

WASHINGTON STATE  
OFFICE OF PUBLIC DEFENSE

DEPENDENCY AND  
TERMINATION EQUAL  
JUSTICE COMMITTEE

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REPORT

DECEMBER 2003

# DEPENDENCY AND TERMINATION EQUAL JUSTICE COMMITTEE REPORT

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## COMMITTEE MEMBERS

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<b>Committee Chair:</b> Hon. Bobbe Bridge Wash. Supreme Court	Mr. Dan Erker Pierce Co. Juvenile Court	Comm. Lonna K. Malone Benton-Franklin Sup. Ct.
<b>Subcommittee Chairs:</b> <i>Access to Services:</i> Hon. George N. Bowden Snohomish Co. Sup. Ct.	Mr. Dan Fessler Dept. of Assigned Counsel	Hon. George T. Mattson King Co. Superior Court
<i>Caseload and Continuances:</i> Hon. Bobbe Bridge Wash. Supreme Court	Ms. Sieglinde Gassman Washington State CASA	Mr. Patrick Noone King Co. Juvenile Court
- and -	Hon. James Hargrove Washington State Senate	Ms. Sharon Paradis Benton-Franklin Juv. Ct.
Hon. Ruth Kagi House of Representatives	Mr. Steve Hassett Assistant Attorney General	Comm. Joseph Schneider Benton-Franklin Sup. Ct.
<i>Experts and Evaluators:</i> Hon. James A. Doerty King Co. Superior Court	Hon. Mary M. Haugen Washington State Senate	Ms. Jackie Shea Shea & Brown
<b>Committee Members:</b> Hon. Ted Anderson Skagit Co. Commissioner	Ms. Jann Hoppler DSHS Children's Admin.	Ms. Janet Skreen Admin. Office of the Cts.
Mr. Michael Curtis King Co. Juvenile Court	Ms. Marie Jamieson Families for Kids Ptnrshp.	Comm. Charles R. Snyder Whatcom Co. Sup. Ct.
Mr. Greg Dootson DSHS	Hon. Kathy Lambert King Co. Council	Hon. Val Stevens Washington State Senate
Mr. Patrick Dowd Ombudsman, OFCO	Hon. Thomas P. Larkin Pierce Co. Superior Court	Hon. Joseph Thibodeau Snohomish Co. Sup. Ct.
	Ms. Linda Lillevik The Public Defender	Hon. Joseph R. Zarelli Washington State Senate
	Ms. Deb Lippold Dept. of Assigned Counsel	

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## OFFICE OF PUBLIC DEFENSE

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Joanne I. Moore, Director  
925 Plum St, Bldg 4, 3<sup>rd</sup> Fl  
PO Box 40957  
Olympia WA 98504-0957  
Telephone: (360) 956-2106 Fax: (360) 956-2112  
E-mail: [opd@opd.wa.gov](mailto:opd@opd.wa.gov) Website: [www.opd.wa.gov](http://www.opd.wa.gov)

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## Executive Summary

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The 2001 Legislature requested the Chair of the Washington State Office of Public Defense Advisory Committee to appoint a committee to examine specific problem areas in dependency and termination cases. These included court continuances, the appointment of experts, and parents' access to services.

The Dependency and Termination Equal Justice Committee (DTEJ), chaired by Justice Bobbe Bridge, consisted of a multi-disciplinary group of judges, legislators, DSHS representatives, an assistant attorney general, parents' attorneys, court administrators, a county commissioner, and other professionals involved in dependency and termination cases.

Dependency and termination case practices vary from county to county, and the areas assigned to the DTEJ Committee are broad and complex. For that reason, the Committee requested the Washington State Institute for Public Policy to prepare and report on five statewide surveys of institutions and groups that participate in dependency and termination cases. These included the juvenile courts, social work supervisors, chemical dependency treatment providers, services providers, and experts and evaluators.

Based on the survey results, the extensive experience of its membership, and other information, the DTEJ Committee adopted recommendations to address the areas identified by the Legislature.

### **Caseload and Continuance Subcommittee**

Earlier resolution of dependency and termination cases has been a significant goal during the past few years. The Caseload and Continuance Subcommittee examined case delays, including continuances, recommending:

**Reasonable caseloads for all parties, enhanced scheduling of cases, earlier negotiation of cases, advance continuance request requirements, enforcement of report timing requirements, the development of local committees including representatives of all the parties, two to four year judicial rotation, early determination of paternity questions, and the implementation of alternative dispute resolution.**

### **Expert and Evaluator Subcommittee**

In many dependency and termination cases, the court orders that parents and/or children be evaluated by psychologists, doctors, or other private professionals. The Expert and Evaluator Subcommittee investigated the role of and selection of these professionals as well as the quality and timeliness of reports, recommending:

**Development of evaluation guidelines, appointment of mutually agreed-upon evaluators, distribution of updated lists of evaluators, active consideration of evaluation due dates in setting hearings, training on using evaluators, and the enforcement of standards of professionalism.**

## **Access to Services Subcommittee**

Under state and federal laws, courts are asked to determine whether the state has provided reasonable services to families who are involved in dependency and termination cases. Recognizing that the timing of services and their availability are critical, the Access to Services Subcommittee recommended the following:

**A mandated priority system to give parents preference for services, updated lists of services, implementation of services earlier in the case, examination of the strengths and weaknesses of locally available services, assistance to parents in understanding the procedures, the upholding of equal access to services, and consideration of transportation issues in services orders.**

## **Visitation**

The DTEJ Committee examined the statewide provision of parent-child visitation and concluded that visitation is a key, critical issue for both parents and children and that opportunities for visitation should be offered to the maximum extent possible, and made recommendations concerning:

**The importance of the child's and parents' right to visitation, the development of multi-disciplinary criteria for visitation, appropriate visitation orders, and support for creative visitation programs.**

## **Family Drug Courts**

Several juvenile courts have instituted family drug courts to provide more judicial supervision and oversight to parents who have substance-abuse problems. The DTEJ Committee recommended that:

**Family drug courts are effective and should be implemented in each juvenile court, and services for parents should be located near the courts.**

## **Parents' Representation Program**

The goal of the Office of Public Defense Parents' Representation Program is to enhance the quality of legal representation for parents in dependency and termination cases. The program should be implemented statewide. The current program criteria has worked well and should be retained, including:

**Reasonable maximum caseloads; the implementation of enhanced defense attorney practice standards; the use of investigator, social worker and expert support; and the avoidance of continuance requests on the basis of being over-scheduled.**

## **Conclusion**

These Dependency and Termination Equal Justice Committee collaborative recommendations should be implemented to further the system's goals of protecting the safety and well-being of children and treating families fairly.

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## Introduction

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In 2001, legislation was passed to create the Dependency and Termination Equal Justice Committee (DTEJ), to be staffed by the Washington State Office of Public Defense (OPD). The legislation directed the Committee to:

- (1) Develop criteria for a statewide program to improve dependency and termination defense;
- (2) Examine caseload impacts to the courts resulting from improved defense practices; and
- (3) Identify methods for the efficient use of expert services and means by which parents may effectively access services.

Justice Bobbe J. Bridge chaired the DTEJ Committee, which included judicial officers, legislators, DSHS representatives, an assistant attorney general, parents' attorneys, CASA, court administrators, a county commissioner, and others. Due to the broad areas assigned for discussion, the DTEJ Committee divided into subcommittees on Caseload and Continuances Impacts, Experts and Evaluators, and Access to Services.

