

# Court Facilitation

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in Colorado's Juvenile Courts

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An Evaluation in Nine Colorado Jurisdictions

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## Executive Summary

This study is intended to provide an initial assessment of the degree to which court facilitators are helping Colorado courts to expedite case processing; accurately track cases; increase the amount of information available to the court; improve communication between the court and social service agency; and improve communication with the families involved in the system.

The evaluation relies on in-depth interviews with court facilitators in the 12<sup>th</sup>, 17<sup>th</sup>, 18<sup>th</sup>,

20<sup>th</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, 11<sup>th</sup>, 10<sup>th</sup>, and 21<sup>st</sup> judicial districts, and interviews with professionals in the juvenile court and child welfare system. In addition, court facilitators were asked to keep track daily of how their time was allocated across a variety of tasks and complete a brief data collection form following each case conference they conducted. Two additional sources of data include a mail survey conducted by the Colorado Judicial Department to elicit feedback about case management, and data generated by court facilitators in the 10<sup>th</sup>, 17<sup>th</sup>, and 18<sup>th</sup> Judicial Districts comparing cases with and without case management conferences.

Judges, magistrates, and court facilitators themselves are instrumental in defining the role of the court facilitator. In many jurisdictions, the position is quite flexible and court facilitators are free to take on new projects as the need for them becomes apparent. This provides the court the opportunity to address issues that would otherwise, by most accounts, not be considered by the court.

Although the role of the court facilitator varies - sometimes greatly, sometimes slightly - from one jurisdiction to the next, there are a number of key activities that are shared across sites. These include tracking cases, facilitating communication among the professionals, providing assistance to parents, special projects, community outreach efforts, clerical tasks related to the smooth functioning of the court, and case conferences.

All court facilitators are involved in monitoring and tracking cases as they move through the system. Most also conduct case conferences with problem cases and these conferences are generally highly valued by judges, attorneys, case workers, and families. A few courts do not employ case conferencing, or question its value, either because the jurisdiction routinely uses mediation or because the court has no difficulty in keeping up with case processing demands. Where they are used, case conferences seem quite similar to most court-based dependency mediation, although the court facilitator is often more directive than the mediator would be. The sites vary in the extent to which the conference results in information or recommendations being provided to the judge. In most jurisdictions it appears that the conference results in the parties reaching their own consensus about how to proceed.

Although further, more rigorous data would be needed to confirm these results, preliminary data from the 10<sup>th</sup>, 17<sup>th</sup>, and 18<sup>th</sup> Judicial Districts suggest that case conferences may reduce the amount of time that elapses between the petition and

permanent planning hearing by approximately two months.

In many jurisdictions, court facilitators are also being used to address communication problems or simply to expand the amount of communication that occurs among all the professionals in the system. This has not always eradicated the tensions that often exist between the court and social services agency, but it has often helped.

To the extent that there is controversy surrounding court facilitation, it has to do with the degree to which facilitators should be involved in the more strictly clerical aspects of cases. In general, judges and magistrates acknowledge that clerical work probably does not make sufficient use of the skills that the court facilitators bring to the job. However, when facilitators are used for these tasks, it is due to the lack of other staff and the significant, often enormous, improvements that results from having *someone* take on these duties.

In addition to the ways in which court facilitators are already being used, a number of new roles have been proposed for them. For example, it has been suggested that they might be more involved in identifying service resources in the community, helping these providers to understand the dependency system, and helping both courts and the social services agencies to take advantage of these providers to create more tailored treatment plans. It has also been suggested that court facilitators should take on a greater role in monitoring how the court's orders are being implemented. Arguably, this would ensure that orders result in quick action, with feedback to the court about problems or next steps as they are needed.

Perhaps most importantly, the judicial branch is encouraging courts to think of the court facilitator in a broader sense than ever before. Under this approach, the court facilitator will focus on the family and its needs, rather than on case type -- such as juvenile or domestic relations.

Regardless of the role the court facilitator performs in a given jurisdiction, judges and magistrates generally report that court facilitators have helped them respond to the demands of ASFA, Colorado's Expedited Permanency Planning legislation, and Supreme Court Directives 96-08 and 98-02. There is nearly unanimous agreement that removing court facilitators from the juvenile court would be a significant step backward.

## Overview of the Study

This study is intended to provide an initial assessment of the degree to which court facilitators are helping Colorado courts to expedite case processing; accurately track cases; increase the amount of information available to the court; improve communication between the court and social service agency; and improve communication with the families involved in the system.

The report begins by describing how this study was conducted. Next, it explains how court facilitation, also called case facilitation or case management, has developed both nationally and in Colorado. The report then describes court facilitation as practiced in nine jurisdictions throughout Colorado. This is an overview of the role of the court facilitator, rather than an exhaustive description of all the activities the job entails. However, the report does consider one court facilitator activity in greater detail: the case management conference. The report then notes how the players in the dependency system -- judges, magistrates, attorneys for respondent parents, guardians *ad litem*, and social workers and their supervisors -- perceive these activities to have affected them. The report concludes with a review of how court facilitation may change in the future, and a summary and discussion of the study's major findings.

It is important to note that the evaluation captures a picture of Colorado's juvenile court case facilitation at a single point in time. Even during the course of the evaluation, case management was changing in many of the districts: new court facilitators came on board in some jurisdictions; newly arrived court facilitators found their jobs evolving; and one jurisdiction was planning to move from a full-time to a part-time case facilitator. Perhaps most importantly, the Judicial Branch now encourages courts to think of the role of the court facilitator in a holistic sense. This approach focuses on the family and its needs, rather than on case type, such as juvenile or domestic relations.

## Methodology

Between March and June 2000, a number of data collection activities took place to provide information with which to evaluate case management in the juvenile court. As a first step, in-depth interviews were conducted with court facilitators in the following

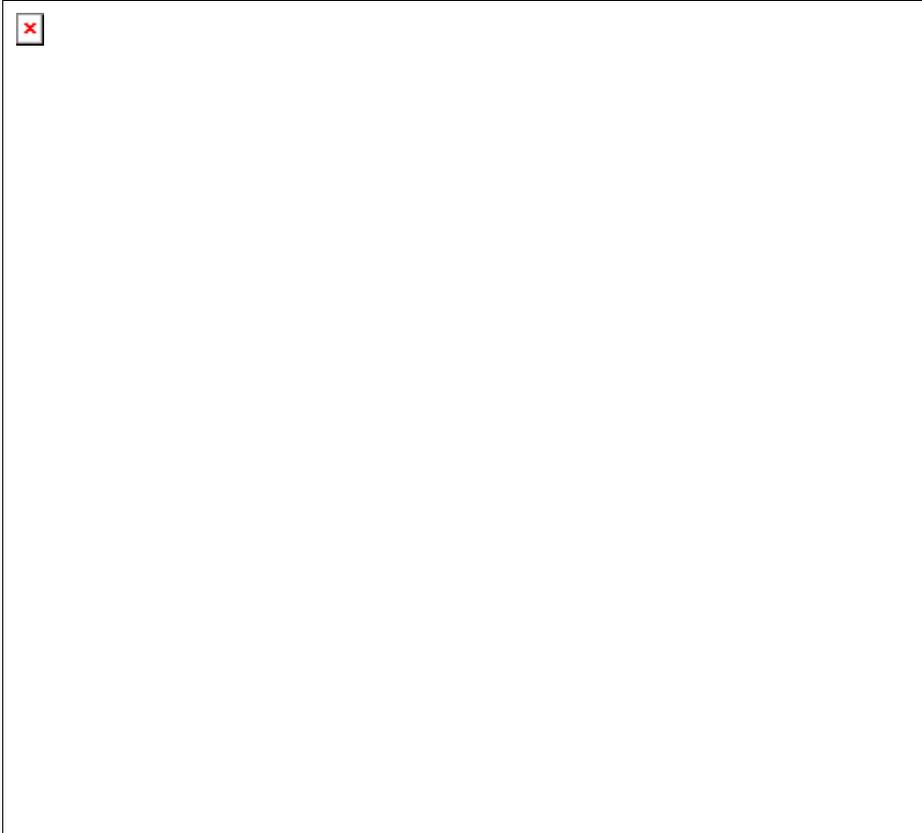
jurisdictions (see Figure 1):<sup>(1)</sup>

- 12<sup>th</sup> Judicial District - Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache Counties;
- 17<sup>th</sup> Judicial District - Adams County;
- 18<sup>th</sup> Judicial District - Arapahoe, Douglas, Elbert, and Lincoln Counties;
- 20<sup>th</sup> Judicial District - Boulder County;
- 2<sup>nd</sup> Judicial District - Denver County;
- 4<sup>th</sup> Judicial District - El Paso and Teller Counties;
- 11<sup>th</sup> Judicial District - Fremont, Chaffee, Custer, and Park Counties;
- 10<sup>th</sup> Judicial District - Pueblo County; and
- 21<sup>st</sup> Judicial District - Mesa County.

