

## ***Draft* Sample Court Report Based on Automated Performance Data**

# **Semiannual Report**

## **Colucca County Juvenile Court**

### **Community Trends**

Colucca County's rapid population growth has continued during the last six months. The board of supervisors' Office of Planning estimates that we will reach a population of 750,000 this year in the area within the court's jurisdiction. This will be a factor in increasing the numbers of cases coming before the court.

According to the Colucca County Division of Children's Services, the number of child abuse and neglect reports has increased slightly, to a projected 9000 child abuse and neglect reports during this calendar year. The Division projects approximately 3500 substantiated reports for the year, up by about 3% from last year.

Additional reports have translated to more abuse and neglect petitions so far this year, for a total of 497 for the first six months of this year. Based on past experience, we expect approximately 1050 petitions (one petition per child) during the entire calendar year.

### **Judicial Data System**

Three years ago, Colucca County hired a local computer programmer to set up and maintain a database to measure court performance in child abuse and neglect cases. Our system has been operational for 18 months now and data is available covering that 18-month period of time. During the last six months a new programmer has begun to modify our system to enable it to do case tracking and scheduling, generate court forms, and automatically download information from court forms.

## **Court Organization and Staffing**

While there has been discussion in the state about converting to a unified family court, no concrete proposals have yet been presented to the state legislature or recommended by the Supreme Court.

One year ago, the court was able to add one full-time judge to the juvenile court, for the purpose increasing staffing on child abuse and neglect cases. Judge Leonard FitzGerald began on June 15. Last year, in addition to the five judges already devoting half time to these case, Judge FitzGerald brings us to the equivalent of 3½ full time equivalent (FTE) judges on abuse and neglect cases. Based on current projections, our judges will have a caseload of about 300 new petitions per full time judge (1050/3.5).

Court staff has also expanded, now including support staff for Judge FitzGerald and a Caseload Manager.

The court continued to operate its working groups. Our Interdisciplinary Working Group (IWG), including our judges, agency representatives, agency attorneys, parents and children's attorneys, CASA representatives, foster parents, key service providers, child advocacy groups, key court staff, and others met each month. (Minutes are set forth as Attachment A.)

## **Reducing Court Delays**

### *Key Elements of Delays*

One year ago, Chief Judge Gray, with the help of IWG and its Court Delays and Caseload Management Subgroup, identified a number of issues to address regarding court delays. They noted that judges, court staff, attorneys, CASAs, DCS caseworkers and staff, service providers, and others all play an important role regarding the following problems:

1. Children stayed too long in foster care following the court's first involvement in the case. The average length of stay for children who had recently left care was 23 months.
2. The length of stay was even greater for children who had been sexually abused or whose parents had problems with substance abuse. For sexually abused children, the average length of stay upon exit from foster care was 47 months. For children whose parents had problems with substance abuse, the average length of stay upon exit from foster care was 38 months.
3. It took too long before termination petitions were filed in each case. The average was 25 months after entry into foster care.

4. It took too long from the filing of termination petitions until the juvenile court made a final order granting termination or dismissing the termination petition. The average length of time was 110 days for all cases, 80 days for non-contested cases, and 240 days for contested cases.

### *Steps to Achieve Reductions in Delays*

With the help of the Court Delays and Caseflow Management Subgroup, the court developed several local court rules (Attachment B). One rule included deadlines for termination of parental rights hearings. Others supplemented and tightened existing statewide deadlines for shelter care, adjudication, disposition, court reviews, and permanency hearings. Another rule provides for pretrial hearings to avoid delays in contested adjudication hearings and termination proceedings.

The court hired a new senior member of its staff to concentrate on mostly caseflow management. Our new Caseflow Manager Ron Seibel attended advanced caseflow management training. The court employed consultants to assist with training of staff. A series of four training meetings were held with all attorneys and agency supervisors.

A special committee of children's attorneys, child protection agency attorneys, agency caseworkers, and agency supervisors held monthly meetings to discuss those cases in which children are in care the longest without permanency and in which the court process has been most delayed. These meetings were coordinated by DCS.

Mr. Seibel and his assistant also met monthly with two attorney representatives and several agency caseworkers, supervisors, and managers. The meetings addressed delays related to court docketing and scheduling.

A special interagency committee was formed to address delays in child welfare cases where there are parallel criminal prosecutions. The group includes the administrative judge, deputy prosecutor, a representative of the criminal defense bar, lead agency attorney, a representative of attorneys representing parents in juvenile court, the Assistant Director of Colucca County DCS, and the juvenile court administrator. The administrative judge of the Colucca County Superior Court has issued a local rule (Attachment C) to the effect that criminal proceedings will not delay adjudication hearings in juvenile court.