A significant number of governmental and professional groups are involved in dependency and termination cases. These include the courts, DSHS, the Attorney General's Office (AGO), parents' attorneys, guardians ad litem, psychologists and other experts, and services providers of many types. Early on, the Committee decided that it was important to conduct statewide surveys of some of these groups, in order to obtain a factual basis for recommendations. Fortunately, the DTEJ Committee was able to obtain the expert assistance of Marna Miller of the Washington State Office of Public Policy (WSIPP) to conduct the surveys. She took questions formulated by the three subcommittees and prepared and reported on five surveys which were circulated to the courts, chemical dependency treatment providers, services providers, and experts and evaluators. With the assistance of DSHS, an electronically formatted survey was circulated to social work supervisors.

After the surveys were completed in the fall of 2002, their results and other topics were examined in detail by the three subcommittees and the Committee as a whole, and recommendations were formulated. These recommendations were designed to articulate best practices for courts and parties who participate in dependency and termination cases. It is anticipated that judicial education presentations will be made regarding these topics, particularly the recommendations pertaining to the courts. To the extent possible, they are budget-neutral. The recommendations are detailed and far-reaching, and came about as a result the courts', parties', and institutions' willingness to undertake a fresh assessment of the system and jointly create recommendations for equal justice improvements in dependency and termination cases.

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## Caseload and Continuances Recommendations

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1. **Matters should be scheduled to permit sufficient time for quality adjudication of the merits. Courts should set case schedules at shelter care. No party should have excessive caseloads. In order to reduce parties' waiting time, the court should schedule hearings in specific time blocks.**
2. **Courts should implement formal procedures to promote the early negotiation and determination of agreed issues. Parties should be required to create written issue statements before each hearing. Pre-trial conferences presided over by a judicial officer should be scheduled prior to dependency and termination fact-finding hearings.**

*Commentary: A large percentage of continuances are caused by the failure of the parties to communicate about the issues in advance of hearings. Courts of differing sizes have successfully implemented variations of "issue sheet" procedures that require the parties to communicate in advance.*

3. **Courts should enforce case schedules. Parties desiring a continuance should file a written request in advance of the hearing, showing good cause. Courts should provide an efficient mechanism for granting or denying the continuance in advance of the hearing. Agreed-upon continuances should not be granted absent good cause.**

*Commentary: Courts provide a variety of procedures for efficiently deciding continuance motions prior to hearings. Examples include dependency motion dockets in some courts and the consideration of motions without oral argument in others. Courts should devise a system that works locally and that the parties can easily access.*

*It is recommended that requests for continuances of dependency fact-finding hearings and termination hearings be closely scrutinized. Continuances that are requested almost immediately before these hearings often cause untoward delay because the hearings are difficult to reschedule in a timely way. Courts should apply high good cause thresholds when considering such continuance requests.*

4. **Parties should be required to timely file reports. Courts should develop and enforce a rule requiring that all reports and documents related to hearings are filed in accordance with local or state deadlines.**

*Commentary: Late reports cause chronic delays in many courts. The exercise of judicial leadership and consequent recognition by the parties of the importance of timely reports has resulted in significant continuance reductions in several courts. Courts should devise methods for enforcement of report deadlines that are effective and are suited to local needs.*

- 5. Courts should convene a time-limited or ongoing dependency and termination court committee consisting of representatives of all parties involved in dependency and termination cases in order to discuss communication, procedural, and delay issues and methods for addressing them.**

*Commentary: Many courts have found that ongoing committees allow the parties to effectively and efficiently address procedural issues and work together to create positive solutions to dependency and termination case issues. Throughout these recommendations, a committee approach to specific services, evaluator, visitation, and caseload and continuance improvements has been noted. Such committees have devised creative, locally tailored approaches to the problems faced by many courts.*

- 6. Courts should set the length of judicial rotation in dependency and termination cases at a minimum of two to four years.**
- 7. The resolution of dependency and termination cases should not be suspended due to pending related cases in other courts. Juvenile courts should create methods for coordinating dependency and termination cases with other case types (for example, Title 26, drug court, Title 11) where the outcome or finalization of the dependency or termination case depends on the completion of the other actions.**
- 8. Courts should develop and enforce procedures to ensure that paternity questions are determined at the earliest opportunity.**

*In recognition of the need to develop best practices procedures for paternity questions, the Washington Association of Prosecuting Attorneys convened a workgroup in 2001 which developed procedures for establishing paternity. These procedures have been adopted as WAPA Best Practices and are currently in the process of being updated.*

- 9. Courts should work toward instituting procedures for alternative dispute resolution. Examples of such proceedings are mediation and family group conferencing, among others.**

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## **Caseload and Continuances Subcommittee**

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There is a widespread perception that many dependency and termination cases have a high number of delays. The Caseload and Continuances Subcommittee examined impacts of continuances and delays in dependency and termination cases. Issues included both reduced continuance caseload impacts resulting from improved defense practices as demonstrated by the OPD pilot program in Benton-Franklin and Pierce juvenile courts, hearings continuances, delays in general, and methods of addressing them.

There are numerous sources of continuances and delays in dependency and termination cases. The Subcommittee focused on delays that seemed to be occurring with greater frequency. Issues anecdotally occurring in courts include delays of statutory hearing dates, the failure of the parties to talk with each other prior to hearings, late reports, a lack of pretrial conferences in some courts, and space and personnel resource limitations, among others.

Earlier permanence for children involved in the system has been a paramount goal in recent years. Through the Washington Court Improvement Grant Program, various Washington juvenile courts have created pilot programs to improve timeliness in dependency and termination cases. The first act of the Subcommittee was to review the results of court improvement projects held in King, Snohomish, Pierce, and Benton-Franklin juvenile courts. In addition to reviewing the reports from these court improvement projects, the Subcommittee included members from each of these juvenile courts who had participated in the four court improvement projects and were able to outline some of the important changes that were made. These four projects provided a basis for some of the Subcommittee's recommendations.

The Subcommittee wrote an initial draft of a survey of all juvenile courts, which was finalized, prepared for distribution, and reported by the Washington State Institute for Public Policy (see [www.wsipp.wa.gov](http://www.wsipp.wa.gov)). Through this survey and the other surveys, the Subcommittee obtained reliable information as to delays occurring in statewide dependency and termination cases and other caseload issues.

### **Case Schedules**

Through discussion of the common problems of continuances due to the over-scheduling of the courts, defense attorneys, or assistant attorneys general, the Subcommittee concluded that excessive caseloads are one basic cause of continuances. The courts and parties need to assess their capabilities and the number of cases attorneys can realistically handle. The consensus was that rather than setting hearings for a long period of time such as a morning or an afternoon, courts should attempt to determine how long specific types of hearings take, and set them for short time blocks or specific times. This was seen as being particularly important in order to prevent parties from waiting in court for hours before their cases are called. For example, social work supervisors reported that, in

a month, the average DSHS social worker spends 12 hours a month sitting in court waiting for his or her cases. One supervisor described this as "dead time."

### **Encouraging Settlement of Agreed Issues**

The court rules of many juvenile courts require case conferences prior to hearings. The Subcommittee concluded that affirmatively requiring the parties to communicate not only to encourage technical preparation for upcoming hearings, but also for the purpose of determining which issues are agreed, can save a substantial amount of time. King County has a procedure requiring an issue statement before every type of dependency or termination hearing, prepared by a Court Liaison. All parties indicate which issues they plan to contest at the hearing to the Court Liaison, who submits the issue statement to the court. Pierce County reports that through all the parties' collaborative efforts it is in the process of establishing a similar issue statement procedure.

