

5-2007

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Muskie School of Public Service, "Connecticut Court Improvement Program Reassessment: Executive Summary" (2007). *Children, Youth, & Families*. 26.
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**CONNECTICUT COURT
IMPROVEMENT PROGRAM
REASSESSMENT**

EXECUTIVE SUMMARY

May 2007

submitted to

STATE OF CONNECTICUT JUDICIAL BRANCH

prepared by

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Connecticut CIP Reassessment: Executive Summary

Note: The following findings are based on interviews, focus groups, case file review, and court observation conducted at the Superior Courts for Juvenile Matters in Hartford, New Haven, and Willimantic between the fall of 2005 and the summer of 2006, and on analysis of statewide child protection court data. (For further detail on the methodology and data specifications, see Chapter 1 of the Reassessment Report.) Except with regard to timeliness of significant case events, findings reflect what was reported and observed at the three study sites as of August of 2006 and cannot be generalized to Connecticut's other courts handling child protection cases.

Recommendations flow from the findings and appear in the order in which the topics are addressed in the full report; the order of the recommendations contained in this summary does not reflect the priority of the recommendations. All recommendations are directed to the administrative staff and judicial leadership of the Connecticut Superior Court for Juvenile Matters.

Overview

In 1996, the Muskie School of Public Service conducted an assessment of the state of Connecticut's handling of child protection cases and made specific recommendations for improvement. In 2005-2006, a reassessment was conducted by the Muskie School to examine the state's performance since the original assessment with regard to compliance with specific federal and state mandates regarding timeliness, quality and depth of hearings, quality of representation, and the court's structure and management of child protection cases. What follows is a summary of the key findings and recommendations of the reassessment.

Overall Findings

Based on the information available, Connecticut appears to be in substantial compliance with the timeliness requirements of ASFA and its own state statutes governing child protection proceedings with regard to the following: hearings on orders of temporary custody, permanency planning hearings, and the filing of petitions to terminate parental rights. The timeliness of contested OTC hearings, however, is an area of concern, though recent years show significant improvement over earlier years. Of serious concern is the overall time to permanency.¹ Delays in permanency occur most often in cases where issues are contested: even where benchmark hearings may be starting within the mandatory time

¹ This was cited in the Child and Family Services Review of 2002 as an area in which the state was not in substantial compliance. pp. 4-5, 31-35.

frames, valuable time is lost waiting for available trial dates or waiting for trials to be completed. These delays can be attributed to scheduling difficulties caused by the inadequate number of contract attorneys representing parents and children and to the lack of trial and judicial time.²

Connecticut is making good use of Court Services Officers (CSOs) and case conferences to move child protection cases through the system in a timely fashion. Case management and scheduling issues identified in the original assessment have improved dramatically as a result of the expanded use of CSOs. Specific steps are drawn up, procedural matters such as notice and service are addressed, issues not requiring the court’s attention are discussed and resolved, and plea agreements are reached. Of concern is the fact that in most cases parents do not participate in the conferences.

While the system of scheduling and holding most benchmark hearings seems to run smoothly, the quality and depth of those hearings is an area of concern. The time allotted for hearings, particularly permanency planning hearings, is often not adequate to allow the judge to inquire into such issues as reasonable efforts, the child’s placement and services, visitation with parents and siblings, and the appropriateness of specific steps and services, among other matters. Parents are often absent from hearings (as are their attorneys) and children of appropriate age who are parties to the proceedings are rarely present.

The most serious problem identified in this reassessment is inadequate representation for parents and children—inadequate both in terms of numbers and in terms of the quality of advocacy. The inadequate number, which can in turn be linked to inadequate compensation, has serious consequences. The fact that attorneys have high caseloads makes it difficult for them to independently investigate their cases, meet with their clients other than in a crowded courthouse lobby immediately prior to hearings, regularly visit their child clients, appear at hearings, and be available to participate in trials on contested matters. This leads to the possibility that parents and children will be “left in the dark” in terms of understanding and fully participating in their child protection case, and in terms of having their best case presented to the court. Most importantly, it leads to delays in permanency for the child and may lead to a permanency outcome that is not in the best interest of the child. This is simply not acceptable.³

² It is expected that the addition of two new Child Protection Session locations has improved, or will improve, this situation. However, if more attorneys are not introduced into the system, it is doubtful that the CPS additions alone will address the problem.