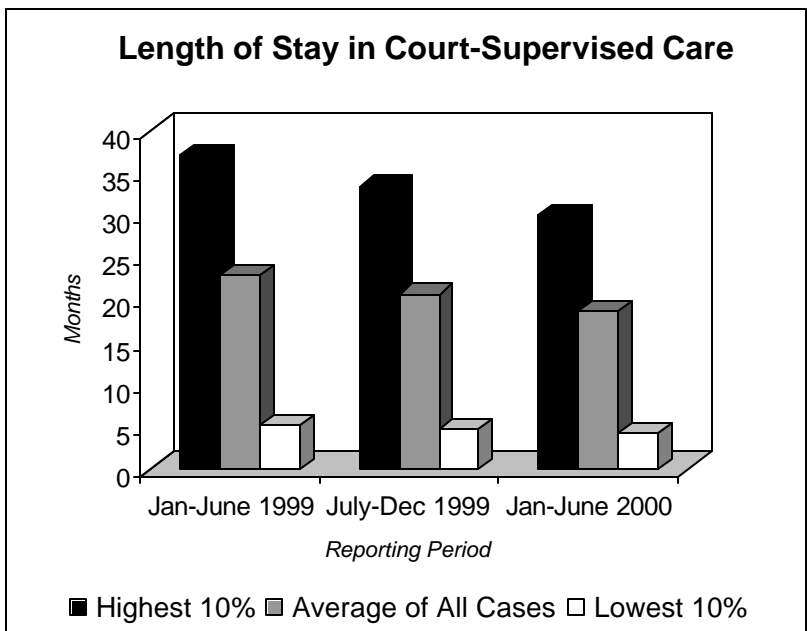
Chief Judge Gray issued an administrative order specifying that the same judge will hear all stages of each case, including termination of parental rights. Exceptions are allowed for cause.

### *Current Progress in Delay Reduction*

During the last year, there has been a steady reduction in the average length of stay for children exiting from court-supervised foster care. We feel very encouraged by this,

in view of our efforts to resolve those cases where children have already been in care for long periods of time. As shown by Chart 1, below, the average length of time for children in foster care when they left care was lower in each succeeding six month period from 1999 through the first six months of 2000. The average dropped from 23 in early 1999 to 18.6 months in care in early 2000.

Further, Chart 1 shows reductions in length of stay for the 10% of children who had been in care the longest. Their averages dropped from 37.2 to 30.1 months during the same time period. For the 10% of children who had been in care most briefly, the comparable figures were 5.2 and 4.2 months. [Note to Readers: While the court has separate figures for the individual judges, these are shared with them privately and there is no mention of such differences in this report.]



*Chart 1*

Children continue to remain in foster care significantly longer where there is sexual abuse or substance abuse related maltreatment.<sup>1</sup> However, the gaps have been reduced during the last year. As shown by Chart 2, for sexual abuse victims, there was a 26% reduction in length of stay before exiting foster care from the first six months of 1999 to the first six months of 2000. For children of substance abusing parents, the reduction was 24%. The average reduction for all cases was 19%.

<sup>1</sup> Figures for sexual abuse and substance abuse cases include only those cases where there were judicial findings of sexual abuse or substance abuse at adjudication. In Colucca County, agency attorneys generally do not agree to drop such allegations during negotiations when there is evidence to support them.

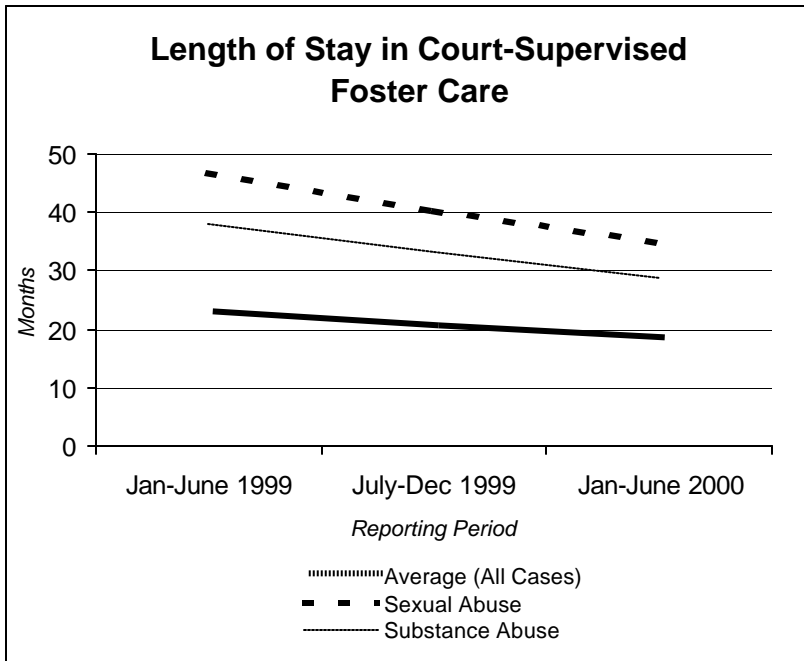


Chart 2

There has been an impressive reduction in the number of children remaining in foster care for three years or more. For all children in foster care more than three years, the numbers dropped from 255 in the first six months of 1999 to 197 in the first six months of 2000, or a drop of 23%. As illustrated by Chart 3, there have been similar reductions for cases involving parental substance abuse and the sexual abuse of children. Note that all of these figures vary slightly from the numbers provided by the Colucca County DCS data system, which also counts children in “voluntary foster care” (who have not come before the court).<sup>2</sup>

