

**The El Paso, Texas 65<sup>TH</sup> Judicial District Children's Court:  
Evaluation of Model Court Activities [1999-2001]**

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## EXECUTIVE SUMMARY

### *An Overview of Evaluation Objectives and Design*

In the Fall of 2000, the Permanency Planning for Children Department (PPCD) and the National Center for Juvenile Justice (NCJJ) of the National Council of Juvenile and Family Court Judges (NCJFCJ) were asked by the 65<sup>th</sup> Judicial District, Children's Court in El Paso, Texas to conduct a study of its Model Court activities. This report details findings of this research which was funded by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), United States Department of Justice. The research examined various innovative procedures and programs that had been established in the El Paso Model Court to expeditiously process its child abuse and neglect caseload. Specifically, the study was designed to evaluate the progress El Paso had made with respect to the following Model Court goals:

- Expedite the court process and increase the level and quality of oversight exercised by the court;
- Expedite and improve the quality of early case planning and delivery of services;
- Improve the quality of legal representation afforded to children and parents in these proceedings while at the same time taking steps to encourage counsel to represent their clients in a less adversarial manner and one that is more focused on issues related to timely permanency and "the best interests of the child;"
- Reduce the time needed to make and execute permanency decisions, as well as reduce the number of placements children experience after removal;
- Provide better services to children and families through the operation of a family drug court; and
- Encourage and empower parents and extended family members to participate in the court process and to become involved in making decisions regarding their children and families.

The study included both quantitative and qualitative (process) measures, and used the following methods:

- Interviews with key participants in the El Paso Model Court (i.e., judges, attorneys, caseworkers, treatment providers, and project managers) using a semi-structured interview instrument;
- Review of pertinent program protocols and procedures;
- Case file review of a comparative sample of randomly selected cases filed in 1995 (pre-Model Court) and a sample of cases filed in 1999 (post-Model Court, and post-ASFA cases); and
- Court observation to obtain contextual information about the Model Court hearing process.

### ***Summary of Major Findings<sup>1</sup>***

#### ***Expediting and Expanding the Court Process***

- *Finding:* Case processing timelines in El Paso generally meet and exceed those recommended in the *RESOURCE GUIDELINES<sup>2</sup>* and the companion *ADOPTION AND PERMANENCY GUIDELINES<sup>3</sup>*.
- *Finding:* Interview and court observation data indicate that hearings are substantive and detailed, with a wide variety of parties attending and providing testimony (particularly caseworkers, service providers, and foster parents).
- *Finding:* Court orders stemming from all hearings in the post-Model Court sample of case files studied were considerably more detailed and specific than orders in the pre-Model Court sample of cases.
- *Finding:* When compared to pre-Model Court cases, time frames from removal to court events were reduced in the post-Model Court (post-ASFA) sample of cases studied. This difference was statistically significant for time frames from removal to status hearings ( $p < .05$ ), and from removal to initial permanency and permanency hearings ( $p < .05$ ).

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<sup>1</sup> More detailed information about the research findings, including how these findings relate to Model Court goals and suggested recommendations for process enhancement, are included in the *Conclusion and Recommendations Section* of this report.

<sup>2</sup> Please see the National Council of Juvenile and Family Court Judges, *RESOURCE GUIDELINES: Improving Court Practice in Child Abuse & Neglect Cases* (Reno, NV, 1995) and *ADOPTION AND PERMANENCY GUIDELINES: Improving Court Practice in Child Abuse and Neglect Cases* (Reno, NV, 2000).

<sup>3</sup> *Ibid.*

- *Finding:* The Model Court goes well beyond state statute placement review requirements for cases in which the agency has been granted permanent managing conservatorship without parental rights having been terminated.
- *Finding:* The average number of months to achieve case closure has been reduced from 21.23 months in 1995 (pre-Model Court) to an average of 10.01 months in 2000 (post-Model Court and post-ASFA). This represents an overall reduction of 11.22 months.

**Expediting and Improving the Quality of Early Case Planning and Delivery of Services**

***Improved early case planning***

- *Finding:* The Assessment Foster Home initiative provides early assessment and intervention services to children and their families.
- *Finding:* Treatment team meetings, which serve as the coordinating body for development of initial case plans and placement recommendations, were held an average of 7 days from removal in the Model Court sample of cases. An average of 11 people attended these meetings and an average of 3 meetings were held per case. Interview data indicate that this multidisciplinary team approach to case planning is reducing barriers to timely provision of services and promoting creative problem-solving and solution generation.
- *Finding:* A concurrent plan was documented in the case file in 91% of the post-Model Court cases studied, demonstrating that the El Paso Model Court has a commitment to move children more quickly from the uncertainty of foster care to the security of a permanent family.

***Improved representation of all parties***

- *Finding:* When compared to pre-Model Court cases, the appointment of counsel for *all* parties occurs considerably earlier in the court process in the post-Model Court sample of cases studied. Furthermore, this difference was statistically significant for all parties ( $p < .05$ ).
- *Finding:* The El Paso Model Court routinely appoints counsel for parents as early as the *ex parte* hearing. This early appointment was facilitated by the use of an “attorney wheel” to assign parents’ attorneys to abuse and neglect cases. These attorneys are experienced in child protection matters and sufficiently reimbursed

to ensure that their abuse and neglect cases are a priority. Interview data indicate that parents' attorneys are very involved from the onset of a case, placing a heavy emphasis on preparing for and participating in early court proceedings.

- *Finding:* Children are routinely appointed attorneys *ad litem* as early as the *ex parte* hearing. Interview data indicate that these counsel are very involved throughout the life of the case. In addition to an attorney *ad litem*, CASA volunteers are appointed as the child's guardian *ad litem*. As of September 2000, CASAs were appointed in approximately two-thirds of the El Paso Children's Court overall caseload. These volunteers routinely provide reports for the status, placement, and permanency hearings, and attend all mediations (primarily as observers).
- *Finding:* In order to overcome case processing delays associated with parents who are also subject to parallel criminal prosecution, the El Paso Model Court has developed procedures to allow for closer coordination of these cases. Assigning the child protection and companion criminal case to the 65<sup>th</sup> District Court has facilitated consistency in court orders across these cases, as well as incorporation of service plan compliance into any conditions of probation if the parent is convicted in the criminal matter.
- *Finding:* In order to facilitate and expedite the completion of U.S. "legal permanent residency" for maltreated children who are also undocumented aliens, a special *pro bono* immigration panel of attorneys was developed. Interview data indicate that since its inception, no child had aged out of the system prior to the resolution of the INS residency application process (a common occurrence pre-Model Court).

### ***Supporting non-adversarial options***

- *Finding:* By 2000, the El Paso Children's Court had held 311 mediations in abuse and neglect cases, with most (72%) resulting in an agreement. The mediation project has also been expanded to include the mediation of placement, transition planning for reunification, and visitation, in addition to permanency/TPR mediations.



***Empowering parents and families***

- *Finding:* El Paso's family group conferencing program, Familias Primero, regularly convenes families for the purpose of establishing treatment plans, resolving problems, and assuring the safety of the child when reunifying families.
- *Finding:* A family drug court was instituted in El Paso in 1999. Since its implementation, seven parents have successfully graduated from this four-phase program.

***Creative and multiple stakeholder collaboration***

- *Finding:* Interview data indicate that the El Paso Model Court has developed a positive collaborative relationship among all stakeholders in the child welfare system. This collaborative structure has been instrumental in the development of innovative practices such as: mediation, family conferencing, assessment foster homes, adoption initiatives, family drug court, *pro bono* immigration panel, and parents' attorney wheel procedures.
- *Finding:* While foster parents' role in the court process has been minimal in other jurisdictions, foster parents have been included in all phases of El Paso's system-wide reform planning and re-tooling, since the inception of the Model Court. In particular, foster parents play a critical role in the assessment foster home initiative, and are an integral part of the front-end triage team. Foster parents attend court hearings, Treatment Team Meetings, and attend and participate in any mediation sessions involving their foster children. Interview data indicate that foster parents are relied upon to work closely with biological parents regarding visitation (including working with family members across the international border), and parenting skills/mentoring.

## INTRODUCTION

The El Paso 65<sup>th</sup> Judicial District Children’s Court was selected by the National Council of Juvenile and Family Court Judges (NCJFCJ) to participate in its Child Victims Act Model Courts Project in February of 1997. This national project, funded by the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP), is intended to promote improvements in juvenile and family court handling of abuse and neglect cases.<sup>4</sup> Participating courts’ reform efforts are based on best practice principles described in the *RESOURCE GUIDELINES: Improving Court Practice in Child Abuse & Neglect Cases* and *ADOPTION AND PERMANENCY GUIDELINES: Improving Court Practice in Child Abuse and Neglect Cases*.<sup>5</sup> The *RESOURCE GUIDELINES* set forth the elements of a high-quality judicial process in child abuse and neglect cases, and describes the necessary elements for a fair, thorough, and speedy court process for the protection of victimized and maltreated children with special emphasis on procedures to “front-load” the court process.<sup>6</sup> The *ADOPTION AND PERMANENCY GUIDELINES* describe the essential elements of best practice for court processes that lead to a permanent home for children who cannot be reunified with their families.

This report details the findings of research conducted to assess the Model Court initiative in El Paso, Texas. National Council of Juvenile and Family Court Judges (NCJFCJ) research staff from the Permanency Planning for Children Department (PPCD) and the NCJFCJ’s National Center for Juvenile Justice, Applied Research Division (NCJJ) examined various innovative procedures and programs that had been established in the El Paso Model Court to expeditiously process its dependency

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<sup>4</sup> There are 23 courts currently participating in the NCJFCJ national Child Victims Act Model Courts Project, including juvenile and family courts from Alexandria, VA; Buffalo, NY; Charlotte, NC; Chicago, IL; Cincinnati, OH; Des Moines, IA; El Paso, TX; Honolulu, HI; Indianapolis, IN; Los Angeles, CA; Louisville, KY; Miami, FL; Nashville, TN; New Orleans, LA; New York City, NY; Newark, NJ; Portland, OR; Reno, NV; Salt Lake City, UT; San Jose, CA; Tucson, AZ; Washington D.C.; and the Tribal Court in Zuni, New Mexico.

<sup>5</sup> *Supra*, note 2.

<sup>6</sup> “Front-loading” is a concept first popularized by the Hamilton County (Cincinnati), OH Juvenile Court to describe the changes it made to accelerate and strengthen the court process in the late 1980s. It refers to setting in place procedures to ensure that all parties to court proceedings begin actively participating at the earliest point possible and are doing all they can to minimize the length of time children remain in temporary placement and their families remain involved with the court. For a more detailed description of what “front-loading” entails in practice, please see: Halemba, G. and Siegel, G. (1999). *Pima County Model Court Project Summary of Follow-up Assessment*. National Center for Juvenile Justice, Pittsburgh, PA, pp. 1-2; and Gatowski, S., Dobbin, S., and Litchfield, M. (2002). The Portland Model Court Second Shelter Hearing Process: Evaluation Results. *Technical Assistance Bulletin VI*, No. 3, National Council of Juvenile and Family Court Judges. See also the *RESOURCE GUIDELINES*, *Supra*, note 2.

caseload. The Office of Juvenile Justice and Delinquency Prevention (OJJDP), U.S. Department of Justice provided funding for this research project.<sup>7</sup>

The methodologies employed in this study, described more thoroughly below, included an archival case file review, observation of Model Court hearings, review of pertinent program protocols and procedures, and extensive interviews with key stakeholders. Specifically, Model Court efforts were studied by using a comparative sample of cases initiated in 1995 (before Model Court reforms occurred) to cases initiated in 1999 (after implementation of Model Court reforms and post-Adoption and Safe Families Act (ASFA)). A variety of case processing and case outcome measures were examined, including:

- Characteristics of cases in the pre-Model Court and post-Model Court sample (e.g., demographics, petition allegations, service needs of children, and presenting problems of parents);
- Timeliness of appointment of counsel for parents and children;
- Timeliness of court proceedings;
- Specificity of court orders; and
- Case outcomes.

This report summarizes the key findings from this study as they relate to each of the Model Court's procedures and reform initiatives. The *Introduction* section of the report, an overview of the El Paso Model Court at the time of the research project (2000 – 2001)<sup>8</sup> is provided, as well as a brief summary of the national Model Courts initiative. The second section, *Research Design and Methodology*, details the evaluation strategy, data collection, and analysis procedures. The third section, *Evaluation Findings: El Paso Model Court Activities*, details the results of our analysis of Model Court processes. Finally, the fourth section, *Conclusions and Recommendations*, reviews the research findings, highlighting areas of strength and needed improvement, and makes

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<sup>7</sup> The source of funding for this evaluation was the technical resources provided to the El Paso Model Court because of its participation in the Child Victims Act Model Courts Project. This evaluation was requested by the Hon. Patricia Macias, who was serving as Model Court Lead Judge during the study period. The evaluation was also supported by the Hon. Alfredo Chavez, 65<sup>th</sup> Judicial District Court Judge and current Model Court Lead Judge.

<sup>8</sup> For more information about the El Paso Model Court, please see *Child Victims Act Model Courts Project Status Report 2000. Technical Assistance Bulletin*, Vol. V, No. 2, May 2001. National Council of Juvenile and Family Court Judges. See also *Child Victims Act Model Courts Project*

recommendations regarding process enhancement. The appendices accompanying the body of this report contain examples of the research instrumentation.

### ***THE NATIONAL MODEL COURTS PROJECT***

In February of 1997, the Children’s Court of the 65<sup>th</sup> Judicial District in El Paso, Texas, began participating in the National Council of Juvenile and Family Court Judges (NCJFCJ), Permanency Planning for Children Department’s (PPCD) Child Victims Act Model Courts Project (VAMC). 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, representing urban, rural, and tribal jurisdictions. All of these jurisdictions are engaged in systems change efforts and are working collaboratively with social service agencies and other systems professionals to achieve improvement goals. The VAMC project seeks to improve court processing of child abuse and neglect cases by producing replicable innovations in Model Courts. Working closely with the PPCD and with each other, and drawing on the best practice principles of the *RESOURCE GUIDELINES*<sup>9</sup> and *ADOPTION AND PERMANENCY GUIDELINES*,<sup>10</sup> 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 define the meaning of the term “model” within the Child Victims Act 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*. Each court engages in self-assessment and chooses jurisdiction-specific goals to improve its practice in child abuse and neglect cases. Each is using unique, individualized methods of collaboration with

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*Status Report 2001: A Snapshot of the Child Victims Act Model Courts Project. Technical Assistance Bulletin*, Vol. VI, No. 1, March 2002.

<sup>9</sup> *Supra*, note 2.

related child welfare agencies and community groups. Each Model Court is a source of untold information about how to begin, engage, and institutionalize needed systems change.

### ***THE EL PASO MODEL COURT***

In February 1997, the Children’s Court of the 65<sup>th</sup> Judicial District in El Paso, Texas, in close collaboration with a wide range of key state stakeholders and local agencies responsible for providing services to victimized children and their families in El Paso County, launched the first of its Model Court reform initiatives designed to improve the timeliness and content of judicial proceedings involving abused, neglected, and dependent children. These initiatives were also aimed at improving the timeliness and quality of services provided to these children and their families. The list of innovative programs implemented since 1997 is impressive and includes initiatives to:

- Expedite the court process and increase the level and quality of oversight exercised by the court;
- Expedite and improve the quality of early case planning and delivery of services;
- Improve the quality of legal representation afforded to children and parents in these proceedings, while at the same time taking steps to encourage counsel to represent their clients in a less adversarial manner and one that is more focused on issues related to timely permanency and “the best interests of the child;”
- Reduce the time needed to make and execute permanency decisions, as well as reduce the number of placements children experience after removal;
- Provide better services to children and families through the operation of a family drug court; and
- Encourage and empower parents and extended family members to participate in the court process and to become involved in making decisions regarding their children and families.

### ***Some Background***

El Paso County is the sixth most populous county in Texas. The 2001 U.S. census ranks El Paso County as the 75<sup>th</sup> most populous county in the United States with a population of approximately 680,000 – almost a third of whom are children 17 years of age or

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<sup>10</sup> *Ibid.*

younger (32%).<sup>11</sup> More than three-quarters of the county's residents are of Hispanic origin (78%) and the child poverty rate of 39% is considerably higher than the state rate of 24%, and the national rate of 16%.<sup>12</sup>

El Paso County shares common borders with Juarez, Mexico and Doña Ana County (Las Cruces), New Mexico. The region has a combined population of over two million people.<sup>13</sup> As a border community, the region is unique in its economic and social challenges. The proximity of the international and state borders (particularly the former), the fluidity of movement of children and families across these borders, and the existence of extended family members residing throughout the region complicate the case planning and permanency process for both the El Paso Children's Court and the child welfare system.

El Paso's Children's Court is an Associate Court of the 65<sup>th</sup> Judicial District. The Children's Court has an Associate Judge who presides over all abuse/neglect and uncontested termination of parental rights proceedings. Contested and jury termination of parental rights (TPR) trials are heard by the 65<sup>th</sup> District Court Judge unless all parties agree to have their case heard in the Associate Court. The District Court Judge presides over the family drug court and, in many instances, over companion criminal cases involving parents whose children are under conservatorship orders in Children's Court. The District Court Judge also handles all appeals of Associate Judge decisions.

Region 10 of the Texas Department of Protective and Regulatory Services (TDPRS), Child Protective Services (CPS) is responsible for child protection services in El Paso County.<sup>14</sup> The El Paso County Attorney's Office prosecutes all child abuse and neglect cases filed in the Children's Court including termination proceedings. Four full-time assistant county attorneys specialize in the prosecution of child abuse and neglect cases.<sup>15</sup> A separate assistant county attorney acts as in-house counsel for CPS.

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<sup>11</sup> The city of El Paso has a population of more than 600,000.

<sup>12</sup> Poverty rates are 2000 U.S. Census estimates.

