 48 percent in 1990). Some of these differences may be due to the somewhat larger percentage of children living with their own fathers in 1993.

In 1990 and 1993 the mother's live-in companion was abusive in 25 and 22 percent of the cases, respectively, with a previous abuse history, although this was not necessarily the companion with whom the mother was living at the time the children entered court jurisdiction.

For those with previous abuse histories, that abuse was slightly less likely to represent physical abuse in 1993, involving 73 percent of the cases compared to 77 percent three years earlier. Sexual abuse was, however, far more likely to be included in the histories of the children coming into court jurisdiction in 1993, with 56 percent of the cases showing that type of history, compared to 46 percent in 1990. Some of that difference may be explained by the fact that only 45 percent of the children in 1990 were girls, while girls comprised 51 percent of the 1993 population.

Both neglect and domestic violence were also more likely to be found in the histories of children entering the court system in 1993 than was true in 1990. Neglect was found in 62 percent of the histories in 1993, compared to 47 percent in 1990, while domestic violence was reported as part of the family history in 52 percent of the 1993 cases but in only 28 percent of the 1990 cases. This may be due, in part, to an increased awareness on the part of DHS caseworkers to identify and focus on issues of domestic violence.

Roughly one-half of the families had experienced involvement with law enforcement in both samples. Fifty and 49 percent of the children respectively lived in families which had experienced involvement with law enforcement in the past, with the mother involved in criminal activities in 40 percent of the 1990 cases involving these activities and in 48 percent of the 1993 cases of this type. The corresponding figures for the fathers were 67 and 71 percent.

Table 3
History of Abuse and Neglect at
Time of Initial Court Petition

History	1990	1993
Previous Physical Abuse	76.6%	72.6%
Previous Sexual Abuse	45.5%	55.6%
Previous Neglect	46.6%	62.3%
Previous Domestic Violence	27.6%	51.9%

In just over half of the 1993 cases, 53 percent, the caretakers exhibited other problems in addition to abusive behavior and/or criminal activity, a significant reduction from the 72 percent found in 1990. In 1990 the most frequent of these problems were alcohol abuse (77 percent of the primary caretakers with other presenting problems), drug abuse (51 percent) and mental illness (50 percent). By 1993 the list had changed order and frequency somewhat, with alcohol abuse at 61 percent, mental illness at 44 percent and drug abuse at 32 percent.

B. Initiation of Court Jurisdiction

1. Reasons for Initial Petition

Initiation of court jurisdiction rarely occurred due to a three party petition (a petition filed by three concerned citizens rather than a DHS caseworker), especially among the 1993 sample of children. While 15 percent of the children entered court jurisdiction as a result of a three party petition in 1990, only 8 percent of the children in the 1993 sample began their court jurisdiction in this manner.

In both samples, the vast majority of children had, however, experienced repeated abuse or neglect prior to court action. In only 9 percent of the 1990 cases and 3 percent of the 1993 cases was the abuse or neglect which brought the child under court jurisdiction an isolated incident. In 31 and 32 percent, respectively, of the cases, abuse or neglect had occurred several times, and in 22 and 25 percent regularly. The 1990 cases showed 37 percent of the children having experienced abuse or neglect as a constant condition, compared to 39 percent in 1993. Despite the frequency of previous

abuse and neglect, only 6 percent of the 1990 sample and 10 percent of the 1993 sample had had previous petitions for court jurisdiction filed.

Children entered court jurisdiction for three broad reasons. In 1993 physical abuse was involved in 65 percent of the cases, sexual abuse in 43 percent and neglect in 80 percent of the cases. The percentages add to more than 100 percent because multiple allegations were made in many cases.

There was no particular pattern by age, except that children 14 and over were slightly more likely to experience sexual abuse. For cases involving physical abuse and for those involving sexual abuse, the most frequent specific allegation was a "threat of physical abuse" (65 percent of all cases) and a "threat of sexual abuse" (39 percent of all cases), respectively. In both instances, the second highest allegation fell under "other." In the neglect category, "threat of neglect" and "emotional abuse" each constituted 60 percent of all cases, while "other" made up 45 percent of all cases.

Table 4
Reason for Initial Court Petition

	1990	1993
Physical Abuse	68.1%	65.4%
Sexual Abuse	38.8%	42.9%
Neglect	87.1%	79.7%

Table 5
Most Frequent Specific Reasons for Initial Court Petition

	1990	1993
Threat of Neglect	60.3%	54.1%
Threat of Physical Abuse	58.6%	60.9%
Emotional Abuse	53.4%	49.6%
Threat of Sexual Abuse	34.5%	33.8%
Minor to Moderate Bruises, Cuts or Burns	33.6%	27.8%
Home Environment Poses Danger to Child	30.2%	36.8%
Child Lacks Medical Care	19.0%	15.8%
Young Child Left Unattended	18.1%	20.3%
Child or Home is Dirty, Child Lacks Adequate Clothing or Food	18.1%	18.8%

2. Removals from the Home

In 76 percent of the 1990 and 81 percent of the 1993 cases the children were removed from their homes at the time of or after the beginning of court jurisdiction. In the vast majority of cases the removal was virtually simultaneous with the initiation of court action and the latest any child in the 1993 sample was removed was ten months after the initial petition, compared to one child removed after 37 months in the 1990 sample.

C. Other Court Processes and Outcomes

1. Case Plans

The record was more likely to include a summary of the case plan if a petition for termination of parental rights had been filed, suggesting that the plan was used as evidence in support of the petition. Forty-six percent of the records in the 1993 sample included a plan when a termination petition had been filed, compared to 19 percent where no such petition existed. The corresponding figures for 1990 were 70 percent and 32 percent, with 41 percent of all the 1990 cases having a

summary of the case plan in the court record. This suggests that the inclusion of case plans in the court records for both termination and non-termination cases has become less frequent over time.

2. Child Support Orders

Child support for the child was ordered from the mother in 9 percent of the 1993 cases (10 percent in 1990) and from fathers in 17 percent of the 1993 cases (13 percent in 1990.) This was affected by employment of the parents with 20 percent of the employed mothers in 1993 cases (44 percent in 1990) receiving orders for child support and 40 percent (52 percent in 1990) of the employed fathers.

V. FINDINGS

This section of the report discusses the results of the analysis and compares the information to national standards and with the practice in other states. In each of the areas suggested by the study as needing further attention, an examination of relevant statutes, rules and practices in other states was undertaken in order to develop recommendations.

A. Overview of the Court and Child Protective Issues

1. Statutory Issues

Study participants generally felt that the Maine statutory provisions were adequate. However, clarification was suggested regarding the standards for hearing on an emergency 10 day hearing (otherwise known as a C-1 hearing) and the final hearing on the petition for child protection (C-2) hearing. The practice of consolidating the C-1 hearing with the C-2 hearing is handled inconsistently throughout the state. One court location holds two separate hearings (a C-1 followed by a C-2) after the parties agree to consolidate the hearings. Other judges do not allow consolidation, viewing it as a meaningless exercise.

People have strong yet divided opinions on the issue of reunification. Many feel that the clearer guidelines and shortened time frames which now exist are useful to speed cases up and achieve permanency for children. Some Judges feel that they cannot do justice to the cases when systems obstacles interfere with the case. They are especially concerned with ceasing reunification efforts when DHS has been unable to arrange for delivery of services. Many others felt that the emphasis on reunification, instead of on the best interests of the child, creates a situation where children remain in foster care for extended periods of time, with the child's needs, especially the developmental needs of very young children, taking a subordinate position to the parents' rights. The concept of reunification is often troubling to respondents. Many see this requirement as placing parents' rights over children's rights and view much of the court's time that is spent pursuing reunification as a waste of time when there is no hope that the family can ever provide a safe home for the child. Some study participants see barriers that effectively argue for longer periods for reunification. For example, some respondents perceive that parents meet DHS requirements only to find a new requirement has been set; or that there are "too many hoops to jump through;" or that some regions lack reasonably available, appropriate services. These factors result in respondents suggesting longer periods for reunification efforts.

Other suggested statutory changes ranged over a variety of different topics including: allowing a Termination of Parental Rights petition to be filed at any time; removing the option for three-party petitions in the District Court and instead, requiring parties to seek legal guardianships under the Probate Code; creating "degrees" of jeopardy with different remedies available depending on the harm to the child; amending the statute to contain stronger language or sanctions for non-cooperating adolescents; broadening the "immediate risk of serious harm standard" for a Preliminary Protection Order (PPO); and creating more specific time limits for permanency planning.

2. Federal and State Mandates

Federal legislation, specifically the Adoption Assistance and Child Welfare Act of 1980, P. L. 96-272 has enlarged the role of state courts in child protection cases by calling upon the courts to improve their oversight of cases involving children in foster care. Federal law requires the courts to ensure that children will not be needlessly placed in foster care or left in foster care for unnecessarily long periods of time.

P.L. 96-272 requires that:

- Courts explicitly determine whether the child welfare agency has made "reasonable efforts" to prevent placement of each foster child and to return the child home;
- Courts, agencies, or citizen review boards review the case of each child in foster care at least once every six months;
- Courts or "administrative bod[ies] appointed or approved by the court[s]" hold a hearing no later than eighteen months after the placement and periodically thereafter to determine the permanent placement arrangement for the child; and
- Courts approve any voluntary, nonjudicial foster placements within 180 days after the original placement.

42 U.S.C. §§ 672(a)(1), 671(a)(15), 671(a)(16), 672(d), 672(e), 675(5), 627(a)(2)(B). (Hardin, 1992).

a. Reasonable Efforts

Federal law requires agencies to make reasonable efforts to prevent the need to remove maltreated children from their homes and, if they must be removed, to try to return them home. The states' obligation to make reasonable efforts has several facets. The state child welfare agency must obtain certain judicial findings in order to receive federal funding. The court must specifically find that the agency has made reasonable efforts to prevent removal of the child and must find that the agency,

during the course of the case, has made reasonable efforts to rehabilitate the family. 42 U.S.C. §§671(a)(15), 672(a)(1); 45 CFR §1356.21(d)(4)(Hardin, 1992).

Although Maine law does not specifically require that the court make a finding of "reasonable efforts", the Child and Family Services and Child Protection Act, incorporates these concepts in its statement of purpose, 22 M.R.S.A. § 4003 as well as in the principles governing the court's authority to construct orders pursuant to 22 M.R.S.A. § 4036(2).

In those two sections the Legislature clearly mandates that the courts give priority to child safety with the principle of placement with the biological parents as the next consideration and the goal of permanency for the child as a goal for the courts.

Standard court orders, generally prepared by the Assistant Attorney General, are used to indicate a reasonable efforts finding in order to meet federal requirements.

Two-thirds of study participants responding to individual interviews believe that the court does not inquire at all into whether reasonable efforts were made to prevent the need to remove the child from the home when a C-1 was resolved by agreement. Forty-three percent of those same respondents believe that the court does not inquire at all into whether reasonable efforts were made to prevent the need to remove the child from the home when a C-2 was resolved by agreement.

The file review records contained an affidavit or report describing DHS efforts to prevent removal in 25 percent of the cases in 1993, slightly more than the 22 percent recorded for the 1990 cases. In 1990, 57 percent of the cases with reports describing efforts to prevent the placement contained thorough detail, and 27 percent contained at least two sentences describing those efforts. The corresponding percentages for the 1993 sample were 52 percent and 36 percent.

Guidelines established by the National Council of Juvenile and Family Court Judges, the Child Welfare League of America, the Youth Law Center and the National Center for Youth Law: MAKING REASONABLE EFFORTS: Steps for Keeping Families Together, contemplate an affirmative role by the judge in monitoring social services available within the community as well as enforcing the agency's obligation to make reasonable efforts to prevent removal and to reunify the family. The Guidelines specify that the Judge should:

> Require the agency to prove that reasonable efforts were made. The court should make its determination based on evidence presented at the hearing and refuse to find that

> reasonable efforts were made if the evidence is not sufficient to satisfy the agency's obligation. pp. 44-45.

Applying the principles outlined by the Legislature, the courts do make a determination of reasonable efforts to prevent placement or to reunify the family. District Court judges are, however, inconsistent in how deeply they inquire into the specific efforts undertaken by DHS.

b. Court Review Hearings

Federal law requires, as a condition for receiving federal funds for foster care and services, that for each child in state supervised foster care, there be a written case plan and regular case review. The case plan must address a number of specific issues concerning the child's placement as well as the services provided to the child, parents, and foster parents. It must include critical medical and educational information concerning the child. 42 U.S.C. §§671(1)(16), 675(1), 627(a)(2)(B).