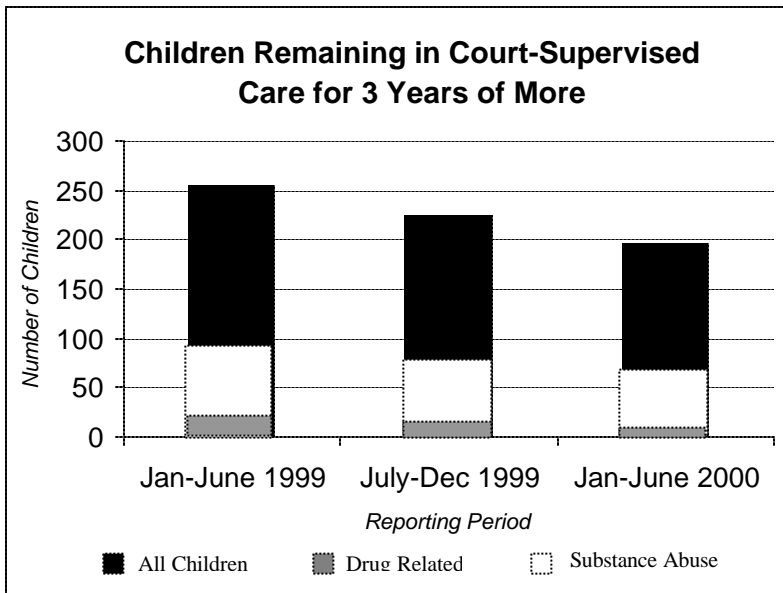


Chart 3

<sup>2</sup> Statistics from Colucca County DCS can be obtained by calling Ramona Stikeleather at 899-0909.

We have made some progress in the date that termination of parental rights cases are filed. As shown by Chart 4, the average time is now approximately 19 months, a 17% reduction from last year.

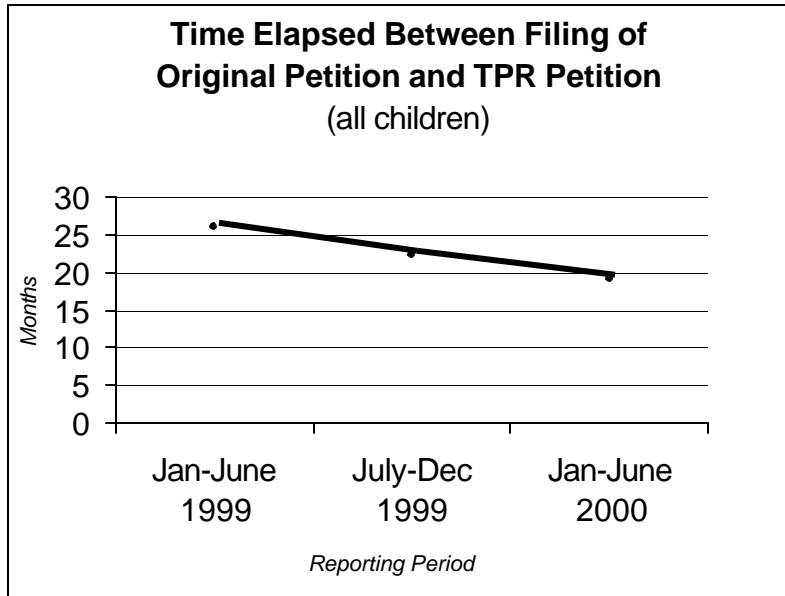


Chart 4

We have made even greater progress concerning the completion of termination proceedings. As shown by Chart 5, our average time in non-contested cases is now 61 days, a 24% reduction. Our average time in contested cases is now about 6½ months, a 19% reduction.

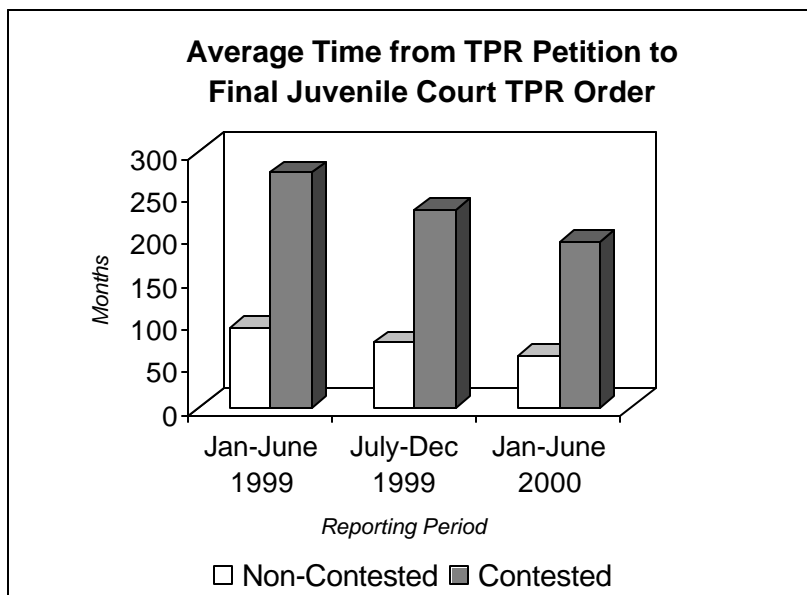


Chart 5

## *Current Concerns and Plans to Reduce Delays*

While we have made significant progress in delay reduction, our delays are still greater than they should be. According to national data for children's length of stay in foster care (from the AFCARS system) our times are better than 75% of jurisdictions throughout the United States (the 75<sup>th</sup> percentile). We are proud of our accomplishments so far, but we feel that we can do better. For example, we see no reason that we cannot eventually match the accomplishments of Kent County, Michigan,<sup>3</sup> which reported in 1996 that it took an average of 15 months from the time of placement into foster care until being legally freed for adoption. We see no reason why we cannot eventually process TPR cases as fast as recommended in the *Resource Guidelines*.

