

The Supreme Court of Georgia
Administrative Office of the Courts
Child Placement Project
Court Improvement Initiative

Summer Assessment Review
2004

**A Snapshot of Juvenile Court Performance in Child Deprivation Cases
and
Recommendations for Continued Improvement**

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2004 Summer Assessment Review:

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Background

In 1996, the Child Placement Project (CPP) was created by the Supreme Court of Georgia and is supported by the Administrative Office of the Courts (AOC) to assess and improve court proceedings involving abused and neglected children in our juvenile courts. The CPP is funded by the Court Improvement Project (CIP) grant funds from the US Department of Health and Human Services (DHHS), Administration on Children and Families (ACF), Children's Bureau.

Each recipient state of CIP funds is required to complete a detailed self-assessment, develop recommendations to improve the court system and implement the recommended reforms. The first initial assessment was conducted in 1995-1996. To see a copy of the *1996 Final Assessment Report*, see: <http://www.childplacementproject.org>

Work toward the 1996 goals continues today. The improvement goals for management of child deprivation cases are:

- Improve record keeping and court management.
- Increase education for all participants in the juvenile court
- Develop and distribute standards of practice for participants in juvenile court
- Ensure representation of all parties
- Increase state funding for juvenile courts

The Georgia Court Improvement Initiative is a joint project under the Child Placement Project and the Council of Juvenile Court Judges which works on the above goals and more. Continual assessment is needed to measure progress for these efforts.

2004 Summer Assessment

Over the past 2 summers, interns from the Barton Child Law and Policy Clinic at Emory University and state staff members have reviewed child deprivation case files and observed hearings in selected counties to assess the effect of court improvement efforts

begun in 1996. Previous summer reports can be found on our website. See: www.childplacementproject.org

For the summer review of 2004, the CPP requested that all previous reviewed counties do a self-review. All but one agreed. In addition, the CPP staff and interns did our own review of six additional counties. For the 2004 summer assessment, there were 101 case files reviewed and 19 court hearings observed.

Generally, the 2004 summer assessment indicates that there has been improvement in the way child deprivation cases are handled by the courts. Fewer continuances are being granted than observed in 1996 and judges are cognizant of the importance of allowing as few continuances as possible. Almost 75% of reviewed files contained court orders that incorporated a case plan. Of those case files that contained a documented review, most cases had the review within the six months required by law, the average length of time was four months. Representation of children has improved since 1996, the documentation in the case files showed that 61% percent of children were represented by an attorney or a GAL. However, we suspect if the case file documentation improved, that number would be higher. In spite of witnessing progress, there is still room for much more improvement. Recommendations for continued improvement are included in this report.

Changes on the Horizon

In light of a recent federal ruling on a motion for summary judgment, the federal court held that children in deprivation cases are entitled under Georgia law and the Georgia Constitution to both an attorney to represent the child's wishes AND a guardian ad litem to represent the child's best interests. Future CPP summer reviews will include looking specifically at compliance with this legal change. In addition, the CPP now has access to AFCARs (Adoption and Foster Care Analysis Reporting System) data as part of a joint project with the Office of the Child Advocate. In future reports, we will be incorporating findings from that data as well as our current assessment process.

Methods for the 2004 Summer Assessment

The assessment methods chosen for the 2004 work were very similar to years past. The following report represents a "snapshot" of the deprivation cases reviewed in the counties reviewed (both by self-assessment and by the CPP). More assessment should be continued in order to draw firm conclusions over time. For 2004, the CPP reviewed counties were chosen at random (Muscookee, Tattnall, DeKalb, Douglas, Polk, and Coweta) and the self-assessment counties were chosen by those who had been reviewed in the past (Toombs, Fulton, Houston, Dougherty, Rockdale, Troup, Decatur, Carroll, and Bartow).

In each county, 5 to 6 court case files were reviewed. In the CPP reviewed counties, 4 to 5 court hearings were observed. All case files that were reviewed had been opened within a year to a year and a half before June 2004. Court observations took place between June and August 2004.

The reviewed case files were chosen at random with the help of Office of the Child Advocate (OCA), first by identifying all cases opened during a certain time frame from AFCARs data, then randomizing the choice of those case files, then looking up the case IDs within the Internal Data System to obtain the children's names. Once we had a list of cases to review, we asked the courts to pull the files for these children based on their names.