The case review must occur at least once every six months and must be conducted either by a court or by an administrative panel. A key focus of the review is to be whether the case plan is being followed. In addition, the review is to address such issues as whether the child needs to stay in foster care, the appropriateness of the current foster home or facility, what progress has been made toward eliminating the need for foster placement, and how soon the child can be returned home or put into some other permanent home. 42 U.S.C. §§671(a)(16), 675(5)(B), 627(a)(2)(B).

The purpose of the federal requirements are to make sure that children do not remain in foster care as a result of agency inaction and to ensure that children are well cared for when in foster care. More specifically, the purpose of the case plan is to set forth a strategy to provide services for the child and, if applicable, to strengthen and restore the family unit. The purpose of the review is to monitor agency performance and to provide quality control. The federal six month review requirement contemplates a thorough review in each case.

The *Resource Guidelines* clearly contemplate significant involvement by the judge in setting out a case plan to meet the family's needs. The *Resource Guidelines* state:

> Juvenile and family court judges must have the authority by statute or court rule to order, enforce and review delivery of services and treatment for children and families. The Judge must be prepared to hold all participants accountable for fulfilling their roles in the court process and the delivery of services.

> State laws differ concerning the authority of juvenile and family courts to determine what services are to be provided to abused and neglected children and their families, to specify where foster children are to be placed, to decide the terms of agency case plans, to resolve disputes between different public agencies, and to set the terms of visitation. None of these should be shielded from judicial oversight because each has constitutional overtones. Without procedural protection, decisions touching on these issues could be instruments of discrimination or oppression.

There is no legal mandate for the court to conduct judicial reviews within any given period of time. At present, the court and the parties determine when a judicial review is appropriate and the Department of Human Services schedules an administrative review hearing in those cases where a judicial review hearing is not held within the six-month time frame. Maine law does require that a case be reviewed at least once within 18 months of the final protection order and at least every 2 years thereafter, unless the child has been emancipated or adopted, 22 M. R. S. A. §4038(1). Review of DHS's written case plan is not currently a uniform practice in Maine.

c. Dispositional Hearings

As a condition for receiving certain federal funds, federal law requires a hearing within 18 months of a child entering state supervised foster care, and then annually thereafter. The hearing may be conducted by a court or by an administrative body appointed or approved by a court.

The hearing is to determine the permanent plan for the child, which is to be one of the following:

- the child will be returned home,
- the child will be placed for adoption or legal guardianship,
- the child will be placed in permanent or long-term foster care because of the child's special needs or circumstances, or
- the child will be left in foster care for a specific period of time.

If the child is 16 or over, the hearing must also address the services needed to help the child make the transition from foster care to independent living. 42 U.S.C. §§675(5)(C), 627(a)(2)(B), 672(d).

The purpose of the federal dispositional hearing requirement is to prevent children from remaining in foster care for long periods of time, without their being placed in a permanent and legally

secure home. The hearing is to provide a firm decision concerning the permanent placement of each child.

In enacting the permanency planning hearing requirement, Congress intended that the 18 month time limit would be a real deadline, by which time a definitive permanent placement would be established. It was expected that a definitive permanent plan would be established at that hearing in all but exceptional cases.

Maine law, 22 M.R.S.A. §4038(7) provides:

> **7. Review of child in custody of the department.** When a child has been placed in the custody of the department, the following must be accomplished:
>
> **A.** The court shall review the final protection order and make a determination within 18 months of its initial order either to:
>
> (1) Return the child to the parent;
>
> (2) Continue reunification efforts for a specific limited time not to exceed 6 months and to judicially review the matter within the time specified; or
>
> (3) Enter an order under section 4036, subsection 1 paragraph G-1.

The court may not order reunification efforts to continue under subparagraph (2) more than once unless all parties agree to the order to continue reunification.

Although Maine law requires a permanent plan within the required timelines, study participants indicate that these time frames are not being met. Of those interviewed, 70 percent of those responding stated that the court does not generally order that a permanent plan be developed for a child at the end of 18 months. Eighteen percent responded affirmatively and the remaining 12 percent felt that it depends on the situation. When asked whether the court orders a permanent plan after a child has been in foster care for two years, 54 percent of interview participants responded negatively, 35 percent affirmatively and 11 percent responded "sometimes."

In addition, the study file review indicates that 69 percent of the children in the 1990 sample and 63 percent of the 1993 sample remained under court jurisdiction for at least two years.

d. Voluntary Placements

Federal law limits the length of time for payment of federal matching funds for children placed into voluntary foster care without court approval. The law provides that matching funds be paid no

longer than 180 days, unless a court has determined that continued placement is in the best interests of the child. 42 U.S.C. §§672(d), 672(f); 45 CFR §1356.30(b). Federal law also provides that there be a written agreement for any child voluntarily placed in foster care without court approval and that if parents revoke the agreement the agency must return the child or persuade a court that keeping the child in foster care is in the child's best interests.

Maine law regarding voluntary agreements, 22 M.R.S.A. § 4004-A meets these Federal requirements.

3. Judicial Assignments/Responsibilities

Study participants believe judges should be handling child protective cases only if they desire this assignment. There are mixed feelings among respondents as to whether a specialized assignment to handle only child protective cases would be feasible, with most judges believing such a specialized caseload would produce early burnout while a more mixed caseload would sustain judges' ability to handle these cases for a longer period of time.

Twenty-one of 29 court clerks report that the same judge generally hears all stages of a case. Many study respondents indicated that they would like one judge to hear the case from start to finish.

The majority of those interviewed indicated that the management or outcome of a case varies depending on the Judge who hears the case.

Many judges responded that they often have difficulty finding the time to consider these cases, including adequate time to do research and write decisions. There is no law clerk and little secretarial support for District Court judges. Judges suggest that they would be better able to hear child protective cases if other individuals (either other judges or magistrates or intermediate judicial officers) were occasionally available to handle routine matters like arraignments, uncontested divorces, and the like. Additionally, it is important for judges to have an adequate amount of time to consider each case. Currently, there are often too many cases scheduled to be reasonably heard within a block of time. This results in the judge spending far less time on any individual case than the case deserves and, oftentimes, the practice of scheduling several cases to be heard within a short amount of time leaves many of the parties waiting in the court corridors unnecessarily.

4. Presence of Parties (including children and foster parents) at Various Hearings

Some judges require parents to be present on pre-trial day, to assist in settlement and to appear before the judge when the matter is placed on record. Many judges inquire of the parents whether they agree. Some judges use the opportunity to impress on parents the gravity of the situation, or to encourage parents when there has been progress.

In one District Court location, once an agreement has been reached by the parties, all individuals, including parents and parents' attorneys and the GAL depart, and the AAG places the agreement on the record or simply tells the judge what the agreement is and submits an Order for signature.

Presence of foster parents is fairly rare. Occasionally they are granted intervenor status but courts will not generally appoint counsel for them. Many foster parents express an interest in being heard more consistently.

Presence of children is also rare. Judges will not make a request to talk with or interview a child, so the issue is lawyer-driven. When judges do talk with children they believe a conference in-chambers is the best environment. However, because of a lack of recording equipment in chambers, this option is generally unavailable. Outside of chambers judges generally try to make the courtroom informal, and often require the parents to leave the room. One judge distinguishes the usefulness of child testimony as follows: useful and sometimes necessary on a question of fact; less valuable when the purpose is for the child to express what he/she wants. Several judges expressed a desire to see children more often but want to be sure that this could be done in an atmosphere that is not intimidating to the child. Children participating in the study uniformly expressed a desire to be more involved with the court process.

5. Use of Technology

Computers were the item mentioned most often when survey respondents were asked to list technological resources they needed, cited by 56 percent of respondents. Along with computers respondents listed updated phone systems, including voice-mail and modems that would allow access to e-mail/internet, and linking of computers to access information at other sites. Currently, there is no

computerization of protective custody cases and no ability to communicate electronically with DHS. Efforts in this area are, however, currently being undertaken.

One District Court judge suggested using a videotaped depositions of experts; a few providers suggested using written depositions. Many attorneys felt that videotaped depositions would simply add one more layer of proceedings and would increase rather than reduce the length of the case.

It was suggested that other modern technological advances such as teleconferencing could be used to handle minor, routine matters or pre-trial conferences.

6. Facilities

With a few exceptions, facilities are generally viewed as inadequate. They are too crowded, there is not room for private meetings; conferences are held in the hallways. In the survey mailed to those who were interviewed individually, two thirds of the respondents said court facilities did not meet their needs for privacy or conferencing and two thirds also said that private spaces were not available to them when there were delays.

Among parents returning surveys, 67 percent said they meet with their attorney in the courthouse hallway and 54 percent indicated that they met with the GAL there.

Among CASA volunteers surveyed, 64 percent responded that facilities are adequate, and 35 percent cited the need for improvement, including lack of privacy, overcrowding, lack of meeting space, lack of access to phones and cleanliness of bathroom facilities. It should be noted, however, that 62 percent of CASA volunteers responding work in 5 courts in Southern and central Maine.

In recent years, new District Court facilities with added conference rooms and courtrooms have been constructed, but many District Court buildings are still located in inadequate, often rented locations.

7. Alternative Dispute Resolution(ADR)/Mediation

Many study participants felt that the adversarial nature of legal proceedings makes it a cumbersome process. Many respondents felt that a family court with judges who are specially trained in child abuse/child development issues would enhance the handling of these cases. Still others suggested

that a mediation alternative, with one participant suggesting a New Zealand (family conferencing) model.

Other suggestions included using of a panel of legal and social service experts to resolve contested matters and having a court sponsored case manager/mediator/arbitrator to assist with the large number of cases that are resolved without a court hearing.

Any ADR models undertaken must take the court's ongoing responsibility as well as the judges' desire to remain an integral part of these cases into consideration.

8. Participants Satisfaction with the Court Process

Study participants generally agree that judges treat parties and parents with respect and generally judges seem to understand the issues. However, focus groups participants said that sometimes parents' attorneys try to intimidate providers and sometimes they don't treat foster parents very well.

Some judges, GALs and attorneys are considered to be well educated about children's issues; others are perceived as having less knowledge and experience. This issue is often brought up by foster parents and service providers who feel that too much time and energy is spent on reunification, especially with families for whom there is little chance of rehabilitation. This is often done at the expense of children who are spending years in foster care and not attaching to a permanent family.

Many attorneys representing parents believe that their clients never get an opportunity to succeed, that the cards are stacked against them from the beginning. The system is confusing to parents and to foster parents; things aren't explained to them. Seventy-three percent of parents responding to the mail survey said that they did not feel they were listened to throughout their case. However, many (87 percent) said yes, someone helped them understand what was happening while they were in court. Most (67 percent) got help from their attorney. Eighteen percent said that nothing had worked well in court.

If the Court issues its expectations in language that people can easily understand, participants may leave the courtroom with a clearer understanding of their responsibilities, thereby fostering an increased satisfaction with the process.

Most foster parents responding to the survey and participating in focus groups and interviews said that they would like to be more involved in the court process. They felt that their information

would be valuable because the children live with them, and they know the children best. Some foster parents felt they were well prepared to appear in court, while others said they got no training and no support when they were asked to appear.

A focus group of teens in foster care and another individual interview with a foster child revealed that the children want to be more involved in the court process. Most of them said that not only had they never been in court, but that they were only informed of court events after the events took place. Most had not had much contact with the person representing them or anyone else involved in the court process. The children were in agreement that:

1. They should be informed regarding court events that take place.

2. They should have the opportunity to participate or provide input to the court (appropriate to their age and/or level of maturity).

3. Their input should be weighted in the courts' findings.

[<u>Note:</u> In light of the Committee's Recommendations, the recommendations contained in the Muskie Institute report are not reproduced here. However, some factual findings supporting the Muskie recommendations are set out below.]

• As has been noted in this report, there is significant variation among the District Court Judges regarding the role of the judge. In some locations, judges take an extremely proactive role, convening the parties, discussing the case plan, determining a future course of action; in short, providing case management services to the parties. In other locations, judges take a more hands-off approach, holding conferences only in anticipation of trial, approving agreements without requiring the parties to be present, and functioning strictly as a fact-finder in the event of disputes.

• There is a wide disparity in court practice as to whether or not parents whose children have been removed from their custody ever appear in person before the District Court Judge. In some locations, even where the parties have reached an agreement and there will be no contested hearing, the judges believe it critical for them to have an opportunity to see the parents in person, to ask questions and to make sure that the parents know what has happened at the courthouse and why. In other

locations, especially where the parties have reached an agreement, the agreement is approved by the judge without the parents' being present. Sometimes the attorneys appear in the courtroom and orally place the agreement on the record; in other places no recording is made of the agreement (although all attorneys may have met with the judge in chambers); and in still other places the AAG alone advises the judge that an agreement has been reached and that the AAG will submit a written order containing its terms.

