



Arkansas' Courts Make Significant Progress in
Handling Abuse & Neglect Cases
Arkansas Supreme Court Improvement Project (CIP) Reassessment Executive Summary

Key Findings

- Children are better represented since implementation of state-wide Attorney Ad Litem (AAL) and Court Appointed Special Advocates (CASA) programs.
- Indigent parents are now represented by attorneys who have been trained to handle dependency-neglect cases.
- Tremendous progress has been made in providing training for attorneys and judges on issues concerning abused and neglected children with a focus on national recommendations and best practices for handling these important proceedings.
- The vast majority of courts are holding timely hearings as required by federal and state law and are following the recommendations noted as best practices by the National Council of Juvenile and Family Court Judges (NCJFCJ).
- Several courts have made significant strides in improving case management strategies including scheduling, utilizing mediation or scheduled staffings, and providing orders at the end of hearings.
- Not all children have a permanency plan finalized at the permanency planning hearing, and often this critical hearing is treated as just another review hearing.
- Foster parents are not routinely present at court hearings. In some courts it is common and in others it is rare. Even when they are present they are not always provided an opportunity to be heard.
- The lack of Division of Children and Family Services (DCFS) caseworkers and resources negatively affects the courts' ability to obtain basic information and provide necessary services to children and families as required by law.
- The Administrative Office of the Courts (AOC) now collects detailed data on dependency-neglect proceedings and is tracking permanency outcomes for children in these proceedings.

Background

In 2004, over 5,500 children in Arkansas were found to be victims of abuse and neglect and 3,265 cases were filed in the Circuit Courts, Juvenile Division. The process concerning these important cases and the various hearings required are governed by federal and state law.

Approximately 98% of all court cases begin because a child is in immediate danger and must be removed from his/her home to protect his/her health and safety. If DCFS continues to hold the child for more than 72 hours, DCFS must seek a court order, known as an ex parte emergency order, to continue removal until the court conducts a probable cause hearing. The court will then determine if probable cause existed to protect the juvenile when DCFS removed the child, if it continues to exist, and whether removal from home is in the child's best interest and is necessary to protect the child.

If probable cause is found, the court will schedule a trial (known as the adjudication) to determine if the parents committed the alleged offense. Caseworkers should begin to develop with the family; child, if age appropriate; CASA volunteer; attorneys; and other relevant stakeholders a case plan to address the child's needs and remedy the situation that caused the removal.

If the court finds at the adjudication that the parents committed the alleged offense, the court should review the case plan goal and determine if the goal and services are appropriate and are in the child's best interest. Then the court will issue orders with regard to the child and family (known as the disposition). The court also issues orders for services for the child.

The court determines where the child will live and what visitation the parents will have if the child does not return home. If children are separated from siblings in a placement, the court has to ensure that they will have visitation with each other.

Most cases start with the goal of providing services to correct the conditions that caused removal and to



reunify the family. However, the court may conduct a no-reunification hearing and decide to relieve DCFS from providing reunification services. The court may determine there is a more appropriate permanent plan, such as termination of parental rights so that the child can be adopted by another family.

When a child remains out of his/her home, review hearings must be conducted at least every six months to review the parent's and DCFS' compliance with the case plan and court orders and to ensure that the child's needs are being met.

If a child remains out of his/her home for one year, a permanency planning hearing is required to determine a permanent plan for the child. At that time, or before, a decision should be made based on the child's best interest to finalize a safe and permanent placement for that child.

Federal law prioritizes these permanent placements. If a child can return to his/her home, and his/her health

and safety can be protected, that is the preferred outcome and is required by law. If that cannot happen, the state or AAL may seek termination of parental rights so that the state may seek an adoptive home for the child. Other possible permanent plans in order of preference are guardianship, custody, and another permanent planned living arrangement.

Courts are required to have reviews and permanency planning hearings until the child is in a safe and permanent placement. It is traumatic for a child to be abused or neglected and to be removed from his/her home. Therefore, courts must ensure that when the state intervenes, children are not only protected, but are placed in safe and permanent homes as soon as possible.

MOM
What made you decide you couldn't take care
of me?
Was it because you thought you were ready?
Why did you leave me?
Was I bad?
Was I too much?
Why did you run away?
What made you do drugs?
Was it because of me?
What was the feeling?
Was it to get rid of the pain?
To get rid of the emotions?
When were you going to try and find me?
Did you try?
Did you get lost?
Have you stopped using drugs?
Was it your parents?
Why haven't you called?
Then you had two more. Why?