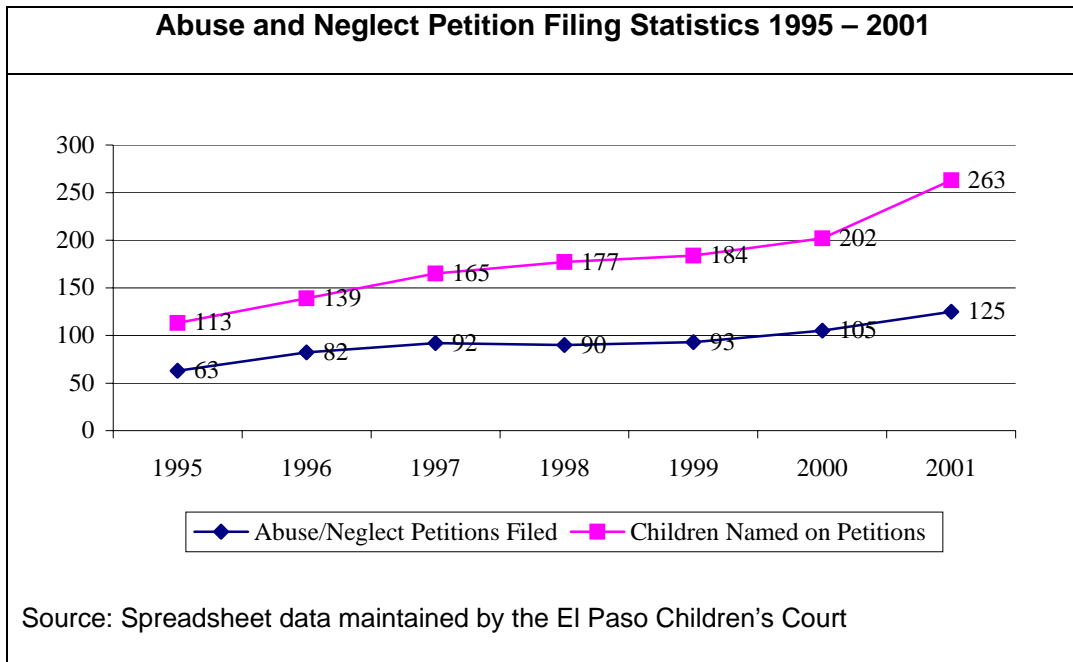
<sup>13</sup> Juarez is the fifth largest city in Mexico with an estimated 1990 population of approximately 1.3 million people. Doña Ana County is New Mexico's second largest county with a population of approximately 175,000 (2001 U.S. Census).

<sup>14</sup> Region 10 caseworkers carry an average caseload of 10 families, which is considerably lower than the statewide average of 14.

<sup>15</sup> These four assistant county attorneys carry an average caseload of 40-45 children.

Parents deemed indigent are appointed counsel from a rotating list of sixteen attorneys, and attorneys *ad litem* are appointed to represent children in abuse and neglect proceedings (most of whom serve on a *pro bono* basis). Approximately two-thirds of children are also provided a Court Appointed Special Advocate (CASA) volunteer.

A review of Children’s Court filing data reveals that the number of abuse and neglect petitions filed in El Paso during the last seven years has steadily increased from 63 petitions in 1995 to 125 in 2001 (see Figure 1).



**Figure 1**

Even with the increased numbers in recent years, the number of new abuse and neglect petitions filed annually with the El Paso Children’s Court is considerably lower than one would expect given the county’s population. While filing practices can vary substantially across jurisdictions and are dependent on a number of factors,<sup>16</sup> petition numbers from

<sup>16</sup> These factors would include the number of calls received by the local child protection agency, the criteria used to screen and respond to these calls, the percentage of such calls substantiated, and the types of cases in which the court becomes involved. For example, the number of new petitions filed in El Paso in which a child remains at home or is in a voluntary placement at the time of petition filing are rare to nonexistent. Almost all, if not all, new petition filings in El Paso are the result of emergency removals. In some jurisdictions, children removed on an emergency basis represent less than half of all new petition filings. The remaining petitions involve children who continue in placement resulting from a previously executed voluntary placement agreement, children who remain in the care of either or both parents (often referred to as in-home petitions), and cases in which a child has been informally cared for by a relative or family friend for an

similar-sized jurisdictions participating in the national Model Courts project are considerably higher. For example, Pima County (Tucson), Arizona with a population of approximately 850,000 has averaged between 450-550 new petitions filed by the local child protective services agency in recent years.<sup>17</sup> Other similar-sized counties involved in the National Child Victims Act Model Courts Project also have substantially greater numbers of petition filings.<sup>18</sup>

A review of agency referral and court filing data provided in the National Child Victims Act Model Courts Project Status Report for 2000 indicate that, in the past year in El Paso County, new petition filings as a percentage of substantiated calls to CPS were approximately 10%. While comparisons of data on calls to local child protective service agencies are also wrought with potential problems similar to those identified in comparing petition filings,<sup>19</sup> all but two jurisdictions in the national Model Courts initiative have rates that are considerably higher.<sup>20</sup>

A close examination of petition filing practices and CPS screening of substantiated investigations in El Paso County was beyond the scope of this project. However, as the

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extended period of time. When comparing petitions filed across jurisdictions, the numbers may also vary in that in some jurisdictions a separate petition will be filed on each child and in other jurisdictions all children in the same family or with the same set of parents will be named on the same petition. Additionally, some jurisdictions permit private citizens to file abuse and neglect petitions while other jurisdictions require that CPS file such petitions.

<sup>17</sup> The vast majority of new dependency petitions by CPS in Pima County, Arizona are the result of emergency removals. However, in recent years, approximately 15-20% of all new filings involve children who remain in the home of a parent. Petitions involving children already in placement as a result of a voluntary placement agreement are rare in Pima County. Additionally, the court accepts dependency petitions filed by private parties including relatives and court-appointed guardians *ad litem*. In recent years, the number of such petitions has increased to the point where these represent approximately 10-15% of the court's new incoming dependency petition caseload. The 450- 550 annual average does not take into account private petition filings.

<sup>18</sup> Other counties with populations similar to that of El Paso County involved in the national Model Courts Initiative include Essex County (Newark), New Jersey; Hamilton County (Cincinnati), Ohio; Jefferson County (Louisville), Kentucky; Marion County (Indianapolis), Indiana; Mecklenburg County (Charlotte), North Carolina; and Multnomah County (Portland), Oregon. Please see petition filing data on these courts contained in the *Child Victims Act Model Courts Project Status Report 2000* published by NCJFCJ's Permanency Planning for Children Department (May 2001). The number of children named on petitions filed in these jurisdictions in 2000 range upwards from 400 (Charlotte) to more than 1,750 (Indianapolis and Louisville).

<sup>19</sup> *Supra*, note 16.

<sup>20</sup> Please see NCJFCJ Permanency Planning for Children Department, *Child Victims Act Model Courts Project Status Report 2000* (May 2001). The two courts with similar rates of petition filings as a percentage of substantiated calls to the agency are Charlotte, North Carolina (12%) and Indianapolis, Indiana (11%). However, the remaining courts have rates that are at least double that of El Paso, and in a number of instances considerably higher.



analysis in later sections of this report will show, the result of these practices is a consistent pattern of children and families petitioned to court on abuse and neglect allegations who are typically beset with multiple and serious problems.

The relatively small number of petitions filed annually has potential resource implications that may make it difficult for other similar-sized jurisdictions to emulate the El Paso model as described in the following pages. For that matter, it may be difficult for El Paso to continue current practices if petition filings increase substantially. Nonetheless, other jurisdictions should find instructive what the El Paso legal and child protection community has accomplished given its limited resource base, and find encouragement in the ability of innovative and collaborative action to overcome sizeable hurdles in re-vamping a court and child protection process that places a premium on arriving at and implementing permanency decisions in a timely manner.

El Paso is not an affluent community. Child poverty rates are close to 40%, family median income is 25% lower than the Texas average,<sup>21</sup> and unemployment rates are consistently higher than that of Texas and the nation.<sup>22</sup> The El Paso Children's Court and its partners have been successful in weaving what appears to be a very intricate service provision system around its most troubled families through collaboration, innovation, persistence, and a strong sense of community and family that places a high priority on embracing its most victimized children.

However, if caseloads continue to rise, some additional triaging of cases coming into court would probably be necessary to determine which children and families are most in need and would most likely benefit from the continuum of services and programs that is described in the following pages. Currently, it appears that this screening/triaging occurs within CPS and is evidenced by the relatively small number of families on which abuse and neglect petitions are filed.

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<sup>21</sup> Median family income rates for El Paso and Texas are U.S. Census Bureau 1997 estimates.

<sup>22</sup> Since 1990, El Paso County's unemployment rates have consistently hovered at about double that for the state of Texas and the nation. For example, as of January 2001, El Paso County's unemployment rate stood at 7.9% and the statewide rate was 3.8% (United States Bureau of Labor Statistics and the Texas Workforce Commission).

***El Paso Case Flow Process***

<b>Timeframe</b>	<b>Court Event</b>	<b>Description</b>
24 Hours from Removal	<b>Emergency Removal/Day One Hearing</b>	<ul style="list-style-type: none"> <li>➤ <i>Ex Parte</i> order hearing.</li> <li>➤ Grounds for removal, initial placement, time frame is established for completion of psychosocial assessment, appointment of attorney <i>ad litem</i> for the child, treatment team meeting calendared.</li> </ul>
14 Days from Removal	<b>Full Adversary Hearing</b>	<ul style="list-style-type: none"> <li>➤ Findings to determine whether child(ren) remain under conservatorship.</li> <li>➤ Psychosocial assessment reviewed, case plan discussed, treatment team plan reviewed and approved/modified.</li> </ul>
Within 30-45 Days of Adversary Hearing (45-60 Days from Removal)	<b>Status Hearing</b>	<ul style="list-style-type: none"> <li>➤ Court reviews appropriateness of service plan.</li> <li>➤ Court reviews compliance of department and parents.</li> <li>➤ Court reviews progress towards permanency.</li> </ul>
3-4 Months from Removal	<b>Initial Permanency Hearing</b>	<ul style="list-style-type: none"> <li>➤ Court reviews department and parents' compliance with court orders and service.</li> <li>➤ Permanency mediation docketed as needed.</li> </ul>
6 Months from Removal and Every 3 Months to Permanency	<b>Permanency Hearing</b>	<ul style="list-style-type: none"> <li>➤ Court determines child(ren)'s permanent plan.</li> <li>➤ Court reviews child(ren)'s status in care and parent's compliance.</li> </ul>

## RESEARCH DESIGN AND METHODOLOGY

### ***EVALUATION OBJECTIVES***

This evaluation sought to examine the various innovative procedures and programs that have been established in the El Paso Model Court to expeditiously process its dependency caseload. Specifically, Model Court efforts were studied by using a comparative sample of cases initiated in 1995 (before Model Court reforms occurred) to cases initiated in 1999 (after implementation of Model Court reforms and post-ASFA).

The overall goal of the evaluation was to describe and highlight key components of El Paso's Model Court process. To this end, a number of case processing and outcome measures were examined including:

- Characteristics of cases in the pre-Model Court and post-Model Court sample (e.g., demographics, petition allegations, service needs of children, and presenting problems of parents);
- Timeliness of appointment of counsel for parents and children;
- Timeliness of court proceedings;
- Specificity of court orders; and
- Case outcomes.

### ***METHODS***

This evaluation employed both quantitative and qualitative (process) methods. Key participants in the El Paso Model Court (i.e., judges, attorneys, caseworkers, treatment providers, and project managers) were interviewed using a semi-structured interview instrument in order to capture their perspectives on Model Court processes and reform initiatives. In addition, numerous meetings were held with the Lead Judge of the Model Court and representatives of each of the stakeholder groups involved in the El Paso Model Court project in order to solicit their input into the evaluation. To extract case-processing data from court files, a case-file review form was created and piloted on a

pre-test sample of cases.<sup>23</sup> Revisions were made to the instrument as needed. Copies of the instrumentation are included in the Appendix of this report.

**Analyses.** Empirical codebooks were constructed for the case-file review instruments. Thematic codes were generated for all multiple-response questions and were based on a sample of completed case-file review instruments. Data from all instruments were then entered into a statistical software program (SPSS) for analysis. Frequencies and cross-tabulations were then run on all variables of interest. Findings from the case-file analyses and interviews with key stakeholders are presented in the context of Model Court processes and activities in the body of this report.

**Case File Review Sample.** Project staff conducted a comparative analysis of case-level data by examining a sample of cases filed in 1995 (pre-Model Court) and a sample of cases filed in 1999 and 2000 (post-Model Court, post-ASFA cases). Petition filings in both samples were randomly selected from the population of all dependency petitions filed during those time frames. A total of 65 cases were studied in the Model Court sample, and a total of 45 cases were examined in the pre-Model Court sample. A review of these case files on demographic characteristics (see Tables 1 and 2) indicate that the samples randomly selected for comparative purposes were sufficiently similar so that any differences in case timelines and outcomes can be attributed to the differing case practices and requirements in existence (i.e., Model Court implementation and Adoption and Safe Families Act (ASFA) and state statute time frame mandates).

Data in Table 1 reveal only minor differences between the two study samples in average age of children at petition filing, gender, parents' age, and average number of children named on a dependency petition. Unfortunately, the research team could not record data on race and ethnicity of the children named on the petitions because this information was not reliably contained in the case files.

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<sup>23</sup> The Model Court in El Paso lacks sufficient capacity for tracking case processing information in a computerized management information system. To overcome this deficiency, the Model Court currently tracks what information it can via an Excel spreadsheet system. Time and resource constraints, however, make this information less comprehensive than was needed to meet the goals of this research project. As a result, research staff conducted an archival analysis of case files.

The number of cases subject to the Indian Child Welfare Act (ICWA) was essentially identical in the two groups. There were some differences in the number of prior CPS investigations of the family, previous dependency petitions filed on the same child and on siblings, but these differences were not statistically significant.

A comparison of the child's placement status at petition filing revealed few differences. However, it is important to note that two placement options (Assessment Foster Homes and Legal Risk or Fost/Adopt Foster Homes) were not available as options to the cases filed pre-Model Court. These placement options will be described later in the report. For cases in which siblings were the subjects of petitions, 79% were placed together in the pre-Model Court sample (n=19 of 24), and 92% were placed together in the post-Model Court sample (n=60 of 65).

**Case File Demographics<sup>24</sup>**

<b>Pre-Model Court and Post-Model Court Case File Demographics</b>		
	<b>Pre-Model Court (1995-96 petition filings; N=45)</b>	<b>Post-Model Court (1999-2000 petition filings; N=65)</b>
<b>Child's Age at Petition Filing</b>	Average = 3.8 yrs; range = 2-18 (n=96)	Average = 4.4 yrs; range = 1-18 (n=112)
<b>Average Number of Children on Petition</b>	2.6	2.8
<b>Average Age of Mother</b>	27.8 yrs	31.3 yrs
<b>Average Age of Father</b>	25.1 yrs	28.4 yrs
<b>ICWA Cases</b>	31% (n=14)	15% (n=10)
<b>ICPC Cases</b>	13% (n=6)	12% (n=8)
<b>Placement Status at Time of Petition Filing</b>	Foster Home: 58% (n=26) Relative Placement: 13% (n=6) Group Foster Home: 29% (n=13)	Foster Home: 43% (n=28) Relative Placement: 11% (n=7) Group Foster Home: 6% (n=4) Assessment Foster Home: 37% (n=24) <sup>25</sup> Legal Risk Foster Home: 3% (n=2) <sup>26</sup>
<b>Number of Cases with Prior CPS Investigations of Family</b>	78% (n=35)	86% (n=56)
<b>Prior Dependency Petition Filed with Court on this Child</b>	11% (n=5)	20% (n=13)
<b>Prior Dependency Petition Filed with Court on Siblings</b>	13% (n=6)	28% (n=18)

**Table 1**

<sup>24</sup> Information about race and ethnicity was not kept reliably in case files.

<sup>25</sup> This placement option was not available to cases filed in the 1995-1996 sample.

<sup>26</sup> *Ibid.*

<b>Pre-Model Court and Post-Model Court Additional Case File Demographics</b>		
	<b>Pre-Model Court (1995-96 petition filings; N=45)</b>	<b>Post-Model Court (1999-2000 petition filings; N=65)</b>
<b>Petition Allegations</b>		
➤ Physical Abuse	29% (n=13)	43% (n=28)
➤ Sexual Abuse	7% (n=3)	6% (n=4)
➤ Neglect	84% (n=38)	75% (n=49)
<b>Parents' Presenting Problems</b>		
➤ Substance Abuse	60% (n=27)	75% (n=49)
➤ Domestic Violence	33% (n=15)	20% (n=13)
➤ Criminal Activity	22% (n=10)	28% (n=18)
➤ Mental Health	4% (n=2)	9% (n=6)
➤ Parenting Skills	47% (n=21)	46% (n=30)
➤ Housing	18% (n=8)	17% (n=11)
<b>Children's Needs</b>		
➤ Behavior Problems	18% (n=8)	23% (n=15)
➤ Mental Health	13% (n=6)	15% (n=10)
➤ Pre-Natal Exposure to Drugs/Alcohol	33% (n=15)	43% (n=28)
➤ Physical Disability	9% (n=4)	12% (n=8)
➤ Mental Retardation	22% (n=10)	20% (n=13)

**Table 2**

Table 2 presents a comparison between the two study samples on petition allegations and parental and child presenting problems. This information was obtained from the case files for the two samples, where petitions, CPS reports, psychological assessment reports, service provider reports, and other documents were reviewed to determine the

frequency of a wide range of child and family problems. The data in Table 2 reveal an increase in the number of allegations of physical abuse in the post-Model Court sample (1999-2000 filings). There was a slight decrease in allegations of neglect in the post-Model Court cases, but the number of sexual abuse allegations in the post-Model Court sample remained essentially the same as in the pre-Model Court sample of cases. None of the overall differences, however, were statistically significant.

It is clear from the data that the children and families petitioned to the court on abuse and neglect allegations are beset with multiple and serious problems – particularly related to substance abuse (e.g., most of the parents and children in *both* samples suffer from the consequences of drug and alcohol abuse).

<b>Additional Data from Case File Review Demographics</b>	
<p><b>Pre-Model Court Cases</b> (1995-96 petition filings; N=45)</p>	<p><b>Post-Model Court Cases</b> (1999-00 petition filings; N=65)</p>
<p><b>Immigration:</b> Immigration was an issue for families in 18% of cases (n=8 of 45).</p>	<p><b>Immigration:</b> Immigration was an issue for families in 11% of cases (n=7 of 65).</p>
<p><b>Incarceration:</b> Mothers were incarcerated at the time of petition filing in 11% of cases (n=5 of 45). Fathers were incarcerated at the time of petition filing in 13% of cases (n=6 of 45).</p>	<p><b>Incarceration:</b> Mothers were incarcerated at the time of petition filing in 12% of cases (n=8 of 65). Fathers were incarcerated at the time of petition filing in 15% of cases (n=10 of 65).</p>
<p><b>Subject of a Dependency Petition as a Child:</b> Mothers had been subject of a dependency petition when they were children themselves in 22% of cases (n=10 of 45). This information was not consistently provided in the case files for fathers.</p>	<p><b>Subject of a Dependency Petition as a Child:</b> Mothers had been subject of a dependency petition when they were children themselves in 18% of cases (n=12 of 65). This information was not consistently provided in the case files for fathers.</p>
<p><b>Paternity at Issue at Time of Filing:</b> Paternity was at issue in 40% of cases (n=18 of 45).</p>	<p><b>Paternity at Issue at Time of Filing:</b> Paternity was at issue in 32% of cases (n=21 of 65).</p>

**Table 3**



<b>EVALUATION FINDINGS: EL PASO MODEL COURT ACTIVITIES</b>
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***EXPEDITING AND EXPANDING THE COURT PROCESS***

The El Paso Children's Court is actively involved in, and maintains close oversight of, all cases under its jurisdiction from case initiation through case closure. Case processing timelines generally meet and exceed those recommended in the *RESOURCE GUIDELINES*<sup>27</sup> and the companion *ADOPTION AND PERMANENCY GUIDELINES*.<sup>28</sup> Case assignment and the scheduling of hearings is simplified by the fact that one Associate Judge presides over all Children's Court cases and the 65<sup>th</sup> District Court Judge presides over all contested termination cases.

