
Juvenile Court Improvement Project

*An Assessment of the
Oregon State Court System's
Compliance With P.L. 96-272
and Related Laws*

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Submitted by:

Juvenile Rights Project, Inc.

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IN MEMORIAM

This study is dedicated to the memory of Janet Lahti, Ph.D., principal researcher for the Juvenile Court Improvement Project. Janet brought her love of children and family as well as her expertise in child welfare research to this project until her death in February 1996. She also contributed an energy and enthusiasm that often outpaced her middle-aged colleagues. Janet allowed a simple question to dictate her work with us - are we helping children? It is our hope that our results here will answer that question affirmatively.

NOTE FROM ADVISORY COMMITTEE

We applaud the Juvenile Rights Project's efforts and fully endorse the recommendations they have made to improve Oregon's Juvenile Justice System. Increased party participation, a faster turnaround from original hearing to disposition or termination, and a more thorough court review of the complicated issues that bring families into the juvenile "system" will certainly help the courts more efficiently develop meaningful and effective plans to save the children of broken families.

But these plans are doomed to fail unless there are immediate and intense services available for implementation of those plans. Children at risk, who are helpless victims in dependency cases, must be seen as having a right to services as much as they have legal rights guaranteed by the laws of this state and this nation. The goal has to be to help the kids, whatever it takes. Reform must not be limited to the courtroom.

The troubles that bring families into Juvenile Court are well known: substance abuse (both alcohol and illegal drugs), domestic violence, physical and sexual abuse, and parents with difficult mental and emotional conditions. What's needed is clear and is reflected in the recommendations from the caseworkers and counselors: evaluation followed by treatment programs for the parents and therapy for the children. But, across the state, the services just are not there.

This dearth of services exposes the children to potentially irreparable damage. While the family waits for services, the children suffer the trauma of a lengthy stay in foster care or they suffer the burden of living in the nightmare of a dysfunctional family that needs help which it cannot get. It is clear that the sins of the parents are indeed visited on the children. Today's child at risk is likely to be returning to Juvenile Court as a delinquent or as a parent who has failed their own child. To break this self-defeating cycle we need services as well as a more efficient judiciary.

EXECUTIVE SUMMARY

The Juvenile Court Improvement Project (JCIP) is Oregon's contribution to a nationwide effort to study implementation of state and federal child welfare laws in juvenile court. JCIP gathered data from judges, trial court administrators, and others statewide and conducted an in-depth examination of juvenile court practices in eight Oregon counties. Objective data from juvenile court legal files and courtroom observations, combined with responses from the key participants in the juvenile system, create a picture of how Oregon's courts treat their youngest and most vulnerable clients.

In accord with national standards published by the National Council of Juvenile and Family Court Judges, JCIP assumes that the juvenile court best serves children and families when it conducts hearings that are:

- Attended by all the necessary parties including attorneys or other advocates for all parties who require representation
- Docketed with enough time to provide for an adequate review of all issues including issues required to be addressed by federal law
- Heard by a judicial officer who has adequate support and training.

The JCIP study discusses each of these areas and suggests improvement. The report should not be read to suggest that Oregon's juvenile courts and child welfare system are in dire straits; indeed, both are among the nation's leaders in creative and innovative programs on behalf of abused and neglected children. The focus of the present study is, however, "improvement" and not current success. The following summarizes the JCIP findings.

SUMMARY OF FINDINGS:

1. Party Presence at juvenile Court Proceedings

Parents and children fail to appear at juvenile court hearings at a high rate. Many necessary parties to juvenile court dependency proceedings are not notified of the proceedings, do not understand their rights and obligations, or both. This is particularly true with noncustodial parents.

Much of the population served by juvenile courts is both highly mobile and impoverished. This hampers juvenile court efforts to notify families of juvenile court proceedings. Systemic inattention to noncustodial parents and barriers within agencies also reduce available information needed to notify parents and other relatives about juvenile court proceedings.

2. Timeliness of Proceedings

Some children spend years involved in juvenile court awaiting return to their families or permanent, adoptive placements. Timeliness of the court process is critical to reducing or eliminating delay in permanency decisions.

Oregon lacks standard timelines for processing abuse and neglect cases.

Preliminary hearings are almost always held within the short timeline required by statute. Citizen Review Board (CRB) reviews also conform to the mandated six-month schedule. However, adjudication or fact-finding hearings where the court determines whether the child will be made a ward of the court can occur anywhere from one month to one year after a petition is filed. A substantial percentage of petitions are never formally adjudicated but are summarily dismissed by the state. It can take more than three years from a dependency filing to a termination of parental rights trial. Specific timelines in these cases would eliminate unnecessary delays.

3. Completeness and Depth of Hearings Including Compliance with Federal Child

Welfare Laws

Parties and the court often do not address critical issues set out in state and federal statutes and in national standards. Parents and children frequently do not understand their rights in abuse and neglect cases or the decisions courts and agencies make regarding their families. Judicial inquiry into visitation, a child's placement, and the adequacy of services provided by the State Offices for Services to Children and Families (SCF, formerly CSD) is all too frequently proforma. Even when court proceedings involve active discussion of case planning issues, the findings are rarely documented in the legal file or reflected in court order.

Sufficient judicial time, particularly at the preliminary hearing stage, is critical to adequate inquiry into these issues. Judicial review of a juvenile court dependency matter is as brief as five minutes in some courts. Preprinted orders making findings about federal reasonable efforts requirements encourage superficial analysis of important dispositional issues. Lack of training on legal and social issues involved in dependency cases limits effective advocacy as well as effective judicial review.

4. Representation

The percentage of children for whom the court appoints counsel or Court Appointed Special Advocates (CASA) varies by court. Quality of representation also varies. Children and fathers are less likely to have attorneys available to them in dependency proceedings than are mothers. SCF, whose counsel is the Department of Justice, is rarely represented prior to proceedings to terminate parental rights; district attorneys appear on an inconsistent basis. Attorneys and CASAs are frequently not appointed at the beginning of a case and the data show that they are most likely to be absent at preliminary hearings and review hearings.

Two factors in particular prevent greater number of appointments of counsel:

- (1) Lack of effective advice of rights; and
- (2) Limited public funds for appointed counsel.
- (3) Limited funds and lack of availability of CASAs

5. The Juvenile Bench

Although Oregon has an experienced juvenile bench, the caseload in many counties has grown much faster than judicial resources, making it impossible for judges to oversee critical issues in dependency cases in any meaningful way. Little time and few programs or reference materials are available because both funding and staff are inadequate to develop programs and materials, or provide coverage for judges and staff attending training programs.

SUMMARY OF RECOMMENDATIONS:

1. Party Presence at Juvenile Court Proceedings.

- Courts, juvenile departments, and SCF should increase inquiries into the whereabouts of missing parents and better coordinate existing information regarding location of family members.
- Courts, juvenile departments, and SCF should gain access to data from other state computer information networks through the Support Enforcement Division (SED) and law enforcement to expedite early notice for family members.
- Courts should improve docketing procedures to allow for scheduling next appearances while parties are present in court.
- Courts, juvenile departments, and SCF should notify and encourage the attendance at hearings of all persons with knowledge about the child, including relatives, foster parents, and treatment providers.

2. Timeliness of Proceedings

- Oregon should develop model protocols for juvenile court dependency and termination of parental rights cases, including timelines for all stages of the process, to ensure maximum access to discovery and to promote early, negotiated settlement in all appropriate cases.
- Local courts should develop internal processes for tracking the status of dependency and termination of parental rights petitions.
- Access to mediation services in dependency and termination of parental rights cases should be expanded to promote pretrial resolution.

3. Completeness and Depth of Hearings Including Compliance with Federal Child Welfare Laws

- Methods to better inform families about SCF and juvenile court should be developed.
- The legislature should increase judge and court resources to accommodate the need to thoroughly address all critical issues.
- In consultation with other system participants, the courts should develop model orders that prompt judicial inquiry into important issues.
- Courts should expand use of the CRB review process, particularly the use of CRB Findings and Recommendations which inform the court of special circumstances or request particular action.
- SCF and other agencies providing services to children and families should seek and the legislature should fund a core of services to be made available as appropriate for each child and family involved in abuse and neglect proceedings. Individualized services, where the core services are not appropriate or sufficient, should also be developed and funded.

4. Representation

- Attorneys and CASAs should be available and appointed at the earliest possible time.
- All parties, including the state and SCF, should be adequately represented at all stages of dependency proceedings and funding for this representation should be provided.
- The Legislative Assembly should appropriate to the Indigent Defense Account sufficient funds to ensure compensation adequate to cover representation at both court proceedings and CRB reviews consistent with the Oregon State Bar standards, including caseload standards. Retained and appointed counsel should be trained in all aspects of dependency practice.
- The CASA system should be refined, supported, expanded, and funded; the goal is full implementation of ORS 419A.170, which provides that a CASA volunteer shall be appointed in every juvenile court case involving an abused or neglected child.

5. The Juvenile Bench

- Courts should give juvenile dependency cases highest priority in assigning current resources and in requesting additional judicial resources.
- The Legislative Assembly should reward courts implementing "best practices" or "model courts" by providing necessary funding to continue the programs, including funds for additional judicial officers and staff if necessary.
- Courts need technical assistance on scheduling, deployment of resources, and education for court staff. The Legislative Assembly should appropriate funds for these ongoing needs.
- Courts should ensure continuity of judicial review by assigning a specific judge to each dependency case at the adjudication who will be responsible for review up to final disposition.
- Increased training for judges and referees should be provided, as well as resource materials such as a Bench Book and Form Book.

SUMMARY OF IMPLEMENTATION STRATEGIES

Cross-Disciplinary Group to Develop Model Practices

1. A cross-disciplinary group should be convened to develop model policies and procedures for all aspects of juvenile dependency cases. Among those who should be involved to participate are judges, attorneys for children, parents, and the state, juvenile court and Juvenile Dept. staff, State Office for Services to Children and Families (SCF), Citizen Review Board (CRB), Court Appointed Special Advocates (CASA), Oregon Commission on Child and Families (OCCF), and law enforcement agencies (LEA). The model procedures can be adapted by individual counties to address local conditions and needs.
juvenile Court Bench Book
2. A Bench Book containing practical information about each stage of the juvenile court dependency process should be produced and provided to each jurisdiction in Oregon for use by judicial officers hearing juvenile dependency cases.
Juvenile Court Form Book
3. As an adjunct to the Bench Book, a book containing model forms should be produced and provided to each juvenile court.

4. Funding

Additional funding should be requested where the Advisory Committee's recommendations cannot be implemented without increases in funding.

5. Training and Technical Assistance

Training and technical assistance should be developed along with the model policies and procedures in order that all juvenile court participants are informed and trained about them. Training in existing laws and practice is also needed.

6. Legislation and Rulemaking

Legislative or rule adoption or amendment should be requested where necessary to comply with the recommendations.

SECTION I

JUVENILE COURT HISTORY & PROCEDURES**Chapter One: MISSION AND HISTORY OF THE JUVENILE COURT**

MISSION OF THE JUVENILE COURT

The mandate of the contemporary juvenile court is clear. When children are abused and neglected, the court should ensure that these children have safe, permanent homes, and, whenever possible, that safe, permanent home should be with their biological family. The juvenile court has the awesome responsibility of protecting children from harm at the hands of their parents or guardians while at the same time ensuring that each family's integrity is protected.

The court has ongoing responsibility to the child and family and plays a pivotal role in ensuring the provision of services and permanency for the children. If removal is necessary to ensure a child's safety, the juvenile court must see that state agencies make every effort to provide effective, individually tailored reunification services for the family. The court must continually review actions of both the child welfare agency and the parents to assure that the child is quickly reunited with his or her family or that another permanent home is found.

HISTORY OF THE JUVENILE COURT

The Early History of Child Welfare Laws in America

American policy makers since before the founding of the union, from indentured service in the 18th century to the almshouses and orphanages of the 19th century, have confronted the question of how to care for children whose parents are unable or unwilling to care for them (Cole, 1983; Jones, 1985). Whether motivated by availability of cheap labor source or by a more benevolent desire to remove children "from those baleful influences which inevitably tend to make them pests to society, and ultimately the tenants of our prisons" (Eighteenth Annual Report of the Boston Children's Friend Society, 1851, cited by Jones, 1985), early efforts at child protection resulted in the utter destruction of millions of families (Brown, 1979).

As America entered the 20th century, child advocates arrived at the "great discovery" that "the best place for normal children was in their own homes" (Bremner, 1970-1974). The White House Conference on Children concluded in 1909 that the "[c]hildren of parents of worthy character, suffering from temporary misfortune, and children of reasonably efficient and deserving mothers who are without the support of the normal breadwinner, should as a rule be kept with their parents, such aid being given as may be necessary to maintain suitable homes for the rearing of the children. Except in unusual circumstances, the home should not be broken up for reasons of poverty, but only for considerations of inefficiency or immorality" (Bremner, 1970-74).

This revelation spurred the enactment of mothers' aid laws in various states and ultimately the creation of the federal Aid to Families With Dependent Children program through Titles IV and V (ultimately IV-B) of the Social Security Act of 1935. (Jones, 1985). Government support for families led to a decline in the number of children in foster care (Kadushin, 1974).

Child Welfare Laws from 1970 to the Present Day

By the late 1970s, between 500,000 and 750,000 children were in publicly funded foster care at any one time (Children's Defense Fund, 1978). Numerous state and national studies conducted during the 1970's documented the many problems facing children who were at risk of placement or already in out-of-home care (National Commission on Children in Need of Parents, 1979; Fanshel & Shinn, 1978; Shyne & Schroeder, 1978). Legal experts analyzed the problems in the legal system that contributed to this situation. (Areen, 1975; Goldstein, 1973; Katz, 1971; Mnookin, 1975; Mnookin, 1973; Wald, 1976; Wald, 1975; tenBroek, 1964, 1965).

These studies revealed that many children spent their formative years drifting from one foster home to another without ever establishing bonds with either their biological or foster families. Little or no effort was made to reunite these children with their families or provide them with permanent and stable substitute homes.

This research formed the basis for much litigation on behalf of foster children. In a 1977 decision, *Smith v. Cirganization of Foster Families for Equity and Reform*, 431 U.S. 816,

833-38, 97 S. Ct. 2094, 53 L. Ed.2d 14 (1977), the U.S. Supreme Court, relying heavily on the literature, noted:

Children often stay in "temporary" foster care for much longer than contemplated by the theory of the system [e.g., Kadushin, at 411-412; Mnookin I, at 610-613; Rein, Nutt and Weiss, at 281; Wald, at 662-663 (1976)]. Indeed many children apparently remain in this "limbo" indefinitely [Mnookin II, at 226 & 274 (1975)]. It is not surprising then that many children, particularly those that enter foster care at a very early age [footnote omitted] and have little or no contact with their natural parents during extended stays in foster care [footnote omitted], often develop deep emotional ties with their foster parents [footnote omitted].

Yet such ties do not seem to be regarded as obstacles to transfer of the children from one foster placement to another. The record in this case indicates that nearly 60% of the children in foster care in New York City have experienced more than one placement, and about 28% have experienced three or more. App. 189a. (see also, Wald, at 645-646; Mnookin I, at 625-626). The intended stability of the foster home management is further damaged by the rapid turnover among social work professionals who supervise the foster care arrangements on behalf of the state (Id. at 625; Rein, Nutt, and Weiss, at 41; Kadushin, at 420).

Moreover, even when it is clear that a foster child will not be returned to his natural parents, it is rare that he achieves a stable home life through final termination of parental ties and adoption into a few permanent families. (Fanshel, 1976; Mnookin I & II, 1973-75).

As the 1970s came to a close, the stage had been set for wholesale reform of the country's child welfare system.

Federal Response

Against this backdrop in 1980 Congress passed amendments to Title IV-B and IV-E of the Social Security Act, the Adoption Assistance and Child Welfare Act of 1980. Commonly known as P.L. 96-272, the Act was designed to reduce unnecessary use of foster care by requiring states to develop certain systems in order to receive federal foster care funds, each state had to provide a system of case planning, case review, and services that would prevent unnecessary removal of children from their homes and promote reunification. The Act also provided subsidies to promote expeditious permanent placements for those children who cannot reunite with their families.

During the same time period, Native American children were at especially high risk of inappropriate removal from their families of origin. In 1974, approximately 25 to 35% of all Native American children were in adoptive or foster homes. House Report on the Indian Child Welfare Act, No. 95-1386, Oct. 14, 1978, p. 7531. Eighty-five percent of those children were in non-Native American homes.

In response to those conditions, Congress passed the Indian Child Welfare Act (ICWA), 25 U.S.C. 1901, *et seq.*, in 1978. ICWA imposed federal procedural protections on child custody proceedings in state courts and set high standards for removal of a Native American child from the child's family of origin. The Act also required that state agencies actively work to prevent the removal of Native American children from their homes or provide reunification services to their families.

Both P.L. 96-272 and ICWA assign roles to the state court in enforcing the federal mandates. Neither act provides funds to the courts for this role. Under P.L. 96-272, the state juvenile court must explicitly make findings that the child welfare agency made 0-
"reasonable efforts" to prevent removal and provide
reunification services and must

approve voluntary placements that last more than six months. The state court or its designated administrative body must review the case of each child in state foster care every six months and must ensure that a permanent plan for the child is implemented by the time a child has been in state care for 18 months. Finally, the court must provide procedural protections for parents when children are removed from their care.

Under ICWA the state court is required to determine whether a child is a member or eligible for membership in Native American tribes. When a child is the subject of a juvenile court dependency petition and is a member or eligible for membership in a tribe, the court must give notice to that tribe and must allow the tribe to participate. The court also must measure a child welfare agency's removal decisions and service plans for Native American children against a higher standard than for other children and must place Native American children in their relatives' or Native American foster homes wherever possible.

State Response

In addition to federal attention, state legislators were confronted or were confronting the issue of foster care drift and were taking action at the state level. In

Oregon during the 1980s, the legislature directed unprecedented amounts of legislative activity at the state's juvenile procedures. It passed statutes establishing a Court Appointed Special Advocate program and a Citizen Review Board. It amended the juvenile code to provide for periodic reports to the court about the status of each child in state custody and to require the making of reasonable efforts inquiries.

Foster Care Conditions Today

Unfortunately, passage of federal and state legislation did not eliminate all the systemic problems the legislation was designed to address. Foster care placements are still high. In Oregon, about 5,400 children are removed from home every year. [Children's Services Division (CSD), 1993, now State Offices for Services to Children and Families (SCF)]. Over two-thirds of children in foster care on any given day are unlikely to ever return home.

Even though SCF's goal is to provide reunification services for families, those services are frequently lacking. Services one might expect to reduce foster care placement, like day care and respite care, are provided infrequently (National Child Welfare Resource Center, 1992). In 1993, less than 20% of agency workers' time was spent in preventing placement and transitioning children home [Children's Services Division (CSD), 1993]. In an audit by the Oregon Secretary of State, less than 42% of families involved with CSD had written service agreements, and these agreements were prepared, on average, seven months after the case opened (Oregon Secretary of State, 102). According to statistics gathered by Oregon's Citizen Review Board, 20% of the cases reviewed by the Citizen Review Board had as a barrier to return "no service agreement/expectations unclear" (personal communication with Nancy Miller, 1993).

The Role of the Juvenile Court

National research suggests that at least part of the responsibility for Oregon and other states' continuing problem must rest with the courts' uneven implementation of P.L. 96-272, ICWA, and state laws and procedures designed to meet the goals of family preservation and permanency for children. In Oregon, implementation of these laws

began in the early 1980s when the state experienced a major recession. Individual counties responded to economic hardship in different ways.

The number of juvenile court proceedings in Oregon exploded in the late 1980s and early 1990s. According to the Judicial Department Indigent Defense Division statistics, between 1991 and 1992 in Oregon's largest county, Multnomah, the number of dependency adjudications and reviews increased over 40%. The number of termination of parental rights proceedings more than doubled. Again, in Multnomah County the number of dependency and review hearing appointments increased 24% from FYE 1995 to FYE 1996 and termination of parental rights appointments increased 62%. Among other factors, the rise of drug use and the increased number of drug-affected children have made the issues before the court more difficult. National and state emphasis on permanency for every child in state care has increased the complexity of long-term placement decisions facing juvenile courts.

The review requirements imposed by state and federal law have not been accompanied by a corresponding increase in resources for juvenile courts, resulting in an inevitable decline in the courts' ability effectively to manage the caseload. Larger caseloads without increased resources lead to a decrease in the quality of juvenile court decision-making (The North American Council on Adoptable Children, 1990).

The same study reports that in contested review hearings, only about 23% of child advocates subpoenaed records and only 66% actually presented evidence to the court. (National Center on Child Abuse and Neglect, 1994). Child welfare agencies can also decrease the court's effectiveness by limiting information that they provide (Hardin, 1990).

State and federal legislation cannot alone bring about sustained improvement on our child protection system. All participants involved must work together to implement the laws in order to protect children and to find permanency for them. The Juvenile Court Improvement Project examines how these laws are implemented on the local level and the systemic barriers to protecting Oregon's children.

Section II

THE JUVENILE COURT IMPROVEMENT PROJECT

ASSESSMENT PHASE

Chapter Two: JUVENILE COURT IMPROVEMENT PROJECT (JCIP) HISTORY AND METHODOLOGY

HISTORY

In 1993, as part of the Omnibus Budget Reconciliation Act, Congress provided each state the opportunity to use federal funds in order to assess its juvenile courts' process for handling foster care and adoption cases. The federal program instructions for the Court Improvement Program note common problems among the states as a result of increased caseloads and heavy oversight responsibilities. These problems include:

- High judicial caseloads. -
- Insufficient training in child welfare issues for judges, Court Appointed Special Advocates (CASA), guardians ad litem, and attorneys;
- Shortage of court staff; and
- Delays in making the determinations required by the legislation.

The Chief Justice of the Oregon Supreme Court convened an Advisory Committee to advise the Oregon Judicial Department in applying for the federal Court Improvement funds. The committee selected eight counties for in-depth study: Baker, Douglas, Jackson, Lincoln, Linn, Malheur, Marion, and Multnomah. These counties were selected in order to look at both urban and rural communities and at a variety of population sizes and composition. The Advisory Committee, based on federal Program Instructions, also selected the issues for study, which include:

- Timeliness of various proceedings;
- Notice to parties and their participation;
- Representation and lay advocacy;
- Conduct of hearings;
- Case review issues addressed in hearings;
- The reasonable efforts requirement and its implementation; The Indian Child Welfare Act; Training of attorneys and judicial officers;
- The role of the Citizen Review Board (CRB) in reviewing cases; and
- judicial workload and support.

The Juvenile Court Improvement Project (JCIP) is anticipated to be a four -year undertaking, with the first year devoted to assessment and recommendations for improvement and the subsequent three years devoted to implementation.

METHODOLOGY

With direction from the Advisory Committee, the contractor, the Juvenile Rights Project/Juvenile Court Improvement Project (JCIP), began its assessment activities by identifying the respondents for written surveys, and drawing statistically valid samples from each group and drafting the surveys. JCIP received input from various sources on the survey instrument design and pre-tested the instruments on selected individuals and groups. It sent written surveys to judges, referees, trial court administrators, juvenile department directors, SCF caseworkers, CRB volunteers, CASA volunteers, attorneys for children, parents and the state, tribal child welfare specialists, and parents (trained CASAs interviewed parents either by phone or in person and filled out the survey form). In all, over 900 people responded to written surveys (see Table 1).

JCIP designed other data collection instruments; as well. JCIP conducted over 200 structured file reviews using a tool that captured a great deal of information on the identified issues. The assessment also included observation of court and CRB proceedings using an instrument designed for this purpose. All the instruments were reviewed by several members of each group to be surveyed and interested members of the Advisory Committee and were pre-tested.

Site visits were made to all the study counties. In addition to the file reviews and court observations, interviews were conducted with participants in the juvenile court process. JCIP interviewed the judge who was then primarily responsible for dependency cases in each county. Others interviewed varied by county but included the juvenile department director, juvenile court counselors, the trial court administrator, court clerical staff, SCF staff, CRB staff and volunteers, CASA staff and volunteers, and attorneys for the state, parents, and children.

Except for the site visits, which were more informal and anecdotal, JCIP collected its data using instruments that were individually tailored to each group of professionals. The following section discusses each type of instrument in more detail. A. Surveys

JCIP created and pre-tested surveys for judges and referees; attorneys for children, parents, and the state; SCF workers; CRB members; CASA volunteers with at least 2 years of experience; trial court administrators (TCA) and juvenile department directors (JDD); and tribal child welfare specialists. With the exception of SCF workers in Multnomah County where the sample was drawn randomly to select 100 (approximately 50% of those in the employee directory), every person on each group's/agency's employee/volunteer roster was requested to fill out the survey and return it by mail with postage provided. The rate of return ranged from 46% (n=6, tribal child welfare specialists) to 93% (n=105, CRB members).

B. Parent Interview

The degree of difficulty encountered in merely locating parents who are involved in the juvenile court system deserves notice. Only 18% (n=36) of parents were located and interviewed by the CASA volunteers recruited for this purpose. This was despite the CASAs' extraordinary efforts, such as depending on "a rumor a neighbor heard about where the parent moved" when conventional methods of using SCF's and court's information failed.

Once the parents were found, all but one agreed to participate. The CASA interviewers were provided with a set of questions written in a "conversational" form and were instructed to read them verbatim to each parent, either over the phone or in person, and fill in the parents' responses.

C. File Review

Dependency cases involving children under the age of 14 years old and closed in 1995 were identified using the Oregon Judicial Information Network. JCIP then estimated the sample size totaling about 260 files using a ratio of cases selected to the number of children. Trained attorneys and law students were successful in reviewing 223 files using

the instrument that was developed to assess documentation of court proceedings and CRB reviews in detail.

D. Court Observation

A total of 68 court and CRB proceedings were observed in the eight study counties by JCIP attorneys and law students. JCIP observers experienced some difficulty in obtaining the statistically estimated sample size of 80 because, in smaller counties, there were simply fewer court proceedings held during the data collection period. Once the cases were identified, the observers went to each county, attended the hearings, and recorded information on the instrument designed to capture data such as presence or absence of legal parties, whether the proceedings occurred on time and reasons for delay, and quality of interactions among the parties.

E. Tribal Survey

JCIP consulted specialists in ICWA in order to develop a survey that would reflect the requirements of the Act accurately. JCIP informed Chairs of nine tribes about the study and requested their participation by mail. The child welfare specialists (n=13) of each tribe were asked to complete the survey; 6 of 13 returned responses.

Chapter Three: THE EIGHT STUDY COUNTIES

Oregon's child welfare system serves a wide variety of communities. That diversity is somewhat reflected in the eight counties selected for study by the Juvenile Court Improvement Project Advisory Committee. In selecting the counties to participate in the assessment, the Advisory Committee considered the different geographic areas of the state and the population bases in each area. The Advisory Committee sought to ensure that the assessment was broad-based and included diverse populations. The Advisory Committee also considered the types of judicial officers who conduct the juvenile court hearings in different counties.