Nadia, 16

My Past, Present and Future... Voices of Foster Youth
Issued by Children's Law Center of Los Angeles (May 2005)

CIP Reassessment

In December 1994, our state was awarded federal grant funds to conduct an assessment of how our courts were handling dependency-neglect cases. The Arkansas Supreme Court appointed an Ad Hoc Committee on Foster Care and Adoption to oversee the Court Improvement Program (CIP). The Supreme Court charged the Committee with:

- Guiding the assessment process;
- Evaluating the results of the assessment;
- Recommending areas for improvement; and
- Overseeing the implementation of recommendations.

In February 1997, the Committee issued its report with findings and recommendations for improvement focusing on representation, legislation, and training. In the fall of 2003, the Committee began a reassessment to reevaluate how Arkansas' courts handle dependency-neglect cases, including the progress the state has made since the original assessment. State-wide surveys of judges, attorneys, DCFS staff, CASA volunteers and staff, and foster parents were conducted. The Reassessment Team also selected twelve court sites to conduct site reviews using a CIP Team of attorneys, DCFS staff, CASA representatives, and child advocates. At each court site, team members observed court, reviewed files and interviewed parties, attorneys, judges, CASA volunteers, and foster parents. Focus groups were conducted with foster parents, agency attorneys, and attorneys ad litem. Data was collected from various sources including the AOC and DCFS. The American Bar Association (ABA) Center on Children and the Law assisted the AOC with data analysis.

It is important to note that that CIP has focused and continues to focus on the improvement of the courts' role in abuse and neglect cases. However, separating action or inaction by DCFS and the courts and the impact on children and families is often difficult. In order for courts to finalize safe and permanent placements for children, courts must rely on DCFS for critical information and necessary services for children and families.

Children are better represented in abuse & neglect cases.

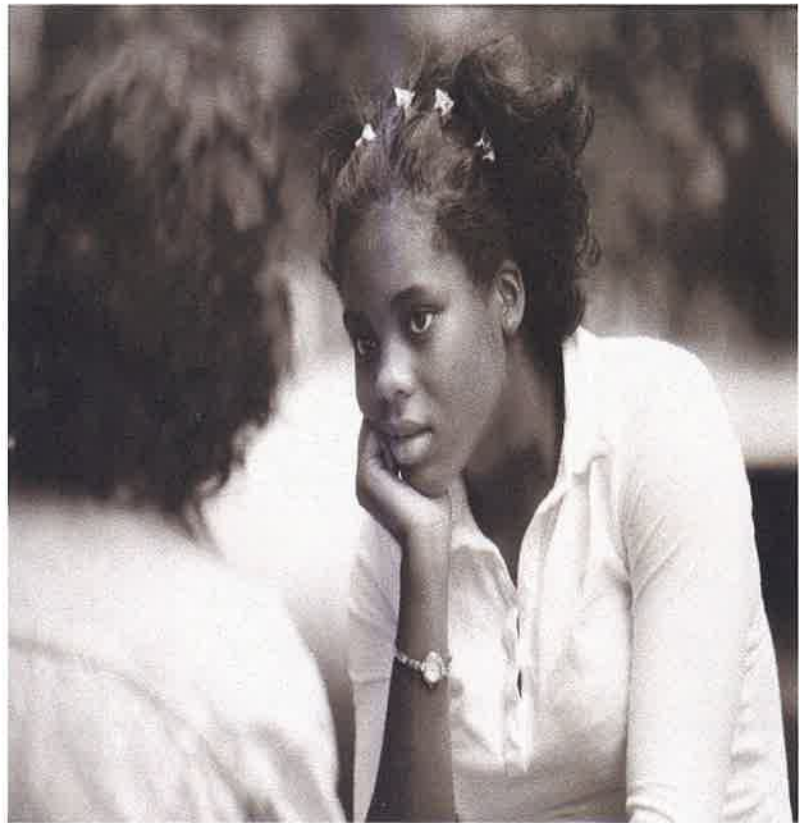
The original assessment found that "children were not adequately represented in dependency-neglect cases, and even when they were represented, the quality of representation was minimal or poor." At that time, there were fewer than five attorneys in Arkansas who specialized in representation of children in abuse and neglect cases. In some areas of the state public defenders filled this role. In other areas any attorney who happened to be in the court that day was asked to stand in to represent a child, if a child was represented at all. There were no standards or requirements for training or experience in order to be appointed.

Act 708 of 1997 created a Division of Dependency-Neglect Representation within the AOC to establish a state-wide AAL and CASA program to represent the best interest of children. The Arkansas Supreme Court adopted standards of practice and qualifications AALs must meet prior to appointment.



