

**The Portland Model Court Expanded Second Shelter Hearing
Process: Evaluating Best Practice Components of Front-Loading**

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This evaluation was supported by a grant from the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice (Grant No. 96-CT-NX-0001), which provides funding for the provision of technical assistance to courts participating in the Victims Act Model Court Project of the National Council of Juvenile and Family Court Judges. July 2002.

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Acknowledgments

This report would not have been possible without the assistance of numerous individuals within the Multnomah County Juvenile Court. First, we would like to express our thanks to Model Court Lead Judge Dale Koch for his support of this research effort, and to Referee Connie Isgro and Family Court Coordinator Martha Strawn Morris, who helped us coordinate on-site data collection procedures.

We also owe a great deal of thanks to all of the judges, referees, court staff, attorneys, State Office of Services to Children and Families personnel, and CASAs who shared their experiences regarding the functioning of the second shelter hearing process. This report benefitted immeasurably from the wisdom of those who know the court process best – those court and system professionals who work everyday, often against challenging odds, to bring positive change to Portland's troubled children and families.

We would also like to express our appreciation to OJJDP, whose support of the national Child Victims Act Model Courts Project made funding for this evaluation effort possible.

EXECUTIVE SUMMARY

The Multnomah County Juvenile Court, Portland, Oregon was selected by the National Council of Juvenile and Family Court Judges (NCJFCJ) to participate in its Child Victims Act Model Courts (VAMC) Project in October 1998. This national project, funded by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), is intended to promote improvements in juvenile and family court handling of civil child abuse and neglect cases. Currently 23 jurisdictions nationwide participate in this effort.

Through the efforts of the Juvenile Court's Presiding Judge as well as the Court's many dedicated judges, referees, court staff, and other system professionals, the Portland Model Court has made a conscious commitment to improving its ability to address the needs of their community's most vulnerable children and families in a timely and appropriate way.

Beginning on November 6, 1998, Multnomah County Juvenile Court implemented a system of scheduling dependency (abuse/neglect) cases for a second shelter hearing. At the time of implementation, Oregon statutes did not require an additional hearing between the initial shelter hearing and the pre-trial or judicial settlement conference mandated by statute to be held within 42 days of the initial shelter hearing. ORS 419B.183 requires that a shelter hearing be held within 24 hours whenever a child is taken into protective custody. Usually the State Office for Services to Children and Families (SOSCF) caseworker has minimal information at that shelter hearing about the family and the issues that brought the child or children before the court. Information is often unavailable within those first 24 hours (e.g., information regarding paternity, the whereabouts of the parents or relatives, and the applicability of the Indian Child Welfare Act (ICWA), among other issues).

In reaction to the lack of substantive information available at the initial shelter hearing, the Model Court implemented a process that requires a second shelter hearing be scheduled within 7-14 days of the initial shelter hearing. The initial shelter hearing occurs as before with the court making as many findings as possible with respect to identifying the parents and the issues involved. By the conclusion of the initial shelter hearing, the court identifies a list of "tasks" needing resolution for

the second shelter hearing (such as locating a parent in a correctional facility and obtaining service, clarifying paternity issues, Indian Child Welfare Act (ICWA) issues, and obtaining assessments or developing a safety plan for the return of the children). The second shelter hearing is scheduled at the conclusion of the initial shelter hearing in court and the date is written on the initial shelter order, a copy of which is given to the parents, the caseworker, and all attorneys present. At the second shelter hearing, the court reviews the outstanding issues and modifies the initial shelter order in any manner necessary. Newly located parents are served and counsel is appointed.

In developing the second shelter hearing, an objective was to have the judge/referee, caseworker, defense attorney, and district attorney who were present for the initial shelter hearing also participate in the second shelter hearing. The judge/referee conducting the initial shelter hearing is usually assigned as the “judge of the case” and is assigned all further proceedings in that case.

Thus, like other jurisdictions implementing a “front-loading” approach to case processing, the second shelter hearing process in the Portland Model Court was designed to:

- facilitate the early appointment and identification of counsel;
- facilitate movement on matters related to the identification of putative fathers, establishment of paternity, notification of parties, service needs, and ICWA determinations; and
- place and set clear expectations on parties to be ready at the onset of court proceedings to discuss movement on case specifics.

The report summarizes research conducted between April 2000 and August 2001 regarding the Multnomah County Juvenile Court’s second shelter hearing process. The findings presented are meant to provide a foundation of factual information and analysis about the operation of this additional preliminary protective hearing to Portland’s court and systems professionals. It is also meant to provide guidance to others considering implementing such a process in their own jurisdictions.

➡ SUMMARY OF MAJOR FINDINGS

In analyzing the timeliness of initial shelter hearings and jurisdictional hearings in comparison to statutorily mandated time frames, the Portland Model Court appears to have become significantly more compliant with statutorily mandated time frames for the shelter hearing in the post-implementation sample. Care must be taken, however, in interpreting the compliance rates for the shelter hearing in both the pre- and post-implementation samples. Because of the poor documentation of the date on which the child is taken into temporary custody, the key date in the determination of the 24-hour period, the actual compliance rates may be significantly different than those noted.

The *RESOURCE GUIDELINES: Improving Court Practice in Child Abuse & Neglect Cases*¹ recommend that shelter hearings should last approximately 60 minutes to ensure a substantive and meaningful hearing that properly addresses all appropriate issues. In the pre-implementation sample, the average shelter hearing lasted 12 minutes. In the post implementation sample, the initial shelter hearing lasted an average of 27 minutes, and the second shelter hearing lasted an average of 36 minutes. Thus, by completion of the shelter hearing process, an average of 63 minutes of judicial time had been spent on the case. There was no statistically significant difference among the referees in terms of the amount of time spent conducting shelter hearings. *With implementation of the second shelter hearing process, the Portland Model Court has significantly increased the amount of judicial time dedicated to each case during the shelter process and has achieved the time standards recommended in the RESOURCE GUIDELINES.*

The implementation of the second shelter hearing process has resulted in increased judicial continuity across the initial hearing process from shelter hearings through jurisdiction. As stated, in the pre-implementation sample, only 29% of cases had the same judicial officer from the shelter hearing to the jurisdictional hearing. By contrast, in the post-implementation sample, 61% of cases had the same judicial officer from the initial shelter hearing process to the jurisdictional hearing. It is important to note that the continuity of judicial officers may actually be higher than indicated.

¹ National Council of Juvenile and Family Court Judges, 1995.

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In a number of cases the name of the judicial officer was either not documented or the handwriting was illegible, and, as a result, the coder was unable to identify the judicial officer.

Because of relatively poor documentation in the case file, it is difficult to say for certain if there has been improvement in the level of continuity of mother's legal representative since the implementation of the expanded shelter hearing process. If relying only on cases which contain appropriate documentation, then it does appear that the continuity of mother's attorney is improved by the second shelter hearing and that the same attorney is likely to represent the mother at the second shelter hearing and jurisdictional hearing. Again, because of relatively poor documentation in the files, it is difficult to determine for certain whether there is improvement in the continuity of the father's legal representative. Moreover, findings with respect to the father's attorney must be taken within the context of the significantly higher number of fathers who are appearing as a result of the second shelter hearing process. It does appear that there is increased continuity of the child's representative, especially from the second shelter hearing to the jurisdictional hearing.

The Portland Model Court has always had a strong "no-continuance" practice. Indeed, the results of the case file analysis indicate that there is no statistically significant difference in set-over practice between the pre-implementation and post-implementation cases studied. However, from a best practice perspective, the court has demonstrated a stronger no-continuance practice since the implementation of the second shelter hearing process.

Through the implementation of the expanded second shelter hearing process the Portland Model Court does seem to have achieved its improvement goals. More mothers and fathers were documented as appearing in the post-implementation sample of cases than in the pre-implementation cases. The increased appearance of mothers, and especially fathers, held through the jurisdictional process. Perhaps most significantly, the expanded second shelter hearing process has not only increased the number of fathers who are identified, but it has also considerably shortened the amount of time required to identify fathers – 80% of determinations regarding the whereabouts of the father were made within the first two weeks of the case in the post-implementation sample. Moreover, more extended family members were involved earlier in the process in the post-implementation cases and the second shelter hearing process appears to

facilitate relative placements between the initial and second shelter hearing. The expanded second shelter hearing process also seems to result in more information being available at the second shelter hearing, and seems to result in more specific court orders for services.

The second shelter hearing process also seems to have shortened the time necessary for ICWA determinations to be made, although it has not necessarily resulted in more ICWA determinations being made by the jurisdictional hearing. In the post-implementation sample, just over half of the determinations had been made within the first two weeks of the case.

System professionals who were interviewed are generally satisfied with the second shelter hearing process, although, taken as a whole, their responses suggest that the holding of a second shelter hearing should be determined on a case-by-case basis. While recognizing that the second shelter hearing requires additional court time and additional preparation time, most respondents felt the process was useful in those cases in which information was not available at the initial hearing.

PRACTICE RECOMMENDATIONS

- ✓ Although it appears that the Portland Model Court is, for the most part, statutorily compliant with the time requirements for the shelter hearing and jurisdictional hearing, the court must take steps to ensure that the date of temporary custody is properly documented in all legal case files and in management information systems under development.
- ✓ The court must continue to work with the various legal representatives to ensure that, to every extent possible, there is continuity in representation across hearings. In order to track the continuity of legal representatives, the court must take steps to ensure that the names of all attorneys are appropriately documented and legible in all case files.
- ✓ The court is spending considerably more time reviewing cases during the shelter hearing process. In order to ensure that court time is used efficiently, judicial officers must set clear expectations at the conclusion of the initial shelter hearing for what is expected at the second shelter hearing, if a second shelter hearing is recommended (or necessary); all parties must follow-through on providing required information; and the court and parties must remain focused on the purpose and goals of the second shelter hearing.

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- ✓ Although significant strides have been made in ensuring continuity of the judicial officer from the two shelter hearings through jurisdiction and subsequent hearings, this continues to be an area in need of improvement. In order to confidently track continuity of hearing officers, the court also needs to take steps to ensure that the name of the presiding judicial officer is appropriately and legibly documented for each hearing.
- ✓ The documentation of notice is an area in need of improvement. Once documentation has been improved, further assessment of notice procedures and timeliness is warranted.
- ✓ The court needs to remain vigilant and ensure that the scheduling of the next hearing at the conclusion of the current hearing is in place for all hearings. As much as possible, the court also needs to ensure that the subsequent hearing is held as scheduled.

OVERALL RECOMMENDATION:

The second shelter hearing process should be continued. However, at the initial shelter hearing the court should determine whether a second shelter hearing is necessary. Criteria should be articulated to determine whether a second shelter hearing is needed. Established criteria should be communicated to all stakeholders. Criteria may include, but not necessarily be limited to:

- Whether appropriate notice has been served on all parties;
- Whether biological parents are both present at the initial shelter hearing;
- Whether counsel has been appointed for all parties and has appeared;
- The type and amount of information that is not available at the initial shelter hearing, including whether enough information is known to put preliminary, voluntary services in place; and
- Whether the applicability of ICWA has been resolved at the initial shelter hearing.

The reasons for holding or not holding a second shelter hearing should be clearly articulated in the legal case file. If a second shelter hearing is determined to be needed, a “to do” checklist should be generated for all parties and specifically reported on at the second shelter hearing.

The Portland Model Court should also take steps to evaluate whether holding of a second shelter hearing has a long-term impact on the timeliness of the case process and the achievement of permanency.

INTRODUCTION

The Multnomah County Juvenile Court, Portland, Oregon was selected by the National Council of Juvenile and Family Court Judges (NCJFCJ) to participate in its Child Victims Act Model Courts (VAMC) Project in October 1998. This national project, funded by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), is intended to promote improvements in juvenile and family court handling of civil child abuse and neglect cases. Currently 23 jurisdictions nationwide participate in this effort.

Through the efforts of the Juvenile Court's Presiding Judge as well as the court's many dedicated judges, referees, court staff and other system professionals, the Portland Model Court has made a conscious commitment to improving its ability to address the needs of their community's most vulnerable children and families in a timely and appropriate way.

ORGANIZATION OF THE REPORT

This report details the findings of research conducted to inform the Portland Model Court about the functioning of second shelter hearings, which were implemented in Multnomah County to improve the preliminary shelter hearing process. This research was conducted by the project team of the Permanency Planning for Children Department (PPCD) of the National Council of Juvenile and Family Court Judges (NCJFCJ), with funding provided by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), U.S. Department of Justice.² The methodologies employed in this study, described more thoroughly below, included: (1) an archival case file review; (2) observation of second shelter hearings; (3) review of pertinent protocols and procedures; and (4) interviews with key stakeholders. This approach combined both qualitative and quantitative data collection methodologies to provide a complete and reliable study of the implementation of the

² Funding for this evaluation was provided through the technical assistance resources provided to the Portland Model Court because of their participation in the NCJFCJ's Child Victims Act Model Courts Project. An evaluation of the second shelter hearing process was an articulated goal of the Portland Model Court.

second shelter hearing process. The recommendations included in this report are based on these data sources with comparisons to national standards and other jurisdictions, as appropriate.

The report summarizes research conducted between April 2000 and August 2001 regarding the Multnomah County Juvenile Court's second shelter hearing process. The findings presented are meant to provide a foundation of factual information and analysis about the operation of this additional preliminary protective hearing to Portland's court and systems professionals. It is also meant to provide guidance to others considering implementing such a process in their own jurisdictions.

The main body of this report is organized into four sections. The first section provides an *Overview of the National Model Courts Project, "Front-Loading," and the Portland Model Court and the Second Shelter Hearing* process at the time of data collection. The second section, *Research Design and Methodology*, details the evaluation strategy, data collection, and analysis procedures. The next section, *Evaluation Findings*, details the results of PPCD's analysis of the operation and outcomes of second shelter hearings. Finally, the last section, *Summary and Conclusions*, summarizes the research findings, highlighting areas of strength and needed improvement, and makes recommendations regarding process enhancement. The appendix accompanying the body of this report contain an example of the research instrumentation.

A BRIEF OVERVIEW OF THE NATIONAL MODEL COURTS PROJECT

In October 1998 the Multnomah County Juvenile Court, Portland, Oregon, began participating in the Child Victims Act Model Courts (VAMC) Project of the Permanency Planning for Children Department (PPCD), National Council of Juvenile and Family Court Judges (NCJFCJ).³ This national initiative is funded by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), U.S. Department of Justice. The "Model Courts" project involves a total of 23 Model Courts,

³ For general information about the work of the PPCD and for access to publications, please see www.pppncifcj.org.

representing urban, rural, and tribal jurisdictions.⁴ All of the Model Courts are engaged in systems change efforts and are working collaboratively with social service agencies and other systems professionals to achieve improvement goals. Working closely with the PPCD and with each other, and drawing on the best practice principles of the *RESOURCE GUIDELINES*⁵ and *ADOPTION AND PERMANENCY GUIDELINES*⁶, the Model Courts are continually assessing their child abuse and neglect case processing, focusing on barriers to timely permanency, developing and instituting plans for court improvement, and working collaboratively to effect systems change. Each of the Model Courts is committed to taking a “hard look” at how its court process is working in everyday practice; how well the court is meeting federal and statutory requirements; how well social service agencies are meeting clients’ needs; and how well the child protection system as a whole is meeting the needs of the children and families it serves.

It is important to clarify the meaning of the term “model” within the Model Courts Project. The use of the term “model” is not meant to imply that the Model Courts have achieved ideal practice or created perfect systems. Rather, the Model Courts serve as *models for facilitating systems change*. The project seeks to improve court processing of child abuse and neglect cases by producing replicable innovations in “Model Courts.” Each court engages in self-assessment and chooses jurisdiction-specific goals to improve its practice in child abuse and neglect cases. Each Model Court is a source of untold information about how to begin, engage, and institutionalize needed systems change.⁷

⁴ Model Court sites include the three largest jurisdictions in the country – New York City, NY, Los Angeles, CA and Chicago, IL – as well as smaller jurisdictions such as Alexandria, VA and Reno, NV. The Zuni Tribal Court, Pueblo of Zuni, NM is the first Tribal Model Court participating in the project.

⁵ *RESOURCE GUIDELINES: Improving Court Practice in Child Abuse & Neglect Cases* (1995). National Council of Juvenile and Family Court Judges, Reno, NV.

⁶ *ADOPTION AND PERMANENCY GUIDELINES: Improving Court Practice in Child Abuse and Neglect Cases* (2000). National Council of Juvenile and Family Court Judges, Reno, NV.

⁷ For more information on the Child Victims Act Model Courts and their systems reform accomplishments, please see the *Child Victims Act Model Courts Project Status Reports – 1999, 2000 and 2001* editions, and applicable *Technical Assistance Bulletins* published by the NCJFCJ.

Key Decisions the Court Should Make at the Preliminary Protective Hearing:*

✓ **Should the child be returned home immediately or kept in foster care prior to trial?**

The key decision that the court makes at the preliminary protective hearing is whether to return a temporarily-placed child home immediately. Often, the child's removal from home triggers the preliminary protective hearing, and the hearing is held to decide whether the child needs to stay outside the home. In deciding whether to return the child home, the court evaluates the danger to the child by hearing allegations of abuse or neglect. In addition, the court needs to examine whether there are any possible means of protecting the child without placing the child in foster care.

✓ **What services will allow the child to remain safely at home?**

To decide whether there are available means to allow a child to be maintained safely at home, the court must be made aware of services available in the community. In neglect cases, for example, emergency homemakers, day care, or in-home baby-sitters can often eliminate the immediate danger to the child. In a wide variety of cases, intensive home-based services in which professionals spend long periods of time in the home sharply reduce danger to the child.

✓ **Will the parties voluntarily agree to participate in such services?**

In some states, the court can order specific, in-home services to ensure the child's safety while remaining within or returning to the family. In other states, the court can order that the child be maintained in the home, or returned home, with child welfare agency assurance that family-based or home-based services will be provided. All juvenile and family court judges must become informed about the existence and availability of services in their community.

✓ **Has the agency made reasonable efforts to avoid protective placement of the child?**

In connection with the decision to remove a child from home, the court also must determine whether the responsible public agency has made reasonable efforts to preserve the family. Upon deciding to remove a child, the court must decide both whether the agency has made reasonable efforts to prevent the need for the child's removal from home and, whether, within the short time available, the agency has made reasonable efforts to make it possible for the child to return safely home. The "reasonable efforts" determination is required by federal law as a condition for state receipt of federal foster care matching funds. It is also required by state statute in most states.

Reviewing agency efforts to keep the family together is necessary not only because federal law requires it, but also because review of agency efforts helps the court to decide whether the child can be safely returned home. By taking a careful look at the agency's prior efforts to help the family, the court can better evaluate both the danger to the child and the ability of the family to respond to assistance.

* Excerpted from the *RESOURCE GUIDELINES*. For a more detailed discussion of the scope, purpose and tasks of shelter hearings (also referred to as an emergency removal hearing and preliminary protective hearing), see the *RESOURCE GUIDELINES*, Chapter III: Preliminary Protective Hearings, pg. 30-44. Hearing-specific easy reference checklists are included in the back of the *RESOURCE GUIDELINES*.

Even if relatives or other responsible adults are not available to assume full-time care of a child, they may be available as a resource to supervise visitation when necessary. Sometimes, the agency will not have had time to assess relatives or other responsible adults involved with the child prior to the preliminary protective hearing. If it is too early to evaluate relatives or other adults, but placement of the child is a possibility, the court needs to set a schedule for prompt agency evaluation.

✓ **Are responsible relatives or other responsible adults available?**

At the preliminary protective hearing, the court needs to take into account what help may be obtained from appropriate relatives or other responsible adults involved with the child. Immediate placement with relatives or another responsible adult is possible if either is willing to care for the child and the agency has already been able to favorably evaluate them.

✓ **Is the placement proposed by the agency the least disruptive and most family-like setting that meets the needs of the child?**

If the child must be removed from home and cannot be placed with relatives or a responsible adult, the court should evaluate the placement proposed by the agency to determine whether it is the most appropriate and least disruptive placement. For example, children should not routinely be placed in group home shelters when they are capable of functioning in the family-like setting of a foster home. If the most appropriate setting for the child is not immediately available on an emergency basis, the court should make certain that appropriate referrals are made so that the child can be moved to a preferred placement when one becomes available.

✓ **Will implementation of the service plan and the child's continued well-being be monitored on an ongoing basis by a GAL/CASA?**

The preliminary protective hearing also provides the opportunity for the court to consider appointment of a GAL/CASA for the child. Appointment early in the court process allows ample time for the GAL/CASA to gather information and make recommendations to the court and provides continuity of representation for children whose caseworkers and foster parents are likely to change through the course of court proceedings.

✓ **Are restraining orders, or orders expelling an allegedly abusive parent from the home appropriate?**

In child abuse cases where a child is alleged to have been physically or sexually abused by only one parent, it may be the case that the child can be safely returned to the non-abusing parent. In order to ensure that the child will be protected, it may be necessary to issue protective orders concerning the child. These may include, for example, orders expelling the allegedly abusive parent from the home or restraining the allegedly abusive parent from contacting or visiting the child.

✓ **Are orders needed for examinations, evaluations, or immediate services?**

During many preliminary protective hearings, the court should order an examination or evaluation by an expert. For example, the court may need to authorize a prompt physical or mental examination of the child to assess the child's need for immediate treatment.

An expert evaluation of a child is frequently essential for placement planning if the child needs to be placed outside of the home. An evaluation can often identify special treatment needs of the child; for example, whether the child will need placement in a residential treatment facility or therapeutic foster home. Further examination of the child may be needed to preserve evidence bearing on whether the child has been abused. The need for such examinations and evaluations is often already clear at the preliminary protective hearing, and ordering them at that time can speed the pace of litigation.

Sometimes an expert evaluation is needed to determine the fitness of a parent or relative to provide immediate care for the child. If the evaluation is positive it can curtail the child's separation trauma by allowing the child's early return from foster care. On the other hand, if the evaluation is negative, its early submission will speed the pace of litigation and shorten the child's stay in foster care. A judge may also recommend an examination, hold an additional hearing, and subpoena witnesses if the evaluation does not take place as recommended, and may withhold a positive determination of reasonable efforts if evaluations are not promptly completed.

✓ **What are the terms and conditions for parental visitation?**

If a child cannot be returned home after the preliminary protective hearing, immediate parent-child visitation often can ease the trauma of separation. Early visitation helps to maintain parental involvement and speed progress on the case.

Judicial oversight of visitation helps to ensure that visitation is begun promptly, that it is permitted frequently, and that unnecessary supervision and restrictions are not imposed. The court should make an initial decision concerning the frequency, duration, and terms of visitation for parents, such as whether visitation should be supervised or unsupervised. The court should also decide whether there is a need for any additional orders concerning the conduct of the parents or agency efforts to provide services to the parents or child.

✓ **What consideration has been given to financial support of the child?**

All potential sources of financial support for the child should be identified and considered in court decisions affecting the child. This includes financial support for health services, special educational or developmental needs, and basic child support. Paternity issues should remain a judicial priority at all subsequent proceedings.

Additional Activities at the Preliminary Protective Hearing:

✓ **Reviewing notice to missing parties and relatives**

One of the most important functions of the court during the preliminary protective hearing is to oversee the agency's early efforts to locate and notify missing parties and relatives. During the preliminary protective hearing, the court should inquire about parties who are not present and should require an explanation of agency efforts to locate and notify them of the proceeding. Speedy decision-making is critical in child abuse or neglect cases, and timely notice to the parties helps prevent delays.

✓ **Serving the parties with a copy of the petition**

If the petition and summons have been prepared in advance of the preliminary protective hearing and the parties are present, the preliminary protective hearing provides an excellent opportunity to efficiently complete service of process.

✓ **Advising parties of their rights**

If a party is unrepresented by counsel at the preliminary protective hearing, the court should advise the party of the right to counsel, including the right to appointed counsel, where applicable. Even when the parties are represented at the hearing, the court should explain the nature of the hearing and the proceedings that will follow.

✓ **Accepting admissions to allegations of abuse or neglect**

When counsel has been provided in advance of the preliminary protective hearing, parties are sometimes willing to stipulate to a judicial finding that they have abused or neglected a child. Reviewing and accepting the stipulation at that point advances the pace of the litigation and simplifies the work of the agency and its attorneys.

• **Model Court Procedures Aimed at “Front-Loading” the Initial Hearing Process**

The “front-loading” approach is aimed at generating early momentum in a case. Many jurisdictions, in an effort to “front-load” their process, have expanded or enhanced the preliminary hearing phase of their court process.⁸ The main purpose of the preliminary protective hearing⁹ is to make a decision concerning whether or not the child can be immediately and safely returned home while

⁸ The Tucson Model Court, for example, has expanded their preliminary protective hearing to include a 45-minute pre-hearing conference. For more information on the preliminary protective hearing sequence in Tucson, see the *Model Courts Status Reports, Supra* note 6, and Siegel, *et al.*, (2002). *The Arizona Court Improvement Project: Five Years Later (Final Report)*. National Center for Juvenile Justice.

⁹ The preliminary protective hearing in some jurisdictions is referred to as a “shelter care hearing,” “detention hearing,” “emergency removal hearing,” or “temporary custody hearing.” In all states the preliminary protective hearing must take place within a short period of time after the child has been removed from the home. The time limit is specified by state statute and, in most states, must occur within one to three judicial working days after removal.

the trial is pending.¹⁰ This initial decision is often the most important decision to be made in an abuse and neglect case. A primary goal of the court, therefore, should be to make the preliminary protective hearing as thorough and meaningful as possible. A secondary purpose of the preliminary protective hearing is for the court to move the litigation forward as quickly as possible and to oversee the agency's involvement in the case. At this preliminary protective hearing stage, the court should take steps to eliminate potential sources of delay. In effect, courts should play a part in "front-loading" the system to help move the case more quickly at the later stages of adjudication, disposition, and review.¹¹

"Front-loading" the process by instituting a thorough and timely preliminary protective hearing sequence accomplishes a number of important objectives. By ensuring timely notice of parties, the hearing can avoid delays due to difficulties in the service of process. By ensuring early, active representation of parties, an enhanced preliminary protective hearing avoids delays due to ill-prepared counsel and scheduling conflicts. And, by thoroughly exploring all issues at the preliminary protective hearing, the court can:

"...resolve and dismiss some cases ... move quickly on some pre-trial issues, encourage early settlement of the case, encourage prompt delivery of services to the family, and monitor agency casework at a critical stage of the case."¹²

¹⁰ *RESOURCE GUIDELINES*, pg. 30. The Adoption and Safe Families Act of 1997 (ASFA, P.L. 105-89) requires that reasonable efforts shall be made to preserve and reunify families: (i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home; and (ii) to make it possible for the child to safely return home. ASFA, SEC 101, Section 471(a)15. In accordance with ASFA, at the initial hearing there must be a judicial finding that reasonable efforts to prevent the removal of the child were made and that continued placement in the home would be contrary to the welfare of the child.