BAKER Baker County is a rural county in eastern Oregon. Its county seat is Baker City. The county's total population in 1995 was 16,500 including 4,264 children. Ethnic breakdown of the population in 1990 was approximately 98% Caucasian, 0.2% African American, 1% Native American, 0.3% Asian, and 1.8% Hispanic. In Baker County, 18.3% of children lived in poverty in 1990. Baker County had the smallest court and protective services system studied, with a single circuit court judge, no district court, and three SCF caseworkers for the county. The Advisory Committee wanted to include smaller courts in Eastern Oregon because the lack of placement and treatment resources in that area of the state has an effect on both the court's and the child welfare agency's ability to best serve children and their families.

DOUGLAS Douglas County is a rural county in the south-central and coastal part of the state. The county seat is Roseburg. The total population is 97,700 including 24,672 children. Douglas County's population in 1990 was 92.6% Caucasian, 0.2% African American, 1.6% Native American, 0.7% Asian, 2.4% Hispanic, and 2.5% Other. Over 20% of Douglas county's children live below the poverty line. The Cow Creek Band of the Lower Umpqua Indians resides in Douglas County. The Advisory Committee chose Douglas County because it was a pilot site for the "Focus of the 90s" program at SCF,

which emphasized greater reunification services for families. This county devotes one half of a circuit court judge to juvenile proceedings.

ACKSON The most southern county JCIP studied, Jackson County, has a population of 164,400 including 41,541 children. Its county seat is Medford. In 1990, the population was 93.4% Caucasian, 0.2% African American, 1.3% Native American, 1% Asian, and 4.1% Hispanic. The county has a 17% poverty rate for children. The county has experienced rapid growth in the last decade and has recently hired a part time referee to hear many juvenile proceedings. Jackson County's juvenile court is housed in its juvenile detention facility. Preliminary hearings and reviews are heard there, while jurisdictional hearings and termination of parental rights are heard at the downtown courthouse. Jackson County borders California.

LINCOLN Lincoln County is the only coastal county studied. It has a population of 41,800 including 9,943 children. In 1990, the population was approximately 93.5% Caucasian, 0.2% African American, 2.4% Native American, 0.9% Asian, 1.5% Hispanic, and 1.5% Other. Almost 21% of Lincoln county's children live in poverty. The bulk of its population is centered in Lincoln City and Newport, its county seat. The Siletz Tribal Reservation is located within the boundaries of Lincoln County. A tribal representative sits on the Citizen Review Board in Lincoln County.

LINN Linn County is small but has one of the larger populations of the eight study counties. It has a population of 98,100 including 25,412 children. Its county seat is Albany. In 1990, its population was 92.8% Caucasian, 0.2% African American, 1.2% Native American, 0.9% Asian, 2.4% Hispanic, and 2.5% Other. In Linn County, 18.4% of its children live in poverty.

MALHEUR Malheur County is geographically the largest county studied but one of the least populated. It has a total population of 28,200 including 8,728 children. The county seat and courthouse are in Vale which is several miles away from Ontario, the county's

population center. In 1990, the population was 81.5% Caucasian, 0.2% African American, 0.9% Native American, 3.1% Asian, and 19.8% Hispanic. It has the highest rate of child poverty at 27.2%. There is a large Hispanic population in Malheur, along with a sizable agricultural economy. Malheur County borders Idaho.

MARION Marion County is one of the more populous counties studied. It has a population of 258,000 including 70,700 children. The county seat is Salem, which is also the state capital. The county's population is approximately 83.4% Caucasian, 0.9% African American, 1.4% Native American, 1.8% Asian, 8% Hispanic, and 4.5% Other. In Marion County, 17.4% of children live in poverty. At the time it was selected for the study, it was one of several Oregon courts in which juvenile court referees hear many of the cases. There is now a full-time juvenile judge. The county has a relatively large Hispanic population.

MULTNOMAH Multnomah County is the northernmost and largest county studied. The county seat is Portland, Oregon's largest city. It has a population of 626,500 including 155,728 children. In 1990, the county residents were 85% Caucasian, 6% African American, 1.2% Native American, 4.7% Asian, and 3.1% Hispanic. In Multnomah County, 16.8% of children live in poverty. It was chosen because of its size, population diversity, and because it operates a family court. Over half of the total number of children in Oregon's juvenile court system are in Multnomah County. Multnomah County has struggled with heavy caseloads, child welfare worker turnover, and other issues associated with large, urban areas. It has a separate juvenile court facility that houses three referees and two circuit court judges at any particular time. The hearings are conducted by a mix of circuit court judges and juvenile court referees. Multnomah County borders Washington.

Section III

DESCRIPTION OF OREGON'S JUVENILE COURT

JURISDICTIONAL BASIS FOR DEPENDENCY CASES IN OREGON

There is widespread belief that the cases being handled by the juvenile court have become more difficult. Families, often headed by single parents with little or no support system, present complex problems to the court including parental drug and alcohol use and domestic violence, both of which are particularly common in dependency cases.

JCIP investigated the number and type of allegations made against parents in over 200 dependency cases in eight counties (Table 2 and Chart 1). Substance abuse plays a key role in the cases currently before Oregon's juvenile courts. Substance abuse was a factor in 24% of the petitions reviewed.

Violence in the home was a factor in 26% of the petitions. Physical abuse or failure to protect from physical abuse allegations were more frequent against mothers than fathers. Sixty percent of the allegations of physical abuse were against mothers and 40% against fathers. Seventy-eight percent of those alleged to have failed to protect were mothers. Of petitions that alleged domestic violence, 66% of the allegations were against mothers, while only 34% were against fathers.

Sixteen percent of the petitions reviewed alleged sexual abuse or failure to protect from sexual abuse as a jurisdictional allegation. Fathers were much more likely to be identified as a perpetrator of sexual abuse (92%, compared to 8% for mothers). Mothers were more frequently alleged to fail to protect from sexual abuse. Nine-one percent of the allegations regarding failure to protect were about mothers.

The number of petitions with absent fathers is noteworthy. Thirty-six percent of the 223 petitions reviewed alleged that the father's whereabouts or identity were unknown and another 24% simply ignored the father entirely. Despite the vast number of unidentified or absent fathers, only one petition alleged that a father had abandoned his children.

Parental incarceration or criminal activity and "parent needs services because of the child's special needs" were more evenly distributed, although somewhat weighted toward mothers.

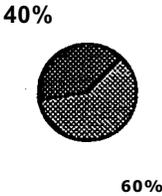
ALLEGATIONS AGAINST MOTHERS AND FATHERS

Table 2.

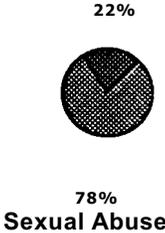
All 8 Counties Combined: used on 223 File Reviews		

1. Physical Abuse	21.	14
2. Failure to Protect from Physical Abuse	18	5
3. Threat of Physical Abuse	11	7
4. Sexual Abuse	1	11
5. Failure to Protect from Sexual Abuse	21	2
6. Threat of Sexual Abuse	5	4
7. Medical Neglect	11	4
8. Physical Neglect	19	9
9. Emotional Abuse	2	0
10. Financial Inability to Provide	8	5
11. Residential Instability	28	7
12. Employment Instability	3	1
13. Domestic Violence	21	11
14. Substance Abuse	54	26
15. Abandonment	10	1
16. Parent's Mental Illness/Emotional Condition	16	1
17. Parent's Physical Limitation	2	0
18. Child Beyond Parental Control	10	5
19. Parents in Need of Services b/c of Child's Special Needs	13	7

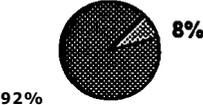
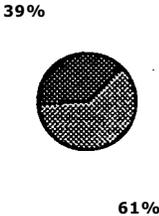
Physical Abuse



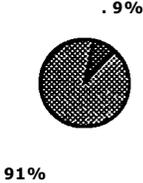
Failure to Protect from Physical Abuse



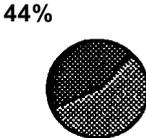
Threat of Physical Abuse



Failure to Protect from Sexual Abuse



Threat of Sexual Abuse



Medical Neglect

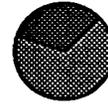
27%

IV

73%

Physical Neglect

32%



68%

Emotional Abuse

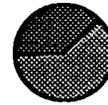
0%



100%

Financial Inability to Provide

38%



62%

Residential Instability

20%



80%

Employment Instability

25%



75%

Domestic Violence

34%



66%

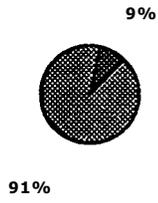
Substance Abuse

33%

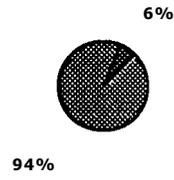


67%

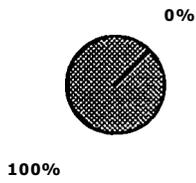
Abandonment



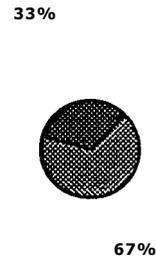
Parent's Mental Illness/Emotional condition



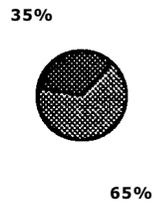
Parent's Physical Limitations



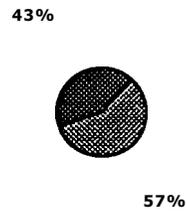
Child Beyond Parental Control



Parents in need of Services b/c of Child's Special Needs



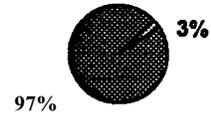
Parent incarcerated/Criminal Activity Interferes w/ Parenting



Whereabouts Unknown



Identity Unknown



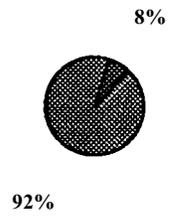
Parent Dead



No Allegation



Failure to Supervise



Other



INITIATING A JUVENILE COURT DEPENDENCY PROLEWUING

Filing a Petition

Any person in Oregon with personal knowledge about an abused or neglected child may file a petition in juvenile court. ORS 419B.230. State Office for Services to Children and Families (SCF) caseworkers and juvenile court staff may file petitions based on information and belief. *Id.* Typically, SCF assesses the safety needs of children before a petition is filed. In some counties, SCF is responsible for drafting the dependency petition. In others, information regarding abuse or neglect is related to the juvenile department, whose employees draft the petition for filing. In still others, the District Attorney files the petitions. Table 3 below illustrates variety in the initial division of labor that brings a case to juvenile court.

DIVISION OF LABOR

**Table 3. (Based on Response from 32 Trial Court Administrators/
Juvenile Dept. Directors in Oregon)**

	Trial Court Staff	Juvenile Dept.	SCF	Parent's Attorney	District Attorney	Law Enforcement Agency
A		2	21			7
B		6	8			16
C		20	11		1	
D	1	14	15		8	
E	1	21	10			
F	4	23	4		1	
G	2	14	3		1	12
H	1	8	22	1		
I	1	16	14			

A: Respond to calls of suspected child abuse/neglect during work hours, B: Respond to calls of suspected child abuse/neglect during off-hours, C: Draft dependency petitions, D: Sign dependency petitions, E: File petitions with the court, F: Issue summons, G: Serve summons, H: Request shelter care hearings, I: Notify parents of shelter/ preliminary hearings.

INITIAL SERVICE OF PROCESS

National standards recognize that adequate notice is not only constitutionally required but key to ensuring participant presence in court. Inadequate notice increases the length of time children wait in foster care. Timely, adequate notice maximizes the potential for family members to provide placement or emotional support to children in juvenile court and increases the likelihood of financial support for children in care. Therefore, notice should be provided at the earliest possible stage of the dependency proceeding to all parties, including custodial and noncustodial parents, putative fathers, others with legal custody, CASAs, and intervenors.

The courts should ensure adequate notice by:

- Requiring quick and diligent notification efforts by the social service agency;
- Requiring both oral and written notification in language understandable to each party and witness;
- Requiring notice to include reason for removal, purpose of hearing, availability of legal assistance; and
- Requiring caseworkers to encourage attendance of parents and other parties.

Resource Guidelines p. 36.

In Oregon, the party filing the petition must serve summons on the parents, including putative fathers in some instances, and on children over 12 no later than 60 days after a petition is filed. ORS 419B.271. The summons includes information regarding the jurisdictional allegations, a recitation of the right to counsel and the consequences of failure to appear at court hearings. ORS 419B.268. When the petition involves a child covered by the Indian Child Welfare Act, that child's tribe must also be served. The court may order parents to participate in services only if they have been properly summoned. ORS 419B.385 and 419B.387.

Throughout the state, summons are most commonly issued and served by the county juvenile departments (see Table 3).

Preliminary Hearings

Introduction

When children are removed from their homes on an emergency basis, the juvenile court is required to hold a hearing within 24 hours exclusive of weekends and holidays of removal. ORS 419B.183. Parents may be notified of shelter hearings by the juvenile department, SCF, or law enforcement (see Table 2). These hearings are referred to in different communities in Oregon as preliminary hearings, shelter care hearings, and 24hour hearings.

Conduct of Preliminary Hearing and Issues

Preliminary hearings focus on whether the child can be safely maintained in or returned to the home pending the disposition of the petition. This necessitates analysis of the facts surrounding the initial removal and what steps might be taken to ensure the child's safety in the home.

Typically, the stakes and, therefore, emotions are high for all parties to a preliminary hearing. Representatives of the state are concerned about the immediate safety of the child. The parents are confronted with the possibility of losing physical custody of the child. The child faces the loss of everything familiar on the one hand and the possibility of continuing harm on the other. It is incumbent on the judicial officer to insist on a thorough presentation of all relevant information at this point in the proceedings. Not only will the decision made at this point have a profound effect on the lives of the individuals before the court, but the decision may have far reaching effects on the conduct and course of the case. The outcome of a case involving a young child who remains at home with services to the family is predictably different from the outcome in a case where the child is placed in foster care and visits with the parents for an hour each week.

At the preliminary hearing parents are given "the opportunity to present evidence to the court [at the preliminary hearing] ... that the child can be returned home without further danger of suffering physical injury or emotional harm, endangering or harming others, or not remaining within the reach of the court process prior to adjudication." ORS

419B.185. Both state and federal law require the court to make written findings at the preliminary hearing regarding:

- SCF's efforts to prevent removal;
 - Future services the agency should provide to promote reunification; and
 - Whether it is in the child's best interest to remain out of the home.
- ORS 419B.185.

National standards support this approach to preliminary hearings.

[T]he court should evaluate both the current danger to the child, and what can be done to eliminate the danger. Harmful consequences of removal should also be considered. Removal is always a traumatic experience for a child. Once a child is removed it becomes logistically and practically more difficult to help a family resolve its problems.

A primary goal of the court should be to make the preliminary protective hearing as thorough and meaningful as possible. The court should conduct an in-depth inquiry concerning the circumstances of the case. It should hear from all interested persons present. As part of its inquiry, the court should evaluate whether the need for immediate placement of the child could be eliminated by providing additional services or by implementing court orders concerning the conduct of the child's caretaker. If the court determines that the child needs to be placed, the court must evaluate the appropriateness of the placement proposed by the agency and seek the least disruptive alternative that can meet the needs of the child.

Resource Guidelines p. 30

Among the issues the court should address at the preliminary hearing are:

- The child's placement - can the child safely be placed at home, with relatives or with someone else known to the child, or must the child be placed in foster care or other state placement?
- Visitation with parents and siblings
- Reasonable efforts - has the state made reasonable efforts to avoid placement or to facilitate return?
- Indian Child Welfare Act - is this a child who is a member or eligible for membership in a Native American tribe? If so, have the procedural protections of ICWA been applied?
- Notice - has every parent or other party entitled to notice been notified? Who is the legal father of each child?

- Early service issues - are any treatment services or evaluations needed immediately?
- Appointment of counsel and CASA - is each person entitled to counsel represented and should a CASA be appointed?

In Oregon, parties to preliminary hearings have several ways to relitigate the decisions made at this early and critical stage. ORS 419B.185 permits parents and children to present evidence at any hearing that occurs after removal that the child can safely be returned. ORS 419B.420 provides that the juvenile court may modify or set aside its own orders. Where a referee makes a decision to remove a child, a circuit court judge must review that decision at any party's request. ORS 419A.150.

The Adjudication

Once a petition is filed, the court may order an investigation and that summons to a hearing be issued to the parties within 60 days. ORS 419B.265. This preadjudicative period is frequently the time SCF caseworkers develop initial service agreements and attorneys receive discovery and conduct their own investigations.

ORS 419B.310(4) provides that "the court without a jury" hears fact-finding hearings regarding jurisdictional allegations. Unlike the preliminary hearings and subsequent review hearings, the rules of evidence apply to adjudicatory hearings. Jurisdictional allegations must be proven by a preponderance of the evidence, except in the case of Native American children when the •ICWA requires the evidence be clear and convincing. 25 USC 1912(e).

The adjudicatory hearing is critical to satisfying constitutional due process requirements and serves an important role in resolving dependency cases. Where families have an adversarial relationship with SCF, a judicial determination of jurisdictional facts may be necessary before families will engage in services. ORS 419B.343(1) now requires that SCF case planning for reunification services bear "a rational relationship to the jurisdictional findings." Where there is opposition to particular services, the adjudicatory hearing is *key* to determining which services are appropriate for the family.

The adjudicatory hearing should involve the same parties as the preliminary hearing. At the hearing, the court should determine:

- Which allegations of the petition have been proved or admitted, if any;
- Whether there is a legal basis for continued court and agency intervention; and
- Whether reasonable efforts have been made to prevent the need for placement or to safely reunify the family.

Resource Guidelines p. 52.

The majority of adjudications in Oregon occur by stipulation or default (see Chapter 7).

Disposition

Disposition follows the adjudicatory hearing, and includes a dispositional hearing and order. The dispositional hearing must occur within 28 days of the adjudicatory hearing unless there is good cause for a greater period of time. Uniform Trial Court Rules (UTCRC) 11.070. Most often, dispositional hearings are conducted immediately following the adjudicatory hearing. The court then must enter "an appropriate order directing the disposition of the case." ORS 419B.325.

If the court finds that the allegations of the petition have not been proven by a preponderance of the evidence, the appropriate disposition is dismissal. If the court finds the child within its jurisdiction, there are a variety of dispositional options. The court may allow the parents to retain legal custody with particular conditions of protective supervision, ORS 419B.331, may appoint a guardian, ORS 419B.370, or as in the vast majority of cases, temporarily commit the child to SCF for care and placement, ORS 419B.337.

The dispositional phase of a dependency proceeding is a critical step in ensuring permanency for the child before the court. Oregon law grants juvenile court judges the authority to "specify the particular type of care, supervision or services to be provided by the Children's Services Division to children placed in the division's custody and to the parents or guardians of such children...". ORS 419B.337(b)(2). Oregon and federal law also require that the court review SCF case planning and make "reasonable efforts" findings regarding the agency's reunification or preventative services. ORS 419B.340.

The judge and parties consider written dispositional reports from SCF, CASA, and other parties before the dispositional hearings. The UTCR require that written reports resulting from SCF's investigation must be distributed to all participants at least seven days prior to the dispositional hearing. UTCR 11.060(1). National standards support early distribution of proposed dispositional plans, so all parties can fully participate in the hearing.

Resource Guidelines p. 56.

The dispositional order should:

- Determine the legal disposition of the case, including the custody of the child, based upon the statutory options provided under state law.
- State the long-term plan for the child (e.g., maintenance of the child in the home of a parent, reunification with a parent or relative, permanent placement of child with a relative, placement of the child in a permanent adoptive home.)
- When applicable, specify why continuation of the child in the home would be contrary to the child's welfare.
- Approve, disapprove or modify the agency's proposed case plan.
- Determine whether there is a plan for monitoring the implementation of the service plan and assuring the child's continued well-being.
- When placement or services are ordered that were not agreed upon by the parties, specify the evidence or legal basis upon which the order is made.
- Specify whether reasonable efforts have been made to prevent or eliminate the need for placement.
- Specify the terms of parental visitation.
- Specify parental responsibilities for child support.
- Be written in easily understandable language so that parents and all parties fully understand the court's order.
 - Set date and time of next hearing, if needed.

Resource Guidelines p. 61.

Review Hearings

Once the court approves the initial disposition for a dependency case there are a variety of state and federal review mechanisms to ensure agency and party compliance with the case plan. Judicial oversight and citizen oversight of dependency cases can also allow for re-examination of case planning goals and allow for adjustments that reflect the parents' progress and the child's needs.

"Review hearings are necessary because continuation of a child in foster care for an extended time has a negative effect on a child and family. A child in foster care forms new relationships which may weaken his or her emotional ties to biological family members. A child shifted among foster homes may lose the ability to form strong emotional bonds with a permanent family. A careful decision concerning the future of every child is needed as soon as possible. Review hearings can help ensure that decisions concerning a child's future are made at regular intervals and implemented expeditiously."

"

Resource Guidelines, p. 66.

Court Review

SCF is required to file a report with the juvenile court or the CRB six months after a child is placed in substitute care and at least every six months thereafter, ORS 419B.443(1), 419B.446.

The report must contain:

- A description of the problems that resulted in placement
- A discussion of services for the child and family
- A proposed treatment plan that includes visitation, expectations of the parents and children
- A proposed timetable for achieving a permanent plan ORS 419B.443.

The court is required to send the report to parents (and tribes if a Native American child is involved in the case) and inform them whether a hearing is to be set in the matter. The court or any party may request a review hearing so that the court may "order modifications in the care, placement, and supervision of the child." ORS 419B.449. The court must hold the review within 30 days of the request. ORS 419B.449.

National standards support this approach. All parties and interested persons, including foster parents, should be involved with the six-month reviews. It is particularly

important that service providers for parents and children be available or thoroughly interviewed before review hearings.

Resource Guidelines p. 70.

The key issues to be addressed at a review hearing are:

- Whether there is a need for continued placement of a child .
- Whether the court-approved long-term permanent plan for the child remains the best plan for the child
- Whether the agency is making reasonable efforts to rehabilitate the family and eliminate the need for placement of a child
- Whether services set forth in the case plan and the responsibilities of the parties need to be clarified or modified due to the availability of additional information or changed circumstances
- Whether the child is in an appropriate placement which adequately meets all physical, emotional and educational needs
- Whether the terms of visitation need to be modified
- Whether the terms of child support need to be set or adjusted
- Whether any additional court orders need to be made to move the case toward successful completion
- What time frame should be followed to achieve reunification or other permanent plan for each child.

Resource Guidelines p. 70-72.

In Oregon, the agency having guardianship or custody of the child is required to file a report with the court or CRB prior to periodic reviews. The contents of the report are specified by statute. They are:

- A description of the problems or offenses which necessitated the placement of the child with the agency
- A description of the type and an analysis of the effectiveness of the care, treatment, and supervision that the agency has provided for the child, together with a list of all placements made since the child has been in the guardianship or legal custody of an agency and the length of time the child has spent in each placement
- A description of agency efforts to return the child to the parental home or find permanent placement for the child, including, remedying factors which contributed to the removal of the child from the home

- A proposed treatment plan or proposed continuation or modification of an existing treatment plan, including, where applicable, terms of visitation to be allowed and expected of parents and a description of efforts expected of the child and the parents to remedy factors which have prevented the return of the child to the parental home
- If continued substitute care is recommended, a proposed timetable for the child's return home or other permanent placement or a justification of why extended substitute care is necessary ORS 419B.443.

Eighteen-Month Dispositional Review/ Permanent Planning Hearing

The dispositional review or permanent planning hearing represents an effort in state and federal law to put an outside limit on the amount of time a child must wait in substitute care for a permanent home. This review, initially required by the Adoption Assistance and Child Welfare Act of 1980 and now also codified at ORS 419B.470, requires that the court shall conduct a dispositional review hearing no later than 18 months after the original placement and periodically thereafter during the continuation of substitute care. Unless good cause otherwise is shown, the court shall also conduct a dispositional review hearing at any time upon the request of the division, an agency directly responsible for care or placement of the child, parents whose parental rights have not been terminated, an attorney for the child, a court-appointed special advocate, a citizen review board, a tribal court or upon its own motion. The court shall schedule the hearings as soon as possible after receiving a request.

ORS 419B.470

This hearing is the state's opportunity to present a permanent plan for a child and an expeditious timeline for achieving that plan. The court must approve or disapprove of the plan, make a reasonable efforts finding, and enter an order setting further proceedings, particularly if there are obstacles to accomplishing the permanent plan. All the parties present at earlier hearings should also be present at the dispositional review hearing.

The key decisions for the court at this hearing are:

- Approving a permanent plan for return of the child to parent, adoption, guardianship or permanent foster care along with a specific date for achieving that plan
 - Making a reasonable efforts finding

Resource Guidelines p. 62.

Reviews by the CRB

Reviews under federal law, except for the 18-month dispositional review, may be conducted by an administrative or citizen "foster care review board." In Oregon, the Citizen Review Board fulfills this function in 33 out of 36 counties. ORS 419.050 *et seq.* Local Citizen Review Boards are composed of between three and seven citizens from groups "with special knowledge or interest in foster care and child welfare which may include but shall not be limited to adoptive parents and' members of the professions of law, medicine, psychology, social work, and education." ORS 419A.092(1)(a). When the CRB reviews a case, reports otherwise submitted to the court are submitted to the board. Reviews occur on a six-month basis with participation invited from SCF caseworkers, parents, mature children, advocates, foster parents, involved relatives, service providers, and other interested parties. The Citizen Review Board forwards a report, complete with findings and recommendations, to the court and SCF for review. SCF must give the Citizen Review Board written notice if SCF does not intend to implement the recommendations. ORS 419A.120(2).

The findings also become part of the juvenile court file. ORS 419A.120(2). The court, upon review of the CRB findings and recommendations, has the opportunity to make modifications or set a separate court hearing to pursue issues raised at the board review. The court must also inform the CRB in writing if it modifies, alters, or takes action on a recommendation. ORS 419A.120(1). In some counties, the court formally approves the recommendations and orders that the recommendations be implemented.

Termination of Parental Rights

When parents have failed to make sufficient progress to regain legal custody of their child within a reasonable period of time, the state may move to sever the parent-child relationship so that the child may be adopted. Because the consequences of such a proceeding are enormous, there is a new round of procedural protections for parents and children. A petition stating grounds for termination must be served on the parents, ORS 419B.515. Greater attention is paid to locating fathers or other missing parties. ORS

419B.518 guarantees appointment of counsel for indigent parents and the Attorney General's office (or the District Attorney's office in Multnomah County) represents SCF. At trial, the state must prove the allegations by clear and convincing evidence rather than the civil standard required in dependency proceedings. The standard of proof involving Native American children is higher: In ICWA termination of parental rights cases, this standard is "beyond a reasonable doubt." ORS 419B.521(5).

National standards support this careful attention to procedure at the termination stage. "Termination proceedings must be conducted with great care and with full procedural protections to parents and children." Resource Guidelines p. 88. National standards also support the use of pretrial conferences "to check delays in the appointment of counsel, ensure early notice to parties and expedite discovery. They can also resolve evidentiary issues prior to trial." Resource Guidelines p. 93. No such standardized process exists in Oregon.