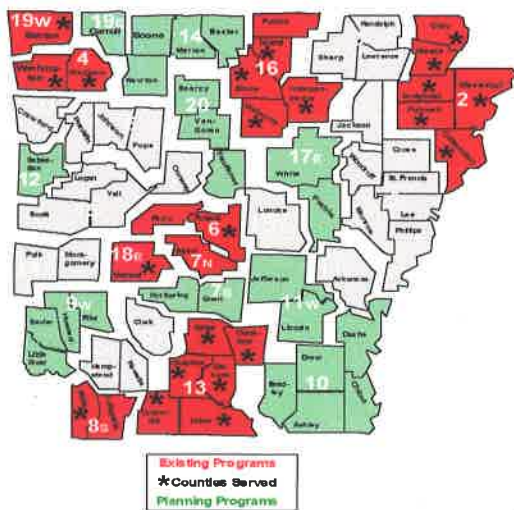
Children are better represented in abuse & neglect cases.

In 1999, the Arkansas Legislature funded representation for children in abuse and neglect cases. By January 2000, the state had entered into contracts with attorneys to represent every child in the state in abuse and neglect cases. There has also been continuous improvement in the quality of representation of the attorneys. Ninety-eight percent of the juvenile division judges agree or strongly agree that children are better represented since implementation of state-wide program and funding for AALs for children. Survey results and the AOC database indicate that the same attorney *always* or *usually* represents the same child at all stages of the case in 98-100% of all cases. By 2004, the program had 22 full-time employees and 57 contractors representing 4,940 children.

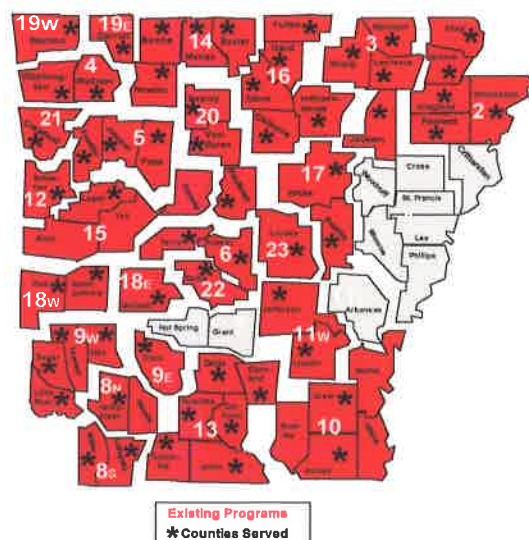


During the original assessment, the AOC, in conjunction with the CIP, received a grant to develop a statewide CASA program. In 1999, the Legislature provided funding for local CASA programs to recruit, train and supervise CASA volunteers to advocate for a child's best interests in abuse and neglect cases. The number of CASA programs in Arkansas has increased from seven in 1998 to 21 programs in 2005. These programs serve 25 of Arkansas' 28 judicial circuits and 55 of Arkansas' 75 counties. The number of children served by CASA volunteers has increased from 781 in FY2000 to 2,308 in FY2004.

1999 Arkansas CASA Program



2005 Arkansas CASA Program



Indigent parents are now represented by attorneys trained to handle
dependency-neglect cases.

Representation for parents is essential to ensure that their rights are protected and that they receive the services they need to be able to provide a safe and permanent home for their children. The original assessment found that parents were not always represented by counsel when their children were removed as a result of abuse or neglect. When attorneys were appointed to represent parents, judges usually appointed public defenders and legal services attorneys. In a few districts, attorneys were appointed and paid for with county funds; however, due to limited county funds, it was unlikely for appointment to occur at the early stages of the case. Appointments were most likely to be made prior to a termination of parental rights hearing. In addition, counties did not have a system of standards of representation and/or qualifications for attorneys representing indigent parents. As a result, if parents were represented, the attorneys were usually not prepared or specifically trained in this area of the law.

Act 1267 of 2001 established authority for the appointment and payment of attorneys to represent indigent parents in dependency-neglect cases and provided for the Arkansas Supreme Court to adopt qualifications and standards of practice for these attorneys. Since state funding became available in July 2001, 321 attorneys have become qualified to represent indigent parents throughout the state. In FY 2004, 118 qualified parent attorneys were actively providing representation and courts made 3,494 appointments for qualified counsel to represent indigent parents. Eighty-nine percent of the judges reported that they agree or strongly agree that there has been an improvement in representation of parents since the implementation of state funding in 2001. Eighty-two percent of the attorneys reported that they agree or strongly agree that there has been an improvement in representation of parents since implementation of state funding in 2001.