Area of Focus

The areas that this assessment chose to focus on for 2004 were:

- Timeliness of early court proceedings – days to petition filing, adjudication and disposition.
- Specificity of court orders – types of orders and the amount of detail contained in them regarding appropriate language that is legally required for funding, etc...
- Timeliness of review and permanency hearings – days to completion of the first review hearing.
- Continuances.
- Whether or not permanency hearings are taking place.
- Whether or not parents and children were represented during hearings.
 - Appointment orders or records of appointments
- Court Efficiency – Are hearings running on time?, setting dates of future hearings at conclusion of previous hearing, preparing court orders for parties at the conclusion of hearing.
- Timeliness of order preparation and filing.
- Case Plan Information – Case Plan Reporting System.
- Placement information.

Analysis

The summer assessments are all done with instruments developed by the NCJFCJ and the ABA which were modified for use here in Georgia and used for all case files, court observations, general observations and surveys. The information from these instruments was then put into a database and given to the staff at the NCJFCJ who did the statistical analysis. The NCJFCJ's report is available upon request.

Findings and Recommendations from Judicial Case File Reviews

Organization

Overall, the case files were easy to review. However, there were differences in the structure of files from county to county. Most counties do use the one judge/one family system as evidenced by the case file reviews. The metropolitan counties are least likely to apply the one judge/one family policy. The biggest problem within the case files still appears to be either a missing initial shelter care order and/or the 72 hour hearing order. In at least one county, these orders were also most likely to have errors in them or to be incomplete (i.e. is/is not is not circled). Counties have different ways of color coding or indexing their files, but it was fairly easy to figure out. Almost all the files were in sequential order this year which is most helpful.

We still are observing problems with creating one file per child or per family and whether the court assigns multiple case numbers for the different court actions all related to the same event that brought the child into care.

In the latter, this situation can be avoided by the filing of a motion, rather than a complaint (which instigates a new case, thus resulting in a new case number). Specific to the State of Georgia are the Uniform Rules, Uniform Forms and the Juvenile Docket Sheet Instructions. These publications assist courts in developing a standard for court procedures. Visit the *Council of Juvenile Court Judges of Georgia's* website at <http://www.georgiacourts.org/councils/cjcj/publications.htm> to download a copy.

Recently, the CPP hosted a retreat with eleven juvenile court clerks to specifically write up a paper on best practices for organizing a child's deprivation case file. Publication of this work product is expected during the summer of 2005. One of the recommendations from this work is to create a weighted case load measurement to solve the new case number problems.

Recommendation: The CPP should publish its work product from the juvenile court clerks to help standardize the case files. The CPP should assist the juvenile court clerks to better communicate with each other and to obtain regular training. The CPP should meet with the National Center on State Courts to obtain technical assistance in measuring the juvenile court caseload within Georgia.

Key Information

Dates –

As previous reviews, it is now easier to track the dates of deprivation proceedings due to the increase in more detailed orders. The majority of files contained the pertinent information required. The most common items with necessary dates that were missing were the shelter care order, the 72-hour hearing order and the court order incorporating the case plan.

Placement Information –

The average number of placements prior to the first review hearing was 2 in the case file sample, with a range from 0 to 6. However, 33 (out of 101) cases were missing information regarding placements. Most of this is due to files that were missing case plans.

Caseworker Turnover –

The average number of caseworkers handling a specific case was roughly 2 per the life of the case. Half of the cases reviewed had only one caseworker for the entire history of the case, but 36% had 2 caseworkers for the same time period. Two cases within the sample had over 10 caseworkers for the life of the case.

Contrary to the Welfare of the Child (CW) and Reasonable Efforts (RE) Findings –

In order for the state to be reimbursed by the federal government for a child's care, both a "reasonable efforts" and a "contrary to the welfare of the child" findings must be made by the court in the FIRST order of deprivation. Out of 101 cases reviewed, 96 should have had a reasonable efforts finding in their first order. Of these 96 cases, 5 case files were missing the 72 hour hearing order, 76 case files had the RE finding and 15 did not. Details of the RE finding were present in 71 of the 76 case files.

Out of 101 cases reviewed, 88 should have had a contrary to the welfare of the child finding in their first order. Of these 88 cases, 6 case files were missing the 72 hour hearing order, 76 case files had the CW finding and 6 did not. Details of the CW finding were present in 69 of the 76 case files.

There were also small numbers of court orders with a RE finding, but not a CW finding and vice versa.