In addition, most courts require pre-trial conferences to discuss settlement and exchange trial-related information shortly before the hearing date. In the court survey, 58% of the courts answering report they have mandatory pre-trial conferences, and another 35% have voluntary pre-trial conferences.

### **Case Schedules and Continuances**

The courts answering the court survey indicated that all types of hearings are continued with some regularity. In the survey of the courts, no single source of continuances stands out. Rather, the courts indicated a number of situations that result—with about the same frequency—in continuances. These include over-scheduled attorneys and AGs, reports not filed on time, and parents' failure to appear. The Subcommittee decided that each court needs to determine what particular reasons contribute to continuances, and how to address them. However, in general, case delays can best be avoided by the early creation of case schedules that set dates for the hearings to be held in the case, and by adopting local procedures for granting and denying continuances.

Clear case schedules and continuance rules can help prevent the need to continue hearings on the day they are scheduled because the defense attorney or assistant attorney general is not available. The courts reported that continuances based on attorney over-scheduling occur with some regularity. Requiring continuance requests in advance would save significant amounts of court and parties' time now spent attending hearings that are put off to a later date.

### **Parents Not Appearing**

Particularly in larger courts, the need for a continuance because of the failure of parents to appear occurs with some regularity in a number of hearings.

### **Filing Late Reports**

The court survey indicated that failure to file Individual Service and Safety Plans (ISSPs) causes continuances, particularly in medium-sized and large courts. Some courts reported that late guardian ad litem reports are occasionally grounds for continuances as well. In addition to hearings that are continued, the Subcommittee discussed the impact

that late reports have in diminishing the quality of adjudication in some courts when the hearing is held even though the ISSP was turned in late and parties do not have time to follow up on important information. The Subcommittee concluded that each court should develop and enforce a rule requiring timely reports. In response to court survey questions asking what measures are used by the courts to enforce timelines requirements for ISSPs and guardian ad litem reports, 80% of the responding courts reported using warnings; 45% apply sanctions and about 35% enforce through contempt of court findings.

Courts have successfully addressed this issue in collaboration with the parties. In Pierce County, the court proactively worked with DSHS to determine the extent of late ISSP reports. DSHS assessed and addressed this issue, resulting in a substantial reduction of late reports. As noted in the recommendations, courts should develop report deadline enforcement that is suited to local needs.

### **Ongoing Dependency and Termination Court Committee**

To effectively address procedural issues, many juvenile courts have convened local committees including judges, parents' attorneys, assistant attorneys general, guardians ad litem, and court personnel to meet regularly and seek mutually agreeable solutions. In past years, these committees have been instrumental in King, Pierce, and Benton-Franklin juvenile courts, among others. Because all stakeholders participate, realistic and effective changes can be fully discussed and parties actively support the changes they have created. In addition, such committees can provide a forum for assessing the local availability of services, evaluators, visitation opportunities, and so forth.

### **Judicial Rotation**

In the past, it was common for judges to rotate in and out of juvenile courts for only a few months. The Subcommittee concluded that the current trend of judges remaining in the juvenile court for sufficient time to understand and be committed to the system is very beneficial. Judges who are familiar with the cases and families can make decisions based on essential knowledge of the evidence and outcomes of earlier hearings. For the families involved, appearing before the same judge provides a sense of continuity.

### **Coordination of Court Actions**

Ideally, dependency and termination cases should be coordinated with other ongoing cases that involve the family. It is not uncommon for dependency cases to be impacted by a pending case in the criminal court or to be resolved by the entry of a parenting plan in superior court. Thurston, King, and Snohomish counties have established Unified Family Courts to ensure coordination between cases. The Subcommittee concluded that even in counties lacking a Unified Family Court, juvenile courts should make efforts to coordinate court actions that are needed in order to resolve dependencies. One example would be creating a way to assist parents in preparing parenting plans for superior court in cases in which the change of custody would eliminate the need for the dependency action. (Pierce County Juvenile Court has recently implemented such a procedure through a Court Improvement Program grant.)

### **Paternity Questions**

If there is a question of the paternity of an alleged father in a dependency case, testing is required. Courts indicate that the necessity for paternity testing is a source of court delays in some cases. Procedures should be tailored to the local needs of each court to resolve paternity questions in a timely way.

### **Alternative Dispute Resolution**

Only 27% of the courts answering the court survey reported offering alternative dispute resolution. These proceedings can save court time and provide forums for agreement on issues, and deserve serious consideration by the courts.

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## **Experts and Evaluators Recommendations**

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1. **A statewide cross-disciplinary collaborative work group should be convened to recommend reasonable efforts guidelines regarding when and what type of evaluation is indicated in cases, using existing screening methods, if possible. These guidelines should be designed to assist the parties and courts in avoiding the delay and expense of unnecessary evaluations.**
2. **Appointed evaluators and experts should be mutually agreed upon by the state, the parents' attorneys and the court. If no agreement can be reached, the court should appoint the expert or evaluator.**

*Commentary: Evaluators have very influential roles in dependency and termination cases. Mutual agreement as to who will be appointed as an evaluator in a specific case brings fairness into the appointment process by instituting checks and balances.*

3. **The courts and/or DSHS regions should maintain updated lists of potential evaluators and provide updates to all the parties.**

*Commentary: Generally, evaluators who can be appointed need to sign up in advance to be placed on the DSHS vendor list. Any professional with the required credentials can request to be placed on this list. Evaluators should be made aware of DSHS payment limits before they are appointed.*

4. **The court should consider evaluation due dates in scheduling hearings. Potential evaluators should be made aware that adhering to evaluation due dates set by the court is a factor in being considered for appointment.**
5. **Attorneys for all parties should be trained regarding working with evaluators. Training should include discussion of what kind of information to forward to evaluators and how to analyze evaluations.**
6. **The courts and counsel should become familiar with and uphold standards of professionalism in selecting evaluators and should have reasonable expectations that evaluations that are admitted into evidence be performed in a professional manner. As one example of a recognized standard for one type of evaluator, the American Psychological Association (APA) guidelines for psychological evaluations should be circulated to the courts.**

*Commentary: It is expected that counsel will raise issues of professionalism as to how evaluations are conducted. The APA guidelines, available at [www.apa.org/practice/childprotection.html](http://www.apa.org/practice/childprotection.html), set forth a high standard for executing psychological evaluations. Other examples of professional standards should be consulted as well. It should be recognized that payments are limited, but that evaluators should reasonably be held to conducting evaluations in a professional manner.*

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## **Experts and Evaluators Subcommittee**

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In many dependency and termination cases, parents and/or children are evaluated by private professionals pursuant to court orders. Some common types of these evaluations include parenting assessments, psychological evaluations, sex abuse evaluations, anger management assessments, domestic violence evaluations, and alcohol or drug assessments.

Social workers responding to the social worker survey indicated that parents are often referred for psychological evaluations during dependency and termination court cases. Courts responding to the court survey indicated that psychological evaluations or mental health treatment is ordered at any of the various dependency hearing stages in some cases.

### **Recommended Evaluation Guidelines Group**

The Subcommittee discussed at length the high frequency of psychological evaluations in dependency and termination cases. System-wide, these evaluations are expensive and the issue of whether they are producing sufficient results to justify ordering them in a large percentage of cases should be examined. Part of this examination should be an analysis of what is required in terms of reasonable efforts.