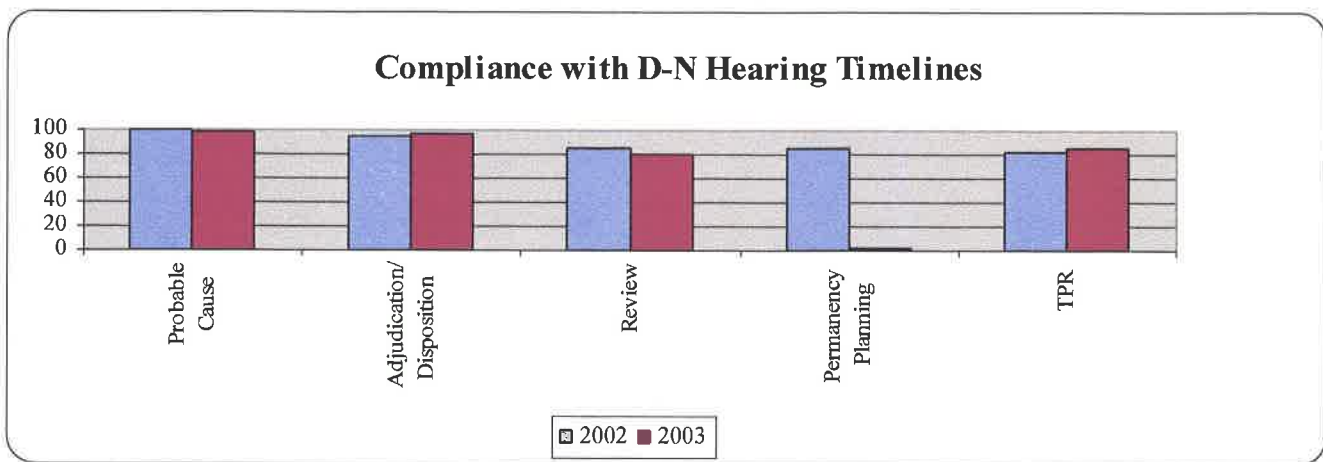
Tremendous progress has been made in providing training for attorneys & judges.

The original assessment found that very limited organized training existed for attorneys and judges in dependency-neglect cases or the professionals who are called to testify in court. The Committee made findings and recommendations about training related to specific issues and agreed that everyone involved in the dependency-neglect system needed training on every aspect of the system. Committee members agreed that training is crucial to the success of this project and to the success of the foster care system. The Committee favored both interdisciplinary and intradisciplinary training for judges, attorneys, DCFS caseworkers, foster parents, service providers, CASA volunteers, court personnel, law enforcement officers, and anyone else who has a role in the system.

Tremendous progress has been made since the original assessment in 1997 in providing quality training. The CIP co-sponsors three major conferences a year: The Children and The Law Conference in the spring, the CASA Conference in late summer, and the annual Juvenile Division Judges' Conference in the fall. The CIP has brought in national speakers, including staff from the national resource centers, judges from other states, medical, and mental health professionals. The primary focus at every conference has been strategies to achieve health, safety and permanency for children in foster care in a timely manner. The CIP also provides semi-annual initial qualification legal education for dependency-neglect attorneys and ongoing training for CASA volunteers, caseworkers, foster parents, school counselors, law enforcement, and juvenile officers.

Courts are holding timely hearings and are implementing many of the NCJFCJ's best practice recommendations for these hearings.

The AOC is now able to track information on dependency-neglect proceedings, including whether hearings are held in a timely manner. Courts are at almost 100% compliance in the early stages of the case. Based on further review of the database and confirmation of data with the judges, statutory compliance is actually higher at the review and permanency planning hearings than currently reflected. The database did not track the time when children go in and out of foster care placements for purposes of these hearings. The database will be corrected to distinguish between continuous foster care cases and cases when children move in and out of foster care and for whom the court still monitors the case to ensure that when the child returns home he/she remains in a safe and healthy placement and it is in his/her best interest. Although there is improvement in termination of parental rights (TPR) timeline hearing compliance, the Reassessment Team found that continuances are often a reason for delay at this stage of the proceeding. The team also recognizes a need to equip our courts with technology to enable them to track the time frames of these important cases.



Scheduling Hearings: A recommendation from the original assessment was for courts to set specific times for each hearing. Since the original assessment, courts in Arkansas have increased the practice of scheduling hearings at specific times or clustering hearings by the hour. Twenty-eight percent of judges now report time-specific hearings and an additional 14% report clustering by the hour. The majority of our courts are also meeting or exceeding the NCJFCJ time recommendations for the various types of hearings.

Announcing Hearing Dates: One of the recommendations from the original assessment was that judges schedule the next hearing at the end of each hearing. This ensures that a hearing is scheduled within the timeline provided under the law and provides all parties present with notice. Judges reported that this is the practice *always* or *usually* (84%). Attorneys and caseworkers who responded to the survey reported this as the practice 89% and 91%.