• It appears to be the practice in most parts of the State for judges to follow a case from its beginning to end to the extent possible. However, because of the high caseload in some locations and because some judges travel from court to court, it is not uncommon for one judge to hear a C-2, another a judicial review, and yet a third the Termination of Parental Rights petition in a case involving one family. Although the judges can and do read the court file prior to a hearing, the contents of the file and the depth of information it offers varies. This means that parties often feel compelled to repeat information which has already been presented in order to bring the presiding judge "up to speed" on the case as the parties may believe important. This duplicates effort and takes up court time.

The research data in this study and in similar research in other states, strongly suggests that in those locations where the judge takes an active oversight role, the cases proceed more efficiently, events which are expected to occur are more likely to do so, and there is a greater sense of satisfaction among the parties. Case management involvement by the judge is more likely to ensure that all parties are aware of their rights and responsibilities, and to ensure that parties' rights will be regarded and their responsibilities met.

• Although C-1 hearings are generally scheduled within the statutory ten-day period, it is not uncommon for hearings to be begun but not finished. When this occurs it often happens that the case cannot be completed for many more days or weeks. There may be several reasons for C-1 hearings requiring many hours to complete, including the individual trial styles of the lawyers and the judge, but it appears overall that the reason is that parties tend to present the entire case at the C-1 stage,

including placing on record evidence that goes to the issue of jeopardy rather than immediate risk of serious harm.

• Repeatedly throughout this research, participants questioned whether the "litigation model" was the best manner in which to resolve child protection issues. Participants believed that although there certainly are cases where a formal trial before a neutral factfinder is necessary and right, overall the litigation model tends to cause participants to harden into adversarial positions that can override the best interests of the child and his or her family. To address this concern the Court could explore alternative methods of dispute resolution that are applicable to child protection cases. For example, some states employ case managers whose job it is to convene the parties regularly, keep the case on track, make sure that everyone is doing what they are required to do, and generally helping to work out disagreements.

• Study data suggests that improved communication among key participants makes for smoother case management. To the extent that participants develop a genuine understanding about the role, strengths and limitations of other participants, they can then work collaboratively to develop solutions. The "process" suggested by this recommendation is entirely informal.

• At present, no judge's chamber in the District Court is equipped to record interviews of children, which is the mode much preferred by judges who speak with children. Some courts lack touch-tone telephones, conference-call ability or other modern features, and court computer facilities are lacking. Additionally, the Court should address the issue of court security. These deficits impair efficiency and communication and should be upgraded. An effort to computerize the District Court is currently being undertaken and the system should be working towards including access to other court cases including protection from abuse cases, juvenile cases, and other child protection matters, as well as being able to access relevant DHS files. This, of course, will have to consider issues of confidentiality in developing access to information.

• Because there presently exists no repository of judicial opinions except those issued by the Law Court, and because not all issues of law are appealed to the Superior or Law Courts, there is a wide disparity of opinion on the interpretation of various sections of the statute. Different opinions have existed, for example, on who exactly may intervene in a child protection case; whether or not the court has the power to extend DHS custody in the absence of a permanent plan after two years; whether a parent who lives in another state must be the subject of an Interstate Compact study before custody can be transferred to him or her, etc. Both Judges and attorneys have expressed a desire to have a collection or data base of opinions to which they could refer as the need arises.

B. Caseflow Management

1. Legal Notice

At the time of the initial petition, both parents received legal notice in 81 percent of the 1990 cases and 82 percent of the 1993 cases, and the mother alone received notice in 13 and 14 percent of the cases in the respective years. Reasonable efforts to notify the parents were made in 90 percent of the 1990 and 92 percent of the 1993 cases, with another 5 percent (4 percent in 1990) showing reasonable efforts to contact the mother alone in 1993. In both years notice was made to the mother in person in 98 percent of the cases, while fathers receiving notice did so in person in 88 percent of the cases and by publication in 12 percent (9 percent in 1990).

2. Completeness and Depth of Hearings

Most Judges interviewed for this project did not directly address the issue of whether they have adequate time to prepare for and conduct hearings. However, when those interviewed, including judges, were allowed to propose system improvements without regard to potential cost 42 percent cited the need for more judges and more court time for child protective and child welfare cases. Focus groups overwhelmingly agreed that there is not enough court time available to meet the needs of the caseload. Judges as well agreed on the need for more court time and better scheduling practices to alleviate the problem of hearings stretching over extensive time spans.

Interview respondents were asked how deeply the court inquires into the terms of agreements and into the nature of reasonable efforts, immediate risk of serious harm, and jeopardy findings.

The following table outlines the responses to these inquiries. The table illustrates that in each instance the majority of judges do inquire regarding "reasonable efforts," and "immediate risk of serious harm," or "jeopardy," in C-1 and C-2 hearings, however, it is clear that "deep inquiry" does not occur in the majority of cases.

Table 6

Depth of Judicial Inquiry

Area of Inquiry	Deeply	Not Deeply	Not at all
C-1 "reasonable efforts"	6 (27.2%)	12 (54.5%)	4 (18.2%)
C-1 "immediate risk of serious harm"	3 (14.3%)	8 (38.1%)	10 (47.6%)
C-2 "reasonable efforts"	9 (31.0%)	13 (44.8%)	7 (24.1%)
C-2 nature of "jeopardy"	9 (34.6%)	12 (46.2%)	5 (19.2%)

The file review examined the completeness and depth of hearings in a slightly different way. The files from the two samples were examined to determine the extent of inquiry into "reasonable efforts." The file review determined how many records contained an affidavit or report describing DHS efforts to prevent removal. Twenty-two percent of the 1990 cases examined contained affidavits or reports detailing reasonable efforts, in the 1993 sample the proportion increased to 25 percent. Fifty-seven percent of the cases from 1990 which contained reports contained a thoroughly detailed description of the efforts to prevent removal while 27 percent of the reports contained at least two sentences. The corresponding percentages for the 1993 sample were 52 percent containing thorough detail and 36 percent containing at least two sentences.

With respect to uniformity of judicial practices, policies, and procedures, 83 percent of interview respondents indicated that the outcome or management of a case varies depending on the Judge hearing the case. While some variation of practice between judges is to be expected, the data indicate that there are differences in interpretation of policies and procedures as well. Comments on the differences between Judges included:

- level of evidence required varies from judge to judge;
- some [judges] are more sophisticated about child development than others;
- outcomes differ based on the judge's own viewpoint and philosophy;
- judges outlook will guide the presentation of a case;

- judges have different approaches, methods of dealing with a case.

3. Efficiency and Timeliness of Court Proceedings

Two major problems have an impact on the efficiency and timeliness of court proceedings: scheduling problems, and a lack of adequate time being allotted for cases to be heard. Major backlogs in certain courts create situations where hearings take months to be completed. The lack of adequate court time for hearings results in cases being continued for extensive periods, delaying progress in the case. The trailing docket, used in 19 of the 31 District Courts is regarded with mixed attitudes; respondents agree that the trailing docket works well for Judges and AAGs but is not always efficient for other participants. The following tables illustrate the time spans for different case events. The first table presents the range of time spans estimated by interview respondents, the second table illustrates the time span estimates of the 31 District Court clerks.

Table 7
Timelines for Case Events
(Interviewee Mail Survey)

Case Event	Range of Responses (Mean)
Granting of PPO to completion of C-1	1 hour - 4 months (22 days)
Filing of Child Protective petition to completion of uncontested hearing	10 days - 6 months (47 days)
Filing of Child Protective Petition to completion of contested hearing	10 days - 2 years (172 days)
Close of evidence to issuance of a decision	Immediately - 1 year (55 days)
Filing of Child Protection Petition to filing of TPR Petition	1 year - 4 years (2.25 years)
Filing of TPR to completion of uncontested hearing	2 weeks - 6 months (2.2 mnths)
Filing of TPR to completion of contested hearing	2 months - 2 years (20 mnths)
From close of evidence in TPR to issuance of a decision	Immediately - 1 year (80 days)

Table 8
Time Span for Court Events
(Clerks Survey)

Case Event	Range of Responses (Mean)
Pre-trial to beginning of trial	12 days - 4 months (32 days)
Filing of Child Protection Petition to completion of C-1 hearing	3 days - 2 months (15 days)
Filing of Child Protection Petition to completion of uncontested C-2 hearing	20 days - 3 months (49 days)
Filing of Child Protective Petition to completion of contested C-2 hearing	20 days - 9 months (97 days)
Filing of Child Protection Petition to filing of TPR Petition	7 days - 2.5 years (373 days)
Filing of TPR to completion of uncontested hearing	10 days to 8 months (51 days)
Filing of TPR to completion of contested hearing	60 days to 1.5 years (131 days)

a. Continuances

Continuance policies also affect the timeliness and efficiency of the court process. Interview respondents indicate that the court routinely grants continuances for the following reasons: party unavailable, attorney(s) unavailable, witness unavailable, and service not made. The majority of interview respondents also agreed that if parties stipulate to a continuance the court will automatically grant a continuance. Additionally, 40 percent of interview respondents indicated that they do not feel that the court tries to limit the use of continuances.

The table below, based on data gathered from interviewee mail surveys, displays the proportion of respondents who believe the court routinely grants continuances for the following reasons.

Table 9

Bases for Continuances

Basis for continuance	% of Respondents indicating continuances are routinely granted on these bases.
Party unavailable	80.6%
Attorney unavailable	96.8%
Witness unavailable	54.8%
Service not made	64.5%
Court tries to limit use of continuances	Yes = 59.3%

The following table, based on file review data, shows that virtually everyone's lack of availability was cited more frequently for the 1993 cases than for the 1990 cases. Perhaps the most striking figures are those for DHS and for court time. The latter's lack of availability was cited more than twice as often for the 1993 cases and the former's fifty percent more.

Table 10
Reasons for at Least One Continuance in the Case

	1990	1993
Mother Unable to Be Present	13.1%	18.4%
Father Unable to Be Present	3.4%	6.4%
Counsel Unable to Be Present	47.1%	49.3%
DHS Unable to Be Present	12.1%	18.0%
Court Time Unavailable	6.9%	14.6%
Tests Incomplete	22.0%	20.0%
Witnesses Unavailable	10.0%	14.9%
Parties Need More Time	52.1%	53.8%

In both samples 27 percent of the cases experienced no continuances during the course of the case. This is somewhat surprising, given that some of the 1990 cases have been under court jurisdiction for three years longer than the 1993 cases. It suggests that continuances have become somewhat more frequent.

The impact of generous continuance policies on case progress is clear. The *Resource Guidelines* offer the following reasons as acceptable for granting continuances: attorneys or parties are ill, essential witnesses cannot be located; and service of process has not yet been completed. The *Resource Guidelines* list the following reasons as **inadequate** bases for continuances: the hearing date proves inconvenient for attorneys and parties, all parties in a case stipulate to a continuance. The Maine courts are clearly less strict than the *Resource Guidelines* in their continuance policies. The *Resource Guidelines* list another advantage as an outgrowth of a firm policy on continuances,

> With a strict policy against continuances *and an adequate number of judges* (our emphasis) all hearings can be set for a time certain....When cases are set for a time certain, typical waiting time can be less than 20 minutes, with hearings occasionally being delayed up to an hour or more. (p. 21.)

b. Trials Requiring Multiple Day Hearings

The combination of generous continuance policies and inadequate judge and court time results in hearings often being heard on non-consecutive days. The following two tables display the frequency of different hearing events requiring non-consecutive days to complete and the necessity of re-scheduling the beginning dates of contested hearings.

The following tables describe responses from the mail survey to interview respondents (M) and from the clerks' survey (C).

Table 11
Frequency of Contested Hearings
Requiring Non-consecutive Court Days to Complete

Event	Rarely	Occasionally	Often	Usually
C-1, C-2, Judicial Review (M)	6.9%	48.3%	41.4%	3.4%
TPR (M)	23.8%	38.1%	33.3%	4.8%
C-1, C-2, Judicial Review (C)	22.6%	48.4%	16.1%	12.9%
TPR (C)	32.3%	35.5%	9.7%	22.6%

Table 12
Frequency of Need to Reschedule the Beginning Date of Contested Hearings

Event	Rarely	Occasionally	Often	Usually
C-1, C-2, Judicial Review (M)	23.3%	43.3%	26.7%	6.7%
TPR (M)	39.1%	39.1%	21.7%	□
C-1, C-2, Judicial Review (C)	22.6%	58.1%	19.4%	□
TPR (C)	48.4%	35.5%	12.9%	3.2%

Interview respondents were asked to describe the amount of time they spend at the courthouse waiting for their case to be called by a Judge on an uncontested or a contested matter. The following table describes their responses.