In addition, a total of 36 interviews were also conducted with the following types of professionals in each jurisdiction: judges, magistrates, guardians *ad litem*, attorneys representing respondent parents, attorneys representing social services agencies, and social workers. These interviews were open-ended, but employed an interview guide to ensure that each conversation collected comparable information.

For two weeks, once in March and again in May, court facilitators were asked to keep track daily of how their time was allocated across a variety of tasks. The time log was designed by Center staff based on the list of activities mentioned during

the



interviews with court facilitators. Time was kept in quarter-hour segments for the following activities:

#### Database entry, updating, and case tracking

- Generating reports for the court
- Identifying social worker reports that will be due in the near future or past due reports
- Researching the family in the court system (criminal, delinquency, etc.)
- Responding to phone calls from parties in specific cases
- Legal research and writing
- Family financial assessment to determine whether clients qualify for court-appointed legal counsel
- Assigning attorneys to respondent parents and/or guardians *ad litem*
- Meeting with *pro se* parents
- Conducting telephone conferences
- Scheduling case conferences
- Conducting case conferences
- Attending staffings, placement team meetings, or family group conferences
- Meetings, training, or other liaison work with social services
- Other meetings, training, or liaison work (*e.g.*, with CASA)
- Notifying parties of court dates
- Preparing and distributing dockets
- Attending hearings
- Drafting and designing forms

- Work related to court policies and procedures
- Program development (e.g., CASA)

During the time the study was conducted, court facilitators were also asked to complete a brief data collection form following each case conference they conducted. In addition, using their own records, two court facilitators completed forms retrospectively for cases with conferences prior to the study. A total of 137 forms were collected; the distribution of these forms by site is shown in Table 1.

| Table 1   |                                 |   |       |
|---|---------------------------------|---|-------|
| Case Conference Forms Completed by Jurisdiction |                                 |   |       |
|   | Case Conference Forms Completed | Forms Completed on Cases with Conferences |       |
|   | During the Study                | Prior to the Study                        | TOTAL |
| 2 <sup>nd</sup> Judicial District               | 6                               |   | 6     |
| 4 <sup>th</sup> Judicial District               | 4                               | 22  | 26    |
| 10 <sup>th</sup> Judicial District              | 43                              |   | 43    |
| 17 <sup>th</sup> Judicial District              | 6                               |   | 6     |
| 18 <sup>th</sup> Judicial District              | 15                              | 16  | 31    |
| 20 <sup>th</sup> Judicial District              | 9                               | 10  | 19    |
| Total   | 83                              | 48  | 131   |

This evaluation also compares case processing times for 85 cases with case management conferences in the 10<sup>th</sup>, 17<sup>th</sup>, and 18<sup>th</sup> Judicial Districts. To serve as a comparison group, the court facilitators in these jurisdictions went back in time to select cases that had court action in the year prior to the implementation of court facilitation that would have been appropriate for a conference if case management had been in place during this time. Factors that would have suggested the need for a case conference included such things as requests for trial time, multiple placements for children in care, or placements of siblings in different foster care homes. While this comparison group of approximately 100 cases is far from a true control group, it does provide some preliminary information about how problem cases fared without a case management system in place.

One additional source of data, not originally collected for this study, is also included in this report. This is a mail survey conducted by the Colorado Judicial Department to elicit feedback about how child welfare professionals perceive court facilitation to be affecting the system in general, and their own job performance in particular. The survey, designed by Pat Dahl of the Colorado Judicial Department, was mailed to judges and magistrates, attorneys who represent parents and/or serve as guardians *ad litem*, county attorneys

who represent local human services agencies, caseworkers, and Court Appointed Special Advocates (CASAs). The survey was conducted in eight jurisdictions providing case management. Two counties were subsequently dropped from the analysis: in one county the survey took place just as a major reorganization of the court facilitator's role was occurring; and in another, the response rate was too low to be included. The overall response rate stood at 32 percent, ranging from a high of 55 percent for judges/magistrates to a low of 27 percent for attorneys (see Table 2).

Although the results must be viewed with caution, given the relatively small number of respondents, the survey does provide useful information about how professionals in the child welfare system view the use of case management.

|                         | 4th | 12th | 17th | 18th | 19th | 21st | Total | Response Rate |
|-------------------------|-----|------|------|------|------|------|-------|---------------|
| CASA                    | 9   | 0    | 0    | 10   | 6    | 6    | 31    | 35%           |
| County Attorney         | 0   | 1    | 3    | 2    | 1    | 2    | 9     | 27%           |
| Caseworker              | 11  | 8    | 7    | 15   | 6    | 11   | 58    | 31%           |
| GAL/Respondent Attorney | 3   | 2    | 1    | 1    | 1    | 1    | 9     | 27%           |
| Judge/Magistrate        | 3   | 2    | 0    | 0    | 2    | 4    | 11    | 55%           |
| Total                   | 26  | 13   | 11   | 28   | 16   | 24   | 118   | 32%           |

## Introduction to Case Management

### Nationally

The role of the court in child welfare cases has changed dramatically over time. *Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases*, a recent publication of the National Council of Juvenile and Family Court Judges (NCJFCJ), notes:

"In the 1970s, juvenile and family courts were expected only to determine whether a child had been abused or neglected and, if so, whether the child needed to be removed from home or placed under court or agency supervision. At present, however, courts are

expected to make sure a safe, permanent, and stable home is secured for each abused or neglected child."<sup>(2)</sup>

Indeed, not only is the court expected to ensure a safe, permanent, and stable home for each child, it is expected to do so in record time. For while the role of the juvenile court has changed tremendously, so too have the time limits set for the court. In many respects, the recent history of the child welfare legal system has been a movement toward expedited permanency for children, and consequently has placed greater demands on juvenile courts and protective services agencies.

The trend probably began with the passage of the Adoption Assistance and Child Welfare Act of 1980, which required, among other things, reasonable efforts to avoid placement, permanent plans within 18 months of placement, and semi-annual reviews of children placed out of the home. In 1997, the Adoption and Safe Families Act (ASFA) was passed. For the first time, child welfare agencies were instructed to conduct concurrent planning; that is, simultaneously developing plans that would allow for either reunification or alternative permanent placement. The courts were instructed that "the child's health and safety shall be the paramount concern."<sup>(3)</sup> Permanent planning hearings were mandated within 12 months of placement, and child protective services agencies were required to seek termination of parental rights and adoption for children who had been in placement for 15 of the most recent 22 months.

ASFA also mandates the specific determinations that must be made at a permanency hearing. The NCJFCJ Guidelines outline a best practices approach, spelling out the decisions to be made by the court at each hearing, from the preliminary protective hearing through an adoption hearing.

NCJFCJ summarizes the impact of all of these changing expectations on the juvenile court in the following manner:

"As a result of recent changes in federal and state law, juvenile and family courts now take a far more active role in decision-making in abuse and neglect cases. More complex issues are now decided in each case, more hearings are held, and many more persons are involved."<sup>(4)</sup>

Meeting increasingly stringent legislative mandates and higher expectations without vastly expanded resources has been a challenge for most juvenile courts. It has necessitated that courts explore ways of achieving maximum efficiency and ways of freeing judicial time to deal with those cases that can only be resolved through trial. For example, numerous programs have been implemented to assist the juvenile court by drawing on non-adversarial means of resolving disputes and generating plans, such as mediation or family decision-making conferences. Similarly, some courts have empowered citizen boards to review out-of-home placements and make recommendations about ways to improve the progress being made toward permanency.