A cross-collaborative workgroup could look at these issues and, if appropriate, create a standardized assessment tool that could be used to determine if a psychological assessment may be indicated for a particular case. Hopefully, this assessment could be incorporated into DSHS's existing, recently renovated risk assessment instrument. By using a standardized assessment tool to examine whether psychological evaluations are indicated for individual cases, there may be significant savings of both limited funds and limited evaluator resources.

### **Mutual Selection of Evaluators and Experts**

At present, the selection process of the evaluator for a court-ordered evaluation varies from county to county. The Subcommittee recommends that the parents and the state should mutually select evaluators and experts.

In King County, the evaluation order specifies that it will be conducted by a mutually agreed provider or says that if the parties are unable to agree on who will do the evaluation within a reasonable time, such as two weeks, the parties will submit their proposed evaluators to the court in writing. In practice, the parties frequently file a joint recommendation for appointment of an evaluator to the court.

In many other counties, DSHS selects the evaluator at present. Historically, it appears that this method of selection has resulted from the fact that DSHS has the responsibility of administering state funds for the evaluator's fees. DSHS has a formal process for contracting with experts and evaluators, but state contracts are available to any credentialed experts and evaluators. Each region has a rate schedule.

The Subcommittee unanimously concluded that the DSHS payment responsibility is independent of the selection of the evaluator or expert. The state does not object to parents' input in the selection of experts or evaluators. It is important that parents perceive that the system is fair. The system of mutual agreement of experts and evaluators works smoothly in King County and makes it clear that the evaluator is not working for one side or the other.

It should be noted that an alternate payment system that would further address any perception of a conflict of interest would be to adopt a system of processing expert and evaluator payments through the courts.

### **Updated Lists of Potential Evaluators**

As part of the system of selecting experts and evaluators by mutual agreement, either DSHS or the court (ideally involving a local multi-disciplinary court committee) should provide lists of available experts and evaluators to the parties.

### **Timeliness of Court-Ordered Evaluations**

Tardy expert reports were named as a cause of court delays in many of the large and mid-sized courts responding to the court survey. Half the judges responding indicated that the waiting period for psychological evaluations is 15 days to over 2 months. Experts and evaluators reported a shorter time (with a median wait of about two weeks for the parent's first appointment) and an average of 34 days to complete the report. Social workers answering the social worker survey noted that while these evaluations are readily available in most of the responders' counties, there are waiting lists in 25% of the responders' counties. Mid-size and large courts cited late evaluations as the most frequent source of court delay.

Two factors impact the timely completion of expert and evaluator reports. First, the state rates are low. In many areas, only a limited number of experts and evaluators are willing to perform the work. The Subcommittee felt that obtaining additional funds for experts and evaluators is probably not realistic at present given Washington's current budget situation.

The parties can consider a potential expert's or evaluator's history of timeliness in submitting evaluation reports as a factor in appointing them. In addition, by being aware of the amount of time it is likely to take a specific expert or evaluator to complete an evaluation, courts can more accurately schedule hearings regarding the evaluations.

### **Working with Evaluators**

Training and follow-up is needed in the areas of providing information to the appointed evaluator and analyzing completed evaluations. Ninety two percent of the professionals responding to the expert and evaluator survey reported receiving a description of the facts from the social worker about a parent referral and 82% reported receiving DSHS documents about the parent. Sixty eight percent of the respondents said this information is always helpful. Only 32% of the professionals reported receiving background

information from parents' attorneys, and only 26% always found this information helpful. It is not clear whether parents' attorneys are not routinely providing helpful information, or whether the experts and evaluators surveyed prefer to obtain such information directly from the parents.

### **Standards of Professionalism**

Expert and evaluator reports submitted to juvenile courts are of widely varying quality and complexity. A goal is to ensure that all evaluations are competently performed and accurate.

After much discussion about developing a protocol for a standardized evaluation form, the group decided against making this recommendation as it would involve the realm of experts' professional decision-making. Another problem with requiring providers to use a standardized evaluation form is that it could discourage the full evaluation of each individual parent.

Therefore, to encourage high-quality evaluations in dependency and termination cases, the courts and counsel are encouraged to obtain information about professional standards for various types of evaluations. The American Psychological Association guidelines, attached at Exhibit I, describe professional steps for conducting parenting evaluations. Presentations at statewide conferences on professionalism in both conducting and analyzing evaluations would be helpful as well.

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## Access to Services Recommendations

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1. **It is critical that judicial officers be aware of services' waiting periods in their counties, particularly in light of AFSA's tight timelines. DSHS should provide courts and all participating parties with an updated list of services and providers and current budget status in the county and of the waiting list and waiting periods experienced by parents. These factors should be taken into account when services are ordered.**

*Commentary: The court should distribute the updated services list to judicial officers and all parties. Judicial officers need accurate information about available services and providers to craft services plans for cases. When one or more services will not be immediately available, services orders should set out a schedule that prioritizes services and provides for the parent's immediate needs by setting out when the services will become available and specifying what the parent shall do to address his or her specific problems in the meantime.*

2. **Court deadlines impact the ability of families to reunite, and consequently services should be front-loaded where possible. Procedures allowing for the implementation of services earlier in the case should be implemented without jeopardizing the parents' legal positions.**

*Commentary: Courts and counsel should encourage parents to request services conferences under RCW 13.34, which provides them a forum for participating in the development of their services plan. In specific cases, the fact that a parent has chosen to begin services before fact-finding in order to prevent possible delays should not be treated as an admission.*

3. **Court committees should consider making recommendations regarding the strengths and weaknesses of services that are locally available. Statewide guidelines should be implemented for county plans to ensure on-time services for parents whose children have been abused or neglected or are in foster care. If feasible, DSHS should consider developing such a plan.**

*Commentary: Ongoing court committees can examine the jurisdiction's strengths and weaknesses with respect to services and resources available. In a number of courts, these multi-disciplinary committees have gone on to search for resources to fill in the services gaps that they have identified.*

4. **A mandated priority system that gives dependency and termination case parents preference for services should be instituted based on the reality that unlike other clients, parents in dependency and termination cases are faced with imminently losing their children if they cannot address their problems. Such a mandated priority system is currently in place for parents referred by CPS for chemical dependency treatment.**

5. **Parents need to have a full understanding of the dependency process and why participation in services is critical. To assist parents in better understanding the process, adequately funded defense attorney services and Dependency 101 classes should be implemented. In counties where these are lacking, alternative means of ensuring parents have the opportunity to be fully informed of the process and their obligations are crucial.**
6. **Services ordered by the court should be coordinated and centralized to the maximum extent possible.**

*Commentary: Transportation and geographical problems can be barriers to parents' ability to participate in services. By co-locating as many services as possible near the court, some jurisdictions have been able to effectively address these barriers. Even if resources are not available to create a services center, coordinating services to the extent possible can markedly improve parents' ability to access them.*

7. **Policies of equal access and concern for disproportionality factors, as established by state and federal laws, must be upheld in services protocols and procedures.**
8. **The availability of adequate transportation to services is critical. Transportation must be realistically addressed when visitation and services are ordered and it should be made clear who is responsible for transportation.**

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## **Access to Services Subcommittee**

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Under state and federal laws, courts are asked to determine whether the state has delivered reasonable services to families who are involved in dependency cases. The state must make reasonable efforts to provide parents with services so they have the opportunity to address the parenting problems that have been identified. Parents' participation in these services are fundamental factors considered by the courts in deciding appropriate case outcomes for children and families.