Table 13

Waiting Time in Court

Event	<1 hour	1-4 hours	4-6 hours
Uncontested Hearing	7 (30.4%)	16 (69.6%)	□
Contested Hearing	15 (62.5%)	6 (25.0%)	3 (12.5%)

Those interviewed indicate that waits of over an hour occur for both contested and uncontested matters, but the data indicate that extensive waiting time is a larger problem for uncontested matters.

c. Child Protection Order

The child protection order was granted within one month of the initial petition in 4 percent of the 1993 cases, compared to 9 percent among the 1990 cases. An additional 19 percent of the 1990 cases received child protection orders within two months, compared to 24 percent in 1993. By the end of three months a total of 49 percent of the 1990 cases and 36 percent of the 1993 cases had received their child protection orders.

Table 14
Time from CP Petition to CP Order

CP Petition to CP Order	**1990 Cases**	**1993 Cases**
Same Day	1 (1%)	-
Within 2-10 Days	1 (1%)	1 (1%)
11-30 Days	8 (7%)	4 (3%)
31-60 Days	22 (19%)	24 (17%)
61-90 Days	24 (21%)	21 (15%)
91-120 Days	11 (8%)	21 (15%)
121-180 Days	17 (15%)	17 (12%)
181-365 Days	11 (8%)	22 (16%)
Over 365 Days	3 (3%)	-
CP Order never issued	15 (13%)	28 (21%)

d. Caseflow Management Meetings

Seventy-seven percent of the District Court clerks indicated that meetings between DHS administrators/caseworkers/representatives and judges to work out issues of mutual concern either do not occur at all, or if they do convene do not occur as frequently as once per year.

4. Existence and Quality of Permanency Planning Hearings

The majority of interview respondents indicated that the court will allow an additional six month period for reunification efforts at the end of 18 months, with the court generally ordering a permanent plan for children who have been in care for two years. The following table illustrates the responses.

Table 15

Judicial Findings of Permanency

Area of inquiry	Yes	Sometimes	No
J.R. Permanent Plan at 18 months	7 (20%)	9 (25.7%)	19 (54.3%
J.R. Additional 6 month period	23 (79.3%)	1 (3.4%)	5 (17.2%)
J.R. Permanent Plan at 2 years	9 (34.6%)	14 (53.8%)	3 (11.5%)

Table 16 displays the time spans of cases dismissed from court supervision. The majority of cases that were dismissed in both 1990 and 1993 were dismissed within 18 months, however, a significant proportion of cases, 37.5 percent in 1990 and 37 percent in 1993, were under court jurisdiction for over 19 months.

Table 16
Petition Filed to Court Order for Dismissal

Filing of Petition to Dismissal	1990 Cases	1993 Cases
Less than 6 months	16 (28.6%)	17 (31.5%)
6-12 months	11 (19.6%)	10 (18.5%)
13-18 months	8 (14.3%)	7 (13%)
19-24 months	5 (8.9%)	10 (18.5%)
2-4 years	10 (17.9%)	10 (18.5%)
Greater than 2 years	5 (10.7%)	-

In five cases in the file review, three in 1990 and two in 1993 resulted in the children involved being emancipated or reaching the age of 18 while under the court's jurisdiction. The Table 17 illustrates the length of time the these cases remained under court jurisdiction.

Table 17
Petition Filed for Court Order for Emancipation

Filing of Petition to Emancipation	1990 Cases	1993 Cases
Less than 6 months	-	-
6-12 months	-	1 (50%)
13-18 months	-	-
19-24 months	-	-
25-36 months	-	1 (50%)
37-42 months	-	-
43-48 months	1 (33.3%)	-
Greater than 48 months	2 (66.6%)	-

The table below shows the length of time from the filing of the child Protective Petition to the Filing of a petition for the Termination of Parental Rights in 1990 and 1993 cases. In both instances the majority of TPR petition filings occurred more than 12 months after the initial Child Protective Petition filing. Fifty-six percent of the 1990 termination filings occurred more than two years after then initial Child Protective Petition filing, in 1993 this proportion declined to 33 percent.

Table 18
Petition Filed for Court Order for Termination of Parental Rights

Filing of Petition to TPR	1990 Cases	1993 Cases
Less than 6 months	-	4 (16.7%)
6-12 months	2 (11.1%)	2 (8.3%)
13-18 months	3 (16.7%)	5 (20.8%)
19-24 months	3 (16.7%)	5 (20.8%)
25-36 months	2 (11.1%)	7 (29.2%)
37-42 months	5 (27.8%)	1 (4.2%)
43-48 months	-	-
Greater than 48 months	3 (16.7%)	-

Table 19 displays the time spans between the filing of the Child Protective Petition and the receipt of a court order allowing DHS to cease reunification efforts. This occurred in less than 12 months after the filing of the Child Protective Petition in two cases in 1990, in the remaining eight cases in 1990 and in all four 1993 cases then Order to Cease Reunification was not granted until the child had been under court jurisdiction for over a year.

Table 19
Petition Filed for Court Order for Cease Reunification

Filing of Petition to Cease Reunification	1990 Cases	1993 Cases
Less than 6 months	1 (10.0%)	-
6-12 months	1 (10.0%)	-
13-18 months	4 (40.0%)	3 (75.0%)
19-24 months	1 (10.0%)	1 (25.0%)
25-36 months	2 (20%)	-
37-42 months	1 (10.0%)	-
43-48 months	-	-
Greater than 48 months	-	-

File review data indicate, counting both the cases which remained under court jurisdiction and those now closed but remaining open more than two years, 69 percent of the children in the 1990 sample remained under court jurisdiction for at least two years and 63 percent of the children in the 1993 sample remained under court jurisdiction for at least two years. The following table illustrates the duration of court jurisdiction for closed cases from the 1990 and 1993 file review samples.

Table 20
Duration of Court Jurisdiction □ Closed Cases

	1990	1993
Less than Three Months	10.8%	16.2%
Three □ Six Months	12.1%	11.7%
Six □ Twelve Months	12.0%	16.2%
Twelve □ Eighteen Months	13.8%	13.3%
Eighteen □ Twenty-Four Months	7.2%	16.1%
Twenty-Four □ Thirty-Six Months	8.5%	25.0%
Thirty-Six □ Forty-Eight Months	26.8%	1.5%
Over Forty-Eight Months	19.3%	0.0%

5. Termination of Parental Rights

Petitions for termination of parental rights were filed in 20 percent of the 1993 cases and 24 percent of the 1990 cases, suggesting that the chances of having a termination petition filed do not increase dramatically with an additional three years in court jurisdiction. Nearly all were based on the parents' inability or unwillingness to protect the child, inability or unwillingness to take responsibility for the child and lack of efforts to rehabilitate themselves.

Pre-trial conferences were held in 46 percent of the 1993 termination cases and only 33 percent of the termination cases had a contested hearing. In comparison, only 39 percent of the 1990 termination cases had a pre-trial conference and 46 percent of the 1990 termination cases resulted in a contested hearing. As noted above, pre-trial conferences appear to be both more frequent and more successful in more recent years.

In 96 percent of the 1993 cases and 100 percent of the 1990 cases in which a termination petition was filed, the petition was granted. Three 1993 cases (out of 25) were appealed, two were upheld and on the other there was no information. One of the 28 1990 cases was appealed and the termination was upheld.

For the 1993 sample, the termination order occurred within 23 months of the initial petition for court jurisdiction for half of the cases, with 85 percent receiving the order within 30 months of the initial petition. For the 1990 sample, only 36 percent had received a termination order within 23 months and 52 percent within 30 months. More than four years elapsed before 85 percent of the termination cases had received their orders, with one case taking five and one-half years.

Table 21
CP Petition To TPR Petition

CP Petition to TPR Petition	1990 Cases	1993 Cases
Under 6 Months	1 (4%)	3 (12%)
6-9 Months	1 (4%)	3 (12%)
10-12 Months	3 (11%)	2 (8%)
13-18 Months	3 (11%)	9 (35%)
19-24 Months	2 (7%)	3 (12%)
25-30 Months	9 (33%)	5 (19%)
Over 36 Months	8 (29%)	1 (4%)

Age played a role in whether a termination petition was filed. In 8 percent of the 1993 termination cases, the child was under one, in 31 percent under two and in 46 percent under three. Among the termination cases 81 percent of the children were 7 years old or younger, compared to 50 percent of all children in the sample.

The median time between the initial petition for court jurisdiction and the petition for the termination of parental rights was 17 months for the 1993 sample but 26 months for the 1990 sample. Thirty-one percent of the 1993 termination petitions occurred within one year of the initial petition, compared to 19 percent of the 1990 petitions. In 1993 65 percent of the termination petitions occurred within 18 months and 77 percent within two years. This compares to the 1990 figures of 30 percent and 41 percent. The maximum time between the termination petition and the termination order was 15 months for the 1993 sample and 64 months for the 1990 sample. Interview respondents estimated the time span from the filing of the TPR petition to the completion of a hearing (contested or uncontested) to be from two weeks to two years, a narrower range than was demonstrated through the file review data.

Table 22
TPR Petition to Uncontested TPR Order

TPR Petition to Uncontested TPR Order	1990 Cases	1993 Cases
Under 6 Months	1 (8%)	2 (13%)
6-9 Months	0	1 (6%)
10-12 Months	1 (8%)	1 (6%)
13-18 Months	1 (8%)	1 (6%)
19-24 Months	2 (17%)	3 (19%)
25-30 Months	3 (25%)	8 (50%)
Over 36 Months	4 (33%)	0 (0%)

Table 23
TPR Petition To Contested TPR Order

TPR Petition to Contested TPR Order	1990 Cases	1993 Cases
1-4 Weeks	2 (16%)	0
5-8 Weeks	0	1 (11%)
9-12 Weeks	0	1 (11%)
13-16 Weeks	0	1 (11%)
17-24 Weeks	2 (16%)	1 (11%)
25-32 Weeks	6 (46%)	0
33-52 Weeks	2 (15%)	4 (44%)
1-2 Years	1 (8%)	1 (11%)

a. Appeals

Another element with dramatic impact on the termination of parental rights is the appeals process in termination cases. The project team examined 31 cases in which a Notice of Appeal to the Law Court was filed in calendar year 1995. Twelve counties were represented in the sample. With one

exception the notice of appeal on all the cases occurred during the 1995 calendar year. The notice of appeal for the sole case occurring before 1995 was filed in March of 1994. There was no explanation for this delay in the record.

Appeals were filed by a number of different parties with the most frequent filer being mothers. The following table presents a breakdown of the parties who filed appeals.

Table 24

Parties Filing Appeal in Termination Cases

Filing Party	Frequency	Percentage
Mothers	15	44.8%
Parents	7	22.6%
Father	6	19.4%
DHS	1	3.2%
Grandfather	1	3.2%
Adoptive Father	1	3.2%
Total	31	100%

As of July 10, 1996, the Law Court has issued decisions in 22 of the 31 cases examined. Twenty of the 22 cases, 90.9 percent, were affirmed by the Law Court. Eighteen of the 22 decisions were delivered as Memorandum Decisions. The next table presents a breakdown of Law Court decisions.

Table 25

Law Court Decisions on Termination Appeals

Decision	Frequency	Percentage
Affirmed	20	90.9%
Vacated	1	4.5%
Dismissed*	1	4.5%

* Case was dismissed due to appellant failure to perfect.

The appeals process involves a number of steps taken by parties involved in the process, each of which has an impact on the length of the process. Our investigation charted these steps, beginning with the filing of the Termination Petition and following the process through the hearing(s), the Termination Order, the notice of appeal and through the appeal process to the delivery of the Law Court decision. The following table presents the time span involved in each of these steps, looking at the mean time spans of each step.

Table 26

Time Spans in the Termination of Parental Rights Process

Events	Mean Time Span (Days)	Range
From TPR filing to first hearing	169 days	0-641 days
Form 1st hearing to TPR Order	76 days	0-392 days
From TPR filing to TPR Order	240 days	100-658 days
From Clerk due date to clerk filing date	5 days	(14)*-53 days
From reporter due date to reporter filing date	16 days	(28)*-184 days**
From appellant brief due date to appellant brief filing date	16 days	(40)-96 days
From appellee brief due date to appellee brief filing date	15 days	(2)-58 days
From brief filing to consideration	141 days	82-461 days
From consideration to Law Court decision	29 days	7-93 days
From TPR Order to Law Court decision	342 days	226-762 days

* ( ) indicate number of days prior to due date that the filing occurred.

** Two cases, a 184 day span (due to failure of the attorney to request the transcript at state expense) and a 164 day span are aberrations, the remaining cases were all filed within a range of (28)-84 days relative to the reporter due date.