In an effort to increase efficiency, many courts have introduced case management into the juvenile court. The NCJFCJ Resource Guidelines identified the following as the basic components of model case management:

- Judicial commitment and leadership;
- Standards and goals for case processing;
- Case monitoring and information management systems; and
- Credible court calendars.

While judges play an undisputed role in ensuring case flow management, non-judicial personnel can also play critical roles. As a recent study conducted by the American Bar Association noted:

"In discussing ways to improve a court's ability to achieve permanency for children, people often focus on the responsibilities of judges, attorneys and caseworkers. The activities of non-judicial court staff are often overlooked, even though their activities play a central role in the functioning of the court and can have a significant impact on the court's ability to achieve permanency for children."<sup>(5)</sup>

By appointing specialized court facilitators, the court identifies an individual or individuals within the juvenile court system who are responsible for monitoring case progress for all open cases. Typically aided by some form of automated system, the court

facilitator identifies dependency and neglect cases that are not progressing through the court in a timely manner and therefore may be at risk of non-compliance with state and federal legislation.

Beyond monitoring case progress, the role of the court facilitator appears to vary significantly from state to state, and from jurisdiction to jurisdiction within a single state. For example, some dependency court facilitators generate monthly reports showing cases with no activity in the previous six months, with information on each of these cases regarding the length of time the child has been in care, the child's age, the date of placement, the date of the last placement review, and the long-range permanency plan. Other court facilitators provide judges with monthly reports showing cases that are approaching certain critical case processing milestones. Still other court facilitators take a direct approach to ensure that cases progress. For example, some court facilitators convene meetings with the parties in cases that they flag as failing to progress in a timely manner so as to identify the problems and potential solutions.

#### In Colorado

A number of events came together around 1996 to pave the way for case management in Colorado's juvenile courts. During that year, the Judicial Branch and the Colorado Department of Human Services were involved in the statewide implementation of legislation on expedited permanency planning. A 1996 Directive from the Office of the Chief Justice of the Supreme Court of Colorado ("Directive Concerning the Processing of Dependency and Neglect Cases," 96-08) called for districts to have plans in place by January 31, 1997 to:

"... improve the timeliness and quality of the courts' handling of dependency and neglect cases. . . . These policies are intended to encourage the early provision of services to children and families and reduce the time needed for courts to reach all major case events."

Among the items these plans were to address were:

- ways to ensure that the local department of social services would have an interim

treatment plan in place within 30 days of the petition filing or the child's removal from the home;

- ways to ensure that guardians *ad litem* would be appointed prior to the first hearing;
- requirements that the reports from departments of social services would be filed at least five days prior to the hearing; and
- methods to allow an early determination of the issues in a case that might require the presentation of evidence at a hearing or trial.

Although not specifically addressing the use of court facilitation, this Directive identified many issues that might be addressed by a court facilitator and even noted that "[c]ourts shall employ case management techniques."

Also in 1996, an assessment of the Colorado juvenile courts, conducted as a part of the Court Improvement Project, identified a number of system needs, specifically, improved communication among the professionals in the dependency system, better tracking and monitoring of case progress, and better communication with parents in the system. The Implementation Committee, organized following the study and chaired by Judge Charles Buss, called on the State to use Court Improvement Project funds to establish court facilitators in selected Colorado jurisdictions to address these needs.

The first court facilitators, were located in the 19<sup>th</sup> Judicial District (Weld County), the 4<sup>th</sup> Judicial District (El Paso and Teller Counties), and the 18<sup>th</sup> Judicial District (Arapahoe, Douglas, Elbert, and Lincoln Counties). They were funded during FY 1997-98. These counties were selected for a variety of reasons. While geographically diverse, all three jurisdictions were viewed as having a judiciary with strong commitments to case management. In addition, the 19<sup>th</sup> had already obtained United Way funding to partially support a court facilitator, and the 4<sup>th</sup> had the greatest number of dependency and neglect filings of any jurisdiction in the state.

In 1998, Supreme Court Directive 98-02 was signed by the Chief Justice. This Directive prepared the State to meet the federal mandates of the Adoptions and Safe Families Act. It required jurisdictions to have procedures and plans in place to address issues related to permanency planning. Recognizing that there would be new pressures on juvenile courts, the decision was made to expand case management into seven additional jurisdictions: the 12<sup>th</sup>, 17<sup>th</sup>, 20<sup>th</sup>, 2<sup>nd</sup>, 11<sup>th</sup>, 10<sup>th</sup>, and 21<sup>st</sup> Judicial Districts.

As in the selection of the original sites, these jurisdictions were chosen to provide geographic diversity, to provide assistance to those courts with the highest volume of dependency and neglect filings, to represent courts with a strong commitment to case management, and to offer assistance to jurisdictions with special problems related to communication among the professionals involved in dependency proceedings.

As Table 3 indicates, the ten jurisdictions with court facilitators in place by 1999 had 76 percent of the State's new dependency and neglect filings for FY 1999, making case management essentially a statewide phenomenon. Nine of these ten sites participated in the present evaluation

| Table 3  |                   |                    |                    |                    |                    |                    |                  |                    |                    |                               |              |
|--|-------------------|--------------------|--------------------|--------------------|--------------------|--------------------|------------------|--------------------|--------------------|-------------------------------|--------------|
| New Dependency Filings in FY 1999 by Jurisdiction  |                   |                    |                    |                    |                    |                    |                  |                    |                    |                               |              |
| District   |                   |                    |                    |                    |                    |                    |                  |                    |                    | Ten Jurisdictions Combined    | Entire State |
| 2 <sup>nd</sup> *  | 4 <sup>th</sup> * | 10 <sup>th</sup> * | 11 <sup>th</sup> * | 12 <sup>th</sup> * | 17 <sup>th</sup> * | 18 <sup>th</sup> * | 19 <sup>th</sup> | 20 <sup>th</sup> * | 21 <sup>st</sup> * |                               |              |
| 522  | 555               | 202                | 57                 | 44                 | 358                | 388                | 64               | 123                | 79                 | 2,392<br>(76% of state total) | 3,133        |
| * These sites participated in the present evaluation and account for 74% of the State caseload |                   |                    |                    |                    |                    |                    |                  |                    |                    |                               |              |

## The Role of the Court Facilitator

The Court Improvement Project Implementation Committee set minimal requirements for court facilitators, specifying that they hold either a JD or MSW and have experience in the substantive field of dependency and neglect. Beyond this, courts were free to set their own hiring criteria and to determine how the court facilitator would be utilized.

The nine jurisdictions included in this study were split between those opting for someone with legal training (N=4) or social services background (N=5). In part, the decision to hire someone with legal or social work training has been based on the specific tasks that will be required of a court facilitator. In jurisdictions where the court facilitator is to take a key role in legal research, there is a clear need for an attorney, although not one with a litigation orientation. If the court facilitator role is intended to develop and broaden the treatment provider base of the jurisdiction, a social work background is preferable. However, in general, judges and magistrates agree that a

successful court facilitator needs a thorough understanding of the juvenile court, strong interpersonal skills, to be a "self-starter," and the willingness to be flexible about job duties.

In each jurisdiction, judges and magistrates played a key role in determining the specific tasks that would occupy the court facilitator. This was based in part on what the jurisdiction needed to accomplish to comply with Supreme Court Directive 96-08. Indeed, court facilitators in several jurisdictions took on, as a first task, the development of a plan to address all of the issues outlined in the Directive. Even where the court facilitator did not take on the development of the district plan, the court facilitator was often given tasks that would help the district comply with the Directive's requirements. For example, court facilitators in some jurisdictions have been charged with developing procedures that allow a guardian *ad litem* to be appointed prior to the first hearing or ensuring that social services agencies file reports at least five days in advance of court hearings.