Orders: In the original assessment, the Committee found that “court orders are not filed in a timely manner following hearings.” As a result, a recommendation was made to change the law to require orders to be filed within 30 days of the hearing or prior to the next hearing, whichever comes first. One of the recommendations of the CIP in Arkansas has been that all parties receive written orders immediately after a hearing. To this end, the CIP conducted a pilot project in FY 2004 in which seven courts received court technology grants. Courts were required as a condition of these grants to issue court orders immediately and to hold time-certain hearings.

Appeals: One of the CIP recommendations from the original assessment was to expedite appeals. As a result the Arkansas Supreme Court adopted a rule change to prioritize dependency-neglect appeals. Despite this effort, the average appeal takes 299 days to reach a final decision, with the longest lasting 527 days and the shortest lasting 159 days. Attorney briefing extensions are a significant factor causing a delay in appellate decisions in these important cases.

Not all children have a permanency plan finalized at the permanency planning hearing; often this hearing is treated as just another review.

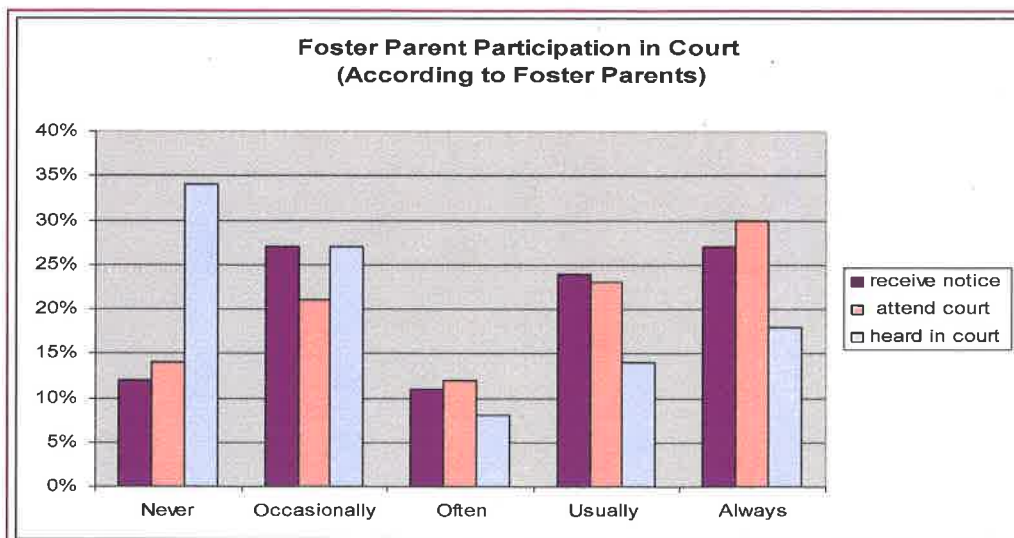
During the original assessment, the Supreme Court Ad Hoc Committee drafted legislation that was enacted to establish a permanency planning hearing within one year of a child’s entry into foster care. This legislation was intended to ensure that each child had a permanent plan within one year, thus ending the cycle of children growing up in our foster care system. Congress enacted the Adoption Safe Families Act (ASFA) in November 1997. ASFA required a permanent plan within one year of placement and specified preferential permanent plans. However, despite the change in law and numerous trainings on permanency planning, we still have not met our goal that every child has a permanency plan within one year of his/her removal from his/her home.

Based on review of the survey data, site observations, file reviews and interviews, the CIP Reassessment Team was concerned that many permanency planning hearings seem to be considered “just another review.” The CIP Reassessment Team observed 26 permanency planning hearings, and in only half of the hearings was a permanency plan ordered for a child. Forty-one percent of the 185 case files reviewed did not have a permanent plan as required by law. Problems arise when caseworkers do not provide courts with critical information needed to finalize a permanency plan and services are not provided to children and families as needed. Caseworkers reported that the number one barrier to providing information to the courts in a timely manner was excessive caseloads.

Drug and alcohol treatment and adequate housing remain critical service needs for parents. Attorneys and judges rated substance abuse assessment and treatment as the most significant factor delaying permanency for children, followed by lack of adequate housing. Caseworkers ranked lack of appropriate placements for children first, followed by lack of substance abuse assessment and treatment and adequate housing. Yet, these critical services are not available to all of our families who need them.

Foster parents are not routinely present at hearings. Even when they are present they are not always provided an opportunity to be heard.