Clearly there are delays that occur at every point of the appellate process, beginning with the difference between the clerk due date and the date when the clerk filing is actually completed. Looking at the difference between the various due dates and actual filing dates, 52 days on average could be subtracted from the appellate process if the necessary filings were completed by their due dates. Clearly, however, the longest delay in the process occurs between the end of the brief filing process and the consideration of each case, an average span of 141 days. An expedited calendaring process resulting in a 50 percent reduction in this one time span, would eliminate 70 days from the appellate process.

b. Cross State Comparison

Maine is not alone in experiencing an increase in the number of appeals taken from Orders entered in child protective cases, particularly Termination of Parental Rights Orders. For that reason, other states have attempted to streamline the appeals process so as to shorten the time during which the appeal is pending. For example, the State of Connecticut has a two-tiered appeals process similar to Maine's opportunity for appeal first to Superior Court and then to the Law Court on Orders other than TPRs. However, if an aggrieved party with court-appointed counsel wishes to take his or her appeal to the Connecticut Supreme Court, the court-appointed counsel is under an obligation to do so only if in good faith the attorney believes the appeal to have merit. If the attorney does not, he or she can decline to press the appeal. At that point, an attorney from the court-appointment panel is asked to review the case and has the option of pursuing the appeal or "ruling" that the appeal is without merit. If the case is found to be without merit then the appellant is no longer eligible to receive the assistance of court-appointed counsel. He or she may still appeal to the Supreme Court, but must obtain private counsel to do so.

Since 1972 the State of Arizona has had special appellate rules for juvenile, including child protection matters, designed to speed the process. The rules assign high priority to juvenile cases, set tight timetables, and simplify the appellate process. These rules have resulted in final decisions being issued on an average of from two to seven months from the original entry of the juvenile court's order. Appeals from abuse and neglect and termination of parental rights cases are taken in accordance with a very short timetable: the notice of appeal must be filed within ten (10) days; the transcript and record prepared and delivered to the appellate court no more than twenty (20) days from the notice of appeal;

the appellant's brief must be filed no more than (20) days after the transcript and record; the Respondent's brief must be filed fifteen (15) days after the appellant's brief; oral argument occurs no more than twenty (20) days after the respondent's brief is filed; and the appellate court issues its decision no more than 90 days after oral argument or within 90 days after the respondent's brief is filed.

> [***Note:*** ***In light of the Committee's Recommendations, the recommendations contained in the Muskie Institute report are not reproduced here. However, some factual findings supporting the Muskie recommendations are set out below.***]

• As has been noted, in some locations contested cases may be assigned a trial date on which to be heard but, if not finished on that day are continued for further testimony to the next available trial date. This can mean that several weeks or even months can elapse from the date a hearing commences until it is completed. In the interim, prior testimony may become irrelevant, circumstances may change significantly, or witnesses may become unavailable.

• It is a common occurrence for a court to have a child protection cases docketed for a certain day of the week, and to schedule all parties to appear at the same hour. The result is too many cases and too many parties at the court house. For example, the court may require all parties on a 12-case docket to appear at 9:00 a.m. Some parties may reach an agreement early in the day but not be able to place the agreement on the record until some time later; while other parties cannot talk with the AAG at all until late in the morning or early afternoon.

• As one judge accurately pointed out, child protection cases can be significantly "lawyer driven," and parties often agree to many continuances before some stage in a case is resolved. Depending on continuance practices, this means that many months can elapse between the original filing of a Petition for Child Protection Order and the conclusion of a C-2. During that time both the family and the child remain in a kind of "holding pattern."

• Many cases are delayed reaching the adjudicatory stage, because parties are awaiting the results of psychological, substance abuse, parenting ability or infant mental health evaluations.

• Much court time is taken up by testimony about the service plan for the family. This is frequently necessary because DHS's plan is not regularly shared with all the parties and the court and it is left to be discovered at or very close to a trial date.

• It is not at all uncommon for District Court cases to be continued because the attorney for a parent or the attorney guardian ad litem for a child is also scheduled to appear in the Superior Court. It is clearly the practice statewide for Superior Court cases of every variety to be regarded as "taking precedence" over District Court cases. The result is that a Termination of Parental Rights case awaiting trial in District Court for several months can be continued because an attorney has been scheduled in the Superior Court to try a criminal misdemeanor.

• The automated case tracking system currently being developed and implemented by the Administrative Office of the Courts will allow the court to better understand how cases are being processed.

C. Representation of Parties

The *Resource Guidelines* outline the following suggested training and experience requirements for attorneys involved in child abuse and neglect cases.

> Before becoming involved in an abuse and neglect case, attorneys should have the opportunity to assist more experienced attorneys in their jurisdiction. They should also be trained in, or familiar with:
>
> - Legislation and case law on abuse and neglect, foster care, termination of parental rights, and adoption of children with special needs.
> - The causes and available treatment for child abuse and neglect.
> - The child welfare and family preservation services available in the community and the problems they are designed to address.
> - The structure and functioning of the child welfare agency and court systems, the services for which the agency will routinely pay, and the services for which the agency either refuses to pay or is prohibited by state law or regulation from paying.
> - Local experts who can provide attorneys with consultation and testimony on the reasonableness and appropriateness of efforts made to safely maintain the child in the home.

1. Representation of the Maine Department of Human Services

The Department of Human Services is represented by the Maine Attorney General's Office. Study participants from all disciplines rate agency representation as excellent to fair, with a preponderance of ratings as very good. Overall, AAGs are reported to have a sound knowledge of the law, to work well with the courts and clerks and generally, to posses good negotiating skills. There appears to be a disparity in understanding among the DHS Regions and among AAGs regarding the degree to which the AAG may control the course of litigation. Some DHS personnel and AAGs believe that once a case is in Court the AAG has primary responsibility for decision-making as to how the case is handled; other DHS personnel and AAGs believe that the relationship is a more traditional private attorney/client model, with the client (DHS) making the decisions as to whether or not to go to trial, settle a case, or dismiss it. While there have been efforts over the years to clarify this issue it remains apparently unresolved.

The "lawyering style" of AAGs varies widely by report, and the manner in which a case progresses, and the length of its hearings in particular, varies widely. Overall the AAGs are seen as being in need of more training in trial skills, especially direct and cross-examination of expert witnesses. While new AAGs may have a brief period of mentoring or job shadowing when they first begin child protection cases, the office offers little in the way of training. There is an in-house manual available to AAGs for use as a reference and guide, but aside from the manual and a collegial approach to the

work, AAGs have little other continuing education or in-house training opportunities. A thorough knowledge of DHS and its functions are critical to adequately represent the agency.

Two-and-a-half new AAG positions were recently funded by the Legislature to represent DHS on child protection cases. However, the caseloads most AAGs carry is everywhere reported to be too high. Heavy workloads make AAGs difficult to reach for case conferencing, interviewing witnesses, or negotiating cases to settlement in any other way than at pre-trial conferences.

2. Representation of Parents

The *Resource Guidelines* specify with some particularity what an attorney for parents or children should do during the course of representation. This work includes the following:

> After attorneys are assigned or retained on an abuse and neglect case, they should do the following:
>
> - Actively participate in every critical stage of the proceedings, including but not limited to hearings on adjudication, disposition, periodic case review, permanency planning, termination of parental rights, and adoption. When necessary to protect the interest of the client, the attorney should introduce and cross examine witnesses, file and argue motions, develop dispositional proposals for the court, and file appeals.
> - Thoroughly investigate the case at every stage of the proceedings. Attorneys should know, among other things, the family's prior contacts with the child welfare agency; who made the decision to bring the case to court; the basis for state intervention, including the specific harm state intervention is supposed to prevent; and what alternatives, including voluntary in-home services and placement with relatives, were considered prior to initiating court proceedings.
> - If the child has been removed from the home, determine what contacts the agency has since made with the parents and the child, and what efforts were made to reunify the family prior to the preliminary protective hearing.
> - Conduct a full interview with the client to determine what involvement, if any, the child welfare agency has had with the parent or child; what progress the parents and child have made; and what services the client (parent or age-appropriate child) believes would be helpful.
> - In preparation for such proceedings as adjudication, disposition, periodic review, and termination of parental rights proceedings, interview key witnesses including child welfare agency personnel, key service providers to the child and family, representatives of other key agencies, and others with knowledge of the case.
> - Review all documents that have been submitted to the court.
> - Review the agency's file and any pertinent law enforcement agency reports to evaluate the case and to ensure that the agency has complied with its own procedures and regulations.
> - Obtain or subpoena necessary records, such as school reports, medical records and case records.
> - When necessary, arrange for independent evaluations of children or parents.
> - Stay in regular contact with clients, writing letters and making telephone calls when necessary and using tickler files.

- Continue to remain in contact with the agency and monitor case progress between court hearings.

Attorneys representing parents are self-selected in the sense that they have requested placement on the list of court-appointed counsel or, more rarely, are retained. Because the overwhelming number of parents participating in child protection cases receive court-appointed counsel most attorneys are appointed from the list. While there is a sufficient number of attorneys available to represent parents, the quality of representation varies and ranges in rating from excellent to fair. Most areas report a "core" of lawyers who handle child protection cases. These attorneys alternate between representing parents and representing children as GALs. On one hand this practice is viewed favorably in that it tends to keep lawyers from "hardening" into ideological positions; but on the other hand several respondents noted that many lawyers seem to have difficulty shedding a "zealous advocate" role when they are serving as GALs, and that a litigious lawyer's posture may not necessarily serve the best interests of the child or of the parent.

Court appointments are made almost uniformly through the District Court Clerks' offices, with many clerks consulting with the presiding judge about whom to appoint to particular cases. Overall, the appointment system is viewed as fair and equitable, although some lawyers have difficulty with what they view as favoritism. When conflicts of interests exist between parents there are sufficient lawyers available for the appointment of separate counsel.

Although they are generally viewed as dedicated, involved advocates, parents' attorneys self-report that they would benefit from additional training. While it seems universally accepted that practitioners should be able to demonstrate facility with the statute, have working knowledge of family dynamics, psychology, child development and trial skills members of the bench and the bar are cautious about advocating experience, training and quality control ***requirements*** as a predicate to handling child protective cases. This is partly due to the practical recognition that the lawyers available are already limited in number and partly due to the belief that bar licensure requirements already provide basic quality control. On the other hand, service providers, DHS caseworkers, foster parents and other system participants favor requiring education and training for lawyers in child development, family dynamics (including domestic violence), psychology, and substance abuse. Many lawyers report that they would benefit from this training as well. Judges report that parents' attorneys (and AAGs) should have courses in basic trial skills, particularly new lawyers. Some judges noted that attorneys in these cases would also benefit significantly from education in non-adversarial problem-solving because out-of-the-courtroom negotiation/mediation skills are of paramount importance in child protection cases.

The *Resource Guidelines* encourage a very proactive role by the judiciary in attorney oversight. The *Guidelines* suggest that the court can play an important role in training attorneys in child abuse and neglect cases, including a suggestion that judges and judicial officers can volunteer to provide training and publications for continuing legal education seminars.

The degree of involvement by parents' attorneys varies widely, with some quite actively involved and others not. Some monitor the cases closely between hearings, others do not. Most report that they do not attend the administrative case reviews held at the DHS every six months because (a) they do not receive notice of the review; (b) they receive inadequate notice; or (c) they generally find the administrative review process to be unproductive. In most DHS regions it appears to be the practice to send notice of an administrative review to the child's attorney or CASA guardian, and to the parent but not to the parent's attorney. Among the attorneys who do report attending, some view it as a monitoring procedure and a few report it as genuinely useful in gathering information.

In terms of case preparation, while some attorneys do not appear to observers to do much in advance of the scheduled hearing day, this is attributed in part to their difficulty in reaching or being reached by their clients. Some reporters also theorize that because most clients have court-appointed counsel and thus do not have the restraint of having to pay for attorney services, lawyers are required to take positions and advance arguments which are viewed as marginal at best. For the most part, parents' attorneys appear to do the following in preparation for hearing: talk with their clients, read the record, interview the caseworker, discuss the case with the GAL, read reports and talk with experts.

Parents' attorneys and others report they do not have adequate resources available to them to do independent investigations, hire independent evaluators and the like. Instead they must rely on information acquired through the Department of Human Services. Likewise, lawyers report consists of going to DHS and reviewing records which can be voluminous. Parents' attorneys and some Judges have suggested that the Attorney General's office develop a discovery protocol that would review DHS records for case relevance and provide automatic discovery of pertinent records.