The Washington State Institute for Public Policy worked with the Access to Services Subcommittee to survey the courts, social workers, chemical dependency providers, and services providers regarding the availability of services. These surveys, and their results, are available at [www.wsipp.wa.gov](http://www.wsipp.wa.gov).

Participation in appropriate services demonstrates a parent's motivation to correct his or her parenting deficiencies. Although a number of parents involved in dependency cases do not actively participate in services most of the survey respondents report that more than half of their DSHS clients do successfully complete services. Of the client group who do successfully complete services, most of the services provider respondents reported that half to more than three-quarters correct their targeted problem.

Recognizing that the timing of services and their availability are critical in dependency and termination cases, the Access to Services Subcommittee made recommendations designed to identify statewide services problem areas and ways to address them.

### **Waiting Periods for Services**

Responses to the court survey clearly indicated that many judicial officers do not know what the waiting periods are for services. As noted by WSIPP, "(e)xcept for services related to chemical dependency treatment, roughly half of the of courts did not know how long the wait for services might be." The Subcommittee concluded that judicial officers must be sensitive to any existing limitations as they are ordering services. Because DSHS social workers are familiar with the available services providers, the Subcommittee decided that the local DSHS office would be the best source for providing updated lists of services and their limitations to local courts.

Ideally, services should be available for immediate access for parents involved in dependency cases. The realities of uneven demand, funding issues, and other factors cause a number of services providers to have waiting lists. Social work supervisors answering the social work survey reported local waiting lists as follows:

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## Social Work Survey Summary of Waitlists for Services

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	Percent of Social Work Supervisors Reporting a Wait List for Services Court Size*		
	<u>Small</u>	<u>Medium</u>	<u>Large</u>
Dependency 101 (where offered)	N/A	0%	0%
Urinalysis	9%	0%	4%
Domestic Violence Victims	9%	14%	28%
Anger Management/Domestic Violence Treatment	28%	36%	43%
Intensive Family Preservation	28%	15%	15%
Family Preservation	25%	15%	20%
Home-based Support	36%	33%	26%
Parenting Classes	44%	23%	27%
Psychological Evaluation	28%	36%	29%
Chemical Dependency Treatment	24%	27%	38%
Mental Health Treatment	54%	55%	51%
Developmental Disabilities	44%	68%	63%
Housing Services	68%	86%	82%

\* Court size was based on the number of dependency cases filed in 2001. For small courts this was 68 or fewer, mid-size courts had 95 to 238, and large courts had 399 to 747 cases.

There appears to be great variety in the length of waiting periods for services. For example, services providers indicated on their survey that waits range from zero days to 30 for intensive family preservation services, from zero to 70 days for parenting classes, and from zero to 611 days for subsidized housing services. Because housing assistance takes so long and housing is so fundamental, this waiting period is of particular concern.

When judicial officers are aware of waiting periods in their counties, they can fashion orders that enable parents to begin working on their parenting deficiencies as soon as possible. This approach promotes earlier permanency for the children involved.

### **Front-loading Services**

The court survey indicates that extended-time services are sometimes ordered many months after the beginning of the case. These include mental health treatment, home-based support services, and family preservation services, which respondents to the services provider survey indicate take a median of about six months to complete. Chemical dependency assessment and treatment can easily last six months or more.

Many of the respondents to the court survey report ordering various types of services at shelter care, though generally not as frequently as at dispositions, permanency planning hearings, or review hearings. One of the main obstacles to starting services at the beginning of the case is that the fact-finding and disposition hearings are not held until more than two months later. If a parent contests the dependency, beginning services may be construed to be an admission, and for this reason some parents' attorneys advise against engaging in services until after the disposition hearing.

However, due to short timelines in dependency cases, two months is a substantial period of time and parents should be encouraged to commence services as soon as possible. To address this conflict, the Subcommittee concluded that a local or state court rule could be drafted to establish that parents' engagement in services prior to fact-finding may not be used as evidence against them in a contested fact-finding hearing.

### **Court Committees**

The recommendations suggest that local court committees inventory the quality and availability of services within the jurisdiction. Joint efforts by the parties to implement or strengthen needed services would be a desirable result. Several courts have accomplished such improvements to services through Reasonable Efforts Symposia, which are sponsored by the Court Improvement Program and held annually in each of the six DSHS regions. These have included the development of Dependency 101 classes in Snohomish County (introductory classes for parents involved in dependency cases) and other efforts.

The creation of an ongoing inventory of locally available services would put more focus on the importance of on-time services in the dependency process, make the courts and parties more knowledgeable about the available services, and encourage collaborative creativity in meeting local services needs.

## **Mandated Services Priority System**

State and federal laws require that parents in dependency cases must be offered services to enable them to correct their parenting deficiencies. At the same time, early resolution of dependency cases is also required by state and federal laws.

When a dependency case is filed and children are removed from the home, their parents have an urgent need for timely services. Families involved in dependency cases are the most critically in need of help, and if they must wait, they often become discouraged. If parents fail to access services or must wait on a waiting list for a significant period of time, the family is at risk of facing a termination proceeding. Whatever the ultimate outcome of the proceedings—reunification or adoption—services delays make the outcome delayed. It is for these reasons parents of dependent children should be given priority, by law, to receive state-funded services. As an example, RCW 74.50.080 directs ADATSA to establish priorities for chemical dependency treatment, and WAC 388.800.0100 establishes that persons who are referred by CPS have priority admission to chemical dependency services.

Ninety-seven percent of the services providers who answered the services provider survey indicated that they receive some funding from the state. As a condition for accepting state funds the Subcommittee concluded that a priority system should be instituted for these services.

## **Parents' Understanding of the System**

Recognizing the fact that parents who are involved in dependency cases are almost all indigent and many have low levels of education, several programs have been developed to advise them about the proceedings they are facing. Several years ago, a “Dependency 101” class was developed for Snohomish County Juvenile Court parents involved in dependency cases to give them an overview of the system and what to expect. Presently, this class is offered in very few courts, according to the court survey.

A 1999 report by the Washington State Office of Public Defense found that statewide, most parents’ attorneys are underfunded, have very high caseloads, and often do not spend time talking with parents outside of court. The OPD Parents’ Representation program in Pierce and Benton-Franklin juvenile courts requires parents’ attorneys to fully advise and inform them of the procedures, their cases, and how to participate in them.

If adequately funded parents’ representation and Dependency 101 classes are not available, the court and parties should make every effort to advise parents of their rights and obligations by other means. This could include, for example, extra information from the judicial officer regarding the parents’ participation in services, the use of parents’ videos such as one recently developed by Spokane County Juvenile Court and another currently being developed by King County Juvenile Court, and the development of a local parents’ information class.

## **Coordinated Services**

Parents are often ordered to participate in a number of services located far away from each other, and many parents do not have cars. This access to services difficulty has been addressed by some jurisdictions such as San Diego, California, by locating multiple services at organizations next to the juvenile court. Some Washington juvenile courts have developed the ability to conduct urinalysis sampling on site, including Pierce and Thurston among others, thus facilitating the process both for the parents and the court.

## **Policies of Equal Access and Concern for Disproportionality Factors**

It is of paramount importance that services protocols and procedures ensure that all parents are equally able to participate in services. This principle can be difficult to implement. For example, the social work survey results indicated that 83% of the supervisors responding reported that at least some of the parents on their caseloads do not speak English. Finding evaluators and services providers who speak these parents' languages is often a challenge; only 50% of the social work survey respondents reported they are often or always able to refer parents to evaluators who speak the parent's primary language and only 51% reported they are often or always able to refer parents to services providers who speak the parent's primary language. Judicial officers and parties must be attuned to access and disproportionality factors.