Section IV

ASSESSMENT FINDINGS**Chapter Four: PARTY PRESENCE AT HEARINGS**

INTRODUCTION

A key component of effective hearings is the presence of people involved with the child, particularly the parents. Both Oregon law and national standards contemplate that hearings should always include the parents and age-appropriate children, as well as others in many cases.

WHO IS NOTIFIED OF HEARINGS

Importance of Notification

Identifying and locating both parents is critical at the beginning of a dependency case. Noncustodial parents may be able to assume custody of the child, thereby avoiding foster care. Parents may be able to identify some other relative who could assume custody of the child. This is important for the child's immediate well being and is also important as a protection against a later disruption in placement occasioned by the "discovery" of a parent. A child and the legal father (and in some instances, fathers who have not established paternity) have constitutionally protected reciprocal rights to each other's care and companionship. Courts are often required to set over cases while service on an absent father is attempted. This kind of delay late in a case can have serious consequences for the child. Most troubling are the children who are freed for adoption after so many years in "the system" that they have become very hard to place.

Assessment Findings

Notice is critical to presence. The results of JCIP's assessment show a disappointing rate of notification. In at least 80% of the court files reviewed,' there was no notice or no proof of notice of the preliminary hearing. In some counties there was no proof of notice for any hearings in the files JCIP reviewed.

Notice problems are acutely apparent when considering information regarding fathers in juvenile court files. Not only is proof of notification largely absent, but fathers are frequently ignored in petition allegations on jurisdiction. In 60% of the petitions reviewed, the fathers were dealt with in one of the following ways:

- The sole allegation regarding the father was that his identity or whereabouts was unknown
- The father's name and/or address was listed on the petition without jurisdictional allegations
- There was no mention of the father at all.

Table 4. ALLEGATIONS REGARDING FATHER

Percentage of the Total Number of Fathers' Allegations that are "Identity Unknown (I)," "Whereabouts Unknown (W)," "No Allegations (NO)," or No Mention of Father (N/F):

Allegatio County	BAKER	DOUGLAS	JACKSO	LINCOLN	LINN	MALHEU	MARION	MULT- NOMAH
I	23%	0	18%	6%	13%	0	4%	11%
W	23%	14%	23%	6%	7%	0	15%	20%
NO	31%	14%	31%	50%	13%	57%	20%	4%
N/F	0	14%	5%	0	0	0	12%	3%

Failure to notify parents does not appear to prevent the court from proceeding. Only nine continuances were requested for any hearing because of failure to locate parents. While absent fathers are undoubtedly a problem in juvenile court, the lack of judicial attention to the absence indicates the low priority the system places on notice to noncustodial parents in juvenile court proceedings.

CRB files were not reviewed.

WHO IS PRESENT AT HEARINGS

Introduction

Using the Resource Guidelines and Oregon statutory requirements as a starting point, JCIP surveyed each stage of the proceedings for presence of the following:

- Mother
- Father
- Children
- Attorneys for mother, father, and children
- CASAs
- Deputy District Attorneys
- Assistant Attorneys General

Results are presented here. Because presence or absence of CASAs raises issues related to the availability of CASAs for appointment rather than lack of notice, their attendance is dealt with separately from other parties.

Assessment Findings

Preliminary Hearings

Party Presence

Of all the parties listed above, the one most likely to be present at a preliminary hearing is the SCF worker. Fathers were present at preliminary hearings about half as frequently as mothers. Children were present at 57% of the preliminary hearings in Jackson County, but in no other county was their presence nearly so high.

CASA Presence

CASAs were not present at any of the preliminary hearings observed. File reviews showed CASAs present at very few preliminary hearings. Many attorneys, SCF workers, and judges confirmed that CASAs were at least occasionally present, with respondents from Douglas County finding them to be present often. All participants agree that of all the hearings, CASAs are least likely to attend the preliminary hearing.

Attorney Presence

Counsel was appointed and available for parents and children at few preliminary hearings. In two of the counties studied, fathers had no attorneys at preliminary hearings.

The highest level of representation for fathers was in Douglas County with 29% represented at preliminary hearings. Corresponding with their actual presence, mothers fared somewhat better in having representation at preliminary hearings. While mothers in three counties were wholly unrepresented, the rate of representation of mothers was overall higher otherwise. Representation for children did not correspond to their presence. In five of eight counties, there was no representation for children at preliminary hearings. The highest level of representation at preliminary hearings was in Baker and Multnomah County, with 50% and 41% respectively.

In general, counsel for all parties are less likely to be present at preliminary hearings than at any other proceeding. The counties with the greatest participation of counsel at preliminary hearings are Multnomah, Douglas, and Baker. Multnomah County, because of its size, holds preliminary hearings almost every day. The indigent defense providers divide the days or weeks and provide coverage for dependency preliminary hearings as part of their contracts. By contrast, Baker County is so small that the number of preliminary hearings is very few. The size of the community allows easy communication between the juvenile department and court staff and the indigent defense providers when a preliminary hearing is anticipated, and it is usually possible to arrange attorney coverage. In Douglas County, a coherent and effective system for handling the courts dependency docket has meant that attorneys are routinely appointed and available to appear at preliminary hearings.

In only three of the study counties was the District Attorney present in even 25% of the cases. Assistant attorneys general never appeared at preliminary hearings.

Table 5. PARTICIPANT PRESENCE AT PRELIMINARY HEARINGS

NOTE: The numbers in each column represent the frequency that a party or party representative was present at each type of proceeding. The columns for party representative (i.e., "Rep'd Father, Mother, Child") reflect the frequency that representatives were appointed and present at each hearing. The numbers for party representatives reflect the frequency of appointment/presence for the entire number of appropriate proceedings documented in the files reviewed and not a subset of the number of parties present for those proceedings.

Participant\ County	FATHE	REP'D* FATHE	MOTHER	REP'D MOTHER	CHILD	REP'D CHILD	SCF	DA	CASA
Baker (n=8)	13%	0%	50%	25%	13%	50%	75%	0	13%
Douglas (n=7)	29	29	43	43	14	0	57	14	14
Jackson (n=30)	17	3	53	0	57	0	50	0	0
Lincoln (n=16)	19	6	44	6	6	0	44	31	0
Linn (n=11)	36	9	73	0	9	18	91	27	0
Malheur (n=7)	14	0	43	0	14	0	71	0	0
 (n=79)		3	15	12	0	0	2	2	0
		15	65	37	14	41	91	42	1

*Rep'd = Represented.

"The numbers are low due, in part, to a great amount of "Unable to Determine (code 99)" information in the files reviewed.

Adjudicatory Hearings

Party Presence

As is the case with preliminary hearings, a representative from SCF is more likely to be at adjudicatory hearings than any other participant. Mothers are the second most likely to attend. They were present in 66% or more of the adjudicatory hearings reviewed in five counties. Fathers were present at 33% or fewer of the adjudicatory hearings in all counties except Lincoln, where they were present 50% of the time.. With the exception of Jackson County, children were present at 33% or fewer of the adjudicatory hearings. They were not present at my adjudicatory hearings in two of the counties studied.

CASA Presence

CASAs were least likely to be present at adjudicatory hearings in Marion and Multnomah Counties and most likely to be present in Douglas County. File review data show that CASAs are not present at all at adjudicatory hearings in three counties. In Douglas county, CASAs were present at 50% of the adjudicatory hearings.

Attorney Presence

Corresponding to their own increased presence, parties are much more likely to have attorneys at the adjudicatory stage than at the preliminary hearing. Fathers had some level of representation in seven of the study counties. In two counties, 33% of the fathers were represented.

All counties showed some representation for mothers. In five counties, mothers were represented in at least 50% and as much as 67%. In three counties, mothers had appointed attorneys quite infrequently. Jackson County had the lowest level of representation at 6%.

Children, also, are represented more frequently at the adjudicatory stage. Children were represented in 50% or more of adjudicatory hearings in two counties and had attorneys at some level in five more.

District Attorneys attended well over 50% of adjudicatory hearings in four counties. They were present at all adjudicatory hearings in Lincoln County. Only Malheur County had no district attorney present at adjudicatory hearings.

Table 6. PARTICIPANT PRESENCE AT ADJUDICATORY HEARINGS**(See Note in Table 5)**

Participant\ County	FATHER	REP'D* FATHER	MOTHER	REP'D MOTHER	CHILD	REP'D CHILD	SCF	DA	CASA
Baker (n=3)	33%	33%	67%	67%	33%	33%	67%	33%	33%
Douglas (n=6) Jackson (n=16)	33%	0	33	50	33	0	67	67	50
Lincoln (n=4)	25	6	81	6	44	6	56	13	0
Linn (n=9)	50	25	50	25	0	25	100	100	0
Malheur (n=6) Marion** (n=43)	33	33	78	67	0	22	89	56	11
Multnomah (n=59)	16	12	51	51	37	17	51	9	2
	27	27	66	61	22	56	93	86	5%

*Rep'd= Represented

**The numbers are low due, in part, to a great amount of "Unable to Determine (code 99)" information in the files reviewed.

Court Review Hearings*Party Presence*

Party presence at reviews followed the same patterns as at preliminary hearings and adjudications. SCF has the best attendance. Mothers attend more frequently than fathers. Children are the least likely to attend. SCF appears in almost 100% of review hearings.

CASA Presence

CASA attendance is low at court reviews. However, CASA presence is not substantially lower at court reviews than at other dependency proceedings. This suggests that CASA attendance, unlike presence of family members, is related to frequency of appointment rather than notice issues.

Attorney Presence

Attorney presence at review hearings varied widely by county. As with other hearings, mothers were more likely to be represented than fathers. With the exception of

Jackson County, children were much more likely to have their attorneys appear for them than to appear themselves. District attorneys were much less likely to be present at review hearings than at adjudications. The district attorney does not attend review hearings at all in six counties, attends almost all reviews in Lincoln County, and attends about 1/3 in Multnomah County.

Where there is a difference in attorney representation between court (periodic) reviews and 18-months dispositional reviews, parties were less likely to be represented at the dispositional review.

Table 7. PARTICIPANT PRESENCE AT REVIEW HEARINGS

(See Note in Table 5)

Baker (n=4)	THM 50%	50%	TH 100%	100%	50%	100	100%		50%
Douglas (n=4)	25	100	50	100	25	100	75	25	0
Jackson (n=22)	5	0	41	14	55	32	73	0	18
Lincoln (n=14)	21	21	29	21	0	14	100	86	7
Linn (n=13)	23	31	38	62	0	38	100	31	15
Malheur (n=119)	0	0	58	42	0	33	58	17	0

*Rep'd = Represented.

*The numbers are low due, in part, to a great amount of "Unable to Determine (code 99)" information in the files reviewed.

CRB Reviews*Party Presence*

SCF had close to perfect attendance at CRB reviews, largely because hearings are frequently postponed if the caseworker is not present. Other party attendance was low. Fathers attended in only three counties. Mothers attended in all but two. As with every other proceeding, their level of appearance was substantially higher than fathers. Children made appearances in all but three counties but never in more than 30% of the cases.

CASA Presence

CASAs attended CRB reviews in half the counties. The highest rate of attendance was 50% in Baker County. As with the other court attendance, this probably reflects the fact that CASAs were not appointed to every case.

Attorney Presence

CRB reviews had the greatest disparity between participant presence and attorney presence. In Marion County, for example, fathers were present at 41% of the CRB reviews. Their attorneys, however, were present in only 6%. Attorneys for fathers were present in only three counties. Mothers' attorneys had similar patterns. Again, Marion County had the most dramatic divergence. Mothers attended 59% of the CRB reviews and their attorneys attended 6%. Overall, counsel for mothers appeared at CRB reviews in five out of the eight counties.

Attorneys for children appeared in four out of the eight counties. District Attorneys never appeared in CRB reviews. In half of the study counties children were less likely to be represented by counsel at CRB reviews than at court reviews.

Table 8. PARTICIPANT PRESENCE AT CRB REVIEWS

See Note in Table 5....	.....	.....	.....	.....	CIA.	.....	.....	.....	.....
Baker (n=6)	33%	17%	17%	17%	0	50%	100%	0	50%
Douglas (n=5)	0	0	0	0	20	0	100	0	0
Jackson (n=1)	0	0	0	0	0	0		0	0
Lincoln (n=6)	0	0	33	0	0	0	83	0	17
Linn (n=13)	23	0	38	8	31	8	100	0	46
Malheur (n=9)	0	0	67	44	11	1	100	0	0
Marion (n=17)	41	6	59	6	12	0	100	0	6
Multnomah	0	6	39	16	6	14	96	0	

*Rep'd = Represented.

Termination of Parental Rights Hearings

Party Presence

Parent attendance at TPR hearings was low. Attendance for fathers was slightly less than for mothers. Children attended termination of parental rights hearings in only one county. SCF attended all terminations in three counties and 66% in one. In two counties where termination cases were reviewed, SCF attended 33% or less of the hearings.

CASA Presence

CASAs attended termination proceedings in only one county. Again, this is more likely a function of frequency of appointment than notice issues.

Attorney Presence

In many counties, frequency of attorney presence appeared to be correlated to parent presence. Where the frequencies diverged, attorneys for parents were present more often than their clients. This is probably a result of the clear statutory and constitutional rights to counsel.

Children were not represented at all in termination cases in two counties. Two counties showed representation for children in 25% or less of the termination. Two counties showed representation for children in 33% of terminations.

District Attorneys are present at termination proceedings only in Multnomah County. The state and SCF are represented by the Department of justice in termination proceedings in all other counties.

Table 9. PARTICIPANT PRESENCE AT TERMINATION OF PARENTAL RIGHTS HEARINGS

(See Note in Table 5)

Baker (n=1)	0	0	100%	MOTHER 100%		0	100%		100%
Douglas (n=1)	ms	ms	m s	m s	ms	ms	ms	ms	ms 0
Jackson (n=3)	33	33	3 3	33 50	0	33	66	0	0 0
Lincoln (n=2)	50	50	5 0	2 5	0	0	100	0	ms 0
Linn (n=4)	25	25	2 5	m s	0	25	25	0	0
Malheur (n=1)	ms	ms	m s	34 83	ms	ms	ms	ms	
Marion (n=6)	0	0	1 7		0	17	33	0	
Multnomah (n=6)	33	83			17	33	100	100	

*Rep'd= Represented.
ms=Missing data.

BARRIERS TO PROPERLY ATTENDED HEARINGS AND RECOMMENDATIONS FOR IMPROVEMENT

Law Enforcement Agencies, SCF, juvenile departments, and the court are not sufficiently trained or prompted to make inquiries about:

- **Absent or non-custodial parents' (usually fathers') identity and whereabouts.**
 - **A child's Native American heritage and the applicability of the Indian Child Welfare Act.**
1. Police, SCF workers, and the courts should ask about the identity and whereabouts of absent parents early and often throughout the investigation and court proceedings and document their findings.

2. Courts should inquire of SCF, the DA, and other parties about efforts to identify and locate parties before proceeding.
3. Forms such as petition worksheets, reports to the court, and order templates that prompt inquiry about all potential parties (fathers and tribes, in particular) should be developed.
4. All petitions should state the name and location of every person who has legal standing as the parent or guardian of the child.

In some communities, it is unclear who is responsible to give notice.

1. A joint planning group consisting of juvenile court staff, Juvenile Department, SCF, CRB, and others should be convened to develop a model process for providing notice and docketing dependency cases, including developing policy regarding identification and notification of parties, particularly fathers and Tribes, and documenting notification and summons.

The population served by juvenile court is frequently mobile. Maintaining contact for purposes of notice is difficult for caseworkers, attorneys, and juvenile departments alike.

1. Parents should sign a form containing their current addresses, contact person, and commitment to notify the party who sends, notice (SCF, juvenile court staff, or juvenile department staff) if they move. The form could also acknowledge that the parents understand that the court may proceed against them by default if they fail to appear (see recommendations regarding default procedures).

Setting hearings outside the presence of parties and attorneys increases the likelihood that one or more of the parties will be unaware of the next court date.

1. The court and CRB should adopt a policy and practice of setting the next hearing or review at the close of each hearing or review while attorneys and parties are still present.

The juvenile court, juvenile department, and SCF systems lack information about parents' whereabouts. (Of the more than 200 parents jCIP attempted to contact during this study, only 36 could be located through juvenile court or SCF files.)

1. The court and CRB should inquire about any changes of parents' addresses at each hearing or review, whether the parents are present or not.
2. Law enforcement agencies and others' data bases should be made available to entity responsible for providing notices of court and CRB hearings. (See barrier and recommendations immediately below).

There is limited ability to use existing information.

- 1.. The legislature should consider amendments to the confidentiality statutes for purpose of identification and location of parents, particularly those statutes governing the information on Law Enforcement Data System (LEDS) and Oregon Judicial Information

Network (OJIN) to permit access by SCF, Law Enforcement Agencies, Attorney General, District Attorney, juvenile courts, counsel, and CASAs.

2. Local courts, juvenile departments, and SCF should develop procedures for sharing parent location information.

Chapter Five: TIMELINESS OF PROLUWING

INTRODUCTION

Prompt decision-making about children in state care is a critical component of a well-run dependency system. Delay in permanency can have devastating effects on a child's emotional health and developmental progress. Prolonged stays in foster care also increase costs for social service systems and the courts.

CURRENT TIMELINES FOR DEPENDENCY PROCEEDINGS

State and federal mandates combined create the current timelines for juvenile court dependency proceedings. Some are quite specific for certain stages of the proceedings and others nonexistent. The lack of specific timelines for all stages contributes to delay in some parts of the system.

Preliminary Hearings

As a matter of constitutional due process, a hearing must be held before or shortly after the state takes a child into custody. In Oregon, by statute, that hearing must be held within 24 hours (excluding Saturdays, Sundays, and judicial holidays) of the time the child is taken into custody by law enforcement, SCF, or the juvenile department. ORS 419B.183.

Adjudicatory Hearings

While Oregon law requires that a summons for hearing must be issued within 60 days of filing a petition, ORS 419B.265, there is no set time for adjudicating the petition. Although former UTCR 11.030 required that petitions be adjudicated or dismissed within 56 days of issuance of summons, that rule was repealed in August, 1995. The Resource Guidelines recommend that the adjudicatory hearing should be held within 60 days of the filing of the petition.

If parties are aware that a dependency petition can be settled by stipulation, they must inform the court as soon as practicable. UTCR 11.040.

Court and CRB Reviews

Oregon and federal law require that review (either by the court or the Citizen Review Board) occur at least every six months after a child has been taken into protective custody. ORS 419B.443(1), 419A.106(1)(a). A hearing to approve a permanent plan must occur in court by the time a child has been in substitute care for 18 months. ORS 419B.470.

Termination of Parental Rights Hearings

There is no statutorily mandated time for filing a petition to terminate parental rights. The federal mandate for a permanent plan hearing at 18 months does suggest that if the state concludes that termination is the appropriate plan, steps to terminate should be taken by that time.

Once a termination petition is filed, however, it must be tried within six months of the issuance of summons unless good cause is shown. ORS 419B.521(3).

ASSESSMENT FINDINGS

Introduction

Where there are clear, statutory requirements as to when a hearing must be held, courts and CRBs meet them. Where resolution of a particular stage of a dependency proceeding is left up to participants, Oregon's system lags.

Data for timeliness is presented in conjunction with trial court administrators' (TCA) perception of when different stages of proceedings are held. It is clear that TCAs expect the hearings to occur within certain time frames. Unfortunately, there is much evidence that those expectations are not being met.

Preliminary Hearings

Timeliness of preliminary hearings shows the effect of a clear direction to hold a hearing within a certain time period. File review data, court observations, and interviews demonstrate that in the eight site counties, the statutory standard is being met in almost every case. There is no reason to believe this does not hold true statewide.

Adjudications

In contrast to the preliminary hearing stage, the law does not provide a deadline for adjudicating dependency petitions. The lack of timeline has the most dramatic effect here. Most dependency petitions filed in Oregon are never the subject of a contested proceeding. A significant number of cases are filed and dismissed before adjudication while another significant number are resolved by stipulation or admission. Whether the petition is resolved by stipulation, dismissal, or trial, Oregon does not meet the national standard of adjudication within sixty days of commencing a proceeding.

JCIP studied three issues that affect the timeliness of adjudication:

- (1) The frequency and timeliness of dismissals without adjudications
- (2) The frequency of admissions or stipulated jurisdictional findings
- (3) The timeliness of adjudications.

Each issue states its own case for a return to a more structured adjudication process.

Petitions Resolved through Dismissal Prior to Adjudications

Statewide, 33% of the petitions filed were dismissed before the adjudicatory stage of the proceedings. Individual counties' juvenile courts dismissed as many as 75% of their petitions without an adjudicatory hearing. The average length of time from filing to dismissal of an unadjudicated petition ranges from a low of one month in Linn County to a high of 6.4 months in Marion County.

Petitions Resolved through Stipulation

Of the adjudicated petitions, a significant portion are resolved by plea or stipulation, often following a formal or informal settlement process. Statewide, 55% of the adjudicated petitions were resolved through plea or stipulation. In Multnomah County where there is a formal settlement process, 77% of these cases were resolved by admission. Lincoln County resolved 100% of its adjudications by plea or stipulation.

Table 10.

RESOLUTION OF PETITIONS

Note: The figures shown for "Dismissal without adjudicatory hearings" are the percentage of the total number of case files reviewed in each county. The figures for "Dismissal w/o trial," "Trial," and "Jurisdiction by plea/stipulation" are the percentage of the total number of cases that went beyond preliminary hearings.

County \ Resolution	Dismissal w/o ADJUDICATORY HEARINGS*		Dismissal w/o TRIAL**		TRIAL**		Jurisdiction by PLEA or STIPULATION**	
Baker	38%	(n=3)	0		33%	(n=1)	0	
Douglas	0		17%	(n=1)	30%	(n=2)	30%	(n=2)
Jackson	23%	(n=7)	4%	(n=1)	4%	(n=1)	57%	(n=13)
Lincoln	75%	(n=12)	0		0		100%	(n=4)
Linn	18%	(n=2)	7%	(n=1)	14%	(n=2)	56%	(n=5)
Malheur	14%	(n=1)	0		30%	(n=2)	17%	(n=1)
Marion	32%	(n=21)	41%	(n=18)	5%	(n=2)	45%	(n=20)
Multnomah	14%	(n=11)	3%	(n=2)	6%	(n=4)	74%	(n=50)

Due to missing data, percentages do not always add up to 100%. *Percentage

of total number of case files: Baker=8, Douglas=7, Jackson=30, Lincoln=16, Linn=11, Malheur=7, Marion=65, Multnomah=79.

**Percentage of total number of case files that went beyond preliminary hearings: Baker=3, Douglas=6, Jackson=23, Lincoln=4, Linn=9, Malheur=6, Marion=44, Multnomah=68.

Timeliness of Adjudications

Whether a petition is resolved by trial or admission, the court is slow to take jurisdiction over dependent children. Juvenile department directors and trial court administrators in the eight site counties were asked how much time typically elapsed between the preliminary hearing and the adjudication (Table 11). All the estimates ranged from 30 to 60 days. File reviews yielded far different results (Table 12). The average length of time ranged from a low of 1.7 months in Douglas and Jackson Counties to a high of 8.2 months in Linn County.

Table 11. STAFF-ESTIMATED TIME BETWEEN STAGES OF DEPENDENCY PROCEEDINGS

County/ Respondent	Petition to Shelter Hrg.	Shelter Hrg. To Adjudication	Adjudication to Disposition	Disposition to First Review	Disposition to TPR Petition	TPR Petition to Trial
Douglas TCA	8 hrs.	1 mo.	1 mo.	3 mos.	Ms	20 mos.
Jackson TCA	24 hrs.	Mo.	ms	ms	Ms	ms
JD	24 hrs.	Mo.	immediate	18 mos.	24 mos.	2 mos.
Lincoln TCA	15 min.	56 days	14 days generally	3 mos.	Unknown	3 mos.
Linn TCA	same day	1 mo. 2	same day	6 mos.	unknown	unknown
Malheur TCA	36 hrs.	mos.	same day	45 days	24 mos.	6 mos.
JD						
Multnomah TCA	24 hrs.	42 days	same day	3 mos.	unknown	3 mos.
JD	6 hrs.	42 days	unknown	3 mos.	varies	unknown

TCA: Trial Court Administrator, JD: Juvenile Department Director. *No information was provided from Baker and Marion Counties.

LENGTH OF TIME

Table 12. BETWEEN STAGES OF DEPENDENCY PROCEEDINGS (Based on 223 Files Reviewed)

County	Petition to Shelter Hrg.	Shelter Hrg. To Adjudication	Adjudication to Disposition	Disposition to TPR Petition	TPR Petition to Trial	Trial to Order
Baker	MAN"y		1m		6 mos.	4 mos.
Douglas	xMW					
Jackson	24 hrs.	4.5 mos.	26 mos.	5 mos.	1 mos.	1
Lincoln	24 hrs.	1.7 mos.		4.5 mos.	mos.	0.5
Linn	24 hrs.	1.7 mos.	37.5 mos.			
Malheur	24 hrs.	3.5 mos.	30 mos.			
Marion	24 hrs.	3.5 mos.	30 mos.			
Multnomah	24 hrs.	8.2 mos.	12.75 mos.	4.3 mos.		2.25 mos.

Termination of Parental Rights Hearings

The road from initial removal of a child from the parents' home to termination can be lengthy. While a decision that adoption is to be the permanent plan should be made by the time a child has been in care for 18 months, it takes an average of 28 months from the time of filing the original dependency petition for a termination petition to be filed. Some counties reported an average of close to three years.

Once the petition is filed, courts took the full six months authorized by statute or longer for the case to come to hearing. Entry of the order may take over two months to occur (see Tables 11 and 12).

BARRIERS TO TIMELY HEARINGS AND RECOMMENDATIONS FOR IMPROVEMENT

There is uncertainty about the juvenile court's authority to proceed with jurisdictional hearings and enter orders in a parent's absence.

1. The law about the juvenile court's ability to proceed by default or in a parent's absence should be clarified.
2. All parents involved in juvenile court proceedings should be specifically advised of the consequences of failing to appear when summoned to court and when further proceedings are set.

No statute or court rule requires that adjudication or other steps within the dependency process occur within a specified period or that adequate and uniform documentation regarding the dismissal of petitions or stipulated agreements be kept.

1. Local rules for all stages of the dependency process should be developed to serve as models for other courts and for possible adoption as a Uniform Trial Court Rules. Among the subjects to be covered by such model rules are:
 - a. Policies requiring formal continuance or dismissal of dependency petitions where parties agree that families will be offered services without adjudication.
 - b. Policies requiring that service agreements accompany requests for dismissal or continuance when the requests are premised on voluntary compliance with services.
 - c. Policies requiring that orders dismissing cases before adjudication should reflect the specific reason for the dismissal rather than simply reciting that dismissal is "in the best interest of the child."
 - d. Policies requiring timelines for discovery, first appearance, and time for adjudication.
4. Mechanisms, including tickler systems, should be adopted to ensure that cases are heard in a timely fashion, including cases that have not been adjudicated.