These long-term goals will require continued efforts at tightening caseload management and close work with the DCS and service providers.

## **Improving Outcomes to Ensure Permanency**

### *Key Problems in Permanency Outcomes*

Eighteen months ago, Chief Judge Gray, IWG, and the Permanency Subgroup, identified several key issues concerning permanency outcomes. First, the proportion of cases ending with termination and adoption was too low. Of those children exiting foster care in the time period between 24 and 18 months ago, only 9% had been adopted. Second, too many children were aging out of foster care. During the same time period, 36% of closed foster care cases involved children aging out of foster care.

Permanency hearings (then called "permanency planning hearings") did not appear to be achieving their intended results. In 41% of initial "permanency planning hearings" for each case, the case goal was identified as family reunification, but without specifying a definite time in which reunification would occur. In 27% of second permanency hearings, this also was the announced goal.

### *Steps to Achieve Permanency Outcomes*

One year ago, the IWG Permanency Subgroup recommended the drafting of a local court rule governing permanency hearings. The purpose of this court rule was to improve the outcomes of permanency hearings -- fewer decisions to indefinitely continue reunification efforts and fewer decisions approving foster care as a long-term placement. The court also recommended development of forms for review hearings following termination of parental rights. It recommended training concerning the new rules and forms.

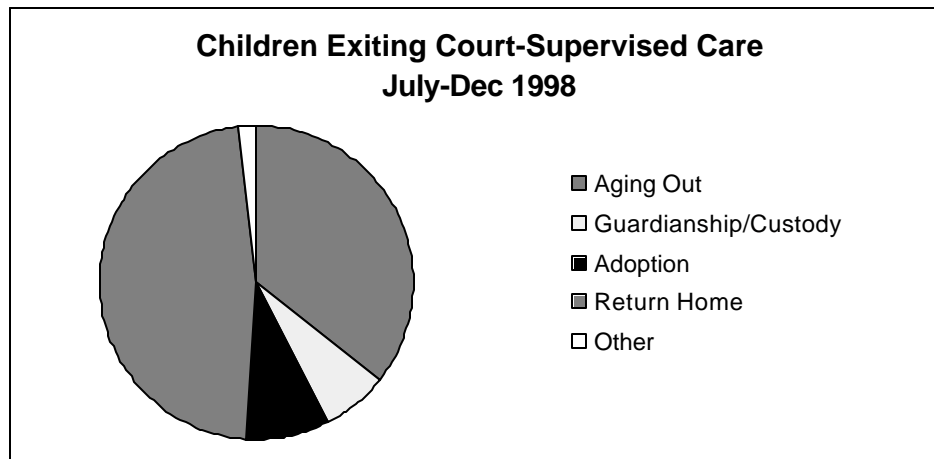
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<sup>3</sup> See M. Hardin, T. Rubin & D. Baker, *A Second Court that Works: Judicial Implementation of Permanency Planning Reforms* (ABA 1995).

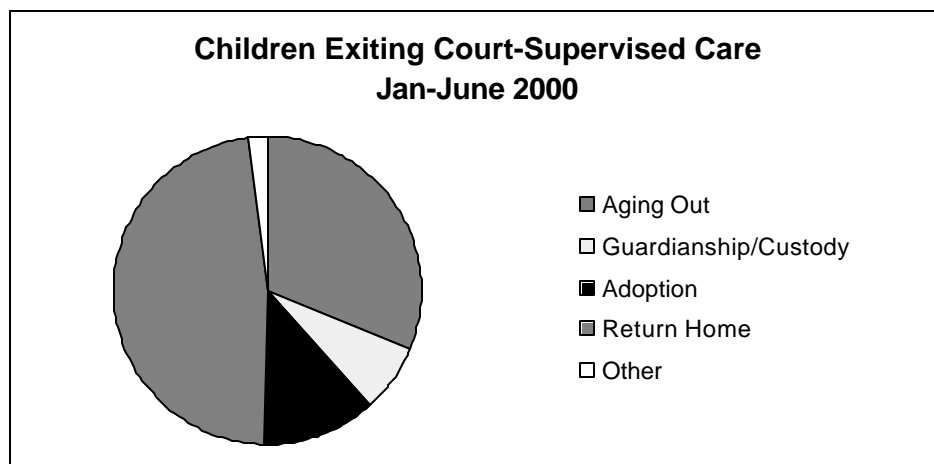
## *Current Progress in Achieving Permanency Outcomes*

DCS and the court, working together and with the Permanency Subgroup, adopted new court rules and forms for permanency hearings. (Attachment D) The new forms are designed to implement the local court rule and accomplish its purposes. The court also redesigned forms for review hearings following the termination of parental rights. (Attachment E) The forms are designed to assist DCS and the court to evaluate their efforts to arrange and finalize the adoption of the child. All attorneys practicing in the court as well as all caseworkers and supervisors have attended two training sessions that explained the new rule, forms, and procedures.