## **Transportation**

Because many parents lack independent transportation and must participate in multiple services and appointments, adequate transportation is very important.

Obviously, many parents' situations involve multiple forms of transportation assistance through the length of the case. Of the services providers survey respondents whose DSHS clients lack transportation, 31% report that social workers provide the needed transportation, 30% report clients are provided with contracted transportation services and 43% report that clients use bus passes.

A parent's lack of easily accessible transportation impacts his or her ability to comply with services orders. Thirty-one percent of the respondents to the services provider survey indicated that clients' transportation difficulties cause delays in starting services or treatment.

The court survey indicates that judicial officers are aware of the various types of transportation provided by DSHS to parents who have been ordered services but lack reliable transportation resources. Nevertheless, many court orders that establish services and visitation do not specify what the mode of transportation should be, or who should provide it. Because a variety of transportation issues can arise in a case—for example, whether bus passes are adequate when services are distant from the parent's residence—transportation arrangements should be considered and established by the court when visitation and services are ordered.

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## Visitation Recommendations

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1. **Visitation is the right of the family, including the child and the parent, and should not be used as a sanction for a parent's failure to engage in other court-ordered services.**

*Commentary: Access to visitation is critical both to the child and his or her parents. Suspension of visitation as a penalty for failing a urinalysis or failing to follow through with other services that are not visitation-related is in derogation of the child's and parent's right to consistent and frequent visitation.*

*Parents should be informed about their responsibility to appear for visits on time, to make timely contact if they cannot come to a visit, and to be sober. With respect to a parent's actions that raise these types of visitation-related issues and can cause children anxiety and disappointment and may raise safety issues, restrictions on visitation can be appropriate. These could include provisions establishing that if the parent appears for a visit in an intoxicated state, it will be cancelled, or that parents who have failed to appear for a scheduled visit will be required to call to give notice that they will appear shortly in advance of the time of the rescheduled visitation, or that parents who have consistently failed to appear be required to give such notice before all scheduled visitations.*

2. **Early, consistent and frequent visitation is very important for maintaining parent-child relationships and making it possible for parents and children to reunify. Appropriate levels of visitation should be determined for each family, taking into account their individualized circumstances, including the parent-child bond and parental follow-through, among other factors, and consistent with the health, safety and welfare of the child. If possible, parents should be involved in parental role activities with their children, such as participation in appointments or school conferences, in addition to more traditional visitation.**

*Commentary: The frequency and quality of visitation has been shown to be a strong indicator of a family's likelihood of success in dependency and termination cases. Adequate visitation is more likely to occur if the case plan sets specific details regarding the visitation plan, such as its frequency, location, and who is responsible for transportation. In appropriate cases, a healthy visitation plan should include an increasing variety of visitation activities as the family progresses.*

*The child is ultimately harmed by the suspension of visitation. Regardless of the ultimate permanency outcome, parental visitation and contact should be encouraged throughout the case so the child is not made to feel abandoned. Even if the case plan is for termination rather than reunification, until the court enters a termination order, family visitation remains the right of both the child and the*

*parent and should be facilitated, consistent with the health, safety, and welfare of the child.*

- 3. Creative visitation programs that support effective, safe visitation for children and their parents and in some cases provide educational services are a valuable resource that should be utilized by the parties in dependency and termination cases if they are available.**

*Commentary: From the perspective of the family, visitation is often more comfortable when it is located in what may be viewed as a neutral location rather than the DSHS office. Many communities have visitation centers or programs; these should be fully utilized and actively supported by the parties. Recently, successful visitation programs have involved foster care parents who have volunteered to provide, and to some degree participate in, visitation in the foster home.*

- 4. The courts, DSHS, CASA, parents' counsel and AAGs need to assess and develop criteria for unsupervised visitation and for relative or third-party supervision to facilitate visitation and reduce costs to the state. The parties should also develop and implement plans to increase the quality of parent, child and sibling visitation and to encourage the establishment of high-quality visitation centers in the community.**

*Commentary: The juvenile court community should address the adequacy of available visitation services and how they can safely and realistically be expanded. Different programs are appropriate for different communities. For example, successful programs have been located in churches or community centers, staffed primarily with volunteers. In other communities, the parties have reviewed how supervised visitation is provided in order to expand safe choices for visitation.*

*It is important to note that the safety of the parents' relationship and an awareness of the dynamics of domestic violence should be taken into account in establishing the parameters of visitation programs.*

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## Visitation

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The Committee concluded that visitation is a key, critical issue, that it is extremely important to both the child and the parent, and that visitation opportunities should be offered to children and parents to the maximum extent possible.

Judicial officers answering the court survey indicated that, on average, they order less visitation than they think is best for children. For infants, judicial officers indicated that on average they believe about 3.5 hours of visitation per week would be best, but that they on average order slightly more than two hours per week. For children up to age 14, judges' visitation orders were on average closer to the preferred 3.5 hours per week but were still less, averaging about 3 hours per week.

Over 60% of the judicial officers answering the survey indicated that funding for supervision is frequently a barrier to visitation. (Other barriers cited included a lack of funding for transportation and available visitation sites, the failure of parents to follow through, and the fact that visits might be harmful to the child.) According to the social work survey respondents, 68% of visitation is supervised.

Visitation frequently occurs at the DSHS office, according to the social work survey, and also occurs with some regularity at relatives' homes and other sites, particularly community visitation programs (40% of the social work survey respondents said these are available with some regularity in their communities).

Two outside speakers advised the Committee about alternative visitation programs. The Connections program, located at the Everett DSHS office, was described by Charl Gerring, its founder. The program facilitates birth parents' visits with their children in the foster home, with the participation of foster parents and program workers. The program's evaluator, Dr. Karen Thielin of the University of Washington School of Social Work, said that both foster and birth parents have reported a high level of satisfaction with the program, and participating children have greatly benefited by seeing a positive relationship between their birth and foster parents.

Margaret Carson, who currently presides over the Supervised Visitation Network, previously was director of the Common Ground program, a Seattle community visitation center (now closed due to funding problems). The program provided supervised visitation for parents and children in dependency cases in a community location for a number of years. The center was similar to other community visitation centers located in various counties, affording safe and pleasant locations for visitation.

The Committee's visitation recommendations include the following:

### **Visitation Should not be Restricted as a Sanction**

It is widely acknowledged that many courts suspend visitation for reasons not related to visitation. These include the parents' failure to engage in services or other behavior problems.

The Committee concluded visitation is so important to both the parent and child that maintaining visitation takes precedence over suspending visitation as a sanction for non-compliance of the parent. If parents are not following up with visitation or are misbehaving in conjunction with visits, restrictions to protect the safety and well-being of the child are appropriate. However, they should not be imposed as sanctions to enforce services orders.

### **Visitation Plans**

The Committee concluded that visitation is most likely to take place as planned if all the details are set in the case plan. If parents are making progress, visitation should be reviewed and expanded as appropriate.

Visitation Protocols used in the Tacoma and Yakima DSHS offices were examined by the Committee. The protocols establish a framework for determining visitation increases for parents who are meeting their obligations and working toward reunification. These protocols have been successful in encouraging appropriate increases in visitation.