Most judges know how important these two findings are to a case. The Permanency Planning Committee of the Council of Juvenile Court Judges of Georgia recently revised its model court orders. These orders include the "reasonable efforts" and "contrary to the welfare of the child" language that is legally required in court orders. Use of these orders will not only insure federal funding, but it will also aid in creating a more uniform filing system.

Recommendation: Continue to urge use of the model orders to make sure the proper findings are part of every order. RE and CW findings must be part of every first order for a child's case. Continue frequent quality assurance checks on these findings for the first orders.

Deprivation Petitions –

In most deprivation petitions that were reviewed, the statement “in the best interest of the child for the proceeding to occur” appeared. Placement information was also found in the majority of petitions, as well as facts that supported the petition.

Notice to Parties –

The majority (96%) of sample cases documented that notice was provided to parties of the case. The mother is the most frequent recipient of notice. Documentation of foster parents receiving notice appeared in four case files. A recent survey by the CPP had 50% of reporting foster parents stating that they were receiving regular notice of their foster children’s review hearings.

Recommendations: The CPP should continue surveying judges and foster parents to make sure that foster parents are receiving notice and an opportunity to be heard. The CPP should also promote the publication: Implementation Guide to Senate Bill 236. This guide assists courts in implementing best practices in regards to foster parent notification and diligent search issues. In addition, the juvenile court clerk work product should address standardizing the documentation of notice and service to parties in deprivation cases.

Continuances –

Documentation on continuances is much better in the court files than in previous years. Of the 101 cases in the sample, 91 had information about continuances, 41 cases had at least one continuance. The average number was 1.73 with a range of 1 to 6. In all, there were 78 continuances ordered within the 41 cases where continuances were granted. The most common reason given for issuing continuances as time needed for services, the second most common reason was parties unavailable.

Case Plans –

The case plan still is not appearing in the case file 100% of the time when it is appropriate. Of the sample reviewed, 84 cases should have had a case plan in the court file, but only 50 case plans were found. Sixty-two of these same files had incorporated or referenced the case plan via a court order. The date the case plan was filed was more difficult to obtain this year, only 22 cases listed the date the case plan was filed.

Recommendations: The CPP should continue to all efforts to encourage all juvenile courts to use the Online Case Plan Reporting System (CPRS). Also, courts may want to consider conducting a “30-day” Review to insure that the DFACS caseworker has developed the case plan with the parents’ involvement and that it adequately reflects the facts and evidence of the case. The CPP should conduct more quality assurance reviews of court case files to make sure case plans are done and are of high quality.

Reviews –

Data shows that roughly half the cases in the sample had at least one review. The average length of time to the first review was 123 days, with a range from 26 to 299 days. This time frame is considerably quicker than in previous years. Roughly half of these reviews were done by judges and half by citizen panel reviews.

Permanency Hearings –

Roughly half of the case files contained information about a specific permanency hearing date. However, 70% of the first judicial review orders addressed the permanency plan for the child. Most of the permanency plans were reunification, the second most frequent permanency plan was adoption. Also, a RE determination was made to finalize permanency in almost all of the cases.

Recommendation: Support the CJCJ to have all judges use the permanency hearing model order, which is specifically labeled and provides for findings for the hearing. Any motion to extend order needs to include permanency findings.

Timeliness of Hearings

Almost all of the cases met the 72 hour deadline for the probable cause hearing, except for the files where the probable cause hearing order was missing. DFCS obtained custody at the 72 hour hearing 65%, mothers obtained custody 18% of the time and others got custody the rest of the time. The time from removal to adjudication averaged 35 days which is considerably quicker than previous summer reviews, although there were some outlier cases that took an unacceptable long time from removal to the adjudicatory hearing.

Twenty-six cases in the sample went to termination of parental rights (TPR). The time frame from removal to TPR filing was 376 days with a range from 102 to 652 days.

Recommendations: ASFA time-frames must be met. The importance of meeting these time-frames cannot be stressed enough. The juvenile court clerk work product should address the necessity of including a complaint, a shelter care order and a 72 hour order in the court file. Continued education on this topic is necessary. Courts must also be encouraged to make sure that orders are filed in a timely manner, regardless of who (judge or SAAG) prepares the order.