Cases are dismissed without a statement of reasons.

Stipulated adjudication are entered without a statement of reasons.

1. Orders dismissing cases or adjudicating children should contain a statement of the reasons for the action and, if premised on an agreement between the parties, should incorporate the agreement.
2. A joint planning group should be convened to develop model settlement devises and procedures which could become part of the practice in each county. Among issues to be addressed are drafting petitions and stipulations that:
 - a) Are sufficient for jurisdictional purposes;
 - b) Permit the court and agency necessary latitude under ORS 419 - to design case plan; and
 - c) Acknowledge SCF's strength/needs based service planning.

Settlement procedure could become part of the juvenile Court Bench Book.

Dependency proceedings involving allegations of physical or sexual abuse are often delayed until the completion of companion criminal charges.

1. A cross-disciplinary group should be convened to develop protocols for handling juvenile and criminal cases involving the same family, including expediting the criminal cases, granting immunity, assigning the same DDA to both cases, and other mechanisms to ensure consideration for the child's safety and need for permanency.

Courts and SCF are often reluctant to move towards termination of parental rights when limited services are available for parents.

1. SCF and other agencies providing services to children and families should seek and the legislature should fund a core of services to be made available as appropriate for each child and family involved in abuse and neglect proceedings. Individualized services, where the core services are not appropriate or sufficient, should also be developed and funded.

Court procedures and statutory timelines allow too much time to pass between a decision to seek termination of parental rights and final disposition of a TPR petition.

1. Early pretrial conferences should be established in every termination of parental rights case.
2. The court and SCF should work together to establish and expand the availability of mediation and settlement conferences in termination of parental rights cases (and other dependency cases).
3. The Attorney General's office, working with the State Court Administrator, should standardize the procedure for drafting and circulating orders to decrease the amount of time spent between the termination decision and order.
4. ORS 419B.521(3) should be amended to require termination of parental rights (TPR) hearings to be held within four months after the petition is filed.

Chapter Six: QUALITY AND DEPTH OF HEARINGS

INTRODUCTION

Hearings that occur on time but lack meaningful inquiry into issues are not helpful. Similarly, hearings that participants do not fully understand do not assist a family in resolving the issues that bring it before juvenile court. Consequently, the quality of juvenile court dependency hearings is an extremely important measure of the effectiveness of juvenile court.

JCIP looked at various issues that involve quality and depth of hearings. To assess opportunities for participant understanding and involvement, JCIP looked at time allotted for hearings, how often the court advised participants of rights, how often the court explained proceedings to parties, and feedback from participants about their level of comprehension.

To assess court attention to specific dispositional issues, JCIP looked at discussion of placement, visitation, and SCF delivery of services in court hearings and CRB reviews. As more general indicators of quality and depth, JCIP looked at frequency of rehearings and at court involvement in stipulated resolutions of jurisdictional proceedings. Compliance with the federal child protection laws (the Indian Child Welfare Act and the Adoption Assistance and Child Welfare Act of 1980) is also relevant to this discussion and is discussed in Chapter Eight.

Oregon also has the benefit of the Citizen Review Board to provide oversight of delivery of services. This chapter includes a discussion of this review mechanism's effectiveness.

THE JUVENILE COURT'S AUTHORITY TO OVERSEE JUVENILE DEPENDENCY

PROCLWINGS

Judicial inquiry into case planning and service delivery is limited by the court's authority over SCF and other parties. In addition to the court's authority to assign custody to individuals or child caring agencies, the juvenile court can specify the type of care a child within its jurisdiction receives, the type of services to be provided to parents, and the

extent of visitation. ORS 419B.331, 419B.337. Actual case planning remains within SCF's discretion. ORS 419B.337.

National standards support the need for judicial authority to order, enforce, and review delivery of services and treatment for children and families. The court or CRB should, at every hearing, make meaningful inquiry about, and the parties should thoroughly address, SCF's efforts to prevent the child's removal from the home or to reunify the family. National Council of Juvenile Court Judges, Child Welfare League of America, Youth Law Center, National Center for Youth Law, Making Reasonable Efforts: Steps for Keeping Families Together; Resource Guidelines.

JUDICIAL INQUIRY INTO DISPOSITIONAL ISSUES

Is There Sufficient Time to Make a Meaningful Inquiry in Dependency Cases?

The most conscientious judicial officer in the most-well attended proceedings cannot make meaningful inquiry without sufficient time. The issue of sufficient docket time is addressed here.

Preliminary Hearings

The Resource Guidelines recommend that because of the complicated nature of the hearing and the stakes involved, 60 minutes should be allotted for each preliminary hearing.

Resource Guidelines p. 42. The issues to be discussed include:

- Child's placement - can child safely be placed at home or with relatives or family friends, or must the child be placed in foster care or other state placement?
- Visitation with parents and, where applicable, with siblings.
- Whether the state has made reasonable efforts to avoid placement or to facilitate return.
- Whether the Indian Child Welfare Act applies.
 - Notice and paternity issues - has everyone entitled to notice been notified; has the legal father of each child been identified and located?
- Whether any treatment or evaluations are needed immediately.
- Whether each person entitled to counsel is represented.

The Guidelines recognize that to conduct a complete and thorough preliminary hearing requires a substantial investment of time and resources but make the case that "[s]uch an investment results in better decisions for children and their families, and preserves the resources of the court and child welfare system." Resource Guidelines p. 32

Timing and length of preliminary hearings vary from county to county. In smaller counties where emergency removals occur infrequently, emergency hearings are scheduled on an ad hoc basis. In larger counties such as Marion and Multnomah, docket time is set aside daily to consider emergency removals. ,

Hearing length also varies. In three of the survey counties, the court routinely allots 15 minutes for preliminary hearings, while in another county, the time allotted is 20 minutes. In three counties, no set time is allotted. In counties where time is set on the docket each day for preliminary hearings, the time available becomes a function of the total day's docket.

Table 13. STANDARD TIMES FOR DEPENDENCY PROCEEDINGS

(In Minutes)

County/ Hearings	Baker	Douglas	Jackson	Lincoln	Linn	Multnomah	Marion	Multnomah
Shelter	20	1	NR	*	1	15	*	*
Adjudication	12	5	NR	*	*	45	*	*
Periodic Reviews				*	5		*	30-4
CRBs	3	30	30	*	3	3	*	30
Federal				*			*	

*No Set Time.

NR: No Response.

jurisdictional Hearings

The Resource Guidelines assume a largely uncontested adjudicatory proceeding and suggest that 30 minutes be allotted. Resource Guidelines p. 51. The following functions of the hearing are listed:

- Introduction of the parties
- Advisement of rights

- Explanation of the proceeding
- Discussion of adequacy of notice and service of process
- Testimony in support of the admission or stipulation from the caseworker, parent and possibly expert
- Service update/immediate plan including reasonable efforts finding, adjustment of the child to placement, family preservation services, and visitation
- Trouble shooting and negotiations between the parties
 - Issuance of orders and scheduling of next court date.

JCIP concluded that the Resource Guidelines are not generous enough in the time allotted (five minutes) for the combined discussion of reasonable efforts, child's adjustment to the placement, family preservation services, and visitation. In fact, it seems quite reasonable to use five minutes for each of these subjects. In contested cases, the amount of time necessary varies considerably and the court must rely on attorney and party estimates (see Table 13).

Four of the eight study counties do not set a standard amount of time for these proceedings. Douglas County sets 30 minutes for jurisdictional hearings. Malheur County sets 45 minutes. Baker County sets 2 hours.

Review Hearings

The Resource Guidelines suggest thirty minutes is sufficient time for each review hearing. Resource Guidelines p.74. The hearing should include introductions, time to deal with notice and service issues, case status, reasonable efforts findings, an opportunity for discussion among parties, and time to schedule the next hearing. Standard times for review hearings range from 5 minutes in Linn County to 45 minutes in Multnomah County. Lincoln and Marion County do not set standard times for reviews (see Table 13). **Advice of**

Rights and Explanation of Proceedings

The court should take an active role in advising parties of their right to counsel and ensuring that both parents and children present understand the nature of the proceedings. Resource Guidelines, p.40. Additionally, courts should conduct hearings so that parties leave courts believing that they were "treated fairly by a court that is concerned about their.

interests and that is striving to build a working relationship between the parties so that the need for court intervention can be ended as quickly as possible." Resource Guideline p. 32.

Oregon courts frequently fall short of this goal. In five of the eight study counties, a significant number of attorneys reported that families understood the court advice of rights only occasionally. In as many counties, the CASAs had similar concerns. Fortyseven percent of the parents interviewed said they didn't understand what was going on in the court proceedings involving their families.

Judicial Inquiry into Dispositional Issues

Given the court's broad authority to review SCF's delivery of services to families, the court is a key participant in the creation and review of service plans for families. Indeed, the federal mandate to make a "reasonable efforts" finding was intended to promote judicial scrutiny of agency efforts. Review of dependency proceedings shows that the orders documenting dispositional aspects of dependency proceedings lack detail and evidence of close judicial review of service delivery.

Findings regarding agency efforts to reunify families were made at 55% of hearings. However, 98% of those findings were limited to one to two words or checking a box on a preprinted form designed to provide minimal compliance with federal law. Attorneys, judges, and SCF workers reported that reasonable efforts findings (which require an inquiry into services provided by SCF) were rarely more detailed than a recitation of the statutory language.

Perhaps the most important issue in dependency hearings, the placement of the children, was addressed in only 66% of the hearings. Placement was most likely to be discussed at the preliminary hearing stage.

Level of Rehearings in Dependency Cases

Because decisions made at preliminary hearings are of great significance to the parent, child, and state, and because they are conducted on short notice, one would expect a substantial number of requests for modification of the preliminary hearing order or for a rehearing. Often new information becomes available within hours of the preliminary hearing.

Of the 223 files reviewed, requests for rehearing were found in only two, both in Multnomah County. Although the court held a significant number of second preliminary hearings, this was usually because a parent was not present at the first hearing, as opposed to a request for a rehearing.

Table 14. NUMBER OF CASES THAT HAVE REHEARINGS* (Based on File

Type of Rehearing/ County	Baker (n=8)	Douglas (n=7)	Jackson (n=30)	Lincoln (n=16)	Linn (n=11)	Malheur (n=7)	Marion (n=65)	Multnomah (n=79)
1	2	0	2	0			2	3
2	0	1	2	0				
3	0	0	0	0	2	0	27	12
Total #	2	1	4	0	0	0	0	2
Percentage	25%	14%	13%					

*Rehearings= 1: Additional prelim (parents not present/notified of first prelim)
 2: Additional prelim (request for removal or return of child Appeal of prelim.
 3: of prelim.

Judicial Inquiry in Stipulated Jurisdictional Hearings

Settlement is a necessary and positive part of the dependency system. Jurisdictional and dispositional issues are frequently resolved through stipulation or dismissal. If most dependency petitions filed resulted in contested hearings, the court workload would be unmanageable. More importantly, it would call into question the charging practices of the state or the judgment of defense bar, or both. However, when the court accepts stipulated agreements, it does not give up its authority or obligation to provide oversight for delivery of services. Given the large percentage of cases resolved through stipulation or dismissal, it is essential that the court review the party's reasoning with great care. Resource, Guidelines p.47.

In cases where the petition is dismissed, court oversight is particularly important. Because the families involved with the state's juvenile courts are often very mobile, a record of each court's action is critical. In some instances, a petition will be dismissed on the condition that a family "voluntarily" participate in services. For the family that remains in a small community, the judge's or SCF worker's memory that a previous attempt at a

.service agreement failed will help guide the decisions in a subsequent case. On the other hand, where a family moves from county to county, petitions may be filed and dismissed repeatedly because each is believed to be the first. From the parents' point of view, to show that a petition was dismissed because the state lacked evidence or believed dismissal to be in the child's best interest, it is important for the record.

Almost universally, the participants fail to document the reason for stipulated dismissals. Requests by the state or county juvenile departments for a voluntary dismissal seldom say more than that it is in the child's "best interest." It was not possible to determine from the files JCIP reviewed whether the state had made an error in filing the petition in the first instance, whether the child and family were thriving as a result of services provided in a less intrusive manner, or whether child and family had simply left Oregon. The limited detail, along with the substantial period of time between filing and stipulated dismissal, leads to the conclusion that many instances of state intrusion into family life occur without court oversight.

The court and participants need a clear record of the case planning in adjudicated dependency cases. In cases where parties stipulated to jurisdiction, the case record is equally sparse. Orders rarely discussed ~~specific services or incorporated service agreements signed~~ by SCF and the families.

It is entirely appropriate that some portion of dependency cases be disposed of by dismissal before adjudication and another group by stipulation or admission. The court seriously undermines the quality of oversight by not requiring clear documentation of service plans and reasons for stipulation and dismissal.

C iTIZEN REVIEW BOARDS

The CRB has, by statute, many of the same obligations as the court in reviewing of juvenile court proceedings. While national standards for citizen foster care review are still developing, it is reasonable to assume that this state-sponsored review should meet many of the same standards the courts do.

Oregon's Citizen Review Board (CRB) has gone to great lengths to ensure a standardized review process for each child before it. The Board has a centralized

administration that provides training and supervision for its citizen members. The CRB invites a broader range of participants to its reviews than are legally required to notice of court proceedings. Consequently, foster parents and treatment providers are more likely to have input in the CRB. In many instances, the CRB provides one of the few, cogent histories of a juvenile court proceeding in the legal file.

Assessment Findings

Timeliness

According to CRB members, CRB reviews are rarely postponed or canceled and rarely begin late (except in Baker and Multnomah Counties, where they occasionally do so).

In half the study counties, the CRB "usually" has enough time during the review to deal with the case issues. The counties in which CRB members felt they only "often" had

enough time were Douglas, Jackson, Lincoln, and Multnomah.

Table 15. TIMELINESS OF CRB REVIEWS
[Information Based on the CRB Members' Response (Average)]
(1:Rarely, 2:Occasionally, 3:Often, 4:Usually) **Average Length of Time the CRB Reviews Usually Last in Minutes**

			...				
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Frequency of Postponement or Cancellation of the CRB Review Hearings:

of Late Start of the Review Hearings

Baker	Douglas	Jackson	Lincoln	Linn	Malheur	Marion	Mult.
2	1	1	1	1	1	1	2

Whether There is Enough Time During the Review to Deal with Case Issues:

Baker	Douglas	Jackson	Lincoln	Linn	Malheur	Marion	Mult.
4	3	3	3	4	4	4	3

Duplication Between Court and CRB Reviews

An ongoing concern for the court and CRB is coordination of reviews. Existing court review schedules frequently track the CRBs. Consequently, participants may find themselves in court or at a review within days of each other or occasionally on the same day. One reason reported why counsel do not attend CRB reviews is that they perceive the reviews to be duplicative.

The CRB developed a protocol with SCF to cancel a CRB review when it was duplicative of a court hearing. Court cancellation of a CRB review scheduled to take place shortly after the court review occurs most frequently in Multnomah County, followed by Douglas, Lincoln, and Malheur Counties.

Table 15. DUPLICATION OF COURT AND CRB
*(1:Rarely, 2:Occasionally, 3:Often, 4:Usually, *.Missing data)*

During a Court Review, the SCF Worker Requests that an Upcoming CRB Review be Canceled.

Respondents County	Baker	Dougla	Jackson	Lincoln	Linn	Malheur	Marion	Mult.
Attorneys	1	2	1	1	2		2	3
SCF Workers	1	2	2	2	2	2	2	3

The Court Cancels the Upcoming CRB Review as Requested by the SCF Worker.

Respondents County	Baker	Dougla	Jackson	Lincoln	Linn	Malheur	Marion	Mult.
Attorneys	1	2	1	2	2	2	2	4

CRB Reviews Occur within the Two Months Following a **Court Review**.

Respondents County	Baker	Dougla	Jackson	Lincoln	Linn	Malheur	Marion	Mult.
Attorneys	2	2		2	2		2	2

"It is Obvious that the CRB Reviewed the Case File Report Prior to the Review."

Respondents/ County	Baker	Dougla	Jackson	Lincoln	Linn	Malheur	Marion	Mult.
Attorneys	4	4	2	2	1		4	4
SCF Workers	4	3	3	4	3	4	4	3

CRB MEMBERS' RESPONSE,(Average):

The Court Hearings and CRB Reviews on the Same Case are Held More Than 60 Days Apart.

The Court Orders a CRB Review Canceled if the Permanent Planning Hearing was Held within 60 Days Preceding the Re-arranged Scheduled CRB.

With the exception of Malheur, Jackson, and Marion Counties, the court usually orders the CRB review canceled if the permanent planning hearing (federal or 18-month review) was held within 60 days before the scheduled CRB.

According to judges, they only occasionally set the case for court review after receiving the CRB report.

Quality of Hearing

The CRB conducts reviews based on input from parties and other interested people as well as dispositional information provided by SCF. In Baker, Douglas, Marion, and

Multnomah Counties, attorneys reported that the CRB had reviewed the case file or report before the review.

A comparison of the Court and CRB review process in the eight study counties revealed no substantial and consistent differences across county and respondent. The areas reviewed were:

- "A top priority of the Court/CRB is to resolve the case quickly."
- "At each hearing the purpose is carefully explained."
- "Parents understand what the Court/CRB tells them."
- "The Court/CRB recommendations are followed."
- "The Court/CRB puts time frames on the orders or recommendations."
- "A permanent plan has been made by the 18-month hearing."
- "Postponement of hearings caused significant delays in my cases."
- "It is obvious that the Court/CRB reviewed the file/read my report prior to the hearing."

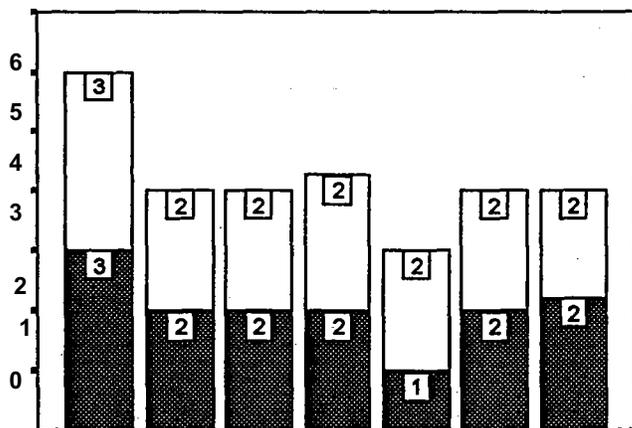
Chart 2.

**COURT AND CRB REVIEW PROCESS
HOW OFTEN DO THE FOLLOWING OCCUR
IN ATTORNEYS, SCF WORKERS', AND CASAS' OPINIONS?
(Note: The graphs below indicate the AVERAGE response for each county.)**

(4: Usually, 3: Often, 2: Occasionally, 1: Rarely)

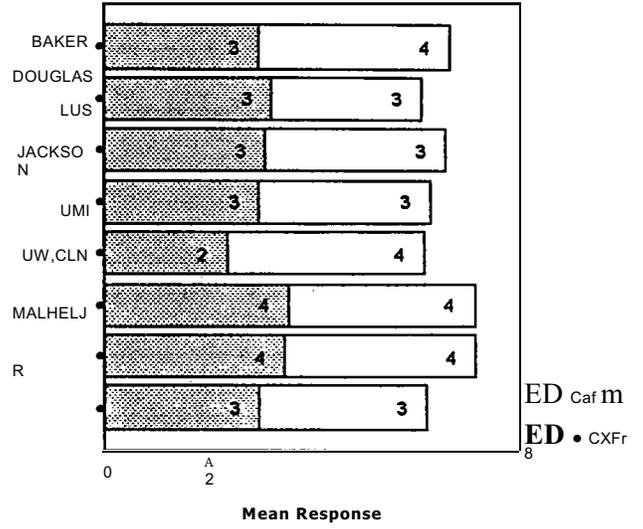
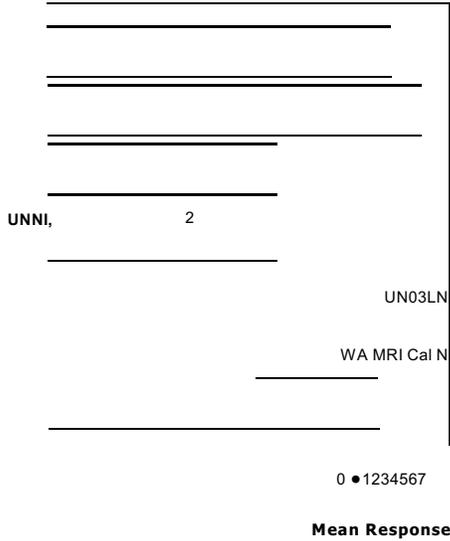
M COURT = CRB

A Top Priority of the CouWCRB Is to Resolve the Case Quickly.

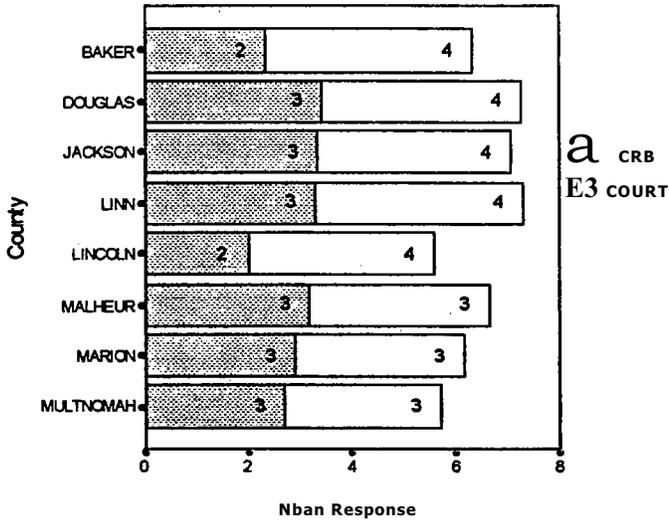


Baker Jackson Lincoln Multnomah

At Each Hearing, the Purpose of the Hearing is Carefully Explained.



SCF WORKERS

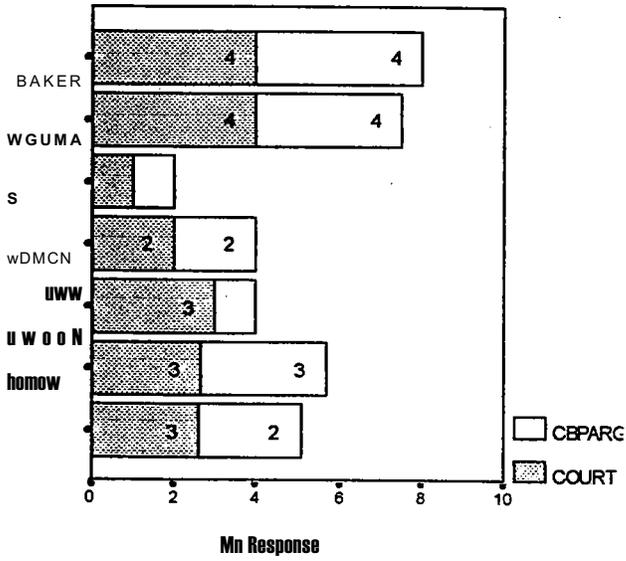


CASAS

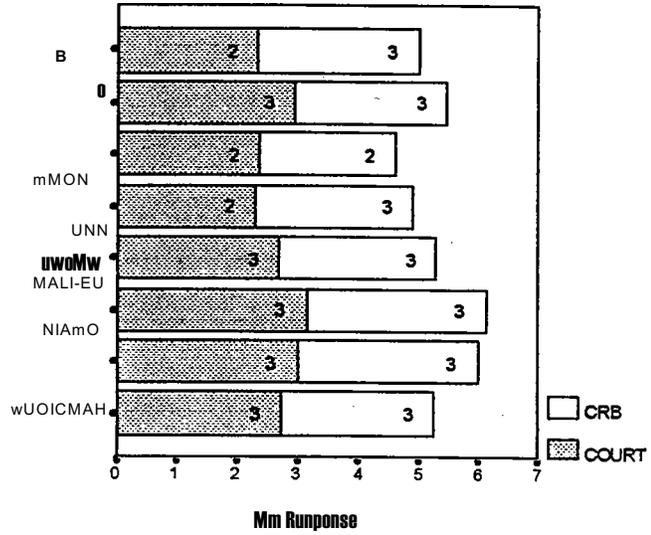
a CRB
E3 COURT

ED Caf m
ED • CXFr

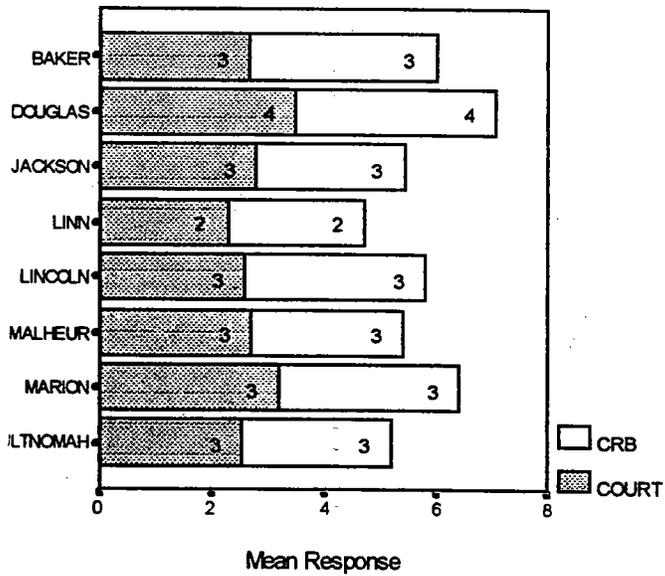
Parents Understand What the Court/CRB Tells Them.