In addition, judges and magistrates have used court facilitators to address specific issues or problems of concern to them. For example, some court facilitators have been charged with identifying new treatment and placement resources, and facilitating a conversation between the treatment community and the juvenile court. Other judges have identified the court facilitator as a person who will be able to identify cases that are failing to progress and take some action in the case.

Although court facilitators have worked with judges and magistrates in developing the position, in many jurisdictions the consensus seems to be that there is tremendous opportunity for the court facilitator to help determine how the position is used. During interviews with court facilitators, judges, and magistrates, there were frequent references to this. Several court facilitators explained it this way:

"With this job you can go a million different directions, that's the fun. The risk is getting spread too thin."

"Basically in the job interview I was asked if I thought I would be able to create a job, to develop a position. That's pretty much what I've done. The magistrate gave me his wish

list about what he would like to see done, but lots of the job is inventing as you go along."

"My job is really only limited by my vision. The bench is very supportive. If I have something I want to try, they are willing to listen. There are lots of daily surprises. "

Although the role of the court facilitator varies - sometimes greatly, sometimes slightly - from one jurisdiction to the next, there are a number of key activities that are shared across sites (see Table 4 for a summary of activities). These include tracking cases, facilitating communication among the professionals, providing assistance to parents, special projects, community outreach efforts, clerical tasks related to the smooth functioning of the court, and case conferences. This portion of the report provides a brief overview of how court facilitators are involved in all but the last of these activities, and how these activities are viewed by the various professional groups. A subsequent section deals in depth with case conferences, including the outcomes associated with such conferences.

## Case Tracking

When asked to describe what they originally envisioned having a court facilitator do in their jurisdiction, judges and magistrates almost uniformly mention the idea of monitoring or tracking cases. They were hoping for someone who would be able to give them feedback about how well they were meeting the tight time frames for processing cases and the overall goal of achieving permanency for children as quickly as possible. At the time of this study, court facilitators in about half of the jurisdictions were able to provide the bench with reports, generally quarterly and annually, describing the degree to which case processing goals are being met. In the other locations, such reporting will begin in the next few months as the new data base system becomes fully operational.

While some case tracking is used to compile an aggregate picture of the system, tracking can also result in the identification of individual or case specific problems that need attention. Some court facilitators provide case summaries to the court, and other have designed forms that provide the most critical case information to the judge so that there is no need to hunt through the entire file for placement or hearing dates.

Of course, ultimately the individual cases create the system as a whole. Thus, while individual problems may need individual attention, they may also help identify larger system problems. As a result, one judge notes that while some aspects of case tracking and monitoring are largely clerical:

"This job isn't clerical. Individual clerks don't have the big picture. . . . The court facilitator is able to identify gaps in the system. Without the court facilitator, the judge occasionally hears about a problem, but we don't hear about it routinely so we never see that the problem is system wide. The court facilitator can identify the gaps and can meet with the judge to work out solutions."

Another judge agrees:

"The tracking isn't clerical. We need her to review to make sure we've complied with guidelines. At the front end we need her to warn us, at the back end we need her to let us know what we missed."

### Facilitating Communication

From the outset, the Colorado Judicial Department expressed a hope that the court facilitator would help to facilitate communication among the many parties involved in dependency court cases. It was also something many of the jurisdictions adopting case management hoped to achieve. Interviews with professionals at many different sites found that communication skills were viewed as critical to successful case management. As one county attorney noted, "They need to be able to nudge judges, attorneys, caseworkers."

Indeed, in a few jurisdictions, one primary motive for the use of a court facilitator is to increase and improve communication between the court and the social services agency. This can take many forms. Some of it happens on an individual level. One judge notes that the court facilitator forms a relationship with individual workers that helps promote a sense of cooperation and communication. Many court facilitators report that they encourage and receive phone calls from caseworkers who have questions about cases or the court process. They believe this helps workers to see the court as reasonable and

ready to help. Caseworkers may elect to call the court facilitator rather than the agency's legal department for a variety of reasons, ranging from ease of access to a determination that the court facilitator will be in a better position to find out the answer, especially if the question has to do with why a judge or magistrate made a specific order.

The ability of the court facilitator to act as a conduit of information from and to judges is a point that came up repeatedly during the interviews. Both caseworkers and attorneys identified the court facilitator as a means of opening up communication with the court that would otherwise not take place due to concerns about *ex parte* communication. For example, one social services supervisor observed:

"I think workers use the court facilitator when they have questions. They may get a copy of the court order and it contains things they didn't expect to see and they'll call to ask what's going on. She'll check to make sure the order is correct and to explain why it was ordered."

As the social services supervisor noted, the communication flows both ways. The court facilitator can help the judge or magistrate understand the caseworker's thinking as well.

"It works the other way too. The court facilitator will call to ask what's going on with the such-and-such case. It's a chance for the agency to give the court feedback."

This can help the court understand the problems and limitations under which the agency must function, and appreciate that individual caseworkers are treating the case seriously and attempting to resolve problems. Ultimately, this can help "humanize" relationships. The court hears about motivated, concerned caseworkers, and caseworkers hear about judges and magistrates who appreciate their efforts. For example, one court facilitator reported receiving a call from a caseworker who had been ordered to change a child's placement by a specific date. The worker had located a good alternative, but it would not be available before the deadline. The court facilitator was able to convey to the judge a request for a 24-hour extension to allow the worker to avoid moving the child twice. The extension was readily granted, and the judge was surprised to hear from the court facilitator how distressed the caseworker had been about complying. The worker was pleased to discover that the judge was not intent on enforcing the original order

regardless of the cost.

Court facilitators may also promote positive agency-court relationships by helping to ensure that court orders contain the language needed by the agency to authorize specific funds to be spent. This is another small touch, but one that can help foster a sense of mutual respect between the court and agency.

One court facilitator-caseworker interaction that has met with mixed results is the practice of using court facilitators to monitor caseworkers' reports to the court. In an effort to increase the number of reports submitted in a timely fashion, a number of jurisdictions have elected to have the court facilitator submit to the agency a list of cases with reports that will be due in the upcoming months. In some jurisdictions, the court facilitator also calls supervisors to apprise them of late reports. Court facilitators rarely cite this as one of the more rewarding aspects of the job. They recognize that many supervisors and workers are fully aware of the problem of late reports, but are overwhelmed with cases and struggling to keep up. Not surprisingly, in jurisdictions with fairly positive court-agency relationships, the court facilitators view the workers as generally appreciative of their reminder. Where relations are strained, the reminders are more likely to be viewed as pointless by the workers. On the other hand, judges generally report that the reminders and notification do have the desired result of improving the timely submission of reports, and the attorneys for social service agencies, who are sometimes also expected to remind workers about reports, are often happy to share this task with court facilitators.

Like caseworkers, attorneys also frequently view court facilitators as a conduit to the court. For example, in one jurisdiction, an attorney who represents the social services agency reports that he calls the court facilitator when he has questions about procedures or policies because the court is very concerned about being, and appearing, impartial. In another jurisdiction, a guardian *ad litem* recalls using the court facilitator to convey information to the court about scheduling problems with the foster care review unit that had made it impossible for him to attend reviews. He says this led to the judge and court facilitator organizing a meeting to discuss how the administrative review process could be improved.

In several jurisdictions, court facilitators have also played a key role in bringing the treatment community into the communication loop. For example, in one jurisdiction, the

court facilitator made it a priority to develop new procedures that would allow key treatment providers to be present at court in order to expedite parental referrals to services. In another jurisdiction, the court facilitator has worked to identify new treatment resources and to bring the magistrate and treatment community together for informal discussions about needs and services.

Of course, case conferences, discussed in a later section of the report, also are a means of facilitating information sharing. They provide an opportunity for all parties to be in one room, at one time, hearing the same information. This is a critical, but rare, occurrence in most cases.

### Assisting Parents

Of course, every aspect of the court facilitator's job that improves system performance will presumably also aid parents who find themselves in this system. For example, getting treatment providers to attend court so that immediate service referrals can be made clearly helps parents get started more quickly on their case plan, and improving communication between the agency and court should reduce delays and continuances that result from miscommunication. However, some court facilitator tasks are even more directly designed to help parents and families negotiate through the court process. Some of these are one-time projects or efforts that are discussed in the following section "Special Projects." Others are routine parts of case management.