Hearings are scheduled for a time-certain and the time allotted allows for detailed examination of various issues related to reasonable efforts, placement, services, visitation, case progress, and permanent plan determinations. Interview and hearing observation data indicate that hearings rarely take less than 30 minutes and full adversary hearings often take up to two hours or longer. A wide range of parties is expected to attend and actively participate in court hearings including foster parents and service providers.

The court process is a mixture of formal and informal procedures. Consistent with *RESOURCE GUIDELINES*<sup>29</sup> recommendations, the Children's Court courtroom is considerably smaller and more comfortable than a conventional courtroom. The courtroom features a slightly raised bench and a U-style seating arrangement at counsel tables that allows parties and their attorneys to sit before the judge's bench. Two rows of open-seating benches are placed at the back of the courtroom to accommodate interested parties including foster parents, service providers, relatives and family friends, and other witnesses who may be called to testify. A bailiff and a court recorder are present at all times the court is in session.

The Associate Judge uses a laptop computer to prepare court orders. Detailed orders are prepared in the courtroom and are distributed to all parties at the conclusion of each

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<sup>27</sup> *Supra*, note 2.

<sup>28</sup> *Ibid.*

<sup>29</sup> Please see *RESOURCE GUIDELINES*, p. 24.

hearing. At the start of each hearing, assistant county attorneys prepare and provide the court a hard copy and electronic version of a proposed court order that the Associate Judge uses to develop the actual court order.

CPS caseworkers and service providers are routinely sworn in and required to provide detailed testimony on issues related to reasonable efforts, placement, services, visitation, and progress on achieving permanency goals. Foster parents and CASAs are also regularly required to provide formal testimony and to informally respond to questions directed to them from counsel and the bench. Counsel for parents and children are given the opportunity to cross-examine and to present their own witnesses. Parents and age-appropriate children are also called upon to participate and respond to questions from counsel and the bench and may be sworn in to provide formal testimony. The Associate Judge will typically address parents after formal testimony has concluded, reaffirm permanency time frames, admonish or encourage parents (as appropriate) to adhere to case plan requirements/timelines, and urge parents to cooperate with their caseworkers and service providers in meeting these.

All individuals interviewed are supportive of the expanded hearing and the importance of this process in identifying and reaffirming case plan objectives, ensuring that all parties understand what is expected of them, ironing out any coordination issues related to services/visitation, and reminding parents of the accelerated permanency timelines and the potential consequences of not addressing issues identified in the case plan in a timely manner. However, most interviewees expressed varying levels of frustration with the amount of time spent waiting for hearings to start. Even with time-certain scheduling, it appears that hearings regularly take longer than scheduled and that these tend to back up during the course of the day. Some interviewees also suggested that the court need not require detailed testimony on issues in which there is already an agreement.<sup>30</sup>

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<sup>30</sup> An example given is that the court still requires detailed testimony regarding petition allegations and the circumstances surrounding the removal of children at the full adversary hearing in instances in which stipulations have been worked out at the pre-trial. While others acknowledged the importance of doing this in identifying service issues and to place the facts on the record if reunification is not feasible, all parties interviewed indicated that full adversary hearings can be long and arduous.

### ***The Early Model Court Hearing Process***

The advent of the Model Court did not result in substantial changes to the timing of the early hearing process. What changed, however, was the scope of the issues addressed at these hearings and the amount of casework done in preparation for them. In many respects, these changes have been dramatic. The process culminating with the placement and services portion of the full adversarial hearing is routinely completed within two weeks of the children's removal from the home. By that time, counsel has been appointed for all parties and become integrally involved in the case, assessments of children and (oftentimes) parents have been completed, detailed service and placement recommendations have been developed by a multidisciplinary treatment team, an appropriate placement consistent with the treatment team's placement criteria has been identified, an initial case plan has been developed, and the case has been transferred to the CPS substitute care worker who will work with the family through the permanency process.

The early hearing process, however, does not provide parents with an opportunity to formally contest petition allegations and the circumstances surrounding the removal of their children prior to the full adversarial hearing. Texas statutes only require that this hearing be scheduled within 14 days of the children's removal and the El Paso Children's Court does not appear to have established any procedures to accelerate this hearing if parents formally request it.<sup>31</sup> In most states, statutes require the court to conduct such a hearing within one to three days of removal.<sup>32</sup>

### ***Ex Parte Hearing***

Consistent with state statutes, an initial *ex parte* hearing is held on the first working day after a child's removal from the home,<sup>33</sup> with a formal hearing to follow within 14 days of

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<sup>31</sup> It appears that CPS is entitled to an expedited appeal hearing if, at the initial hearing, the court decides that insufficient evidence exists to remove the child from the home (Texas Family Code 262.112). However, no similar provision exists for parents to request that full adversarial hearings be accelerated.

<sup>32</sup> The *RESOURCE GUIDELINES* also recommend that this hearing occur within 72 hours – particularly if parents are contesting the agency's decision to remove their children (pg. 30).

<sup>33</sup> This initial hearing may be conducted *ex parte* and proof of the need for removal may be provided by sworn petition or affidavit. If the court is not in session on the first working day, state statutes require that the hearing be held no later than the first working day after the court becomes available. However, in no event can this hearing be held later than the third working day after the child is taken into custody (Texas Family Code 262.106).

removal to determine if “sufficient evidence” exists to justify the removal and to warrant continued temporary placement of the child (referred to in state statutes as the full adversary hearing).<sup>34</sup> As Table 4 demonstrates, the average number of days from removal to the *ex parte* hearing for the post-Model Court sample of cases studied was 1.69 days. This is only a slight, and non-statistically significant, difference from the average of 2.28 days from removal to *ex parte* hearing found in the pre-Model Court (pre-ASFA) sample of cases. However the range of days in which this hearing is held is considerably smaller in the post-Model Court/post-ASFA sample of cases studied (1-14 days in the pre-Model Court sample vs. 1-6 days in the post-Model Court sample).

<b>Average Number of Days from Removal to <i>Ex Parte</i> Hearing</b>		
	<b>Pre-Model Court (1995-96 petition filings; N=45)</b>	<b>Post-Model Court (1999-2000 petition filings; N=65)</b>
<b>Average Number of Days from Removal to <i>Ex Parte</i> Hearing</b>	Average = 2.28 days  Range: 1-14 days	Average = 1.69 days  Range: 1-6 days

**Table 4**

The *ex parte* hearing is typically scheduled for the end of the court day at which time the Associate Judge examines the evidence presented in support of the removal and, if warranted, issues an *ex parte* temporary restraining order granting CPS conservatorship pending a full adversarial hearing.<sup>35</sup> A great deal of activity occurs in anticipation of this hearing and the granting of the *ex parte* order naming CPS as temporary conservator of the children – more so than was the case pre-Model Court.

- In the post-Model Court process, in addition to the CPS investigations worker, the case has already been assigned to an *assessment worker* who is responsible for coordinating and expediting the early assessment process leading up to the full adversarial hearing. (This “front-loaded” assessment process is described in detail in pp.49-55)
- The assessment worker has identified an assessment foster home to which the children have been taken. This temporary home provided

<sup>34</sup> Texas Family Code 262.201.

<sup>35</sup> The Children’s Court Coordinator will inform CPS and the County Attorney’s Office when the court calendar for that day has been completed.

by specially recruited and trained foster parents will serve as the focal point for all assessment activities over the ensuing two weeks.

- Psychosocial evaluations have already been scheduled for children and parents and a date for the multi-disciplinary treatment team meeting has been set at which placement and service recommendations are developed. The treatment team meeting typically precedes the date of the full adversarial hearing.
- An attorney *ad litem* has been identified for the children and attorney appointments have been made for the parents.<sup>36</sup> In many instances, a CASA has also been appointed.

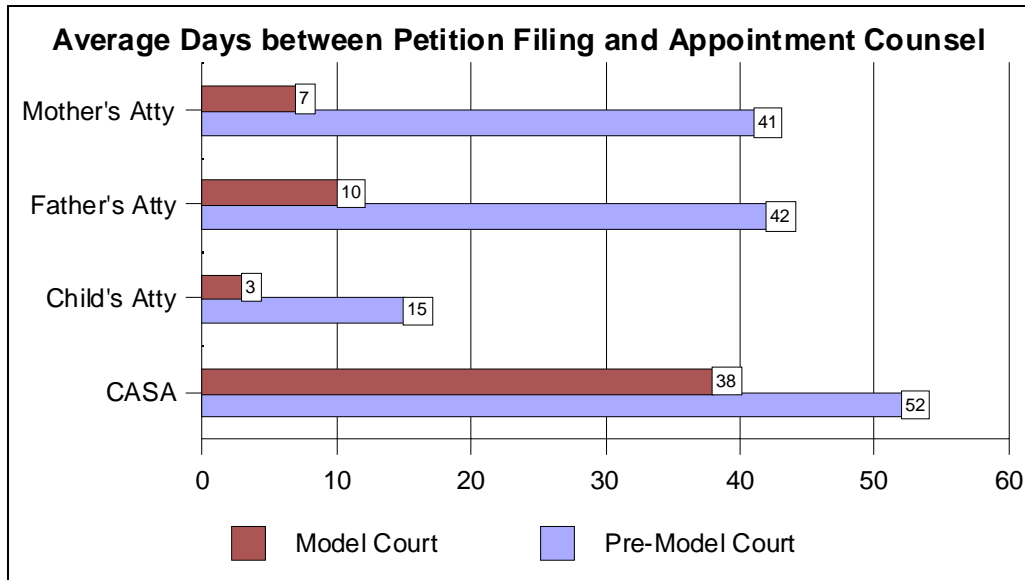


Figure 2

As Figure 2 demonstrates, the appointment of counsel for all parties occurs considerably earlier in the court process in the post-Model Court sample of cases studied. Differences in average number of days between petition filing and appointment of counsel for all parties (i.e., parents' attorneys, child's attorney, and CASA) were statistically significant ( $p < .05$ ).

Ideally, the following will be in attendance at the *ex parte* hearing – the removing worker (typically an investigations worker), the removing worker's supervisor, and the assistant county attorney assigned to the case. The hearing is held in chambers with the

<sup>36</sup> These appointments are considered tentative based on a determination by the court that the parents are indigent. However, attorneys are notified of their appointment shortly after the *ex parte* hearing, and interview data indicated that they are in contact with their clients within a couple of days after this appointment.

assistant county attorney briefing the judge regarding circumstances surrounding the removal as contained in the petition and caseworker affidavit. The removing caseworker will answer any questions that may arise. This hearing typically lasts approximately 15-30 minutes.

If the evidence warrants, the court will issue an *ex parte* temporary restraining order awarding the agency temporary managing conservatorship pending a full adversarial hearing. The order will include a number of key scheduling dates as well as identify appointed counsel for children and parents. The order may also include a request for appointment of a CASA volunteer. Key scheduling dates contained in the order include:<sup>37</sup>

- The date and time of the full adversarial hearing;
- The date and time of the pre-trial which precedes the full adversarial hearing;
- The provision that an administrative hearing to determine if a parent is indigent and eligible for court-appointed counsel will occur 30 minutes before the scheduled pre-trial;
- The date, time, and location of the treatment team meeting; and
- The dates, times, and locations of psychosocial evaluations scheduled for the children and parents.

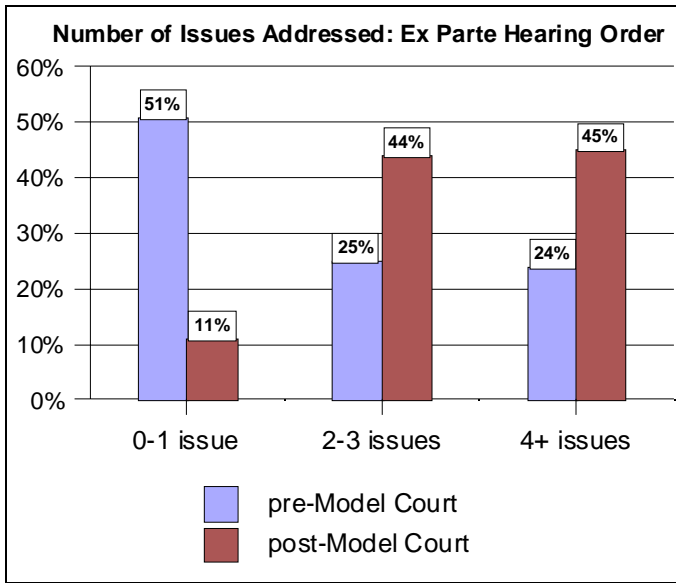
Data collected from court files for both the pre-Model Court and post-Model Court samples indicated that court orders stemming from the *ex parte* hearings post-Model Court were considerably more detailed and specific regarding placement, visitation, and services.<sup>38</sup> Data presented in Figure 3 reveal that 45% of orders generated from *ex parte* hearings in the post-Model Court sample specifically addressed four or more separate issues (in addition to reasonable efforts and routine matters such as the scheduling of the next hearing).<sup>39</sup> An additional 44% of orders addressed 2-3 separate issues. Contrast this with the pre-Model Court sample of cases, in which half (51%) of the orders generated at the *ex parte* hearing addressed one or no issues (other than references to reasonable efforts

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<sup>37</sup> Full adversarial hearings are most frequently scheduled on Fridays with some spillover to Mondays if the Friday calendar is full.

<sup>38</sup> Court orders contained in the pre-Model Court and post-Model Court samples were analyzed to determine the degree to which these orders addressed more than 20 separate issues, including those related to the case plan goal, placement, home studies, visitation, psychological assessments, substance abuse assessments, treatment, etc.

and routine matters such as scheduling of the next hearing). Only 24% of pre-Model Court orders addressed four or more specific issues. Orders generated from the *ex parte* hearing in the post-Model Court sample addressed an average of 8.2 issues compared to an average of 1.8 issues in the pre-Model Court sample of cases. These differences were statistically significant ( $p < .05$ ).



**Figure 3**

Figure 4 identifies the types of issues specifically addressed in *ex parte* hearing orders in the two samples studied. As stated, these are issues in addition to reasonable efforts and routine matters related to scheduling. A specific placement order was found in fairly similar percentages of orders in pre-Model Court cases (81%) and post-Model Court cases (88%). Similar frequencies were also found for the number of orders for parenting classes – 8% of pre-Model Court orders compared to 11% of post-Model Court orders. Substance abuse assessments or services for parents were ordered in slightly more of the post-Model Court cases – 18% of post-Model Court cases versus 12% of pre-Model Court cases.

However, there were clear differences in the frequency in which other issues were specifically referenced in *ex parte* hearing orders. Visitation was more likely to be

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<sup>39</sup> An issue was coded as “specifically addressed” if it was specifically mentioned in the order.

specifically addressed in post-Model Court cases – 69% of orders compared to 57% of pre-Model Court orders. Psychological assessments and services for the parents were specifically ordered in 22% of post-Model Court cases compared to only 6% of pre-Model Court cases. A case plan goal was specifically referenced in 44% of the post-Model Court sample versus only 3% of the pre-Model Court sample. Similar differences were found in the frequency with which special services for the child, paternity testing, and protective orders were addressed. Strikingly, while 15% of *ex parte* hearing orders in the post-Model Court sample ordered home studies on relatives or kin to be undertaken, none of the pre-Model Court sample of *ex parte* hearing orders specifically addressed this issue. Similarly, transportation (7%) and housing (8%) assistance were specifically referenced in the post-Model Court sample of cases but not at all in the pre-Model court sample of cases studied.

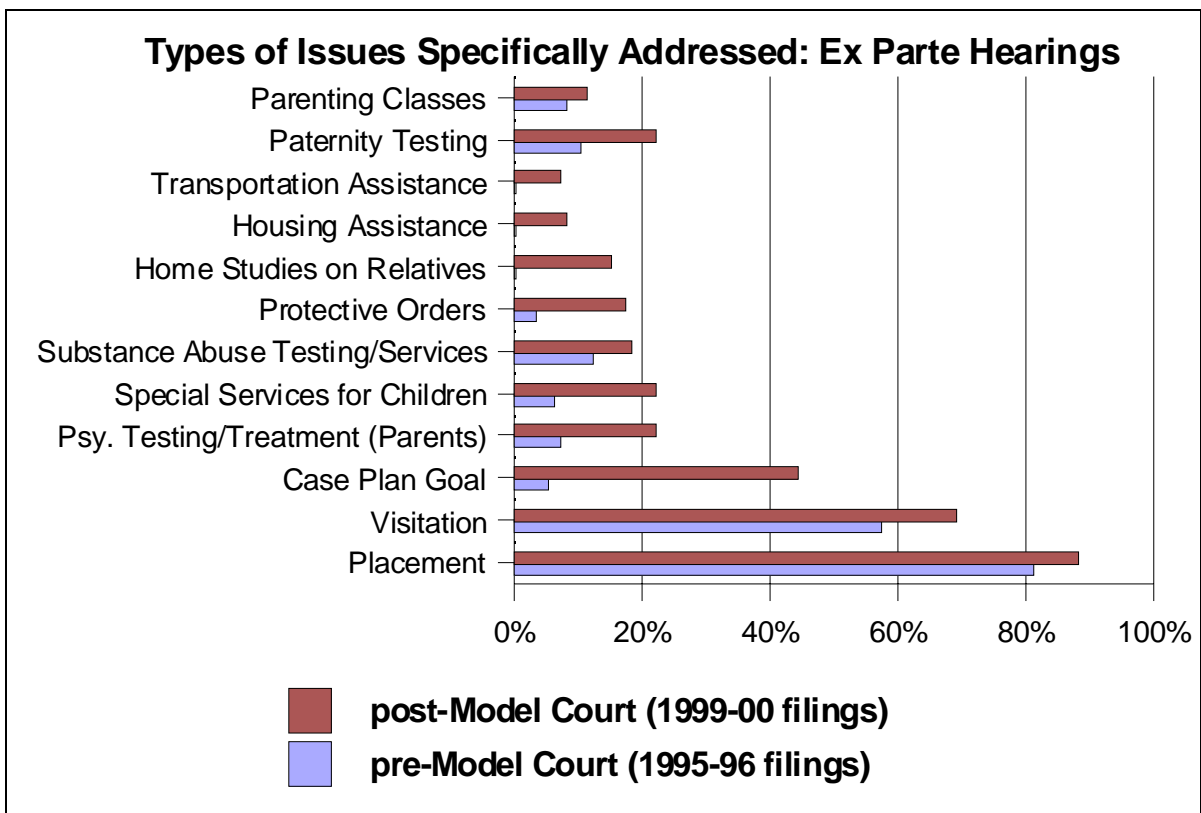


Figure 4

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Any general references to issues raised in the case plan or reports submitted were not counted.