As shown by a comparison of Charts 6 and 7, the proportion of children aging out has been reduced over an 18-month period, at the same time that the proportion of children being adopted and returned home have been increased. We expect this trend to accelerate as the “backlog” cases are cleared up.



*Chart 6*



*Chart 7*

We have achieved a reduction in the proportion of children within the court’s jurisdiction aging out of foster care. The rate of improvement has gradually picked up during the last year and a half. As shown by Chart 8, below, there has been a slow, but gradual drop over the last two years in the numbers of children aging out of foster care.<sup>4</sup>

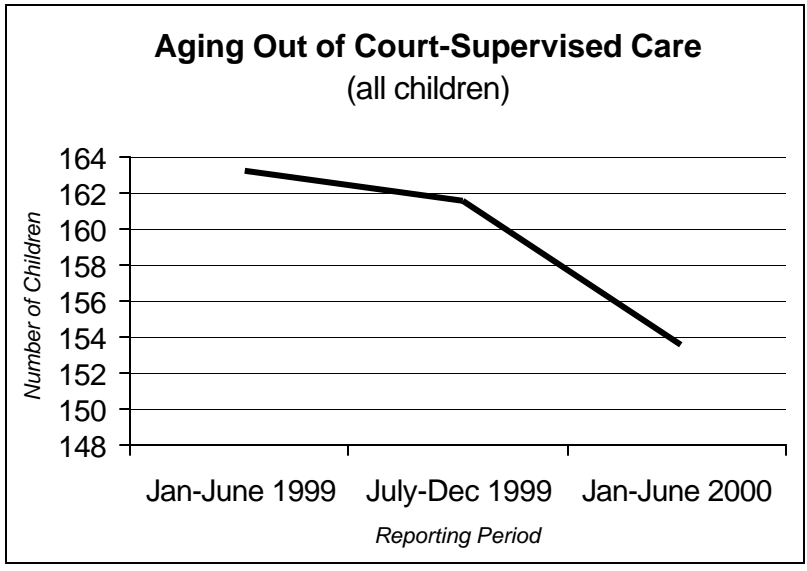
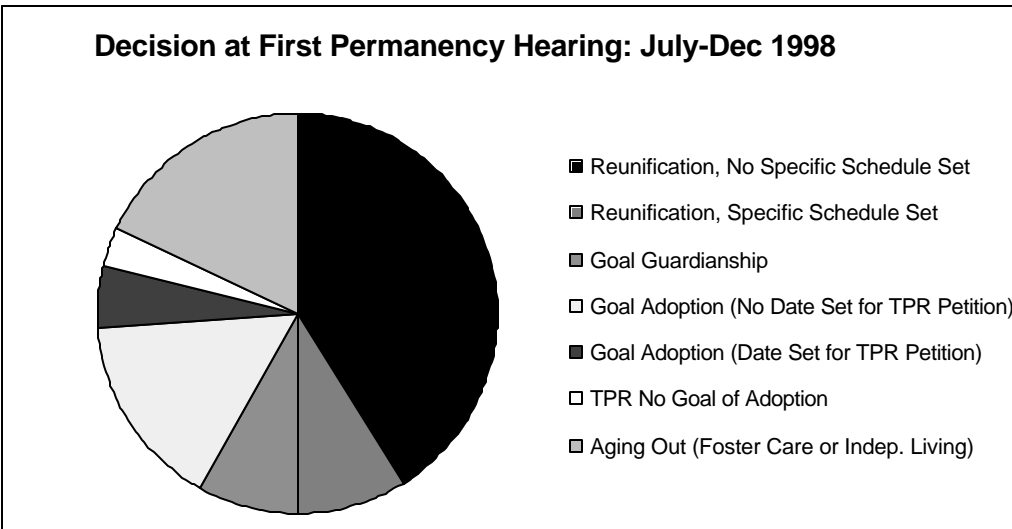


Chart 8

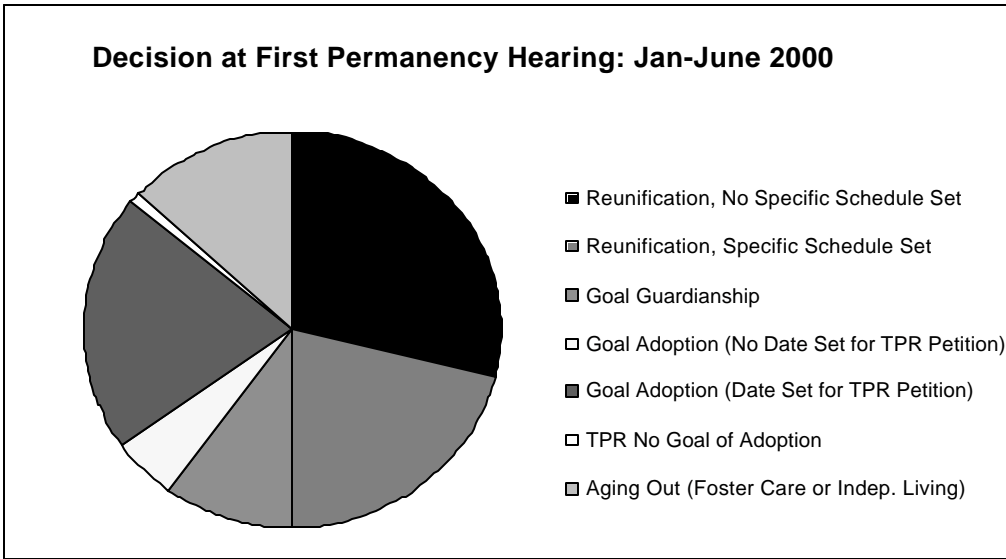
During the last 18 months, decisions at permanency hearings were increasingly for specific permanent placement outcomes. For example, as shown by a comparison of Charts 9 and 10, an increasing proportion of permanency hearings resulted in reunification with a specific schedule for return (from 9% in the second half of 1998 to 21% in the first six months of 2000). A decreasing percentage resulted in reunification without any specific schedule for return (a reduction from 41% to 28%).