Federal and state law require that foster parents receive notice of all hearings and have an opportunity to be heard. Foster parents are a critical and valuable resource in our child welfare system and have a wealth of information about the needs of children in their care. Yet, our reassessment found foster parents to be unappreciated and uninvolved with the court cases involving children in their care. DCFS does not always provide the foster parents notice as required. During focus groups, some foster parents spoke of positive experiences with individual courts that sought their input. However, many foster parents expressed general frustration with everyone in the system, including the courts. For example, one foster parent stated, “We are trained a certain way to deal with these children. We are the ones who care, but we are not allowed to have a voice.”



The lack of DCFS caseworkers and resources is negatively affecting the courts' ability to obtain basic information required by law about cases and provide necessary services to children and families.

Caseworker vacancies have continued to increase during the period of our reassessment. In some areas of the state the caseworker vacancy rate has tripled in two years. DCFS reported in a recent Quarterly Report (January - March 2005), "Staffing remains an issue in many areas of the state. Caseloads are higher than the recommended standard in every area of the state...In many areas they are several times higher than the recommended standard."

One of the main areas of concern noted in the reassessment is DCFS' failure to develop case plans and court reports and to provide them to the court as required by law. In the original assessment, judges expressed frustration over not receiving case plans, although the law did not require submission to the court prior to 1997. As a result, the Committee recommended legislation that updated our case plans to conform with federal law and required that case plans be filed no later than 30 days after the date a petition is filed or the child is first placed out of his/her home, whichever comes first.

This fundamental change in Arkansas law regarding case plans came about with a shift in philosophy of the roles of DCFS and the court. It was determined that the case plan should be the roadmap to permanency for all parties so that there would be a clear understanding of all parties' expectations and responsibilities. DCFS should develop the case plan based on the strengths and needs of the family and with input from all parties, stakeholders, and attorneys. The agency would no longer wait for the court to issue orders for services. Instead, at the adjudication/disposition hearing, the court would be provided with a case plan identifying needs and recommended services and a case plan goal. The court would review and approve the goal if the family was adjudicated dependent-neglected and any additional information for a plan would be developed no later than 30 days following the hearing.

Unfortunately, practice has not followed the change in the law and philosophy, despite training efforts. Eight years later, case plans are still not routinely provided to all courts at the adjudication/disposition hearing as evidenced by review of the surveys, court file reviews and court observations. Further, when case plans are developed they are often not meaningful and DCFS has failed to involve necessary parties, including parents, in the development of the case plans. In fact only 21% of the caseworkers reported that parents are *always* involved in case plan development.

Another area of concern is DCFS' lack of resources, specifically for drug and alcohol assessments and treatment. Alcohol and drug abuse are factors in a vast majority of the dependency-neglect cases. The increase in methamphetamine abuse alone has contributed to a significant increase in court cases. Congress has formed a Subcommittee to work specifically on the problems associated with methamphetamine abuse, including its impact on child welfare. Representative Mark Souder stated at a committee hearing on July 26, 2005, that he had heard gripping testimony about how this drug had devastated the lives and families from diverse states, including Arkansas. Last year in one Arkansas county, 40 children came into foster care in one week because parents were arrested for methamphetamine use or production.

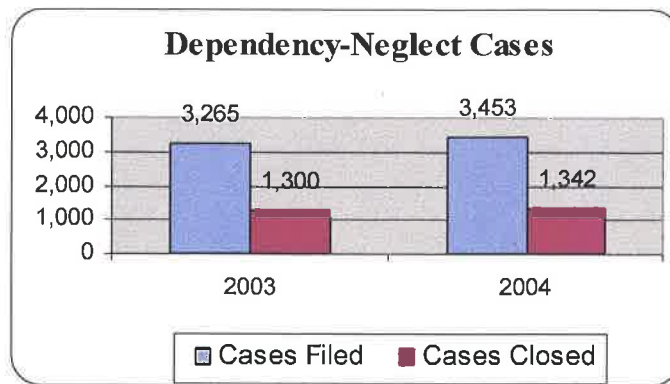
In interviews, caseworkers, judges, attorneys, and CASA volunteers all expressed concern about the lack of availability for drug and alcohol assessments and treatment for parents in dependency-neglect cases. Caseworkers were often frustrated with the lack of funds available to serve their clients. A judge commented in an interview that a real need exists for timely and intensive treatment for alcohol and drug abuse for families, with a follow-up program to give families a chance to rehabilitate.

How do you expect parents to rehabilitate when the services are not available?