### Pre-Trial and Indigency Hearings

A pre-trial is scheduled on the Monday prior to the full adversarial hearing. Attorneys, parents, and the receiving substitute care worker are required to attend the pre-trial and in some instances relatives and service providers may attend. A CASA volunteer or coordinator will also attend if a volunteer advocate has been appointed. Pre-trials typically last approximately 30-60 minutes and are held in a conference room adjacent to the Children's Court courtroom. At the pre-trials, attorneys will attempt to arrive at some agreement regarding allegations contained in the petition, the circumstances resulting in removal of the children, and the efforts of CPS to prevent removal. However, any agreement that has been negotiated by the attorneys will not be reviewed and accepted by the court until the full adversary hearing and only after detailed testimony is taken on these matters.

The court has been scheduling pre-trials before full adversarial hearings since 1996 (shortly before the start of Model Court). Interview data suggest that attorneys like the process – particularly children's attorneys *ad litem* who feel that this process is preferable to "everyone meeting in the halls." The structure these pre-trials bring to the process and the fact that these proceedings are "on the record" has a psychological impact on the parents and conveys to them early on the gravity of the court process.

Thirty minutes before the time of the scheduled pre-trials, an administrative hearing is conducted to determine if parents are indigent and therefore eligible for court-appointed representation. The Model Court coordinator will interview the parents and make this determination. The coordinator also creates the court order for the Associate Judge to sign. Almost all parents qualify for court-appointed representation and if not, the court will issue an order for court costs associated with the appointment of counsel.<sup>40</sup> In certain instances, the court will also enter an order stating that it is in the "best interest of the children" that counsel be appointed for a non-indigent parent.

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<sup>40</sup> Only infrequently does the court issue an order requiring parents to reimburse the court for costs associated with appointed counsel. Parents have the option of retaining their own private counsel in lieu of representation by counsel appointed by the court. This also happens rarely.

Full Adversarial Hearing

The full adversary hearing is the first formal hearing after children have been removed from the home. Consistent with state statutes, this hearing is held no later than 14 days after the date of removal<sup>41</sup> and, in essence, is a combination shelter and adjudication hearing. It can be considered the shelter hearing in that this is the first opportunity parents and their attorneys have to contest petition allegations, the circumstances surrounding the removal of the children, and the continuing need for the children to remain in placement. In the sample of cases studied, time frames from removal to the full adversary hearing were an average of 12 days for the post-Model Court (post-ASFA) sample and 17 days for the pre-Model Court sample. This difference of 5 days, on average, was not a statistically significant difference.

<b>Average Number of Days from Removal to Full Adversarial Hearing</b>		
	<b>Pre-Model Court (1995-96 petition filings; N=45)</b>	<b>Post-Model Court (1999-2000 petition filings; N=65)</b>
<b>Average Number of Days from Removal to Full Adversary Hearing</b>	Average = 17days  Range: 6-31 days	Average = 12 days  Range: 1-18 days

**Table 5**

While it does not appear that Texas statutes require a formal adjudicatory decision by the court that a child was maltreated, dependent, or in need of services, the full adversarial hearing can also be considered an adjudicatory hearing in that evidence is presented and the court will rule on petition allegations and the continuing need for children to remain in placement and under temporary agency conservatorship. This determination will also trigger statutory requirements for CPS to file a case plan with the court and for the court to conduct a status hearing to “review the child’s status and the service plan developed for the child.”<sup>42</sup>

<sup>41</sup> Texas Family Code 262.201.

<sup>42</sup> Texas Family Code 263.201. Per this statute, the status hearing shall occur no later than 60 days after appointing the court temporary managing conservator.

Full adversarial hearings are scheduled on Fridays or the following Monday if the Friday calendar cannot accommodate such a lengthy hearing. These hearings are usually scheduled for two hours but a number of individuals interviewed indicated that it is not uncommon for these hearings to take considerably longer – up to four hours.

Interview data indicate that the full adversary hearing is two distinct hearings that are held on the same day but in a bifurcated manner. The first phase of the full adversary hearing is an evidentiary hearing examining petition allegations, the circumstances surrounding the removal of the children, and reasonable efforts taken by the agency to prevent removal. This phase of the hearing culminates with the court deciding whether to issue an order granting temporary managing conservatorship to the agency. If such an order is granted, the court will move on to the second phase which is commonly referred to as the services and placement hearing at which the court will accept testimony on treatment team placement and service recommendations. Interview data indicate that the court will sometimes separate these two hearing phases and conduct the services and placement portion on the following Monday.

A wide variety of individuals will participate in the full adversary hearing. In addition to the assistant county attorneys prosecuting the case, attorneys appointed for children and parents, parents, CPS caseworkers, relatives and family friends, and the CASA volunteer (if appointed) are present at the fully adversary hearing. The CPS investigations worker participates in the evidentiary component of the full adversary hearing but is excused from the services and placement portion. The reverse is true for the assessment worker and the substitute care worker who will assume sole responsibility for the case after the hearing is completed.<sup>43</sup> These workers attend the services and placement portion of the hearing but not the earlier evidentiary phase of the proceedings. Assessment foster parents and prospective foster parents with whom the children are to be placed are in attendance and participate. Therapists who have completed assessments of the children and parents are also called on to testify. School officials and other service providers identified in the treatment recommendations and initial case plan are also routinely in attendance.

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<sup>43</sup> Interview data indicate that investigations and substitute care supervisors sometimes also attend the appropriate phases of the full adversary hearing.

Typically, by the time the services and placement phase of the full adversary hearing is completed, placement decisions have been finalized and a comprehensive case plan has been set in place, as well as a clear schedule as to how and when services are to be provided. In fact, a number of these services may have already been initiated by CPS prior to the hearing.

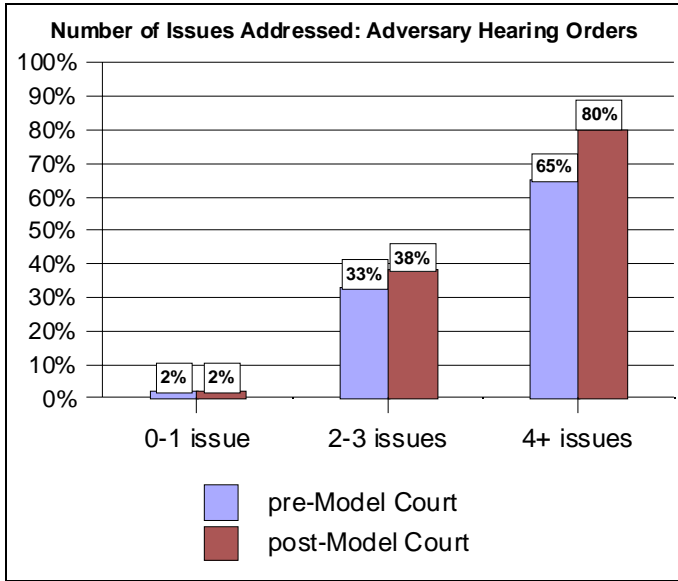
The court will generate separate orders for each of the two hearing phases and distribute these to the appropriate parties at the conclusion of each hearing phase. The evidentiary hearing order will address petition allegations, circumstances surrounding the removal, reasonable efforts, and the court's decision on conservatorship. The services and placement hearing order will address, in detail, all decisions made regarding placement, visitation, services, and an initial permanency plan (which is typically either a concurrent plan of reunification or termination of parental rights/adoption or guardianship).

Data collected from court files for both the pre-Model Court and post-Model Court samples indicate that court orders stemming from the full adversary hearing were more detailed and specific in the latter.<sup>44</sup> Data presented in Figure 5 reveal that the majority of orders generated from adversary hearings (80%) in the post-Model Court sample specifically addressed four or more separate issues (in addition to reasonable efforts and routine matters such as the scheduling of the next hearing).<sup>45</sup> An additional 38% of orders addressed 2-3 separate issues. Contrast this with the pre-Model Court sample of cases, in which 65% of the orders generated at the adversary hearing addressed four or more separate issues. Orders generated from the adversary hearing in the post-Model Court sample addressed an average of 16.2 issues compared to an average of 8.6 issues in the pre-Model Court sample of cases. This represents a statistically significant difference between the two samples with respect to the specificity of orders ( $p < .05$ ) generated from the adversary hearing.

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<sup>44</sup> *Supra*, note 38.

<sup>45</sup> *Supra*, note 39.



**Figure 5**

Figure 6 identifies the types of issues specifically addressed in adversary hearing orders in the two samples studied. As noted, these are issues in addition to reasonable efforts and routine matters related to scheduling. Forty-five adversary hearing orders were examined for the pre-Model Court sample (1995-96 filings) and 65 adversary hearing orders were examined for the post-Model Court sample (1999-00 filings). Analysis focused on the services and placement order rather than on the evidentiary hearing order, which addresses petition allegations, circumstances surrounding the removal, reasonable efforts, and the court’s decision on conservatorship.

A specific reference to placement was found in fairly similar percentages of adversary hearing orders in pre-Model Court (71%; 32 of 45) and post-Model Court cases (78%; 51 of 65). Similar frequencies were also found for the number of orders for visitation (81% of pre-Model Court orders and 85% of post-Model Court orders), psychological testing and services for parents (53% of pre-Model Court orders and 48% of post-Model Court orders), substance abuse assessment and services (79% of pre-Model Court orders and 71% of post-Model Court orders), parenting classes (33% of pre-Model Court orders and 28% of post-Model Court orders), employment services (26% of pre-Model Court orders and 28% of post-Model Court orders), and protective orders (12% of pre-Model Court orders and 19% of post-Model Court orders).

However, there were clear differences in the frequency in which other issues were specifically referenced in adversary hearing orders. A case plan goal was more likely to be specifically referenced in 58% (n=38 of 65) of the post-Model Court sample versus 31% (n=14 of 45) of the pre-Model Court sample of orders. Similar differences were found in the frequency with which special services for the child were ordered (64% of post-Model Court orders and only 40% of pre-Model Court Orders). Paternity testing and housing assistance were more likely to be specifically referenced in the pre-Model Court sample of adversary hearing orders. Moreover, while none of the pre-Model Court sample of *ex parte* hearing orders specifically addressed home studies on relatives, by the adversary hearing 28% of orders addressed this issue (compared with only 9% of post-Model Court adversary hearing orders). Nevertheless, as stated, all of these issues (paternity testing, housing assistance, and home studies on relatives) were more likely to be specifically addressed as early as the *ex parte* hearing stage in the post-Model Court sample of cases. Early progress on these issues may have resulted in less need for them to be addressed by the adversary hearing in the post-Model Court sample.

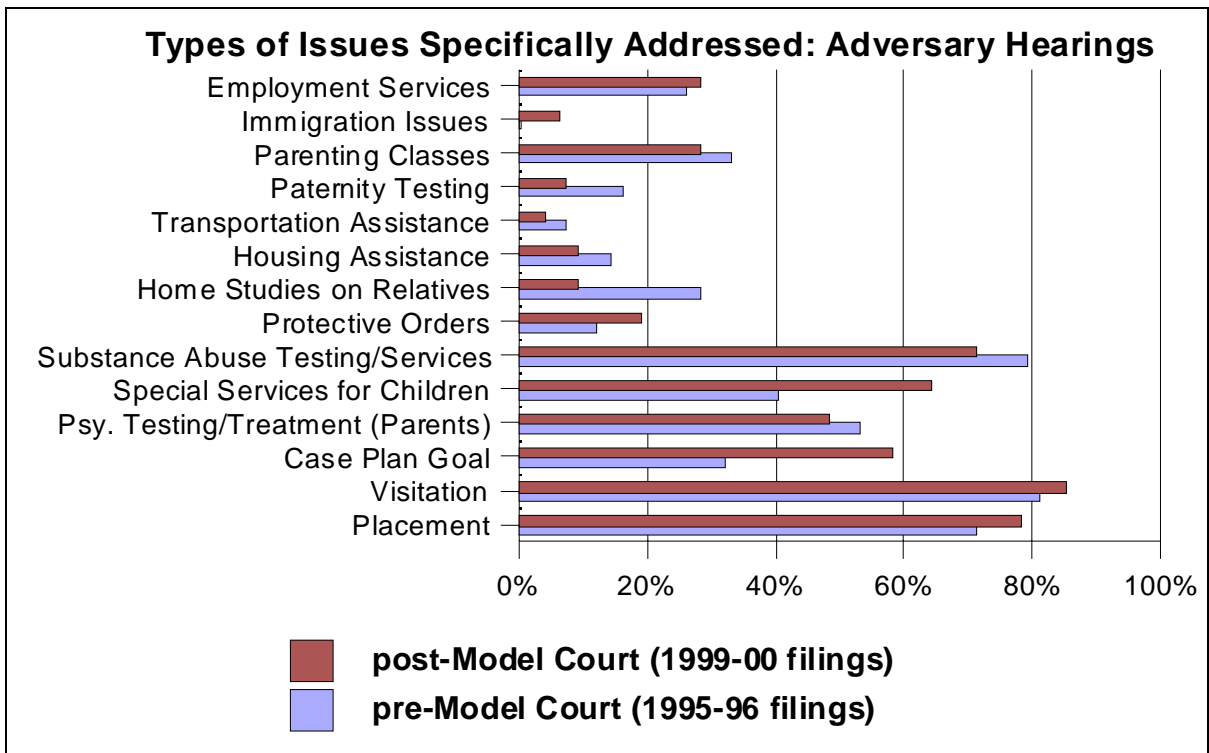


Figure 6

Case Plan Meeting and Status Hearing

The impact of “front-loading” – specifically all of the casework that has been accomplished during the first two weeks of the case – becomes evident by the time of the service plan meeting and the status hearing. Time frames for both are reduced considerably (by half or more) and the primary purpose of the latter changes from that of a dispositional proceeding to a status proceeding to closely examine progress made on achieving case plan goals.

State statutes require that CPS file a formal case plan with the court within 45 days of the full adversarial hearing (and 59 days of removal), that is “the date the court renders a temporary order appointing the [agency] as temporary managing conservator.”<sup>46</sup> Case plans in El Paso are developed much sooner than state statutory time frames. All the components of the service plan have been identified by the conclusion of the full adversary hearing and in all likelihood a number of these have already been set in place. All that is needed is for the substitute care worker to incorporate the treatment team recommendations approved by the court into the service plan format adopted by the agency and for the worker to meet with the parents (represented by their appointed counsel) to discuss each term and condition of the plan and to obtain the parent’s signature.<sup>47</sup> This meeting is typically scheduled within a week of the full adversary hearing (21 days from the date of the child(ren)’s removal).<sup>48</sup>

State statutes also require the court to review the child’s status and the service plan at a status hearing which is to occur no later than 60 days after the full adversarial hearing (74 days after a child’s removal). Essentially, this hearing (as described in state statutes) is the equivalent of a dispositional hearing at which the court is to review the service plan filed with the court “for reasonableness, accuracy, and compliance with requirements of the court order.”<sup>49</sup> State statutes also require the court to advise the parties that progress under the service plan will be reviewed at all subsequent hearings.

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<sup>46</sup> Texas Family Code 263.101.

<sup>47</sup> Texas Family Code 263.103: “If the [agency] determines that the child’s parents are unable to or unwilling to sign the service plan, the [agency] may file the plan without the parents’ signatures.”

<sup>48</sup> Interview data indicate that the substitute care worker attempts to meet with the parents before the service plan meeting to review the prospective service plan – this allows for some last-minute customization of the plan prior to the formal meeting.

<sup>49</sup> Texas Family Code 263.202.

In El Paso, the status hearing is typically held approximately 30 days after the full adversary hearing and no later than 45 days from that date (44-60 days from removal). However, the purpose of the hearing is more that of a review than a dispositional hearing. Treatment team recommendations and the case plan have already been in place and services have been initiated for a month or more by the time of the status hearing. Consequently, the court can use this hearing to review compliance by the agency and parents with respect to working with the case plan and to review progress towards permanency. Dispositional decisions regarding the appropriateness of the case plan have already been addressed at the services and placement hearing phase of the full adversarial hearing. Interview data indicate that status hearings typically last about 30 minutes. In the sample of cases studied, time frames from removal to the status hearing were an average of 46 days for the post-Model Court (post-ASFA) sample and 84 days for the pre-Model Court sample. This difference of 38 days, on average, was found to be statistically significant ( $p < .05$ ). See Table 6.

<b>Average Number of Days from Removal to Status Hearing</b>		
	<b>Pre-Model Court (1995-96 petition filings; N=45)</b>	<b>Post-Model Court (1999-2000 petition filings; N=65)</b>
<b>Average Number of Days from Removal to Status Hearing</b>	Average = 84 days  Range: 60-159 days	Average = 46 days  Range: 22-71 days

**Table 6**

***Permanency Hearings***

The momentum established during early hearings is maintained as the case enters the formal permanency hearing process. Texas state statutes require that the court conduct an initial permanency hearing no later than 180 days after the date the court appoints the agency as temporary managing conservator (which occurs at the full adversary hearing) and approximately 194 days after removal. The purpose of the hearing is to review the status of the children’s permanency plan. By statute, a permanency hearing must be held within 120 days of the initial permanency hearing (314 days after removal)



and any subsequent permanency hearings must also be held within 120 day intervals thereafter.<sup>50</sup>

In El Paso, the initial permanency hearing is typically scheduled to occur 120-150 days from the date the children were removed. This is approximately 45 to 75 days after the status hearing. In the sample of cases studied, time frames from removal to the initial permanency hearing were an average of 124 days for the post-Model Court (post-ASFA) sample and 166 days for the pre-Model Court sample. This difference of 42 days, on average, was found to be statistically significant ( $p < .05$ ). See Table 7.