Cross-state Comparison

Maine's system of court-appointed counsel for parents differs from that of some other states. For example, Massachusetts law provides a right to counsel for parents (and children) in child abuse and neglect cases. Counsel are appointed by the presiding judge from a list of *certified* attorneys. In order to become eligible for appointment, attorneys must attend an initial three day specialized training program, and complete eight hours of Continuing Legal Education in the field each year. After the

initial three-day training course is complete, the attorney seeking certification is assigned a mentor with whom the "trainee" does court observation, and "one-on-one" instruction. Attorneys completing these activities become certified by the Committee for Public Counsel Services, an agency located in Boston which is entirely funded by the state legislature. The Committee presently oversees two pilot programs with staff attorneys, and retains some attorney services on contract. The Committee also screens and manages complaints as they may arise from time to time. Committee Staff note that there is some self-selection among the participating lawyers, with some attorneys preferring to represent only parents and some preferring to represent only children, but that this practice is discouraged. Lawyers are generally limited to approximately 75 active cases.

In Rhode Island, as in some other states, counsel for parents are appointed through the State Public Defender's office, a staff consisting of public service employees, or through Rhode Island Legal Services, a grant-funded organization. In Seattle, Washington, the Society of Counsel Representing Accused Persons (SCRAP) provides representation of parents in abuse and neglect cases, and is funded as a private, non-profit defense agency under contract with the King County Office of Public Defense. In Kents County, Michigan lawyers for parents are drawn from a panel of attorneys who have several major trainings available to them as well as a system of brown bag lunch sessions with educational topics identified by the participating attorneys. While support for the participating attorneys is provided in part at the state level, the family law section and juvenile section of the Bar Association are active in assisting in training. Training, which is publicized three months in advance, consists of a full day including legal issues, child development issues, and interviewing. Child welfare specialists, judges, attorneys, referees and court administrators often participate in the training program. Attorney performance evaluations and feedback are invited by means of a form given to parents, caseworkers and CASAs. Training is repeatedly cited as a key element in quality representation of parents.

3. Representation of Children: Attorney Guardians ad Litem

The unavailability of CASA volunteers in large sections of the state requires that attorneys serve as GALs. Lawyers and others report that time and distance constraints prevent them from being able to get to know the child and, as previously noted, it is sometimes difficult for an attorney to move out of "litigation mode" when representing a parent or a child. Most study participants reported that they did not think an adversarial approach of this kind served the best interests of the child. While there

clearly are many attorneys who fulfill the role of the Guardian ad Litem quite well, lawyer-Guardians are not as likely as non-attorneys to visit the child in his or her foster home, spend time with the child at school or in a recreational setting, or spend extended time with teachers family members or friends. On the other hand attorney GALs are not as likely as CASA volunteers to be intimidated by the court process or by other attorneys when working on behalf of the child.

Lawyers who serve as GALs report that once a child is in the custody of DHS it is difficult to keep track of the child. DHS workers do not routinely inform the child's guardian if the child has been moved to another foster home, changed schools, or even been hospitalized. Although some lawyers try to attend DHS's administrative reviews, many report receiving inadequate notice of the reviews or do not think the reviews are particularly helpful except as an informational updating procedure. Almost all respondents indicated that attorney GALs would benefit from training in family dynamics, domestic abuse, substance abuse, child development, psychology and psychological testing, and medical issues.

Because the majority of parents and children involved in child protection cases require court-appointed counsel, the cost of representation can be tracked through vouchers submitted by lawyers to the Administrative Office of the Courts (AOC). Data from the AOC indicates that from FY 1986 and FY 1995, child protection voucher expenses have risen from $318,687 to $1,238,034, with the average voucher cost rising from $192 to $399. (NOTE: it cannot be determined from this data whether attorneys are submitting vouchers for one court appearance or for many over the course of time). Between FY '94 and FY '95 overall costs rose 30.6%, and again, while the precise cause of this change cannot be determined, the change is notable.

The file review data indicated that the number of hours spent in preparation, as claimed by the attorneys for each party, varied widely. In 1993 mothers' attorneys spent roughly five times as many hours in preparation as fathers, and fifty percent more than the children's attorneys. No reliable information was available for DHS for this factor. The figures shown in the following table reflect the median number of hours spent by attorneys on behalf of each party, i.e., the number of hours at which fifty percent of the cases were below and fifty percent above that figure. These figures also correspond quite closely to the median hours approved by the court for each attorney.

It is not clear whether the 1990 information shows fewer hours because the documentation of the hours was less available or because the access to counsel has improved. Given that the availability of counsel to the parties was similar in both samples, the former may be closer to the truth. However, the data also show that the court approved fewer hours for counsel in 1990 than in 1993, with the 1990 median being zero hours for fathers and children and 6.8 hours for mothers.

Table 27

Median Hours Spent in Court Preparation by Counsel for Each Party

	1990	1993
Mother	6.8	12.4
Father	0.0	2.5
Child	0.0	8.7

Cross-state Comparison

Throughout the U.S., states vary widely in the kinds of legal services available to children. For example, in Philadelphia, Pennsylvania, the Support Center for Child Advocates maintains 300 active volunteers including lawyers, paralegals and litigation support who are required to attend two full days of training and one half day of court observation before providing advocacy services. In Denver, Colorado the Children's Legal Clinic combines staff attorneys and pro bono attorneys to represent children in dependency and neglect cases as well as other kinds of litigation. It is funded by a combination of private individual contributors, the United Way, foundations and businesses, fundraisers and a small fee for services.

In Covington, Kentucky, the Children's Law Center operates with three full-time attorneys, four law students, and three non-lawyers. CLC collaborates with the Salmon P. Chase College of Law to operate the Children's Law Clinic and publish the Kentucky Children's Rights Journal, as well as to run the CASA program in two juvenile courts.

In other locations, as has been previously noted, attorneys may be appointed from lists of available counsel, with or without mandatory training or experience requirements.
Several of the programs identified in this report which provide representation to parents also provide court-appointed legal representation for children.

In Florida, the Florida Bar Foundation funds an innovative inter-disciplinary program that provides advocacy and technical assistance services to lawyers involved in child abuse and neglect litigation as well as other actions. Known as "Children First," this program is a partnership in law, medicine and education which is dedicated to advancing children's rights and uses litigation,

cooperative efforts and legislative advocacy to accomplish that goal. Children First has been involved in a federal class action to require Florida to provide mental health and developmental services to children in its custody; to provide equal educational rights for limited English proficient students; and to provide intervention for adequate education for poor and minority students, among other things. Legal and medical staff are available to attorneys engaged in child abuse and neglect cases for consultation and technical assistance

4. The CASA Program

The CASA Program began in Maine in 1986. Since then more than 600 individuals have served as CASAs for at least some period of time. Most became involved out of a concern for children and because of a desire to "give something back" to their communities. When the program began fully operating in court in 1986, there were approximately 100 child protective cases to which CASA volunteers were assigned. This number peaked in 1992, with CASAs involved in more than 300 cases, representing about one-half of the 600 cases filed in 1992. Since 1992, however, while the number of child protective case filings has risen to about 700 cases in 1995, CASA involvement has dropped off dramatically, with only about 100 of the 700 cases using a CASA volunteer. (*Administrative Office of the Courts.*)

Ninety-seven CASA volunteers responded to a written survey distributed as part of this project. Those responding worked out of the courts in the following DHS regions:

Region I	(Cumberland and York Counties)	61.7%
Region II	(Androscoggin, Franklin and Oxford Counties)	14.9%
Region III	(Kennebec, Knox, Somerset, Lincoln, Waldo, and Sagadahoc Counties)	34.0%
Region IV	(Penobscot, Piscataquis, Hancock and Washington Counties)	24.5%
Region V	(Aroostook County)	5.3%

Thirty-two percent of survey respondents had served as CASA volunteers for up to two and one-half years, 37 percent for between three and five years and 31 percent between six and 11 years. When asked why they became CASA volunteers, many described concern for children especially those from abusive families. Many believed that these children do not have sufficient legal rights or representation and wanted to give children a voice in court. Many CASA volunteers became familiar with the program through other work (educators, lawyers, psychologists and foster parents) and saw it as a good way to become involved in the lives of children. Some expressed frustration with the child protective system and a desire to work towards improvement. By far, however, most volunteered because they wanted to help children.

Those volunteers who are no longer active expressed a range of reasons for leaving the program including frustration with the system itself (depressing, discouraging, lack of significant impact on decisions that affect children's lives), the time and emotional commitment of the job, a lack of support for volunteers and a conflict of personal or professional commitments.

The CASA office currently consists of an Executive Director and an Administrative Assistant and has an operating budget of $105,064 for FY '95. There are 227 active volunteers working in 27 court locations.

According to the mail survey, CASA caseloads range from 53.6 percent of volunteers who spend between 0-10 hours per month on CASA work to 35.6 percent who spend 12-30 hours and 10.7 percent who spend 32-80 hours on their cases. On average volunteers describe carrying an active caseload of 0-3 cases (67.8 percent); 4-7 cases (24.1 percent); and 8-16 cases (10.7 percent)

With regard to the relationship between CASA volunteers and the other parties, Table 28 describes the CASA volunteer responses.

Table 28

Contact between CASA volunteers and other parties

How much contact do you have with:	Never	Rarely	Occasionally	Often	Usually
Parents attorneys	3.6%	20.5%	32.5%	18.1%	25.3%
Parents	0	5.9%	14.1%	38.8%	41.2%
AAGs	1.2%	17.9%	31.0%	25.0%	25.0%
DHS Caseworkers	1.2%	1.2%	10.6%	38.8%	48.2%

Table 29 describes volunteer responses to the question of what stages of the court process are CASA volunteers expected to be actively involved.

Table 29
CASA volunteer expectations

At what stages of the process are CASA volunteers expected to be involved	Involved	Not Involved
C-1 hearings	80%	20%
C-2 hearings	97.6%	2.4%
During judicial reviews	95.2%	4.8%
During TPR hearings	90.5%	9.5%
Between court hearings	87.8%	12.2%

Tables 30 and 31 describe volunteers' rough estimate of the advance preparation done for contested/uncontested C-2 and judicial review hearings.

Table 30

Advanced Preparation Done for Uncontested C-2 and Judicial Review Hearings

Advanced preparation done	Rarely	Occasionally	Often	Usually
Talk to case worker before the day of the hearing	0%	3.8%	14.1%	82.1%
Talk to the children before the day of the hearing	5.3%	8.0%	16.0%	70.7%
Visit the child(ren) in the home before the hearing	2.6%	9.2%	22.4%	65.8%
Find out how your (school age) clients are doing in school	1.3%	12.0%	17.3%	69.3%
Interview service providers before the day of the hearing	2.6%	10.5%	32.9%	53.9%
Investigate alternative services that might be provided to the child or family	10.4%	28.6%	27.3%	33.8%

Table 31

Advanced Preparation Done for Contested C-2 and Judicial Review Hearings

Advanced preparation done	Rarely	Occasionally	Often	Usually
Talk to case worker before the day of the hearing	0%	3.9%	6.6%	89.5%
Talk to the children before the day of the hearing	1.4%	5.6%	15.3%	77.8%
Visit the child(ren) in the home before the hearing	2.7%	6.7%	20.0%	70.7%
Find out how your (school age) clients are doing in school	1.4%	9.9%	16.9%	71.8%
interview service providers before the day of the hearing	2.7%	9.9%	21.3%	65.3%
Investigate alternative services that might be provided to the child or family	10.7%	22.7%	21.3%	37.3%

CASA volunteers are generally regarded as dedicated individuals who have and are willing to spend a great deal of time on these cases. The quality of representation varies tremendously.

The current training offered to CASA volunteers who are entering the system consists of a one day training session with an Assistant Attorney General descibing the relevant child protective laws; a judge discussing what the court's expectations are; a DHS caseworker outlining child abuse and neglect issues, DHS procedures and child development; a domestic abuse advocate discussing issues of domestic violence; and the CASA Director and sometimes a volunteer discussing expectations of the program, interviewing techniques, evidentiary issues and report writing. The program also provides materials including 4 or 5 sample reports. The training session is usually held in a courtroom where volunteers can learn the appropriate courtroom protocols. While 44 percent of volunteers surveys feel that the training they received was sufficient, 56 percent said that it was not. Volunteers described additional training they would like to see including more preparation for the courtroom experience, report writing skills, more understanding of the role of the GAL, job shadowing, mentoring, observation, how to make motions, legal terminology, interviewing techniques (for parents and children), and more information on treatment and care programs. Many volunteers would like ongoing support groups and updates on new legal issues.

Eighty-one percent of CASA volunteers believe that there should be basic educational or experience requirements before a CASA volunteer can be appointed to a case. The responses regarding what these requirements should be ranged from a high school diploma and some basic training on the issues of abuse to at least a 2 year college liberal arts degree. Many believed that job shadowing or observation should be required.