¹¹ *RESOURCE GUIDELINES*, pg. 31.

¹² *Ibid.*

Most importantly, “front-loading” the process in such a way allows the court to begin to set a “problem-solving atmosphere”¹³ so that timely and safe permanency for the child can be achieved.

➡ **A BRIEF OVERVIEW OF MULTNOMAH COUNTY AND THE PORTLAND MODEL COURT**

- **Multnomah County**

Multnomah County, Portland, Oregon has an estimated population of 665,810 (2000 Census), representing approximately 19% of the state’s population. The average income for Multnomah County is \$38,225, which is slightly higher than the state average of \$37,284 and the national average of \$37,005. Approximately 22.3% of the county’s population is under the age of 18, compared to a state rate of 24.7% and a national rate of 25.7%. Approximately 17.6% of the county’s children live in poverty, a higher percentage than the state rate of 16.3%, but lower than the national average of 19.9%.

¹³ See Kaye, Judith S. (1999). “Making the Case for Hands-On Courts.” *Newsweek*, October 11, 1999. Hon. Judith Kaye, Chief Judge of the State of New York, argues that in order to make a real difference in the lives of children and families, courts must develop a “problem-solving” attitude and judges must become active participants in the problem-solving process. The “problem-solving” approach advocated by Chief Judge Kaye is consistent with best practices and philosophies of the *RESOURCE GUIDELINES* and the NCJFCJ.

Demographic Information*			
	Multnomah County	Oregon	USA
Population Estimates			
Population, 2001 estimate	665,810	3,472,867	284,796,887
Population, 2000	660,486	3,421,399	281,421,906
Juvenile Population Estimates			
Persons under 5 years old	6.4%	6.5%	6.8%
Persons under 18 years old	22.3%	24.7%	25.7%
Race/Ethnicity of Population			
American Indian and Alaska Native persons	1.0%	1.3%	0.9%
Asian person	5.7%	3.0%	3.6%
Black or African American persons	5.7%	1.6%	12.3%
Persons of Hispanic or Latino origin	7.5%	8.0%	12.5%
Native Hawaiian and Other Pacific Islander	0.4%	0.2%	0.1%
White persons	79.2%	86.6%	75.1%
White persons, not of Hispanic/Latino origin	76.5%	83.5%	69.1%
Persons reporting some other race	4.0%	4.2%	5.5%
Persons reporting two or more races	4.1%	3.1%	2.4%
Income and Poverty Estimates⁺			
Median household money income	\$38,225	\$37,284	\$37,005
Person below poverty	12.2%	11.6%	13.3%
Children below poverty	17.6%	16.3%	19.9%

*Source U.S. Census Bureau: State and County Quick Facts, 2000 Census

⁺Source U.S. Census Bureau: 1997 model-based estimate

- **Multnomah County Circuit Court**

The Multnomah County Circuit Court is one of 36 circuit courts in 27 judicial districts throughout the state. The circuit court is Oregon's trial court of general jurisdiction. Among other powers, the circuit court has the power in civil cases to: dissolve marriages and distribute the assets of the parties; award or change legal custody of children; determine who has title to land; distribute a decedent's property and possessions; preside over trials; commit juveniles to state institutions; place dependent children in substitute care; approve adoptions; commit mentally ill persons to state hospitals; and issue injunctions. In criminal cases, the circuit court: conducts pretrial hearings and trials; sentences convicted persons to Oregon's corrections system (e.g., jail, prison, probation); and imposes the death penalty in certain capital murder cases. Decisions appealed from circuit court go directly to the Court of Appeals, except for cases where the circuit court sentenced a defendant to death. Those death penalty appeals go directly to the Supreme Court.

The Multnomah County Juvenile Court is a division of the Multnomah County Circuit Court. The Juvenile Court has seven general jurisdiction circuit court judges and five (four full-time equivalent) limited jurisdiction referees.

Court Demographics*

- Judicial Officers Hearing Dependency Matters:
7 General Jurisdiction Circuit Court Judges
5 (4 FTE) Limited Jurisdiction Referees.
- Average Dependency Caseload: 357 dependent children (Referee); 130 dependent children (Judges).
- Number of Abuse/Neglect Petitions Filed: 769 (CY 1999); 1047 (CY 2000)

* Statistics reported reflect court demographic information for evaluation period (1999 - 2000).

- **Portland Model Court**

The Multnomah County Juvenile Court (Portland, Oregon) became a Model Court in October of 1998. Since that time, Portland's reform efforts have included the implementation of a number of initiatives designed to improve the court's response to child abuse and neglect cases and the children and families it serves. Specifically, procedures have been set in place at the earliest point possible to ensure that all parties to court proceedings are actively participating in the proceedings and doing everything they can to minimize the length of time children remain in temporary placement.¹⁴

¹⁴ For more information about the specific accomplishments of the Portland Model Court, see the *Model Courts Status Reports*, *supra* note 6.

Snapshot of Portland Model Court Accomplishments:

- Regular meetings convened to address court improvement needs and to address continued strategic planning;
- Regular interdisciplinary training of dependency participants;
- Implementation of pre-trial conferences/judicial settlement hearings before each trial as a means of non-adversarial settlement of cases;
- Use of family group decision-making conferences where appropriate (referred to as “Family Unity Meetings”);
- Use of mediation in termination of parental rights cases as appropriate;
- Significant reform efforts, including training, practice, and policy changes, to improve the handling of child protection cases that also involve domestic violence;
- Implementation of training and policy aimed at expediting appeals;
- Reforms aimed at expediting adoption recruitment and home studies;
- Improved coordination and communication among service agencies; and
- Mentoring other jurisdictions around the state and around the country.

➡ EXPEDITING THE INITIAL HEARING PROCESS – “FRONT-LOADING:” THE PORTLAND MODEL COURT AND THE SECOND SHELTER HEARING REFORM INITIATIVE

Beginning on November 6, 1998, Multnomah County Juvenile Court implemented a system of scheduling dependency (abuse/neglect) cases for a second shelter hearing. At the time of implementation, Oregon statutes did not require an additional hearing between the initial shelter hearing and the pre-trial or judicial settlement conference mandated by statute to be held within 42 days of the initial shelter hearing. ORS 419B.183 requires that a shelter hearing be held within 24 hours whenever a child is taken into protective custody. Usually the State Office for Services to Children and Families (SOSCF) caseworker has minimal information at that shelter hearing about the family and the issues that brought the child or children before the court. Information is often unavailable within those first 24 hours (e.g., information regarding paternity, the whereabouts

of the parents or relatives, and the applicability of the Indian Child Welfare Act (ICWA), among other issues).

In reaction to the lack of substantive information available at the initial shelter hearing, the Model Court implemented a process that requires a second shelter hearing be scheduled within 7-14 days of the initial shelter hearing. The initial shelter hearing occurs as before with the court making as many findings as possible with respect to identifying the parents and the issues involved. By the conclusion of the initial shelter hearing, the court identifies a list of “tasks” needing resolution for the second shelter hearing (such as locating a parent in a correctional facility and obtaining service, clarifying paternity issues, ICWA issues, and obtaining assessments or developing a safety plan for the return of the children). The second shelter hearing is scheduled at the conclusion of the initial shelter hearing in court and the date is written on the initial shelter order, a copy of which is given to the parents, the caseworker, and all attorneys present. At the second shelter hearing, the court reviews the outstanding issues and modifies the initial shelter order in any manner necessary. Newly located parents are served and counsel is appointed.

In developing the second shelter hearing, an objective was to have the judge/referee, caseworker, defense attorney, and district attorney who were present for the initial shelter hearing also participate in the second shelter hearing. The judge/referee conducting the initial shelter hearing is usually assigned as the “judge of the case” and is assigned all further proceedings in that case.

Thus, like other jurisdictions implementing a “front-loading” approach to case processing, the second shelter hearing process in the Portland Model Court was designed to:

- facilitate the early appointment and identification of counsel;
- facilitate movement on matters related to the identification of putative fathers, establishment of paternity, notification of parties, service needs, and ICWA determinations; and
- place and set clear expectations on parties to be ready at the onset of court proceedings to discuss movement on case specifics.

Second Shelter Hearing Overall Goal:

Improve the preliminary hearing process in dependency cases to better address the needs of families and children.

Portland Model Court Hearing Process		
Time Frame	Court Event	Description
Within 24 hours of Removal	First Preliminary Hearing	- temporary custody/placement decided
<i>Within 7-14 days of First Shelter Hearing</i>	<i>Second Shelter Hearing</i>	<i>- court reviews outstanding issues</i>
Within 42 days of First Preliminary Hearing	Pre-Trial Conference/Judicial Settlement Conference	- jurisdictional hearing
Within 14 days of Pre-Trial Conference	Status Hearing	- opportunity to resolve issues as in previous hearing or assign trial judge
Within 14 days of Status Hearing (60 days after petition filed)	Jurisdictional/Disposition Trial	- jurisdictional trial
Within 60 days of removal	Order to Show Cause on Petition to TPR	- best interest hearing, pre-trial conference, and trial default on parental no-shows
Within 45-60 days from Order to Show Cause	Best Interest Hearing	- TPR settlement proceeding
Within 20-60 days from Best Interest Hearing	Pre-Trial Conference	- opportunity to resolve as in previous hearing or assign a trial judge
Within 10 days from Pre-Trial Conference	Termination of Parental Rights Trial	
Within 12 months after Disposition	Permanency Hearing	

➡ **Portland Model Court Second Shelter Hearing Process¹⁵**

In the new expanded shelter hearing process implemented by the Portland Model Court, two preliminary shelter hearings are conducted:

- First Shelter Hearing/ Preliminary Hearing

The scope and purpose of the initial shelter hearing is consistent with practice prior to the implementation of the second shelter hearing process. By statute, this hearing is held within 24 hours of removal. The initial shelter hearing is designed to address issues of probable cause, emergency removal, appointment of counsel, and preliminary reasonable efforts findings.

- Second Shelter Hearing

The second shelter hearing is scheduled for 7-14 judicial days after the initial hearing. The hearing is to be conducted by the same judicial officer. To ensure judicial continuity, that same judicial officer will also handle the judicial settlement conference post-second shelter hearing.

The second shelter hearing is scheduled for a specific docket time, in the afternoon. The hearing is scheduled for a 45-minute block of time. All parties receive notification of the date and time of the second shelter hearing, including: parents (including putative fathers); relatives and friends who provide, or have provided, significant care for the child recently; the assigned caseworker; the assigned deputy district attorney; assigned attorneys for parents and children; age appropriate children; and a Court Appointed Special Advocate (CASA).

A variety of issues are to be addressed and decisions made at the second shelter hearing. In addition to probable cause, to every extent possible, decisions and findings are to be made regarding the establishment of paternity; the applicability of the ICWA; whether a restraining order is

Issues & Findings at the Second Shelter Hearing

- Probable Cause
- Reasonable Efforts
- Need for Restraining Order
- Establishment of Paternity
- Applicability of ICWA
- Appropriate Placement
- Necessary Services and Assessments
- Visitation Plan

¹⁵ Information summarized from review of process protocols.

needed; appropriate services and assessments for the child(ren) and parent(s); appropriate placement, including consideration of the availability of relatives and close family friends as placement resources and the type of placement needed (e.g., an appropriate placement that is the least restrictive alternative in close proximity to biological parent(s)); and a specific visitation plan, including the type, duration, and frequency of visits. The court must also make the appropriate reasonable efforts findings.

Expectations for all legal representatives have been clearly articulated. All assigned attorneys must be present at the second shelter hearing and at all future hearings. Although the court recognizes that under limited extenuating circumstances all attorneys may not be able to appear at the second shelter hearing, attorney appearances are to be given upmost priority.

Expectations for Legal Representatives

Attorneys for Children

- Contact and visit with client
- Talk to foster parent
- Talk to SOSCF caseworker
- Contact other collateral contacts such as relatives, neighbors, clergy, school, and doctors
- Review discovery and records

Attorneys for Parents

- Meet with client
- Talk to SOSCF caseworker
- Review discovery and records
- Contact other collateral contacts, such as relatives, probation officers, and treatment providers
- Respond to/address probable cause findings
- Prepare to present parent's plan

District Attorneys

- Obtain relevant police reports
- Obtain records' checks on parents and proposed relative placements
- Review reports and all discovery
- Talk to SOSCF before second shelter hearing and be prepared to make a decision regarding either dismissal or proceeding to jurisdiction at time of second shelter hearing
- Contact Deputy District Attorney regarding information on the status of criminal investigation or pending charges
- Try to have assigned Deputy District Attorney at second shelter hearing

RESEARCH DESIGN AND METHODOLOGY

The evaluation of the second shelter hearing process in the Portland Model Court was designed in consultation with personnel of the court, and involved discussions with the Model Court Lead Judge and others regarding their information needs. The evaluation aimed to provide a measure of effectiveness that would contribute to the Model Court's knowledge about how the second shelter hearings are operating in practice.

Specifically, the evaluation of the second shelter hearing process in the Portland Model Court was based on data collected through: (1) review of hearing protocols and procedures; (2) observation of initial and second shelter hearings; (3) interviews with key court and systems professionals participating in the second shelter hearing proceedings; and (4) a comparative case file analysis of a random sample of cases both pre- and post-second shelter hearing implementation.

(1) Review of Hearing Protocols and Procedures. All relevant written documentation regarding the design and implementation of Portland's second shelter hearing process was reviewed by research staff. This review not only greatly facilitated the development of both the interview and case file review data collection instruments, but also gave the research team a richer understanding of the goals and objectives of the second shelter hearing process.

(2) Hearing Observation. In order to familiarize the research team with the process, a number of second shelter hearings were observed on a variety of court calendars. During the course of this assessment, it became clear that it would enhance the research team's understanding of the second shelter hearing process if initial shelter hearings and pre-trial or judicial settlement conferences were included in these observations. Observation of these additional hearings also occurred on a variety of court calendars. All observation was conducted using specially developed protocols. These protocols are used regularly by PPCD staff when conducting observation in Model Court jurisdictions, and are designed to capture information relevant to *RESOURCE*

GUIDELINES implementation and identified best practices. Although observation provided context information for other more formal analyses (e.g., from data collected via case file review and interview methods), hearing observations themselves were not formally analyzed.

(3) Interviews. Research staff conducted standardized semi-structured interviews with court personnel: judges; referees; administrators; prosecuting attorneys; defense attorneys; children's legal representatives; and SOSCF personnel. These interviews sought stakeholder opinions about, and experiences with, the second shelter hearing process. Specifically, interviews gathered opinions about the following:

- Effectiveness of the shelter hearing process at accomplishing certain identified goals or tasks:
 - speeding the process of locating parents;
 - obtaining service on parties;
 - speeding the process of appointing counsel;
 - handling ICWA determinations;
 - developing a safety plan for the return of the children;
 - providing discovery to all parties earlier in the case; and
 - reducing continuances (set overs).
- Whether or not the second shelter hearing is an effective use of court time.
- Whether or not the second shelter hearing is an effective use of various professionals' time.
- Whether or not the time frame for holding the second shelter hearing (7-14 days post initial hearing) is appropriate.
- The strengths of the second shelter hearing process.
- The problems associated with implementation and operation of second shelter hearings.
- Overall satisfaction with the second shelter hearing process.
- The most significant change seen since implementation of second shelter hearings (this was asked only of those individuals who had practiced in the court prior to the implementation of the second shelter hearing process).
- Whether the second shelter hearing process had changed overall practice in child protection cases.

(4) Analysis of Case Files. The research team selected the period from December 1998 to May 2001 as the study period for the case file review. This was to ensure that both the pre-implementation (pre-second shelter hearing process) and post-implementation samples contained cases where petitions were filed post-ASFA. In this way, cases in both the comparison sample and experimental sample were subject to the same shortened case processing time frames as mandated by ASFA and Oregon statutes. Furthermore, the study frame for the post-implementation sample (i.e., the experimental sample) was selected so that no cases early in implementation of the second shelter hearing process were included. This was to ensure that any anomalies due to the newness of the procedure would not confound analyses. Cases in the sampling frame (i.e., having a petition filing date within the selected time frame for the study) were then randomly selected for review.¹⁶ Cases were pulled in sufficient number in each sample in order to allow for meaningful statistical power in analyses.

To utilize a structured and systematic approach to reviewing the case files, the project team developed a case file review instrument. Questions for the review instrument were created based on Oregon statutes, second shelter hearing policies, and national best practice standards (e.g., *RESOURCE GUIDELINES*) for preliminary protective hearings. Specifically, the instrument was designed to address the goals of the second shelter hearing and to look at case practice in the following areas: (1) notice and efforts to locate parties; (2) establishment of paternity; (3) identification of relative resources; (4) inquiry regarding restraining orders; (5) consideration of visitation; (6) consideration of financial support of the child; (7) reasonable efforts findings; (8) referral to services; (9) ICWA determinations; (10) presence of parties at hearings; and (11) the setting of the date of next hearing at the conclusion of each hearing. The project team conducted a pilot review of five sample case files, made modifications to the instrument as necessary, and established inter-rater reliability to ensure consistent interpretation. All coding of case files was conducted on-site in the clerk of the court's file room. See the Appendix for an example of the case file review instrument.

¹⁶ Ideally, researchers would have liked to have included a comparison sample of "matched" cases (i.e., cases as similar as possible to those cases receiving a second shelter hearing). However, resources available for this research and the lack of an adequate management information system to assist in the drawing of a matched sample precluded the research team from using this approach.

Analysis: Empirical code books were constructed for the case file review instruments and stakeholder interviews. Thematic codes were generated for all open-ended questions based on a sample of completed instruments. Data from all instruments were entered into a statistical software program (SPSS) for analysis. Frequencies and cross-tabulations were then run on all variables of interest.

Evaluation Findings: Timing and Duration of Hearings

The evaluation findings outlined below reflect a content analysis of case file records for a sample of pre-second shelter hearing implementation cases and post-second shelter hearing implementation cases. Interview responses from key stakeholders are also included as appropriate.

“Pre-implementation Sample” = Cases before the second shelter hearing process was implemented in Portland ($N_{\text{Pre-imp}} = 73$). These cases received only an initial shelter hearing before the pre-trial conference and jurisdictional hearing.

“Post-Implementation Sample” = Cases receiving a second shelter hearing ($N_{\text{Post-imp}} = 74$). These cases received both an initial shelter hearing and a second shelter hearing before the pre-trial conference and jurisdictional hearing.

The 73 cases in the pre-implementation sample represented 138 children. The 74 cases in the post-implementation sample represented 136 children. In both the pre- and post-implementation study samples there was an average of two children named on petitions, with a range of one to five children per petition.

The pre-implementation sample of children was slightly older than their post-implementation counterparts. In the pre-implementation sample, the average age at the filing of the original petition was 5.7 years, with a range of 1.5 months to 18 years of age. Just over one quarter of the children (28%) were aged 8 years or older, with 18% aged 10 or older. In contrast, the average age of children in the post-implementation sample at the filing of the original petition was 4.9 years, with a range of newborn (petition filed on day of birth) to 17.5 years of age. Half of the children in the post-implementation sample were age 3 years or younger at the filing of petition. Twenty-two percent of the children were eight years of age or older at the filing of the petition, with 9% aged 10 years or older.

Of the 138 children included in the pre-implementation sample, 42% were males ($n=58$) and 50% were females ($n=69$). For 8% of children ($n=11$), the coder was unable to determine the sex of the child. The gender breakdown is almost identical in the post-implementation sample, where 43% of the children were males ($n=58$), 49% were females ($n=67$), and for 8% of the children ($n=11$) the coder was unable to determine the sex of the child.

➡ TIMING OF SHELTER HEARINGS

Pre-Implementation Sample

- **Shelter Hearing**

In the pre-implementation sample of cases studied ($N_{\text{Pre-imp}}=73$), the date the child was taken into protective custody was clearly documented in 64 of the 73 case files reviewed (88%). Of those 64 cases which documented the date the child was taken into temporary custody, 40 (63%) held the initial shelter hearing within 24 hours of temporary custody (55% overall, $n=40$ of 73). In 11 cases (17%), the initial shelter hearing was held within 72 hours of temporary custody, in 7 cases (11%) the hearing was held within 4 days of removal, and in 6 cases (9%) the shelter hearing was held five or more days after removal.

Both the date of temporary custody *and* the date of the original petition filing were documented in 53 of the 73 case files (73%) in the pre-implementation sample. In 32 of those 53 cases (60%), the petition was filed the same day the child was placed into temporary protective custody. In 9 cases (17%), the petition was filed within 48 hours of temporary custody, in 7 cases (13%) the petition was filed within 72 hours of temporary custody, in 2 cases (4%) the petition was filed 4 days after the date of temporary custody, in 2 cases (4%) the petition was filed 5 days after temporary custody, and in one case the petition was filed 10 days after the child was taken into temporary protective custody.

ORS 419B.183 requires that a shelter hearing be held within 24 hours of a child being placed into temporary protective custody. The statute excludes Saturdays, Sundays, and judicial holidays.

Finding: The date of temporary custody was documented in 88% of the pre-implementation case files.

Finding: In 63% of pre-implementation cases in which the date of temporary custody was documented, the initial shelter hearings were held within 24 hours of temporary custody.

Finding: Both the date of temporary custody *and* the date of the original petition filing were documented in 73% of the pre-implementation case files.

Finding: In 60% of the cases documenting both dates, the petition was filed the same day the child was placed into temporary protective custody.

In 36% of the pre-implementation cases (n=26 of 73), the shelter hearing was held after the filing of the original petition (a range of 1 to 7 days). In 34% of the cases (n=25 of 73), the shelter hearing was held

The statutory requirement for the holding of the shelter hearing is based upon the date of temporary custody. The statutory requirement of the holding of the jurisdictional hearing is based upon the date of petition filing.

the same day the petition was filed, and in 30% of the cases (n=22 of 73) the shelter hearing was held before the filing of the petition (a range of 1 to 10 days before the filing of the petition).

Forty-two percent (42%) of the cases in the pre-implementation sample had an amended petition (n=31 of 73). In 19% of the cases with an amended petition (n=6 of 31), the amended petition was filed within 30 days of the original petition. In 39% of the cases (n=12 of 31), the amended petition was filed 30-60 days after the filing of the original petition. In 32% of cases with an amended petition (n=10 of 31), the amended petition was filed more than 100 days after the filing of the original petition. Petitions were amended to add information about the parent in 61% of cases (n=19 of 31), and to add information about other siblings in 13% of the cases (n=4 of 31). Coders were unable to clearly determine the reason for the amended petition in 26% of the cases (n=8 of 31).

Finding: 42% of cases in the pre-implementation sample had an amended petition.

Finding: In 61% of cases with amended petitions, the petition was amended to add information about the parents.

- **Jurisdictional Hearing**

For purposes of this study, researchers coded the first clearly “jurisdictional” event in the case file after the initial shelter hearing. The next court event after the shelter hearing in the pre-implementation sample may have been a jurisdictional settlement hearing (a pre-trial conference), a status hearing, or a jurisdictional trial. The jurisdictional settlement hearing, held within 42 days of the shelter hearing, provides an opportunity to resolve issues and establish wardship. If matters remain contested, a status hearing is to be held within 14 days of the pre-trial conference. If resolution is not achieved at the status hearing, a jurisdictional/dispositional trial is to be set before a trial judge within 60 days of the filing of the petition.

In many case files, it was unclear whether the next hearing with codeable information pertaining to the study was, in actuality, a judicial settlement conference or a status hearing. For this reason, data are summarized with a caution to the reader to interpret them as they relate to the “jurisdictional hearing process” with an outside case processing time frame of 60 days from the filing of the petition.

On average, the jurisdictional hearing in the pre-implementation sample of cases was held 49 days from the filing of the original petition (with a range of 0-272 days). Ninety percent (90%) of the cases in the pre-implementation sample had a jurisdictional hearing within 60 days of the filing of the original petition. If calculating time from the filing of the supplemental

petition, 23% of the cases had a jurisdictional hearing before the amended petition was filed and 25% had a jurisdictional hearing within 40 days of the filing of the amended petition. Two-thirds of the cases had a jurisdictional hearing within 53 days after the filing of the amended petition.

Post-Implementation Sample

• Initial Shelter Hearing

In the post-implementation sample ($N_{\text{Post-imp}}=74$), the date the child was taken into protective custody was clearly documented in the case file in only 28 of the 74 cases (38%). For those 28 cases which documented the date the child was taken into temporary custody, 26 (93%) held the initial shelter hearing within 24 hours of temporary custody. In one case (1%) the initial shelter hearing was held

ORS 419B.185 requires that a jurisdictional trial be held within 60 days of the filing of the petition.

Finding: On average, the jurisdictional hearing in the pre-implementation sample of cases was held 49 days from the filing of the original petition.

Finding: In the majority of pre-implementation cases (90%), a jurisdictional hearing was held within 60 days of the filing of the petition.

ORS 419B.183 requires that a shelter hearing be held within 24 hours of a child being placed into temporary protective custody.

Finding: The date of temporary custody was documented in 38% of the post-implementation case files (documented in 88% of pre-implementation cases).

Finding: In 93% of post-implementation cases in which the date of temporary custody was documented, the initial shelter hearings were held within 24 hours of temporary custody (63% in pre-implementation cases with appropriate documentation).

within 48 hours of removal and in two cases (3%) the initial shelter hearing was held within 72 hours of when the child was taken into temporary protective custody.

In 22 of the 28 cases (79%) in which the date of temporary custody was documented, the petition was filed on the same day that the child was taken into temporary custody. In four cases (14%, n=4 of 28), the petition was filed the day after the child was taken into temporary custody; in one case (4%, n=1 of 28), the petition was filed within 48 hours of temporary custody and in one case (4%, n=1 of 28) within 72 hours of temporary custody.

Finding: In 79% of the cases in the post-implementation sample documenting both dates, the petition was filed the same day the child was placed into temporary protective custody.