ATTORNEYS

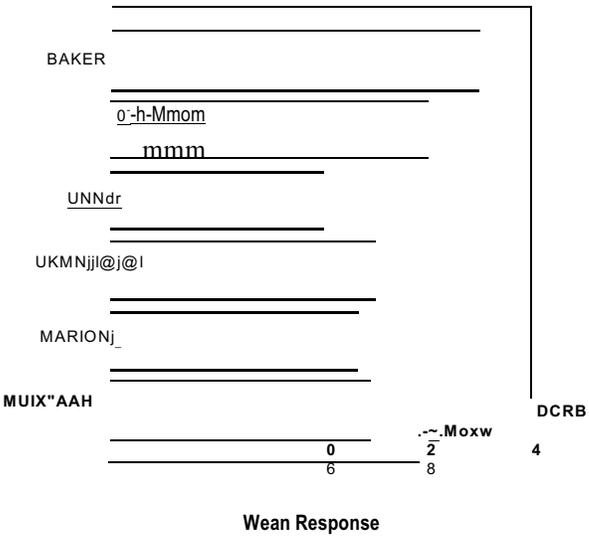


SCF WORKERS

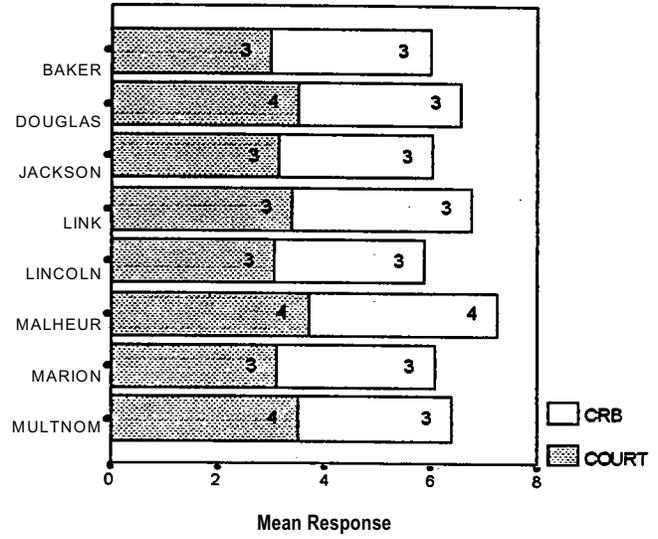


CASAS

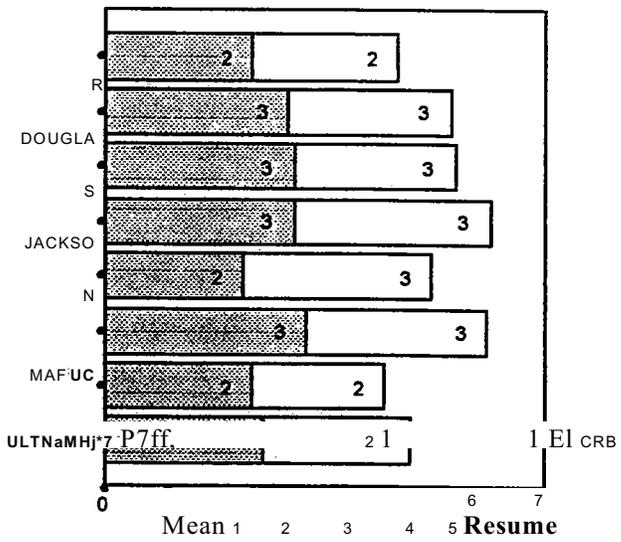
The Court/CRB Recommendations are Followed.



ATTORNEYS

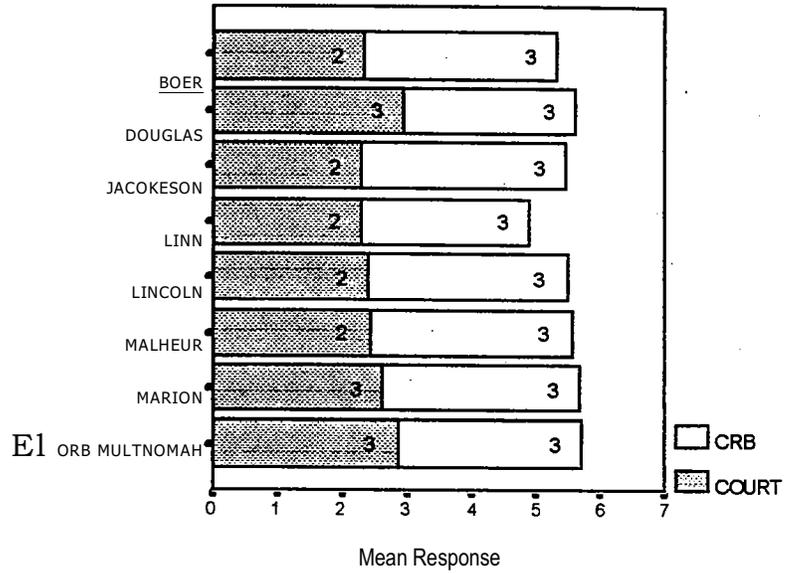
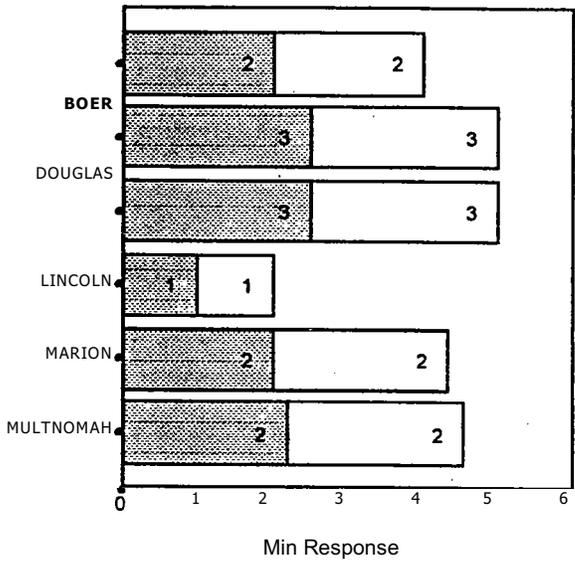


SCF WORKERS



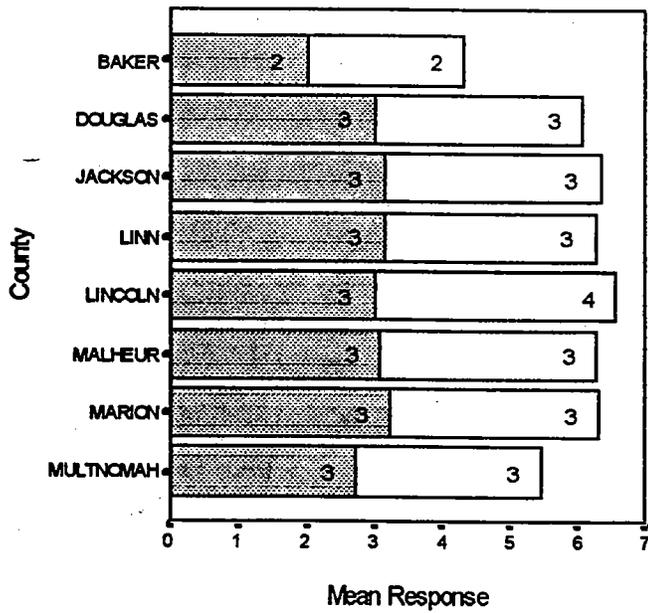
CASAS

The Court/CRB Puts Timeframes on the Court Orders/Recommendations

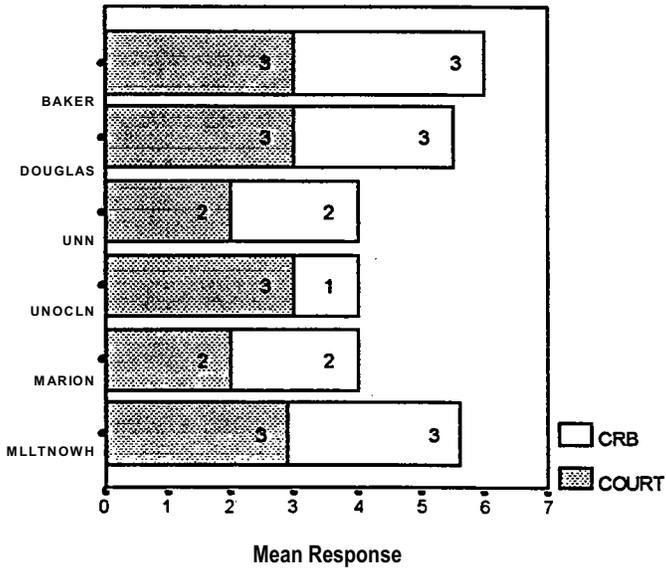


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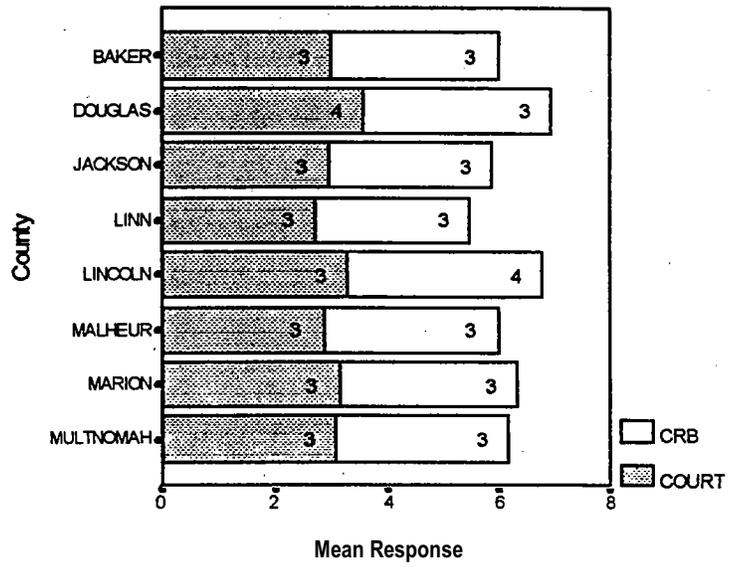
SCF WORKERS



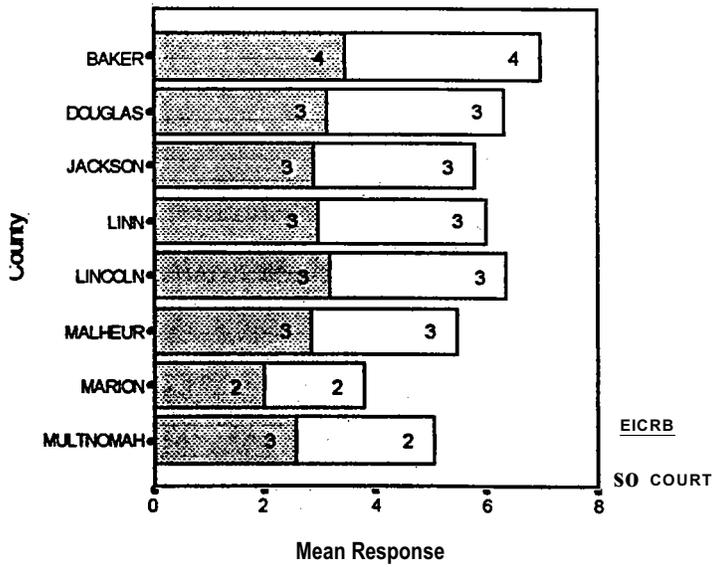
CASAS



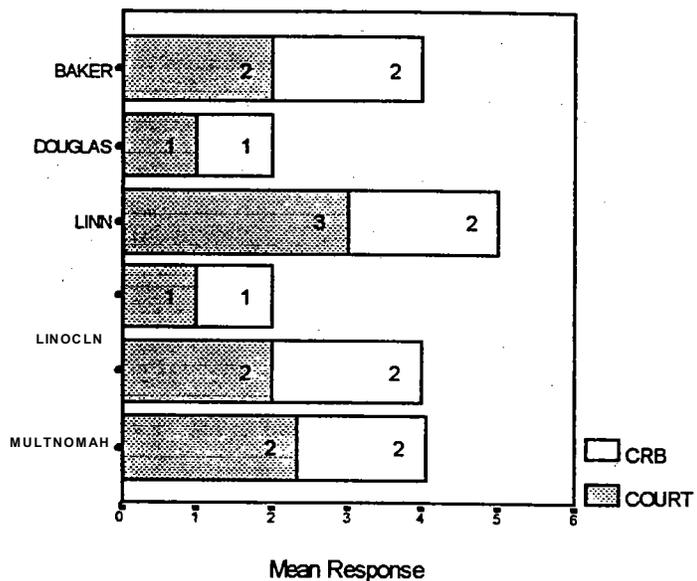
ATTORNEYS



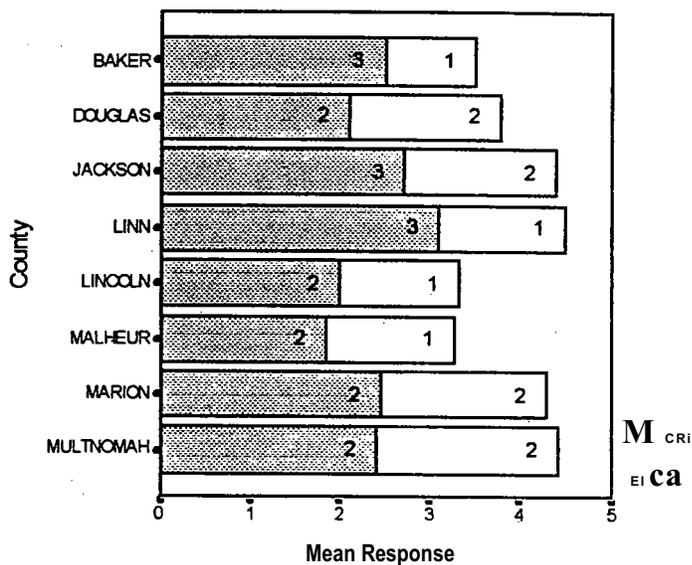
SCF WORKERS



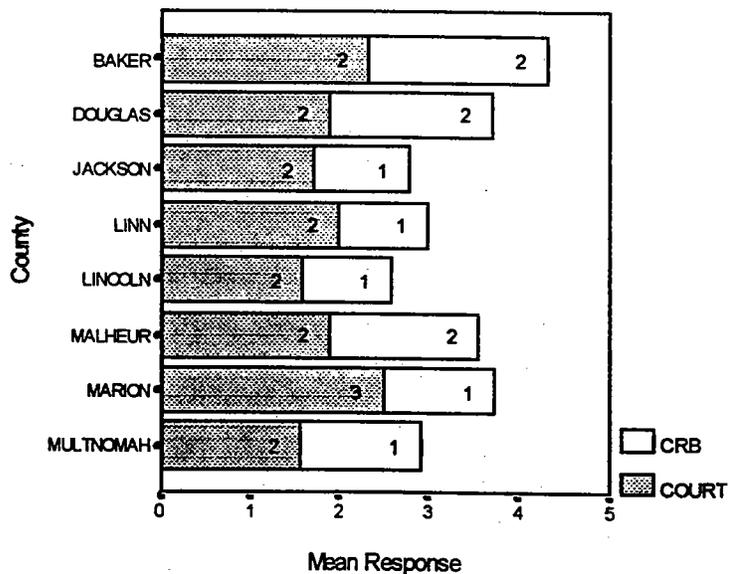
CASAS



ATTORNEYS

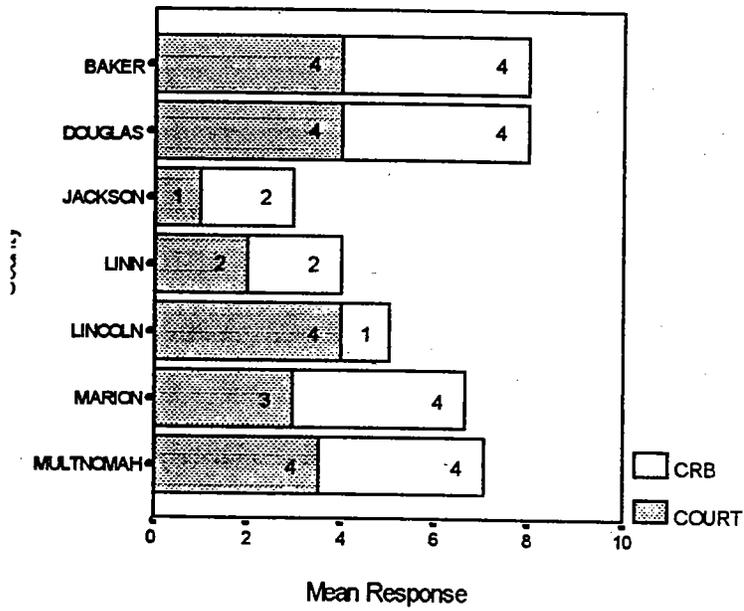


SCF WORKERS

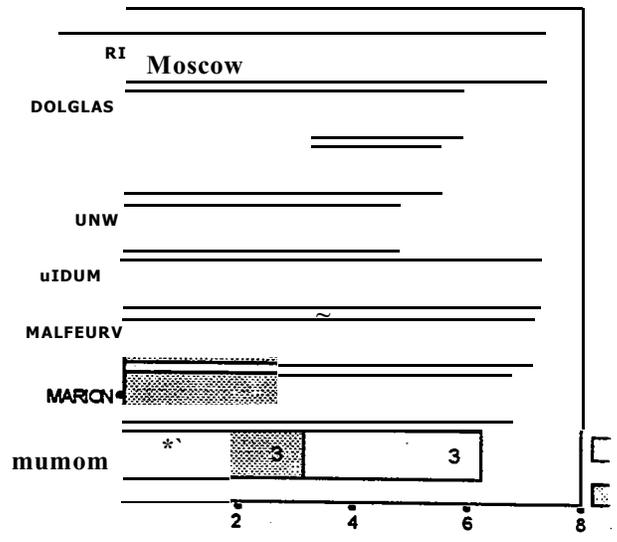


CASAS

It is Obvious that the Court/CRB Reviewed the File/Read My Repo Prior to the Hearine. 70

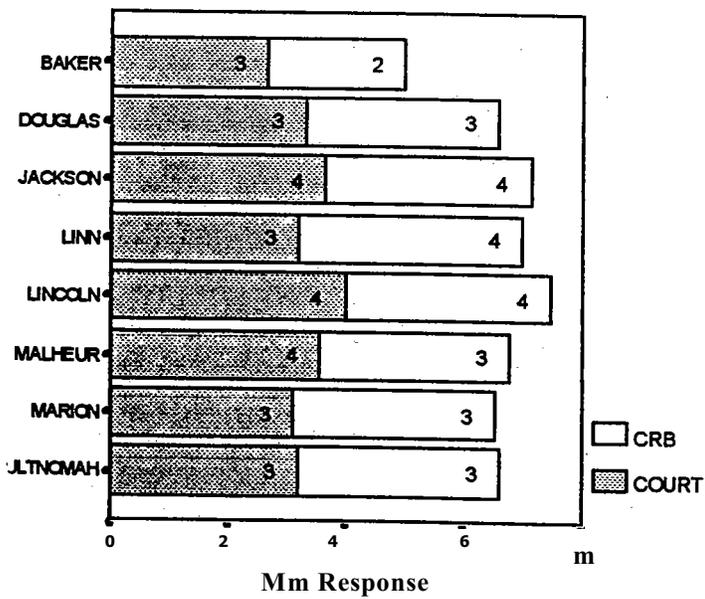


ATTORNEYS



Mm Response

SCF WORKERS



Mm Response

CASA

Eighty-eight percent of the judges surveyed thought the CRB report and recommendations were "somewhat" to "very useful" in helping them make good and timely decisions. **Table 17.**

USEFULNESS OF CRB

JUDGES' REPORT (Average of 24 judges/referees)
(1:Rarely, 2:Occasionally, 3:Often, 4:Usually, ':Missing data) "Generally

**speaking, how useful are CRB reports/recommendations in helping you
 make good and timely decisions in dependency cases?**

1: Very Useful	10	42%
2: Somewhat Useful	11	46%
3: Not at All Useful		
Missing Response	1	4%
Total = 24		
Average Response = 2		

In all but one county, attorneys believed the issue of parental visitation was more or equally likely to be raised in court than at the CRB. SCF workers thought the opposite.

Table 18"k. ISSUES RAISED AND FOUND AT COURT HEARINGS AND CRB REVIEWS

*(1: Rarely, 2:Occasionally, 3:Often, 4:Usually, *Missing data)*

Parent/Child Visitation

**Raised:
Attorneys' Response (Average**

					wild			
COURT	3	3	4	3	3	4	4	4
bur workKers'		k'	icespon	erage)				
		Mimi	se	.....			
						
						
						
						
						
udges' Response (Averag								

#No Jackson County data available.

**Found:
Attorneys' Response (Ave age**

COURT	3	.....	3	1	3	3	2	3
							
		3						
bur workKers' response			erage)			.....	
							
COURT	Baker							
	3	2	2	2	2	2	3	3
udges' Response (Average								
				
				

#No Jackson County data available.

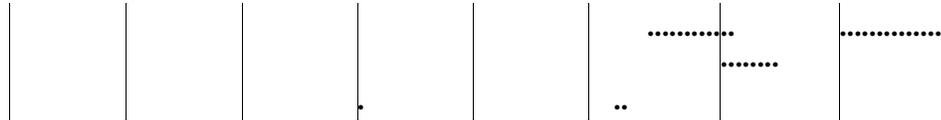
Generally, sibling visitation was raised less often than parental visitation in each of the eight counties at both court and CRB.

Sibling Visitation

Table 18-B.

*(1: Rarely, 2:Occasionally, 3:Often, 4:Usually, *Missing data)*

Found:



SCF Workers' Response (Average

COURT	1	2	2	2	1	2	2	2
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Judges' Response (Average

--	--	--	--	--	--	--	--	--

#No Jackson County data available.

**Table 18-C.
 Whether a Case Plan Designed to Deal with the Problems that Brought the Family to the Court's Attention
 Has Been Completed by SC**

(1: Rarely, 2:Occasionally, 3:Often, 4:Usually, *Missing data)

Raised:

omevs'Resino e (Average

						...eux	.....	.....
COURT	3	3	3	3	3	3	2	3
SCF worxers		iesponse tpL	erage)					

Response (Averag

						
--	--	-------	--	--	--	--	--

#No Jackson County data available.

Found.,

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bt:r worxers		icesponse t	erage)
El						

If

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#No Jackson County data available.

The following issues are raised often or usually in both court and CRB hearings:

- What services have been provided to the family in the past;
- What services should be provided to the family in the future;
- The appropriateness of the services; and
 - Whether out-of-home placement is necessary.

The following issues were raised less frequently:

- The caseworkers' diligence in following through to make sure the services were provided; and
 - A date for the permanent plan for the child to be accomplished.

Table 19. ISSUES RAISED AT COURT HEARINGS AND CRB REVIEWS
(1:Rarely, 2:Occasionally, 3:Often, 4:Usually)

What Services Have Been Provided to the Family in the Past:

Attorneys' Responses

COURT		3	3	3	3			4
CRB	4	4		2			3	3

SCF Workers' Responses

COURT	4	4	3	3	3	4	3	4
--------------	---	---	---	---	---	---	---	---

Judges' Responses

??			:
----	--	--	-------	---

*No data available in Jackson County.

What Services Should be Provided to the Family in the Future:

COURT	4	4	3	3	3	4	3	4
CRB		4	*	3	3	*	3	4

SCF Workers' Responses

COURT		4	3		3	3	3	4
--------------	--	---	---	--	---	---	---	---

Table 19. - Continued

The Appropriateness of the Services:

Attorneys' Response Average

..... :			c s	c				
COURT		3	3			4	3	3

*Missing data.

SCF Workers' Response Average

						Marion		
COURT			3			3		
CRB	4	3	3		4	3	3	3

Judges' Response Average

COURT								
-------	--	--	--	--	--	--	--	--

*No data available in Jackson County.

The Caseworker's Diligence in Following Through to Make Sure that the Services were Provided:

Attorneys' Response Average

COURT	4		2	3			2	
-------	---	--	---	---	--	--	---	--

*Missing data.

	Baker	Douglas	Jackson	Lincoln	Linn	Malheur	Marion	Multi-nomah
COURT	4	3	2	2	3	3	3	3
CRB	4	3	3	3	3	3	3	3

Judges' Response Average

					
					;	

*No data available in Jackson County.

Table 19. - Continued

Whether Out-of-Home Placement is Necessary:

Attorneys' Response Average

COURT								
41 B		3			1	*	3	3

*Missing data.

(ge)

	Baker	Douglas	Jackson	Lincoln	Linn	Malheur	Marion	Multi-nomah
COURT	4	3	3	3	3	3	3	3
CRB	4	3	3	3	3	3	3	3

Judges' Response Average

		a	e.		eve:	an	.	
--	--	---	----	--	------	----	---	--

*No data available in Jackson County.

A Date for the Permanent Plan for the Child to be Accomplished:

COURT			Jackson	nc				.....
41 B	2		3		2	*		

SCF Workers' Response Average

	Baker	Douglas	Jackson	Lincoln	Linn	Malheur	Marion	Multi-nomah
COURT	3	3	2	3	2	3	2	3
CRB	4	4	3	4	4	3	4	4

Judges' Response Average

COURT	.....	.....	.....	.....	.....	.....	.....	.....
41 B	.....	.....	.....	.....	.....	.....	.....	.....

*No data available in Jackson County.

BARRIERS TO COMPLETE AND THOROUGH HEARINGS AND RECOMMENDATIONS FOR IMPROVEMENT

Families report and professionals confirm that many families involved in juvenile court dependency cases do not understand their rights and obligations.

1. A variety of methods for informing families about the SCF and juvenile court process should be developed. These might include a 1-800 telephone line,, and an advice of . rights brochure distributed to parents and guardians by SCF and law enforcement whenever a child is taken into custody. Each of these methods should be tailored to local circumstances and contain information about right to counsel, ICWA, reasonable efforts, and about court times, agency phone numbers, etc.

There is limited docket time available to consider the many critical issues that should be addressed at every preliminary hearing.

1. Court resources should be increased to accommodate preliminary hearings in which all critical issues are thoroughly addressed. The issues include: the child's placement (can child safely be placed at home, with relatives, or with someone else known to the child, or must the child be placed in foster care or other state placement); visitation with parents and, where applicable, with siblings; whether the state has made reasonable efforts to avoid placement or to facilitate return; does or might the Indian Child Welfare Act apply; has everyone entitled to notice been notified and specifically, who is the legal father of each child; whether any treatment or evaluations are needed immediately; and, is each person represented who is entitled to counsel.
2. Model preliminary hearing orders should be developed to prompt judicial inquiry into the issues described above.

Because preliminary hearings occur soon after the court and agency become aware of a child's condition, there is often new and significant information available as soon as a day or two after the preliminary hearing.

1. There should be increased use of the rehearing or motion process to bring current information to the courts' attention after the preliminary hearing.
2. Settlement proceedings should be scheduled at the shelter hearing in virtually every case.

In some counties the division of responsibilities between court and CRB is unclear and attorneys cited the duplication of court and CRB reviews as a reason some do not attend the CRB reviews.

1. Court and CRB in each county should continue a dialogue about the frequency of review and the division of responsibility for reviews and should develop and implement written protocols or memoranda of understanding. Attorneys should be trained on these protocols.

While SCF reports that CRB reviews are timely and thorough, there remains within SCF substantial dissatisfaction with the CRB process.

1. SCF workers, CRB coordinators, and volunteers should participate in joint training and other activities to increase cooperation and understanding of their respective roles and responsibilities.

Courts do not always find CRB findings and recommendations to be useful in identifying special circumstances in a case.

1. There should be expanded use of the portion of the CRB Findings and Recommendations that informs the court of special circumstances or requests particular action.
2. CRB should increase the use of the information it collects to effect systems change at a policy/legislative level.

Consistent, cross-disciplinary training on juvenile court issues is lacking.