Eighty-three percent of volunteers surveyed stated that individuals responsible for the CASA program are available to answer questions and to confer about cases. They described a range of additional support they would like to see including a representative in their local area, a toll free telephone number, secretarial assistance, and easier access to legal advice. Many desired support groups, a newsletter, and support at court and in preparation for court. Fifty-seven percent of volunteers do not believe that they CASA program provides sufficient supervision to its volunteers. Additional supervision they would like includes an evaluation of performance, an active community based support group, and face-to-face contact on a regular basis.

Study participants describe the CASA volunteers' strengths in terms of their commitment, time and interest in children. Their life experiences and non-legal perspectives are seen as positive. Weaknesses include their lack of understanding of the legal system. Some volunteers are intimidated by the system and are described as too docile or that they tend to side with DHS or parents and do not maintain an independent role. Generally, others in the system believe that additional training for volunteers is necessary.

Table 32

Assignment of CASAs

(Clerk Survey)

Proportion of Cases Assigned to CASAs	Percentage of Clerks
0% - 25%	99.2%
35% - 75%	12.5%
85% - 90%	8.4%

Table 33

Assignment of New Cases to CASAs

(Clerk Survey)

Proportion of New Cases Assigned to CASAs	Percentage of Clerks responding
0% - 10%	70.4%
11% - 40%	14.8%
41% - 90%	14.8%

Table 34

Length of Time Required to Assign a CASA

(Clerk Survey)

Length of time to assign a CASA	Percentage of Clerks responding
2 days - 3.5 days	58.3%
7 days - 10 days	33.3%
48 days	8.3%

The perception of judicial oversight of the CASA volunteers varies from 91 percent of district court clerks reporting no judicial oversight to 74 percent of CASA volunteers surveyed responding that the judge holds the volunteer accountable for his or her work as a CASA volunteer.

CASAs talk with the child, the foster parents, the parents and caseworker; expert witnesses, parents' attorneys and AAGs. Some CASAs "drop out" of cases without notice to the Court or to the parties; there can be little to no communication between a CASA first assigned to a case and subsequent volunteers.

Cross state comparison

The representation of children in child abuse and neglect cases varies. Some locations require attorneys for children, others use the Court Appointed Special Advocate (CASA) programs, and some

employ both CASAs and attorneys. In locations using the CASA programs, how those programs are structured and what their mission and function is also varies widely.

There are three general models for CASA programs in the several states: the Guardian ad Litem model in which the CASA is the sole representative for the child and functions in large part as an attorney would; the CASA as a Friend of the Court, in which the CASA serves as an investigator and fact finder for the court and operates separately from the child's attorney representative; and CASAs teamed with the child's attorney who serve an investigative but not independent role. Funding for CASA programs is likewise varied throughout the states. Many CASA programs have successfully applied for and received grant funds from local, state and national organizations and sometimes function with monies received from many funding pools. This helps to ensure that CASA can continue to operate even when selected funding sources become unavailable. Although it is well beyond the scope of this report to outline the many forms of CASA, one or two examples of the program may be useful.

In Virginia the CASA's role is to act as a gatherer of information, to be the eyes and ears of the court, a friend of the child and case monitor. Training is mandatory and consists of a 36-40 hour course given twice a week for six weeks in the evening. After the initial training a CASA serves an internship which includes court observations and mandatory visits to certain service agencies (e.g. transitional housing, crisis shelters). CASAs participate in a formal induction ceremony at the courthouse and commit to one year of service or commit to when their cases are concluded. New CASAs may be linked to more experienced CASAs during the first cases. Inservice trainings are held throughout each year. Feedback on the performance of CASAs is received by means of evaluations from judges, attorneys, and social workers. Turnover is low, with a retention rate of approximately 75 percent. The

Criminal Justice Services Board of the Commonwealth of Virginia has promulgated formal rules relating to the CASA program. A CASA Master Plan has been drafted for use throughout the Commonwealth, and an extensive evaluation of the program was conducted and the results published in December of 1995. Recommendations in that evaluative report include: role clarification, collaboration and cooperation; expansion of the program to rural areas; additional and standardized training; standardized forms and reporting practices, along with other recommendations.

In New Hampshire, CASA functions as a private, non-profit organization with a diverse funding base that includes funds from the national CASA program, community improvement funds, private foundation money, trust fund contributions and other grants, and federal funds from the Victims of Crime Act (VOCA) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP). The CASA organization maintains five (5) full-time staff persons and 140 volunteers. The program employs an intensive application and screening process and requires 42-44 hours of initial training. Monthly in-service trainings are available to CASAs, particularly through the New Hampshire Department of Children Youth and Families. CASAs are expected to monitor services to the child and family, make recommendations and be involved in placement, as appointment of counsel for the child is mandatory in New Hampshire as of July, 1995, attorneys are also available to assist the CASAs.

> [***Note:*** ***In light of the Committee's Recommendations, the recommendations contained in the Muskie Institute report are not reproduced here. However, some factual findings supporting the Muskie recommendations are set out below.***]

• At present there is no specialized education nor experience required before an attorney can begin representing parties in child protection matters. Attorneys self-select to provide representation by

asking that their names be placed on the court-appointment list. Many new lawyers ask to be placed on the list in order to gain courtroom experience or for other reasons. While most local bar members are glad to assist new members with advice and assistance, education is informal, collegial and provided as time permits.

• Child protection cases involve issues of proof that involve child development, family dynamics (including family violence), psychology, medicine and the like. Almost all participants in this study believe that there should be education and training to some degree available to everyone who participates in the cases in those fields.

• The paucity of training opportunities was noted by all study participants. Areas that require improvement include trial skills as well as education in child development, family dynamics, psychology and the like. With experience, many judges have a clear sense of what is necessary and essential to carry the burden of proof or to defend against a case-in-chief, and what is repetitive or superfluous. While many judges will guide the parties on a case-by-case basis, it would be useful for the Court to provide or sponsor some specific training along these lines.

• Most observers and participants noted that how a case progresses is very much a function of the lawyering style of the AAG assigned to it. For that reason there is a broad spectrum of case management by AAGs, with some being extremely involved in each case and presenting highly detailed cases-in-chief, while others are almost "bare-bones" in their presentation. There are strengths and weaknesses to each approach.

•Because the caseloads for each AAG are reported as quite high, and because the cases are complex, AAGs are either in court or preparing for pending trials and, as a result, are not generally available for consultations with their clients, and are frequently unable to interview witnesses or prepare them properly in advance of trial. There is very little time for research or for self-study to keep up with changes in the various professions that have an impact on their work.

• CASA volunteers express interest in having more legal and other training made available to them. Judges should provide feedback to the volunteers and to the CASA program. Training could include report writing, interviewing children, child development and confidentiality issues.

D. Role and Availability of Services

Provision of services to family members plays a major role in child protection proceedings. Essentially supplied or procured by DHS, services needed are many and varied. They include services supplied by counselors, medical, psychological, and educational personnel and many others. They serve the family by providing assistance in areas required by the court. Information supplied by service providers can help the court decide if the state should take custody, help the court decide on temporary placement for children and help the child's family improve conditions in their home so that the child can once again live there safely. If reunification is not possible, then a permanent placement for the child is found elsewhere. Again, this placement is made based, in part, upon information received from service providers regarding the needs of the child and appropriate placements available.

1. Availability of Services

For this process to proceed smoothly needed services should be available and easily accessible. Arrangements for their use should proceed in a timely and well-organized manner so that reunification or a permanent plan can be arranged for the child within a reasonable time period. However, research done for this study indicates that in Maine this process often does not proceed in a quick and efficient manner. For a number of reasons delays related to service delivery frequently occur.

In some areas, particularly in more rural locations, there are simply not a sufficient number of providers to satisfy the needs for court-ordered services. As a result there are long waits for services and a reliance upon the same providers over and over again. As one respondent said, "there are so few service providers, there is a lack of credibility for the ones you use."

Focus group participants agreed that there are not sufficient services available for people who need them. Almost two thirds of the CASAs responded that there are not adequate services available in your region to meet the needs of children and parents. When asked what additional services are needed, CASAs mentioned health care, especially in the area of mental health, counseling, eye and dental care, parenting classes, more DHS staff, and, most of all, more foster homes.

2. Barriers Created by Court Processes

Even in areas where there may be a reasonable number of providers, they try to avoid involving themselves in court cases. One reason is that providers think that court appearances take too much of their time. They particularly object to being called to appear and then having to wait for hours before their testimony is heard, or not being asked to give testimony at all. Obviously, time spent waiting is a severe problem for providers with other clients to serve. Loss of income represented by cancelled appointments also makes providers reluctant to get involved with the court process.

On the other hand some providers report success in dealing with court delays. Usually they work with the court to create a stand-by arrangement which leaves them free to carry on their business, but available to appear when called during a stipulated time period. Other providers are able to supply written testimony or reports in lieu of a personal appearance in court.

Many service providers also object to the lack of privacy found in the court process. Many objected to the lack of conference facilities and the need to conduct business in crowded court

hallways. Still others object to giving public testimony concerning confidential information supplied by their clients. Some feel that appearing as witnesses for one side or the other is not appropriate. They would prefer a less adversarial method of delivering their information.

3. Impact on the Court

Lack of appropriate services does impact the court process. When individuals who were interviewed were asked whether their function was affected by what services are or are not available in their community, they responded that an inadequate supply of services caused delays in the court process. Attorney comments included: cases are delayed; makes it hard to do their job; impossible to put a case together and represent a client; makes it difficult for parents to reunify; and could do more for clients with services. DHS workers agree: lack of services limits what you can do for the child; can't make progress with client; and family is delayed in dealing with problems. Judges agree that availability of services drives cases. If there are no services, there is nothing to review. Lack of services limits options. They could send kids home if the services were in place.

Accessibility is also a problem. Particularly in rural areas, both providers and others involved in the court process may have to spend several hours traveling to reach the court. Time spent traveling, of course, adds to the time providers spend away from their own practices. For many parents the problem is simply there is no method of transportation available to them.

Managing the delivery of services can also cause problems that lead to delays and confusion in the court system. Responsibility for determining which services are needed, making arrangements for

them to be delivered, overseeing their delivery and determining the degree of success of their use are often problem areas.

DHS has major responsibility in these areas. Yet court personnel do exert influence regarding service delivery. For example, when CASA volunteers were asked how often judges issue orders or make recommendations concerning services to be provided, 31 percent said they do occasionally; 26 percent said they often do. When people who were interviewed individually were asked how often judges issue orders concerning services to be provided, 24 of 30 respondents said that judges issue orders in all cases or in most cases. Yet judges seemed to feel that there was a limit to their involvement in these kinds of issues. When asked if judges should be more involved in specific decision making about the case plan, 27 of 40 respondents to the question said no. Several comments made indicated that to do so would be micromanaging the case.

Individuals interviewed were asked if attorneys were expected to provide input regarding case plans and services to families. Twenty-three of 38 responding said yes. When asked if attorneys did so, 18 of 38 respondents said yes, they do.

In some cases the present arrangement seems to work. However, there are problems. Parents especially seem to find the system confusing. Some parents see DHS as being the source of the problems they have with service delivery. In a survey of parents involved in child protective cases, when parents were asked if they had any problems getting the services that were ordered by the court, 52 of those responding said yes, they did, while 48 percent said they did not. Problems mentioned in getting services are lack of facilities, DHS wouldn't help set up appointments, or DHS didn't do the job that the parent expected, DHS didn't keep parent informed about what was happening with their kids,

and lack of communication with DHS. Oftentimes, the issue of whose responsibility it is to set up appointments for services is unclear or misunderstood, with parents believing that these things should be done by the caseworker and DHS believing that the parents should take responsibility for these matters. As a matter of practice, a clearer understanding of the various parties' roles from the outset of the case could avoid future delays.

Focus groups participants reported that parents were frequently confused about what was happening and no one was available to explain the proceedings to them. These groups, although mentioning that some problems did originate with DHS, also saw the court as causing some of the confusion. Service providers in one focus group said that judges should make requests that are specific enough so clients can understand and providers know what the situation is. The Court does not express its expectations in language people can understand. Court orders should make clear to clients who is responsible for what and how to get professionals to help them. Attorneys need to explain things to them. This group also thought that judges should request that parents produce results that are measurable and tell them exactly what they need to do. In some instances parents were confused because court representatives told them one thing, but DHS said something else.

Another point of confusion was at what point reunification efforts should be discontinued. Some parents said that they had done what the courts and DHS had requested, but still didn't have custody of their children. Some thought that DHS demanded too much of parents and it was not clear about its expectations. On the other hand, some people felt that reunification efforts were continued for too long while children wait in foster care. Focus group participants thought that kids should reach permanence by 18-24 months. It was unclear to some what was a realistic period of time needed for a

family to make a specified change. One group of service providers said that "court expectations are low for parents; they are given lots of time and the judge seems to accept excuses if they don't perform." Some thought the courts were too lenient with parents and should demand that parents be held accountable for making changes within a specified period of time.