<b>Average Number of Days from Removal to Initial Permanency Hearing</b>		
	<b>Pre-Model Court (1995-96 petition filings; N=45)</b>	<b>Post-Model Court (1999-2000 petition filings; N=65)</b>
<b>Average Number of Days from Removal to Initial Permanency Hearing.</b>	Average = 166 days  Range: 64-366 days	Average = 124 days  Range: 60-185 days

**Table 7**

At the initial permanency hearing the court will conduct detailed proceedings reviewing CPS and parental compliance with case plan objectives. Interview and hearing observation data indicate that this hearing routinely can take up to 60 minutes and sometimes longer. As is the case for other hearings in the El Paso Children’s Court, a wide variety of individuals are required to attend and provide testimony – particularly caseworkers, service providers and foster parents.

At the initial permanency hearing, CPS needs to present and justify their recommended permanent plan. Only in special instances will the court allow CPS to keep the concurrent plan in place and continue to move on a dual track. If it appears that reunification is close, CPS will bring in a reunification worker to begin working with the family and to start working on a reunification plan. The reunification worker participates in the initial permanency hearing.

Mediation is often scheduled at the initial permanency hearing if progress toward reunification is slow. Mediation is required for all cases in which termination of parental

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<sup>50</sup> Texas Family Code 263.304 and 263.305.

rights/adoption is established as the case plan. However, mediation may also be used to help establish a transition plan for the child to return home if reunification appears likely. (Please see section describing the court’s mediation program, pp. 57-59.)

The permanency hearing is set 90 days after the initial permanency hearing – approximately 210-240 days after removal. By this point the permanency plan is already firm and this hearing is used to formally adopt the plan. Mediation has already occurred, and if TPR/adoption is the plan, the hearing will often be the equivalent of an initial hearing on the TPR issue. The TPR motion has already been filed prior to this hearing and if a parent and parent’s attorney object, the case is transferred to the 65<sup>th</sup> District Court for a trial.

In the sample of cases studied, time frames from removal to the permanency hearing were an average of 301 days for the post-Model Court (post-ASFA) sample and 519 days for the pre-Model Court sample. This difference of 218 days, on average, was found to be statistically significant ( $p < .05$ ). See Table 8.

<b>Average Number of Days from Removal to Permanency Hearing</b>		
	<b>Pre-Model Court (1995-96 petition filings; N=45)</b>	<b>Post-Model Court (1999-2000 petition filings; N=65)</b>
<b>Average Number of Days from Removal to Permanency Hearing</b>	Average = 519 days  Range: 395-1099 days	Average = 301 days  Range: 180-361 days

**Table 8**

Statutory time requirements governing the review and permanency hearing process, and the scope of these hearings, have changed considerably since 1995. Consequently, review and permanency orders generated in the pre-Model Court sample of cases were not examined in comparison to review and permanency orders generated in the post-Model Court sample.

### ***Termination of Parental Rights (TPR) Proceedings***

The Associate Judge will typically handle all uncontested termination of parental rights (TPR) matters, e.g., relinquishments agreed to through the mediation process and defaults in which a parent(s) fails to appear at a permanency hearing after being duly notified. The vast majority of bench and jury trials on TPR filings, however, are transferred back to the 65<sup>th</sup> District Court for the District Judge to handle.<sup>51</sup>

Through the efforts of the Model Court Committee, procedures have been established to expedite the resolution of contested and jury TPR matters in district court. These procedures build upon the vast amount of casework conducted by the agency, the detailed documentation of case plan failures as evidenced in agency, service provider and CASA reports, the detailed orders generated by the Associate Judge in Children's Court proceedings, the availability of permanency mediation, and the fact that parents are appointed qualified and experienced counsel from the onset of the case.<sup>52</sup>

In anticipation of the possibility that efforts at reunification may not succeed, the County Attorney's Office will routinely include an alternative pleading for TPR in the petition filed with the Children's Court.<sup>53</sup> This is in addition to its primary request (pleading) that CPS be granted temporary managing conservator. Interview data indicate that the prosecutor can readily request the court to act on its alternative pleading at any point in proceedings held in Children's Court without having to file a new petition and to re-establish grounds for this request. This can be done through the filing of a motion.

Secondly, also via a motion, the County Attorney's Office will request a preferential setting of the TPR trial by the District Court. The District Court Judge reviews this request and typically grants the preferential setting request if the matter had previously been referred to mediation with no success. If granted, a trial date is scheduled within two months of the filing of the motion and a final pre-trial on the matter is scheduled 30 days prior to that date.<sup>54</sup>

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<sup>51</sup> There are provisions to allow the Associate Judge to preside over a contested TPR matter if all parties agree to have their case heard in Children's Court, but this rarely occurs.

<sup>52</sup> Please see sections on Mediation (pp. 57-59) and Appointment of Counsel for Parents (pp. 63-65) for a detailed examination of these programs.

<sup>53</sup> With the agency named as permanent managing conservator.

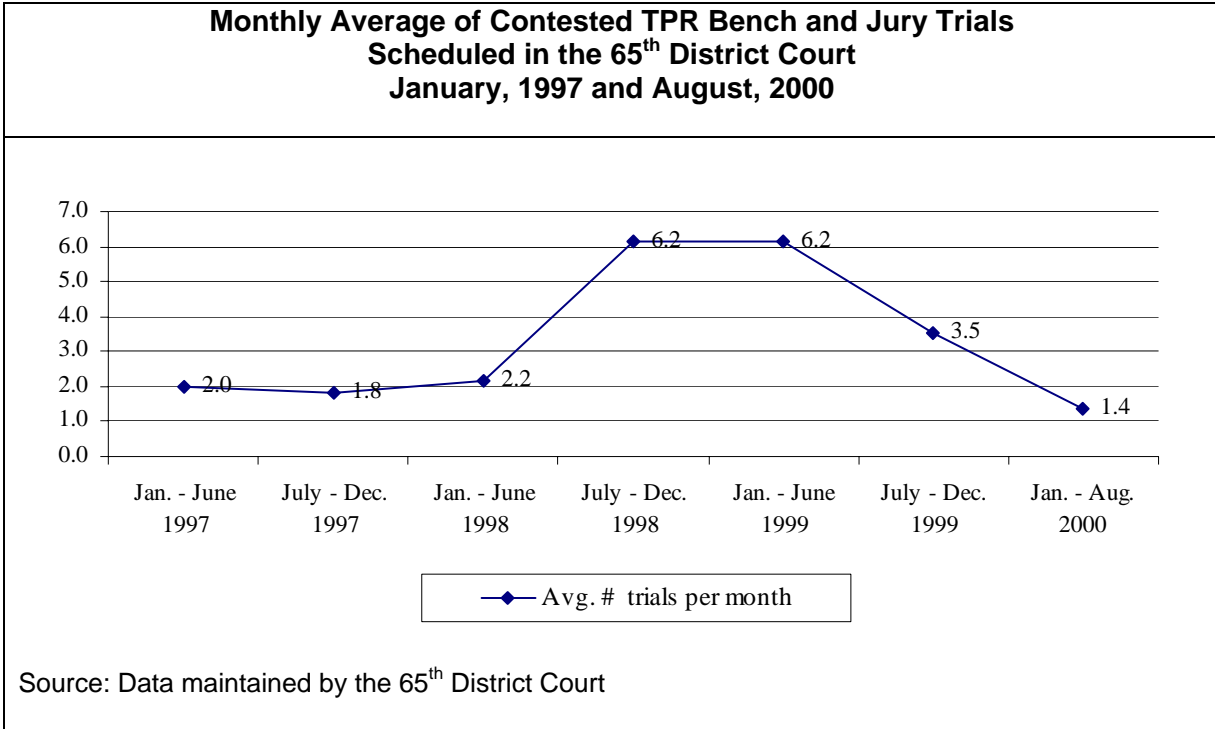
<sup>54</sup> The Texas Family Code contains provisions for the preferential setting of TPR final hearings (trials) "over other civil cases if (1) termination would make the child eligible for adoption; and (2)

The District Court is currently able to expedite the scheduling of TPR bench and jury trials because the number of such cases has decreased substantially in calendar year 2000. The decrease can be attributed to the District Court's implementation in 1999 of Model Court practices such as the utilization of permanency mediation in Children's Court and the appointment of qualified and experienced counsel for parents prior to the onset of proceedings in Children's Court. Prior to that time, most parents were not represented by counsel in Children's Court proceedings. Counsel was not appointed for parents until the TPR motion was filed in District Court.

During the first eight months of 2000, 11 contested TPR trials were scheduled in the 65<sup>th</sup> District Court (10 bench trials and one jury trial) – an average of 1.4 cases per month. As data in Figure 7 reveal, the average number of contested trials scheduled in District Court increased dramatically about 16 months after the start of the Model Court (in July 1998), from approximately two trials scheduled per month in 1997 and the first six months of 1998, to slightly more than six scheduled trials per month during the last six months of 1998 and the first six months of 1999. The average number of trials scheduled monthly began to drop during the second half of 1999 (to 3.5 trials per month) and dropped below 1997 levels during the first eight months of 2000 (1.4 bench or jury trials scheduled per month). While some of this drop in jury trials since the peak in late 1998/early 1999 is probably due to a reduction in the backlog of TPR cases resulting from the accelerated pace of the Model Court, the introduction of mediation into the permanency process and the early appointment of counsel for parents have, in all likelihood, also contributed.

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discovery has been completed or sufficient time has elapsed since the filing of the suit for the completion of all necessary and reasonable discovery if diligently pursued." Texas Family Code 161.202. This statute, however, does not specify time frames for the preferential setting of the TPR trial – the 60-day time frame is set by local convention.



**Figure 7**

***Post-Termination Proceedings***

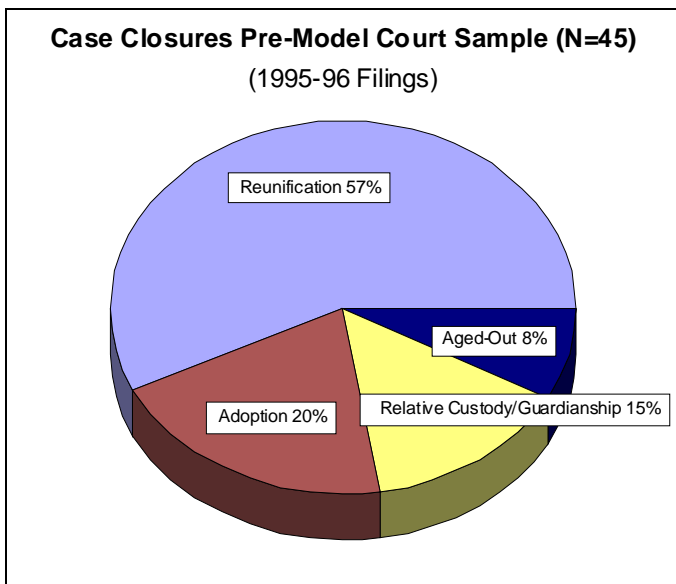
State statutes require that the court conduct a placement review hearing at least once every six months in instances in which the agency is named as permanent managing conservator of children whose parents have had their parental rights terminated as well as in instances in which the agency is granted permanent managing conservatorship without parental rights being terminated. The latter category of children falls into a permanency category that is commonly referred to as long-term (or permanent) foster care.<sup>55</sup>

The Model Court goes well beyond these placement review requirements for these children. Interview data indicate that most children with a permanent plan of adoption are in fost-adopt or legal-risk homes early in the process after their transfer from assessment foster homes following the full adversary hearing. In these instances, the first hearing after parental rights are relinquished or terminated is often an adoption finalization hearing. These hearings routinely occur within 30 days of relinquishment/termination. For children who are not in a pre-adoptive home at this

point, placement hearings are held on a monthly basis to closely monitor what progress has been made in finding an appropriate adoptive home and to ensure that final processing of the adoption is proceeding in a timely manner.

**Case Outcomes**

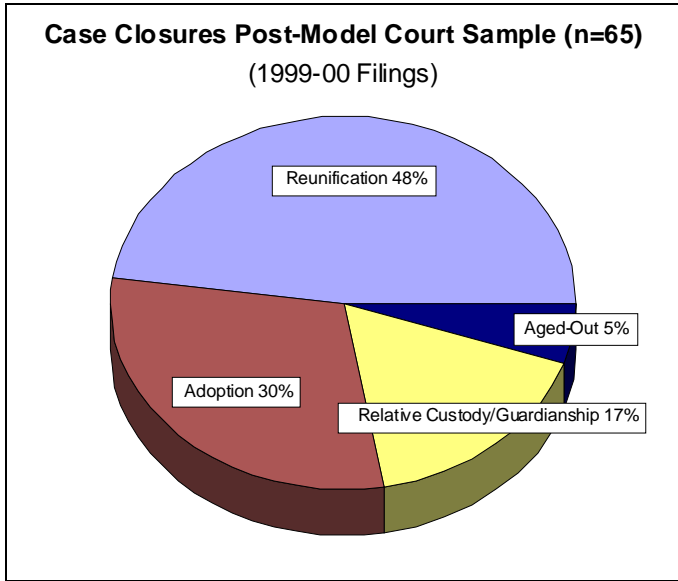
Comparison of the pre-Model Court and post-Model Court samples analyzed indicates an increase in the number of cases closed as a result of adoption (see Figures 8 and 9). Adoptions accounted for 30% of case closures in the post-Model Court sample, for example, and only 20% of case closures in the pre-Model Court sample. The El Paso Model Court implemented a number of measures as part of a concurrent planning approach to achieve timely permanency. Included among these measures were initiatives aimed at increasing adoption resources, such as foster-adopt homes and adoption celebrations (see pg. 55-57 for a discussion of foster-adopt homes and concurrent planning).



**Figure 8**

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<sup>55</sup> Texas Family Code 263.501.



**Figure 9**

The Children’s Court maintains an Excel spreadsheet program in order to track case processing outcomes. Data from this program were analyzed to determine the average length of time to achieve case closure (operationally defined as date of removal to case closure, where case closure may mean dismissal, reunification, or some other permanency option such as a custody grant to a relative or adoption).

This analysis revealed that the average number of months to achieve case closure has been reduced from 21.23 months in 1995 (pre-Model Court) to 10.01 months in 2000 (post-Model Court) – an overall reduction of 11.22 months. Of course, this reduction in case closure time frames must be understood in context of the Adoption and Safe Families Act (ASFA), which was enacted in 1997 and adopted in Texas Statutes in 1997, requiring child abuse and neglect case processing time frames to shorten. Nevertheless, the El Paso Children’s Court has experienced a steady reduction in the amount of time to achieve case closure. See Figure 10.<sup>56</sup>

<sup>56</sup> Closure statistics were calculated based on date the last child on the petition closed.

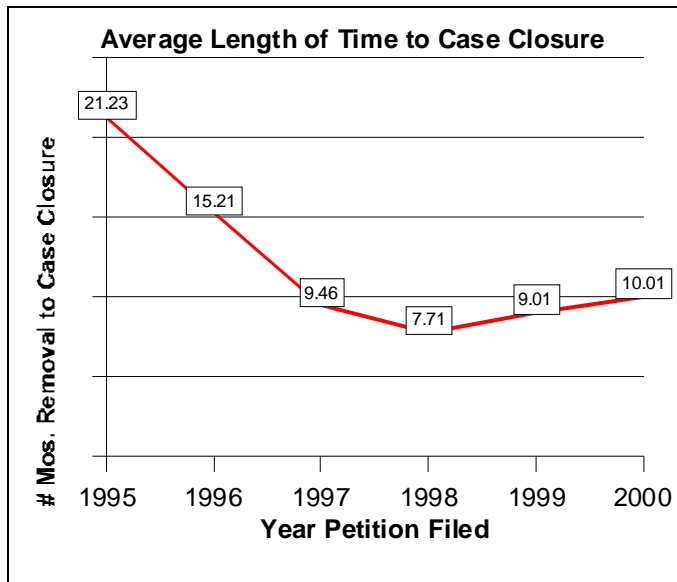


Figure 10

### ***EXPEDITING AND IMPROVING THE QUALITY OF EARLY CASE PLANNING AND DELIVERY OF SERVICES***

The El Paso Children's Court has taken a number of steps to expedite and expand the court process and to increase its oversight in child protection cases. However, these changes did not occur in a vacuum. The success of these changes in court procedures is integrally tied to an innovative re-design in the child protection system's early response to cases of child maltreatment, which result in the removal of a child from the home. Recognizing the need to promote timely case planning, improve the early delivery of appropriate services, reduce the number of foster home placements, and ultimately improve the timeliness and quality of the permanency planning process, an alternative to traditional casework practice was sought. The linchpins of this front-end re-design are three-fold:

- Short-term placement of children removed on an emergency basis in assessment foster homes with foster parents who are specially trained to facilitate and support the expedited assessment and case planning process;
- Assignment of an assessment case worker to the case who is responsible for coordinating the expedited assessment process and working closely with foster parents, parents, service providers, attorneys, CASAs, and the court to ensure that the immediate needs of children and their families are addressed and that all assessment activities are completed prior to the full adversary hearing; and



- Utilization of a multi-disciplinary treatment team that meets prior to the full adversary hearing to review assessment findings and to develop an initial case plan and appropriate placement recommendation.

### **Assessment Foster Homes**

El Paso first began utilizing assessment foster homes in February 1997 to address the problems related to making decisions about placement, services, visitation, and permanency plans for children based on little or no information about the child's or family's individual needs. All children except infants are placed in an assessment foster home at the time of removal.<sup>57</sup> These homes are designed to serve both the special needs of children newly removed from their homes and to act as "triage" centers for assessment and early intervention services provided to children and their families.<sup>58</sup> Psychosocial evaluations are completed within two to three days of a child's placement in the home and physical and dental exams are completed within ten days.<sup>59</sup> Psychosocial evaluations are also scheduled and routinely completed on parents within the same time frames.

***Children were initially placed in an Assessment Foster Home in 80% of post-Model Court cases studied (n=52 of 65). Children not originally placed in an assessment foster home (n=13 or 20%) were either placed with a relative (n=7 of 13; 54%) or placed in some other form of foster care (n=6 of 13; 46%).***

Children typically do not remain in assessment foster homes for longer than three weeks. Assessments are completed within the first week or so and an appropriate

<sup>57</sup> Infants are placed in an assessment foster home if the child has older siblings who have also been removed. Sibling groups are not separated during the assessment process. Placement criteria also exclude the use of assessment foster homes for children whose placement was disrupted or for children who have been released from a residential treatment center. Only in very limited instances are these children placed in an assessment foster home.