In 4 of the 74 post-implementation cases (5%), the petition was amended between the first and second shelter hearings. In two cases additional children were added to the petition and in one case allegations were added (in one case the coder was unable to determine the reason for the amended petition). For the two cases in which additional children were added to the petition between the first and second shelter hearing, the second shelter hearing was held 13 days after the initial shelter hearing in one case and 18 days after the

Finding: 5% of cases in the post-implementation sample had an amended petition (44% of cases in the pre-implementation sample had amended petitions).

Finding: Petitions amended in the post-implementation sample were amended to name additional children on the petition or to add allegations (in the pre-implementation cases, 61% of petitions were amended to add parental information).

Finding: The amended petitions in the post-implementation sample were amended between the initial and second shelter hearings, with an outside range of 18 days of the initial shelter hearing.

initial shelter hearing in the other. In the case in which the petition was added to reflect additional allegations, the second shelter hearing was held 15 days after the initial shelter hearing.

ORS 419B.183 requires that a shelter hearing be held within 24 hours of a child being placed into temporary protective custody.

	Compliant with Statute	Non-Compliant with Statute
Pre-Implementation	63%	37%
Post-Implementation	93%	7%

*Care must be taken in interpreting compliance rates as they are based only on cases in which date of temporary custody was clearly documented in the court file reviewed.

- **Second Shelter Hearing**

The second shelter hearing was held an average of 12 days after the initial shelter hearing (ranging from 4-42 days from the initial shelter hearing). The second shelter hearing most frequently occurred seven days after the initial shelter hearing. In 50% of the coded cases, the second shelter hearing occurred within 12 days of the initial shelter hearing. In 75% of the cases, the second shelter hearing was held within 14 days of the initial shelter hearing. (See Figure 1.)

With the implementation of the new shelter hearing process, a second shelter hearing is to be held within 7-14 days of the initial shelter hearing.

Finding: Second shelter hearings were held an average of 12 days after the initial shelter hearing, but the most common time frame was seven days from the initial shelter hearing.

Finding: 75% of second shelter hearings were completed within 14 days of initial shelter hearing.

In the first six months of program implementation (November 1998 to April 1999), 38% of the second shelter hearings were held within 10 days of the initial shelter hearing, 44% were held within 11-14 days of the initial shelter hearing, and 13% were held within 15-20 days of the initial hearing. In the second six months of implementation (May 1999 to October 1999), 43% of the second shelter hearings were held within 10 days of the initial hearing, 36% within 11-14 days, and 11% within 15-20 days of the initial shelter hearing. (See Figure 2.)

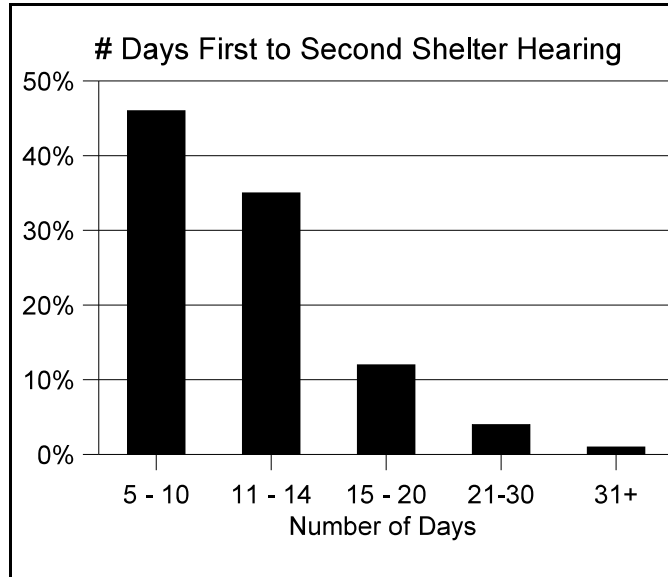


Figure 1

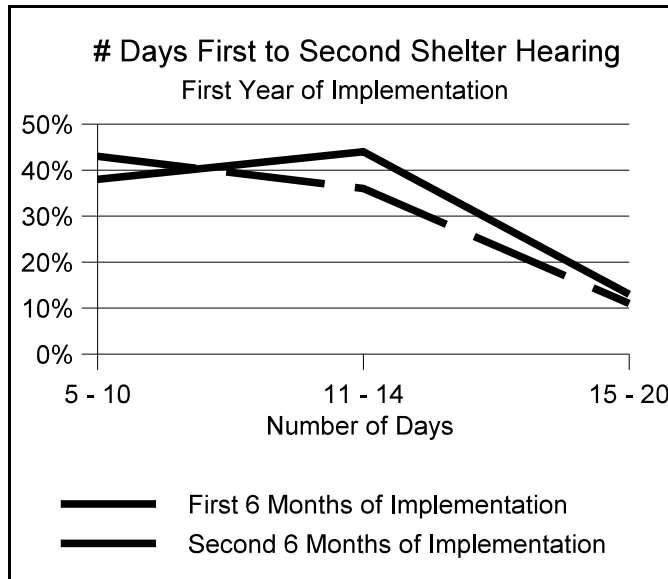


Figure 2

Most key informants interviewed (75%, n=9 of 12) agreed that the 7-14 day time frame is appropriate to convene a second shelter hearing. However, some interviewees specifically noted that while 14 days is appropriate, 7-8 days would be “too soon.” A children’s attorney indicated that while the time frame is appropriate in terms of compiling information, the timing of the second shelter hearing is not helpful in terms of discovery. Although generally

supportive of the timing of the second shelter hearing, three respondents (a referee, a children’s attorney, and a prosecuting attorney) indicated that the effectiveness of second shelter hearings is heavily dependent on the quality of the case work by the social worker. Two of the four caseworkers interviewed believed that the 7-14 day time frame is *not* appropriate, both citing concerns about timely ICWA determinations.

Referee: “The 7-14 day time frame is appropriate. Most of these cases will not be back in court for six weeks. The second shelter hearing is a trigger for case work. It makes sure that things are going to get done.”

Prosecuting Attorney: “It is a flexible standard. Some cases can move quicker, some slower. The time frame should allow time to do what is necessary.”

Social Worker: “14 days is appropriate, 7 days is too quick. You cannot really get things done in 7 days. If scheduled appropriately, then [the second shelter hearing] is a good use of time. If scheduled too quickly, then it is not an effective use of time.”

- **Jurisdictional Hearing**¹⁷

On average, a jurisdictional hearing is being held 40 days from the filing of the petition (with a range of 5 to 71 days). On average, a jurisdictional hearing was held 40 days from the initial shelter hearing (with a range of 5 to 69 days) and an average of 26 days from the second shelter hearing. Ninety-five percent of cases in the post-implementation sample received a jurisdictional hearing within 60 days of petition filing.

ORS 419B.185 requires that a jurisdictional trial be held within 60 days of the filing of the petition.

Finding: For the post-implementation sample of cases, a jurisdictional hearing was held, on average, 40 days from the filing of the petition.

Finding: In 95% of post-implementation cases, a jurisdictional hearing was held within 60 days of the filing of the petition.

¹⁷ As previously noted, data are to be interpreted as they relate to the “jurisdictional hearing process” with an outside time limit of 60 days from filing of petition to jurisdiction/disposition.

ORS 419B.185 requires that a jurisdictional/dispositional hearing be held within 60 days of the filing of the petition.

	Compliant with Statute	Non-Compliant with Statute
Pre-Implementation	90%	10%
Post-Implementation	95%	5%

In analyzing the timeliness of initial shelter hearings and jurisdictional hearings in comparison to statutorily mandated time frames, the Portland Model Court appears to have become significantly more compliant with statutorily mandated time frames for the shelter hearing in the post-implementation sample. Care must be taken, however, in interpreting the compliance rates for the shelter hearing in both the pre- and post-implementation samples. Because of the poor documentation of the date on which the child is taken into temporary custody, the key date in the determination of the 24-hour period, the actual compliance rates may be significantly different than those noted. Nevertheless, for the most part, in both the pre- and post-implementation samples, the court was compliant with statutory time frames for the jurisdictional process. (See Figure 3.)

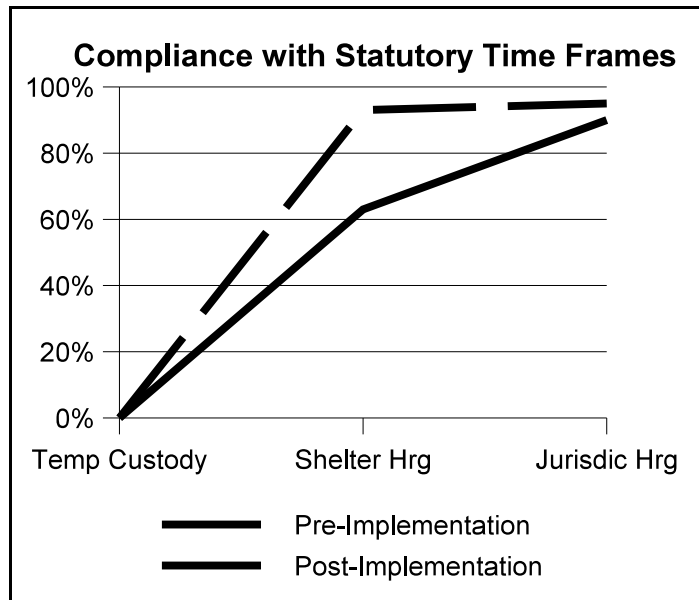


Figure 3

Portland Second Shelter Hearings

➡ DURATION OF SHELTER HEARINGS

The *RESOURCE GUIDELINES* recommend that shelter hearings should last approximately 60 minutes to ensure a substantive and meaningful hearing that properly addresses all appropriate issues.¹⁸

Pre-Implementation Sample

The start and end times of shelter hearings in the pre-implementation sample were documented in only three of the 73 case files (4%). Each of the three hearings for which the duration of the hearing was documented lasted 12 minutes.

Finding: The start and end times of shelter hearings in the pre-implementation sample were documented in only 4% of cases.

Post-Implementation Sample

• **Initial Shelter Hearing**

The start and end time of the initial shelter hearing was documented in 64 of the 74 post-implementation case files (86%). The average initial shelter hearing lasted 27 minutes, with a range of 8-70 minutes.

Finding: The start and end times of initial shelter hearings in the post-implementation sample were documented in 86% of the case files.

Finding: On average, the initial shelter hearing lasted 27 minutes.

Finding: There was no statistically significant difference among the referees in terms of the average amount of time spent conducting an initial shelter hearing.

Across all initial shelter hearings, the most common time frames were 15 minutes, 20 minutes, 25 minutes, and thirty-five minutes. (See Figure 4). There was no statistically significant difference among the referees in terms of the amount of time spent conducting an initial shelter hearing. (See Figure 4.)

¹⁸ For a more detailed discussion of the scope, purpose and tasks of shelter hearings (also referred to as an emergency removal hearing and preliminary protective hearing), see the *RESOURCE GUIDELINES*, Chapter III: Preliminary Protective Hearings, pg. 30-44. Hearing-specific easy reference checklists are included in the back of the *RESOURCE GUIDELINES*.

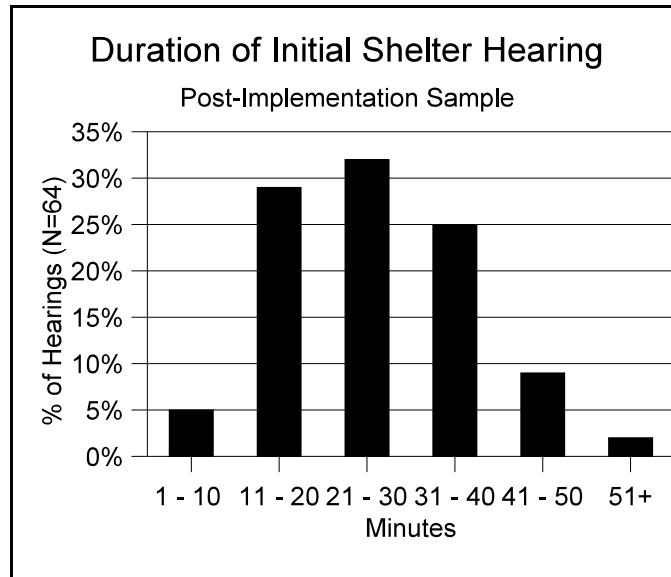


Figure 4

Initial Shelter Hearing: Average Duration of Hearing x Judicial Officer (N=58)¹⁵

Judicial Officer	Average Time	Judicial Officer	Average Time
A	28 minutes (14 cases)	E	24 minutes (7 cases)
B	34 minutes (9 cases)	F	23 minutes (3 cases)
C	27 minutes (13 cases)	G	9 minutes (1 case)
D	24 minutes (10 cases)	H	30 minutes (2 cases)

• **Second Shelter Hearing**

According to the protocols developed in the implementation stage, second shelter hearings were to be scheduled for a specific docket time and for a 45-minute block of

Second shelter hearings were expected to last 45 minutes.

Finding: The start and end times of second shelter hearings in the post-implementation sample were documented in 85% of the case files.

¹⁵ Average based upon number of cases for which the start and end time of the hearing and the name of the judicial officer was documented in the file. The start and end time for the initial shelter hearing, and the referee, was not documented in 16 case files.

time. The start and end time of the second shelter hearing was documented in 63 of the 74 post-implementation case files (85%). The length of second shelter hearings ranged from 10-75 minutes, with an average of 36 minutes. Half of the second shelter hearings lasted 32 minutes or less; three-quarters of the second shelter hearings lasted 45 minutes or less. There was no statistically significant difference in the average length of time individual referees spent conducting second shelter hearings. (See Figure 5.)

Finding: On average, the second shelter hearing lasted 36 minutes.

Finding: There was no statistically significant difference among the referees in terms of the average amount of time spent conducting a second shelter hearing.

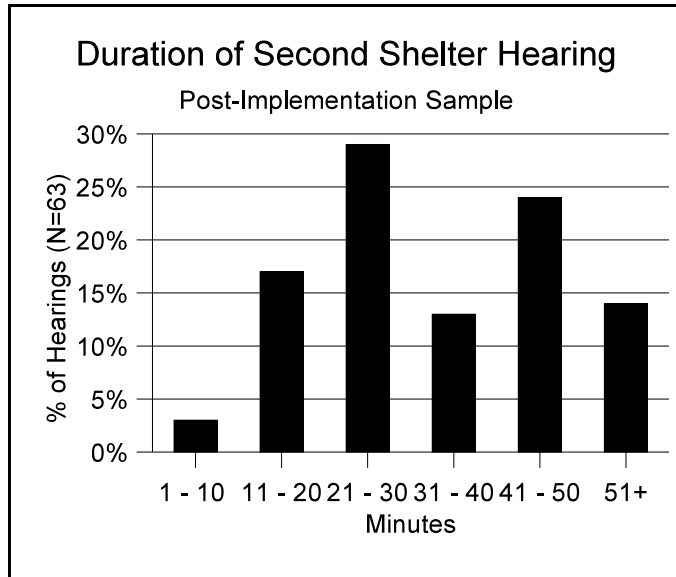


Figure 5

Second Shelter Hearing: Average Duration of Hearing x Judicial Officer (N=47)¹⁶

Judicial Officer	Average Time	Judicial Officer	Average Time
A	37 minutes (10 cases)	E	36 minutes (11 cases)
B	32 minutes (5 cases)	F	—
C	33 minutes (11 cases)	G	36 minutes (2 cases)
D	39 minutes (8 cases)	H	—

Over the course of the implementation period, the overall duration of second

Finding: Over the course of the implementation period, the overall duration of second shelter hearings decreased an average of 10 minutes.

¹⁶ Average based upon number of cases for which the start and end time of the hearing and the name of the judicial officer was documented in the file.

shelter hearings decreased an average of 10 minutes. During the initial implementation period (November 1998 to April 1999), the average second shelter hearing lasted 41 minutes. In the second phase of implementation (May 1999 to October 1999), the average length of time was reduced to 34 minutes. By 2000 filings, the average time for second shelter hearings was 32 minutes. (See Figure 6.)

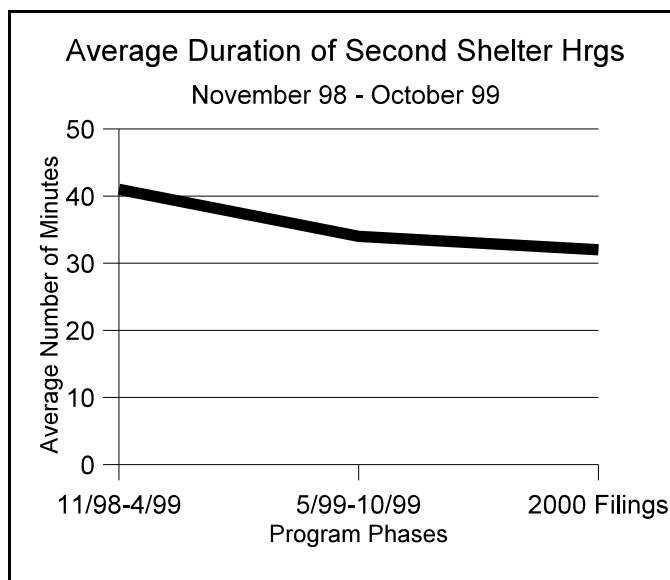


Figure 6

During the interviews, one referee noted that in the initial stages of the new shelter hearing process a typical second shelter hearing lasted 45 minutes. However, this referee noted that “second shelter hearings are now being set for 30 minutes.” While recognizing that flexibility is important, and that some hearings will take longer than others, the referee expressed concern that the second shelter hearing may become too short in duration, thereby undermining its value.

By the completion of the second shelter hearing, an average of 63 minutes of judicial time had been spent on each case. Note, however, that the cumulative amount of judicial time spent on a case by the end

RESOURCE GUIDELINES Recommendation: Shelter hearings should last approximately 60 minutes to ensure a substantive and meaningful hearing that properly addresses all appropriate issues.

Finding: By completion of the second shelter hearing, an average of 63 minutes of judicial time had been spent on each case.

of the second shelter hearing ranged from a minimum of 24 minutes to a maximum of 115 minutes per case. In 50% of the cases the judicial officer had spent 60 minutes or less on each case by the conclusion of the second shelter hearing. (See Figure 7.)

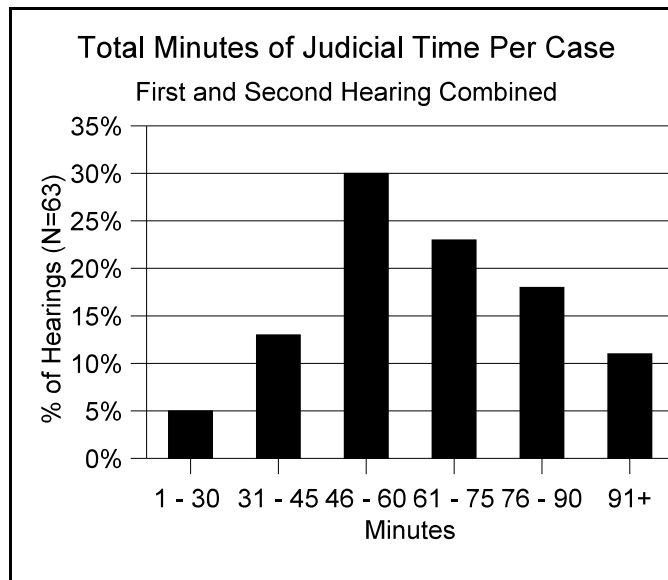


Figure 7

With the implementation of the second shelter hearing process, the Portland Model Court has achieved the time standard recommendations for the shelter hearing process as articulated in the *RESOURCE GUIDELINES*. (See Figure 8.)

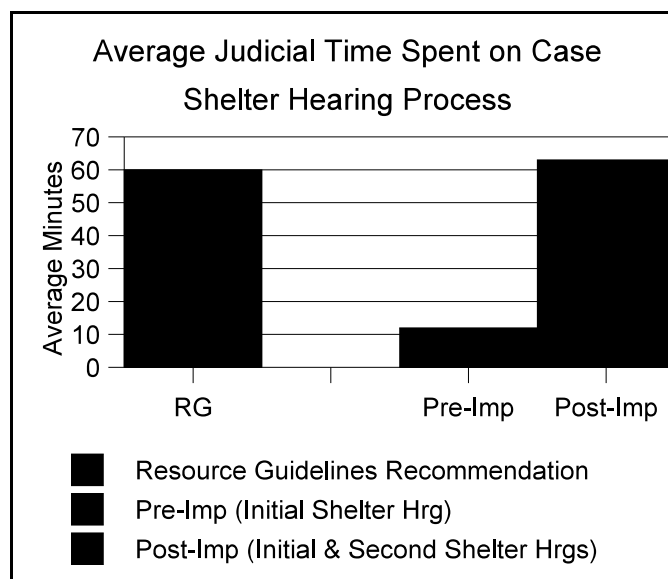


Figure 8

Half of the system professionals interviewed (n=6 of 12) viewed the second shelter hearing as an effective use of court time, with another 25% of respondents (n=3 of 12) reporting that it “can be” an effective use of court time. All of the referees and prosecuting attorneys interviewed reported that the second shelter hearing was an effective use of time. Attorneys for parents and children noted that the second shelter hearing “can be” effective, but is not always so. Those reporting that the use of court time was effective noted that the second shelter hearing process “saves time in the long-run,” “jump-starts the case,” and “reduces set-overs for missing information or parties.” Those respondents reporting that the second shelter hearing process “can be” an effective use of court time noted that its effectiveness “depends on the referee and how well the referee follows through.”

Another respondent noted that the second shelter hearing “can be” effective unless it is only used as a strategic move by one side or the other. The attorney noted that “once it serves nothing more than a strategic purpose, it loses its utility.” Another respondent reported that the second shelter hearing “can be” an effective use of court time in some cases, but not in all cases. The respondent recommended that whether or not a second shelter hearing is held should be determined on a case-by-case basis rather than mandated for all cases. An attorney representing children noted that the second shelter hearing was “not” an effective use of court time, while caseworkers were divided on their opinion. One caseworker noted that the second shelter hearing is not an effective use of caseworker time and can actually serve to undermine the worker’s relationship with the client.

Another respondent who questioned the utility of the second shelter hearing noted that the success of the process has to do with how well everybody does his or her job, not just the amount of time spent in a court hearing.

➡ **SUMMARY OF FINDINGS: TIMING AND DURATION OF HEARINGS**

Although it appears that the Portland Model Court has become more compliant with statutory time lines since the implementation of the second shelter hearing process, especially with respect to the 24-hour requirement for the initial shelter hearing, it is difficult to definitely determine whether this is in fact the case given relatively poor documentation in the files. In the pre-implementation sample, for example, 63% of cases in which the date of the shelter hearing was documented held a shelter hearing within mandated time frames (55% of entire pre-implementation sample). However, in 12% of the cases (9 cases) the date of temporary custody was not documented. Thus, in actuality, the rate of compliance falls somewhere between 55% (40 of 73 cases) and 67% (49 of 73 cases). The rate of compliance has an even more alarming potential range in the post-implementation sample. Although 93% of cases with the necessary documentation were compliant with statute, only 38% of cases (28 of 74 cases) had the appropriate documentation. Thus, the rate of compliance falls somewhere between 35% (26 of 74 cases) and 97% (72 of 74 cases).

Without clear documentation in the legal file of the date on which the child is taken into temporary custody, it will be impossible for the court to determine with accuracy and confidence whether or not it is compliant with statutory time requirements for the initial shelter hearing.¹⁷

It is interesting to note that there were significantly fewer amended petitions in the post-implementation sample in comparison to the pre-implementation sample (5% in the post-implementation sample vs. 44% in the pre-implementation sample). Not only were there significantly fewer amended petitions in the post-implementation sample, the amended petitions were filed much faster, within 18 days of the initial shelter hearing and before the second shelter hearing. By contrast, more than two-thirds of the amended petitions in the pre-implementation sample were filed

¹⁷ This analysis was based on an archival review of case files as an adequate computerized management information system for case tracking purposes was not available at the time of this study. Juvenile management information systems under development should address this issue.

Portland Second Shelter Hearings

more than 30 days after filing of the original petition. And, most of the amended petitions in the pre-implementation sample were amended to reflect more information about the parents, while in the post-implementation sample petitions were amended to add children or allegations.

The court did, for the most part, meet its policy requirements for holding the second shelter hearing within 7-14 days of the initial hearing. Note, however, that in 25% of cases the second shelter hearing was held more than 14 days following the initial hearing. Care needs to be taken to ensure that the delay of the second shelter hearing beyond 14 days is for appropriate, case-specific reasons.

The second shelter hearing has significantly increased the amount of judicial time spent on cases in the preliminary stages - from an average of 12 minutes in the pre-implementation sample to a total average of 63 minutes in the post-implementation sample.

Evaluation Findings: Best Practice Components

Drawing on the recommendations of the *RESOURCE GUIDELINES* and on the best practices identified through the national Model Courts project, a number of best practice components of Portland’s expanded shelter hearing process were assessed, including:

- Continuity of judicial officer;
- Continuity of legal representation;
- Continuance (Set-Over) practice;
- Notice; and
- Scheduling of the next hearing at the conclusion of the current hearing.

➡ CONTINUITY OF JUDICIAL OFFICER

The *RESOURCE GUIDELINES* recommend that a specific judicial officer should be assigned a case at the time the case is first brought to court and that the same judicial officer should conduct all subsequent hearings, conferences, and trials.¹⁸ The one judge - one family

RESOURCE GUIDELINES Recommendation:
One Judge - One Family throughout the life of the case.

“A judge who has remained involved with a family is more likely to make decisions consistent with the best interests of the child.” (RG, pg. 19).

calendaring process enables judges and judicial officers to become thoroughly familiar with the needs of the child(ren) and family, the specific efforts made over time to address those needs and comply with services, and the complexities of the specific family’s situation.

¹⁸ *RESOURCE GUIDELINES*, pg. 19. Courts in which one family is assigned to one judge throughout its court experience are said to use “direct calendaring” or “individual calendaring.” By contrast, courts with “master calendaring” can re-assign cases to different judges at different stages of the case.

Pre-Implementation Sample

In 73% of the pre-implementation sample (n=53 of 73), two different judicial officers presided over the shelter hearing and the jurisdictional hearing. Thus, in only 27% of cases in the pre-implementation sample (n=20 of 73) did the same judicial officer preside over both the shelter hearing and the jurisdictional hearing. (See Figure 9.)