1. Training should be provided to all participants in juvenile dependency matters and should be adapted to the needs of each group. Opportunities for interdisciplinary training within counties should also be provided. The potential topics include:
 - Substance abuse and resources for substance abusing families
 - Cultural and ethnic differences as they relate to childrearing
 - Government benefits available in dependency cases
 - Independent living programs
 - Emancipation laws and programs
 - Family preservation services
 - Resources for the diagnosis and treatment of sexual abuse, physical abuse, and emotional abuse
 - Patterns of child growth as related to neglect
 - Resources for the treatment and recognition of non-organic failure to thrive
 - Educational, mental health, and other resources for special needs children
 - The use and appropriateness of psychotropic drugs for children
 - Domestic violence, its effect on children, and appropriate resources
 - Immigration law issues in juvenile court
 - Transitional aspects of placement and the child's return home
 - The importance of placing siblings together when appropriate
 - The appropriateness of various types of placement
 - The effects of the placement on visitation by parents, siblings, and other relatives
 - The effect of the placement on the service needs of the child
 - Accessing private insurance for services
 - A consolidated cases in the family court
 - The Indian Child Welfare Act, Native American families, and appropriate resources
 - The Uniform Child Custody Jurisdiction Act (UCCJA)

- The Parental Kidnapping Protection Act
 - The Interstate Compact for the Placement of Children; the Interstate Compact on juveniles
 - Guardianships
 - Adoption placement preferences
 - The identification, location, and notification of necessary parties (especially fathers and Tribes) to juvenile dependency proceedings
 - Extraordinary expenses and division of responsibility and funding between SCF and Indigent Defense Service Account for evaluation and treatment,
2. Training should be developed for para-professionals assisting attorneys in dependency cases.
 3. In-depth training for judges and attorneys on issues specific to abuse and neglect cases should be provided throughout the state.
 4. Practical training opportunities should be developed for lawyers and judges including bench exchanges and mentoring.

Chapter Seven: COMPLIANCE WITH FEDERAL CHILD WELFARE LAW

INTRODUCTION

Two important pieces of federal legislation help guide juvenile court practice. JCIP reviewed files and surveyed participants about compliance with the reasonable efforts requirement of the Adoption Assistance and Child Welfare Act of 1980, 42 USC 622 *et seq.*, and various provisions of the Indian Child Welfare Act, 25 USC 1901 *et seq.*

TO WHAT EXTENT DOES THE COURT MEET THE REQUIREMENTS OF THE ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF 1980 ?

Introduction

Originally required by P.L. 96-272, the reasonable efforts finding has been incorporated into state law. ORS 419B.340. Both the court and CRB are charged with inquiring about and making findings about SCF's efforts to prevent the removal of a child from his or her home and to promote reunification.

The Standard

A protocol for implementation of the reasonable efforts requirement for attorneys, judges, and child welfare agency administrators was jointly developed 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. Each of these groups brought to the project expertise in law or social work and the unique perspective of its constituents. The protocol contains the following Guidelines for the conduct of hearings related to the reasonable efforts requirement:

Access to Records

Permit all parties to review the child-welfare agency's records to ensure a full and fair hearing on the merits.

Enforcement of Agency's Obligation

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.

Admission of Testimony

Permit any party to present testimony to demonstrate that reasonable efforts have or have not been made.

Continuances

When appropriate and necessary, grant limited continuances, not to exceed two court days, to permit attorneys for the parent or child to obtain evidence on reasonable efforts. The court must be aware, however, that continuances may result in undue delays that are detrimental to the child. Continuances can be avoided by providing attorneys with reports in advance of the hearing and appointing attorneys sufficiently in advance of the hearing to permit a full investigation.

Return of Child to Parents

If the child can return home safely, with or without supportive services being provided to the family, order that the child be returned home. If the child cannot return home but could have been maintained in the home if services had been provided earlier, state in the court order that reasonable efforts were not made.

Family Maintenance Services

If the child is ordered home, order provision of services to keep the child in the home safely.

Hearings on Reunification Plan

If the court finds that reasonable efforts to keep the child in the home have failed and that continued detention is necessary, the court should permit a full hearing on the reunification plan and order necessary reunification services as law permits.

Holding the Agency Accountable

If the court finds that reasonable efforts have not been made to keep the child in the home, the court should hold the agency accountable for its performance. The court can do this by, for example, subpoenaing agency witnesses to testify about the reasons for the agency's failure to make reasonable efforts, ordering the agency not to seek reimbursement for the cost of the child's care, ordering the agency to develop specific services where necessary, issuing orders to show cause or contempt orders, or submitting reports on noncompliance to state or federal agencies.

National Council of Juvenile and Family Court Judges, Child

Welfare League of America, Youth Law Center, National Center for

Youth Law: Making Reasonable Efforts - Steps for Keeping

Families Together, p. 44.

According to the protocol, reasonable-efforts determinations should be made "at the earliest point of court involvement and at each subsequent hearing before the court." Id. at p.44. Reasonable efforts findings are important at the first hearing not only because they are required by federal law but because "review of agency efforts helps the court to decide whether the child can safely be returned home. By taking a careful look at the

agency's prior efforts to help the family, the court can better evaluate both the danger to the child and the ability of the family to respond to help." Resource Guidelines p. 38.

ASSESSMENT FINDINGS

Oregon courts do not fully utilize their authority to review service delivery under state or federal law. Nor do the courts or counsel hold SCF to reporting standards on reasonable efforts.

According to judges, attorneys, and SCF workers, only rarely or occasionally are reasonable efforts findings more detailed than a recitation of the statutory language or the checking of a box on a preprinted form. Review of randomly selected files reveals that in 81% of cases (70% of those that went to termination of parental rights) the reasonable efforts finding was no more detailed than checking a box on a preprinted form. The findings were quite detailed (more than two sentences) in only 5% of the cases. In 24% of the cases that eventually resulted in a termination petition, reasonable efforts discussions somewhere in the file were quite detailed - at least two sentences and sometimes very thorough.

LEVEL OF DETAIL IN REASONABLE EFFORTS FINDINGS

Table 20.

*(1:Rarely, 2:Occasionally, 3:Often, 4:Usually, *Missing data)*

Average Frequency of Reasonable Efforts Findings Being More Detailed than Checking a Box on a Pre rin

Attorneys								
SCF Workers			2			2	2	3
JUDGES (Average of 24 judges/referees statewide):			2					

Table 20. - **Continued**

Level of Detail of the Court's Findings Regarding SCF's Efforts to Prevent the Need for the Child's Placement or to Reunify the Family (Based on the information found through

file reviews

	Frequency	Percentage
1: just Pre-Printed Form Checked	108	81%
2: Little (1-2 words)	14	11%
3: Some-(>2 phrases)	8	6%
4: Many Details (>2 sentences)	7	5%
5: Very Detailed (Thorough Discussion)	1	.8%
	TOTAL= 133 files	
	AVERAGE= 1.5	

Of the above files, those that went through TPR (n=37) were examined:

1: Just Pre-Printed Form Checked	26	
2: Little (1-2 words)	0	0
3: Some (>2 phrases)	2	5%
4: Many Details (>2 sentences)	6	16%
5: Very Detailed (Thorough Discussion)	3	8%
	TOTAL= 37 files	
	AVERAGE= 2.0	

Participants do not rigorously challenge SCF's service plans. During the observed court and CRB proceedings, no discussion of reasonable efforts exceeded five minutes.

According to experienced CASAs surveyed, requests for "no reasonable efforts" findings were rarely made by either attorneys or CASAs. The issue was raised with equal frequency (or infrequency) at CRB reviews and court hearings.

Table 21. REASONABLE EFFORTS RAISED IN COURT AND CRB CASAS' REPORT (Average Response) (1:Rarely, 2:Occasionally, 3:Often, 4:Usually)

Whether SCF Has Made Reasonable Efforts to Prevent the Child's Removal from the Famil .

COURT	4	3	3	2	3	3	2	3
CRB	4	3	3	3	3	3	2	3

Whether SCF Has Made Reasonable Efforts to Make it Possible for the Child to Return Home.

COURT	4	3	4	3	3	4	3	3
CRB	4	3	4	3	3	4	3	3

SCF used reports or affidavits to document reasonable efforts in four of the counties studied - Lincoln, Linn, Malheur, and Multnomah.

Table 22.	Frequency of Court's and Other Documents	REASONABLE EFFORTS Consideration	Addressing of the Use of Reasonable	Reports, Affidavit, Efforts
Information Gathered	thru	File Reviews:		
Baker		3	4	
Douglas		3	3	
Jackson		15	11	
Lincoln	7			
Linn	2	7	2	
Malheur	1	5		
Marion		24	42	
Multnomah	24	29	12	

*99: Unable to Determine, 98: Not Applicable.

TO WHAT EXTENT DOES THE COURT MEET THE REQUIREMENTS OF THE INDIAN CHILD WELFARE ACT?

Introduction

Protections for Native American children and tribes are incorporated in state law as well as the federal Indian Child Welfare Act. This series of procedural protections was enacted in order to prevent unnecessary removal of Native American children from family or tribal homes. This section discusses ICWA requirements, along with survey results regarding compliance.

SCF has dedicated much effort to ICWA compliance. The agency has an extensive set of administrative rules and procedures to increase compliance and employs a specialized ICWA unit in Multnomah County. Statewide, SCF has a full time employee to assist with ICWA compliance and act as liaison to the tribes. In addition, Oregon is the home to a host of experts in the Act, including The Native American Program of Oregon Legal Services (NAPOLS), which has extensive involvement with ICWA both through tribal representation and representation of individual parents and children in juvenile courts throughout the state.

In order to determine compliance with ICWA, JCIP surveyed Native American tribal representatives along with other juvenile court participants. The following tribes responded to JCIP requests for information: Umpqua, Grand Ronde, Siletz, Klamath, Warm Springs, and Paiute.

Identification of Native American Children

The Indian Child Welfare Act applies to children eligible for membership in Native American tribes or Alaskan villages. 25 USC 1903(4). There are three separate steps to determining whether the act applies - inquiry as to Native American heritage, identification of membership requirements, and confirmation that the particular child is eligible for membership. Neither of the latter steps can occur without asking the threshold question regarding potential Native American heritage.

Does the juvenile Court Inquire about Native American Heritage?

Because of the additional legal requirements for ICWA proceedings, the court should ask about Native American heritage as early as possible in a dependency cases, including at the preliminary hearing. In four counties surveyed, participants believed that the court only occasionally or rarely inquired about Native American heritage the first time a family appeared in juvenile court. Other counties reported a higher level of inquiry. File review and court observations indicate that there is no consideration of ICWA applicability at most preliminary hearings (Table 23).

The lack of initial inquiry delays a final determination of ICWA status. CRB members report that, in five of the eight counties surveyed, a determination of ICWA applicability is only occasionally made by the time of the first CRB, which is six months after a child enters substitute care (see Table 23).

**Table 23. INDIAN CHILD WELFARE ACT (ICWA)
COURT/CRB CONSIDERATION OF ICWA'S APPLICATION**
(1:Rarely, 2:Occasionally, 3:Often, 4:Usually)

How often does the court inquire about Native American heritage **when the family is first before the court?** Average Response)

Respondent\ County	Baker	Douglas	Jackson	Lincoln	Linn	Malheur	Marion	Mult.	Others*
Judges	3	2	2	3	1	1	4	3	2
Attorneys	2	1	2	3	2	1	2	3	--
SCF Workers**	3	2	2	3	1	2	2	3	--

*Others: Average of 9 "non-project" counties.

**SCF: Services to Children and Families.

Inquiries as to whether ICWA applies to the case before the court:

Based on Files Reviewed: (Due to missing data, numbers may not add up to the total number of files reviewed in each county: *99 = Unable to determine)

Does the First Petition indicate whether ICWA applies in this case?

n=Total number of cases)

	Baker (n=11)	Douglas (n=7)	Jackson (n=30)	Lincoln (n=16)	Linn (n=11)	Malheur (n=7)	Marion (n=64)	Mult. (n=78)
YES	0	0	0 1 6 2 24		0	0	4	2
NO	7	7		13	5	4	44	29
	4	1				3	9	

Table 23. - Continued

At the Preliminary/Shelter Care/24-Hour Hearing, did the court consider whether ICWA applies in the case?

	Baker (n=11)	Douglas (n=7)	Jackson (n=30)	Lincoln (n=16)	Linn (n=11)	Malheur (n=7)	Marion (n=64)	Mult. (n=78)
YES	0	0	0	0	0	0	0	24
NO	6	1	18	4	9	5	23	28
99*	4	5	6	4	2	1	32	15

Based on Court Observations:

At Preliminary Hearing	Hearings in which ICWA applies?						
50 (100%)	50 (100%)	50 (10%)	50 (50%)	50 (67%)	50 (25%)	50 (22%)	50 (10%)
		6 (17%)	6 (33%)	6 (75%)	6 (78%)	6 (19%)	6 (19%)
		22 (17%)					22 (5%)

*Missing data.

50: No one addressed, 6:Tribe, 22:Judge, 23:Referee/Conductor.

At Preliminary Hearings, how much time was spent by the court and parties on ICWA? (in Minutes on Average)

								EM	NO

*Missing Data.

CRB Members' Response:

Prior to the first CRB review, how frequently has a determination been made concerning whether the ICWA applies to the case:

Average Response

Baker	Douglas	Jackson	Lincoln	Linn	Malheur	Marion	Mult.
1	3	2	2	3	3	2	2

(1:Rarely, 2:Occasionally, 3:Often, 4:Usually)

Pleading Requirements

In order to prevent inappropriate state intervention into the lives of Native American families, ICWA requires that dependency petitions plead "a specific and detailed account of circumstances which led the state to conclude that the child would suffer imminent physical damage or harm" as well as the identity of the child's tribe. In the few cases reviewed where ICWA was determined to apply, the appropriate language was not pled. Judges confirm that appropriate pleading occurs in an extremely limited number of cases (Table 24-A).

PLEADING AND NOTICE

Table 24-A.

For the cases to which ICWA applies, does the adjudicated petition allege:

	Case	County	Via...
YES	0	0	0

A specific and detailed account of the circumstances which led the state to conclude that the child would suffer imminent physical damage or harm?

	Lincoln (n=1)	Marion (n=4)	Multnomah (n=2)
YES	0	0	0
NO	1 (100%)	4 (100%)	2 (100%)

For the cases to which ICWA applies, how frequently does the court inquire about the Notice to the Tribe?
Average Response

S Q					awe
-----	--	--	--	--	-----

Missing data . .

Table 24-A. - Continued

For the cases to which ICWA applies, how frequently do the attorneys raise issues about the Notice to the Tribe? Average Response

	<5	<5%	<25%	<5%	<5%	<5%	<5	<10%	<5
Attorneys									
SCF									
Workers			2	2	2	2	2	2	3
Judges' Response:									

What percent of juvenile court dependency petitions involving Native American children who have been removed from their home plead the child and parents' domicile and tribal affiliation, and a specific and detailed account of the circumstances that led SCF to conclude that the child would suffer imminent, physical damage or harm, and a specific plan of action to restore the child to his parents or Native American custodian or transfer jurisdiction of the child to the tribe? (Average Response)

	<5	<5%	<25%	<5%	<5%	<5%	<5	<10%	<5

Tribal Notice Requirements

ICWA promotes tribal involvement from the initial intervention of social services agencies through the permanent placement of Native American children. Tribes make choices about their level of involvement with particular cases for a variety of reasons.

SCF policy requires consultation with tribes about family and tribal resources at all stages of a dependency proceeding. When a petition is filed, state and federal law requires that tribes must be given written notice and the opportunity intervene in the state proceeding or transfer the case to tribal court. 25 USC 1912(a). Responding tribes indicate that in most cases, SCF makes inquiry about tribal placement and services (Table 24-B).

Table 24-B. PLEADING AND NOTICE

Response from Tribes:

When the tribe is notified that a child, who is a member or is eligible for membership in the tribe, is the subject of an ICWA case, how frequently do the following occur?

An ins u' about extended famil members or other a - - ro • ri ate resources is made b

Inquirer \ Tribe	UMPQUA	GRAND RONDE	SILETZ	KLAMATH	WARM SPRING	PAIUTE
SCF Worker	4	2	3	4	3	3
Juv. Court		1	1	1	1	3
Parent's Atty		1	1	1	1	1
Child's Atty	4	1	1		1	1
CASA	2	1		1	1	

Similarly, Oregon courts are generally receptive to tribal motions to intervene in juvenile court proceedings. Tribes reported that the court rarely or only occasionally denied motions to intervene at all stages of dependency proceedings, with the exception of termination of parental rights proceedings where the Warm Springs Tribe reported that the

Table 24-C. PLEADING AND NOTICE

In cases where your tribe is seeking to intervene, how frequently does an Oregon court deny the tribe's motion to intervene at the following stages of a dependency proceeding

..... eding \ Tribe	UMPQUA	GRAND RONDE	SILETZ	KLAMATH	WARM SPRINGS	PAIUTE
Preadjudication	2	1	1	1	1	*
Post-Adjudication	1	1	1	1	1	*
Termination of Parental Rights	2	1	1	1	3	*

(1:Rarely, 2:Occasionally, 3:Often, 4:Usually)

Burden of Proof and Evidentiary Requirements

In cases where ICWA applies, jurisdiction must be proved by clear and convincing evidence. When the state seeks to terminate parental rights, those allegations must be proved beyond a reasonable doubt. Jurisdictional allegations must be supported by at least one witness expert in the particular child's Native American tribal culture. The state must also prove imminent danger of physical or emotional harm to justify removal from a Native American home. Finally, the court must find that removal is justified after active efforts to prevent removal by the agency.

Juvenile court participants reported that the court or attorneys address burden of proof issues occasionally or often, except in Multnomah County where the burden of proof is frequently addressed. Expert testimony supported jurisdictional findings less frequently, except in Multnomah County. Active efforts to prevent removal were addressed occasionally or often in all courts. The CRB reported that it addresses active efforts often or usually in all counties.

Court files revealed a lower level of compliance. Of the seven case files involving ICWA, only one reflected a finding at the preliminary hearing that continuing custody with the parents would result in serious physical or emotional harm. No adjudicatory orders indicated that jurisdictional findings were made by clear and convincing evidence or were supported by expert testimony. Only two files documented active efforts by the agency.

BURDEN OF PROOF AND EVIDENTIARY REQUIREMENTS

Table 25.

*(1:Rarely, 2:Occasionally, 3:Often, 4:Usually, *Missing data)*

Based on Attorneys' and SCF Workers' Survey Response:

For cases to which the ICWA applies, how often does the COURT inquire about:

ACTIVE EFFORTS TO PREVENT THE BREAKUP OF THE NATIVE

AMERICAN

FAMILY:

Average Response

Attorneys	3		*	4		*		
-----------	---	--	---	---	--	---	--	--

Table 25. - Continued

EXPERT WITNESS: (Average Response)

Respondent \ County	Baker	Douglas	Jackson	Lincoln	Linn	Malheur	Marion	Mult.
Attorneys	2	2	*	2	2	*	2	3
SCF Workers	2	2	1	3	2	2	1	3

BURDEN OF PROOF: (Average Response)

For cases to which the ICWA applies, how often do the ATTORNEYS raise issues related to:

ACTIVE EFFORTS TO PREVENT THE BREAKUP OF THE NATIVE AMERICAN FAMILY:

average Response)

.....	..							
.....	..							
.....								

BURDEN OF PROOF: (Average Response)

Table 25. - Continued

Based on Files Reviewed:

{The following information concerns the 7 files (1 in Lincoln, 4 in Marion, and 2 in Multnomah) identified as ICWA cases.}

If the Court found ICWA applies and did not dismiss the petition, did the Court make a finding that the continued custody of the child by parent/Native American custodian was likely to result in serious emotional/physical damage to the child?

Type of Hearing\County	Lincoln	Marion	Multnomah
Preliminary	*	NO (n=3) * (n=1)	YES (n=1) NO (n=1)
Adjudication/	NO (n=1)	NO (n=4)	NO (n=1) 98 (n=1)
Termination of Parental	YES (n=1)	98** (n=4)	NO (n=1) 98 (n=1)

**98: Does not apply.

If ICWA applies, does the Court order reflect that the finding was supported by clear and convincing evidence, including testimony of a qualified expert witness possessing special knowledge of social and cultural aspects of Native American life?

Type of Hearing\County	Lincoln	Marion	Multnomah
Adjudication/Disposition	NO (n=1)	NO (n=4)	NO (n=1) * (n=1)
Termination of Parental Rights	NO (n=1)	98 (n=4)	NO (n=1) * (n=1)

**98: Does not apply.

Based on Files Reviewed:

{The following information concerns the 7 files (1 in Lincoln, 4 in Marion, and 2 in Multnomah) identified as ICWA cases.}

Native American family and	Lincoln	Marion	Multnomah
Disposition	NO (n=1)	NO (n=3) * (n=1)	NO (n=1) * (n=1)
Termination of	YES (n=1)	98 (n=2)	YES (n=1)

**98: Does not apply.

Table 25. - Continued

CRB Members' Response:

For ICWA cases, CRB determines whether active efforts have been made to provide services to prevent family breakups. Average Response

Response from Tribes:

If a child who is a member or is eligible for membership in your tribe is the subject of an Oregon state juvenile court "ICWA" proceeding how frequently does your tribe:

Action \ Tribe	Umpqua	Grand Ronde	Siletz	Klamath	Warm Springs	Paiute
A	2		4	4	1	*
B	1	1	2	1	3	*
C	2	2	4	3	1	*
D	1	2	2	*	1	*

- A: Intervene in the juvenile court proceeding before termination of parental rights petition.
- B: Intervene in the juvenile court proceeding after a termination of parental rights is filed.
- C: Monitor the case without formally intervening.
- D: Request that the case be transferred to your tribal court.
- E: Take no action in relation to the child.

Reasons for the decision to choose not to transfer the case to tribal court:

Reasons \ Tribe	Umpqua	Grand Ronde	Siletz	Klamath	Warm Springs	Paiute
A	4	4	4	*	1	*
B	4	4	3	*	2	*
C	2	4	3	*	2	*
D	4	*	1	4	1	*

- A: Lack of social service resources within the tribe.
- B: Lack of foster care placements or resources within the tribe.
- C: The proximity of the tribal court to the family. No tribal court or body is available to hear ICWA cases.
- D: or body is available to hear ICWA cases.

Table 25. - Continued

Response from Tribes:

Reasons \ Tribe	Umpqua	Grand Ronde	Siletz	Klamath	Warm Springs	Paiute
A	1	1	3	1	*	*
B	1	2	3	1	*	*
C	1	3	3	1	*	*
D					*	*

A : Inability to have a representative at the hearings.

B : Inadequate funds for legal representation.

C : Inadequate notice to the tribe. Travel or time

D: constraint of social worker.

Placement Preferences

When removal from a parent or Native American custodian is necessary, ICWA requires agency consultation with the tribe about placement resources. Regardless of tribal involvement, ICWA mandates a placement preference in the following order:

- (1) The child's relatives
- (2) Placement with a tribal member
- (3) Placement in a foster home licensed by the child's tribe
- (4) Placement in a Native American foster home (regardless of tribal affiliation)
- (5) Residential placements approved. by the child's tribe.

Attorneys report that SCF follows placement preference "often" or "usually" in half the counties surveyed. Similarly, attorneys raise the issue often in half the counties.

Table 26. PLACEMENT PREFERENCES
 (1:Rarely, 2:Occasionally, 3:Often, 4.-Usually, *Missing data)

When the ICWA applies to a case, how frequently does the Court inquire about ICWA placement references?

Respondent\ County	Baker	Douglas	Jackson	Lincoln	Linn	Malheur	Marion	Multnomah
Attorneys	2	3	*	3	2	*	3	3
SCF Workers	2	3	2	3	2	2	2	3

When the ICWA applies to a case, how frequently do the attorneys raise issues related to ICWA placement references?

Respondent	Baker	Douglas	Jackson	Lincoln	Linn	Malheur	Marion	Multnomah
Attorneys								
SCF Workers	2	3	2	3	2	2	2	3

Response from Tribes:

Placement of the children who are currently the subject of an Oregon state juvenile "ICWA" proceeding:

Placement\ Tribe	UMPQUA	GRAND RONDE	SILETZ	KLAMAT	WARM SPRINGS	PAIUTE
A	100%	30%	*	12%	5%	0
B	0	5	*	57	60	0
C	0	30	*	6	5	100%
D	0	30	*	25	25	0
E	0	5	*	0	5	0

*Missing

A: With a parent

B : At a foster home licensed or approved by your tribe. At an

C : SCF-licensed foster home.

D : With a relative other than a parent.

E: An institution approved by an Native American tribe or operated by a Native American organization.

Table 26. - Continued

Response from Tribes.

In instances where an Oregon state juvenile court makes an out-of-home placement that does not follow the ICWA placement priorities, how often does the court or SCF consult the tribe prior to placement?

		f	W.9"	MUM
	2	2	4	g 1

Prior to placement of a child, who is a member or is eligible for membership in your tribe in foster care, how frequently do the following parties consult with the tribe about appropriate placement resources within your tribe?

Party \ Tribe	UMPQUA	GRAND RONDE	SILETZ	KLAMATH	WARM SPRINGS	PAIUTE
SCF	4	2	3	4	3	4
Juv. Court	2	1	1	4	1	3
Parent's Attorney	2	1	1	4	1	1
Child's Attorney	4	1	1	4	1	1
CASA	1	1	1	4	1	*

Has an Oregon court ever denied your tribe's motion to transfer?

UMPQUA	GRAND RONDE	SILETZ	KLAMATH	WARM SPRINGS	PAIUTE
Yes	Yes	No	No	Yes	*

YES, how frequently does the Court make a finding of good cause?

--	--	--

If YES, how frequently have the SCF and parents objected to transfer?

Party \ Tribe	UMPQUA	GRAND RONDE	SILETZ	KLAMATH	WARM SPRINGS	PAIUTE
SCF	1	1	--	--	3	*
Parents	1	2	--	--	1	*

Tribes report mixed results with SCF consultation. Klamath reports that SCF usually consults with them. Umpqua reports that SCF often consults before placement. Grand Ronde, Siletz, Warm Springs, and Paiute report less consultation. Tribal representatives report a high level of actual placement that complies with the placement preference (see Table 26).

BARRIERS TO COMPLIANCE WITH FEDERAL LAW AND RECOMMENDATIONS FOR IMPROVEMENT

Discussions of efforts to prevent removal of a child or reunite the family are cursory and orders addressing the reasonable or active efforts requirements are brief.

1. Juvenile judges should have "check list" style reference materials to ensure that adequate inquiry into reasonable or active efforts occurs at each stage of the proceeding.
2. Form orders should be reformatted to include clear, thorough direction for making a meaningful reasonable or active efforts inquiry and findings at each stage of the proceeding.
3. SCF workers should provide the court with a report documenting specific reasonable or active efforts at each stage of proceeding.

*judges, attorneys, SCF workers, and others have varied levels of **knowledge and expertise with the two reasonable efforts requirements.***

1. Training and consultation on reasonable efforts should be provided statewide to judges, attorneys, and SCF workers.

Far too few appropriate, individualized services exist for families and children involved in juvenile dependency matters.