Most of the more routine assistance court facilitators provide to parents can be classified as either assistance in the process of getting them connected to attorneys or assistance provided to those who are *pro se*. For example, at several sites, the court facilitator takes financial information from the parents to determine whether they qualify for court-appointed counsel. If they do, the court facilitator may also assist in introducing parents to their attorneys and making sure they have an opportunity to talk before the hearing.

Much of the assistance provided to *pro se* parents includes answering questions. Without the court facilitator, these questions are usually asked of other professionals, such as magistrates, county counsel, or guardians *ad litem*. These professionals are often uncomfortable providing parents with information since this may be in conflict with their own role in the case. One court facilitator notes that the information that *pro se* parents are looking for is often very basic and can be provided without straying into the

realm of offering legal advice:

"I see some *pro se* parents. There aren't many of these in D&Ns, but when they show up in the courtroom, the magistrate will send them to me. I can't offer them legal advice, but I can clarify some pretty basic confusion. One of the most common is the parent who comes in with a petition that lists all the possible counts and thinks that the agency is contending that all of these apply. I'll explain that it's only the ones that are checked or circled that the court will look at -- it's a generic form that everyone gets. I also keep admissions forms handy and gives them to parents. I'll say, 'If you decide that you want to admit what the petition says, you should fill this out and bring it to court next time.' That speeds things up. Often parents who are in court because of kids who are beyond their control want the services and want to do the admission form."

In addition, both represented and *pro se* parents are believed to benefit from the handout that most court facilitators provide to all the parties at this first hearing. This handout shows the timeline for various major hearings. Distributing this time frame was mentioned by several professionals as helpful for parents for several reasons. It can communicate to the parents, from the very beginning, that their case is expected to make steady progress, and that they have a limited amount of time in which to complete services and have their children returned. On the other hand, the handout also warns parents from the outset that the case is not going to be resolved in a single court hearing.

## Special Projects

In the jurisdictions that allow the greatest flexibility in the court facilitator role, the position has been used to advance a number of special projects that probably would not have been addressed, including development of a CASA program, development of family court pilot, creation of a waiting room for children, victim-offender mediation for juveniles, tracking the deviations the court makes from Department of Social Services treatment requests, and a video for incarcerated parents.

In addition, in many jurisdictions court facilitators have undertaken the task of providing training on a variety of special topics. These formal and informal training sessions have been provided to attorneys, court staff, the judiciary, and others. The topics dealt with have included issues related to the implementation of new legislation, national trends in court facilitation, and encouraging a holistic family focus rather than a

narrow focus on case type.

## Clerical Activities

Finally, in most jurisdictions, there are some aspects of the court facilitator position that are largely clerical in nature. Some of these are clerical tasks to support another aspect of case management. For example, in order to conduct case conferences, the conferences must be scheduled. This can a lengthy, time-consuming process since it involves juggling the calendars of many busy professionals. Similarly, in order to provide reports on case processing and to identify problems, the data must first be entered in the database. If the court facilitator has clerical backup, as is the case in the 20<sup>th</sup> Judicial District, these types of tasks may be readily delegated to the clerk. If there is no clerical backup, the court facilitator inevitably takes on these tasks.

On the other hand, some court facilitators are responsible for tasks that typically are performed by clerks in other jurisdictions. These duties are assigned to the court facilitator if clerical staff are not unavailable. Examples of these tasks would include opening files on cases, appointing guardians *ad litem*, taking financial statements from parents to determine whether they qualify for court-appointed counsel, assigning attorneys for respondent parents, and entering upcoming court dates in the computer.

In addition, some clerical tasks assigned to court facilitators have not traditionally been done by anyone in the system. These are new activities that judges, magistrates, or others in the system have identified as important to ensure smooth and speedy case processing. They have been assigned to court facilitators rather than clerks either arbitrarily or because additional clerk time is not viewed as an option. Examples of these tasks would include taking initial case information from the on-duty caseworker; conducting checks to determine whether the family is involved in other cases filed with the criminal, delinquency, or other civil courts; or notifying caseworkers about reports that will be due in the weeks ahead and/or about past-due reports

Given their job description and training, it is clear that court facilitators were never intended to serve a largely clerical function for the court. On the other hand, there is no question that someone needs to perform these tasks. For example, prior to having the court facilitators take over assigning attorneys in the 4<sup>th</sup> Judicial District, there was no satisfactory method for ensuring a timely appointment. The court facilitator explains:

"In the past, the parents were just told to show up at a hearing and attorneys were supposed to be there too. At the hearing it would be determined whether the parent financially qualified for an attorney. If they did, they might be assigned one on the spot and given five minutes in the hall to figure out what they wanted to do. Or maybe there wouldn't be attorneys present, in which case the parent would be given a name and number to call, and the case would have to be continued. Sometimes parents called, sometimes they didn't. So you could have parents come to court again and still not have talked to the attorney. The attorney wouldn't even know they had been assigned."

By contrast, a guardian *ad litem* in this district now says, "It's amazing how smoothly the beginning, the front end stuff, goes now."

Similarly, in the 12<sup>th</sup> Judicial District, all the professionals agree that the complexities of a six-county district, judges who ride circuit, and a lack of clerical support create an untenable situation. Complying with the time lines, quite apart from monitoring compliance, is simply not possible without the type of assistance currently provided by the court facilitators.

The most obvious answer is that all jurisdictions need adequate clerical support and some also need case management. Indeed, without adequate clerical support, it is impossible to really assess what a court facilitator can contribute to the system because court facilitators will never be fully utilized.

Table 4 summarizes court facilitator activity in each district. The court facilitators' duties could be grouped in a variety of different ways. This table mirrors the general categories employed above in describing court facilitator duties.

| Table 4   |  |  |  |  |  |  |  |
|---|--|--|--|--|--|--|--|
| Summary of Activities Performed by Court facilitators by Site |  |  |  |  |  |  |  |
|   |  |  |  |  |  |  |  |

|   | 17 <sup>th</sup><br>(Adams)   | 12 <sup>th</sup><br>(Alamosa)          | 18 <sup>th</sup><br>(Arapahoe)   | 20 <sup>th</sup><br>(Boulder)            | 2 <sup>nd</sup><br>(Denver)   | 4 <sup>th</sup><br>(El Paso)   | 11 <sup>th</sup><br>(Fremont)                            | 10 <sup>th</sup><br>(Pueblo)  | 21 <sup>st</sup><br>(Mesa)              |
|---|---|--|--|--|---|--|--|---|---|
| Tracking, data base & reports           | Yes, currently no reports   | Yes, case summary reports              | Yes, annual and quarterly  | Yes, annual and quarterly                | Yes, currently no reports   | Yes, currently no reports  | Yes, currently no reports                                | Yes   | Yes                                     |
| Monitoring Department of Human Services | Minimal monitoring of late reports  | Reports submitted to court facilitator | Do not monitor late reports  | Notify about late reports & what is due  | Notify about what is due  | Notify about late reports & what is due  | Do not monitor late reports                              | Do not monitor late reports   | Notify about late reports & what is due |
| Parent Assistance Services              |   |  | <i>Pro se</i> parents may be sent to court facilitator for basic assistance      | Advisement video                         | <i>Pro se</i> parents may be sent to court facilitator for basic assistance | Informational video<br><i>Pro se</i> parents may be sent to court facilitator for basic assistance |  | <i>Pro se</i> parents may be sent to court facilitator for basic assistance |   |
| Special projects (examples)             | Family Court Pilot<br>CASA Program<br>EPP County<br>Incarcerated parent video | District plan                          | District plan<br>GAL oversight<br>Monitor deviation from agency service requests | District plan<br>Organizes topic lunches | Incarcerated parents materials  |  | Organizes meetings between court and treatment community | District plan<br>CASA<br>GAL<br>Revised attorney appointment procedures     |   |
| Clerical (examples)                     | Data base entry<br>Schedule conferences                                       | Open cases                             | Data base entry<br>Schedule conferences<br>Enter next hearing date               | Schedule conferences                     | Data base entry<br>Schedule conferences                                     | Data base entry<br>Information from worker<br>Parents' financial<br>Assign attorneys               | Data base entry<br>Schedule conferences                  | Data base entry<br>Schedule conferences                                     | Data base entry                         |
| Case conferences                        | Yes   | No                                     | Yes  | Yes                                      | Yes   | Yes  | Yes  | Yes   | No                                      |