### **Visitation Programs**

The two visitation programs that were described both have been successful in promoting healthy visitation. Parents are more likely to be comfortable with visitation in a neutral setting rather than the DSHS office. The Committee felt that visitation centers could be started in more rural areas. In a smaller community, the location might be a church or similar location staffed with volunteers.

### **Adequacy of Visitation Opportunities**

It would be productive for multi-disciplinary juvenile court committees to analyze the availability of visitation and whether steps should be taken to add more visitation opportunities. A visitation task force has been meeting in King County to make this analysis.

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## Family Drug Court Recommendations

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1. **Every juvenile court should have a family drug court component designed to be effective for the court's size, location, and resources.**

*Commentary: When courts are implementing drug courts for criminal cases, they should strongly consider including a family drug court component. Some smaller juvenile courts have created a family drug court component by reorganizing existing resources.*

2. **Funding should be made available for family drug courts, either through federal grants, state funding, or a combination of resources.**

*Commentary: All recently implemented family drug courts are reporting early success in the percentage of parents who are able to overcome their substance abuse problems. Funding opportunities should be analyzed, publicized, and expanded.*

3. **Comprehensive services delivery systems should be co-located with drug court services, if possible.**

*Commentary: Family drug courts in other jurisdictions have encouraged optimal access to and participation in services by locating them in a common building near the juvenile court.*

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## Family Drug Courts

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During the past years, courts have looked for more effective ways to address substance abuse issues in dependency and termination cases. Shortened timelines for resolving these cases has created a need to ensure judicial supervision, coordination, and oversight of the treatment provided to families. The caseloads of family drug courts are made up of parents in dependency and termination cases who have substance abuse problems. Family drug courts provide immediate drug treatment as well as intensive oversight over participants' cases.

Several Washington juvenile courts have taken the initiative to start family drug courts. These include Thurston, Pierce, Kitsap, Whatcom, and Spokane. Family drug court sessions are usually held weekly. Thus, participating parents have much more contact with the court than they would in an ordinary dependency case. This requires a substantial time commitment from the court, the attorneys, and DSHS. Drug treatment resources are furnished as a service by DSHS and generally participating parents can secure treatment immediately. In general, parents must be drug and alcohol free, be actively participating in services, and attend the weekly court sessions.

The courts that have started family drug courts have created them within existing resources (some have received grants to provide additional treatment). For this reason, most of the family drug courts have a small capacity. However, the Pierce County family drug court caseload includes about 80 parents.

Though none of the family drug courts have been formally evaluated, several have informally kept track of results and concluded that parents' success rates in graduating from treatment and reunifying with their children is substantially higher than they were prior to the initiation of the family drug court. The family drug courts are collaborative efforts between the parties and create a supportive environment for parents. For these reasons, the Committee concluded that every juvenile court should have a family drug court component and that funding should be made available to support family drug courts. Finally, the Committee concluded that ideally, a variety of services should be located near family drug courts for easier access by parents.

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## Parents' Representation Program Recommendations

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The goal of the Parents' Representation Program is to enhance the quality of legal representation for parents to allow them to participate more fully in their dependency and termination cases. The program should be fully implemented statewide at the earliest point possible. To meet its goals, the program shall include the following components:

1. **Attorneys shall have a maximum caseload requirement of 80 dependency and termination cases per full-time attorney.**
2. **Attorneys shall implement enhanced defense attorney practice standards, including but not limited to the delivery of adequate client advice throughout the proceedings and reasonable case preparation, as developed by Washington State public defenders and included in the Office of Public Defense 1999 report Costs of Defense and Children's Representation in Dependency and Termination Hearings.**
3. **Attorneys shall use investigative/support/social worker and expert services in appropriate cases.**
4. **Attorneys shall refrain from requesting continuances on the basis of being over-scheduled without good cause.**

Courts wishing to access the parents' representation program and enhanced state funding to implement the program should strongly consider working toward implementing the following DTEJ recommendations:

Caseload and Continuance Subcommittee Recommendations 1 – 9.

Expert and Evaluator Subcommittee Recommendations 2 – 6.

Access to Services Subcommittee Recommendations 1, 2, 3, 7 and 8.

Visitation Recommendations 1 – 4.

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## Parents' Representation Program Criteria

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The Office of Public Defense Parents' Representation Program is located in Pierce and Benton-Franklin juvenile courts. Since 2000, the Legislature has appropriated state funds to supplement county funding for attorneys who represent parents in dependency and termination cases. The program was initiated after a 1999 OPD report on the costs of representation for parents found that in many counties parents' attorneys receive below-market compensation. Some of the resulting problems include high caseloads and little time to communicate with parent clients or prepare cases.

The Legislature established criteria for the enhanced representation program, including the requirement that attorneys:

- Have a maximum caseload of 90 dependency and termination hearings;
- Reduce the number of their continuance requests, including those based on the unavailability of defense counsel;
- Implement enhanced defense attorney practice standards, including reasonable case preparation and the delivery of adequate client advice;
- Use investigative and expert services in appropriate cases; and
- Implement effective indigency screening of the parents, custodians, or guardians prior to the appointment of an attorney.

In 2003, the legislative appropriation reduced the attorney caseload to 80 per full-time attorney.

The Committee recommends that this program criteria be retained. It has resulted in enhanced representation in the two juvenile courts over the past few years.

In addition, the Committee recommends that the courts that wish to implement a state-funded parents' representation program should consider putting into practice certain DTEJ Committee recommendations that pertain to local courts. These include:

- Mutually agreed-upon evaluators, maintenance of updated lists of evaluators, active consideration of evaluation due dates in setting hearings, seeking training on using evaluators, and upholding standards of professionalism.
- Enhanced case scheduling, reasonable caseloads for all parties, early negotiation of case procedures, advance continuance request requirements, enforcement of report timing requirements, the development of local committees including representatives of all the parties, two to four year

judicial rotation, early determination of paternity questions, and the implementation of alternative dispute resolution.

- Updated lists of services, implementation of services earlier in the case, examination of the strengths and weaknesses of locally available services, and the addressing of transportation issues when services are ordered.
- Upholding the family's right to visitation, ordering appropriate levels of visitation, supporting creative visitation programs, and developing multi-disciplinary criteria for visitation.

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## Recommendations Pertaining to the Courts

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### **Caseload and Continuance Recommendations**

Recommendation #1: Matters should be scheduled to permit sufficient time for quality adjudication of the merits. Courts should set case schedules at shelter care. No party should have excessive caseloads. In order to reduce parties' waiting time, the court should schedule hearings in specific time blocks.

Recommendation #2: Courts should implement formal procedures to promote the early negotiation and determination of agreed issues. Parties should be required to create written issue statements before each hearing. Pre-trial conferences presided over by a judicial officer should be scheduled prior to dependency and termination fact-finding hearings.

Recommendation #3: Courts should enforce case schedules. Parties desiring a continuance should file a written request in advance of the hearing, showing good cause. Courts should provide an efficient mechanism for granting or denying the continuance in advance of the hearing. Agreed-upon continuances should not be granted absent good cause.

Recommendation #4: Parties should be required to timely file reports. Courts should develop and enforce a rule requiring that all reports and documents related to hearings are filed in accordance with local or state deadlines.

Recommendation #5: Courts should convene a time-limited or ongoing dependency and termination court committee consisting of representatives of all parties involved in dependency and termination cases in order to discuss communication, procedural, and delay issues and methods for addressing them.

Recommendation #6: Courts should set the length of judicial rotation in dependency and termination cases at a minimum of two years.