³ These problems may improve over time as a result of changes being made by the Office of the Chief Child Protection Attorney (OCCPA), which was established by the Connecticut General Assembly, effective July 1, 2006. CGS § 46B 123(C)(E). The OCCPA has instituted standards of practice for representation of children and parents, has initiated mandatory pre-service training, and has plans for systems to monitor, evaluate, and mentor attorneys representing children and parents. (See Chapter 4 of the Reassessment Report for more details regarding this legislation and the OCCPA.)

Findings and Related Recommendations

Findings: Quality and Depth of Proceedings

- Overall, the judges presiding over child protection proceedings in the selected sites are knowledgeable and skilled jurists. They are generally seen as being fair and respectful to the parties involved. However, court observations revealed judges using legalistic language rather than terms that would be more easily understood by parents and judges who could have been more deferential to parents.
- On the whole, judges do not allow or invite parents, agency staff, or other interested persons to directly address the court.
- There is concern that parents who are parties to child protection proceedings do not fully understand the overall process or the purpose and consequences of individual hearings. There is a lack of consensus regarding whose responsibility it is to ensure parents' understanding of the process.
- Children and youth who are parties to child protection proceedings are rarely present in court and are generally not encouraged to attend court hearings.
- Parents are rarely present at case conferences and are often not present at court hearings.
- Permanency planning review hearings are not allocated sufficient time on the court calendar to allow for a thorough review of the permanency plan.

Recommendations: Quality and Depth of Proceedings

-1-

Ensure the presence of parents at case management conferences as a matter of regular practice.

-2-

Develop judicial training for new as well as experienced judges presiding over child protection cases that incorporates NCJFCJ Resource Guidelines practices regarding the conduct of a permanency planning hearing, including how to examine DCF regarding the agency's reasonable efforts and how to ensure the presence and participation of children and youth of appropriate age in permanency planning hearings.

-3-

Develop a training curriculum for judges presiding over child protection proceedings, drawing from the NCJFCJ Resource Guidelines as appropriate and addressing the following issues in particular: who should be present at particular types of hearings and appropriate participation of parents, children and youth, foster parents, and other interested persons at hearings.

-4-

Encourage a collaborative effort between the OCCPA and DCF to develop guidelines and deliver training to attorneys and DCF addressing the roles of each in educating and communicating with parents.

-5-

Convene a forum on the subject of the respective roles of the judge, DCF workers, and attorneys in ensuring that parents understand the nature of child protection proceedings, the purpose of each individual hearing, and the consequences of their actions and omissions. Include in the discussion what can and should be communicated to children of appropriate age regarding the legal process.

-6-

Collaborate with OCCPA and DCF in the development of informational resources for parents regarding the court process, expectations and consequences related to their court case, and the role of their attorney. Various materials and media should be considered for delivering this information, including for parents who are not literate in the English language.

Findings: Timeliness

- Connecticut is making good use of Court Services Officers (CSOs) and case conferences to move child protection cases through the system in a timely fashion. Case management and scheduling issues identified in the original assessment have improved dramatically as a result of the expanded use of CSOs.
- Court hearings generally begin close to the scheduled time and system participants are generally satisfied with the scheduling procedures.
- Abuse and Neglect cases are complex and most often involve not one but multiple issues, such as domestic violence, substance abuse, mental illness, and homelessness. Often the services and resources to address these issues are inadequate and difficult to access. Specific barriers are lack of availability of services for non-English speaking families, for children with special needs, for adults with serious mental illness, and for batterers and sex offenders. Other issues include lack of housing,

lack of transportation, and issues relating to payment for services. Delays in accessing services lead to delays in permanency.

- Waiting for psychological evaluations and getting referrals made and services in place in a timely manner result in delays in these cases.
- An inadequate number of attorneys representing parents and children is a significant cause of delay. Because of high attorney caseloads and because attorneys often practice in more than one court, it is difficult to schedule hearings and trials at which all attorneys can be present. This leads to delays, particularly in scheduling and completing trials on contested matters.
- DCF status reports are frequently submitted at the time of the hearing, requiring the judge and attorneys to spend valuable hearing time reading the reports before the hearing can begin.