Finding: In 73% of the pre-implementation sample, two different judicial officers presided over the shelter hearing and jurisdictional hearing.

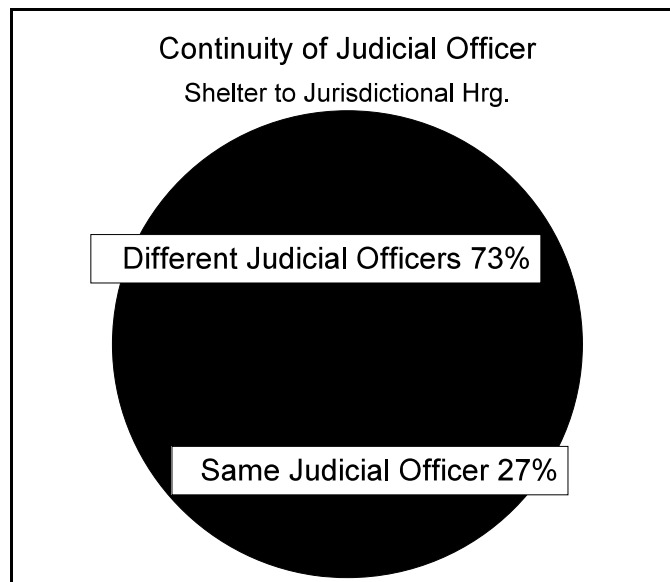


Figure 9

Post-Implementation Sample

According to the protocols developed for the second shelter hearing process, the same judicial officer who presided over the initial shelter hearing was to preside over the second shelter hearing. However, in 22% of the cases in the post-implementation cases (n=16 of 74), a different judicial officer presided over the initial shelter hearing and the second shelter hearing. In just over half

Finding: The name of judicial officers presiding over court events was not well documented in the case files.

Finding: In 22% of the cases, a different judicial officer presided over the initial shelter hearing and the second shelter hearing.

Finding: In just over half of the post-implementation cases (54%), the same judicial officer presided over both the initial and the second shelter hearings.

of the post-implementation cases (54%, n=40 of 74), the same judicial officer presided over both the initial and the second shelter hearings. Note, however, in 24% of the cases (n=18 of 74), the coder was unable to assess the continuity of the judicial officer because either the name of the judicial officer in the initial shelter hearing or the name of the judicial officer in the second shelter hearing was not documented in the case file. (See Figure 10.)

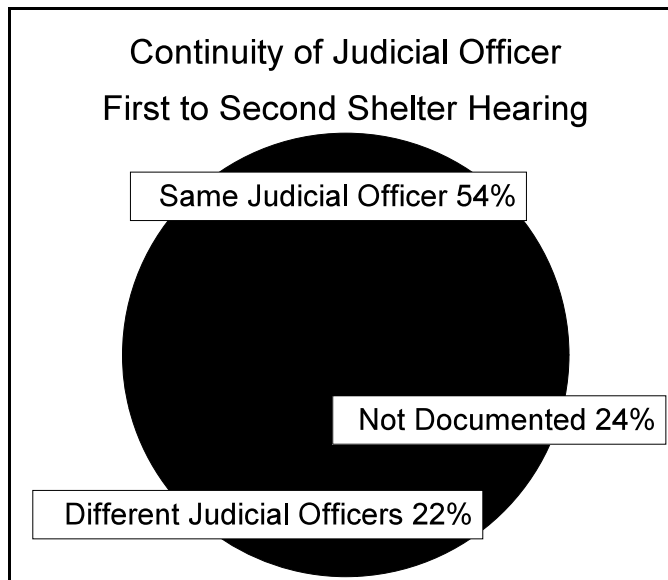


Figure 10

Protocols also specified that the same judicial officer who presided over the expanded shelter hearing process was to preside over all subsequent court hearings.

Finding: In 61% of the cases, the same judicial officer presiding over the shelter hearings also presided over the jurisdictional hearing.

In 61% of the cases in the post-implementation sample (n=45 of 74), the same judicial officer who presided over the shelter hearings also presided over the jurisdictional hearing. (See Figure 11.)

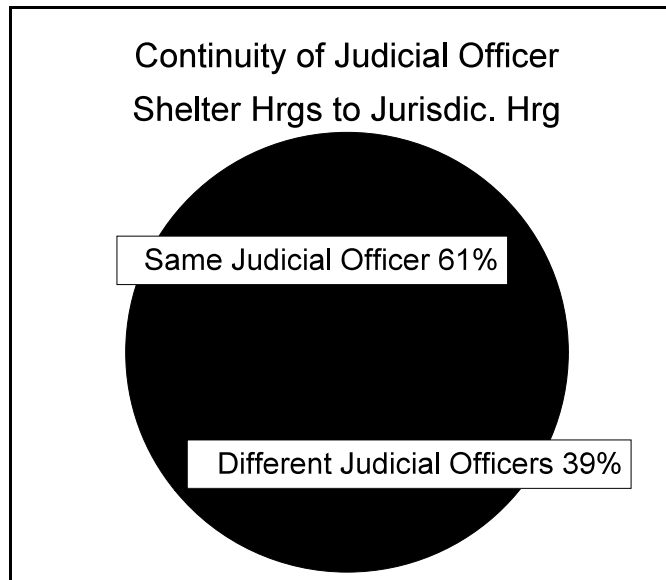


Figure 11

The implementation of the second shelter hearing process has resulted in increased judicial continuity across the initial hearing process from shelter hearings through jurisdiction. As stated, in the pre-implementation sample, only 29% of cases had the same judicial officer from the shelter hearing to the jurisdictional hearing. By contrast, in the post-implementation sample, 61% of cases had the same judicial officer from the initial shelter hearing process to the jurisdictional hearing. Although significant strides have been made in ensuring judicial continuity from the two shelter hearings through jurisdiction and subsequent hearings, it continues to be an area in need of improvement.

➡ CONTINUITY OF LEGAL REPRESENTATION

Juvenile and family courts should take active steps to ensure that the parties in child abuse and neglect cases have access to competent representation.¹⁹ By setting prerequisites for appointments, including requirements for training and experience, courts have the ability to positively influence the quality of counsel. Courts can also set specific standards for how parent(s) and child(ren) should be represented, including the obligation to continue representation through all stages of the case.

¹⁹ For a more detailed discussion of the *RESOURCE GUIDELINES* recommendations concerning effective representation in child abuse and neglect cases, see *RESOURCE GUIDELINES*, pgs. 22 - 24.

Pre-Implementation Sample

• **Shelter Hearing to Jurisdictional Hearing**

In just over two-thirds (68%, n=40 of 59 cases) of the pre-implementation cases in which the name of the mother’s attorney was documented for both the initial hearing and jurisdictional hearing, the attorney remained the same across both hearings. In one-third of the cases (32%, n=19 of 59) the mother was represented by a different attorney at each hearing. (See Figure 12).

Finding: The names of legal representatives were not well documented in the pre-implementation case files.

Finding: The attorney representing the mother remained the same across the initial and jurisdictional hearings in two-thirds of the pre-implementation cases in which the attorney’s name was documented.

It is important to recognize that in only 80% of the pre-implementation cases (n=59 of 73) was the name of the mother’s attorney clearly documented in the case file reviewed. Therefore, if the cases in which the name of the mother’s attorney was not documented in the case file are taken into account, then the actual proportion of cases in which the mother’s attorney remained the same from the initial shelter hearing to the jurisdiction hearing falls somewhere between 55% (n=40 of 73) and 74% (n= 54 of 73) of cases.

For those cases in which the name of the father’s attorney was documented for both the initial and jurisdictional hearing (14%, n=10 of 73 cases), the attorney representing the father remained the same across the initial and jurisdictional hearings in two

Finding: The attorney representing the father remained the same across the initial and jurisdictional hearings in 20% of the pre-implementation cases with documentation. (Note, however, that only 14% of cases contained documentation).

cases (20%, n=2 of 10 cases). In eight of the 10 cases (80%), the attorney representing the father did not remain the same across both hearings. Because so few cases contained the appropriate documentation, it is difficult to make a judgment as to the continuity of the father’s attorney across hearings.

The same attorney appeared on behalf of the child at both the initial hearing and the jurisdictional hearing in 59% of the cases in which the name of the attorney was documented in the case file (n=39 of 66). In 41% of the cases, different attorneys appeared on behalf of the child at the initial and jurisdictional hearing. The same Deputy District Attorney appeared at both the initial and jurisdictional hearing in only 19% (n=14 of 73) of the cases. (See Figure 12).

Finding: The same attorney appeared on behalf of the child at both the initial hearing and the jurisdictional hearing in just over half of the cases in which the name of the attorney was documented.

Finding: The same Deputy District Attorney appeared at both the initial and jurisdictional hearing in only 19% of the cases.

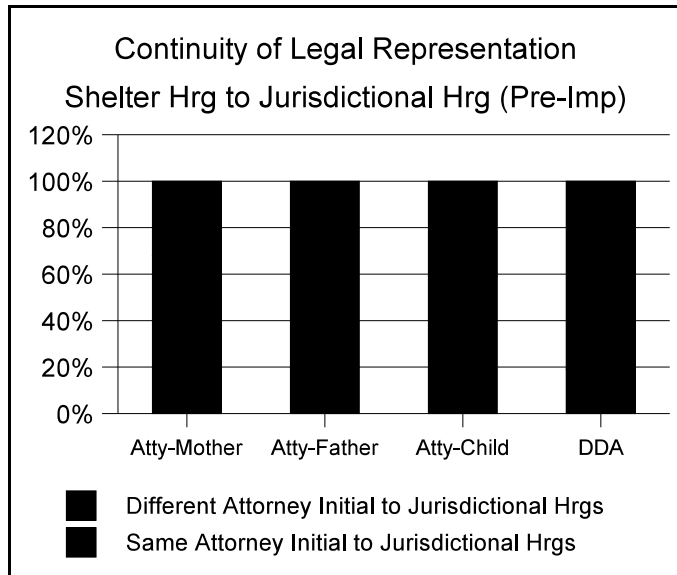


Figure 12

Post-Implementation Sample

The Portland Model Court has clearly articulated written expectations for practice and for appearances for all legal representatives in child abuse and neglect cases.

- **Initial Shelter Hearing to Second Shelter Hearing**

In just over two-thirds (68%, n=41 of 60 cases) of the post-implementation cases in which the name of the mother's attorney was documented for both the initial and second shelter hearing, the attorney remained the same across both hearings. In one-third of the cases (32%, n=19 of 60) the mother was represented by a different attorney at the initial and second hearing. If cases without appropriate documentation are taken into account, then the actual proportion of cases in which the same attorney represented the mother in both the initial and second shelter hearings falls somewhere in the range of 55% (n=41 of 74) to 74% (n=55 of 74).

Finding: The names of legal representatives were not well documented in the post-implementation case files. Note, however, that documentation of the father's attorney has significantly improved.

Finding: The attorney representing the mother remained the same across the initial and second shelter hearings in approximately two-thirds (68%) of the post-implementation cases with documentation.

Finding: The attorney representing the father remained the same across the initial and second shelter hearings in 70% of the post-implementation cases with documentation.

For those cases in which the name of the father's attorney was documented for both the initial and second shelter hearing, the attorney representing the father remained the same in 70% (n=21 of 30 cases) of the hearings. In 30% of the hearings (n=9 of 30), the attorney representing the father was different between the initial and second shelter hearing.

The same attorney appeared on behalf of the child at both the initial and second shelter hearing in 66% (n=45 of 68) of the cases in which the name of the attorney

Finding: The same attorney appeared on behalf of the child at both the initial and second shelter hearings in two-thirds (66%) of the post-implementation cases.

Finding: The same Deputy District Attorney appeared at both the initial and second shelter hearings in 19% of the case files reviewed.

was documented. The same Deputy District Attorney appeared at both the initial and second shelter hearing in only 19% (n=13 of 68) of the cases. (See Figure 13.)

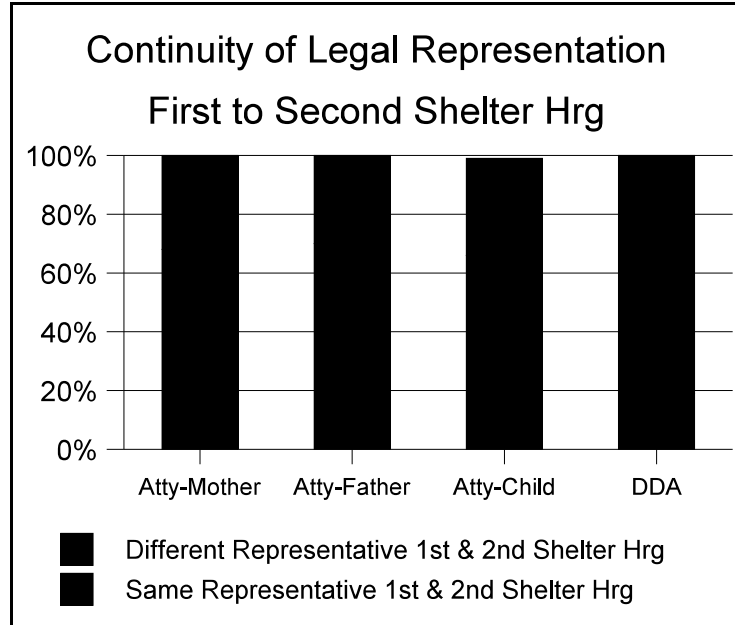


Figure 13

- **Second Shelter to Jurisdictional Hearing**

In 72% of the cases in which the name of the mother’s attorney was documented (n=43 of 60) in the post-implementation sample, the same attorney appeared at the second shelter hearing and jurisdictional hearing. If cases without appropriate documentation are taken into account, then

Finding: The attorney representing the mother remained the same across the second shelter hearing and the jurisdictional hearing in 72% of the post-implementation cases. This reflects an improvement in the continuity of mother’s attorney from the initial to the second shelter hearing (68%).

the actual proportion of cases in which the same attorney represents the mother at the second shelter hearing and jurisdictional hearing falls somewhere with the range of 58% (n=43 of 74) and 91% (n=67 of 74). The continuity of the mother’s representation from the second shelter hearing to jurisdiction hearing seems to reflect an improvement over the continuity of the mother’s representation between the initial and second shelter hearing. As previously noted, the same attorney represented the mother at both the initial and second shelter hearing in only 68% of cases. (See Figure 13.) However, if non-documented cases are taken into account then there may not be any difference in continuity – continuity in the mother’s representative from the initial to the

second shelter hearing falls between 55% and 74%, while the continuity of mother's legal representative from the second shelter hearing to the jurisdiction hearing falls between 58% and 91%. (See Figures 14 and 15.)

For those cases in which the name of the father's attorney is documented for both the second shelter hearing and jurisdictional hearing (30 cases), the attorney representing the father remained the same across the second shelter hearing and jurisdictional hearings in 60% of the cases (n=18 of 30 cases). Note, however, that there was greater continuity of the father's attorney between the initial and second shelter hearing (70%). (See Figures 14 and 15).

Finding: The attorney representing the father remained the same across the second shelter hearing and the jurisdictional hearing in 60% of the post-implementation cases. Note that there was greater continuity of the father's attorney between the initial and second shelter hearing (70%).

Finding: The same attorney appeared on behalf of the child at both the second shelter hearing and the jurisdictional hearing in 82% of the post-implementation cases. This represents a significant increase in continuity for the child's attorney from the initial shelter hearings (66%).

Finding: The same Deputy District Attorney appeared at both the second shelter hearing and jurisdictional hearing in 24% of the cases.

The same attorney appeared on behalf of the child at both the second shelter hearing and jurisdictional hearing in 82% (n=56 of 68) of the cases in which the name of the attorney was documented. This represents a significant increase in continuity for the child's attorney from the initial shelter hearings (66%). (See Figures 14 and 15.)

The same Deputy District Attorney appeared at both the second shelter hearing and jurisdictional hearing in 24% (n=16 of 68) of the cases for which this information was documented. (See Figure 14.) As noted, in only 19% of shelter hearings did the same Deputy District Attorney appear at both the initial and second hearing.

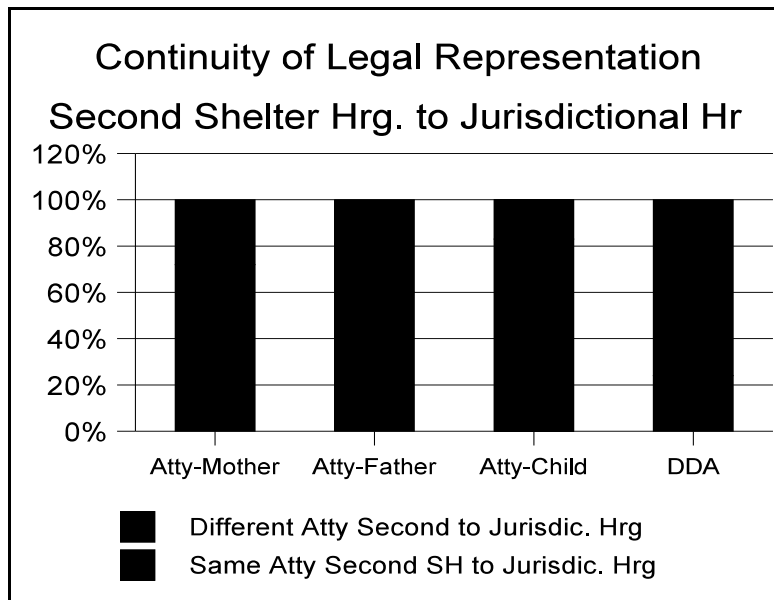


Figure 14

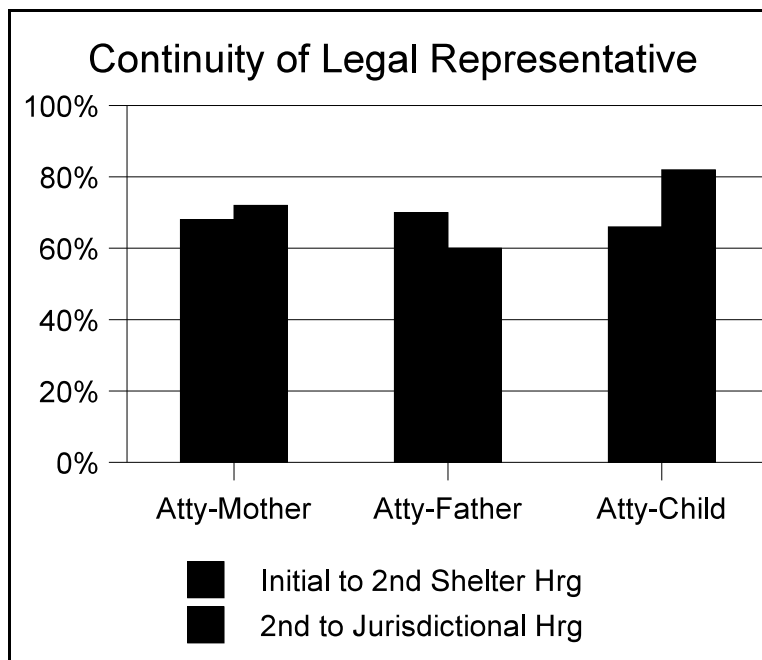


Figure 15

Although the court has made strides towards improving the continuity of legal representatives from the shelter hearing process through the jurisdictional hearing, it continues to be an area in need of improvement. Care also needs to be taken to ensure that the names of all attorneys are appropriately documented and legible in case files in order to confidently track continuity of legal representation.

Coders were unable to determine from the case file review if the appointment of counsel occurred any earlier under the expanded second shelter hearing process. Interview respondents were almost evenly split on whether they believed that the second shelter hearing had sped up the appointment of counsel. Forty-two percent of system professionals (n=5 of 12) interviewed believed that the second shelter hearing had indeed sped up the appointment of counsel, while half of the respondents (n=6 of 12), including referees and attorneys, were uncertain whether the second shelter hearing had sped up the process and were somewhat equivocal in their responses. One caseworker reported that the expanded shelter hearing process had not resulted in earlier appointment of counsel.

CONTINUANCE (SET-OVER) PRACTICE

The *RESOURCE GUIDELINES* recommend that courts should have a strict “no-continuance” policy.²⁰ Continuances should not be allowed because hearing dates are inconvenient for attorneys and parties. Continuances should be granted only when attorneys or parties are ill; essential witnesses cannot be located; or service of process has not been completed. Nor should continuances be granted on stipulation of parties. The *RESOURCE GUIDELINES* further recommend that administrative personnel should not be authorized to grant continuances. Moreover, the reason for continuances should be clearly documented in the court file.

²⁰ *RESOURCE GUIDELINES*, pg. 21. The *GUIDELINES* also recommend that in the great majority of cases, the court should hold hearings on the date that they are originally scheduled. Trial dates should be firm.

Pre-Implementation Sample

- **Shelter Hearings**

The vast majority of shelter hearings in the pre-implementation sample were *not* continued (92%, n=67 of 73), with only three cases continued (4%). “No probable cause, set over to clarify” was the reason articulated in the case file for the granting of one of the continuances. No reason was given in the files of the other two cases in which a continuance on the shelter hearing was granted. Note, in three cases the coder was unable to determine whether or not the shelter hearing had been held or continued. (See Figure 16.)

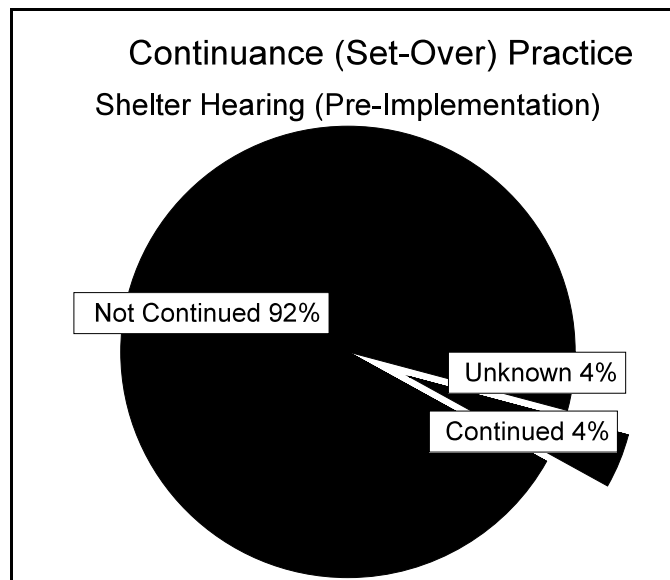


Figure 16

- **Jurisdictional Hearings²¹**

Most of the jurisdictional hearings in the pre-implementation sample were *not* continued (86%, n=63 of 73); 14% of jurisdictional hearings (n=10 of 73 cases)

Finding: Most of the jurisdictional hearings in the pre-implementation sample (86%) were *not* continued.

²¹ Recall that data are to be interpreted as they relate to the “jurisdictional hearing process” with an outside time limit of 60 days from filing of petition to jurisdiction/disposition.

were continued. Of those jurisdictional hearings that were continued, 77% (n=10 of 13 cases) were continued due to the failure of a party to appear and 23% (n=3 of 13 cases) were continued due to missing or untimely reports. (See Figure 17.) Note, however, that appearance rates for all parties were better in the post-implementation sample (see pages 72- 89 for further discussion of party appearance rates).

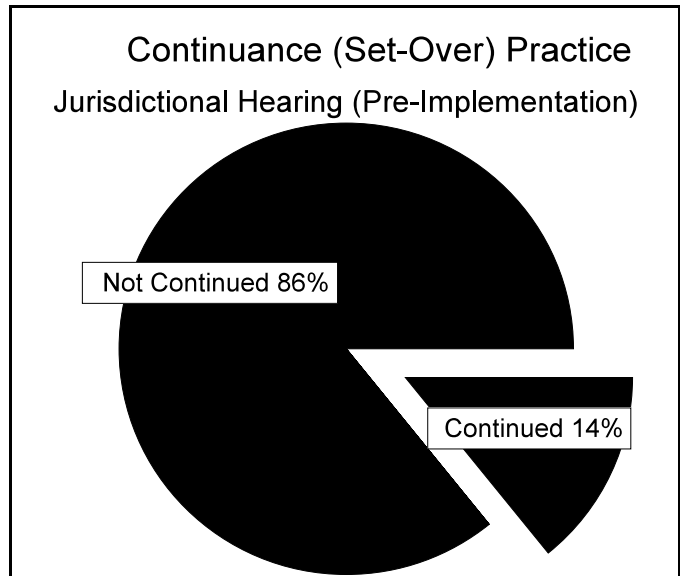


Figure 17

Post-Implementation Sample

• **Initial Shelter Hearings**

Only one of the initial shelter hearings in the post-implementation sample was continued; 99% of the initial shelter hearings were *not* continued. The continued initial shelter hearing noted the “need for further statements from parties” as the reason for the continuance. (See Figure 18.) Although already reflecting a strong “no-continuance” policy in the pre-implementation sample, it is important to note that the court has gone from a 92% no-continuance rate at initial shelter hearings in the pre-implementation sample to a 99% no-continuance rate in the post-implementation sample of initial shelter hearings.

Finding: The vast majority of initial shelter hearings (99%) were *not* continued (92% of shelter hearings in the pre-implementation sample were not continued).

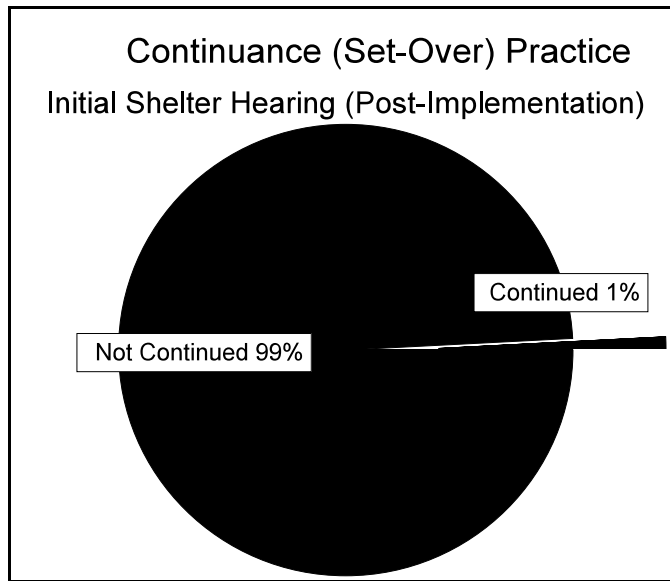


Figure 18

- **Second Shelter Hearing**

Only one second shelter hearing was continued in the post-implementation sample, noting “non-appearance of an attorney” as the reason for the continuance. (See Figure 19.) As with the initial shelter hearing, the Portland Model Court appears to have a strong no-continuance practice in second shelter hearings.