Recommendation #7: The resolution of dependency and termination cases should not be suspended due to pending related cases in other courts. Juvenile courts should create methods for coordinating dependency and termination cases with other case types (for example, Title 26, drug court, Title 11) where the outcome or finalization of the dependency or termination case depends on the completion of the other actions.

Recommendation #8: Courts should develop and enforce procedures to ensure that paternity questions are determined at the earliest opportunity.

Recommendation #9: Courts should work toward instituting procedures for alternative dispute resolution. Examples of such proceedings are mediation and family group conferencing, among others.

## **Experts and Evaluators Recommendations**

Recommendation #2: Appointed evaluators and experts should be mutually agreed upon by the state, the parents' attorneys and the court. If no agreement can be reached, the court should appoint the expert or evaluator.

Recommendation #3: The courts and/or DSHS regions should maintain updated lists of potential evaluators and provide updates to all the parties.

Recommendation #4: The court should consider evaluation due dates in scheduling hearings. Potential evaluators should be made aware that adhering to evaluation due dates set by the court is a factor in being considered for appointment.

Recommendation #6: The courts and counsel should become familiar with and uphold standards of professionalism in selecting evaluators and should have reasonable expectations that evaluations that are admitted into evidence be performed in a professional manner.

## **Access to Services Recommendations**

Recommendation #1: It is critical that judicial officers be aware of services waiting periods in their counties, particularly in light of AFSA's tight timelines. DSHS should provide courts and all participating parties with an updated list of services and providers and current budget status in the county and of the waiting list and waiting periods experienced by parents. These factors should be taken into account when services are ordered.

Recommendation #2: Court deadlines impact the ability of families to reunite, and consequently services should be front-loaded where possible. Procedures allowing for the implementation of services earlier in the case should be implemented without jeopardizing the parents' legal positions.

Recommendation #3: Court committees should consider making recommendations regarding the strengths and weaknesses of services that are locally available.

Recommendation #5: Parents need to have a full understanding of the dependency process and why participation in services is critical. To assist parents in better understanding the process, adequately funded defense attorney services and Dependency 101 classes should be implemented. In counties where these are lacking, alternative means of ensuring parents have the opportunity to be fully informed of the process and their obligations are crucial.

Recommendation #6: Services ordered by the court should be coordinated and centralized to the maximum extent possible.

Recommendation #7: Policies of equal access and concern for disproportionality factors, as established by state and federal laws, must be upheld in services protocols and procedures.

Recommendation #8: The availability of adequate transportation to services is critical. Transportation must be realistically addressed when visitation and services are ordered and it should be made clear who is responsible for transportation.

### **Visitation Recommendations**

Recommendation #1: Visitation is the right of the family, including the child and the parent, and should not be used as a sanction for a parent's failure to engage in other court-ordered services.

Recommendation #2: Early, consistent and frequent visitation is very important for maintaining parent-child relationships and making it possible for parents and children to reunify. Appropriate levels of visitation should be determined for each family, taking into account their individualized circumstances, including the parent-child bond and parental follow-through, among other factors, and consistent with the health, safety and welfare of the child. If possible, parents should be involved in parental role activities with their children, such as participation in appointments or school conferences, in addition to more traditional visitation.

Recommendation #3: The courts, DSHS, CASA, parents' counsel and AAGs need to assess and develop criteria for unsupervised visitation and for relative or third-party supervision to facilitate visitation and reduce costs to the state. The parties should also develop and implement plans to increase the quality of parent, child and sibling visitation and to encourage the establishment of high-quality visitation centers in the community.

### **Family Drug Court Recommendation**

Recommendation #1: Every juvenile court should have a family drug court component designed to be effective for the court's size, location, and resources.

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## **Recommendations Pertaining to DSHS**

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### **Experts and Evaluators Recommendations**

Recommendation #1: A cross-disciplinary collaborative work group should be convened to recommend reasonable efforts guidelines regarding when and what type of evaluation is indicated in cases, using existing screening methods, if possible. These guidelines should be designed to assist the parties and courts in avoiding the delay and expense of unnecessary evaluations.

Recommendation #3: The courts and/or DSHS regions should maintain updated lists of potential evaluators and provide updates to all the parties.

### **Access to Services Recommendations**

Recommendation #1: It is critical that judicial officers be aware of services waiting periods in their counties, particularly in light of AFSA's tight timelines. DSHS should provide courts and all participating parties with an updated list of services and providers and current budget status in the county and of the waiting list and waiting periods experienced by parents. These factors should be taken into account when services are ordered.

Recommendation #2: Court deadlines impact the ability of families to reunite, and consequently services should be front-loaded where possible. Procedures allowing for the implementation of services earlier in the case should be implemented without jeopardizing the parents' legal positions.

Recommendation #3: Court committees should consider making recommendations regarding the strengths and weaknesses of services that are locally available. Statewide guidelines should be implemented for county plans to ensure on-time services for parents whose children have been abused or neglected or are in foster care. If feasible, DSHS should consider developing such a plan.

Recommendation #6: Services ordered by the court should be coordinated and centralized to the maximum extent possible.

Recommendation #7: Policies of equal access and concern for disproportionality factors, as established by state and federal laws, must be upheld in services protocols and procedures.

Recommendation #8: The availability of adequate transportation to services is critical. Transportation must be realistically addressed when visitation and services are ordered and it should be made clear who is responsible for transportation.

### **Visitation Recommendations**

Recommendation #1: Early, consistent and frequent visitation is very important for maintaining parent-child relationships and making it possible for parents and children to

reunify. Appropriate levels of visitation should be determined for each family, taking into account their individualized circumstances, including the parent-child bond and parental follow-through, among other factors, and consistent with the health, safety and welfare of the child. If possible, parents should be involved in parental role activities with their children, such as participation in appointments or school conferences, in addition to more traditional visitation.

Recommendation #4: The courts, DSHS, CASA, parents' counsel and AAGs need to assess and develop criteria for unsupervised visitation and for relative or third-party supervision to facilitate visitation and reduce costs to the state. The parties should also develop and implement plans to increase the quality of parent, child and sibling visitation and to encourage the establishment of high-quality visitation centers in the community.

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## **Recommendations Pertaining to the Legislature**

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### **Experts and Evaluators**

Recommendation #2: Appointed evaluators and experts should be mutually agreed upon by the state, the parents' attorneys and the court. If no agreement can be reached, the court should appoint the expert or evaluator.

### **Access to Services**

Recommendation #4: A mandated priority system that gives dependency and termination case parents preference for services should be instituted based on the reality that unlike other clients, parents in dependency and termination cases are faced with imminently losing their children if they cannot address their problems. Such a mandated priority system is currently in place for parents referred by CPS for chemical dependency treatment.

### **Family Drug Courts**

Recommendation #2: Funding should be made available for family drug courts, either through federal grants, state funding, or a combination of resources.

### **Parents' Representation Program**

Recommendation #1: The goal of the Parents' Representation Program is to enhance the quality of legal representation for parents to allow them to participate more fully in their dependency and termination cases. The program should be implemented statewide at the earliest point possible.

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## **Conclusion**

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Dependency and termination cases involve important, life-shaping issues. The recommendations of the DTEJ Committee were made to address our legal system's need to protect the well-being and safety of the children involved and to support families and treat them fairly. This analysis of procedures and access issues could only come about as a result of collaboration of all the parties and institutions who participate in these cases. These recommendations, and recommendations like them, can be implemented through similar collaborative efforts. It is through such efforts that best practices in dependency and termination cases can become the norm.