1. SCF and other agencies providing services to children and families should seek and the legislature should fund a core of services to be made available as appropriate for each child and family involved in abuse and neglect proceedings. Individualized services, where the core services are not appropriate or sufficient, should also be developed and funded.

SCF and other participants in dependency proceedings have difficulty receiving definitive responses from tribes and the BIA regarding membership status of individual children.

The initial determination of IC WA applicability is not completed in a timely fashion.

1. There should be juvenile court and agency protocols governing procedural requirements and agency/tribe obligations.

2. Form orders should be reformatted to include clear, thorough direction for making a meaningful ICWA inquiry at each stage of the proceeding.

Many orders do not clearly address ICWA applicability or the procedural requirements of the Act, such as "active efforts," expert witness, and burden of proof.

1. Juvenile judges should have clear "check list" reference materials to ensure that adequate inquiry into ICWA issues occurs at each stage of the proceeding.

Despite numerous training opportunities, many of the participants still lack information and knowledge about ICWA and active efforts.

1. Training and consultation on ICWA issues and active efforts should be provided statewide to judges, attorneys, and others involved in juvenile dependency proceedings.

Chapter Eight: REPRESENTATION

INTRODUCTION

In order for courts to fulfill their obligations under both federal and state law, judges must be provided with accurate and complete information. The court system depends on each party's ability to discover and present evidence and to advocate effectively. Advocacy means that information is presented in a light most favorable to the party and that unfavorable information is challenged. In most instances, this means that lay parties to court proceedings should be represented by counsel. When only some parties are represented, there is a great risk that the court will receive only partial information and incomplete interpretation.

Most of the available data about attorney representation in juvenile dependency cases comes from the State Court Administrator's office, which pays appointed counsel from the Indigent Defense Account. Data from 1993 was included in the Governor's Task Force Report, which concluded that:

On a state-wide basis, 51 % of the cost of indigent defense in juvenile dependency and review proceedings is attributable to representation for children. However, some counties spend as little as 0% (Lincoln County) or 10 % (Marion County) on legal representation for children and other counties spend as much as 82% (Jackson County) or 84% (Washington County). Clearly, the amount of legal representation for children in dependency and review proceedings in different counties in Oregon varies widely from county to county. Anecdotal information also indicates substantial disparity in quality of representation throughout the state. Governor's Task Force on juvenile justice, Subcommittee No. 3, Effective Advocacy for Dependent Children: A Systems Approach, p. 26.

More recent data show that, statewide, appointments for children and parents were still almost equally divided. In fiscal year 1995, for instance, there were 7,452 appointments for children in dependency adjudication and review hearings and 7,357 for parents.

In order to weigh the impact of representation on the ability of the eight site courts to make timely, well-informed decisions in dependency cases, JCIP examined a number of issues relating to representation by attorneys and appearance by CASAs. JCIP looked at the role and responsibilities of attorneys for parents, attorneys for children, attorneys for

the state (assistant attorneys general and deputy district attorneys) and CASAs. JCIP also examined their experience, *training*, and activities both in and out of court. (How frequently counsel appears for various parties is covered in the sections regarding each type of hearing). JCIP surveyed other parties about attorney and CASA usefulness and solicited suggestions for improvement.

THE ROLE AND RESPONSIBILITIES OF ATTORNEYS FOR PARENTS

All parents in a dependency case are entitled to appear through counsel. The more difficult question involves the extent of the state's obligation to provide that counsel when the parent is indigent. In Oregon, parents are entitled to be represented by a court-appointed attorney when "the nature of the proceedings and due process so require" ORS 419B.205.

The criteria used to decide whether to appoint counsel have their origin in an Oregon Court of Appeals' opinion in which the court held appointment to be constitutionally mandated on a case-by case basis. *State ex rel Juv. Dept. vs. Grannis*, 67 Or App 565, 680 P2d 660 (1984). The court is to consider the following in making the decision whether to appoint counsel:

- The duration and degree of *invasiveness* of the interference with the parent-child relationship that possibly could result from the proceeding;
- The complexity of the issues and evidence;
- The nature of allegations and evidence contested by the parent or legal guardian;
- The effect the facts found or the disposition in the proceedings may have on later proceedings or events, including but not limited to termination of parental rights or criminal proceedings. ORS 419B.205 (1)-(4).

Many commentators believe that because of the importance of the rights at stake and the devastating consequences of an error, parents should have the opportunity for counsel in every case.

Several sets of criteria or standards exist regarding counsels' performance. The Oregon Supreme Court has said that in termination of parental rights cases the standard for attorney performance is the same as it is in criminal cases. *State ex rel Juv. Dept. v. Geist*, 310 Or 176, 796 P2d 1193 (1990). The parent is entitled to "adequate representation." The Oregon Judicial Department has set standards for attorneys who are court-appointed in dependency cases. Qualification Standards for Court-Appointed Counsel to Represent Indigent Persons at State Expense, Oregon Judicial Department (1990). These address issues such as caseload size, adequate support staff, experience, and familiarity with applicable law and procedures to suspend attorneys from the court appointments list. Recently, the Oregon State Bar has adopted principles and performance standards for representation of both parents and children in dependency cases. These standards incorporate the Judicial Department standards and address, among other things, conflict of interest, the obligation of the lawyer for a child "capable of considered judgment" to advocate that child's wishes, initial and regular contact with the client, independent investigation, and practice at each phase of a dependency case. Performance Standards for Counsel in Criminal Delinquency, Dependency, and Civil Commitment Cases, Oregon State Bar Indigent Defense Task Force, Chapter 3.

THE ROLE AND RESPONSIBILITIES OF ATTORNEYS FOR CHILDREN

Children are entitled to court-appointed attorneys in dependency cases whenever a request is made. ORS 419B.195 (1). From whom the request must come is not clear. However, it is clear that the same right to appointed counsel does not apply to the child who is the subject of a petition to terminate parental rights. *State ex rel Juv. Dept. v. Silence*, 105 Or App 149 803 P2d 1223, rev den, 311 Or 349 (1991).

As they do on the subject of lawyers for parents, many commentators recommend appointment of counsel for children in every case. (see e.g., Proposed American Bar Association Standards for Lawyers Who Represent Children in Abuse and Neglect Cases; Tuvenile justice Standards Relating to Counsel for Private Parties, American Bar Association and Institute for Juvenile Justice, Draft)

Regardless of the statutory authority, it is the practice of many Oregon juvenile courts to appoint counsel on the court's own motion, without request. It is imperative to look at actual appointment practice in the eight site counties to begin to understand the different ways various Oregon courts interpret these statutes and exercise their own inherent authority. The number of appointments at state expense for dependency and review matters in each of the study counties in FYE 1995 is as follows:

	Children	Parents
Baker	53	41
Douglas	180	274
Jackson	34	41**
Lincoln	4	71*
Linn	48	96*
Malheur	29	21.
Marion	85	279
Multnomah	4,033	3,549

* There were no appointments reported for reviews in these counties.

** There were almost no appointments reported for reviews in this county.

ROLE AND RESPONSIBILITIES OF ATTORNEYS FOR THE STATE

Representatives from the district attorneys' office and assistant attorneys general appear in juvenile court on dependency and termination of parental rights cases. Generally speaking, they represent "the state." However, technically, the issue is more complicated. The role of the district attorney is set out in statute. ORS 8.685 indicates that the district attorney is to "assist the court" on the court's request, and in counties of over 150,000, the district attorney is to specifically designate a deputy to assist the juvenile court on request. In 1991, at the request of the Oregon District Attorneys Association, the statute was amended to provide that "[t]he district attorney is entitled to appear on behalf of the state in the juvenile court in any matter within the jurisdiction of the court." ORS 8.685(3).

As a practical matter, in most cases this means that the district attorney represents the position of the child welfare agency (SCF) in dependency cases. However, where that

agency has independent issues, for example where the *agency* wishes to contest an order about the placement of a child or an order to provide discovery to a party, the attorney general's office often steps in. Furthermore, in all counties except Multnomah, the attorney general's office represents the state in termination of parental rights cases. In Multnomah County, the district attorney's office does so under contract with the state.

Practice varies widely. In some counties the attorney for the "state" makes routine appearances, reviews or drafts petitions and actively participates in case planning. In other locations the role is a less active one.

ROLE AND RESPONSIBILITIES OF COURT APPOINTED SPECIAL ADVOCATES (CASAs)

By statute, in every juvenile court case involving an abused or neglected child, the court must appoint a court-appointed special advocate (CASA). Where the juvenile court does not have a CASA program or where there are not sufficient numbers of CASA volunteers, the court may appoint a juvenile department employee or "other suitable person" to represent the child's interest. ORS 419A.170 (3).

CASAs are independent parties and have the right to be represented by counsel (not at state expense), to subpoena and examine witnesses, to file pleadings and set hearings. Because CASAs' function is to advocate for the child, JCIP included a discussion of their appointment and effectiveness in this section. As with the information about the appointment of attorneys, much of the available data regarding CASA appointment is anecdotal. In fact, because each county's CASA program is a separate organization, there is even less centralized information available about CASA appointments than about attorney appointments. JCIP's experience in the eight counties showed wide variation in the way the programs functioned, and in how they were welcomed and integrated into the court systems in their communities.

TRAINING AND EXPERIENCE OF ATTORNEYS

Attorneys representing private parties or the state in juvenile dependency matters should be adequately trained and experienced. They should be held to standards of practice by the court. Among the areas they should be familiar with are:

- 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.

Resource Guidelines, p. 23.

The Oregon State Bar standards also require attorneys in juvenile dependency cases to maintain manageable caseloads.

Of the attorneys surveyed, 6% had less than one year of experience in dependency or termination of parental rights cases, 19% had one to two years experience, 23% had three to five years experience, and 51% had more than five years experience. More than 75% of those responding had practices that were at least one-half dependency or termination of parental rights cases.

Attorneys wanted more training in the following areas (by order of preference):

- Medicaid and the Oregon Health Plan and other payment mechanisms
- Interstate custody issues
- Adoption Assistance and Child Welfare Act of 1980 (PL 96-272)
- Confidentiality and privilege issues
- Indian Child Welfare Act
- Permanency planning and termination of parental rights

CONTINUITY OF COUNSEL

Only in Multnomah County did children have more than two lawyers during the course of their case. Of children who had lawyers in Multnomah County, almost 25% (11/47) were represented by three or more lawyers (usually members of the same firm substituting for one another). Of all parties, other than the state, only children had five or more lawyers. Continuity of representation for the state did not appear to be a significant problem outside of Multnomah County. Only in Multnomah County was the state represented by more than two deputy district attorneys in a single case; there, the state was represented by 3 or more attorneys in almost 25% of the case files JCIP reviewed (and when cases where the state had no attorney present are excluded, the percentage with three or more lawyers becomes almost 30). In 8% of the case files reviewed, the state was represented by four or more attorneys.

**Table 27. CONTINUITY OF COUNSEL
AND OTHER REPRESENTATIVES FOR
FAMILIES (Information based on Files Reviewed) *Due
to missing response, the numbers may not add up to 100%.**

BAKER COUNTY n=8

# of Representatives	0	1	2	3	4		6	7
Attorney for.								
Mother	4	4						
Father	6	1	1					
Child	1	7						
DDA	8							
AG	7	1						
SCF Workers		4	3					

Table 27. - Continued
DOUGLAS COUNTY n=

# of Representatives	0		2	3	4	5		7
Attorney for.								
Mother	4	2	1					
Father	5	1						
Child	6	1						
DDA	2	4						
AG	6							
SCF Workers			3					
Judicial Officer		5	1					
ACKSON COUNTY n=32								
# of Representatives	0	1	2	3	4	5	6	7
Attorney for.								
Mother	23	5						
Father	26	2						
Child	23	5						
DDA	17	2						
AG	18	1						
SCF Workers	5	13	3					
Judicial Officer		3	1					
LINCOLN COUNTY n=16								
# of Representatives	0	1	2	3	4	5	6	7
Attorney for								
Mother	12	4						
Father	11	3	1					
Child	12	1	2					
DDA		4			1	2		
AG	13	2						
SCF Workers	9	5				1		
judicial Officer		13	1					

Table 27. - Continued LINN

# of Representatives	0	1	2	3	4	5	6	7
Attorney for.								
Mother	2	7	2					
Father	5	4	1					
Child	7	2	2					
DDA	4	5	2					
AG	6	4	1					
SCF Workers		4	2	2	2			
Judicial Officer			6	4				
MALHEUR COUNTY n=								
# of Representatives	0	1	2	3	4	5	6	7
Attorney for.								
Mother	4	3						
Father	5	2						
Child	3	4						
DDA	5	2						
AG	7							
SCF Workers	2	2	2				1	
Judicial Officer		3	1	3				
MARION COUNTY n=64								
# of Representatives	0	1	2	3	4	5	6	7
Attorney for.								
Mother	11	39	6					
Father	32	17						
Child	46	9	1					
DDA	24	11						
AG	24	14						
SCF Workers	6	14	8	1				

Table 27. - Continued

# of Representatives	0	1	2	3	4	5	6	7
Attorney for.								
Mother	27	25	11	9	3			
Father	52	15	6		2			
Child	30	29	7	3	4	3	1	
DDA	15	28	13	7	4	6		2
AG	65	2						
SCF Workers	2	37	11	10	8	5		
judicial Officer		20	25	13	7		3	

ACTIVITIES OF COUNSEL AND CASA, BOTH IN AND OUT OF COURT

The frequency with which attorneys for parents, children and the state (DDAs and AAGs) performed various in and out-of-court functions was measured by surveys directed at the attorneys themselves, the judges and referees, CASAs, and SCF workers. The preparation activities asked about were:

- Talking to their clients before the day of the hearing (and, if the client was a child, visiting in the home)
- Interviewing service providers, talking to the caseworker, investigating alternative services to be provided to the child or family
 - Finding out how the child is doing in school.

The in-court activities were:

- Filing written motions or briefs
- Calling witnesses and introducing exhibits
- Making recommendations
- Requesting and preparing findings.

Other activities were examined during the file reviews and court observations.

CASAs were consistently rated highly on their participation in a variety of pretrial activities including talking to the child and SCF worker, interviewing service providers and investigating alternative services, and finding out how school-age children are doing in school. Judges rated CASAs more likely to visit children in their homes, interview service providers, and talk to the caseworkers than the district attorney, parents' attorney, or child's attorney.

Table 28. **ATTORNEYS' AND CASAS' ACTIVITIES IN PREPARATION FOR THE HEARINGS**

(1-Rarely, 2-Occasionally, 3-Often, 4-Usually)

TALK TO THEIR CLIENTS (VISIT THE CHILD IN HOME)

Attorneys' Response (Average):

	DA	PARENT'S ATTORNEY	CHILD'S ATTORNEY	CASA
Baker	1	3	4	4
Douglas	2	4	4	4
Jackson	1	4	3	4
Lincoln	2	3	4	4
Linn	3	3	2	3
Malheur	1	2	2	3
Marion	2	3	4	4
Multnomah	1	3	4	4

SCF Workers' Response (Average)

	DA	PARENT'S ATTORNEY	CHILD'S ATTORNEY	CASA
Baker	1	3	2	4
Douglas	1	2	3	3
Jackson	1	1	2	3
Lincoln	1	1	2	3
Linn	2	2	2	3
Malheur	2	2	2	3
Marion	1	2	2	3
Multnomah	3	2	3	3

CASAs' Response	Average)			
Baker			4	
Douglas	3		4	3
Jackson	1		3	4
Lincoln	1		2	3
Linn	2		3	3
Malheur	2		4	4
Marion	1		3	4

Table 28. - Continued

INTERVIEW SERVICE PROVIDERS

Attorneys' Response (Average)

	DA	PARENT'S ATTORNEY	CHILD'S ATTORNEY	CASA
Baker	2	3	3	3
Douglas	2	3	3	4
Jackson	2	2	2	4
Lincoln	2	2	2	3
Linn	2	2	2	2
Malheur	3	2	2	4
Marion	3	4	4	4
Multnomah	1	2	3	3

SCF Workers' Response (Average)

	DA	PARENT'S ATTORNEY	CHILD'S ATTORNEY	CASA
Baker	1	2	2	4
Douglas	2	2	2	3
Jackson	1	1	2	3
Lincoln	1	2	2	4
Linn	2	2	2	3
Malheur	1	1	1	2
Marion	1	1	2	3
Multnomah	1	2	2	3

CASAs' Response (Average)

Baker	1	3	4
Douglas	3	3	4
Jackson	2	3	3
Lincoln	2	3	3
Linn	1	3	4
Malheur	2	4	4
Marion	1	3	4

Table 28. - Continued

TALK TO THE CASEWORKER

Attorneys' Response (Average):

	DA	PARENT'S ATTORNEY	CHILD'S ATTORNEY	CASA
Baker	2	4	4	3
Douglas	4	4	4	4
Jackson	4	4	4	3
Lincoln	4	3	3	3
Linn	4	4	4	4
Malheur	4	3	3	4
Marion	4	4	4	4
Multnomah	2	3	3	4

SCF Workers' Response Average)

	DA	PARENT'S ATTORNEY	CHILD'S ATTORNEY	CASA
Baker	2	2	3	4
Douglas	2	3	3	3
Jackson	3	3	3	4
Lincoln	3	3	3	4
Linn	3	3	3	4
Malheur	3	2	3	4
Marion	2	2	3	3
Multnomah	2	3	3	3

CA es .unse Avera •

Baker	3		
Douglas	3	4	
Jackson	3	4	
Lincoln	3	4	
Linn	2	4	
Malheur	2	4	
Marion	3	4	

Table 28. - Continued

INVESTIGATE ALTERNATIVE SERVICES TO BE PROVIDED TO
THE CHILD OR FAMILY

Attorneys' Response (Average):

	DA	PARENT'S ATTORNEY	CHILD'S ATTORNEY	CASA
Baker	1	3	3	2
Douglas	2	3	3	3
Jackson	1	3	2	3
Lincoln	1	2	2	3
Linn	1	2	2	1
Malheur	3	2	3	4
Marion	1	3	3	2
Multnomah	1	3	3	3

SCF Workers' Response (Average)

	DA	PARENT'S ATTORNEY	CHILD'S ATTORNEY	CASA
Baker	1	3	3	4
Douglas	1	2	2	2
Jackson	1	2	1	3
Lincoln	1	2	2	2
Linn	2	2	2	2
Malheur	1	2	2	3
Marion	1	2	2	2
Multnomah	1	2	2	2

CASAs' Response (Average)

	ATTORNEY	SCF WORKER	CASA
.....	2	3	4
Baker	3	3	3
Douglas	1	3	3
Jackson	2	2	3
Lincoln Linn	1	2	3
Malheur	2	3	3
Marion	2	3	3
Multnomah	2	3	3
	2	3	3

Table 28. - Continued

FIND OUT HOW SCHOOL-AGE CHILDREN ARE DOING IN SCHOOL**Attorneys' Response (Average):**

	DA	PARENT'S ATTORNEY	CHILD'S ATTORNEY	CASA
Baker	2	4	3	3
Douglas	2	3	3	4
Jackson	1	2	4	3
Lincoln	1	2	2	3
Linn	1	2	3	2
Malheur	2	2	2	4
Marion	1	3	3	3
Multnomah	1	2	3	3

SCF Workers' Response (Average)

	DA	PARENT'S ATTORNEY	CHILD'S ATTORNEY	CASA
Baker	1	2	3	4
Douglas	1	1	2	3
Jackson	1	1	1	3
Lincoln	1	1	2	3
Linn	1	1	2	3
Malheur	2	2	2	3
Marion	1	2	2	3
Multnomah	1	1	2	3

CASAs' Response	Average)			
Baker	1	2	4	
Douglas	3	3	4	
Jackson	2	3	4	
Lincoln	1	3	4	
Linn	1	3	4	
Malheur	2	3	4	
Marion	1	3	4	

Table 28. - Continued

Judges' Response (Average of 24 judges/referees)

ACTIVITIES	DA	PARENT'S ATTORNEY	CHILD'S ATTORNEY	CASA
Talk to Their Clients (Visit the Child in Home).	2	3	3	4
Interview Service providers.	2	3	3	4
Talk to the Caseworker.	3	3	3	4
Investigate Alternative Services to be provided to the Child or Family.	2	3	3	3
Find out How School-Age Children are Doing in School.	2	2	3	3

Attorneys were more likely to do a number of in-court activities than were CASAs. These activities include filing motions or briefs, calling witnesses and introducing exhibits and requesting and preparing findings. CASAs and attorneys were more similar in the frequency with which they made recommendations to the court (Table 29).

In at least 25% of the cases, attorneys for parents and children did not speak with their clients before the day of the hearing.

Deputy district attorneys were as, or in many cases, less likely to do any of a number of pretrial investigative activities than were parents' attorneys, children's attorneys, and CASAs (see Table 28). These activities include: talk to the child (visit in the child's home); talk to the caseworker; find out how a school age child is doing in school; interview service providers; and investigate alternative services. Caseworkers' perceptions in each of the survey counties were that the district attorney was less likely to talk to them than was the CASA and in five counties, less likely than was the child's attorney. Judges, too, thought the district attorney (and attorneys for the parents and children) were somewhat less likely to talk to the caseworker than was the CASA. In all study counties, the district attorney rarely attends CRBs (in Linn County they may do so occasionally).

Table 29. ATTORNEYS' AND CASAS' ACTIVITIES IN CONTESTED CASES

FILE WRITTEN MOTIONS OR BRIEFS

Attorneys' Response (Average)

	.....:ggg	2paggg:>ggg	imimowm					29ou
	...1:....fi	:	!"					
	x...:-							
ATTY	3	2	3	1	2	2	2	2

SCF Workers' Response (Average)

CALL WITNESSES/INTRODUCE

		
				..			

SCF Workers' Response (Average)

.....							
-------	--	--	--	--	--	--	--

MAKE

					
--	--	--	--	--	--	-----	-------

SCF Workers' Response (Average)

	MIKE!	NOW	.....				
						
ATTY	4	3	3	4	3	3	3	4

Table 29. - Continued

REQUEST/PREPARE FINDINGS

Attorneys' Response

...	..	t				Mix		
ATTY		2	3	2	2	1		
CASA	2		1	1	2	1	1	2

SCF Workers' Response

				r		M		
ATTY	3	3	3			3		
CASA	3	2	3	2	2	3	2	

Judges' Response (Average of 24 judges/referees in Oregon)

	File Written Motions or Briefs	Call Witnesses/Introduce Exhibits	Make Recommendation	Request/Prepare Findings
ATTY	2	4	4	1
CASA	2	1	4	1

MADE MOTIONS AND/OR REQUESTS

...
-----	-------	-------	-------	-------	-------	-------

TESTIFIED OR MADE ORAL STATEMENTS

CASAs' Response

~ATTY		4	3	4	3	4	3	
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USEFULNESS OF ATTORNEYS AND CASAs AS VIEWED BY JUDICIAL OFFICERS

JCIP surveyed judges and referees about the usefulness of attorneys in helping them make "good and timely decisions in dependency cases." Parents' attorneys were thought to be somewhat to very useful, while children's lawyers were judged very useful. Attorneys for the state were rated somewhat to very useful. CASA reports were rated by the judicial officers to be more helpful than the reports of SCF or the CRB.

PARENTS' EXPERIENCES WITH ATTORNEYS

JCIP also surveyed a limited number of parents (N=36) about their experiences with attorneys, asking them whether they were advised of their right to counsel, whether they had counsel, and about the frequency of their contact with those attorneys. Because the number of respondents was so low, the information is reported here but no conclusions are drawn from it.

PARENTS' RESPONSE REGARDING REPRESENTATION

Table 30.

*Parents were asked, either over the phone or in person by a trained interviewer, to think back to the first time they were in court when the items below were asked.
Because of missing responses, some of the percentages do not add up to 100%.*

Did someone at the court tell you that you could have an attorney?

Response Type	Baker	Douglas	Jackson	Lincoln	Linn#	Malheur	Marion	Multi-nomah
YES	80% (n=4)	71% (5)	60% (3)	50% (2)		100% (2)	80% (4)	60% (9)
NO	20% (n=1)	14 (1)	40% (2)	25% (1)		0	20% (1)	27% (4)
Do Not	0	0	0	25%		0	0	0

One parent was interviewed in Linn County and she did not respond to any of the questions listed here.

Table 30. - Continued
Do ou have an attorne now?

Response Type	Baker	Douglas	Jackson	Lincoln	Linn#	Malheur	Marion	Multi-nomah
YES	80% (n=4)	43% (3)	20% (1)	75% (3)		50% (1)	60% (3)	93% (14)
NO	20% n=1	57% 4	80% 4	25% 1		50% 1	40% 2	7% 1

Was our attorne a • • ointed b the 'ud court?

Response Type	Baker	Douglas	Jackson	Lincoln	Linn#	Malheur	Marion	Multi-nomah
YES	60% (n=3)	43% (3)	20% (1)	100% (4)		100% (2)	60% (3)	73% (11)
NO	20% (n=1)	43% (3)	0	0			0	13% (2)

How man times has our attorney initiated contact with ou?

Response Type	Baker	Douglas	Jackson	Lincoln	Linn#	Malheur	Marion	Multi-nomah
Never	0 (n=1)	14% (1)	20% (1)	0	---	0	20% (1)	13% (2)
1-2 times*	20% (n=1)	29% (2)	0	50% (2)		0	20% (1)	40% (6)
<5 times	20% (n=1)	0	0	50% (2)		0	0	20% (3)
5-10 times	0	0	0	50% (2)		0	0	7% (1)
>10 times	40% (n=2)	43% (3)	0	0		0	20% (1)	13% (2)

*Once or twice, for a few minutes at the court hearing.

How many times have you initiated contact with your attorney?

Response Type	Baker	Douglas	Jackson	Lincoln	Linn#	Malheur	Marion	Multi-nomah
Never	0	0	0	0		0	20% (1)	20% (3)
<5 times	20% (n=1)	14% (1)	0	75% (3)	--	0	0	40% (6)
5-10 times	60% (n=3)	29% (2)	20% (1)	0	---	0	0	20% (3)
>10 times	0	43%	0	25%	---	100%	40%	13%

Table 30. - Continued**When ou tried to contact our attorne , how often were ou able to reach him/her?**

				Lincoln	Linn#	Malheur	Marion	
Never	0	0	0	0		0	0	20% (3)
Seldom	0	29% (2)	20% (1)	5 0 % (2) .		0	20% (1)	7 % (1)
Sometimes	20 (n=1)	14% (1)	0	2 5 % (1)		50% (1)	20% (1)	13% (2)
Often	20% (n=1)	29% (2)	0	0		0	0	27% (4)
Always	40% (n=2)	14% (1)	0	25% (1)				7 % (1)

RESPONDENTS SUGGESTIONS FOR IMPROVING REPRESENTATION OF PARENTS,
CHILDREN AND THE STATE

Judges, referees, and attorneys were asked for their recommendations for improvement in representation. Several themes emerged: priority for juvenile cases, client contact, availability and funding for representation and lay advocacy, training, and role of the AAG or DDA.