Time Frames to Court Actions

The following time frames were calculated:

- i. Removal to Adjudication - the average number of days between removal and the adjudicatory hearing was 35.38 days.
- ii. Removal to TPR petition filing - the average number of days between the date of removal to the date a TPR petition was filed in the case file review sample was 376.8 days with a range of 102-652 days (n=26).

- iii. Removal to TPR hearing - the average number of days between the date of removal to the date of a TPR hearing was 541.3 days with a range of 220-1445 days (n=24).
- iv. Adjudication to Adjudication Order – the average number of days between the adjudication hearings and the adjudication order was 32.7 days with a range of 0 to 243 days (n=77).
- v. Review 1 to Order for Review 1 - the average number of days between the first review hearing and the first review order was 19.1 days with a range of 0 to 108 days (n=47).
- vi. Permanency Hearing to Permanency Order- the average number of days between the permanency hearing and the permanency order was 29.2 days with a range of 0 to 266 days (n=58).
- vii. Removal to Case Closure – the average number of days between the date of removal and the date the case was closed was 348.81 days with a range of 57-1433 days.
- viii. Removal to Permanency Hearing – the average number of days between the date of removal to the date of the permanency hearing was 287.7 days with a range of 58-519 days.

Representation of children and parents

According to data, 74% of children were represented by a GAL or an attorney. CASAs were appointed in 29% of the sample. Mothers were represented 71% of the time. Fathers were represented 32% of the time. These numbers are considerably higher than in previous years. Still, information about appointment of counsel was missing in a small percentage of the case files.

One issue that arose during the case file reviews was the question of whether or not appointment orders are necessary in juvenile court for parent and child attorneys, Guardian Ad Litem, and CASAs. No two courts are the same. In most courts, an appointment order is prepared for all CASAs assigned to a child's case. This allows the CASA access to the child's confidential court file. The differences occur when looking at the other types of appointments. Some courts prepare an appointment order every time that an attorney is appointed to a case regardless of the role they will play – parent attorney, child attorney or GAL. In other courts, the appointment is referenced in the judicial order of a particular hearing. Still other courts prepare a “blanket” order for all attorneys serving in the capacity of attorney or GAL and randomly assign them to cases.

Recommendations: Representation of children has improved, but our goal is to have 100% representation as well as for parents. If any party waives their rights, that needs to be documented in the case file. A standard or best practice needs to be adopted by

juvenile courts across the state as to how they will handle attorney appointment orders. By having documentation of appointments in each case file, court clerks would have a more uniform record of attorney representation for all parties. This would also allow state agencies to better track whether or not children and parents are adequately represented in juvenile court proceedings.

Findings and Recommendations from the 19 Court Observations

Presentation of the Court

While most of the juvenile courts observed in the sample had designated space in their county courthouse complexes, however waiting room space was either too small or non-existent. In almost every court, the waiting rooms were congested with citizens sitting on stairs, leaning against walls or waiting outside the building. In one court, there was no waiting room but just chairs in the hallway outside of the court room. There was also at least one court with almost no security observed.

Recommendations: Juvenile Courts need child friendly waiting rooms, play rooms, meeting space for the citizens they serve. The CPP should sponsor a guide written or reviewed by judges to establish a minimum standard for operating a juvenile court, in terms of space, tools and more.

Children Present at the hearing

Of the 19 hearings observed, children were present in 31 % of the hearings involving their case. The case file review section showed that the average age of children studied was 5 years old, with the range from 0 to 15 years old.

Recommendation: If an appropriate age, the child should be included in court proceedings.

Representation for children

Of the 19 court hearings, only 7 children were represented by either an attorney guardian ad litem or a CASA. This number is lower than in years past.

Recommendations: According to a new federal ruling, children in deprivation cases need both an attorney (to represent their wishes) and a guardian ad litem (to represent their best interest). In Georgia, volunteers called Court Appointed Special Advocates (CASAs) can serve the guardian ad litem role. A model practice is have the attorney and CASA work together unless there is a conflict. The attorney can do the legal work while the CASA can take the time to do a thorough review of the case and interviews with appropriate parties. Some courts cannot afford this option and chose to appoint only a CASA to a child's case. While this certainly is favored verses no representation at all, it is under much debate whether or not a lay GAL (CASA) is adequate representation of a child in a deprivation proceeding, especially since the state pays for legal representation

for itself in court. The CPP should begin a statewide conversation about the best model for representation for children in light of the federal ruling.