Table 5 employs data from time logs maintained by the court facilitators to show approximately how their time is divided. Because these time logs cover a short period of time (an average of two weeks per site), and because court facilitator activities vary from one week to another, these percentages only represent a point in time. In addition, time logs are not available for the 4<sup>th</sup> Judicial District, where the court facilitators found it difficult to record and report on their actions which tended to be interrupted and occurred in small blocks of time.

| Table 5   |                 |                  |                  |                  |                  |                  |                  |                  |
|---|-----------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| Distribution of Court Facilitator Time By Task and Judicial District    |                 |                  |                  |                  |                  |                  |                  |                  |
|   | 2 <sup>nd</sup> | 10 <sup>th</sup> | 11 <sup>th</sup> | 12 <sup>th</sup> | 17 <sup>th</sup> | 18 <sup>th</sup> | 20 <sup>th</sup> | 21 <sup>st</sup> |
| Data base entry, updating, and case tracking                            | 17%             | 13%              | 8%               | 40%              |                  | 8%               | 17%              | 31%              |
| Generating reports for the court  | 13%             |                  | 14%              | 8%               |                  | 6%               | 7%               |                  |
| Data base and reports to court combined                                 | 30%             | 13%              | 22%              | 48%              |                  | 14%              | 24%              | 31%              |
| Researching the family in the court system                              |                 |                  | 8%               | 1%               | 1%               |                  | 1%               | 9%               |
| Responding to calls regarding specific cases                            | 20%             | 4%               | 9%               | 2%               | 12%              | 4%               | 4%               | 9%               |
| Legal research and writing  |                 | 6%               |                  |                  |                  | 2%               |                  | 3%               |
| Family financial assessment   |                 |                  |                  |                  |                  |                  | 1%               |                  |
| Assigning attorneys to respondent parents or GAL                        |                 |                  |                  | 2%               |                  |                  | 1%               |                  |
| Meeting with <i>pro se</i> parents or prior to attorney appointment     |                 | 2%               | 1%               |                  |                  | 1%               | 7%               |                  |
| Conducting telephone conference   | 1%              | 3%               |                  |                  |                  | 1%               |                  | 2%               |
| Scheduling and wrap-up on case conference                               | 10%             | 2%               | 4%               |                  | 5%               | 10%              | 16%              |                  |
| Conducting case conference  | 11%             | 21%              | 7%               |                  | 1%               | 6%               | 2%               |                  |
| All case conference activities  | 21%             | 23%              | 11%              |                  | 6%               | 16%              | 18%              |                  |
| Attending staffings, placement team meeting, or FGC                     |                 |                  |                  |                  | 3%               |                  |                  |                  |
| Meetings, training, or other work with social services                  | 2%              | 3%               | 5%               |                  | 3%               | 1%               |                  | 6%               |
| Other meetings, training, or liaison work                               | 5%              | 12%              | 6%               |                  | 4%               | 11%              | 6%               |                  |
| Meetings or trainings with other professionals                          | 7%              | 15%              | 11%              |                  | 10%              | 12%              | 6%               | 6%               |
| Preparing and distributing dockets and notifying parties of court dates | 2%              | 2%               |                  | 3%               |                  |                  |                  |                  |
| Identifying past due or soon to be needed reports                       | 1%              | 3%               | 2%               | 19%              |                  |                  | 3%               | 5%               |
| Setting dockets, notification of court dates, reports due               | 3%              | 5%               | 2%               | 22%              |                  |                  | 3%               | 5%               |
| Attending hearings  | 3%              | 10%              | 12%              | 15%              | 1%               | 1%               | 2%               | 28%              |
| Drafting, designing forms   |                 | 3%               | 3%               |                  |                  | 3%               | 6%               |                  |
| Work related to court policies and procedures                           | 7%              | 2%               | 6%               | 2%               |                  | 8%               | 11%              |                  |
| Program development or special projects                                 | 9%              | 14%              | 12%              |                  | 35%              | 5%               | 15%              | 6%               |
| Conferences, training, professional development                         |                 |                  | 2%               |                  | 35%              | 35%              |                  |                  |
| Miscellaneous clerical  | 1%              |                  |                  | 7%               |                  |                  |                  |                  |
| Figures may not equal 100% due to rounding                              |                 |                  |                  |                  |                  |                  |                  |                  |

As expected, court facilitator time tends to cluster around monitoring activities and case conferences. In four locations (2<sup>nd</sup>, 10<sup>th</sup>, 18<sup>th</sup>, and 20<sup>th</sup>), court facilitators are devoting approximately 20 percent of their time to activities related to case conferences. Case tracking, which can include work on the database and also creating summary reports for the court, also accounts for at least 20 percent of the court facilitator's time in five districts (2<sup>nd</sup>, 11<sup>th</sup>, 12<sup>th</sup>, 20<sup>th</sup>, and 21<sup>st</sup>). During the time the records were maintained,

court facilitators in two jurisdictions spent a significant amount of time in training and conferences. In some cases, the training/conferences relate to special projects that are underway in the district. In addition, some judges and magistrates note that they cannot attend all the conferences and events that they feel would be beneficial because of caseload pressures. These hearing officers ask the court facilitator to attend and report back to the court on new policies, practices, and developments.

However, in general, the results show that court facilitators leverage their time across a great many activities. They juggle a wide variety of tasks during the span of a given week.

## Case Management Conferences

Seven of the nine judicial districts in this study use court facilitators to conduct conferences with dependency and neglect cases that have problems, special needs, or are at-risk of non-compliance with case processing timelines. The two districts that do not provide case conferences, the 12<sup>th</sup> and the 21<sup>st</sup>, have no plans to incorporate this into the mix of activities performed by their court facilitators. Judges and magistrates in these two districts report that there are few problems getting cases to settle out of court and do not believe it would be a good use of the court facilitator's time to conduct such conferences. Practical problems in the 12<sup>th</sup> district, principally the large geographic area covered by the district, would probably make conferences unfeasible even if they could be useful.

In all of the sites, the case conferences are relatively brief. Most locations allocate one to two hours per case. Court facilitators note that keeping the conference focused and short is important if it is to be accepted by the participating professionals:

"I set conferences for one hour each. At the end of that hour, if everyone wants to continue, we will, but otherwise they know they'll be done in an hour. That's important because some of the parties around the table, the attorneys, are very conscious of how much time they are spending on a case. They don't generally get paid hourly."

The primary differences among the programs have to do with the perceived goal or purpose of the conference. In five jurisdictions (2<sup>nd</sup>, 10<sup>th</sup>, 17<sup>th</sup>, 18<sup>th</sup>, and 20<sup>th</sup>), court facilitators describe the process as a chance for the participants to discuss the issues and develop a plan of action. The court facilitator distills the plan into a written agreement, the parties sign and receive copies of the agreement, and it is entered with the court. In two jurisdictions, the 4<sup>th</sup> and the 11<sup>th</sup>, court facilitators are more likely to describe the conference as a means of collecting information to share with the court rather than an opportunity for the parties to negotiate a settlement. In these settings, the information needed by the court is usually explicitly laid out by the referring judge or magistrate. The court facilitator produces written and/or oral answers to these questions and may also be asked to make a recommendation to the court (see Table 6).