Finding: The vast majority of second shelter hearings (99%) were *not* continued.

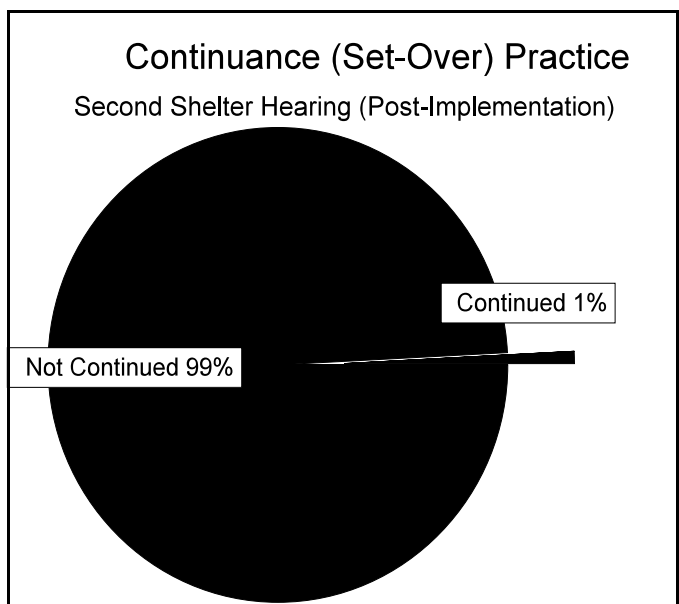


Figure 19

- **Jurisdictional Hearings²²**

Ninety-three percent of jurisdictional hearings in the post-implementation sample (n=69 of 74) were *not* continued. Only five cases in the post-implementation sample were continued at the jurisdictional stage.

Finding: The majority of jurisdictional hearings in the post-implementation sample (93%) were *not* continued (86% of jurisdictional hearings in the pre-implementation sample were not continued).

In those cases where a reason for the continuance was documented, case files noted “non-appearance of an attorney” as the reason. (See Figure 20). This represents a significant practice improvement over cases in the pre-implementation sample in which 14% of jurisdictional hearings were continued.

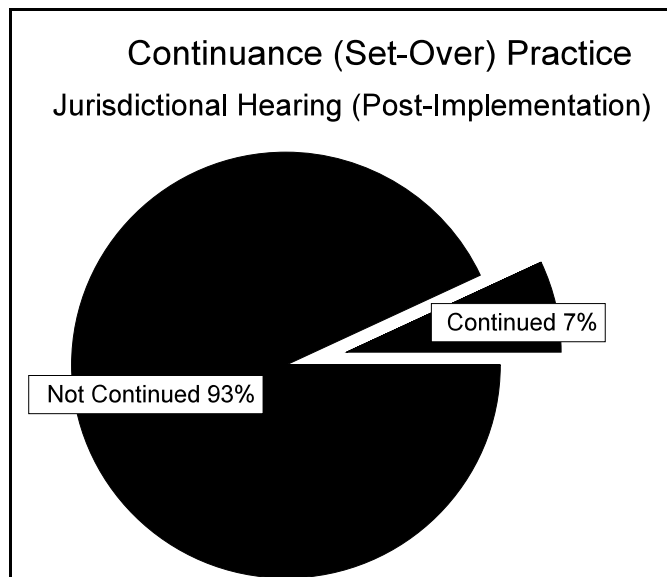


Figure 20

Consistent with these findings, just over half of respondents interviewed (58%, n=7 of 12) indicated that the second shelter hearing process is reducing the number of set overs or continuances. Reasons offered for the perceived reduction in set overs included, in order of frequency: (1) parties appear with attorneys whom they have already met and discussed the case with; (2) the new process gives parties more time to discuss the case; and (3) the second shelter hearing is

²² As previously noted, data are to be interpreted as they relate to the “jurisdictional hearing process” with an outside time limit of 60 days from filing of petition to jurisdiction/disposition.

strategically used to dismiss the case. One-third of interview respondents do not see a significant change in the number of set overs or continuances since implementation of the second shelter hearing process, noting that continuance practice had “always been good.”

The results of the case file analysis indicate that there is no statistically significant difference in set-over practice between the pre-implementation and post-implementation cases studied. (See Figure 21.) However, from a best practice perspective, the court has demonstrated stronger no-continuance practice since the implementation of the second shelter hearing process.

➔ NOTICE

Pre-Implementation Sample

Only two of the 73 pre-implementation cases (3%) documented the date that the mother received notice of the jurisdictional hearing. In one case, the mother received

notice of the jurisdictional hearing at the initial shelter hearing (shelter hearing was held the day of removal; the jurisdictional hearing was held 42 days later). In the second case, the mother received notice 24 days before the jurisdictional hearing (28 days after the shelter hearing; 62 days after the filing of the original petition). In both cases, the mother received notice in person.

In only one case was the date of notice to the father documented. This is the same case as mentioned above; both the mother and father received notice of the jurisdictional hearing at the shelter hearing.

Forty-two percent of system professionals interviewed (n=5 of 12) reported that the second shelter hearing had at least somewhat improved notice procedures, however half the respondents (n=6 of 12) were less sure. One respondent noted that “the second shelter hearing provides another opportunity for notice ... it feels like it should improve practice, but I’m not really sure it does.”

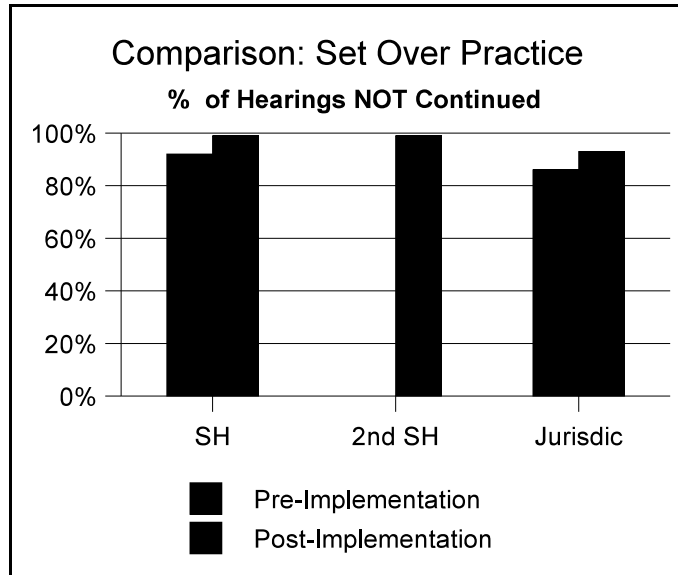


Figure 21

Finding: Date of notice was not well documented in the pre-implementation sample of court files.

Post-Implementation Sample

Of the 74 post-implementation cases, the date in which the mother received notice for the shelter hearing was documented in only 24 case files reviewed (32%). For 20 of those 24 cases (83%), mothers received notice the same day the petition was filed. In one case, the mother received notice prior to the filing of the petition and in another case the mother received notice the day after the initial shelter hearing. In two cases mothers received notice of the second shelter hearing two days after the initial shelter hearing. In all 24 cases the mother received notice in person.

Finding: Date of notice was not well documented in the post-implementation sample of court files, although somewhat improved from the pre-implementation cases.

Finding: In 83% of the cases documenting notice for the mother, the mother received notice of the shelter hearing the same day the petition was filed.

The documentation of notice in case files is an area in need of improvement. Once documentation is improved, further assessment of notice procedures and timeliness is warranted.

The date in which the father received notice for the second shelter hearing was documented in only 11 of the 74 case files coded (15%). On average, the putative father received notice the same day the petition was filed.

Approximately half of the persons interviewed believed that the second shelter hearing process is more effective in providing notice to parties, the remaining respondents reported that the process is “no quicker.”

➡ SCHEDULING NEXT HEARING AT END OF CURRENT HEARING

As a case management tool to ensure timely court hearings and credible court dates, the *RESOURCE GUIDELINES* recommend that dates for subsequent hearings should be set in open court at the conclusion of each hearing with parties and legal representatives present. Written court

orders should also include the date and time of the next hearing and all parties and advocates should receive written documentation of the next hearing date and time.²³

Pre-Implementation Sample

In 100% of the pre-implementation cases the date of the jurisdictional hearing was set at the conclusion of the initial shelter hearing. In 77% of the cases (n=56 of 73), the jurisdictional hearing was held as scheduled.²⁴ Of the 17 cases in which the jurisdictional hearing was not held as originally scheduled (23%), 13 jurisdictional hearings were held on a later date from that scheduled (ranging from 13 to 230 days after the scheduled date, most commonly 13,14, and 61 days after the scheduled date) and four jurisdictional hearings were held at an earlier date than that scheduled (ranging from 10 to 42 days before the originally scheduled date, most commonly 10 days before the originally scheduled date). (See Figure 22.)

Finding: In 100% of the pre-implementation cases the date of the jurisdictional hearing was set at the conclusion of the initial shelter hearing.

Finding: In 77% of the cases, the jurisdictional hearing was held as scheduled.

Finding: Of the 23% of cases in which the jurisdictional hearing was not held as scheduled, 76% were held on a later date and 24% were held on an earlier date than originally scheduled.

²³ RESOURCE GUIDELINES, pg. 20.

²⁴ Although files indicated that the hearing was held on the original date scheduled, the hearing may have been continued on that date. Recall that 14% of jurisdictional hearings in the pre-implementation sample were continued (see results under set-over/continuance practice).

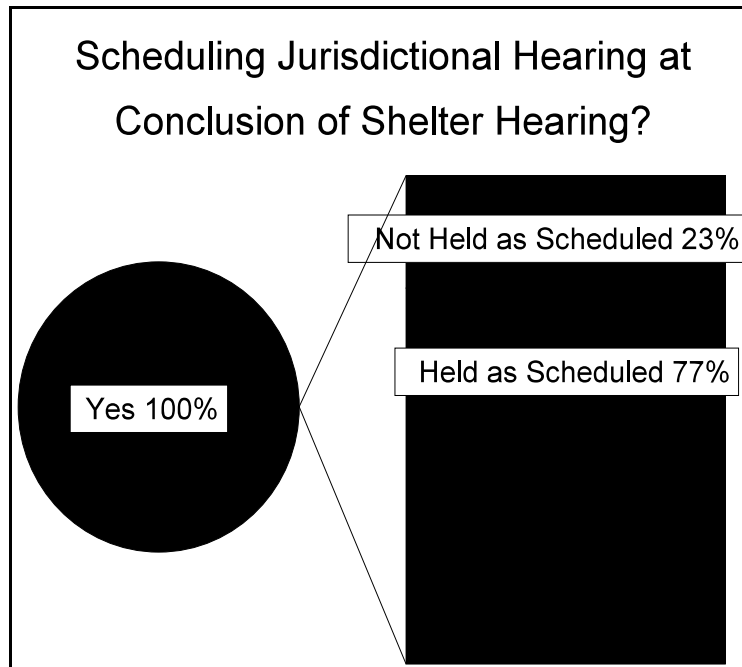


Figure 22

Post-Implementation Sample

In the vast majority of post-implementation cases (97%, n=72 of 74), the date of the second shelter hearing was set at the conclusion of the initial shelter hearing.²⁵ (See Figure 23.) In all but two cases (97%), the second shelter hearing was held as scheduled.

Finding: In 97% of the post-implementation cases the date of the second shelter hearing was set at the conclusion of the initial shelter hearing.

Finding: In 97% of the cases, the second shelter hearing was held as scheduled.

²⁵ *Supra* note 24.

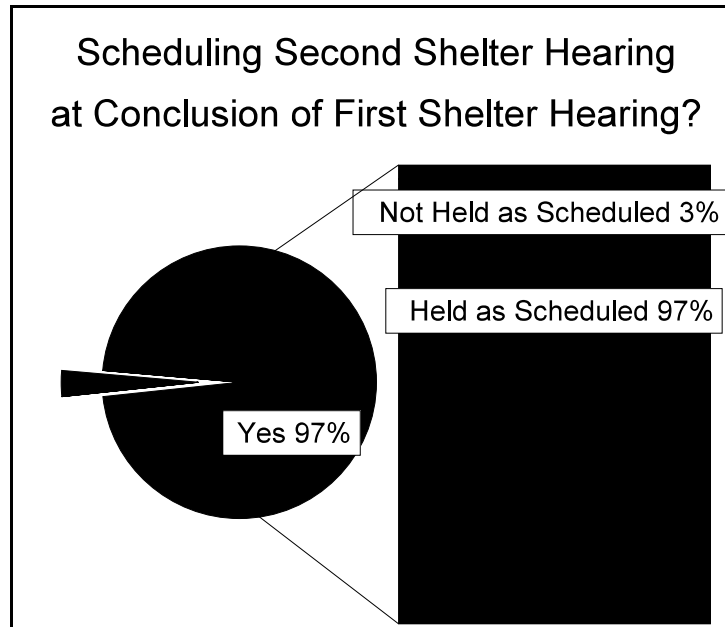


Figure 23

In 73% (n=54 of 74) of the cases the date for the jurisdictional hearing was set at the conclusion of the second shelter hearing; in 18% of the cases the date of the jurisdictional hearing was *not* set at the conclusion of the second hearing; and in 4% of the cases a jurisdictional hearing was

not necessary. Note, however, that in some cases the date of the jurisdictional hearing may have been set at the conclusion of the initial shelter hearing. In 70% of the 54 cases for which a jurisdictional hearing date was set at the second shelter hearing, the hearing was held on that date.²⁶ (See Figure 24.)

Finding: Of the 73% of cases, the date of jurisdictional hearing was set at the conclusion of the second shelter hearing.

Finding: In 70% of the cases, the jurisdictional hearing was held as scheduled at the second shelter hearing.

²⁶ *Supra* note 24.

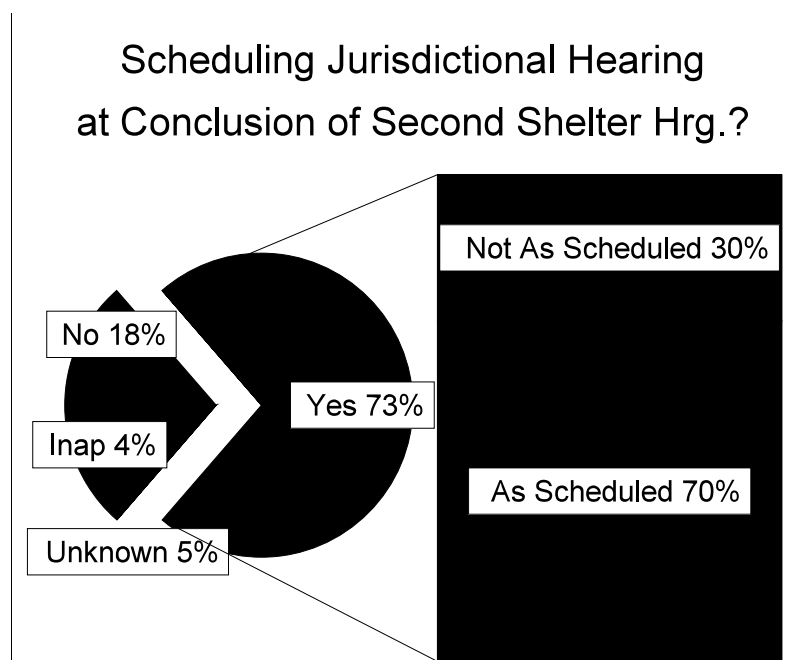


Figure 24

Between the pre- and post-implementation sample, there appears to be a decrease in the percentage of cases in which a date of the next hearing is set at the conclusion of the current hearing. In the pre-implementation sample, the date of the jurisdictional hearing was set in 100% of initial shelter hearings. In the post-implementation sample, the date of the jurisdictional hearing was set in only 73% of second shelter hearings. It is important to note, however, that this may reflect settlement rates and not necessarily poor case management in these cases. The date of the jurisdictional hearing may also have been set at the conclusion of the initial shelter hearing rather than at the conclusion of the second shelter hearing. The court needs to remain vigilant and ensure that this best practice component is in place for all hearings. As much as possible, the court also needs to ensure that the subsequent hearing is held as scheduled.

➡ SUMMARY OF FINDINGS: BEST PRACTICE COMPONENTS

In many respects the Portland Model Court has always been a strong best practice court, especially with respect to a strict “no-continuance policy,” the scheduling of subsequent hearings at the conclusion of current hearings, and the overall court process. The expanded second shelter hearing

has, however, enhanced some of the court's best practice components, especially in the continuity of judicial officers and legal representatives. As stated, due to problems in documentation it is difficult to definitively determine whether continuity of legal representation has significantly improved. The court must take steps to ensure appropriate documentation in all legal case files. Nevertheless, in the post-implementation sample of cases, 61% of cases had the same judicial officer from the shelter hearing process through the jurisdictional hearing (compared with only 29% of pre-implementation cases). Documentation with respect to notice procedures could also be improved.

Almost 100% of initial and second shelter hearings were *not* continued in the post-implementation sample of cases studied. Interview respondents report that parties are appearing with attorneys whom they have already met and discussed the case with, resulting in fewer set-overs or continuances.

Consistent with best practice recommendations in the *RESOURCE GUIDELINES*, in the majority of cases studied in both the pre- and post-implementation samples, the court is setting the date for the hearing at the conclusion on of each hearing.

Evaluation Findings: Outcomes Achieved through the Expanded Second Shelter Hearing Process

As discussed in the introductory chapter, Portland's second shelter hearing process was designed with the following goals in mind:

- to facilitate movement on matters related to the identification of putative fathers, establishment of paternity, service needs, and ICWA determinations; and
- to place and set clear expectations on parties to be ready at the onset of court proceedings to discuss movement on case specifics.

In an attempt to determine whether or not these goals have been achieved, this chapter of the report will present pre- and post-implementation comparisons with respect to the following general areas of performance:

- appearance of parties;
- determination of the whereabouts of the putative father;
- facilitation of relative placements;
- determination of ICWA applicability;
- specificity of court orders; and
- additional information not available at initial shelter hearing that is available at second shelter hearing.

➡ **APPEARANCE OF PARTIES** ²⁷

Pre-Implementation Sample

• **Shelter Hearing**

In 77% of shelter hearings in the pre-implementation sample (n=54 of 70²⁸), mothers were documented as present. In 76% of shelter hearings (n=53 of 70), or in 98% of shelter hearings in which the mother appeared (n=53 of 54), the attorney for the mother was documented in the case file as present. In only one case (1%), the mother appeared at the shelter hearing without counsel (i.e., the appearance of counsel was not documented). In 27% of shelter hearings (n=19 of 70) neither the mother, nor her legal representative, were documented as attending the hearing. (See Figure 25.)

Five mothers in the pre-implementation sample were incarcerated (7%, n=5 of 70). Of those five mothers, two (40%) appeared at the shelter hearing.

Finding: In 77% of shelter hearings in the pre-implementation sample, mothers were documented as present.

Finding: In 76% of shelter hearings in the pre-implementation sample, the attorney for the mother was documented as present.

Finding: In 98% of the shelter hearings at which the mother appeared, her attorney was documented as present.

Finding: In 27% of shelter hearings in the pre-implementation sample, neither the mother nor her attorney was documented as present at the hearing.

Finding: In the pre-implementation sample, 7% of mothers were incarcerated; 40% were present at the shelter hearing.

Finding: In 35% of shelter hearings in the pre-implementation sample, fathers were documented as present.

Finding: In 27% of shelter hearings, an attorney for the putative father appeared.

Finding: In 79% of the shelter hearings at which the father appeared, his attorney was documented as present. Thus, in 21% of the cases in which the father appeared, he appeared without legal representation.

In just over one-third of the shelter hearings in the pre-implementation sample, the father was documented as present (35%, n=24 of 69). Four fathers in the pre-implementation sample of cases

²⁷ Appearances based on file documentation.

²⁸ Three mothers in the pre-implementation sample of cases were deceased, therefore calculations for mothers' and mothers' attorneys appearance rates are based on 70 cases.

were deceased, therefore calculations for fathers and fathers' attorneys appearance rates are based on 69 cases. In 27% of shelter hearings (n=19 of 69), or in 79% of the cases in which a father appeared (n=19 of 24), the attorney for the father was documented as present. In 17% of cases in which the father appeared (n=4 of 24), he appeared without legal representation. In 71% of the cases (n=49 of 69) neither the father, nor his legal representative, were documented as attending the hearing. (See Figure 25.)

Sixteen fathers in the pre-implementation sample were incarcerated (23%, n=16 of 69). Of those sixteen incarcerated fathers, two (13%) appeared at the shelter hearing.

A child was present at 10% of the shelter hearings in the pre-implementation sample (n=7 of 73, representing 9 children). Two-thirds of the children appearing at the shelter hearing were aged 10 years of age or older. The remaining children appearing at the shelter hearing were less than three months old. A legal representative for the child was documented as present at 85% of the shelter hearings (n=62 of 73). In 15% of the initial shelter hearings (n=11 of 73), the child was not represented (i.e., appearance of counsel was not documented in case file).

Finding: In 71% of shelter hearings in the pre-implementation sample, neither the father nor his attorney was documented as present at the hearing.

Finding: In the pre-implementation sample, 23% of fathers were incarcerated; 13% were present at the shelter hearing.

Finding: A child was present at 10% of shelter hearings in the pre-implementation sample.

Finding: A legal representative for the child was documented as present in 85% of shelter hearings in the pre-implementation sample.

Finding: A representative from SOSCF was present at 99% of shelter hearings in the pre-implementation sample.

Finding: The Deputy District Attorney was present at 99% of shelter hearings in the pre-implementation sample.

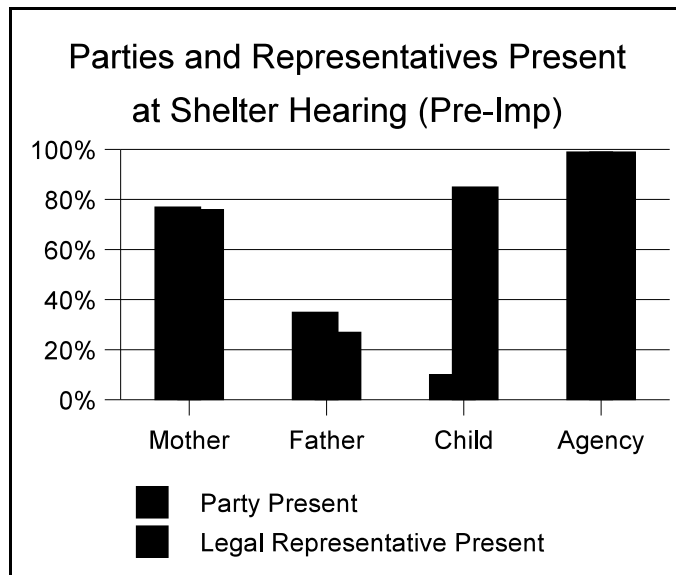


Figure 25

A representative from SOSCF was present at all but one shelter hearing (99%, n=72 of 73) and the Deputy District Attorney was present at all but one shelter hearing (99%, n=72 of 73). (See Figure 25.)

Jurisdictional Hearing²⁹

In 79% of jurisdictional hearings in the pre-implementation sample, mothers were documented as present (n=55 of 70). In 41% of these hearings, the attorney for the mother was documented in the case file as present at the jurisdictional hearing (n=29 of 70). (See Figure 26.) All five incarcerated mothers were present at the jurisdictional hearing. (See Figure 27.)

In half of the cases in the pre-implementation sample (50%, n=35 of 69), putative fathers were documented as present at the jurisdictional hearing stage. In 42% of the cases (n=29 of 69) the attorney for the father was documented as present at the jurisdictional hearing. (See Figure 26.) Eight of the sixteen incarcerated fathers (50%) were present at the jurisdictional hearing. (See Figure 27.)

Children were present in only one jurisdictional hearing in the pre-

Finding: In 79% of jurisdictional hearings in the pre-implementation sample, mothers were documented as present.

Finding: In 41% of jurisdictional hearings in the pre-implementation sample, the attorney for the mother was present.

Finding: All incarcerated mothers were present at the jurisdictional hearing.

Finding: In 50% of jurisdictional hearings in the pre-implementation sample, the putative father was documented as present.

Finding: In 42% of jurisdictional hearings in the pre-implementation sample, the attorney for the father was documented as present.

Finding: Half of the incarcerated fathers appeared at the jurisdictional hearing.

Finding: In 1% of jurisdictional hearings in the pre-implementation sample, a child was documented as present.

Finding: A legal representative for the child was documented as present in 74% of jurisdictional hearings in the pre-implementation sample.

Finding: In 100% of jurisdictional hearings in the pre-implementation sample, a representative from SOSCF was documented as present.

Finding: In 100% of jurisdictional hearings in the pre-implementation sample, the Deputy District Attorney was documented as present.

²⁹ As previously noted, data are to be interpreted as they relate to the “jurisdictional hearing process” with an outside time limit of 60 days from filing of petition to jurisdiction/disposition.

implementation sample (1%, n=1 of 73, representing two children). The two children appearing at the jurisdictional hearing were aged 3 and 8 years of age. A legal representative for the child was documented as present at 74% of jurisdictional hearings (n=54 of 73). (See Figure 26.) A representative from SOSCF was present at all of the jurisdictional hearings in the sample (100%, n=73) and the Deputy District Attorney was present at all of the jurisdictional hearings as well (100%, n=73). (See Figure 26.)