Recommendations: Timeliness

-7-

Establish a schedule of regular meetings with DCF administrators to discuss issues such as the availability of services and the timely submission of reports.⁴

-8-

Work with the OCCPA to ensure an adequate number of qualified attorneys to represent parents and children and to move cases to permanency within the AFSA guideline of 24 months from removal to permanency.

-9-

Explore ways to coordinate the scheduling of matters in different courts (i.e., assign contract attorneys to specific courts for specific days of the week) that will improve the availability of attorneys for hearings and contested matters.

-10-

Require trial management schedules and orders to be issued in all TPR cases and impose sanctions when attorneys and AAGs fail to submit the required information for the order by the date required.

-11-

Consider a trailing docket for TPR trials.

-12-

Allow parties to submit paper agreements to the court on non-substantive issues, thus eliminating the need for court hearings and freeing up attorney and court time.

⁴ There are currently DCF liaisons at a number of the Courts for Juvenile Matters who are addressing the issue of late reports.

Findings: Legal Representation

- Attorneys representing parents and children are underpaid, their caseloads are too large, and there are too few of them on the panels.
- It is not the regular practice of attorneys representing parents to meet with their clients prior to hearings. Attorneys for children do not meet with them regularly, are sometimes unaware of changes in placement and particularly with older children, are not aware of their needs and wishes.
- Many attorneys, particularly those who primarily represent parents and children in child protection cases, are hard-working, committed and experienced. There is a high degree of sharing and cooperation among these attorneys, who also provide guidance to newer, less experienced attorneys.
- A small number of attorneys are chronically late, absent, and unprepared. The quality of work done by attorneys representing parents and children varies widely. Some stakeholders saw significant disparity between the best and the worst attorneys, others felt that some or most of their attorneys were very good, and still others said only a small portion of the attorneys really advocated on behalf of their clients and the rest were mediocre.
- Generally, the assistant attorneys general who represent the Department of Children and Families were considered to be very good. The exceptions noted were for not representing the position of DCF and not working well with other attorneys.
- Conferences rarely begin on time. Often attorneys are late, and sometimes social workers do not appear. Much of the time scheduled for the OTC conference is taken up with attorneys going into the lobby to confer with their clients for the first time and AAGs conferring with DCF workers regarding the facts of the case and to write up specific steps.
- It is not unusual for attorneys representing parents and children to be absent from hearings, for attorneys to submit letters stating their clients' position in lieu of attending the hearing, and for a substitute to appear for the appointed attorney. This practice was generally accepted by judges, given the insufficient number of contract attorneys.
- Attorneys hired privately by parents are usually not knowledgeable about abuse and neglect cases. In particular, they do not understand the importance of parents working with DCF and the critical nature of the timelines imposed by federal and state law in these cases.

- There is a lack of clarity regarding the roles and responsibilities of the attorney, the parents, and DCF with regard to the following: communicating with parents prior to hearings; communicating changes in contact information; communicating information regarding changes in the child's placement.

Recommendations: Representation

-13-

Support the implementation of standards of practice for attorneys representing parents and children, including guidelines for how often children in specific age groups should be seen by their attorneys.

-14-

Implement guidelines for the court regarding sanctions to be imposed on attorneys who fail to appear or fail to notify clients of the hearing date and time; include a provision that does not allow an attorney to send a letter to the court in lieu of appearing at a hearing.

-15-

Encourage efforts by the OCCPA to implement a system to screen new attorneys and to use a combination of ongoing supervision, observation, and evaluation of performance, to insure that attorneys who may be poorly suited for practicing in these cases do not become contract attorneys or are not allowed to continue doing the work.⁵

-16-

Encourage the OCCPA to make guidelines and materials available to private attorneys to assist them in advocating appropriately for their clients in child protection cases. Web-based materials with some announcements in state bar journals or other forums likely to reach private attorneys should be considered. Inviting private attorneys to participate in training opportunities and making materials that are available to contract attorneys also available to private attorneys, both for a fee, should also be considered.

Finding: Statutes and Rules

- A review of Connecticut's statutes and rules indicate full compliance with the Adoption and Safe Families Act and other federal requirements.

⁵ These are all strategies that have been proposed and are beginning to be implemented by the Office of the Chief Child Protection Attorney. This particular recommendation recognizes that certain attorneys may not be well suited for the challenges presented by clients with mental illness, substance abuse, cognitive limitations, and other related issues.