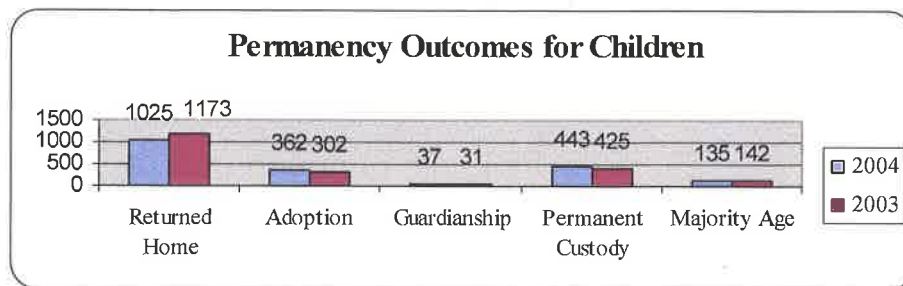
Judge Interview

The AOC now collects detailed data on dependency-neglect proceedings and is tracking permanency outcomes for children.

The most important issue to the CIP Reassessment Team was whether the effects of court improvements made over the last five years have, or are, making a difference for children by allowing them to be placed in safe and permanent homes in a timely manner. Evaluation experts cautioned that we would not be able to correlate any specific improvements to a particular permanency outcome because of the diverse factors in our foster care system without depriving a child or a parent of essential rights or services. Many factors have impact on the health, safety, and permanency for children in our foster care system. In addition to the impact of children of abuse and neglect, their well-being is affected by the number and stability of their foster care placements, the availability of mental health services and other services, the actions of the court and DCFS, and their connections with their families. Understanding these limitations and that the review was limited to court actions, the Reassessment Team thought it was important to develop baseline data for future evaluation to see what, if any, issues it might raise. In the original assessment, the only data the AOC had was the number of cases filed and disposed of each year.



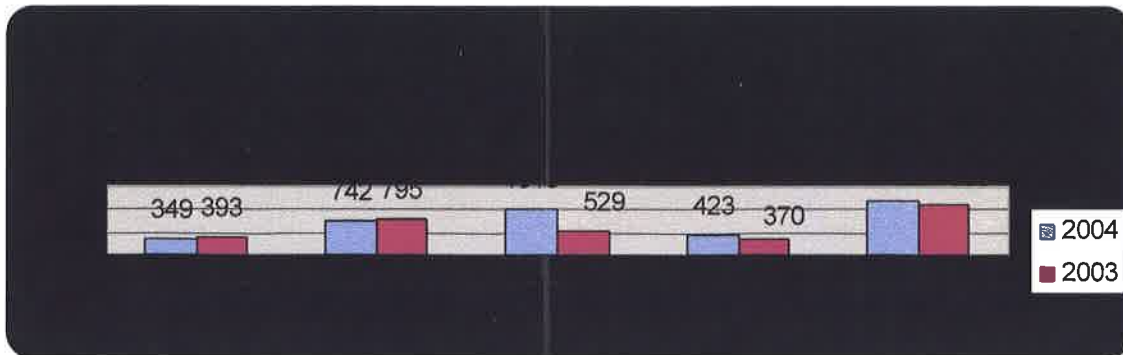
The AOC now has a dependency-neglect database to track timeliness of court hearings, what is happening in a particular case for a specific child, and permanency outcomes for children, including time frames, and the age, race, and gender of the children involved. In 2003, 2,073 children had the following permanency outcomes in the 1,300 cases that were closed. In 2004, 1,998 children had the following permanency outcomes in the 1,342 cases that were closed. In 2003, 57% of the of the children were returned home compared with 51% in 2004.



In the last two years, 277 children left foster care simply because they reached majority age. They had no permanent home. Children's Bureau statistics indicate that we must pay attention to these young people who face barriers that will continue to plague their own ability to become productive adults. Among the young women, six in ten will become pregnant. Only half will graduate from high school. One in four will end up homeless, at least for one night, and half will end up unemployed. It is incumbent on our child welfare system and courts to ensure that no child leaves foster care without a comprehensive permanent plan and a healthy bond with a responsible adult who can continue to offer support as the youth transitions to adulthood.

The AOC now collects detailed data on dependency–neglect proceedings and is tracking permanency outcomes for children.

The children who reached majority age in 2004 spent, on average, over three years in foster care before turning 18. The database allows CIP to track the time it takes for children to reach permanency, from the time they enter foster care until the time their case closes and they are placed in safe and permanent placement. While the average time continues to decrease for children who had cases closed in 2004 when they were returned home or had adoptions finalized, the average time increased for guardianships, custody and for those children who reached majority age. The most dramatic increase in time was to finalize guardianships in 2004. The number of days taken to finalize guardianships in 2004 was nearly double the time taken in 2003.



Overall, the average number of days for children to reach permanent outcomes actually increased between calendar year 2003 to 2004 and the data also revealed that female children had the lengthier cases. Racial disparities were also noted and should be further analyzed, specifically with regard to biracial and African American children. For example, returning a biracial child to a parent took 98% longer than for other children. Adoptions took 13% longer for African American children.