<sup>58</sup> Prior to the implementation of assessment foster homes, newly removed children were typically housed in a children's shelter or receiving home that served as a temporary way-station until a more suitable placement could be found. These temporary placements typically addressed a child's most immediate needs for shelter, food, clothing, and medical services but were not designed to play an integral role in an expedited and intensive assessment and case planning process.

<sup>59</sup> The assessments are conducted by two licensed provider agencies that TDPRS/CPS has entered into contractual arrangements with. The assessments follow consistent protocols and are completed by experienced masters-level therapists.

longer-term foster or relative placement is identified shortly thereafter. The remaining time is spent preparing for the transition to this new placement.

Siblings groups are maintained during their stay in assessment foster homes, and children remain enrolled in the same school they attended prior to their removal. Assessment foster parents are also immediately provided a clothing voucher for each child placed in their care.<sup>60</sup>

***Siblings were placed together in 92% of the post-Model Court sample of cases (n=60 of 65). Children also remained enrolled in the same school they attended prior to their removal.***

Assessment foster parents are specially trained to lessen the trauma of removal and to ready the child for a more long-term placement. They are an integral component of the triage team and are in continual communication with caseworkers, physicians, therapists, educators, and other service providers involved in the assessment and case plan development process. They also attend and participate in all treatment team meetings and court hearings. Specifically, foster parents recruited to open their homes as assessment foster homes agree to:

- Attend 35 hours of specialized training;
- Have at least one non-working parent in the foster home;
- Accept children of all ages;
- Transport children to the schools they previously attended prior to their removal;
- As appropriate, allow visitation in the home and ensure that visitation is supervised;
- Transport children to all appointments and visits;
- Attend all treatment team meetings and court hearings;
- Allow therapists to evaluate children in the home and to cooperate with the therapist regarding the needs of the children; and
- Orient children to the assessment and court process.

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<sup>60</sup> In the past, children were often removed from their homes without a change of clothing and it typically took weeks for foster parents to obtain authorization to buy clothing.

### ***CPS Assessment Worker***

The CPS assessment worker position is new since the advent of the Model Court. The position was developed to facilitate the expedited and intensive early assessment process. The Model Court Committee recognized that coordinating these efforts would be a complex, time-consuming process and that it would be difficult for the CPS investigations worker to take on these responsibilities in addition to those associated with completing the investigation – both of which are to be completed within two weeks of a child’s removal from the home.<sup>61</sup>

An assessment worker is assigned to a case at the time children are removed and remains on the case until the completion of the full adversary hearing. Assessment workers, of which there are two, are only assigned to cases in which children are removed and petitions are filed with the Children’s Court. The assessment workers are supported in their activities by a technician and by an assessment foster home developer responsible for finding appropriate placements for children to transition to after their short stay in an assessment foster home is concluded. Assessment workers turn over cases very quickly – usually the worker has between 4-8 cases per month and these are a mix of new cases and older cases in which a placement disruption occurs.<sup>62</sup> The majority of cases are new cases and these take considerably more time.

The assessment worker is responsible for coordinating all assessment and service delivery activities and generally ensuring that the immediate needs of the children and their families are addressed without delay. At the point of removal, the investigations worker will call the assessment worker to identify the specific assessment foster home to which the children are to be taken.<sup>63</sup> Within hours after a child’s removal, psychosocial evaluations are scheduled for both children and parents and the date of the initial treatment team meeting is set. The assessment worker is responsible for setting these appointments, notifying relevant parties, and monitoring the process to ensure that all reports are developed and submitted in a timely manner. The assessment worker is

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<sup>61</sup> Before the Model Court, the investigations worker was responsible for all casework responsibilities prior to the full adversarial hearing and until the time the case was transferred to a substitute care worker.

<sup>62</sup> Treatment team meetings are conducted in situations in which a placement disruption occurs (see discussion regarding treatment teams on pgs. 52-55).

<sup>63</sup> The investigations worker is responsible for providing the notice of removal to parents and for completing the requisite paperwork to authorize medical care.

also responsible for completing any home studies on prospective foster or relative placements and in ensuring that other immediately needed services are scheduled and provided. Finally, the assessment worker is responsible for facilitating the treatment team meeting, ensuring that recommendations are drafted, and for presenting the recommendations and initial case plan at the services and placement portion of the full adversary hearing.

### ***Treatment Team Meeting and Recommendations***

Treatment teams serve as the coordinating body for development of initial case plans and placement recommendations. While attendance varies somewhat by case, a wide variety of professionals routinely participate in treatment team meetings including:

- The CPS assessment worker, assessment foster home developer, and technician;
- The CPS investigations worker (and possibly the supervisor);
- The CPS substitute care worker assigned to take over the case after the full adversary hearing;
- Assessment foster parents;
- Therapists who conducted the psychosocial evaluations;
- Other service providers involved with the children and families including representatives from the schools the children are attending;
- Attorneys *ad litem* for the children;
- Court-appointed attorneys representing the parents;
- The assistant county attorney prosecuting the case;<sup>64</sup>
- A CASA volunteer (if appointed); and
- Tribal social workers (if children are subject to provisions of the Indian Child Welfare Act).

***In the post-Model Court sample of cases (n=65), initial treatment team meetings were held, on average, within 7 days from removal.***

Treatment teams typically convene before the full adversary hearing to discuss assessment findings and case plan options.<sup>65</sup> These meetings generally last from one to

<sup>64</sup> Interview data indicate that the court does not require assistant county attorneys to attend treatment team meetings but that they make every effort to do so.

two hours. Parents are not invited to attend but are represented at the meetings by their appointed counsel. Assessment workers facilitate the meetings and a checklist is used to ensure that all issues are addressed.

Based on information presented at the meeting, the treatment team develops recommendations for placement, services, visitation, and an initial permanency plan. The assessment worker is responsible for drafting a list of recommendations developed at the meeting and individual members of the treatment team sign off on this document indicating whether they agree or disagree with the recommendations contained therein.

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<sup>65</sup> The date, time, and location of the treatment team meeting are set on the *ex parte* hearing order.

<b>Recommendations Generated from Post-Model Court Initial Treatment Team Meetings (N=65)</b>		
<p><b>Initial Treatment Team Meeting</b>  (held an average of 7 days after removal)</p>	<p><u>Recommendations for Parents</u></p> <ul style="list-style-type: none"> <li>➤ Visitation: 66% (n=43)</li> <li>➤ Individual/Group Counseling: 63% (n=41)</li> <li>➤ Parenting Classes: 57% (n=37)</li> <li>➤ Psychological Assessment: 46% (n=30)</li> <li>➤ Substance Abuse Assessment: 43% (n=28)</li> <li>➤ In-Patient Substance Abuse Treatment: 20% (n=13)</li> <li>➤ Transportation: 19% (n=12)</li> <li>➤ Employment Services: 15% (n=10)</li> <li>➤ Housing Assistance: 12% (n=8)</li> <li>➤ Outpatient Substance Abuse Treatment: 11% (n=7)</li> <li>➤ In-Patient Mental Health Treatment: 5% (n=3)</li> </ul>	<p><u>Recommendations for Child</u></p> <ul style="list-style-type: none"> <li>➤ Placement: 68% (n=44)</li> <li>➤ Visitation with Mother: 46% (n=30)</li> <li>➤ Special Needs Services (speech, physical, developmental, medical): 45% (n=29)</li> <li>➤ Individual/Group Counseling: 42% (n=27)</li> <li>➤ Psychological Assessment: 32% (n=21)</li> <li>➤ Educational Issues: 32% (n=21)</li> <li>➤ Visitation with Relative: 20% (n=13)</li> <li>➤ Visitation with Father: 14% (n=9)</li> <li>➤ Substance Abuse Assessment: 9% (n=6)</li> <li>➤ Employment Issues: 3% (n=2)</li> </ul>

**Table 9**

All parties are notified and given copies of the recommendations made by the treatment team. Placement criteria developed by the treatment team are used to identify an appropriate placement for the children and this placement recommendation is presented to the court at the full adversary hearing along with other recommendations made by the team. The court will approve, modify, or reject these recommendations at the hearing, and afterwards the case will be transferred to the previously identified substitute care worker for on-going services if conservatorship is continued.

<b>Parties Attending Treatment Team Meetings</b>	
<b>Average Number of People Participating in Treatment Team</b>	11
<b>Individuals Participating in Treatment Teams</b>	N=65 cases
➤ <b>Mother (not required to attend)</b>	11% of cases (n=7)
➤ <b>Father (not required to attend)</b>	3% of cases (n=2)
➤ <b>Relatives (not required to attend)</b>	14% of cases (n=9)
➤ <b>Child (not required to attend)</b>	3% of cases (n=2)
➤ <b>Foster Parent (not required to attend)</b>	32% of cases (n=21)
➤ <b>Assessment Worker</b>	66% of cases (n=43)
➤ <b>CPS Caseworker</b>	40% of cases (n=26)
➤ <b>Attorney for Parent</b>	23% of cases (n=15)
➤ <b>Treatment Provider/Therapist/Service Provider</b>	49% of cases (n=32)
➤ <b>Attorney for Child(ren)</b>	75% of cases (n=49)
➤ <b>CASA</b>	15% of cases (n=10)

**Table 10**

Parties interviewed indicate that this multidisciplinary team approach to case planning reduces barriers to timely provision of services and promotes creative solutions. It is also felt that the use of treatment teams to develop placement criteria/options results in better placement decisions and decreases the likelihood that placements will disrupt. Interviewees suggested that this approach appropriately focuses the assessment process on long-range needs and goals rather than on the immediate crisis needs of the child and family.

A child's treatment team will reconvene as necessary throughout the life of a case – particularly in instances in which a placement disrupts. In these instances, the assessment worker will be reassigned to the cases and will work closely with the family's substitute care worker in scheduling the meeting and notifying the parties.

***In the sample of post-Model Court cases studied (n=65), the average number of treatment team meetings held per case was three, with a range from one to five.***

### ***Concurrent Planning***

“Concurrent Planning” involves working towards reunification while at the same time establishing an alternative permanency plan. Concurrent planning efforts, rather than sequential planning, are aimed at moving children more quickly from the uncertainty of foster care to the security of a permanent family. Specifically, the goals of concurrent permanency planning are to:<sup>66</sup>

- Support the safety and well-being of children and families;
- Promote an early permanency decision for children;
- Decrease children's length of stay in foster care;
- Reduce the number of moves and relationship disruptions children experience in foster care;
- Develop a network of foster parents (relatives or non-relatives) who can work towards reunification and also serve as permanency resource families for children;
- Engage in early case planning, case review, and decision-making about permanency options to meet children's urgent need for stability and continuity in their family relationships; and
- Maintain continuity in children's family, sibling, and community relationships.

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<sup>66</sup> Adapted from: Linda Katz, Norma Spoonemore, and Chris Robinson (2000). *Concurrent Planning: From Permanency Planning to Permanency Action*. Lutheran Social Services of Washington and Idaho.



Using the Assessment Foster Home Initiative as a basis, the El Paso Model Court implemented the practice of matching children to relative or fost-adopt<sup>67</sup> homes within 20 days of protective custody. It was hoped that applying the principles of concurrent planning would eliminate the need for moving the child from a foster home to a prospective adoptive home if the parents failed to reunify.

Interviewees reported that in the early stages of implementing the fost-adopt concurrent planning initiative, some CPS workers were not convinced that the strategy was an effective one, preferring to place children in foster homes until permanency was achieved. Consequently, placement was inconsistent with the concurrent planning concept. Interviewees also reported that other CPS workers “promised” prospective adoptive parents that the child would never leave their home, failing to tell them that reunification efforts were being made and there was a possibility that the child would return home. However, interviewees indicated that as a result of implementing concurrent planning in El Paso, and gaining experience under this framework, CPS workers have now embraced the practice – not only the fost-adopt initiative but also the general practice of working towards reunification while at the same time establishing an alternative permanency plan.

***A Concurrent Plan was documented in the case file in 91% of the post-Model Court cases studied.***

Speaking specifically to the issue of using fost-adopt placements as one option in a concurrent planning effort, one interviewee explained that:

*“Workers now see that a child placed with a fost/adopt family or a relative/adopt family has the benefit of a team of parents working together for reunification. If the parent cannot reunify, then the fost/adopt and the biological parent may mediate a relinquishment or open adoption. In this scenario, everyone benefits.”*

<sup>67</sup> “Fost-adopt” or legal-risk homes are ones in which the foster family wants to adopt and accepts placement of a child who is not yet “legally free” for adoption.

**Children were placed in foster/adopt homes in 23% of cases in the post-Model Court sample studied (15 of 65 cases).**

### ***Mediation in Children's Court***

The Children's Court began referring cases to mediation in February 1997. The program, a collaborative effort of the Children's Court and the Dispute Resolution Center, first started as a *pro bono* effort with six mediators – three of whom were also attorneys. The program was able to secure funding through a grant from the Children's Justice Act (CJA) to pay mediators \$100 per hour. This CJA funding was provided to the program from 1997 through 2000. In October 2000, the El Paso County Commissioners' Office approved funding for the program.

Currently, there are three attorney mediators and three non-attorney mediators. The non-attorney mediators are provided through the Dispute Resolution Center. The Center, a non-profit organization, also provides mediation training and is generally funded through court filing fees. All mediators conducting dependency mediations are family law certified, and have received comprehensive training in abuse and neglect cases and mediation skills.

The court may order parties to mediation at any stage of the court process after the full adversarial hearing. However, data provided by the court indicate that mediation is most often scheduled to address permanency and TPR issues (see Table 10). Mediation data provided by the court reveal that 86% of mediations held between 1997 and 2000 were for either permanency or TPR issues (266 of the 311 mediations). In the first two years of the program, mediation was used almost exclusively at the permanency/TPR stage (93% in 1997 and 96% in 1998). In the latter two years of the program, mediation has been used somewhat more frequently for other issues (e.g., placement, transition plan for reunification, visitation, etc.), but permanency/TPR mediations still predominate (76% in 1999 and 84% in 2000).

<b>Mediation Statistics (1997-2000)</b>					
<u>Year</u>	<u>Mediations Held</u>	<u>Agreements</u>		<u>Permanency/TPR Issues Mediated</u>	
		(N)	(Pct)	(N)	(Pct)
1997	28	18	64%	26	93%
1998	91	59	65%	87	96%
1999	105	77*	73%	80	76%
2000	87	71	82%	73	84%
Totals	311	225	72%	266	86%

\* Four of these were coded as partial agreements. 1999 was the only year that partial agreements were recorded by the court.

Source: El Paso Children's Court Mediation Program

**Table 11**

Data presented in Table 11 indicate that 72% of all mediations held during this four-year period have resulted in agreements. The percentage of mediations that have resulted in agreements has steadily increased from 64% in 1997 to 82% in 2000.

Interview data indicate that the Associate Judge closely monitors the program, and the Children's Court coordinator is responsible for coordination of the mediation program. The coordinator is specifically responsible for compiling a three-month mediation calendar as well as distribution of the mediation order and notification to all parties. The coordinator also prepares the mediation file and invoice. Two mediators are assigned to cover each day's morning and afternoon slots. Mediators sign up for mediation slots three months in advance. Each mediator will sign up for a specified number of slots during this period, to include Saturdays, based on his or her availability.

Mediation sessions are docketed from the bench using the schedule that the Model Court coordinator prepares. Scheduling mediations from the bench in court contributes to the timely completion of the mediation process. Mediation logs maintained by the Children's Court coordinator indicate that mediations are rarely rescheduled or not held because a party does not appear. In calendar year 2000, more than 90% of the 95 scheduled mediations were held on the date scheduled in court.

Assistant county attorneys and attorneys for parents and children are ordered to attend these sessions. Standard practice is for the Associate Judge to schedule both the mediation session and a hearing to review the results of the mediation session – typically on the same day. Mediation sessions take an average of two hours but it is not unusual for these to take longer – up to four hours.

Mediators interviewed indicated that an average of 10-15 individuals participate in a mediation session including parents, assistant county attorneys, parents' attorneys, attorney *ad litem* for child, a therapist, a caseworker, a CPS parenting instructor, a teacher, foster parents, potential adoptive parents, relatives, and (if ICWA) a tribal caseworker. Mediators are responsible for recording the areas of agreement and submitting these to the judge.

Interviews conducted as part of this evaluation indicate that the mediation program is generally highly regarded but that some participants are frustrated by the length of the mediation sessions and the scheduling conflicts that may arise when a session takes longer than anticipated. Parents' attorneys are also generally supportive of the program especially when there is some possibility that the issues can be resolved.

Mediators interviewed suggested that training opportunities should be expanded, and that it would be good for more attorneys to be recruited and trained as mediators. Ideally, they indicated that a balance should be maintained in the number of attorney and non-attorney mediators. In the last year, this balance has been achieved. Interviewees also felt that the program should be formally evaluated but that any evaluation and data collected should be tailored for child protection cases. The current forms that they complete after a mediation are considered by interviewees as "too generic" in this regard.

**Family Drug Court**<sup>68</sup>

The El Paso Model Court instituted a family drug court in late 1999. This initiative is a collaborative effort between the 65<sup>th</sup> Judicial District Court, the Texas Department of Protective and Regulatory Services (TDPRS), and numerous social service agencies and treatment providers. In October 1999, a Drug Court Advisory Committee was created to design and implement such a program in El Paso. The committee was convened and chaired by the Presiding Judge of the 65<sup>th</sup> Judicial District Court and included representatives from CPS, the County Attorney's Office, attorneys representing parents, treatment providers, juvenile probation, and "communities in school" counselors.

Remarkably, the program was started without any external grant funds. A "family drug court coordinator" position was created to serve as the liaison among the court, CPS, and various other agencies involved in the program design, and to integrate the work of the advisory committee into protocols and procedures. The 65<sup>th</sup> District Court provides space and equipment, and CPS pays for the drug court coordinator's salary.

The drug court coordinator is responsible for screening all new cases referred to the program including the scheduling of an initial staffing within a week or so of the case being referred. A number of individuals participate in this initial case staffing in addition to the drug court coordinator, including attorneys for parents and the children, the prosecuting assistant county attorney, the assigned caseworker, the caseworker's supervisor, and the CASA volunteer (if one has been appointed).

Participation in the family drug court is voluntary. Referral to the program can occur as early as the pre-trial preceding the full adversary hearing, by which time a parent has had a chance to discuss the matter with an attorney. However, a parent can be accepted at a later date – up to five months after the case was initiated in Children's Court. Typically, CPS will initiate the referral to drug court after being approached by the parent's attorney if the agency determines that one of the prevailing issues in the case is drug or alcohol abuse. The parent's attorney will also discuss the matter with the drug court coordinator. A history of domestic violence or pending companion criminal matters will exclude a case from consideration for program inclusion.