These same respondents, along with SCF workers and trial court administrators, were asked to select from a list of possible system improvements. The two most highly ranked of the 20 listed_ improvements were: "other parties' reports were available earlier," which received a yes vote from 75% of the attorneys, and "SCF workers have their own attorneys," with 74% of the SCF respondents marking it. More than half the SCF workers also thought it would be helpful if attorneys for the state were present at more hearings. Judges and attorneys felt it was less important (Table 31).

The responses on training were also interesting. Judges thought training for judges and attorneys would improve the system more than training for SCF workers, CASAs, and CRB members. Attorneys thought training for attorneys, SCF workers, and CASAs would be more helpful than training for judges or CRB members. SCF workers thought training for CRB members, SCF workers, and CASAs would be more helpful than training for attorneys and judges (see Table 31).

Table 31. WHAT CHANGES THE SURVEY RESPONDENTS PERCEIVED TO BE HELPFUL

HELPFUL IF	ATTORNEYS =66	JUDGES N=24	SCF WORKERS =153
Attorneys (Attys) were appointed at an earlier stage in the proceedings.	41% n=28		
Attys for children were more active in their investigation of the case.	62% (n=43	42% (n=10)	63% n=96)
Attys for children were more active in court.	41% n=28		43% (n=65)
Attys for parents were more active in their investigation of the case.)))
Attys for parents were more active in court.			(
Attys for the state were present at more hearings.			58 % n=88
CASAs were appointed at an earlier stage in the proceedings.	39% (n=27)	42% (n=10	40% (n=61)
CASAs were more active in their investigation of the case.	26% n=18		17% . n=26
CASAs were more active in court.			
SCF workers were more active in their investigation of the case.			
SCF workers had their own attorneys.			
Regularly scheduled times were set aside for judicial settlementt conferences.			
There was more:			
Docket time	49% (n=34)	50% (n=12)	52% (n=79)
Clerical support for the court	22% n=15	46% n=11	39% n=60
There was more training on dependency law for:			
Attorneys	54% (n=37)	42% (n=10)	48% (n=73)
Judges	35% (n=24)	50% (n=10)	43% (n=66)
SCF workers	57% (n=39)	29% (n=7)	61% (n=94)
CASAs	52% (n=36)	33% (n=8)	53% (n=81)
CRB members	42% (n=29)	36% (n=9)	69% (n=106)
Other parties' reports were available earlier	75% (n=52)	54% (n=13)	51% (n=78)

Attorneys and CASAs are often absent from the critical early stages of the proceeding.

1. Attorneys should be available and appointed for all eligible parties at the earliest possible time (usually the preliminary hearing).
2. CASAs should be available and appointed at preliminary hearings to the extent that resources allow based on priorities set at local level.
3. Courts should coordinate with court-appointed attorneys to ensure presence at preliminary hearings.

Attorneys are not adequately compensated for all essential activities in dependency cases, including out-of-court investigation and attendance at CRBs.

1. Attorney compensation should be adequate to cover both court and CRB attendance and the out-of-court activities identified in national and state standards as necessary for adequate representation of parents and children in dependency cases.
2. The Indigent Defense Account should be adequately funded to implement these recommendations.

Attorneys' performance is sometimes inadequate.

1. Attorneys should adhere to Oregon State Bar Principles and Standards for Counsel in Criminal, Delinquency, Dependency, and Civil Commitment Cases.
2. Counsel should not accept caseloads that by reason of excessive size or complexity interfere with the provision of quality representation.
3. Additional funds should be provided if necessary for counsel to comply with 1 and 2 above.

Attorneys lack knowledge about many essential features of dependency practice. 1. Attorneys should be trained about all aspects of dependency practice.

There is disagreement about the role and responsibility of the child's attorney. (Some participants in the juvenile court believe that a child's attorney's role is to advocate for the child's best interest while others believe the attorney's role is to advocate for the child's expressed wishes.)

1. All parties should be trained in the role of the child's attorney as outlined in the Oregon State Bar Standards for Representation in Delinquency and Dependency Cases.

There is disagreement about the role and responsibility of the District Attorney's office and the office of the Attorney General in representing the state in dependency proceedings.

1. The roles of the District Attorney and Attorney General in dependency cases must be clarified by statutes. Protocols for SCF/DA/AG relationship and representation within the parameter of each of their statutory obligations should be developed on a county by county basis.
2. Representation for the prosecutorial function in dependency cases (whether provided by the Attorney General's office or the District Attorney's) should be adequately funded. SCF needs adequate General Counsel time to represent the agency's position effectively, consistent with the clarification of roles recommended above.

There is limited representation for the state (whether by the Attorney General or District Attorney) at post-disposition hearings.

1. There should be increased funding for representation for the state at post-adjudicatory proceedings.

There is limited funding for the CASA program and volunteers are needed in greater numbers.

1. The Oregon Commission on Children and Families should seek adequate funding in order that the statewide CASA system be refined, supported, expanded, and funded with the goal of full implementation of ORS 419A.170, which provides that a CASA must be appointed in every juvenile court case involving an abused or neglected child.

Chapter Nine: THE JUVENILE BENCH**INTRODUCTION**

Because there are no juries in juvenile court and because of the specialized substantive areas involved, a great deal of experience, training, and support are especially desirable in the juvenile bench. In addition to the wisdom of Solomon and the patience of Job, the juvenile judge needs adequate support and resources. The judge needs adequate docket time for these are time-consuming cases. Particularly important is time in the early stages, where the stage is set for later developments. Information overlooked or parties not involved can have substantial consequences, both in terms of the life of an innocent child and cost to the system. National standards also place a great deal of importance on continuity of judicial officer: the "one judge, one family" rule.

Oregon has an experienced juvenile bench whose judges desire and would benefit from additional training in juvenile issues. Of the 24 judicial officers surveyed, only three were strangers to the juvenile court system when they took the bench. The remaining twenty-one practiced in juvenile court, either as a district attorney, attorney general, or attorney for parents or children.

Over half of the respondents have presided over juvenile matters for more than six years. Twenty-five percent have been on the juvenile bench for at least three years.

TRAINING

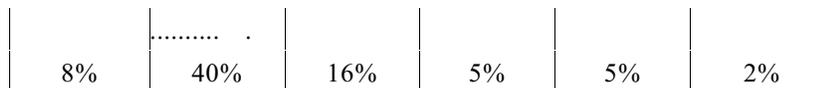
Judicial officers responsible for juvenile court proceedings should be adequately trained in both the legal and substantive issues that arise in juvenile court. Fifty percent of the judges surveyed reported that additional training for judges in dependency law would assist the process

Judges reported receiving training in the last four years in the following areas. Level of desire for training in those particular areas is also noted:

TOPIC	% OF TUDGES HAD	WANT
PL-96-272	25%	46%
ICWA	54%	54%
Physical Abuse	33%	33%
Perm. Planning TPR	25%	58%
Medicaid and benefits	0%	67%
Custody issues	37%	58%
Paternity issues	16.7%	38%
Confidentiality	25%	46%
Party intervention	16.7%	54%

CONTINUITY OF JUDICIAL OFFICER-ONE JUDGE/ONE FAMILY

Oregon meets the "one family - one judge" standard in less than 30% of its dependency cases. Over 43% of parents reported having a different judge at each hearing. Cases are reviewed by the same Citizens Review Board throughout the life of the case. More than 25% of the cases before Oregon juvenile courts are heard by three or more judicial officers. A family can be before as many as six judicial officers during its involvement with juvenile court.



Above information based on File Reviews)

BARRIERS TO EFFECTIVE JUVENILE BENCH AND RECOMMENDATIONS FOR IMPROVEMENT

In many counties, judges do not have enough time to conduct thorough and effective dependency hearings.

1. Juvenile dependency cases should be given highest priority and their number appropriately weighted when decisions are made about additional judicial resources.
2. Courts implementing "best practices" or "model courts" should be provided adequate funding, including funds for additional judicial officers and staff if necessary.
3. Each county should receive technical assistance and advice on establishing a priority for juvenile cases. This will involve scheduling and docketing practices, deployment of judicial and support resources, and education of the court and staff.

In several counties, children and families appeared before many different judicial officers during the course of a single dependency case.

1. Each county should strive to ensure continuity of judicial review by assigning a specific judge to each dependency case at the adjudication who will be responsible for review (including review of the CRB report) up to the point of final disposition, except termination of parental rights cases where there is objection to the same judge hearing that proceeding. The issue of family courts should be referred to the House Joint Resolution 55 committee for further study.

Many judicial officers would like additional training and education.

1. Education should be provided to judges and their staff on substantive issues of juvenile dependency law, as well as docketing and case management principles, which can enhance the court's ability to provide permanency to abused and neglected children.

SECTION V**RECOMMENDATIONS AND IMPLEMENTATION STRATEGIES**

The following strategies for implementation were adopted by the Advisory Committee. Each of the following recommendations are accompanied by one or more suggested implementation strategies and a proposed lead agency.

Cross-Disciplinary Group to Develop Model Practices

1. A cross-disciplinary group should be convened to develop model policies and procedures for all aspects of juvenile dependency cases. Among those who should be involved to participate are judges, attorneys for children, parents, and the state, juvenile court and Juvenile Deptt staff, State Office for Services to Children and Families (SCF), Citizen Review Board (CRB), Court Appointed Special Advocates (CASA), Oregon Commission on Child and Families (OCCF), and law enforcement agencies (LEA). The model procedures can be adapted by individual counties to address local conditions and needs.
2. **Juvenile Court Bench Book**
A Bench Book containing practical information about each stage of the juvenile court dependency process should be produced and provided to each jurisdiction in Oregon for use by judicial officers hearing juvenile dependency cases.
3. **Juvenile Court Form Book**
As an adjunct to the Bench Book, a book containing model forms should be produced and provided to each juvenile court.
4. **Funding**
Additional funding should be requested where the Advisory Committee's recommendations cannot be implemented without increases in funding.
5. **Training and Technical Assistance**
Training and technical assistance should be developed along with the model policies and procedures in order that all juvenile court participants are informed and trained about them. Training in existing laws and practice is also needed.
6. **Legislation and Rulemaking**
Legislative or rule adoption or amendment should be requested where necessary to comply with the recommendations.

PROPERLY ATTENDED HEARINGS

RECOMMENDATIONS	IMPLEMENTATION		
	Strategy	Lead Agency	Current Resources?
<p>General</p> <p>1. A joint planning group should be convened to develop a model process for providing notice and docketing dependency cases, including developing policy regarding identification and notification of parties, particularly fathers and Tribes, and documenting notification and summons.</p>	Develop Model Practices	SCA/SCF Court	Yes - planning No - implementation of Yes
<p><u>Identification of Parties</u></p> <p>1. Police, SCF workers, and the courts should ask about the identity and whereabouts of absent parents early and often throughout the investigation and court proceedings and document their findings.</p>	Bench Book Form Book Training & Tech Asst.	Court	Yes
<p>2. Courts should inquire of SCF, the DA, and other parties about efforts to identify and locate parties before proceeding.</p>	Bench Book Form Book Training & Tech Asst.	Court/OSB	Yes
<p>3. Forms such as petition worksheets, reports to the court, and order templates which prompt inquiry about all potential parties (fathers and tribes, in particular) should be developed.</p>	Bench Book Form Book Training & Tech Asst.	Court/OSB	Yes
<p>4. All petitions must state the name and location of every person who has legal standing as the parent or guardian of the child.</p>	Bench Book Form Book Training & Tech Asst.	DA/Court	Yes

PROPERLY ATTENDED HEARINGS - 2

RECOMMENDATIONS	IMPLEMENTATION		
	Strategy	Lead Agency	Current Resources?
<p><u>Location of Parties and Service of Initial Summons</u></p> <p>1. Parents should sign a form containing their current addresses, contact person, and commit to notify the party who sends notice (SCF or JCT staff or Juvenile Departments) if they move. The affidavit could also acknowledge that the parents understand that the court may proceed against them <u>by default</u> if they fail to appear (see recommendations regarding default procedures).</p> <p>2. The court and CRB should make an inquiry about any. changes off parents' addresses at each hearing or review, whether the parents are present or not.</p> <p>3. Amendments to the confidentiality statues to permit access by SCF, LEA, AG, DA, juvenile courts, counsel, and CASAs for purpose of identification and location of parents should be considered, particularly those statutes governing the information on Law Enforcement Data System (LEDS) and Oregon Judicial Information Network (OJIN).</p> <p>4. Local courts, juvenile departments and SCF should develop procedures for sharing parent location</p>	<p>Form Book Training & Tech Asst.</p> <p>Bench Book Form Book Training & Tech. Asst.</p> <p>Legislation & Rulemaking</p> <p>Training & Tech. Asst.</p>	<p>Court, Juv. Dept., SCF Court/CRB Dept. of Justice Court/Juv. Dept./</p>	<p>Yes Yes No Yes Yes</p>
<p><u>Notice of Subsequent Hearings</u></p> <p>1. The court and CRB should adopt a policy and practice of setting the next hearing in open court at the close of each hearing while attorneys and parties are still present.</p>	<p>Training & Tech Asst.</p>	<p>SCF Court/CRB</p>	<p>Yes</p>

TIMELY HEARINGS

RECOMMENDATIONS	IMPLEMENTATION		
	Strategy	Lead Agency	Current Resources?
Default Procedures			
1. Clarification of the law about the juvenile court's ability to proceed by default or in the parents' absence is needed.,	Training & Tech. Asst.	SCA	Yes
2. All parents involved in juvenile court proceedings should be specifically advised of the consequences of failing to appear when summoned to court and when further proceedings are set.	Bench Book Form Book Training & Tech Asst.	Court	Yes
<u>Preadjudication and Adjudication</u>			
1. Local rules for all stages of the dependency process should be developed to serve as models for other courts and for possible adoption as a UTLR. Among the subjects to be covered by such model local rules are:	Develop Model Practices	SCA/Court	Yes
a. Policies requiring formal continuance or dismissal of dependency petitions where parties agree that families will be offered services without adjudication.			
b. Policies requiring that service agreements accompany requests for dismissal or continuance that are premised on voluntary compliance with services.			
c. Policies requiring that orders dismissing cases prior to adjudication should reflect the specific reason for the dismissal rather than simply reciting that dismissal is "in the best interest of the child."			
d. Policies requiring timelines for discovery, first appearance and time for adjudication.			

TIMELY HEARINGS - 2

RECOMMENDATIONS	IMPLEMENTATION		
	Strategy	Lead Agency	Current Resources?
<u>Preadjudication and Adjudication- Continued</u>			
2. Mechanisms, including tickler systems, should be adopted to insure that cases are heard in a timely fashion, including, cases which have not been adjudicated.	Training &	Court	Yes
3. Orders dismissing cases or adjudicating children should contain a statement of the reasons for the action and, if premised on an agreement between the parties, should incorporate the agreement.	Desk/Form Books	Court	Yes
4. A joint planning group should be convened to develop model settlement devises and procedures which could become part of the practice in each county. Among issues to be addressed are drafting petitions and stipulations which: a) are sufficient for jurisdictional purposes; b) permit the court and agency necessary latitude under ORS 419 -- to design case plan; and c) acknowledge SCF's strength/needs based service planning. Settlement procedure could become part of the Bench Book.	Develop Model Practices/Bench Book	SCA	Yes
5. A cross disciplinary group should be convened to develop protocols for handling juvenile and criminal cases involving the same family, including expediting the criminal cases, use immunity, assigning the same DDA to both cases and other mechanisms to assure that the child's need for safety and permanency is considered.	Develop Model	DA	Yes
<u>Termination of Parental Rights Proceedings</u>			
1. SCF and other agencies providing services to children and families should seek and the legislature should fund core services and sufficient resources to create individualized services where the core services are not appropriate or sufficient, which will be available for children and families involved in dependency proceedings.	Funding	SCF	No

TIMELY HEARINGS - 3

RECOMMENDATIONS	IMPLEMENTATION		
	Strategy	Lead Agency	Current Re
Termination of Parental Rights Proceedings- Cont'd			SOU
2. Early pre-trial conferences should be established in every termination of parental rights case.	Develop Model Practices Bench Book	Court	Yes
3. The court and SCF should work together to establish and expand the availability of mediation in termination of parental rights cases (and other dependency cases).	Develop Model Practices Training & Tech Asst.	Court/SCF	No
4. To decrease the amount of time spent between the termination of parental rights decision and order, the Attorney General's office, working with the State Court Administrator, should standardize the procedure for drafting and circulating orders.	Training &	AG/SCA	Yes
5. ORS 419B.521(3) should be amended to require termination of parental rights (TPR) hearings be held in four months after the petition is filed.	Legislation & Rulemaking	Legislative	No

QUALITY AND DEPTH OF HEARINGS

	a		
Early Proceedings			
<p>1. Judicial resources should be increased to accommodate preliminary hearings in which all critical issues are thoroughly addressed. The issues include: the child's placement (can he or she safely be placed at home, with relatives or with someone else known to the child or must the child be placed in foster care or other state placement); visitation with parents and, where applicable, with siblings; whether the state has made reasonable efforts to avoid placement or to facilitate return; does or might the Indian Child Welfare Act apply; has everyone entitled to notice been notified and specifically, who is the legal father of each child; whether any treatment or evaluations are needed immediately; and, is each person entitled to counsel represented.</p>	Develop Model Practices Funding Legislation & Rulemaking	SCA/Court	No
<p>2. Model preliminary hearing orders should be developed which prompt judicial inquiry into the recommended issues described above.</p>	Develop Model Practices Form Book	SCA/Court/ OSB	Yes
<p>3. There should be increased use of the rehearing or motion process to bring current information to the courts' attention after the preliminary hearing.</p> <p>4. Settlement proceedings should be scheduled at the shelter hearing in virtually every case.</p>	Develop Model Practices Training & Tech. Asst.	Court/SCA/OSB	No
	Develop model practice Training & Tech. Asst.	Court/SCA	Yes

QUALM AND DEPTH OF HEARINGS - 2

RECOMMENDATIONS	IMPLEMENTATION		
	Strategy	Lead Agency	Current
<p>CRB Reviews Court and CRB in each county should continue a dialogue about the frequency of review and the division of responsibility for reviews. Written protocols or memoranda of understanding should be fully implemented.</p> <p>SCF workers, CRB coordinators, and volunteers should participate in joint training and other activities to increase cooperation and understanding of their respective roles and responsibilities.</p> <p>CRB should increase the use of information available to it (including information on prior uninvestigated referrals) to affect systems change at a policy/legislative level.</p> <p>There should be expanded use of the portion of the CRB Findings and Recommendations which inform the court of special circumstances or request particular action.</p> <p>Training Training should be provided to all participants in juvenile dependency matters and should be adapted to the needs of each group. Opportunities for interdisciplinary training within counties should also be provided. Among the topics which might be considered are: substance abuse and resources for substance abusing families; cultural and ethnic differences as they relate to child rearing; government benefits available in dependency cases, such as Social Security payments including non-needy relative grants, AFDC, and AFDC-FC, Adoption Assistance Programs, and crime victims programs; Independent Living programs; emancipation laws and programs; Family Preservation services; resources for the diagnosis and treatment of sexual abuse, physical abuse, and emotional abuse; patterns of child growth as related to neglect; resources for the treatment and recognition of non-organic failure to thrive; educational, mental health and other resources for special needs children; the use and</p>	<p>Develop Model Practices Training & Tech Asst.</p> <p>Training & Tech Asst.</p> <p>Training & Tech Asst.</p> <p>Training & Tech Asst.</p> <p>Training & Tech Asst.</p>	<p>Court/CRB</p> <p>Court/CRB/ SCF</p> <p>CRB</p> <p>Court/CRB</p> <p>SCA/Court/ OSB</p>	<p>so</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>Yes</p> <p>Yes - judges</p>

QUALITY AND DEPTH OF HEARINGS - 3

RECOMMENDATIONS	IMPLEMENTATION		
	Strategy	Lead Agency	Current Resources?
<p>Training - Continued</p> <p>appropriateness of psychotropic drugs for children; domestic violence, its effect on children and appropriate resources; immigration law issues in juvenile court; transitional aspects of placement and the child's return home; the importance of placing siblings together when appropriate; the appropriateness of various types of placement; the effects of the placement on visitation by parents, siblings, and other relatives; the effect of the placement on the service needs of the child; accessing private insurance for services; consolidated cases in the family court; the Indian Child Welfare Act, Native American families and appropriate resources; the Uniform Child Custody Jurisdiction Act (UCCJA); the Parental Kidnapping Protection Act; the Interstate Compact for the Placement of Children; the Interstate Compact on Juveniles, guardianships; adoption placement preferences; the identification, location, and notification of necessary parties (especially fathers and Tribes) to juvenile dependency proceedings needs to be developed and made available across disciplines; <u>extraordinary</u> expenses and division of responsibility and funding between SCF and IDSF for evaluation and treatment; extreme conduct; explanation of the proceedings; concurrent planning; availability and effectiveness of services.</p> <p>Training for para-professionals assisting attorneys in dependency cases should be developed.</p> <p>Practical training opportunities for lawyers and judges including bench exchanges and mentoring should be encouraged.</p>		OSB/SCA	No
	Training & Tech Asst.	(CRB)	
	Training & Tech Asst.	Court/OSB SCA	No

COMPLIANCE WITH FEDERAL LAW

RECOMMENDATIONS	IMPLEMENTATION		
	Strategy	Lead Agency	Current Resources?
Adoption Assistance & Child Welfare Act of 1980			
1. Juvenile judges should have "check list" style reference materials to ensure that adequate inquiry into reasonable efforts occurs at each stage of the proceeding.	Bench Book Form Book	Court/OSB	Yes
2. Form orders should be reformatted to include clear, thorough, direction for making a meaningful reasonable efforts inquiry at each stage of the proceeding.	Form Book	Court	Yes
3. SCF workers should provide the court with a report documenting specific reasonable efforts at each stage of proceeding.	Develop Model Practices	Court/SCF	Yes
4. Training and consultation on reasonable efforts should be provided statewide.	Training & Tech Asst.	Court/SCF/OSB	
5. SCF and other agencies providing services to children and families should seek and the legislature should fund the core services and sufficient resources to create individualized services where the core services are not appropriate or sufficient which will be available for each parent before the court.	Funding	Court/SCF	No
	Develop Model Practices/Training & Tech Assti	SCF/DOJ/ SCA	Yes
	Legislation & Rulemaking		
ICWA There should be clarification of treatment of cases where ICWA applicability is pending.	Form Book, Training & Tech Asst.	Court	Yes
Form orders should be reformatted to include clear, thorough direction for making a meaningful ICWA inquiry at each stage' of the proceeding.	Bench Book Form Book	Court	Yes
Juvenile judges should have clear "check list" reference materials to ensure that adequate inquiry into ICWA issues occur at each stage of the proceeding.	Training & Tech Asst.	SCA/OSB	No
Training and consultation on ICWA issues should be provided statewide.			

REPRESENTATION

RECOMMENDATIONS	IMPLEMENTATION		
	Strategy	Lead Agency	Current Resources?
<p><u>Notice of Rights, Including Right to Counsel</u></p> <p>1. A variety of methods for informing families about the SCF and juvenile court process should be developed. These might include a 1-800 telephone line, advice of rights brochures distributed to parents and guardians by SCF and law enforcement whenever a child is taken into custody. Each of these methods should be tailored to local circumstance and contain information about court times, agency phone numbers, etc. Information about right to counsel, rehearings, ICWA, and reasonable efforts should be included.</p>	Develop Model Practices Training & Tech Asst.	SCA/SCF	No
<p><u>Attorney & CASA Availability at Preliminary Hearings</u></p> <p>1. Attorneys should be available and appointed for all eligible parties at the earliest possible time (usually the preliminary hearing).</p>	Develop Model Practices/Funding/ Training & Tech Asst.	SCA (IDSD)	No
<p>2. CASAs should be available and appointed at preliminary hearings to the extent that resources allow, based on priorities set at local level.</p>	Develop Model Practices/Funding/ Training & Tech Asst.	CASA	No
<p>3. Courts should coordinate with court appointed attorneys to ensure presence at preliminary hearings.</p>	Develop Model Practices/Training & (IDSD) Tech Asst.	Court/SCA SCA, Indigent	Yes No
<p><u>Attorney Activities</u></p> <p>Attorney compensation should be adequate to cover both court and CRB attendance and the out-of-court activities identified in national and state standards as necessary for adequate representation of parents and children in dependency cases.</p> <p>Attorneys should adhere to Oregon State Bar standards.</p> <p>Counsel should not accept caseloads that by reason of excessive size and/or complexity interfere with the <u>provision of quality representation.</u></p>	Develop Model Practices Funding	Defense Account	No
	Funding Training & Tech Asst.	SCA/Indigent . Defense Account	No

REPRESENTATION - 2

RECOMMENDATIONS	IMPLEMENTATION		
	Strategy	Lead Agency	Current Resources?
<p>Attorney Activities- Continued Attorneys should be trained about all aspects of dependency practice (see Recommendations XXX). The Indigent Defense Fund should be adequately funded to implement these recommendations. The roles of the District Attorney and Attorney General in dependency cases must be clarified and protocols for SCF/DA/AG relationship and representation on a county by county basis should be developed. Representation for the prosecutorial function in dependency cases (whether provided by the Attorney General's office or the District Attorney's) should be adequately funded. SCF needs adequate General Counsel time to effectively represent the agency's position, consistent with the clarification of roles discussed above. There should be some representation for the state at post-adjudicatory proceedings. The OCCF should seek adequate funding in order that the statewide CASA system be refined, supported, expanded, and funded with the goal of full implementation of ORS 419A.170 which provides that a CASA shall be appointed in every juvenile court case involving an abused or neglected child. CASA program staff and volunteers should be trained about all aspects of dependency practice.</p>	Training & Tech Asst.	Court/OSB	
	Funding	SCA/Indigent Defense Account	No
	Develop Model Practices	AG/DA/SCF	Yes
	Training & Tech Asst.		
	Funding	Court/AG/DA/SCF	No
	Develop Model Practices/Funding	DOJ/AG/DA	No
	Funding	OCCF	
	Training & Tech Asst.	Court/OCCF	Yes

EFFECTIVE JUVENILE BENCH

RECOMMENDATIONS	IMPLEMENTATION		
	Strategy	Lead Agency	Current Resources?
<p>Judicial Resources Juvenile dependency cases should be given highest priority and their number appropriately weighted when decisions are made about additional judicial resources.</p> <p>Courts implementing "best practices" or "model courts" should be provided adequate funding, including funds for additional judicial officers, if necessary.</p> <p>Each county should receive technical assistance and advice on establishing a priority for juvenile cases. This will involve scheduling and docketing practices, deployment of judicial and support resources, and education of the court and staff</p> <p>Each county should strive to ensure continuity of judicial review by assigning a specific judge to each dependency case at the adjudication. This judge will be responsible for review (including review of the CRB report) up to the point of final disposition, except termination of parental rights cases where there is objection. The issue of family courts should be referred to the HJR55 committee.</p>		Court/SCA	
	Funding	SCA	No
	Training & Tech. Asst.	SCA Court/SCA	Yes Yes
	Develop Model Practices Training & Tech Asst.		