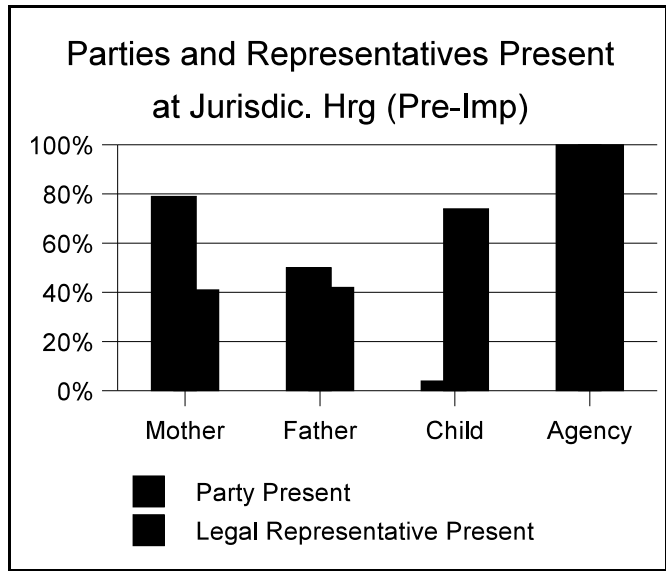


Figure 26

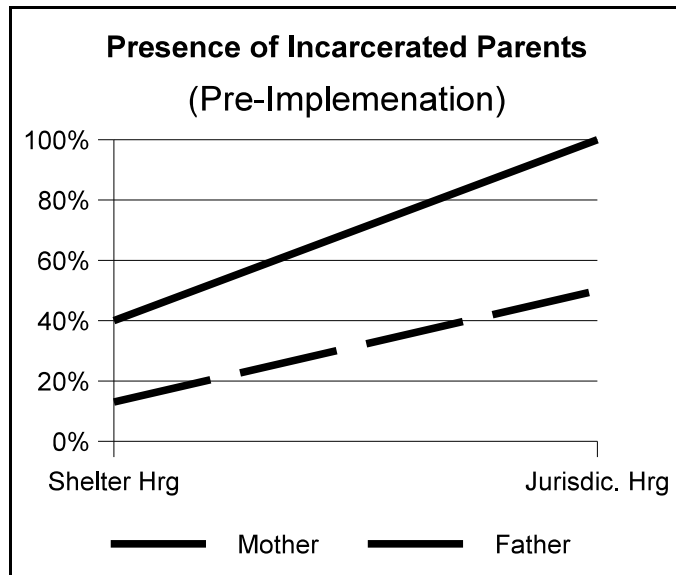


Figure 27

Post-Implementation Sample

• **Initial Shelter Hearing**

In 85% of initial shelter hearings in the post-implementation sample, mothers were documented as present (n=62 of 73).³⁰ In 74% of initial shelter hearings (n=54 of 73), or in 87% of initial hearings in which the mother appeared, the attorney for the mother was documented in the case file as present. In 13% of the cases, the mother appeared at the initial hearing without counsel (i.e., appearance of counsel was not documented in case file). In 16% of the initial shelter hearings (n=12 of 73) neither the mother, nor her legal representative, were documented as attending the hearing. (See Figure 28.)

Nine mothers were incarcerated in the post-implementation sample (12%, n=9 of 73). Of those nine mothers, four (44%) appeared at the initial shelter hearing.

In 35% of initial shelter hearings (n=25 of 71)³¹, father 'A' was present. In at least 8 cases a father 'B' was also present. In 23% of initial shelter hearings (n=17 of 74), or in 68% of hearings in which

Finding: In 85% of initial shelter hearings in the post-implementation sample, mothers were documented as present (77% of mothers were documented as present in pre-implementation sample).

Finding: In 74% of initial shelter hearing in the post-implementation sample, the attorney for the mother was documented as present (76% in the pre-implementation sample).

Finding: In 87% of initial shelter hearings at which the mother appeared, her attorney was documented as present (98% in pre-implementation sample).

Finding: In the post-implementation sample, 12% of mothers were incarcerated; 44% were present at the initial shelter hearing (5% of mothers were incarcerated in pre-implementation sample and 40% of those were present at hearing).

Finding: In 35% of initial shelter hearings in the post-implementation sample, fathers were documented as present (35% of fathers were also documented as present in the pre-implementation sample).

³⁰ One mother in the post-implementation sample of cases was deceased, therefore calculations for mothers and mothers' attorneys appearance rates are based on 73 cases.

³¹ Three fathers in the post-implementation sample of cases were deceased, therefore calculations for fathers and fathers' attorneys appearance rates are based on 71 cases.

father 'A' appeared, the attorney for father 'A' was present. In 32% of the cases, father 'A' appeared at the initial hearing without counsel (i.e., appearance of counsel was not documented in case file). (See Figure 28.)

Fourteen fathers (20%, n=14 of 71) were incarcerated in the post-implementation sample. Two of these fathers (14%) appeared at the initial shelter hearing.

In 11% of initial shelter hearings (n=8 of 74), children were present. Eighty percent of children appearing at the initial shelter hearing were aged 10 years or older. The remaining children were two and six years of age.³² A legal representative for the child was present in 85% of the initial shelter hearings (n=63 of 74). In 15% of the initial shelter hearings (n=11 of 74), the child was not represented (i.e., appearance of counsel was not documented in the case file). (See Figure 28.)

Finding: In 23% of initial shelter hearings, the attorney for the putative father was documented as present (27% in the pre-implementation sample).

Finding: In 68% of initial shelter hearings in which the father appeared, his attorney was documented as present at the hearing (79% in the pre-implementation sample).

Finding: In the post-implementation sample, 20% of fathers were incarcerated; 14% were present at the initial shelter hearing (in the pre-implementation sample, 23% of fathers were incarcerated and 13% of them were present at the shelter hearing).

Finding: A child was present in 11% of initial shelter hearings in the post-implementation sample (a child was present in 10% of shelter hearings in the pre-implementation sample).

Finding: A legal representative for the child was documented as present in 85% of initial shelter hearings in the post-implementation sample (85% in the pre-implementation).

Finding: A representative from SOSCF was present at 99% of initial shelter hearings in the post-implementation sample.

Finding: The Deputy District Attorney was present at 97% of initial shelter hearings in the post-implementation sample.

A representative from SOSCF was present at all but one initial shelter hearing (99%, n=73 of 74) and the Deputy District Attorney was present at all but two initial hearings (97%,n=72 of 74).

³² In the post-implementation sample, the average age of children at the filing of petition was 4.4 years of age, with a range of less than one year to 17 years of age.

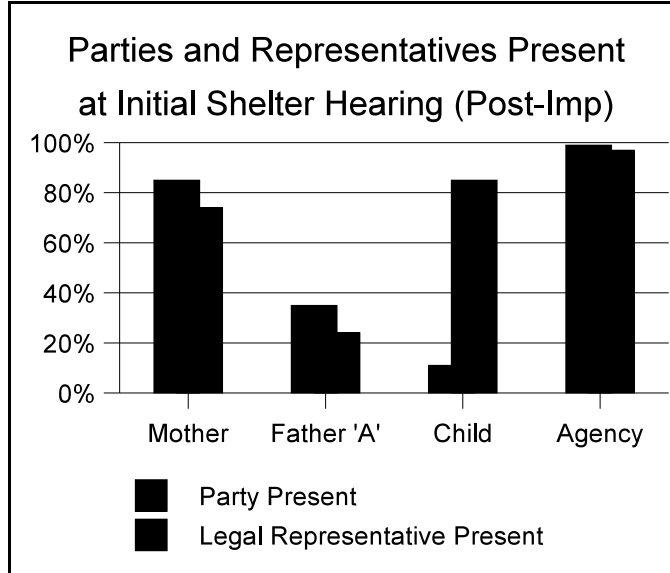


Figure 28

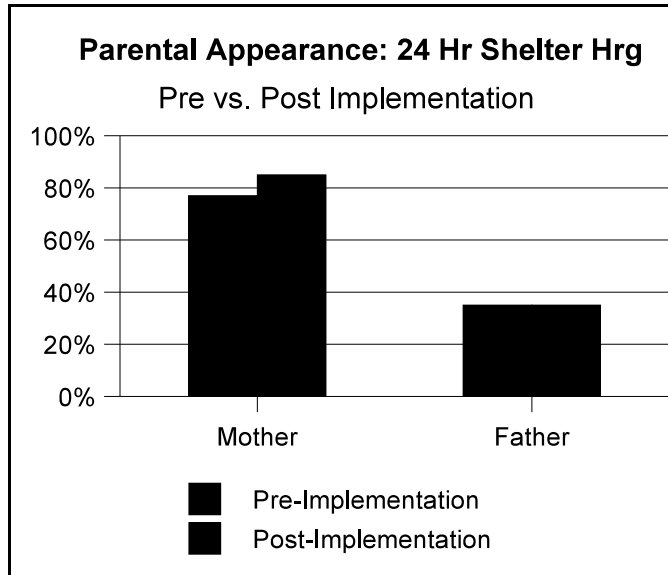


Figure 29

- **Second Shelter Hearing**³³

In 85% of second shelter hearings (n=62 of 73), mothers were present. In 82% of second shelter hearings (60 of 73), or in 97% of second hearings in which the mother appeared, the attorney for the mother was present. In only 3% of the cases, the mother appeared at the second hearing without counsel (i.e., appearance of counsel not documented in the case file). In 16% of the second shelter hearings (n=12 of 73) neither the mother, nor her legal representative, attended the hearing. (See Figure 30.) Of the nine incarcerated mothers, seven (78%) appeared at the second shelter hearing.

In 56% of second shelter hearings (n=40 of 71), father 'A' was present. In at least 10 cases (14%) father 'B' was also present. Just over half (53%, n=21 of 40) of the fathers coded as father 'A' also had their legal representative present at the second shelter hearing. Nine of the 10 father 'B's had legal representation at the second shelter hearing. Thus, a total of 62% of fathers had legal representation at the second shelter hearing (n=31 of 50). Across multiple fathers appearing for the second shelter hearing, 40% were not represented by counsel (i.e., appearance of counsel not documented in the case file). (See Figure 30.)

Finding: In 85% of second shelter hearings in the post-implementation sample, mothers were documented as present (in 85% of initial shelter hearings mothers were documented as present).

Finding: In 82% of second shelter hearings in the post-implementation sample, the attorney for the mother was documented as present (in 74% of initial shelter hearings the attorney for the mother was documented as present).

Finding: In 97% of second shelter hearings at which the mother appeared, her attorney was documented as present (in 87% of initial shelter hearings both the mother and her attorney appeared).

Finding: 78% of incarcerated mothers appeared at the second shelter hearing (44% of incarcerated mothers appeared at the initial shelter hearing).

Finding: In 56% of second hearings in the post-implementation sample, fathers were documented as present (in 35% of initial shelter hearings fathers were documented as present).

Finding: In 14% of second shelter hearings two putative fathers were present.

Finding: In 62% of second shelter hearings in which the father appeared, his attorney was documented as present at the hearing (in 68% of initial shelter hearings both the father and his attorney were documented as present).

³³ Appearances based on file documentation.

Portland Second Shelter Hearings

Of the fourteen incarcerated fathers in the post-implementation sample, twelve (86%) appeared at the second shelter hearing.

In 5% of second shelter hearings (n=4 of 74), children were present. A legal representative for the child was present in 92% of the second shelter hearings (n=68 of 74). (See Figure 30.)

A representative from SOSCF was present at all but one second shelter hearing (99%, n=73 of 74) and the Deputy District Attorney was present at all but two second shelter hearings (97%,n=72 of 74). (See Figure 30.)

Finding: 86% of incarcerated fathers appeared at the second shelter hearing.

Finding: In 5% of second shelter hearings in the post-implementation sample, children were present.

Finding: In 92% of second shelter hearings the legal representative for the child was documented as present.

Finding: A representative from SOSCF was present at 99% of second shelter hearings in the post-implementation sample.

Finding: The Deputy District Attorney was present at 97% of second shelter hearings in the post-implementation sample.

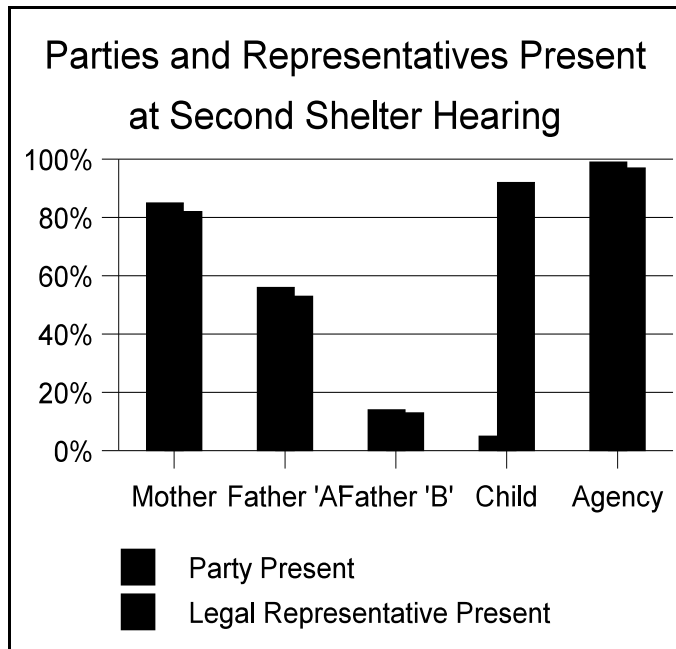


Figure 30

When comparing appearance rates of mothers across the initial and second shelter hearing, there was no difference (85% of mothers appeared at both hearings). But, in comparing appearance rates of attorneys for mothers across the initial and second shelter hearings, more legal representatives appeared at the second shelter hearing than appeared at the initial hearing. In the initial shelter hearing, 87% of mothers were represented (54 of 62 mothers), while at the second shelter hearing, 97% of mothers were represented (60 of 62 mothers). When comparing the appearance rates of putative fathers across the initial and second shelter hearings, more fathers are appearing at the second shelter hearing. However, a lower proportion of fathers are represented at the second shelter hearing than were represented at the initial shelter hearing. In 35% of initial shelter hearings, putative fathers were present (in eight of the 73 cases at least two putative fathers were present). In 68% of these initial shelter hearings, the putative father was represented. By contrast, putative fathers were present in 56% of second shelter hearings (in 10 cases at least two putative fathers were present). In 62% of these second shelter hearings, the putative father was represented.

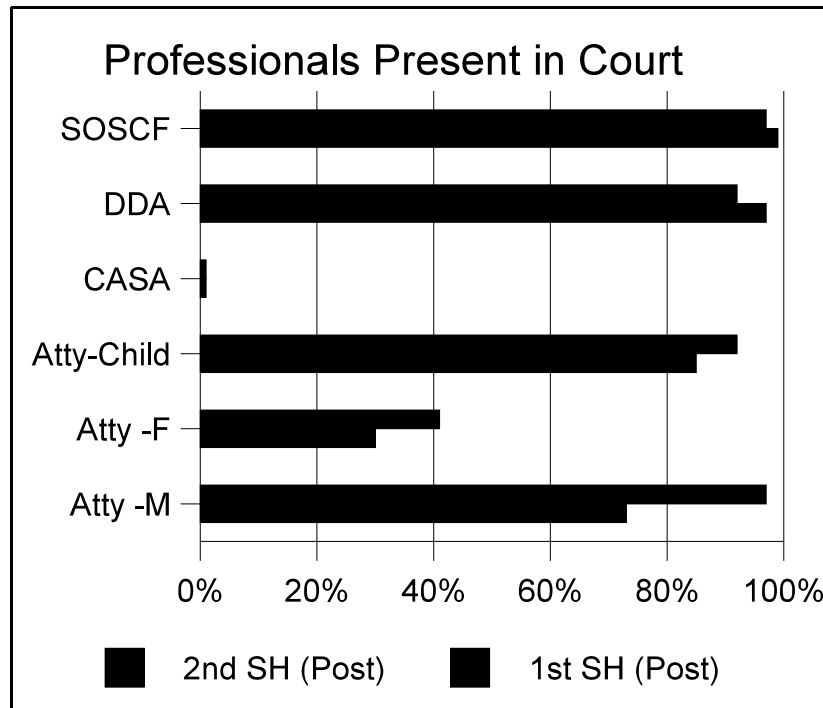


Figure 31

- **Jurisdictional Hearing**³⁴

In 85% of the post-implementation sample (n=62 of 73), mothers were documented as present at the jurisdictional hearing. In 81% of these hearings (n=60 of 73), the attorney for the mother was documented in the case file as being present at the hearing. All incarcerated mothers (9 mothers) were present at the jurisdictional hearing. (See Figure 32.)

In 70% of the post-implementation cases (n=50 of 71), fathers were present at the jurisdictional hearing stage. Attorneys representing fathers appeared at the jurisdictional hearing in 76% (n=54 of 71 cases) of the post-implementation sample. (See Figure 32.)

Of the 16 incarcerated fathers, 14 (88%) were present at the jurisdictional hearing.

Four children were present at the jurisdictional hearing in the post-

implementation sample (5%). A legal representative for the child was documented as present at 92% of jurisdictional hearings (n=68 of 74). (See Figure 32.)

Finding: In 85% of jurisdictional hearings in the post-implementation sample, mothers were documented as present (79% in the pre-implementation sample).

Finding: In 81% of jurisdictional hearings in the post-implementation sample, the attorney for the mother was present (41% in the pre-implementation sample).

Finding: All incarcerated mothers were present at the jurisdictional hearing (all incarcerated mothers were also present in the pre-implementation sample).

Finding: In 70% of jurisdictional hearings in the post-implementation sample, fathers were documented as present (50% in the pre-implementation sample).

Finding: In 76% of jurisdictional hearings in the post-implementation sample, the attorney for the father was documented as present (42% in the pre-implementation sample).

Finding: 88% of incarcerated fathers were present at the jurisdictional hearing (50% in the pre-implementation sample).

Finding: in 92% of jurisdictional hearings in the post-implementation sample, a legal representative for the child was documented as present (74% in pre-implementation sample).

³⁴As previously noted, data are to be interpreted as they relate to the “jurisdictional hearing process” with an outside time limit of 60 days from filing of petition to jurisdiction/disposition.

A representative from SOSCF was present at all of the jurisdictional hearings in the sample (100%, n=74), and the Deputy District Attorney was present at all of the jurisdictional hearings as well (100%, n=74). (See Figure 32.)

Finding: In 100% of jurisdictional hearings in the post-implementation sample, a representative from SOSCF was documented as present.

Finding: In 100% of jurisdictional hearings in the post-implementation sample, the Deputy District Attorney was documented as present.

Appearance of Parties					
Appearance Rates Based on Documentation in Case File					
	Pre-Implementation		Post-Implementation		
	Shelter	Jurisdictional	Initial Shelter	Second Shelter	Jurisdictional
Mother	77%	79%	85%	85%	85%
Father	35%	50%	35%	56%	70%
Child	10%	4%	11%	5%	5%
SOSCF	99%	100%	99%	99%	100%
Atty - Mother	76%	41%	74%	82%	81%
Atty - Father	27%	42%	24%	62%	76%
Atty - Child	85%	74%	85%	92%	92%
DDA	99%	100%	99%	97%	100%

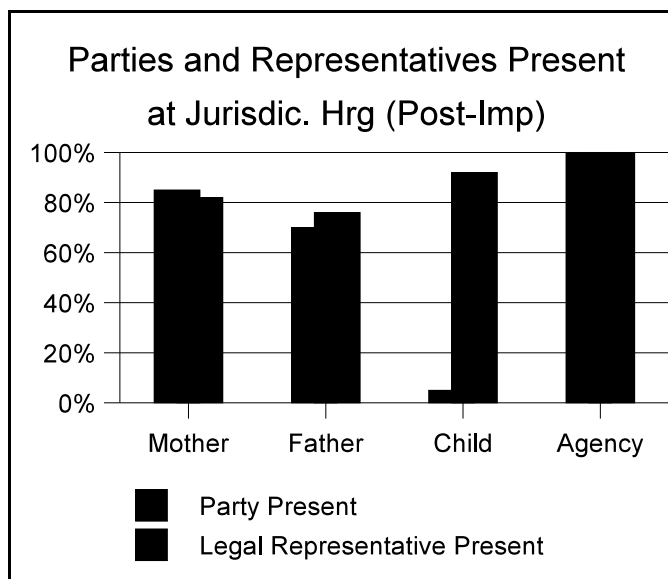


Figure 32

It appears that although more mothers are appearing at the initial shelter hearing in the post-implementation sample compared to the pre-implementation sample, mothers are somewhat less likely to have attorneys present at the initial shelter hearing in the post-implementation sample. This seems to correct, however, by the second shelter hearing in which 97% of mothers who appear have their attorney present. Although the appearance rate of fathers at the initial shelter hearing is consistent across the pre- and post-implementation samples (35% for both samples), the appearance of fathers did increase significantly from the initial shelter hearing to the second shelter hearing in the post-implementation sample (35% of fathers were documented as present at the initial shelter hearing while 54% of fathers were documented as present at the second shelter hearing).

The appearance rates at the jurisdictional hearing have also improved between the pre- and post-implementation samples. More mothers, and significantly more fathers, are appearing at the jurisdictional hearing in the post-implementation sample than appeared in the pre-implementation sample of cases.

➔ **DETERMINATION OF THE WHEREABOUTS OF THE PUTATIVE FATHER**

Pre-Implementation Sample

In the pre-implementation sample, the whereabouts of the putative father was clearly at issue in 48 of the 69 cases (70%). In 11 of the 48 cases (23%), the whereabouts of the father was determined at the initial shelter hearing, while the whereabouts of 26 fathers (54%) were determined by the jurisdictional hearing. Thus, the whereabouts of 77% of the fathers was determined by the jurisdictional hearing stage (n=37 of 48 cases). By the jurisdictional hearing stage, for those cases in which the father’s whereabouts were

originally at issue, the whereabouts of 11 fathers (23%) was still unknown. In one case the coder was unable to determine if the whereabouts of the father was at issue. (As stated, the father was documented as present in 33% of the shelter hearings in the pre-implementation sample (n=24 of 73)). (See Figure.)

Finding: In the pre-implementation sample, the whereabouts of the putative father was clearly at issue in 70% of the cases.

Finding: In 23% of the cases in the pre-implementation sample in which the whereabouts of the father was at issue, the determination was made at the shelter hearing.

Finding: In 54% of the cases in the pre-implementation sample in which the whereabouts of the father was at issue, the determination was made at the jurisdictional hearing.

Finding: The whereabouts of 23% of fathers remained undetermined by the jurisdictional hearing stage.

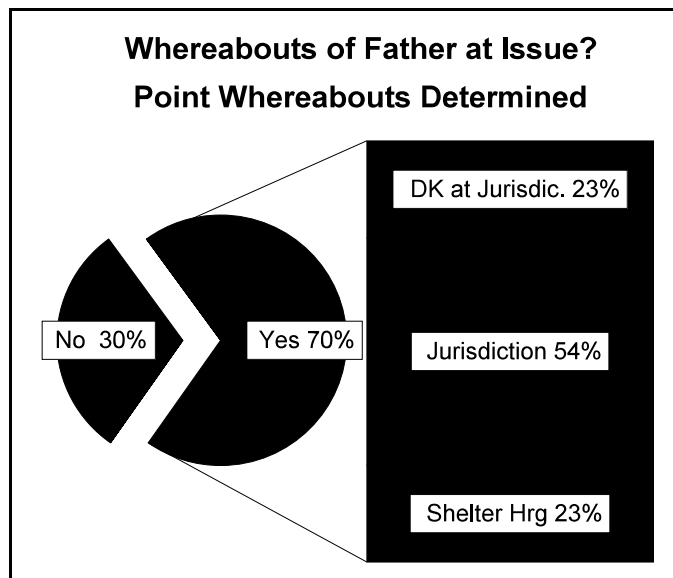


Figure 33

Post-Implementation Sample

In the post-implementation sample, the whereabouts of the putative father was clearly at issue in 49 of the 71 cases (69%; the whereabouts of father ‘A’ was at issue in 49 cases and the whereabouts of father ‘B’ was at issue in eight cases). In 25 of the 49 cases (51%), the whereabouts of the putative father was determined at the initial shelter hearing; 22 of the 49 father ‘A’s (45%) were determined at the initial shelter hearing; and three of the eight father ‘B’s (38%) were determined at the initial shelter hearing). In 11 of the 49 cases (22%), the whereabouts of the putative father was determined at the second shelter hearing

(eight of the 27 father ‘A’s whose whereabouts were not determined at the initial shelter hearing, were determined at the second shelter hearing and three of the five father ‘B’s whereabouts were determined at the second shelter hearing). In three cases (6%) the whereabouts of father ‘A’ was determined by the second shelter hearing, although it is unclear when the determination was actually made.

Thus, in the post-implementation sample, 80% of the original 49 cases in which the whereabouts of putative fathers were at issue were resolved by the second shelter hearing (an average of 12 days from the filing of the petition). The whereabouts of another six father “B”s, not originally identified, were determined at the jurisdictional hearing. By the jurisdictional hearing, 45 fathers in 49 cases were identified.

Finding: In the post-implementation sample, the whereabouts of the putative father was clearly at issue in 69% of the cases.

Finding: In 51% of the cases in the post-implementation sample in which the whereabouts of the father was at issue, the determination was made at the initial shelter hearing.

Finding: In 22% of the cases in the post-implementation sample in which the whereabouts of the father was at issue, the determination was made at the second shelter hearing.

Finding: In a total of 80% of the cases in the post-implementation sample in which the whereabouts of the father was at issue, the determination was made by the second shelter hearing.