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<sup>68</sup> Please also see NCJFCJ Permanency Planning for Children Department, *Child Victims Act*

If accepted by the drug court, the case is transferred from Children’s Court to the 65<sup>th</sup> District Court, but no earlier than after completion of the full adversary hearing and the appointment of CPS as managing conservator of the children. The 65<sup>th</sup> District Court Judge presides over all drug court cases, including placement review and permanency hearings. The Associate Judge of the Children’s Court hears other dependency matters related to the case. Drug court hearings are conducted every Thursday afternoon. Drug court treatment team staffings are conducted earlier that afternoon for all cases on the docket for that day.

A parent participating in the family drug court must first undergo a 30-day detoxification program. Once in the program, treatment is fast-tracked with participants typically spending approximately 90 days in an in-patient program. Treatment providers have agreed to give priority to family drug court cases, and four in-patient beds are specifically blocked for the program.

<b>65<sup>th</sup> District Court Family Drug Court Statistics</b>			
	<b>Oct-Dec 1999</b>	<b>Jan-Dec 2000</b>	<b>Jan-Dec 2001</b>
<b>Referrals</b>	3	12	22
<b>Participants</b>	3	7	16
<b>Self-Discharge</b>	1	1	7
<b>Terminations</b>	0	1	0
<b>Graduations</b>	0	3	4

**Table 12**

The family drug court is a four-phase program. Cases are initially docketed for weekly hearings in Phase I and bi-weekly hearings in Phases II and III. By the time a participant has progressed to Phase IV, hearings are scheduled on a monthly basis. Family drug court is designed as a one-year program with individual program phases taking between two to six months to complete.<sup>69</sup> As of December 2001, a total of 16 parents were participating in the program and seven participants had graduated.

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*Model Courts Project Status Report 2000 (May 2001), pp. 84-85.*

<sup>69</sup> Both Phases I and II require two consecutive months of clean drug tests and no sanctions before advancement. Phase III requires three consecutive months of clean drug tests and no sanctions and Phase IV has a similar six-month requirement.

### ***Coordination of Parallel Criminal Proceedings***<sup>70</sup>

Case processing delays are often common in abuse and neglect cases in which parents are also subject to parallel criminal prosecution for allegations of child maltreatment.<sup>71</sup> Historically, this appears to have been the case in El Paso as Model Court cases are placed on a permanency track of 12-months or less while the companion criminal case could take months before a decision to indict is made. To address this issue, the El Paso Model Court in collaboration with the District Attorney's Office, the County Attorney's Office, and the District Clerk's Office has developed procedures to allow for closer coordination of these cases.

The normal procedure prior to Model Court was for parallel criminal indictments to be filed by the District Attorney's Office with the District Clerk's Office, and for the latter office to randomly assign these to a district court. In most instances, such random assignment would result in the case being referred to a district court other than the 65<sup>th</sup> District Court. In these instances, the County Attorney's Office would prosecute the child protection case in the Children's Court which is part of the 65<sup>th</sup> District Court while the District Attorney's Office would prosecute the criminal case in another district court. Oftentimes this occurred with little discussion or coordination of the parallel cases by the two prosecutorial offices.

Procedures established now call for the District Attorney's Office (which handles the criminal prosecution) to conference the case with the County Attorney's Office (which is responsible for prosecution) handling the civil child protection case. Ideally, this discussion leads to the sharing of important facts about the case and alerts the Assistant District Attorney to the expedited case processing and permanency time lines in Children's Court.

The District Attorney's Office has also agreed to flag these cases and generate orders so that they can be transferred to the 65<sup>th</sup> District Court. Having both the child protection and companion criminal cases assigned to the 65<sup>th</sup> District Court allows for closer case

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<sup>70</sup> Please also see NCJFCJ Permanency Planning for Children Department, *Child Victims Act Model Courts Project Status Report 1999* (January 2000), pp. 76-77.

<sup>71</sup> While data on such cases are scarce, a study of how child maltreatment cases are processed in the Hennepin County (Minneapolis, MN) Juvenile Court found that it took the juvenile court about twice as long to adjudicate cases in which parallel criminal charges were filed (167 days

coordination and consistency in court orders across these cases. It also facilitates the incorporation of service plan compliance into any conditions of probation if a parent is convicted and sentenced in the criminal matter.

The process also calls for the 65<sup>th</sup> District Court Judge to appoint the same attorney to represent a parent in both the criminal and child protection case. In this way, a parent can obtain consistent legal advice and representation in both the child protection and companion criminal matter.

Interview data indicate the process works well when the two prosecuting offices conference cases and when the companion criminal case is transferred to the 65<sup>th</sup> District Court. However, it appears that this does not occur in all instances.

### ***Appointment of Counsel for Parents***

In late 1998, the 65<sup>th</sup> District Court began to routinely appoint counsel for parents at the *ex parte* hearing – addressing one of the most glaring weaknesses of the court process to that point. Prior to that time, the court typically only provided indigent representation to parents if termination of parental rights proceedings were initiated.

The 65<sup>th</sup> District Court Judge was able to convince county commissioners that it was cost-efficient to provide parents representation from the onset of the case rather than at the point parental rights issues are contested. This is also consistent with good practice principles contained in the *RESOURCE GUIDELINES* which maintain that “parents should have meaningful legal representation” by the time of the first hearing and that counsel should be appointed sufficiently early that parents have the opportunity to confer with their attorneys in advance of that hearing.<sup>72</sup> The District Judge presented data to county commissioners on the cost of conducting bench and jury trials in TPR matters and successfully argued that the early appointment of parent’s counsel would drastically reduce the need for contested adversarial proceedings in these instances.

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versus 79 days). Please see Hunter Hurst Jr. and Gregory J. Halemba, “Management Review of Hennepin County CHIPS Cases,” National Center for Juvenile Justice (February 1999), pg. 27.

<sup>72</sup> Please see *RESOURCE GUIDELINES*, page 34. Please also see pp. 22-23 of the *RESOURCE GUIDELINES* for a discussion of the importance of parents having access to competent representation.



As data presented earlier indicate (see Figure 7), the number of TPR bench and jury trials dropped dramatically beginning about six months after the court routinely began appointing parent's counsel at case initiation – from a high of about six cases per month during the second six months of 1998 and the first six months of 1999, to slightly more than one trial per month during the first eight months of 2000.<sup>73</sup>

This drop in bench and jury trials can, at least in part, be attributed to the early appointment of counsel for parents but the degree to which this fully accounts for the decrease is difficult to determine. This reduction is probably the result of a combination of factors, including the District Court addressing a backlog of contested TPR cases resulting from the introduction of an expedited Model Court process a year earlier, the wide scale use of permanency mediations, and the early appointment of experienced counsel for parents.

Once funding was secured, a total of sixteen attorneys who were experienced in family and child protection matters were recruited by the District Judge to accept Children's Court assignments.<sup>74</sup> A system was set in place in which four attorneys are assigned to a "wheel" (of which there are four) with these attorneys receiving parent assignments in 16 consecutive cases. After the 16 cases, assignment rotates to the next wheel. Rotation typically takes about one month.

Wheel attorneys are assigned to a case for its duration and are paid a flat rate of \$2,500 per case.<sup>75</sup> Assignments include representation of fathers who may or may not be involved. On average, wheel attorneys are assigned to approximately twelve cases per year – which translates into about \$30,000 in fees annually.

Counsel appointed for parents are very involved from the onset of the case – advising parents of their legal rights and options while also encouraging parents to comply with case plan requirements established by the treatment team and CPS. Interview data indicate that parents' counsel place a very heavy emphasis on preparing for and participating in early court proceedings. In addition to conferring with and representing

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<sup>73</sup> There were ten bench and one jury trial scheduled during the first eight months of 2000.

<sup>74</sup> There has been very little turnover in this cadre of "wheel" attorneys – one attorney in the first two years (through September 2000).

<sup>75</sup> Previously El Paso County typically only provided indigent representation to parents for TPR cases at a rate of \$40/hour in court and \$30/hour outside of court. TPR proceedings, however,

their clients at three court hearings within the first two months of the case (pre-trial, full adversarial hearing, and status hearing), counsel are also expected to attend any scheduled treatment team and case plan meetings. One parent's attorney estimated that during the three "rotation" months he spends approximately 45% of his time on child protection matters. During the remaining nine months of the year, the amount of time he spends on these cases is about 25-30%.

Interviews with the District Judge and wheel attorneys indicate that there are three major benefits to the system established in El Paso County including:

1. Predictability: Through the rotation cycle, attorneys know when they are going to get cases and how long these cases are going to last.
2. Experience: The court can expect to appoint attorneys experienced in child protection matters and dedicated to cases to which they are assigned. Attorneys are sufficiently reimbursed to ensure that child protection cases are considered a priority.
3. Efficacy: With experienced attorneys advising parents, court proceedings are less adversarial. The court can expect parents' counsel to advise their clients of the gravity of the proceedings, encourage them to comply with service plan requirements ordered by the court, and to realistically advise parents of the consequences of non-compliance.

Cases turn over very quickly – the majority of cases to which an attorney is appointed during a calendar year are closed within that year. One parent's attorney estimated that only four to five of the cases to which he was assigned in 1999 carried over to 2000, and these were closed by April. He also estimates that about 50% of cases to which he is appointed proceed to relinquishment or to contested TPR proceedings.

### ***Appointment of Attorneys ad Litem for Children***

Children are routinely appointed attorneys *ad litem* at the *ex parte* hearing. Most appointments are made through the Children's Advocacy Center, which recruits and trains *pro bono* attorneys to represent children in dependency matters. As needed, the 65<sup>th</sup> District Court Judge will appoint an attorney *ad litem* from a court list to supplement the cadre of volunteer attorneys recruited through the Center. Attorneys appointed from the court list are reimbursed for their services.

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could often take a considerable amount of time to complete and attorney costs could be extensive.

The Children's Advocacy Center was established in 1998 by a local child advocate attorney and the director of a local therapeutic foster care agency to recruit and train *pro bono* attorneys to represent children in child protection cases.<sup>76</sup> The Children's Advocacy Center is modeled after a program initiated in Philadelphia that teams volunteer attorneys with social workers. The former are responsible for legal representation, with the latter assuming most of the casework responsibilities.<sup>77</sup> The founding attorney was named as the Center's director with the other founding partner providing casework support to attorneys recruited by the Center. Casework support is also often provided by CASA volunteers.

The Children's Advocacy Center has recruited approximately 55-60 attorneys to provide *pro bono* representation of children in child protection cases. These volunteer attorneys are required to participate in a training program developed by the Center director and are required to attend all court hearings on cases to which they are assigned. The Center director (an attorney) provides courtroom back-up as needed.

The El Paso Bar has endorsed the Center's program and allows local attorneys to substitute volunteer work on child protection matters for a uniform requirement that attorneys provide *pro bono* legal representation on divorce matters.

Attorneys are appointed to represent children as their attorney *ad litem*. The court also routinely appoints the child a guardian *ad litem*, which in most instances is a volunteer CASA (see next section). However, as necessary, the child's attorney can request that the court also appoint an attorney to act in this capacity.

### ***Court Appointed Special Advocates (CASA)***

A volunteer Court Appointed Special Advocate (CASA) program was first established in El Paso in 1986 by the Junior League of El Paso. The CASA program is now jointly

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<sup>76</sup> The Center's start-up was funded primarily through a private donation by this child advocate attorney.

<sup>77</sup> The Support Center for Child Advocates was established in 1977 in Philadelphia, PA. The current director of the Center is Frank Cervone, Esq. The Support Center, a non-profit organization funded through a variety of public and private grants and individual contributions, also provides training for all private attorneys appointed to represent parents and children in child protection cases in Philadelphia. The Philadelphia Family Court, Juvenile Division, requires attorneys to participate in this training program as a condition of their appointment in child protection cases.

sponsored by the El Paso Children's Court, the El Paso Chapter of the National Council of Jewish Women, and the Junior League of El Paso.

The CASA program in recent years has been very aggressive and successful in obtaining funding from a wide variety of sources to support its recruitment and program operations. The program currently receives funding through National and Texas CASA, United Way, a City of El Paso Community Development Block Grant, local private foundations, as well as through a substantial federal Victims of Crime Act (VOCA) grant.

As of September 2000, the CASA program consisted of 96 volunteers (of which 80 were actively carrying caseloads). Funding supports four full-time-equivalent staff including the director, a training coordinator, two casework coordinators, and an administrative assistant/volunteer coordinator.

Volunteers are assigned to no more than three cases at any one time – however, some large families might be split up between two CASAs. Approximately one-third of the active volunteers carry the maximum caseload, another third are assigned to two families, and the remaining third are assigned to one family. As of September 2000, CASAs were appointed to 183 children, representing approximately two-thirds of the Children's Court overall caseload.

The court will typically order the appointment of a CASA at the *ex parte* hearing. The following day the Model Court coordinator will contact the CASA program director to request that a CASA volunteer be appointed. Typically, this appointment occurs quickly. As of September 2000, there was no waiting list of children in need of CASAs.

CASA volunteers are typically appointed as the child's guardian *ad litem* (GAL). This type of appointment gives the volunteer greater access to case information than if appointed as a friend of the court. Interview data suggest that CPS caseworkers are generally very willing to share information with CASA volunteers and Model Court collaboration has helped in this regard. GAL status also gives the CASA legal standing in a hearing. However, the program doesn't currently have access to legal counsel for zCASA volunteers at court hearings. So far, no funding is available for this.

A representative from CASA – usually the designated volunteer – will attend all hearings on children to which volunteers are appointed. As necessary, however, a coordinator or

the CASA director will fill in. If the case has a parallel criminal case, the CASA volunteer may also attend these proceedings. Volunteers are encouraged to work closely with the child's attorney *ad litem*. Volunteers will do a great deal of the home and collateral visits and meet with the attorneys regarding their recommendations. CASAs typically stay on a case through adoption if parental rights have been terminated.

The minimum contact requirement is for a volunteer to visit with the children on a monthly basis, but usually volunteers visit more frequently. CASAs will try to visit with the children before the treatment team meeting and will attend this meeting as an observer. If time permits, and circumstances warrant, a CASA volunteer may prepare a report for the full adversarial hearing. CASA volunteers routinely provide reports for the status, placement, and permanency hearings and attend all mediations (primarily as an observer). CASA volunteers also typically attend any educational assessment/review meetings held by the schools and work closely with the school districts around enrollment and attendance issues. CASAs interviewed also indicated that they may assist parents in tracking down leads for housing, employment, vocational training, education, and help with obtaining access to treatment services in cases where reunification is appropriate.

New recruits are required to participate in a 40-hour training and orientation program before they can be assigned to a case. In addition, volunteers are required to attend six CASA in-service training programs annually. These in-service programs are held on a monthly basis, typically in the evening, and last approximately two to three hours.

### ***Pro-Bono Immigration Panel – Special Attorneys ad Litem for Undocumented Children***

Interviews with local immigration attorneys indicate that undocumented children taken into state custody with active Children's Court cases are eligible for "green card" status if reunification is not considered possible or appropriate. These children can petition the federal Immigration and Naturalization Service (INS) to obtain "legal permanent residency" (LPR) status. A child, however, needs to remain court-involved throughout the entire immigration process. Interview data indicate that this process routinely takes a year or longer (up to 18-20 months). This is of particular concern for older children who may reach the age of majority (18) and be emancipated by the court prior to

completion of the LPR application process. These children are subject to deportation at that time if the residency application process is not complete.

The Children's Court Associate Judge, working closely with local immigration attorneys, developed a panel of *pro bono* attorneys to assist maltreated children with immigration issues. The original panel was set in place in June 1996 – approximately eight months prior to the formal start-up of the Model Court. Initially, this panel consisted of five immigration attorneys but in recent years has been reduced to three attorneys. Through September 2000 (a period of slightly more than four years), volunteer immigration attorneys have assisted approximately 50 children with active Children's Court cases in obtaining their residency papers.<sup>78</sup>

Interview data indicate that the involvement of the Children's Court Associate Judge was crucial in getting this initiative off the ground. Judge Macias agreed to meet with district office INS officials to discuss the issue and to enlist their support in setting up an expedited process for these cases. All Children's Court cases are funneled through the same El Paso federal court. On an ongoing basis, the Associate Judge closely reviews each case to see if a child is in need of immigration intervention, closely tracks case progress, and requires a status report to the court in this regard.

*Pro bono* attorneys work closely with the child's attorney *ad litem* and caseworker in initiating and completing the INS application process. Panel attorneys are responsible for completing the requisite paperwork, filing the necessary papers, and monitoring the progress of the case through the immigration bureaucracy. It routinely takes up to 10 or more hours of attorney and paralegal time to see the case through the application process. For cases involving older children, panel attorneys will directly contact local INS officials to expedite the application process. Interview data suggest that no child has aged out of the system prior to resolution of the application process since the panel was created (a period of more than four years: June 1996- September 2000).

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<sup>78</sup> The majority of these cases have been handled by the same attorney who co-founded the Children's Advocacy Center, which recruits and trains *pro bono* attorneys to represent children in dependency matters.

***Inclusion of Foster Parents in Process/Collaboration With Local Foster Parent Association***

While foster parents are the backbone of the child welfare service delivery system, and know the children this system serves far better than any other provider component, their role in the court process in most jurisdictions across the country has been minimal. Rarely are they called upon to give testimony in court proceedings. In a number of jurisdictions prior to passage of ASFA legislation in 1997,<sup>79</sup> foster parents were not invited to these proceedings in fear that their appearance would be detrimental to the reunification process.

This is far from the case in El Paso. From the onset of the Model Court, the Associate Judge has relied heavily on foster parents and has included representatives from the local foster parent association in all phases of system-wide planning and re-tooling. Foster parents are required to attend all hearings and are routinely called upon to provide formal testimony and to informally respond to questions from counsel and the bench at these hearings. Foster parents play a critical role in the assessment foster home initiative. They are an integral component of the front-end triage team and are in continual communication with caseworkers, physicians, therapists, educators, and other service providers involved in the assessment and case plan development process. They attend and participate in all treatment team meetings involving children in their care – during the assessment process as well as treatment team meetings held in later stages of the case. Foster parents also attend and participate in any mediation sessions involving their foster children. Interview data further indicate that foster parents are relied upon to work closely with biological parents regarding visitation (including working with family members across the border), and parenting skills/mentoring.