Representation for Parents

Of the 19 deprivation cases that were observed, mothers were represented 4 times and fathers were represented 7 times. Of these 19 instances in which parties were without representation, information pertaining to whether the parties had waived their right to counsel was available in 14 cases. In 3 of these cases (15.8%) it was clear from the hearing that the parties had waived their right to counsel.

Recommendations: The CPP should also work closely with the new Georgia Public Defenders Standards Council to see if parent representation can be included in their work.

Representation of DFCS

One case was observed where DFCS represented themselves in court without an attorney. Every other time, DFCS was represented by a SAAG.

Recommendations: SAAGs need to represent DFCS at every hearing, including the initial hearings. Quality SAAG representation can make a big difference to a child's permanency time line while in foster care.

Waiting time for court hearings to begin

Parties were observed waiting more than hour in 26.3% (n = 5 of 19) of the hearings.

Contested Hearings

Of the hearings observed, 89.5% (n = 17 of 19) were *not* contested. The two cases that were contested were adjudicatory hearings.

Continued Hearings

The majority of the hearings observed were not continued (84.2 %; n = 16 of 19). The 3 hearings (15.8%) that were continued were adjudicatory hearings. The reasons given were (a) time needed to gather information, (b) time needed to give publication/service to parents, and (c) parties were unavailable. The date these hearings were continued to was coded in two of the observations. One adjudication hearing was held 20 days later, the other was held 14 days later.

Hearing Process, Roles of People Present, Rulings

The court explained the hearing process to the participants in 94.1% (n = 16 of 17) of the observed hearings. The court explained the roles of the people in the courtroom to all of

the participants in 66.6% (n = 12 of 18) of the observed hearings. The court explained the ruling to the parties present in (87.5%; n=14 of 16) of the observed hearings. The next hearing was scheduled in the courtroom in 47.1% (n = 8 of 17) of the observed hearings.

Attorney Actions

An attorney made an opening statement in 89.5% (n = 17 of 19) of the observed hearings. An attorney called a witness in 44.4% (n = 8 of 18) of the observed hearings. Among these witnesses, 87.5% (n = 7 of 8) were sworn in. The witness was cross-examined in 71.4% of the cases (n = 5 of 7). An attorney made an objection in 11.1% (n = 2 of 18) of the observed hearings.

Summary

The summer assessments strive to provide quality assurance to the juvenile courts toward their improvement efforts and to provide more accountability to the children served by the child welfare system. The CPP is working with the juvenile court judges to provide more statistics and court performance measures to evaluate the impact on children's lives. Some of this information is now more available to courts with AFCARs data and by building more specific court data. Such evidence is necessary to provide not only a statewide snapshot of progress, but to justify the expense of the child welfare initiatives to taxpayers.

The issues surrounding child welfare and juvenile court improvement are ones that will not be resolved overnight. But for the sake of Georgia's children, all stakeholders involved with the juvenile court system must continue to make a significant investment in meeting time frames, standardizing court process and procedure and ensuring that children are protected permanently. In return, the children, families and taxpayers served by juvenile courts across the state will be better served.

Appendix

There are several documents and publications available online that will significantly assist courts in improving their practices and procedures.

Visit the *Council of Juvenile Court Judges of Georgia's* website at <http://www.georgiacourts.org/councils/cjcj/publications.htm> for the following publications that are specific to the State of Georgia:

- *Uniform Rules*
- *Uniform Forms*
- *Juvenile Docket Sheet Instructions*
- **Model Court Orders (recently revised as of 11/03)**

Georgia's Court Improvement Initiative has produced two documents that are beneficial to judges and stakeholders. These documents can be found on the Child Placement Project website at <http://www.childplacementproject.org> under "Current Projects" and then under "Court Improvement Initiative":

- *Guidelines for Implementation of Senate Bill 236*
- *Best Practices in Termination and Adoption Cases*

The *National Council of Juvenile and Family Court Judges* offers many publications, in both hardcopy and online, that will assist courts in developing individual court improvement goals. Visit the NCJFCJs Permanency Planning Department's website at www.pppncjfcj.org and click on "Publications". Just a few of the many documents available are:

- *Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases*
- *Adoption and Permanency Guidelines: Improving Court Practice in Child Abuse and Neglect Case*
- *Child Victims Act Project Model Courts Status Report 2002*
- *Model Court Approaches to Information Technology: A Dependency Court Data System Implementation Guide*