4. Use of Expert Opinions

Use of expert opinions to supply information to the court was another area where there seemed to be delays and some confusion, especially regarding the value of evaluations. Some focus group participants said that DHS overuses evaluations. They said that DHS relies much to much on a standard battery of tests which is not required in all cases. This over-referral for evaluations contributes to the waiting lists for services. Yet in the individual interviews 24 out of 37 respondents said that the opinions of experts were used just about right. Most thought that the opinions of experts were given too little weight by the court.

Almost all said the opinions of experts were of value to them. Opinions of experts were of value because they helped plot the course of the case, gives insight into the problems/history of the case, supports allegations/findings, helps to guide case planning and helps to focus clients on improvement.

Some participants questioned the qualifications of experts who appear in court, that they perform inappropriate services and the court does not question them enough. Several participants suggested than an independent panel of evaluators should do evaluations for the court or that the court should develop its own diagnostic program.

***[Note:** In light of the Committee's Recommendations, the recommendations of the Muskie Institute report will not be reproduced here. However, some factual findings supporting the Muskie recommendations are set forth below.*

• The survey data reflects that in many regions, a uniform "battery" of evaluations and tests is performed in every case. Thus, for example, in each case the parents may be required to have psychological and substance abuse evaluations as standard practice. Judges, attorneys and others report a wide range of therapeutic protocols and treatments currently exist in this state, with very little information available about which approaches are effective, and less information about how to evaluate them.

• In some regions, courts may order services that are readily available in their locality, or for which there are long waiting lists, or which are located so far away geographically that it is unlikely the parties can take advantage of them. Judges should consider communicating regularly with DHS and with others to remain aware of the availability of services. Study participants felt that cases could move more quickly if each of the parties had a better understanding of the services available in their community. Parents' attorneys could recommend certain programs for their clients and GALs could be better informed as to what could be done to facilitate resolution of the case.

E. Training

1. Availability of Training for Judges

The *Resource Guidelines* contemplate significant involvement by the judge in a child protection case, including setting out a case plan to meet the family's needs:

> Juvenile and family court judges must have the authority by statute or court rule to order, enforce and review delivery of services and treatment for children and families. The Judge must be prepared to hold all participants accountable for fulfilling their roles in the court process and the delivery of services.
>
> State laws differ concerning the authority of juvenile and family courts to determine what services are to be provided to abused and neglected children and their families, to specify where foster children are to be placed, to decide the terms of agency case plans, to resolve disputes between different public agencies, and to set the terms of visitation. None of these should be shielded from judicial oversight because each has constitutional overtones. Without procedural protection, decisions touching on these issues could be instruments of discrimination or oppression.

So broad a responsibility requires much more than a working knowledge of the law. Judges also must be conversant with social, psychological and medical issues related to children and families, and need to keep up to date as new information emerges in each field. To assist, Judicial Symposia have been held every eighteen months, with specific training focused on child abuse cases and on domestic violence issues. These Judicial Conferences are mandatory for all members of the bench, extend for two and a half days, and have included speakers, panels and written material. Both are reported to have been useful and informative but overwhelmingly, judges articulate the desire for additional training in child development, family dynamics, psychology, sexual abuse, substance abuse, and medicine. Judges report that, except for the Symposia, training is on-the-job and case-by-case. One

judge also noted that with respect to expert witnesses, particularly psychologists and therapists, the range of evaluative and treatment protocols is so varied it is sometimes difficult to analyze which approaches work well and which do not. Although Judges will confer with each other in order to share their knowledge and experience, and although the Judicial Branch funds some training at the Judicial College in Reno, Nevada, such conferencing depends on the limited availability of time and money.

Cross-state comparison

In Arkansas, funds are available for some judges to attend the Judicial College in Reno, Nevada, but before a judge may be eligible for such training he or she must attend a three-day in-state training program. The National Council of Juvenile and Family Court Judges has been instrumental in assisting with these trainings along with significant cooperation from the Department of Children and Families. One of the most significant features of the Arkansas program is that the judges themselves have major input on the topics to be included and the kind of training of which they feel most in need. Thus, for example, training has focused on case planning and assessment in child abuse and neglect cases. Cross-disciplinary training is being planned in which judges themselves being the trainers for attorneys and for caseworkers to discuss such topics as the kind of evidence which is required in a child abuse case, and how the case should be organized and presented.

The National Conference of Juvenile and Family Court Judges is also the broker for judicial trainings which incorporate the principles articulated in the *Resource Guidelines* discussed at length in this report. There is no question but that training is a significant key to the administration of justice in child abuse and neglect cases.

2. Selection and Training of Attorneys and CASAs

The *Resource Guidelines* outline suggested training and experience requirements for attorneys involved in child abuse and neglect cases. These requirements, discussed previously, include training in legislation and case law, causes and available treatment for child abuse and neglect as well as the structure and functioning of the child welfare agency and court systems.

At present there are no particularized training or experience requirements imposed before an attorney can participate in a child protection case. Attorneys are self-selected in the sense that they request to be placed on the list of counsel available for court-appointment, so the pool of attorneys varies widely in terms of overall experience, temperament and "lawyering style." Appointment is made on a case-by-case basis, with some judges recommending or selecting a particular attorney to be the parents' or the child's representative, or conferring with the Court Clerk on an appropriate selection. In most locations, appointments are made by the Court Clerk after he or she telephones counsel to ask if counsel is available to take on a new court appointment. Once appointed, the attorney serves through the entirety of the case and, while most judges believe they have the authority to remove a lawyer or a CASA guardian from a case this action is extremely rare. As has been noted elsewhere in this report, oversight and training of CASAs is weak, with initial training presently minimal and no opportunities for continuing education.

Most attorneys and CASAs, like judges, believe they would benefit from training in family dynamics, child development, psychological and medical issues and the like, and many said they would like to be invited to the Judicial Symposia or, alternatively, have similar training opportunities. Attorneys report that they are also hampered by the general unavailability of independent investigators,

psychological examiners and therapists, from whom they could learn and through whom they could keep up-to-date on developments in the field at least on a case-by-case basis. While it is almost universally agreed that there should be some basic experience or training requirements for attorneys or CASA volunteers, there is also a reluctance to impose such requirements because the pool of individuals willing to serve is already limited.

> [***Note:*** ***In light of the Committee's Recommendations, the recommendations of the Muskie Institute report will not be reproduced here. However, some factual findings supporting the Muskie recommendations are set forth below.***

• All study participants requested more training than is currently available, and regarded continuing education as key to good practice. The Court should explore how such professional training as now exists can be made cross-disciplinary in order to enhance understanding and improve the quality of the cases. Current training facilities such as the Child Welfare Training Institute, the Bar Association or the University or technical colleges could be utilized for professional training.

• In the absence of funding for more expanded training, many attorneys, especially new attorneys, said it would be helpful if there existed a reference manual for this particular area of law.

F. Related Proceedings and Other Issues

1. Role of Protection from Abuse (PFA) Orders When Child Abuse is Present

A survey of District Court judges indicates that the number of PFA requests in which child abuse or neglect is alleged is uniformly described as extensive. These cases occur when parents have been told by DHS (a) that they must seek a PFA or risk DHS intervention or (b) that the case may be one where DHS feels it cannot presently intervene but that one of the options for the parent is to seek a PFA. Some judges routinely refer all PFA complaints alleging child abuse/neglect to DHS by sending DHS a copy of the complaint. Other judges refer some but not all complaints. Finally, some judges will call DHS and request an investigation. (One judge thinks the statute should be amended to include judges as mandatory reporters).

Among the members of the bench, the practice of bringing a PFA complaint to protect children from abuse or neglect is viewed with alarm, because, as one judge put it, "it bastardizes both procedures." When DHS is recommending that a parent seek a PFA, it often does so without understanding that the rules of evidence differ as between PFAs and Child Protection Petitions . . . e.g. there is no child hearsay exception in the PFA. Thus parents bring cases they cannot prove. Additionally, there is a variance among the judges on what may be covered with a PFAS. Some grant PFA requests when there is child neglect established, but other judges do not believe neglect is intended to be covered under the Protection from Abuse Act. This creates problems in a system of rotating judges in which one may hear the ex parte request (and grant it on the basis of neglect) and a second judge hears the final request and denies it because that judge does not think neglect is covered.

Practice differs in having DHS workers present (and testifying) at PFA hearings. Some judges want DHS there; others do not.

2. Adoption and Other Probate Court Proceedings

A survey of the Probate Court Judges indicates that an average of 14 percent of adoptions involve children who have been in the custody of the Department of Human Services. When asked to identify any particular problems they have seen, the only problems identified were a few circumstances of failure to notify the appropriate Native American tribes and a few notice or consent problems.

When interview respondents were asked how many adoptions occurred after TPR, the majority (61 percent) said that they did not know. Only 25 percent indicate that they participate in the adoption process. Of those responding, over one-half responded that the time between TPR orders and adoption is over one year. Many focus group participants, especially foster parents, complained that children are left in "limbo" post-TPR for far too long. Often this is true even (and especially) when the child is going to be adopted by his or her current foster parents.

Overall, Probate Judges had few complaints about DHS's adoption practice, policies and procedures except with regard to the timeliness of adoption proceedings. Of those judges responding, two judges stated that it took over two years from the signing of a Termination of Parental Rights Order to adoption and one judge stated that it took a minimum of thirty days.

With regard to legal guardianships, judges responding stated that an average of 22 percent of legal guardianships involved a child who the judge believed may have been abused or neglected. Of those judges responding, most will refer the matter to the Department of Human Services if DHS is not already aware of the case. All probate judges responding believe that the Probate Court proceeding

was undertaken at the suggestion of DHS. The judges had mixed feelings as to whether the case should have been filed in the District Court as a child protection proceeding rather than as a legal guardianship, with at least one Probate Judge stating that he can assess the need for DHS involvement.

> [***Note:*** ***In light of the Committee's Recommendations, the recommendations of the Muskie Institute report will not be reproduced here. However, some factual findings supporting the Muskie recommendations are set forth below.***

• Study findings indicate that the protection from abuse statute is now being used sometimes unsuccessfully by one parent who wishes to protect his or her child from an abusive partner or former partner. Discussions should occur among the courts, DHS and other interested parties to explore statutory or procedural changes to facilitate these actions without creating a more complicated and difficult procedure.

• It is clear that there are some parents, with or without the approval of DHS, who are using the Probate Court legal guardianship proceedings to circumvent or as an alternative to Child Protection Proceedings. This may be perfectly appropriate and perhaps desirable in many cases but harmful to children in others. The two courts, with input from DHS and other key stakeholders should consider discussing policies and protocols to work together to make the best use of this additional resource.

• Under the current practice the District Court does not schedule a judicial review following a TPR hearing. Under the law, the case will only be required to come before the court every two years. Many participants stated that they are not actively involved and do not know when a child is adopted

post-TPR. It would be in the child's best interest to have the court schedule a judicial review fairly close in time to the TPR order to assess that child's plan for adoption or other permanent plan and to schedule any further reviews based on the individual needs of the child. In addition, currently there is little involvement on the part of the court and parties other than DHS after a TPR has occurred. Additional training about the adoption process could facilitate the process of moving children into a permanent adoptive home.

DEFINITIONS AND ABBREVIATIONS

AAG The Assistant Attorney General represents the Department of Human Services in child protective cases.

Administrative A meeting of parties, foster parents, and other service providers at DHS **Case Review**to review the progress of a case and to determine the appropriateness of the case plan for a child in foster care. This review is held every six months unless the matter is reviewed by the Court.

C-1 hearing The Court hearing to determine whether a child or children are in immediate risk of serious harm. This hearing is scheduled within 10 days of an emergency ex parte order issued by the court.

C-2 hearing The Court hearing to determine whether a child or children is in jeopardy as alleged in the Child Protection Petition.

CASA Court Appointed Special Advocate. A volunteer who serves as a child's GAL in a child protective court proceeding.

GAL Guardian Ad Litem. A person (either a lawyer or CASA volunteer) who represents the child's best interests in a child protective court proceeding.

Judicial Review A hearing conducted after a Child Protection Order has been entered to monitor the case's progress and to enter orders that will govern the future progress of the case.

PPO Preliminary Protection Order. An emergency order granted by a judge based on an affidavit alleging that a child is in immediate risk of seriouc harm. This hearing is usually conducted outside of the presence of the other parties and the

parties are entitled to a hearing to contest the order within 10 days of its issuance.

TPR Termination of Parental Rights. A hearing to determine whether a parent's parental rights should be ended, allowing a child to be freed for adoption.

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