Over the years, foster parents have built a very strong and cohesive local foster parent association (the El Paso Area Foster Parent Association, Inc.) which can, at least in part, be attributed to the centrality of their role in the Model Court planning and development process. Through various grants, the association provides an array of support services for foster parents. For example, the association provides up to 20 days of respite care

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<sup>79</sup> The 1997 Adoption and Safe Families Act (ASFA) legislation requires that foster and pre-adoptive parents or relatives providing care for a child be given notice and an opportunity to be heard at any review or other type of hearing held with regard to that child. However, this

per year to each foster parent in the area. Grant funds also allow the association to provide their members with 24-hour access to a therapist (seven days a week) on an as-needed basis. TDPRS also provides 24-hour a day caseworker back-up in crisis situations.

As of August 2000, the association had approximately 240-250 members, and association representatives interviewed reported that 80% of their members have adopted a child. The association has monthly meetings and will typically have an invited speaker to present on various child protection topics. The association also provides training for prospective foster parents. The association continually recruits foster parents (preferably foster parents who are also interested in serving in a foster-adopt capacity) and interview data suggest that local families are open to this because foster parents are valued participants in the child protection process.

### ***Family Group Conferencing***

El Paso Human Services, Inc., began a significant effort to design and implement a family group conferencing model in El Paso in the Fall of 1999. A subcommittee of the Model Court Advisory Committee (see following section on "Collaboration") was convened and regularly met to discuss program design features, procedures, policies, and staffing with El Paso Human Services, Inc. Members of this committee included the Associate Judge of the Children's Court, service providers, TDPRS caseworkers and supervisors, as well as researchers from the university community.

With receipt of program development and implementation funding from the Texas Children's Justice Act Project, the "Familias Primero" or "Families First" program was integrated into the Children's Court Model Court initiative in 2000. The program convenes families for the purpose of establishing treatment plans, resolving problems, and assuring the safety of the child when reunifying families. The process is conducted through identifying family strengths; identifying their concerns and having families determine resources needed to strengthen the family; and identifying and clarifying the family's goals and dreams for their children.

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legislation does not require that courts make foster parents a party to these proceedings. (Please see section 105 of this legislation, Public Law 105-89).



Familias Primero involves two types of families:

1. Families referred by the Department as a result of an investigation of child abuse or neglect with the goal of maintaining the children safely in the biological parent's home or in the home of a relative. In this instance, Familias Primero serves as a diversion initiative designed to preserve the family without court involvement and without placing the child in foster care.
2. Families who are subject to court-supervised family reunification. Under these circumstances the goal of Familias Primero is to build a strong family support network for the rehabilitated parent so that the child can be safely returned to the parent's home.

A family conference Project Coordinator and a Project Convener are responsible for coordinating the family conference once a client(s) has been identified and met pre-designated selection criteria (e.g., determination that a family support system is available to the client; willingness to participate in a conference; and potential gain for the family and for the Department). Family members from both sides of the international U.S./Mexico border and family members from bordering states are included in the family conference.

Because the Familias Primero program was in its initial or pilot stage during the period of this research project, the potential influence of family group conferencing on overall case processing timeliness and quality was not studied. Future research should examine the impact this program has had on case process and outcomes in El Paso.

### ***Collaboration***

Integral to the systems reform efforts of the El Paso Model Court has been the positive collaborative relationship among all stakeholders in the child welfare system. The El Paso Model Court Advisory Committee includes judges, court staff, child protective services workers and supervisors, attorneys *ad litem*, assistant county attorneys, CASA representatives, foster parents, mental health professionals, service providers, and representatives of the university community. The overall purpose of the Model Court Advisory Committee and its various subcommittees is to provide a forum for the

discussion and development of innovative practices, as well as policies on how dependency cases will be handled in El Paso's child protection system.

Charged with changing the way the court does business for the benefit of all participants in the dependency process, the Model Court Advisory Committee regularly convenes to set priorities for Model Court initiatives. In order to increase community awareness of problems associated with child abuse and neglect, the El Paso Children's Court also invites local networks of professionals to serve on various subcommittees. Past subcommittees have included workgroups to design and implement mediation, family conferencing, assessment foster homes, therapeutic standards, adoption initiatives, family drug court, and family violence projects.

An important part of sustaining the collaborative effort in El Paso has been the Model Court's annual "goal-setting retreat." The purpose of this retreat experience is to re-energize the Model Court's improvement efforts, to set and refine goals for the upcoming year, and to obtain time and resource commitments from stakeholders for identified initiatives.

Besides the work of a truly multidisciplinary Model Court Committee structure, interviewees remarked that the provision of ongoing cross-training for all dependency participants has been key to the success of El Paso's reform efforts. The Model Court has been able to send representatives to Model Court regional and national trainings on such topics as dependency mediation, family group conferencing, and family drug court. Interviewees report that attendance at these trainings greatly facilitated the development, implementation, and refinement of these programs in El Paso.

## CONCLUSION AND RECOMMENDATIONS

The El Paso Model Court has been remarkably successful in its efforts to move abuse and neglect cases through the child protection system in a timely manner without sacrificing the quality of court proceedings. Most impressive are El Paso's efforts to "front-load" the system – re-tooling the system so that all parties to court proceedings begin actively participating at the earliest point possible and are doing all they can to minimize the length of time children remain in temporary placement. The inception of Model Court did not result in substantial changes to the timing of the early hearing process. What changed was the scope of the issues addressed at these hearings and the amount of casework done in preparation for them. The impact of "front-loading" becomes evident by the time of the service plan meeting and status hearing, as time frames for both are reduced considerably, and the primary purpose of the status hearing changes from that of a dispositional hearing to a status proceeding to examine progress on case plan goals. All of the components of the service plan have been identified by the conclusion of the full adversary hearing, and a number of services have already been put into place.

When compared to a sample of pre-Model Court cases, results of this study of the El Paso Model Court process indicate that post-Model Court Cases (post-ASFA), are being processed in a more timely manner; are closed more quickly; generate court orders that are more specific (particularly at early hearing stages); and appoint counsel for all parties early in the process. Interview respondents underscored that key to this success (including the successful development and implementation of innovative programs such as assessment foster homes, dependency mediation, family group conferencing, and family drug court) has been the significant collaboration from all system stakeholders in the "re-tooling" of dependency practice in El Paso.

El Paso's Model Court accomplishments have all been achieved in an environment with a limited resource base and significant economic and social challenges. Clearly, the El Paso Model Court has been able to overcome these sizeable hurdles through its

innovative and collaborative action, and strong sense of community that embraces challenges in order to support its most victimized children.

The following narrative presents findings from the evaluation of El Paso's Model Court activities and process, as they relate to El Paso's Model Court goals.

### ***EXPEDITING AND EXPANDING THE COURT PROCESS***

***GOAL: Expedite the court process and increase the level and quality of oversight exercised by the court.***

- *Finding:* Case processing timelines in El Paso generally meet and exceed those recommended in the *RESOURCE GUIDELINES*<sup>80</sup> and the companion *ADOPTION AND PERMANENCY GUIDELINES*.<sup>81</sup>
- *Finding:* Interview and court observation data indicate that Model Court hearings are substantive and detailed, with a wide variety of parties attending and providing testimony (particularly caseworkers, service providers, and foster parents). Consistent with the *RESOURCE GUIDELINES* recommendations, Model Court hearings are scheduled for a time-certain and the allotted time allows for detailed examination of various issues related to reasonable efforts, placement, services, visitation, case progress, and permanent plan determinations. Detailed orders are also prepared in the courtroom and are distributed to all parties at the conclusion of each hearing, setting clear expectations for case progress and facilitating communication among parties and the court. Interview respondents report support for the expanded hearing, noting the importance of this process to identifying and reaffirming case plan objectives and to reminding parents of the accelerated permanency timelines.
- *Finding:* Court orders stemming from all hearings in the post-Model Court sample of cases studied were considerably more detailed and specific than orders in the pre-Model Court sample of cases. In addition to reasonable efforts and routine matters related to scheduling, case file analyses revealed that an average of 8.2 separate issues were addressed in *ex parte* hearing orders (compared to 1.8 issues in the pre-Model Court sample); and an average of 16.2 separate issues were addressed in adversarial hearing orders (compared to 8.6

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<sup>80</sup> *Supra*, note 2.

<sup>81</sup> *Ibid.*

issues in the pre-Model Court sample of cases). These differences were statistically significant ( $p < .05$ ).

- *Finding:* The Model Court goes well beyond placement review requirements for cases in which the agency has been granted permanent managing conservatorship without parental rights having been terminated.

***GOAL: Reduce the time needed to make and execute permanency decisions.***

- *Finding:* When compared to pre-Model Court cases, time frames from removal to court events were reduced in the post-Model Court (post-ASFA) sample of cases studied. This difference was statistically significant for time frames from removal to status hearings ( $p < .05$ ), and initial permanency and permanency hearings ( $p < .05$ ).
- *Finding:* The average number of months to achieve case closure has been reduced from 21.23 months in 1995 (pre-Model Court) to an average of 10.01 months in 2000 (post-Model Court and post-ASFA). This represents an overall reduction of 11.22 months.
- *Finding:* Procedures have been put in place to expedite the resolution of contested and jury TPR matters in District Court. These procedures build upon the vast amount of casework conducted by the agency, the detailed documentation of case plan failures as evidenced in agency, service provider and CASA reports, the detailed orders generated by the Associate Judge in the Children's Court proceedings, the availability of permanency mediation, and the fact that parents are appointed qualified and experienced counsel from the onset of the case.

***Recommendations related to case processing and timeliness of proceedings:***

- While this evaluation was able to extract information about case processing from case file reviews and the Children's Court's Excel spreadsheet program, this was a time-consuming and laborious process. In order to facilitate on-going assessment, the El Paso Model Court needs to enhance its capacity to collect and track case processing information via a child protection-dedicated management information system. Such a system would ideally be able to produce comprehensive case profiles of dependency caseloads as well as generate statistics on key court performance and child well-being outcome

measures. At the minimum, this system should support calendaring and case management features (e.g., flag potential court delays and approaching statutory deadlines), as well as calculations of time elapsed from court event to court event. Case closure rates and reasons for case closure should also be carefully tracked to see if the trends found in this study continue.

- While interview respondents were supportive of the expanded hearing process, frustration was expressed with the amount of time spent waiting for hearings to begin. Even with time-certain calendaring, it appears that hearings take longer than scheduled and that these tend to back up during the course of the day. The Model Court should re-examine its scheduling and expanded hearing process in light of these concerns. While setting clear expectations for parties, the Model Court should also attempt, to the extent it is reasonable, to ensure that hearings are kept to docketed times. Perhaps, as some interview respondents suggest, the court need not require detailed testimony on issues in which there is already agreement.

### ***EXPEDITING AND IMPROVING THE QUALITY OF EARLY CASE PLANNING AND DELIVERY OF SERVICES***

#### ***Improved early case planning***

***GOAL: Front-load the system to promote timely case planning, improve the early delivery of appropriate services, reduce the number of foster home placements, and improve the quality of the permanency planning process.***

- *Finding:* The Assessment Foster Home initiative provides early assessment and intervention services to children and their families. In the post-Model Court process, an assessment worker has already been assigned to a case in anticipation of the *ex parte* hearing, putting in motion a host of activity related to “front-loading” of services and case planning.
- *Finding:* Treatment team meetings, which serve as the coordinating body for development of initial case plans and placement recommendations, were held in the Model Court sample of cases an average of seven days from removal. An average of 11 people attended these meetings and an average of three meetings were held per case. Interview data indicate that this multidisciplinary team approach to case planning is reducing barriers to timely provision of services and promoting creative problem-solving and solution generation. Interviewees also

suggested that this approach appropriately focuses the assessment process on long-range needs and goals rather than on the immediate crisis needs of the child and family.

- *Finding:* A concurrent plan was documented in the case file in 91% of the post-Model Court cases studied, demonstrating that the El Paso Model Court has a commitment to move children more quickly from the uncertainty of foster care to the security of a permanent family.

**Improved representation of all parties and support of non-adversarial options**

***GOAL: Improve the quality of legal representation afforded to children and parents, while at the same time take steps to encourage counsel to represent their clients in a less adversarial manner.***

- *Finding:* The appointment of counsel for *all* parties occurs considerably earlier in the court process in the post-Model Court sample of cases studied. Furthermore, this difference was statistically significant for all parties ( $p < .05$ ).
- *Finding:* The El Paso Model Court routinely appoints counsel for parents as early as the *ex parte* hearing. This early appointment was facilitated by the use of an “attorney wheel” to assign parents’ attorneys to abuse and neglect cases. These attorneys are experienced in child protection matters and sufficiently reimbursed to ensure that these cases are a priority. Interview data indicate that parents’ attorneys are very involved from the onset of a case, placing a heavy emphasis on preparing for and participating in early court proceedings. Interviewees also report that parents’ attorneys are supportive of less adversarial means of proceeding, and that they routinely advise their clients of the gravity of child abuse and neglect proceedings, encourage them to comply with service plan requirements ordered by the court, and realistically advise parents of the consequences of non-compliance and the shortened ASFA time frames.
- *Finding:* Children are routinely appointed attorneys *ad litem* as early as the *ex parte* hearing. Interview data indicate that these counsel are very involved throughout the life of the case. In addition to an attorney *ad litem*, CASA volunteers are appointed as the child’s guardian *ad litem*. As of September 2000, CASAs were appointed in approximately two-thirds of the El Paso Children’s Court overall caseload. These volunteers routinely provide reports for

the status, placement, and permanency hearings, and attend all mediations (primarily as observers).

- *Finding:* In order to overcome case processing delays associated with parents who are also subject to parallel criminal prosecution, the El Paso Model Court has developed procedures to allow for closer coordination of these cases. Assigning the child protection and companion criminal case to the same jurisdiction facilitates consistency in court orders across these cases, as well as incorporation of service plan compliance into any conditions of probation if the parent is convicted in the criminal matter.
- *Finding:* In order to facilitate and expedite the completion of U.S. “legal permanent residency” for maltreated children who are also undocumented aliens, a special *pro bono* immigration panel of attorneys was developed. Through September 2000, volunteer immigration attorneys have assisted approximately 50 children with active Children’s Court cases in obtaining their residency papers. Interview data indicate that since its inception, no child had aged out of the system prior to the resolution of the INS residency application process (a common occurrence pre-Model Court).
- *Finding:* By 2000, the El Paso Children’s Court had held 311 mediations in abuse and neglect cases, with most (72%) resulting in an agreement. The mediation project has also been expanded to include the mediation of placement and transition planning for reunification and visitation, in addition to permanency/TPR mediations.
- *Finding:* Pre-trials are scheduled on the Monday prior to full adversarial hearings, and are designed to facilitate agreement regarding allegations contained in the petition, the circumstances resulting in the removal of the children, and the efforts of CPS to prevent removal. Interview respondents report that these pre-trials, particularly because they are “on the record,” have a psychological impact on the parents and convey to them early on the gravity of the court process.



**Empowering parents and families**

***GOAL: Encourage and empower parents and extended family members to participate in the court process and to become involved in making decisions regarding their children and families.***

- *Finding:* El Paso's family group conferencing program, Familias Primero, regularly convenes families for the purpose of establishing treatment plans, resolving problems, and assuring the safety of the child when reunifying families.

***GOAL: Provide better services to children and families through the operation of a family drug court.***

- *Finding:* A family drug court was instituted in El Paso in 1999. Since its implementation, seven parents have successfully graduated from this four-phase program.

**Creative and multiple stakeholder collaboration**

- *Finding:* Interview data indicate that the El Paso Model Court has developed a positive collaborative relationship among all stakeholders in the child welfare system. This collaborative structure has been instrumental in the development of innovative practices such as: mediation, family conferencing, assessment foster homes, adoption initiatives, family drug court, *pro bono* immigration panels, and parents' attorney wheel procedures.
- *Finding:* While foster parents' role in the child protection court process has been minimal in most jurisdictions around the country, foster parents have been included in all phases of El Paso's system-wide reform planning and re-tooling. In particular, foster parents play a critical role in the assessment foster home initiative, and are an integral part of the front-end triage team. Foster parents attend court hearings, treatment team meetings, and attend and participate in any mediation sessions involving their foster children. Interview data indicate that foster parents are relied upon to work closely with biological parents regarding visitation (including working with family members across the international border) and parenting skills/mentoring, and are considered an integral part of the front-end triage team.

***Recommendations related to expediting and improving the quality of early case planning and delivery of services:***

- If caseloads continue to rise, some additional triaging of cases coming into the court may be necessary to determine which children and families are most in need and would most likely benefit from the continuum of services and programs described in this evaluation report.
- The El Paso Model Court should continue its efforts to appoint counsel and volunteer advocates as early in the process as possible. Access to legal counsel for CASA volunteers at court hearings should also be explored.
- Ensure that protocols established to coordinate child protection cases with parallel criminal proceedings are adhered to (e.g., ensure that the two prosecuting offices conference the cases and that the companion criminal case is transferred to the 65<sup>th</sup> District Court as agreed). Unfortunately, interview respondents indicated that this is often not the case. A refresher training on the benefits of coordinating these cases may serve to reinforce protocols that have been put in place.
- The El Paso Model Court should continue to expand the use of mediation beyond just the permanency/TPR stage of a case. Although the court may order parties to mediation at any stage of the court process after the full adversarial hearing, data provided by the court indicate that mediation is most often scheduled to address permanency and TPR issues only. Since El Paso's mediation program has successfully generated agreements (72% of all mediations held have resulted in agreements), it may serve as a useful resource to parties at all stages of the child abuse and neglect case process. Although the mediation program is highly regarded by interview respondents, concern was expressed about the length of mediation sessions (e.g., often longer than estimated). Mediation program managers should be sensitive to this concern in order to ensure continued enthusiasm for the program. Funding should be secured for a formal evaluation of the impact mediation is having on case processing and outcomes. This evaluation should be specifically tailored to the specific issues and challenges related to mediation of child protection matters. Training opportunities should also be expanded so that more attorneys can be recruited and trained as mediators.

- The use of family group conferencing should be expanded, where appropriate, and funding sought for an evaluation of this program's impact on case process and outcomes.
- Ensure that foster parents continue to be included in Model Court collaborative efforts.
- The El Paso Model Court should continue to expand family drug court so that more families can benefit from this model. Funding should be secured for a formal evaluation of this program.
- On-going evaluation, whether formal or informal, of El Paso Model Court activities is encouraged. Future evaluations should examine the sustainability of Model Court efforts. It would be important, for example, to assess how the Model Court has handled transitions in judicial leadership, changes in key stakeholders involved in collaborative efforts, and changes in available resources.

**APPENDIX**