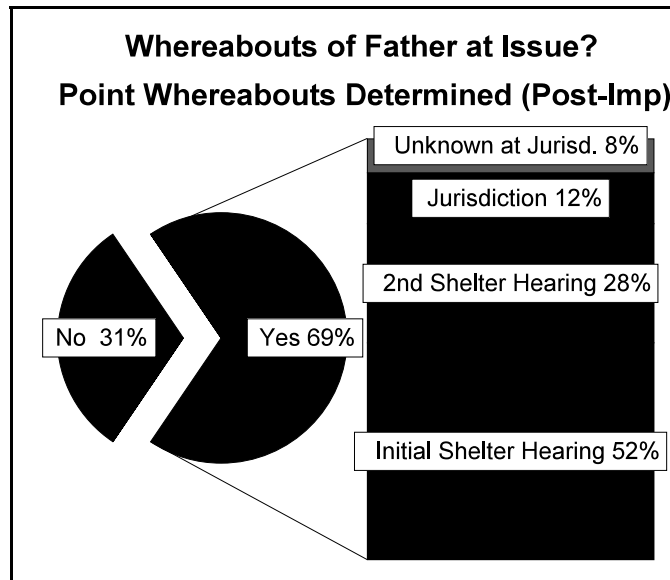


Figure 34

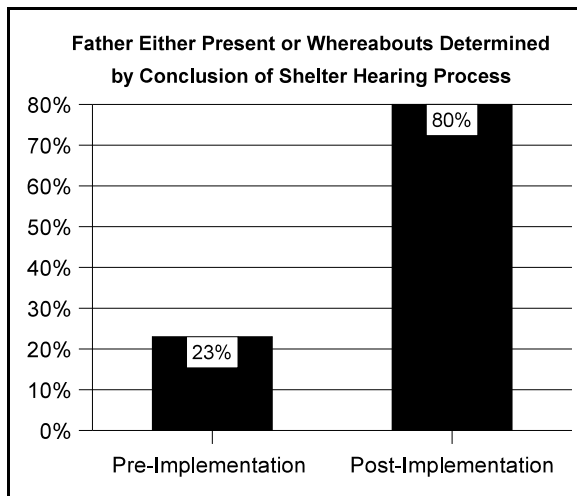


Figure 35

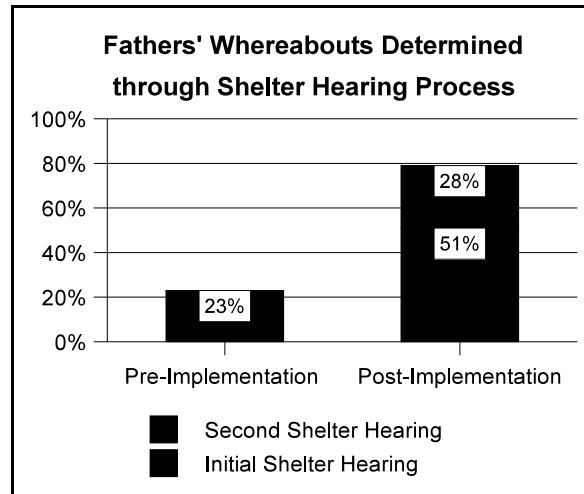


Figure 36

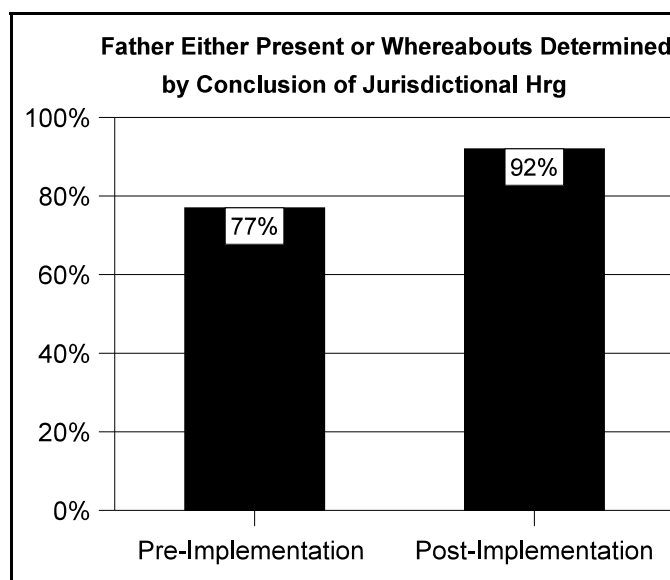


Figure 37

The expanded shelter hearing process in the post-implementation sample can be compared to pre-implementation practice by examining the timeliness of determinations about fathers' whereabouts. In the pre-implementation cases, 23% of determinations regarding the fathers' whereabouts were made by the conclusion of the shelter hearing process, whereas 80% of determinations were being made by the conclusion of the expanded second shelter hearing process. Given that the second shelter hearing occurs, on average, 12 days after the initial shelter hearing (and therefore 13 days after the child is placed into temporary custody), 80% of fathers are being identified within the first two weeks of the case process. Moreover, 92% of determinations regarding the whereabouts of the father were made by the jurisdictional hearing in the post-implementation sample, as compared to 77% in the pre-implementation sample of cases.

➡ FACILITATION OF RELATIVE PLACEMENTS BETWEEN FIRST AND SECOND SHELTER HEARING

It appears that relative placement was facilitated between the first and second shelter hearing in about 26% of the cases in the post-implementation sample (n=19 of 74).

Finding: Relative placement was facilitated between the initial and second shelter hearing in 26% of cases in the post-implementation cases. (Note, unable to determine in 42% of cases).

Note, however, that in 42% of the cases (n=31 of 74), the coder was unable to clearly determine if a relative placement had been facilitated during this time.

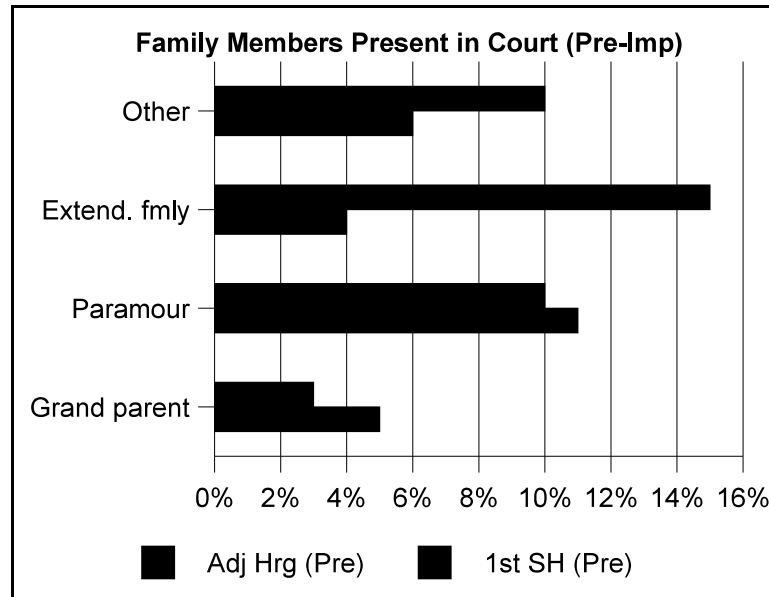


Figure 38

While extended family members were more likely to be present by the jurisdictional hearing in the pre-implementation sample of cases (Figure 38), more extended family members were appearing as early as the second shelter hearing in the post-implementation sample of cases. (See Figure 39.)

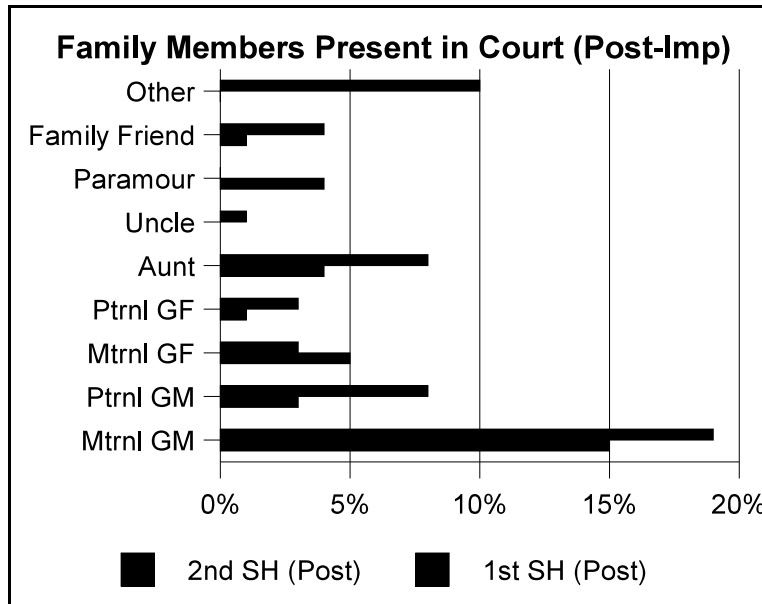


Figure 39

➔ **ICWA DETERMINATIONS**

Pre-Implementation Sample

Sixty-four of the 73 cases (88%) in the pre-implementation sample clearly documented that an inquiry regarding the applicability of ICWA had been made in the case. In 20% of these 64 cases, the applicability of ICWA (i.e., it did or did not apply) was clearly determined at the initial shelter hearing (n=13 of 64). In 41% of the cases, whether ICWA did or did not apply was clearly determined by the jurisdictional

hearing (n=26 of 64). However, by the jurisdictional hearing, ICWA issues remained undetermined in 39% of the outstanding cases (n=25 of 64). (See Figure 40.)

Finding: An inquiry about the applicability of ICWA was made in 88% of shelter hearings in the pre-implementation sample.

Finding: In 20% of cases at which an inquiry was made, the determination of ICWA’s applicability was made at the shelter hearing.

Finding: In 41% of cases at which an inquiry was made, the determination of ICWA’s applicability was made at the jurisdictional hearing.

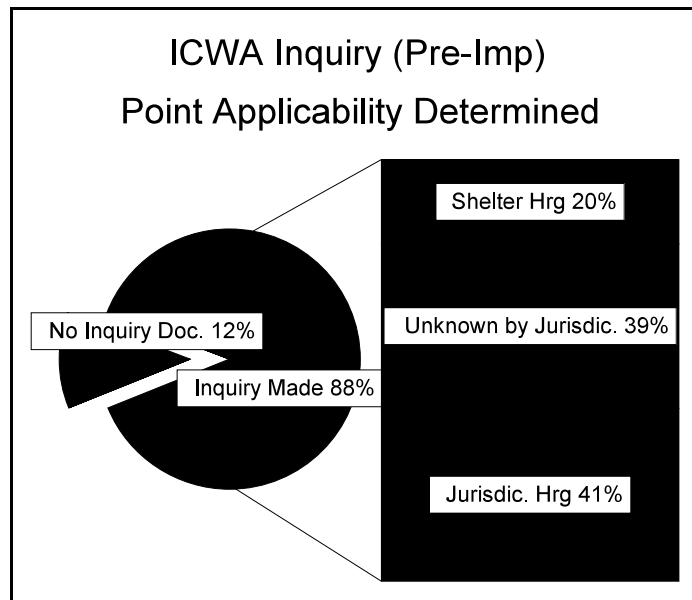


Figure 40

Post-Implementation Sample

Sixty-eight of the 74 case files (92%) clearly documented an inquiry into the application of ICWA. It appeared from documentation in the case files that an inquiry into the applicability of ICWA did not occur in 6 of the 74 cases (8%).

In 35% of the cases in which an ICWA inquiry was made, the applicability of ICWA was determined at the initial shelter hearing (n=24 of 68) and in 19% of the cases the determination was made at the second shelter hearing (n=16 of 68). It was

determined that ICWA did not apply in 11 of the 68 cases in which an inquiry was made (16%), although the coder was unable to determine at which point the inapplicability of ICWA was

Finding: An inquiry about the applicability of ICWA was made in 92% of initial shelter hearings in the post-implementation sample.

Finding: In 35% of cases at which an inquiry was made, the determination of ICWA's applicability was made at the initial shelter hearing.

Finding: In 19% of cases at which an inquiry was made, the determination of ICWA's applicability was made at the second shelter hearing.

Finding: In 16% of cases the determination of ICWA's applicability was determined, but the coder was unable to determine whether this occurred at the initial or second shelter hearing.

determined. Given the structure of the code book and the focus on the first 60 days of the case, although the coder was unable to determine at which specific hearing these determinations were made, they would have been made by the jurisdictional hearing. At the time of coding, it was still unknown whether or not ICWA applied in 29% of the cases (n=20 of 68). (See Figure 41.) Only one case file provided clear documentation that a tribe, the Winnebago, had been notified. Notification occurred, in this one case, at the initial shelter hearing. (See Figure 41 and Figure 42.)

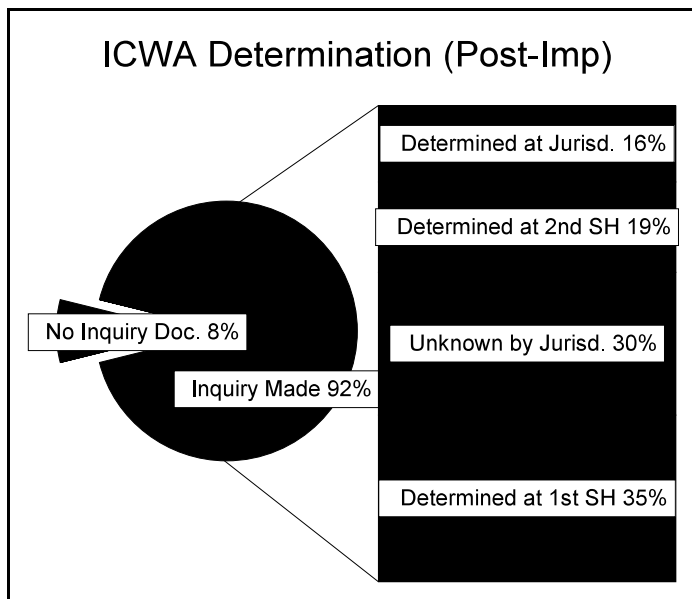


Figure 41

Although by the jurisdictional hearing there is not a significant difference in the number of cases in which an ICWA determination has been made (61% of cases in the pre-implementation sample and 70% in the post-implementation sample), determinations tended to be made considerably *earlier* in the post-implementation sample. In the post-implementation sample, just over half of the determinations had been made by the second shelter hearing, within the first two weeks of the case.

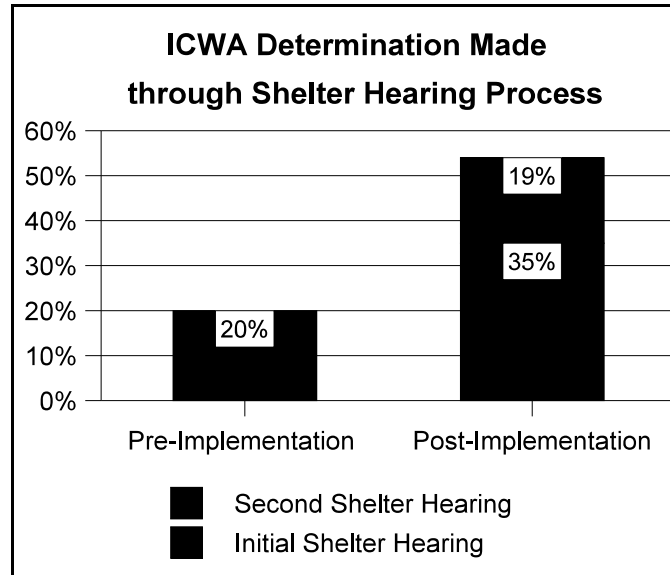


Figure 42

➔ **ADDITIONAL INFORMATION NOT AVAILABLE AT INITIAL HEARING THAT WAS AVAILABLE AT SECOND SHELTER HEARING**

In addition to the information already discussed above (location of parents, ICWA), the post-implementation sample of cases was analyzed to determine what information *not* available at the initial shelter hearing was available by the second shelter hearing. Data collected from the sample of case files studied revealed that the second shelter hearing process was providing additional information not originally available at initial shelter hearings. Second shelter hearings were coded as “providing additional information” only if they contained a *specific* reference to that information being originally sought at the initial shelter hearing and subsequently made available by the second shelter hearing. Because this strict coding strategy was used (i.e., we required a “specific mention” in the court file), it may very well be the case that the analysis underestimates the amount of information that was actually sought at the initial shelter hearing and available by the second shelter hearing. Recall that second shelter hearings were convened, on average, 12 days from the initial shelter hearing. Within this short period of time, case file analysis revealed that various categories of information pertaining to parents, children, and services initially sought at the first shelter hearing were available by the second shelter hearing. This information included: information pertaining to

parents' criminal history and pending charges (22% of cases, n=16); drug and alcohol assessments (15% of cases, n=19); ICPC referrals (18% of cases, n=13); and relative placements (15% of cases, n=11).

Additional Information Available by Second Shelter Hearing (N=74 cases)*		
Information about parents	Information about children	Other
criminal history and pending charges (22% of cases, n=16)	assessments scheduled (11% of cases, n=8)	ICPC referral (18% of cases, n=13)
paternity (19%, n=14)	psychological report completed (7% of cases, n=5)	investigation of relative placement (15% of cases, n=11)
drug/alcohol assessment (15% of cases, n=11)	medical information (7% of cases, n=5)	family unity meeting report (8% of cases, n=6)
information regarding compliance with services or referrals to services (15%, n=11)	school records or reports (4% of cases, n=3)	interpretation services (3% of cases, n=2)
restraining orders (12%, n=9)	information about siblings (4% of cases, n=3)	
financial support of child (5%, n=4)		

*As documented in case files reviewed.

SPECIFICITY OF COURT ORDERS

In addition to reasonable efforts and routine matters such as scheduling the next hearing, case files were examined to determine the number of issues addressed in the shelter hearing orders. The number of issues or services mentioned were used as a proxy for determining the specificity of the orders. An issue or service was coded as addressed if it was specifically mentioned in the shelter hearing court order.

Pre-Implementation Sample

• **Shelter Hearing**

Court orders resulting from the shelter hearing in the pre-implementation sample addressed an average of four issues, with a range of three to 11 issues. There was no statistical difference in the specificity of orders across the judicial officers. Overall, the following issues were addressed, in order of frequency:

- placement (68%)
- whereabouts of unknown parent (21%)
- drug and alcohol assessment (18%)
- psychological assessment (15%)
- restraining order documentation (12%)
- counseling, generally (12%)
- special services for children (11%)
- criminal background check (11%)
- paternity testing (11%)
- ICWA (3%)

Finding: On average, court orders from the shelter hearing in the pre-implementation sample addressed four primary issues.

Finding: There was no statistical difference in the specificity of orders across the judicial officers.

Finding: The top four most frequently addressed issues in court orders in the pre-implementation sample were: placement; whereabouts of unknown parent; drug and alcohol assessment; and psychological evaluation.

Post-Implementation Sample

• **Initial Shelter Hearing**

Court orders resulting from the initial shelter hearing in the post-implementation sample addressed an average of four issues, with a range of three to 15 issues. The vast majority of orders (90%) addressed four or more issues; 10% addressed two to three issues. There was no statistical difference in the specificity of orders across the judicial officers.

Finding: On average, court orders from the shelter hearing in the post-implementation sample addressed four primary issues.

Finding: There was no statistical difference in the specificity of orders across the judicial officers.

Overall, the following issues were addressed, in order of frequency:

- placement (80%)
- visitation (77% for mother; 41% for father)
- whereabouts of unknown parent (30%)
- drug and alcohol assessment (20%)

Portland Second Shelter Hearings

- psychological assessment (20%)
- ICWA investigation (16%)
- counseling, generally (15%)
- special services to children (15%)
- restraining order documentation (12%)
- criminal background check (12%)
- paternity (10%)

Finding: The top four most frequently addressed issues in initial shelter hearing court orders in the post-implementation sample were: placement; visitation; whereabouts of unknown parent; and drug and alcohol assessment and psychological evaluation (tied).

- **Second Shelter Hearing**

Court orders resulting from the second shelter hearing in the post-implementation sample addressed an average of six issues, with a range of three to 23 issues. The majority of orders (80%) addressed six or more issues; 20% addressed at least three to five issues. There was no statistical difference in the specificity of orders across the judicial officers.

Finding: On average, court orders from the second shelter hearing addressed six primary issues.

Finding: There was no statistical difference in the specificity of orders across the judicial officers.

Overall, the following issues were addressed, in order of frequency:

- placement (73%)
- visitation (46% for mother; 28% for father)
- psychological assessment (25%)
- drug and alcohol assessment (21%)
- counseling, generally (21%)
- domestic violence counseling (12%)
- special services for children (11%)
- paternity testing (11%)
- ICPC referral (7%)
- ICWA (7%)

Finding: The top four most frequently addressed issues in second shelter hearing court orders in the post-implementation sample were: placement; visitation; psychological assessment; and drug and alcohol assessment.

The “whereabouts of unknown parent” was not among the the top ten issues addressed in the second shelter hearing orders. Recall, however, that 79% of fathers, whose whereabouts were unknown, were identified by the second shelter hearing.

➡ **STRENGTHS AND WEAKNESSES OF THE EXPANDED SECOND SHELTER HEARING PROCESS ARTICULATED BY SYSTEM PROFESSIONALS**

Respondents were asked to provide an opinion about what the strengths of the second shelter hearing process are from each of their perspectives. The most frequently mentioned responses were, in order of mention:

- improves the location of parties/appearance of parents (58%);
- more information is available earlier in the case (49%);
- the opportunity to meet again, compare notes, and move forward (33%);
- clarifies expectations and provides a more organized structure (24%);
- a more effective use of court time (24%); and
- one judge - one family (16%).

Respondents were also asked to provide an opinion about what problems they perceive with the expanded second shelter hearing process. The most frequently mentioned responses were, in order of mention:

- too many hearings in a short period of time (25%);
- the needed information is still not available at the second shelter hearing (16%);
- documentation of reasonable efforts is difficult (16%); and
- calendar management given frequency of hearings (16%).

Overall, 50% of interview respondents were satisfied with the second shelter hearing process. One-quarter of respondents were not satisfied, and another 25% “were not really sure” how they felt. More than half of the respondents noted that implementation of the second shelter hearing process has resulted in a “culture shift” in court practice. These respondents feel that all system professionals are more aware of the need to get information early, to share that information with all parties, and to”

front-load” cases. A few of these respondents noted that as this culture shift becomes institutionalized in practice, it may become less necessary to have second shelter hearings in every case.

SUMMARY OF FINDINGS: OUTCOMES

Through the implementation of the expanded second shelter hearing process the Portland Model Court does seem to have achieved its improvement goals. More mothers and fathers were documented as appearing in the post-implementation of cases than the pre-implementation cases. The increased appearance of mothers, and especially fathers, held through the jurisdictional process. Perhaps most significantly, the expanded second shelter hearing process has not only increased the number of fathers who are identified, but it has also considerably shortened the amount of time required to identify fathers – 80% of determinations regarding the whereabouts of the father were made within the first two weeks of the case in the post-implementations sample. Moreover, more extended family members were involved earlier in the process in the post-implementation cases and the second shelter hearing process appears to facilitate relative placements between the initial and second shelter hearing.

The second shelter hearing process also seems to have shortened the time necessary for ICWA determinations to be made, although it has not necessarily resulted in more ICWA determinations being made by the jurisdictional hearing. In the post-implementation sample, just over half of the determinations had been made within the first two weeks of the case.

The expanded second shelter hearing process also seems to have increased the amount of information available by the second shelter hearing, with progress having been made in a number of areas identified as issues at the initial shelter hearing. The expanded shelter hearing process also seems to result in more specific court order for services.

System professionals who were interviewed are generally satisfied with the second shelter hearing process, although, taken as a whole, their responses suggest that the holding of a second shelter hearing should be determined on a case-by-case basis. While recognizing that the second shelter

hearing requires additional court time and additional preparation time, most respondents felt the process useful in those cases in which information was not available at the initial hearing.

SUMMARY AND CONCLUSIONS

➡ TIMING OF HEARINGS AND STATUTORY COMPLIANCE

ORS 419B.183 requires that a shelter hearing be held within 24 hours of a child being placed into temporary protective custody.

- In 63% of pre-implementation cases in which the date of temporary custody was documented, initial shelter hearings were held within 24 hours of temporary custody.
- In 93% of post-implementation cases in which the date of temporary custody was documented, the initial shelter hearing was held within 24 hours of petition filing.

ORS 419B.185 requires that a jurisdictional hearing be held within 60 days of the filing of the petition.

- In 90% of pre-implementation cases, a jurisdictional hearing was held within 60 days of the filing of the petition.
- In 95% of post-implementation cases, a jurisdictional hearing was held within 60 days of the filing of the petition.
- For the pre-implementation sample of cases, a jurisdictional hearing was held, on average, 49 days from the filing of the petition.
- For the post-implementation sample of cases, a jurisdictional hearing was held, on average, 40 days from the filing of the petition.

With the implementation of the new shelter hearing process, a second shelter hearing is to be held within seven to 14 days of the initial shelter hearing.

- Second shelter hearings were held an average of 12 days after the initial shelter hearing, but the most common time frame was seven days from the initial shelter hearing.
- 75% of second shelter hearings were completed within 14 days of the initial shelter hearing.

In analyzing the timeliness of initial shelter hearings and jurisdictional hearings in comparison to statutorily mandated time frames, the Portland Model Court appears to have become significantly more compliant with statutorily mandated time frames for the shelter hearing in the post-implementation sample. Care must be taken, however, in interpreting the compliance rates for the shelter hearing in both the pre- and post-implementation samples. Because of the poor documentation of the date on which the child is taken into temporary custody, the key date in the

determination of the 24-hour period, the actual compliance rates may be significantly different than those noted.

Practice Recommendation: Although it appears that the Portland Model Court is, for the most part, statutorily compliant with the time requirements for the shelter hearing and jurisdictional hearing, the court must take steps to ensure that the date of temporary custody is properly documented in all legal case files and in management information systems under development.

➔ DURATION OF HEARINGS

The *RESOURCE GUIDELINES* recommend that shelter hearings should last approximately 60 minutes to ensure a substantive and meaningful hearing that properly addresses all appropriate issues. In the pre-implementation sample the average shelter hearing lasted 12 minutes. In the post implementation sample, the initial shelter hearing lasted an average of 27 minutes and the second shelter hearing lasted an average of 36 minutes. Thus, by completion of the shelter hearing process, an average of 63 minutes of judicial time had been spent on the case. There was no statistically significant difference among the referees in terms of the amount of time spent conducting shelter hearings. *With implementation of the second shelter hearing process, the Portland Model Court has significantly increased the amount of judicial time dedicated to each case during the shelter process and has achieved the time standards recommended in the RESOURCE GUIDELINES.*

Practice Recommendation: The Portland Model Court has significantly increased the amount of judicial time dedicated to each case during the shelter process. In order to ensure that court time is used efficiently, judicial officers must set clear expectations at the conclusion of the initial shelter hearing for what is expected at the second shelter hearing; all parties must follow-through on providing required information; and the court and parties must remain focused on the purpose and goals of the second shelter hearing.

➡ **BEST PRACTICE COMPONENTS**

Drawing on the recommendations of the *RESOURCE GUIDELINES* and on the best practices identified through the national Model Courts project, a number of best practice components of Portland's expanded shelter hearing process were assessed, including:

- Continuity of judicial officer;
- Continuity of legal representation;
- Continuance (Set-Over) practice;
- Notice; and
- Scheduling of the next hearing at the conclusion of the current hearing.

Continuity of Judicial Officer

Pre-Implementation:

- In 73% of the pre-implementation sample, two different judicial officers presided over the shelter hearing and the jurisdictional hearing.

Post-Implementation:

- In 22% of the post-implementation cases, a different judicial officer presided over the initial shelter hearing and the second shelter hearing.
- In 54% of the post-implementation cases, the same judicial officer presided over both the initial shelter and second shelter hearings.
- In 61% of the post-implementation cases, the same judicial officer presiding over the shelter hearings also presided over the jurisdictional hearing.