Charts 9 and 10 also show that, during the same time periods, the proportion of permanency hearings resulting in a goal of adoption and a deadline for filing a termination petition increased from 5% to 21%. At the same time, the proportion of permanency hearings resulting in a goal of adoption but with no date set for the TPR petition dropped from 16% to 5%.

<sup>4</sup> Note that “aging out” of foster care includes children in temporary foster care when they reach the age of majority, children in court-approved “long-term” foster care, and children in agency supervised independent living programs.



*Chart 9*



*Chart 10*

While substance abuse cases showed improvement, the percentage of substance abuse cases where judges approved a goal of reunification at permanency hearings with no specific schedule for the child’s return home remained well above the average. The Special Committee on Child Welfare and Substance Abuse reviewed a number of cases to try to explain these results in substance abuse cases. They reached three conclusions: first, substance abuse services are still delayed in many cases; second, there continue to be long delays in locating missing parents with substance abuse problems; third, DCS and the court continue to accept family reunification as a case goal when there has been only limited parental cooperation or signs of improvement.

## *Current Concerns and Plans about Permanency Outcomes*

While these percentages are an improvement, the court is not satisfied. The Permanency Subgroup of the IWG states several basic concerns: (a) there are too many requests for continuation of the goal of reunification; (b) guardians ad litem and CASAs are not more frequently opposing such requests for continuation; and (c) new procedures for permanency hearings have not yet sufficiently deterred repeated extensions. The court needs to find out the precise reasons for each of these problems.

The Permanency Subgroup of the IWG concludes that it will take continuing effort and additional time to transform permanency hearings. The Subgroup proposes that future training sessions for caseworkers and lawyers focus in part on permanency hearings. It also proposes that DCS review cases to determine which particular offices or units are making greater and fewer recommendations for permanency. [Note: While not mentioned in the report, percentages regarding permanency hearings for individual judges are compared with the county averages and reported to the judges privately.]

To address the low proportion of adoptions and the still high proportion of children aging out generally, the Permanency Subgroup recommended special training for lawyers and judges on this issue, possibly in collaboration with DCS and the relevant federal Resource Centers.

To address the concerns about substance abuse cases, the Special committee on Child Protection and Substance Abuse proposed: first, to develop a plan for enhanced services; second, to develop a protocol for searches for missing substance abusing parents; and third, to work on criteria for terminating reunification efforts.

## **ENHANCING CHILD SAFETY**

### *Key Issues in Child Safety*

One year ago, the IWG and its Child Safety Subgroup concluded that there were too many incidents in which, after a child has been returned home, further abuse occurred and the family was again brought before the court. At that time, the most recent available figures showed that 21% of Colucca County foster children were again found to be abused or neglected within 18 months after returning home.

Note that the 21% is an underestimate of children *actually* subject to maltreatment after being returned home with the approval of the court. This figure includes only cases where: (a) children were placed with their parents under court supervised protective supervision but were later returned to agency custody following further maltreatment and (b) children were returned home and court jurisdiction terminated, but a new abuse or neglect petition was filed and the child found to be abused or neglected.

The 21% does *not* include the following categories of children: children who were abused or neglected during court approved trial home visits; children who were abused or neglected after the court authorized their return home, whose case was not brought to court; children taken by their parents into another jurisdiction and abused or neglected there, after the court approved their return home.

### *Steps to Achieve Enhanced Child Safety*

The Child Safety Subgroup recommended special training, court report forms focusing on safety, and revised court orders. It also recommended close review of cases where child suffered further maltreatment often being returned however.

### *Current Progress in Achieving Child Safety*

During regular Colucca County training for attorneys and training for caseworkers there were presentations addressing child safety. These presentations placed special emphasis on evaluating safety risks and on involving relatives and family friends to help protect the child. They distributed materials on assessing child safety.

In the redesign of forms for court reports recommending return and for court orders authorizing return, additional emphasis and detail was required concerning child safety issues. Among other things, the reports and orders called for details concerning phased-in visitation, services to enhance child safety after return home, monitoring of the home after the child's return, and the involvement of relatives and friends in observing and protecting the child. These forms should be completed within the next 60 days.

At each meeting, the Child Safety Subgroup reviewed three cases in which children were returned home and either the child or siblings later came back before the court and reentered care because of further abuse or neglect. Members reviewed copies of relevant portions of the case files in advance of each meeting.