Data on individual case conferences conducted at the sites also indicates substantial variation across the jurisdictions in the degree to which the court facilitator offers recommendations to the court or tells the parties what will be recommended to the court should they fail to reach an agreement. Recommendations are most common in the 10<sup>th</sup>, 11<sup>th</sup>, and 17<sup>th</sup> Judicial Districts (see Table 7).

| Table 6   |   |   |   |   |   |   |  |
|---|---|---|---|---|---|---|--|
| Overview of Case Management Conference Format and Structure |   |   |   |   |   |   |  |
|   | 17 <sup>th</sup><br>(Adams)                                       | 18 <sup>th</sup><br>(Arapahoe)                                    | 20 <sup>th</sup><br>(Boulder)                                 | 2 <sup>nd</sup><br>(Denver)                                       | 4 <sup>th</sup><br>(El Paso)                                      | 11 <sup>th</sup><br>(Fremont)                                     | 10 <sup>th</sup><br>(Pueblo)                                       |
| Referrals   | Generally judge or magistrate referral<br><br>Parties may request | Generally judge or magistrate referral<br><br>Parties may request | Generally parties request, judge or magistrate may also refer | Generally judge or magistrate referral<br><br>Parties may request | Generally judge or magistrate referral<br><br>Parties may request | Generally judge or magistrate referral<br><br>Parties may request | Magistrate, judge, any party, and court facilitator also initiates |
| Court-ordered attendance                                    | Yes   | Yes   | Yes   | Yes   | Yes   | Yes   | Yes  |
| Stage   | Any   | Any   | Any   | Any   | Any   | Any   | Any  |
| Written/signed agreement                                    | Yes   | Yes   | Yes   | No, summary to parties  | No  | No, summary to parties  | Yes  |
| Information to court  |   | Minimal   | Minimal   | No  | Yes, answers to specific questions                                | Yes   | Yes  |

|                        |                |     |     |    |     |     |     |
|------------------------|----------------|-----|-----|----|-----|-----|-----|
|                        | <b>Minimal</b> |     |     |    |     |     |     |
| Recommend to court     | No             | No  | No  | No | May | No  | May |
| Mediation in community | No             | Yes | Yes | No | Yes | Yes | No  |

| Table 7   |                             |                                |                               |                             |                              |                               |                              |       |
|---|-----------------------------|--------------------------------|-------------------------------|-----------------------------|------------------------------|-------------------------------|------------------------------|-------|
| Case Management Conferences by Site   |                             |                                |                               |                             |                              |                               |                              |       |
|   | 17 <sup>th</sup><br>(Adams) | 18 <sup>th</sup><br>(Arapahoe) | 20 <sup>th</sup><br>(Boulder) | 2 <sup>nd</sup><br>(Denver) | 4 <sup>th</sup><br>(El Paso) | 11 <sup>th</sup><br>(Fremont) | 10 <sup>th</sup><br>(Pueblo) | Total |
| Make recommendations to court or tell the parties about recommendations that will be made | 80%                         | 3%                             | 0%                            | 0%                          | 12%                          | 83%                           | 91%                          | 39%   |
| Number of cases   | 5                           | 30                             | 19                            | 6                           | 25                           | 6                             | 43                           | 134   |

The forms completed by court facilitators on case management conferences provide a profile of the types of cases referred to the process. The cases vary widely in the type of problem bringing the family into the system. The families are experiencing a number of problems that may hinder their progress, such as substance abuse, mental health issues, intimate partner violence, custody disputes among family members, adolescent or incarcerated parents, or delinquency cases, in addition to dependency filings (see Table 8). At the time of the case conference, most families had a child in placement, and for the majority, this was a non-relative foster care provider.

| Table 8  |                             |                                |                               |                             |                              |                               |                              |       |
|--|-----------------------------|--------------------------------|-------------------------------|-----------------------------|------------------------------|-------------------------------|------------------------------|-------|
| Overview of Cases Referred for Case Management Conferences |                             |                                |                               |                             |                              |                               |                              |       |
|  | 17 <sup>th</sup><br>(Adams) | 18 <sup>th</sup><br>(Arapahoe) | 20 <sup>th</sup><br>(Boulder) | 2 <sup>nd</sup><br>(Denver) | 4 <sup>th</sup><br>(El Paso) | 11 <sup>th</sup><br>(Fremont) | 10 <sup>th</sup><br>(Pueblo) | Total |



|  |          |           |           |          |           |          |           |            |
|--|----------|-----------|-----------|----------|-----------|----------|-----------|------------|
| Referral source  |          |           |           |          |           |          |           |            |
| Judge or magistrate  | 100%     | 77%       | 11%       | 83%      | 58%       | 100%     | 56%       | 60%        |
| Parent's attorney  |          | 6%        | 42%       | 17%      | 4%        |          | 40%       | 21%        |
| Guardian <i>ad litem</i>   |          | 3%        | 16%       |          | 8%        |          | 19%       | 10%        |
| Social services attorney   |          |           | 21%       |          |           |          | 5%        | 4%         |
| Caseworker   |          | 6%        | 10%       |          | 34%       |          | 12%       | 13%        |
| Court facilitator  |          |           |           |          |           |          | 7%        | 2%         |
| Case stage   |          |           |           |          |           |          |           |            |
| Adjudication/<br>disposition   |          | 45%       | 26%       |          | 16%       | 17%      | 38%       | 30%        |
| Review hearing   | 50%      | 33%       | 21%       | 67%      | 42%       | 83%      | 5%        | 35%        |
| Permanency hearing   | 33%      | 3%        | 21%       | 17%      |           |          | 19%       | 12%        |
| Termination  |          | 6%        | 10%       | 17%      | 4%        |          | 14%       | 9%         |
| Other post-dispo   | 17%      | 13%       | 21%       |          | 4%        |          | 9%        | 14%        |
| <i>Number of cases</i>   | <i>6</i> | <i>31</i> | <i>19</i> | <i>6</i> | <i>26</i> | <i>6</i> | <i>43</i> | <i>137</i> |
| Responses may total more than 100% because multiple answers may be provided. |          |           |           |          |           |          |           |            |

The participants in case management conferences are generally very similar across the jurisdictions. Present at most conferences are one or both parents, their attorneys, the guardian *ad litem*, the caseworker, and the legal counsel for the department of social services. Other professionals, typically treatment providers, are also likely to attend. The need for facilitation skills is underscored by the sheer number of parties present, on average about eight.

|                          | 17 <sup>th</sup><br>(Adams) | 18 <sup>th</sup><br>(Arapahoe) | 20 <sup>th</sup><br>(Boulder) | 2 <sup>nd</sup><br>(Denver) | 4 <sup>th</sup><br>(El Paso) | 11 <sup>th</sup><br>(Fremont) | 10 <sup>th</sup><br>(Pueblo) | Total |
|--------------------------|-----------------------------|--------------------------------|-------------------------------|-----------------------------|------------------------------|-------------------------------|------------------------------|-------|
| One or both parents      | 100%                        | 87%                            | 95%                           | 83%                         | 46%                          | 67%                           | 93%                          | 82%   |
| Attorneys for parents    | 83%                         | 90%                            | 90%                           | 100%                        | 65%                          | 50%                           | 93%                          | 85%   |
| Child                    |                             |                                |                               |                             | 4%                           | 50%                           | 28%                          | 12%   |
| Guardian <i>ad litem</i> | 83%                         | 97%                            |                               | 100%                        | 92%                          | 100%                          | 98%                          | 83%   |
| Caseworker               | 67%                         | 94%                            | 100%                          | 83%                         | 92%                          | 100%                          | 100%                         | 95%   |
| Social services attorney | 83%                         | 94%                            | 100%                          | 100%                        | 15%                          |                               | 95%                          | 76%   |
| CASA                     |                             | 26%                            | 68%                           |                             | 31%                          | 17%                           | 23%                          | 29%   |
| Foster parent            |                             | 3%                             | 16%                           | 17%                         | 15%                          | 50%                           | 30%                          | 18%   |
| Other professionals      |                             | 58%                            | 58%                           | 67%                         | 77%                          | 83%                           | 28%                          | 51%   |