The implementation of the second shelter hearing process has resulted in increased judicial continuity across the initial hearing process from shelter hearings through jurisdiction. As previously noted, in the pre-implementation sample, only 29% of cases had the same judicial officer from the shelter hearing to the jurisdictional hearing. By contrast, in the post-implementation sample, 61% of cases had the same judicial officer from the initial shelter hearing process to the jurisdictional hearing. It is important to note that the continuity of judicial officers may actually be higher than indicated. In a number of cases the name of the judicial officer was either not documented or the handwriting was illegible and, as a result, the coder was unable to identify the judicial officer.

Practice Recommendation: Although significant strides have been made in ensuring continuity of the judicial officer from the two shelter hearings through jurisdiction and subsequent hearings, this continues to be an area in need of improvement. In order to confidently track continuity of hearing officers, the court also needs to take steps to ensure that the name of the presiding judicial officer is appropriately and legibly documented for each hearing.

Continuity of Legal Representatives

- In both the pre- and post-implementation samples, the names of legal representatives were not well documented in the case files reviewed.

Pre-Implementation:

- The attorney representing the mother remained the same across the shelter hearing and jurisdictional hearing in 68% of the pre-implementation cases in which the attorney's name was documented (actual proportion of cases falls somewhere between 55% and 74%).

Post-Implementation:

- The attorney representing the mother remained the same across the initial and second shelter hearings in 68% of the post-implementation cases in which the attorney's name was documented (actual proportion of cases falls somewhere between 55% and 74%).
- The attorney representing the mother remained the same across the second shelter hearing and the jurisdictional hearing in 72% of the post-implementation cases in which the attorney's name was documented (actual proportion of cases falls somewhere between 58% and 91%).

Because of relatively poor documentation in the case file, it is difficult to say for certain if there has been improvement in the level of continuity of mother's legal representative since the implementation of the expanded shelter hearing process. If relying only on cases which contain appropriate documentation, then it does appear that the continuity of mother's attorney is improved by the second shelter hearing and that the same attorney is likely to represent the mother at the second shelter hearing and jurisdictional hearing.

Pre-Implementation:

- The attorney representing the father remained the same across the shelter hearing and jurisdictional hearing in 20% of the pre-implementation cases in which the attorney's name was documented.

Post-Implementation:

- The attorney representing the father remained the same across the initial and second shelter hearings in 70% of the post-implementation cases in which the attorney's name was documented.
- The attorney representing the father remained the same across the second shelter hearing and the jurisdictional hearing in 60% of the post-implementation cases in which the attorney's name was documented.

Again, because of relatively poor documentation in the files, it is difficult to determine for certain whether there is improvement in the continuity of the father's legal representative. Moreover, findings with respect to the father's attorney must be taken within the context of the significantly higher number of fathers who are appearing as a result of the second shelter hearing process.

Pre-Implementation:

- The same attorney appeared on behalf of the child at both the shelter hearing and the jurisdictional hearing in 59% of pre-implementation cases in which the name of the attorney was documented.

Post-Implementation:

- The same attorney appeared on behalf of the child at both the initial and second shelter hearings in 66% of the post-implementation cases in which the name of the attorney was documented.
- The same attorney appeared on behalf of the child at both the second shelter hearing and the jurisdictional hearing in 83% of the post-implementation cases in which the name of the attorney was documented.

It does appear that there is increased continuity of the child's representative, especially from the second shelter hearing to the jurisdictional hearing.

Pre-Implementation:

- The same Deputy District Attorney appeared at both the shelter hearing and jurisdictional hearing in only 19% of the pre-implementation cases in which the name of the attorney was documented.

Post-Implementation:

- The same Deputy District Attorney appeared at both the initial and second shelter hearings in 19% of the cases in which the name of the attorney was documented.
- The same Deputy District Attorney appeared at both the second shelter hearing and jurisdictional hearing in 24% of the cases in which the attorney's name was documented.

Generally speaking, there seems to be improvement in the continuity of legal representation as a result of the expanded shelter hearing process – especially between the second shelter hearing and

the jurisdiction hearing. However, without appropriate documentation in all case files it is difficult to determine with certainty whether practice has improved.

Practice Recommendation: The court must continue to work with the various legal representatives to ensure that, to every extent possible, there is continuity in representation across hearings. In order to track the continuity of legal representatives, the court must take steps to ensure that the names of all attorneys are appropriately documented and legible in all case files.

Continuance (Set-Over) Practice

Pre-Implementation:

- 92% of shelter hearings in the pre-implementation sample were *not* continued.

Post-Implementation:

- 99% of initial shelter hearings in the post-implementation sample were *not* continued.
- 99% of second shelter hearings in the post-implementation sample were *not* continued.

Pre-Implementation:

- 86% of jurisdictional hearings in the pre-implementation sample were *not* continued.
- 93% of jurisdictional hearings in the post-implementation sample were *not* continued.

The Portland Model Court has always had a strong “no-continuance” practice. Indeed, the results of the case file analysis indicate that there is no statistically significant difference in set-over practice between the pre-implementation and post-implementation cases studied. However, from a best practice perspective, the court has demonstrated a stronger no-continuance practice since the implementation of the second shelter hearing process.

Notice

- Date of notice was not well documented in either the pre- or post-implementation sample of court files. It is therefore difficult to draw conclusions about notice procedures and time lines.
- Approximately half of the persons interviewed believed that the second shelter hearing process is more effective in providing notice to parties, the remaining respondents reported that the process is no more effective.

Practice Recommendation: The documentation of notice is an area in need of improvement. Once documentation has been improved, further assessment of notice procedures and timeliness is warranted.

Scheduling of Subsequent Hearing at End of Current Hearing

- In 100% of the pre-implementation cases, the date of the jurisdictional hearing was set at the conclusion of the initial shelter hearing.
- In 97% of the post-implementation cases, the date of the second shelter hearing was set at the conclusion of the initial shelter hearing.
- In 97% of the post-implementation cases, the jurisdictional hearing was set at the conclusion of the second shelter hearing.

The Portland Model Court has also engaged in the best practice of scheduling the next court event at the conclusion of the current court event. However, between the pre- and post-implementation sample, there appears to be a decrease in the percentage of cases in which a date of the next hearing is set at the conclusion of the current hearing. In the pre-implementation sample, the date of the jurisdictional hearing was set in 100% of initial shelter hearings. In the post-implementation sample, the date of the jurisdictional hearing was set in only 73% of second shelter hearings. It is important to note, however, that this may reflect settlement rates and not necessarily poor case management in these cases. The date of the jurisdictional hearing may also have been set at the conclusion of the initial shelter hearing rather than at the conclusion of the second shelter hearing.

Practice Recommendation: The court needs to remain vigilant and ensure that this best practice component is in place for all hearings. As much as possible, the court also needs to ensure that the subsequent hearing is held as scheduled.

➡ **OUTCOMES ACHIEVED THROUGH AN EXPANDED SECOND SHELTER HEARING PROCESS**

Appearance of Parties

Pre-Implementation

- In the pre-implementation sample, 77% of mothers were documented as present at the shelter hearing.

Post-Implementation

- In the post-implementation sample, 85% of mothers were documented as present at the initial shelter hearing.
- In the post-implementation sample, 85% of mothers were documented as present at the second shelter hearing.

Pre-Implementation

- In the pre-implementation sample, 79% of mothers were documented as present at the jurisdiction hearing.

Post-Implementation

- In the post-implementation sample, 85% of mothers were documented as present at the jurisdiction hearing.

Comparing pre- and post-implementation appearance rates for mothers, there has been a slight increase in the number of mothers documented as present. Moreover, there is a consistent rate of appearance across shelter hearings and the jurisdiction hearing in the post-implementation sample. It is difficult to say, however, whether more mothers are actually appearing in the post-implementation sample or whether documentation of their appearance in the case file is improving.

Pre-Implementation

- In the pre-implementation sample, 35% of fathers were documented as present at the shelter hearing.

Post-Implementation

- In the post-implementation sample, 35% of fathers were documented as present at the initial shelter hearing.
- In the post-implementation sample, 56% of fathers were documented as present at the second shelter hearing.

Pre-Implementation

- In the pre-implementation sample, 50% of fathers were documented as present at the jurisdiction hearing.

Post-Implementation

- In the post-implementation sample, 70% of fathers were documented as present at the jurisdiction hearing.

Comparing pre- and post-implementation appearance rates for fathers, there appear to be significantly more fathers appearing in the post-implementation sample. In the pre-implementation sample, the documented appearance rate of fathers increases from 35% at the initial hearing to 50% at the jurisdiction hearing. As previously noted, in the pre-implementation sample the jurisdiction hearing is held an average of 49 days from the filing of the petition. Thus, within the first 40-60 days of the case, 50% of fathers in the pre-implementation sample have made an appearance before the court.

In the post-implementation sample, the documented appearance rate of fathers increases from 35% at the initial shelter hearing to 56% at the second shelter hearing. As noted, the second shelter hearing is held an average of 12 days from the initial shelter hearing. Thus, on average, within the first few weeks of the case more than half of the fathers in the post-implementation sample have made an appearance before the court. The appearance rate increases again from 56% at the second shelter hearing to 70% by the jurisdictional hearing. As noted, in the post-implementation sample the jurisdiction hearing is held an average of 40 days from the filing of the petition. Thus, within the first 40-60 days of the case, 70% of fathers in the post-implementation sample have made an appearance before the court. *Although the increase may be attributable to better documentation of appearances, the numbers suggest that the implementation of the expanded second shelter hearing process has resulted in significantly more fathers appearing before the court. This is further supported by interview responses that support the finding that more fathers are appearing in court since implementation of the second shelter hearing process.*

Pre-Implementation

- In the pre-implementation sample, 76% of legal representatives for the mother were documented as present at the shelter hearing.

Post-Implementation

- In the post-implementation sample, 74% of legal representatives for the mother were documented as present at the initial shelter hearing.
- In the post-implementation sample, 82% of legal representatives for the mother were documented as present at the second shelter hearing.

Pre-Implementation

- In the pre-implementation sample, 41% of legal representatives for the mother were documented as present at the jurisdiction hearing.

Post-Implementation

- In the post-implementation sample, 81% of legal representatives for the mother were documented as present at the jurisdiction hearing.

There appears to be a decrease in the number of cases in which a legal representative appears on behalf of the mother at the initial shelter hearing in the post-implementation sample when compared to the pre-implementation sample, although there are slightly less cases in the post-implementation sample in which neither the mother nor her attorney are documented as appearing.

When comparing appearance rates of attorneys for mothers across the initial and second shelter hearings, more legal representatives appeared at the second shelter hearing than appeared at the initial shelter hearing. Given problems with documentation, it is difficult to conclude from the case file analysis whether there are actual changes in how often mothers' attorney appears in court and changes in how appearances are documented.

Pre-Implementation

- In the pre-implementation sample, 27% of legal representatives for the father were documented as present at the shelter hearing.

Post-Implementation

- In the post-implementation sample, 24% of legal representatives for the father were documented as present at the initial shelter hearing.
- In the post-implementation sample, 62% of legal representatives for the father were documented as present at the second shelter hearing.

Determination of the Whereabouts of the Putative Father

Pre-Implementation

- In the pre-implementation sample, the whereabouts of the putative father was clearly at issue in 70% of the cases.
- In 23% of the cases in the pre-implementation sample in which the whereabouts of the father was at issue, the determination was made at the shelter hearing.
- In 54% of the cases in the pre-implementation sample in which the whereabouts of the father was at issue, the determination was made at the jurisdictional hearing.
- The whereabouts of 23% of fathers remained undetermined by the jurisdictional hearing stage.

Post-Implementation

- In the post-implementation sample, the whereabouts of the putative father was clearly at issue in 69% of the cases.
- In 51% of the cases in the post-implementation sample in which the whereabouts of the father was at issue, the determination was made at the initial shelter hearing.
- In 22% of the cases in the post-implementation sample in which the whereabouts of the father was at issue, the determination was made at the second shelter hearing.
- In a total of 80% of the cases in the post-implementation sample in which the whereabouts of the father was at issue, the determination was made by the second shelter hearing.

Implementation of the second shelter hearing process has significantly decreased the amount of time needed to determine the whereabouts of the putative father. In the pre-implementation sample, the putative father was located by the jurisdiction hearing in just over half the cases. Since the jurisdiction hearing occurred, on average, 49 days after the filing of the petition, in the pre-implementation sample only about half of the putative fathers were located in the first 40 to 60 days of the case. By contrast, in the post-implementation sample, in 80% of the cases in which the whereabouts of the father was at issue, the determination was made by the second shelter hearing. Given that the second shelter hearing occurs, on average, 12 days after the initial shelter hearing (and therefore 13 days after the child is placed into temporary custody), 80% of fathers are being identified within the first two weeks of the case process. Thus, *since implementation of the expanded second shelter hearing process, significantly more putative fathers are being identified in significantly less time.*

Facilitation of Relative Placements Between Initial and Second Shelter Hearings

- Relative placements were facilitated between the initial and second shelter hearings in 26% of cases in the post-implementation sample. In a significant proportion of cases, 42%, it was not possible to determine whether relative placements had been facilitated.
- While extended family members were more likely to be present by the jurisdictional hearing in the pre-implementation cases (an average of 49 days from filing of petition), more extended family members were appearing as early as the second shelter hearing in the post-implementation sample. Thus, more family members were appearing in the first two weeks of the case process.

ICWA Inquiries and Determinations

Pre-Implementation

- An inquiry about the applicability of ICWA was made at 88% of shelter hearings in the pre-implementation sample.
- In 20% of cases at which an inquiry was made, the determination of ICWA's applicability was made at the shelter hearing.
- In 41% of the cases at which an inquiry was made, the determination of ICWA's applicability was made at the jurisdictional hearing.
- In 61% of the cases in the pre-implementation sample a determination about the applicability had been made by the jurisdictional hearing. Thus, in 39% of the cases the applicability of ICWA remained undetermined by the jurisdictional hearing.

Post-Implementation

- An inquiry about the applicability of ICWA was made in 92% of initial shelter hearings in the post-implementation sample.
- In 35% of cases at which an inquiry was made, the determination of ICWA's applicability was made at the initial shelter hearing.
- In 19% of cases at which an inquiry was made, the determination of ICWA's applicability was made at the second shelter hearing.
- In 16% of cases a determination of the applicability of ICWA had been made, however the coder was unable to determine at what point the determination had been made. Given the structure of the coding instrument, and the focus on the first 60 days of the case, these determinations would have been made by the jurisdictional hearing.
- In 70% of cases in the pre-implementation sample, a determination about the applicability had been made by the jurisdictional hearing. Thus, in 30% of the cases the applicability of ICWA remained undetermined by the jurisdictional hearing.

Although by the jurisdictional hearing there is not a significant difference in the number of cases in which an ICWA determination has been made (61% of cases in the pre-implementation sample and 70% in the post-implementation sample), determinations tended to be made considerably earlier in the post-implementation sample. In the post-implementation sample, just over half of the determinations had been made by the second shelter hearing, within the first two weeks of the case.

Additional Information Not Available at Initial Hearing that was Available at Second Shelter Hearing

As previously noted, second shelter hearings were convened, on average, 12 days from the initial shelter hearing. Within this short period of time, case file analysis revealed that various categories of information pertaining to parents, children, and services initially sought at the first shelter hearing were available by the second shelter hearing. This information included: information pertaining to parents' criminal history and pending charges (22% of cases, n=16); drug and alcohol assessments

(15% of cases, n=19); ICPC referrals (18% of cases, n=13); and relative placements (15% of cases, n=11).

Specificity of Court Orders

Pre-Implementation

- On average, court orders from the shelter hearing in the pre-implementation sample addressed four primary issues.

Post-Implementation

- On average, court orders from the shelter hearing in the pre-implementation sample addressed four primary issues.
- On average, court orders from the second shelter hearing addressed six primary issues.

<u>Shelter Hearing (Pre-Implementation)</u>	<u>Initial Shelter Hearing (Post-Implementation)</u>	<u>Second Shelter Hearing (Post-Implementation)</u>
Top 6 Issues:	Top 6 Issues:	Top 6 Issues:
1. placement	1. placement	1. placement
2. whereabouts of parent	2. visitation	2. visitation
3. drug and alcohol evaluation	3. whereabouts of parent	3. psychological assessment
4. psychological evaluation	4. drug and alcohol evaluation	4. drug and alcohol evaluation
5. restraining order	psychological evaluation (tied)	5. counseling (generally)
6. counseling (generally)	5. ICWA investigation	6. domestic violence counseling
	6. counseling (generally)	

- The “whereabouts of unknown parent” was not among the top ten issues addressed in the second shelter hearing orders. Recall, however, that 79% of fathers, whose whereabouts were unknown, were identified by the second shelter hearing.
- There was no statistical difference in the specificity of orders across the judicial officers.

Through the implementation of the expanded second shelter hearing process the Portland Model Court does seem to achieved its improvement goals. More mothers and fathers were documented as appearing in the post-implementation cases than the pre-implementation cases. The increased appearance of mothers, and especially fathers, held through the jurisdictional process. Perhaps most significantly, the expanded second shelter hearing process has not only increased the number of fathers who are identified, but it has also considerably shortened the amount of time required to

identify fathers – 80% of determinations regarding the whereabouts of the father were made within the first two weeks of the case in the post-implementation sample. Moreover, more extended family members were involved earlier in the process in the post-implementation cases and the second shelter hearing process appears to facilitate relative placements between the initial and second shelter hearing.

The second shelter hearing process also seems to have shortened the time necessary for ICWA determinations to be made, although it has not necessarily resulted in more ICWA determinations being made by the jurisdictional hearing. In the post-implementation sample, just over half of the determinations had been made within the first two weeks of the case.

The expanded second shelter hearing process also seems to have increased the amount of information available at the second shelter hearing, in comparison to what was available at the initial shelter hearing and seems to result in more specific court orders for services.

System professionals who were interviewed are generally satisfied with the second shelter hearing process, although, taken as a whole, their responses suggest that the holding of a second shelter hearing should be determined on a case-by-case basis. While recognizing that the second shelter hearing requires additional court time and additional preparation time, most respondents felt the process far more useful in those cases in which information was not available at the initial hearing.

➔ **PRACTICE RECOMMENDATIONS**

- ✓ Although it appears that the Portland Model Court is, for the most part, statutorily compliant with the time requirements for the shelter hearing and jurisdictional hearing, the court must take steps to ensure that the date of temporary custody is properly documented in all legal case files and in management information systems under development.
- ✓ The court is spending considerably more time reviewing cases during the shelter hearing process. In order to ensure that court time is used efficiently, judicial officers must set clear expectations at the conclusion of the initial shelter hearing for what is expected at the second shelter hearing; all parties must follow-through on providing required information; and the court and parties must remain focused on the purpose and goals of the second shelter hearing.
- ✓ Although significant strides have been made in ensuring continuity of the judicial officer from the two shelter hearings through jurisdiction and subsequent hearings, this continues to be an area in need of improvement. In order to confidently track continuity of hearing officers, the court also needs to take steps to ensure that the name of the presiding judicial officer is appropriately and legibly documented for each hearing.
- ✓ The court must continue to work with the various legal representatives to ensure that, to every extent possible, there is continuity in representation across hearings. In order to track the continuity of legal representatives, the court must take steps to ensure that the names of all attorneys are appropriately documented and legible in all case files.
- ✓ The documentation of notice is an area in need of improvement. Once documentation has been improved, further assessment of notice procedures and timeliness is warranted.
- ✓ The court needs to remain vigilant and ensure that the scheduling of the next hearing at the conclusion of the current hearing is in place for all hearings. As much as possible, the court also needs to ensure that the subsequent hearing is held as scheduled.

OVERALL RECOMMENDATION:

The Portland Model Court should continue the second shelter hearing process because it benefits the majority of cases. However, the determination whether a second hearing is necessary should be determined at the initial shelter hearing. Criteria should be articulated to determine whether a second shelter hearing is needed. Established criteria should be communicated to all stakeholders. Criteria may include, but not necessarily be limited to:

- Whether appropriate notice has been served on all parties;
- Whether biological parents are both present at the initial shelter hearing;
- Whether counsel has been appointed for all parties and has appeared;
- The type and amount of information that is not available at the initial shelter hearing, including whether enough information is known to put preliminary, voluntary services in place; and
- Whether the applicability of ICWA has been resolved at the initial shelter hearing.

The reasons for holding or not holding a second shelter hearing should be clearly articulated in the legal case file. If a second shelter hearing is determined to be needed, a “to do” checklist should be generated for all parties and specifically reported on at the second shelter hearing.

The Portland Model Court should also take steps to evaluate whether the holding of a second shelter hearing has a long-term impact on the timeliness of the case process and the achievement of permanency.

APPENDIX

SECOND SHELTER HEARING EVALUATION: PRE-IMPLEMENTATION SAMPLE

CASE FILE REVIEW FORM

CASE NO: _____

NAME: _____

CODED BY: _____

No. of Children []

Prelim: []

DOB: A ___/___/___ SEX []

Adjud.: []

B ___/___/___ SEX []

C ___/___/___ SEX []

D ___/___/___ SEX []

E ___/___/___ SEX []

F ___/___/___ SEX []

Date original petition filed ___/___/___

Date of most recent petition ___/___/___

Date temp. custody ___/___/___

INITIAL SHELTER HRG.

Date Shelter hrg. ___/___/___

Start time _____ End time _____

Continued: [] yes [] no

Reason: _____

Date notice to mother ___/___/___ how: [] Date notice to father A ___/___/___ how: []

Mother incarcerated? Yes No Father A incarcerated? Yes No

Mother deceased? Yes No Father A deceased? Yes No

Date notice to child ___/___/___ how: [] Date notice to father B ___/___/___ how: []

Father B incarcerated? Yes No

Father B deceased? Yes No

1. What services has SOSCF already provided?

2. What services/reasonable efforts shall be provided pending further hearing?

3. Was the SOSCF ordered to begin an immediate search to locate parents whose whereabouts are unknown? YES NO INAPP.

4. Was any visitation ordered at Shelter Hrg?

I. Mother YES NO INAPP.

If YES: Please circle which type of visitation was ordered?

Supervised Liberal non-specific other _____

II. Father A YES NO INAPP.

If YES: Please circle which type of visitation was ordered?

Supervised Liberal non-specific other _____

III. Father B YES NO INAPP.

If YES: Please circle which type of visitation was ordered?

Supervised Liberal non-specific other _____

IV. Maternal Grandparents YES NO INAPP.

If YES: Please circle which type of visitation was ordered?

Supervised Liberal non-specific other _____

V. Paternal Grandparents YES NO INAPP.

If YES: Please circle which type of visitation was ordered?

Supervised Liberal non-specific other _____

5. Was date for Adjudicatory Hearing Set? YES NO DATE ___/___/___

COMMENTS:

ADJUDICATORY HRG.

Date Adjudicatory hrg. ___/___/___ Start time _____ End time _____

Continued: [] yes [] no

Reason: _____

Was petition amended between Shelter Hrg and Adjudicatory Hrg.? **YES NO**

If yes, how? _____

Date notice to mother ___/___/___ how: [] Date notice to father A ___/___/___ how: []

Date notice to child ___/___/___ how: [] Date notice to father B ___/___/___ how: []

1. ICWA DETERMINATION

1a. Does ICWA Apply? (Circle event when known)

Shelter Adjudicatory still unknown does not apply

1b. When Tribe Notified?

Shelter Adjudicatory still unknown inapp.

Tribe: _____

1c. How Notified?

2. PATERNITY DETERMINATION

2a. Paternity Issues Clarified? (Circle event when known)

Shelter Adjudicatory still unknown does not apply

3. WHEREABOUTS OF FATHER

3a. Father A: Whereabouts determined? (Circle event when known)

Shelter Adjudicatory still unknown does not apply

3b. Father B: Whereabouts determined? (Circle event when known)

Shelter Adjudicatory still unknown does not apply

4. RELATIVE PLACEMENTS

4a. Was a relative placement facilitated between the Shelter hrg. and Adjudicatory hrg.?

YES NO UNKNOWN

4b. If Yes, with what relative? _____

5. OUTSTANDING RESTRAINING ORDERS

5a. Inquiry made at?

Shelter Adjudicatory not made

6. CONSIDERATION OF FINANCIAL SUPPORT OF CHILD

6a. Inquiry made at?

Shelter Adjudicatory not made

7. Was any visitation ordered at Adjudicatory Hrg.?

I. Mother YES NO

If YES: Please circle which type of visitation was ordered?

Supervised Liberal non-specific other _____

II. Father A YES NO INAPP.

If YES: Please circle which type of visitation was ordered?

Supervised Liberal non-specific other _____

III. Father B YES NO INAPP.

If YES: Please circle which type of visitation was ordered?

Supervised Liberal non-specific other _____

IV. Maternal Grandparents YES NO INAPP.

If YES: Please circle which type of visitation was ordered?

Supervised Liberal non-specific other _____

V. Paternal Grandparents YES NO INAPP.

If YES: Please circle which type of visitation was ordered?

Supervised Liberal non-specific other _____

8. Which of the following reasonable efforts will be made pending adjudication:

- | | |
|--|---|
| <input type="checkbox"/> Drug/alcohol treatment referral M / F | <input type="checkbox"/> Verify paternity |
| <input type="checkbox"/> Parent training referral M / F | <input type="checkbox"/> Notify tribe |
| <input type="checkbox"/> Domestic violence counseling referral
M / F | <input type="checkbox"/> ICPC referral |
| <input type="checkbox"/> Anger counseling referral
M / F | <input type="checkbox"/> Investigate relative placement |
| <input type="checkbox"/> Family counseling referral
M / F | <input type="checkbox"/> Develop safety plan |
| <input type="checkbox"/> Psychological evaluation M / F | <input type="checkbox"/> Arrange sibling visitation |

Evaluation/assessment of child(ren)

Other _____

Other _____

Other _____

9. What additional information was available for the Adjudicatory Hrg.?

10. Which of the following persons were present at hearings?

	Shelter	Adjudic.	same	different
Judge/Judicial Officer				
Mother				
Father				
Child(ren)				
Attorney for Mother				
Attorney for Father				
Attorney for Child(ren)				
CASA				
DDA				
SOSCF				
Interpreter				
Relatives				
Others				

5. Was date set for next Hrg?

YES NO DATE ___/___/___

Last Action on File: ___/___/___ _____