CIP Recommendations for Further Improvement

CIP has identified many areas in which courts are better serving children and families. Significant progress has been made in holding hearings in a timely fashion, spending adequate time at those hearings, issuing court orders in a timely manner, and providing the children and parents with qualified representation and advocacy. As the reassessment indicates, there is still room for improvement to ensure that Arkansas' abused and neglected children are a priority. No child should enter or leave the foster care system without a judge making a decision based on the child's best interest to protect his/her health, safety and well-being. Our courts must continue to ensure that our children are protected and that they find safe and permanent homes in a timely fashion. This can only be done if courts are provided with the resources and evidence they need to make these important life-altering decisions on behalf of abused and neglected children.

The Supreme Court Ad Hoc Committee and the CIP Reassessment Team who offered their time, boundless energy, and dedication to improving the lives of children in our court system makes the following recommendations for continued court improvement:

✎ CIP shall continue to support efforts to recruit, train, and retain qualified child welfare attorneys through attractive salaries and fees, retention programs, training, and support services.

✎ CIP shall continue to support the development of CASA programs to provide qualified volunteer advocates for every abused and neglected child.

CIP Recommendations for Further Improvement (continued)

✎ CIP shall continue to provide training to judges, attorneys, CASA volunteers, caseworkers, and other stakeholders on issues concerning child abuse and neglected children and best practices in dependency-neglect proceedings.

✎ CIP shall work with DCFS to explore training, technical assistance, technology, and accountability to ensure that DCFS complies with the law in the development of meaningful case plans with the family and relevant parties. Judges should determine if the case plan goal is appropriate and whether the services are designed to meet the child's and the family's needs. Judges should address compliance of all parties with the case plan and courts orders, whether services are alleviating the problems that led to removal, and whether the child's best interest and needs are being met.

✎ CIP shall continue to work with stakeholders regarding the needs of children in foster care including the impact that caseworker turnover, lack of funding, and availability of adequate services to children and families has on permanency outcomes.

✎ CIP shall work with judges, attorneys, caseworkers, and CASA volunteers to develop "Best Practice Guidelines" for all dependency-neglect proceedings.

✎ CIP shall convene a group of foster parents to assist in developing recommendations to the Supreme Court Ad Hoc Committee on ways to improve foster parents' ability to meaningfully participate in their children's cases.

✎ CIP shall provide judges sample orders and technology to enable more courts to issue orders immediately following hearings. Written notice of the next hearing should be provided to all parties at the end of each hearing.

✎ CIP shall work with DCFS, attorneys, and judges to ensure that within one year of a child being placed in foster care that child has a meaningful permanency planning hearing. Permanent plans should be presented to the court and the court should finalize the plan within one year of the child's removal from his/her home.

✎ CIP shall research other states' appellate rules and make suggested recommendations to the Arkansas Supreme Court for rule changes to further expedite dependency-neglect appeals.

✎ CIP shall work with judges to encourage them to conduct quarterly meetings with representation from DCFS, CASA, foster parents, attorneys, and other stakeholders to discuss and address issues to improve dependency-neglect proceedings and child welfare systems in their communities.

✎ CIP shall continue to track permanency outcomes and evaluate any racial and gender disparities to ensure that efforts are made to seek permanency in a timely manner for all our children in foster care.

✎ CIP shall work with the AOC Court Automation Project, judges, attorneys and trial administrators to improve data collection and ensure the availability of a state-wide data management system to local courts.

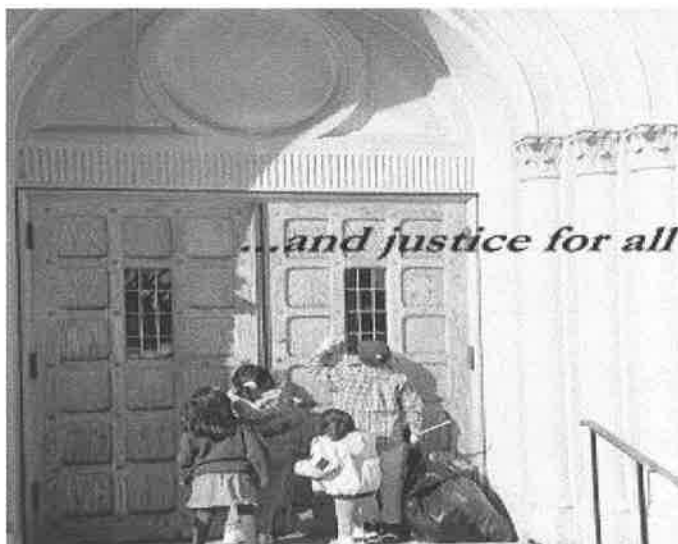
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