While there hasn't been time to fully assess our progress in preventing reentry into foster care due to abuse or neglect, there are modest indications of progress. Court staff identified 312 cases in which 18 months had passed after children were returned home with court approval. In each of these cases, the 18 months elapsed during the last six months. Of these 312 cases, 60 of the children or their siblings (19%) have come before this court because of further child abuse or neglect. As illustrated by Chart 11, this latest figure represents an approximately 10% reduction in "recidivism," or subsequent maltreatment.

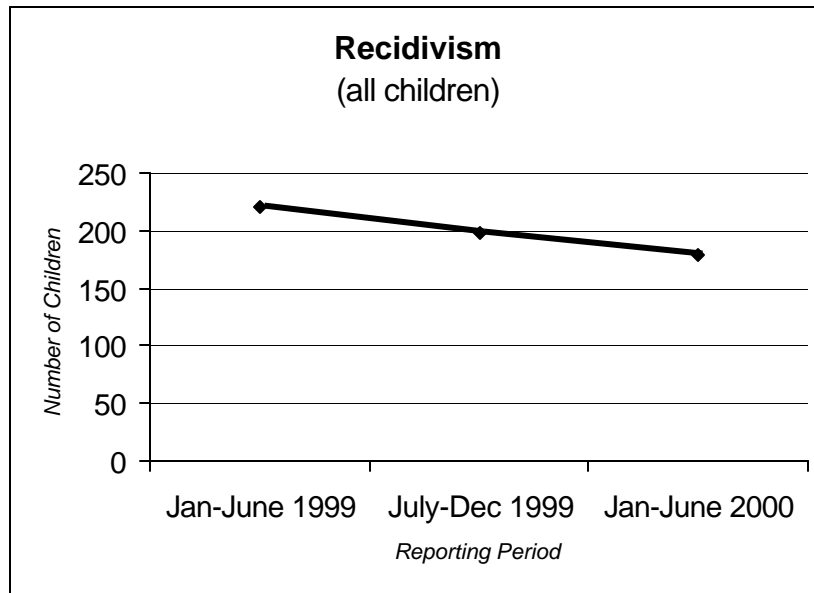


Chart 11

These figures should be accepted with caution, however, because of the very small numbers involved and that recidivism is only measured for an 18-month period.

### *Current Plans to Achieve Greater Child Safety*

The Child Safety Subgroup will continue to review individual recidivism cases. It will report on the results and will offer recommendations for systemic improvements. The Subgroup is completing its first report and will submit it within the next 30 days. Three members have also volunteered to observe and report on several court hearings in which safety issues are presented.

After the revised forms for court reports and orders are completed, the Child Safety Subgroup will develop sets of model questions and issues to consider when the court is considering children's return home. These sets of questions and issues will address several types of cases. Where issues are applicable to all categories of cases, they will be added to agency and court forms.

## **Improving Procedural Fairness and the Treatment of Parties and Witnesses**

### *Key Issues Related to Procedural Fairness and the Treatment of Parties and Witnesses*

Two years ago, the IWG Court Procedures Subgroup decided to focus most intensively on the following issues:

1. Non custodial fathers (including putative fathers) usually did not receive notice of the original abuse or neglect court proceedings and seldom were present at court hearings. They received summons in only 12% of cases and appeared in 10%. This is unfair and ultimately delays the child's permanent placements in many cases.
2. Foster parents are generally not present at court hearings. Foster parents appeared at only 11% of disposition hearings, 13% of court reviews, and 9% of "permanency planning hearings."
3. Hearings were rushed and both attorneys and judges were overworked. Permanency planning hearings were scheduled for 15 minutes unless there was a particular reason to believe they would have to last longer. Judges typically clustered other hearings, setting four or more non-contested adjudication hearings, reviews, or permanency planning hearings for the same time. Most typically, 10-15 minutes was allowed for each hearing.

### *Steps to Improve Procedural Fairness and Treatment of Participants*

The IWG and its Court Procedures Subgroup identified the following solutions. The Subgroup has been working on them for the last year.

The court and the child protection agency should revise their report and court order forms to provide information on the search for, notice of, and (where applicable) paternity determinations for non custodial fathers. The report forms should include, unless specific reasons are provided, the names and addresses of current foster parents. The court should mail notices to current foster parents.

The IWG Workload Subgroup, with the advice and help of the ABA, NCSC, and NCJFCJ, concluded that two full-time judges were needed to relieve workloads, taking into account the need for additional community involvement by judges.

The Workload Subgroup recommended new guidelines for the length of substantive but non-contested hearings such as shelter care, adjudication, disposition, review, and permanency hearings. The recommended guidelines for the length of non-contested hearings were largely based in on the recommendations of the *National Resource Guidelines*.

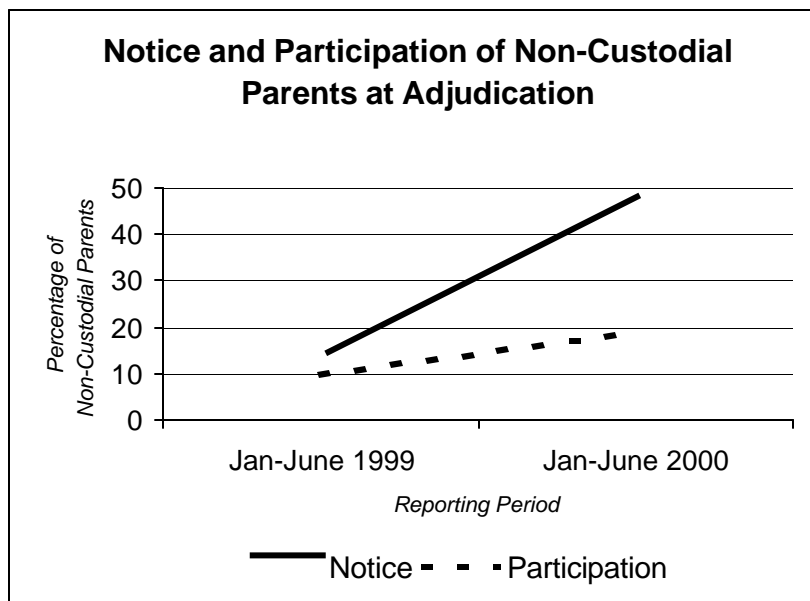
The Community Relations and Caseflow Management Subgroups jointly recommended that each hearing (other than simple procedural motions) be set for a specific time. This would, they said, save the time of caseworkers and witness and encourage both actually to be present at court hearings. The IWG and Chief Judge Gray approved this approach.

Both Subgroups recommended joint meetings/training sessions every three months for agency attorneys, caseworkers, supervisors, key court staff, and judges concerning notice to non-custodial fathers and foster parents, permanency hearings, hearing guidelines, and other issues. They recommended that each session be scheduled months in advance.

### *Current Progress*

Recommended court form and procedural changes were concluded just three months before the end of this reporting period. Nevertheless, there has been greater attention to involving non-custodial parents and foster parents throughout the reporting period. This already has resulted in significant gains.

As illustrated by Chart 12, service of process on non-custodial fathers (of the abuse and neglect complaints) rose from 12% to 46%. Their appearances at adjudication hearings increased from 10% of cases to 19%.



*Chart 12*

As shown by chart 13, foster parent participation in hearings also increased remarkably, rising from 11% to 35% of disposition hearings, from 13% to 44% of court reviews, and from 9% to 51% of “permanency planning hearings.” We attribute these improvements to more consistent notice and active encouragement during meetings with the Colucca County Foster Parent Association.

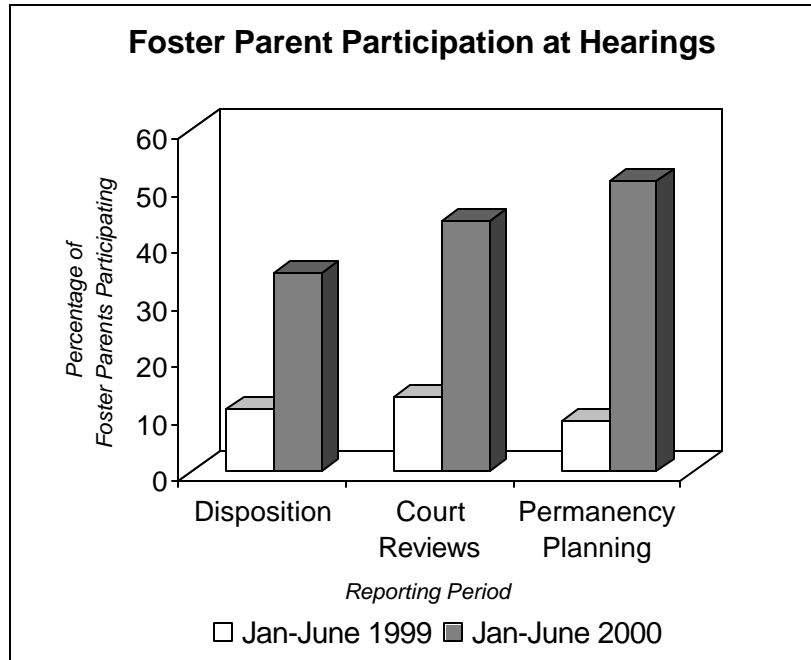


Chart 13

Hearing length increased sharply during the year for a number of reasons: (a) the addition of one full-time judge, (b) changes in docketing practices, and (c) the existence of new guidelines for hearing length. While there is no available precise measure of hearing length, an examination of court docket sheets shows that the court has substantially extended hearing length but is still unable to meet *Resource Guidelines* recommendations.

Four of the seven judges were able to shift entirely to docketing in which there would be specific times for each hearing. Three judges reduced the number of cases “clustered). As explained above, one rather than two additional full-time judges was added to hear child protection cases.

### *Current Plans to Achieve Procedural Fairness and Better Treatment for Participants in the Court Process*

The court needs continued discussion and training on the new practices for notice, hearing length, and the setting of hearings. The Court Procedures and Workloads Subgroups will continue to monitor and discuss our progress and to identify new barriers as we continue to improve.

The court will provide special help on docketing for judges and court staff in part through our new internal expert but also with the help of consultants through the ABA, NCSC, and NCJFCJ.

The court needs better waiting rooms for caseworkers and attorneys and playrooms for children. The Community Relations Subgroup will examine possibilities both in the courthouse and adjacent buildings. If rooms are available in adjacent buildings, we will arrange for telephone hookups.