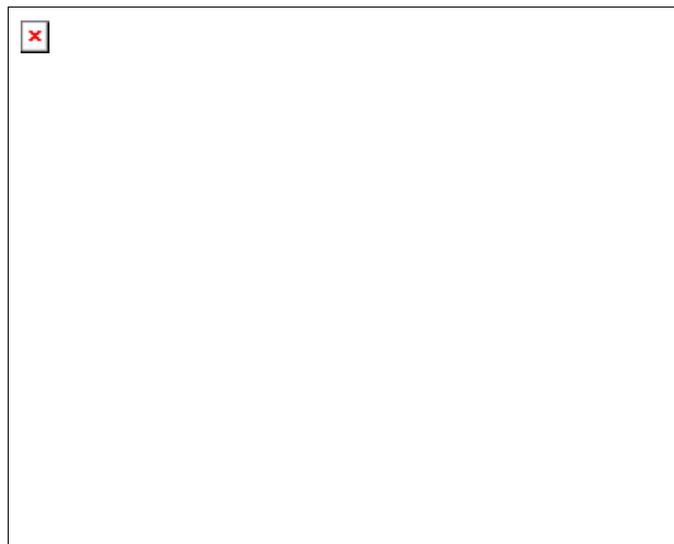
|                                 |     |     |     |     |     |     |     |     |
|---------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|
| Average number of professionals | 3.8 | 6.5 | 6.0 | 7.2 | 6.9 | 6.2 | 5.7 | 6.2 |
| Average number of participants  | 6.3 | 8.8 | 8.5 | 8.7 | 8.2 | 7.2 | 7.9 | 7.7 |
| Number of cases                 | 6   | 31  | 19  | 6   | 26  | 6   | 43  | 137 |

At first glance, non-attendance appears to be a significant problem at most sites, despite the fact that attendance is court ordered. For nearly 40 percent of the cases, the court facilitator indicated that the case involved parties who should have, but failed to, attend. However, approximately half of those who fail to appear are family members, and another 23 percent are CASAs or a treatment provider (who may not have been part of the court order). About 30 percent of the cases have attorneys or caseworkers who fail to appear, but nearly all of these are in a single jurisdiction (4<sup>th</sup>).

Table 11 highlights some of the issues most commonly discussed during the case conference. Placement, treatment, and visitation are common issues across all the jurisdictions. A number of locations, most notably the 2<sup>nd</sup>, 10<sup>th</sup>, 11<sup>th</sup>, and 20<sup>th</sup>, all spend considerable time on issues related to non-compliance, including ways to enhance the worker-family relationship. However, the conferences clearly cover a wide range of topics, depending upon the individual case, its stage in the legal process, and its unique problems.

|                       | 17 <sup>th</sup><br>(Adams) | 18 <sup>th</sup><br>(Arapahoe) | 20 <sup>th</sup><br>(Boulder) | 2 <sup>nd</sup><br>(Denver) | 4 <sup>th</sup><br>(El Paso) | 11 <sup>th</sup><br>(Fremont) | 10 <sup>th</sup><br>(Pueblo) | Total |
|-----------------------|-----------------------------|--------------------------------|-------------------------------|-----------------------------|------------------------------|-------------------------------|------------------------------|-------|
| Placement issues      | 33%                         | 57%                            | 37%                           | 17%                         | 35%                          | 67%                           | 90%                          | 58%   |
| Visitation issues     | 83%                         | 68%                            | 79%                           | 100%                        | 39%                          | 67%                           | 93%                          | 74%   |
| Treatment issues      | 67%                         | 79%                            | 84%                           | 67%                         | 65%                          | 83%                           | 88%                          | 79%   |
| Services for children | 17%                         | 54%                            | 32%                           | 50%                         | 35%                          | 83%                           | 83%                          | 56%   |
| Permanent plan        | 33%                         | 4%                             | 11%                           | 17%                         | 19%                          | 33%                           | 60%                          | 29%   |
| Termination           | 17%                         | 11%                            | 21%                           | 17%                         | 31%                          | 4%                            | 4%                           | 18%   |
| Non-compliance        | 17%                         | 29%                            | 58%                           | 100%                        | 35%                          | 50%                           | 55%                          | 46%   |
| Number of cases       | 6                           | 31                             | 19                            | 6                           | 26                           | 6                             | 43                           | 137   |

The outcome of the case conference is typically a resolution of some or all of the issues that brought the case to conference. Even in settings where court facilitators describe the process as information gathering rather than conflict resolution, problems are resolved. Overall, approximately 45 percent of the cases result in an agreement on all the issues, 49 percent resolve only some of the issues, and 5 percent do not resolve any issues (see Figure 2).



In an effort to determine what impact resolving issues in a case management conference has on the longer-term outcome of the case, an analysis of case processing time was conducted, using data from the 10<sup>th</sup>, 17<sup>th</sup>, and 18<sup>th</sup> Judicial Districts. The data set includes 85 cases that participated in a case management conference, and approximately 100 were comparison group cases filed prior to the introduction of case management [\(6\)](#). The comparison group was generated by having the court facilitator look at case files to select those she felt would have warranted a case conference had this process been available. Clues that the case needed a conference included slow case processing, but also included multiple placements for children, sibling filings during the time the case was open, or similar problems. While the case management and comparison group are not true experimental and control groups, they can provide a preliminary look at what happens to problem cases with and without case management.

Figure 3 shows that there are some differences in the speed with which cases reach various stages of case processing. In general, the case managed group progressed faster than the comparison group, and the differences between the two are statistically significant at the .05 level (indicating less than 5 times in 100 would these differences occur due to chance alone).



The differences between the two groups grow over time. The case managed group reaches the disposition hearing an average of 34 days faster than the comparison group. However, there is an average savings of 130 days in the case managed group when the full elapse of time from petition filing to permanent planning hearing is considered. Thus, under the case management model the average case met the EPP deadline of 12 months, while the average case without case management did not.

It would be premature to give court facilitation all the credit for the differences observed between the case managed and comparison group. Other factors may have contributed as well. However, while preliminary, the data suggest that further research into the role that court facilitators can play in speeding case processing would be valuable.

The patterns noted in Colorado are similar to those in an assessment of dependency court case management in Connecticut.<sup>(7)</sup> A comparison of the length of time elapsing between the petition filing and disposition in the Hartford court prior to and following the implementation of case management showed a decrease from 126 to 77 days. This study was not able to generate data on the time elapsed to later hearing dates, such as the permanent plan hearing. Further, the authors of the study caution that numerous changes were introduced in case processing during the study period, making it difficult to attribute all the improvements to case management.

Colorado judges and magistrates have the impression that case management conferences have helped to speed case processing. They certainly believe case conferences have saved them time. One judge notes:

"I know one case management conference already saved me a two-day hearing. I was able to do six termination hearings instead. It was a difficult case, but at the end of the day the parties came in to say that the hearing scheduled for tomorrow was off, they'd settled!"

Finally, the professionals who participate in the case conferences are typically positive about the experience. Before case management conferences were instituted, these cases were sometimes resolved in case staffings or settlement conferences. Many went to court and many more were the subject of hurried negotiations on the brink of a hearing. As court facilitators and others in the system explain:

Court facilitator: "I've been in the system in a variety of roles so I knew that the way people settle is in five minutes before court standing in the hallway. I knew a little communication could do away with a lot of contested hearings."

Court facilitator: "Before case management conferences there were staffings, but basically the approach has always been ignore, ignore, ignore and then the day before the hearing, focus on the case and hold a 'come to Jesus meeting' where you try to get business done. Unfortunately that approach leaves parents in the dark for four weeks or so, not sure what they're supposed to be doing."

Judge: "Before this, the resolution came out of a hallway chat, 30 minutes before a hearing. Now it's a week ahead of time and the parents are included. I hope that will translate into more buy in. "

County counsel: "Before the court facilitator, we had staffings, but they were more adversarial and they just didn't happen as often."

The aspect of the case conference that the professionals seem to appreciate the most is the chance to have families involved:

County counsel: "It's very helpful. It's a good opportunity for parents to hear what they need to do. "

Social worker: " We get very good results in the conferences. It's a real boost to our clients. It's a lot less adversarial."

GAL: "It's definitely a good use of my time. Everyone is heard, especially the parents. They feel their opinion is valued. If there weren't case management conferences the parents wouldn't feel heard."

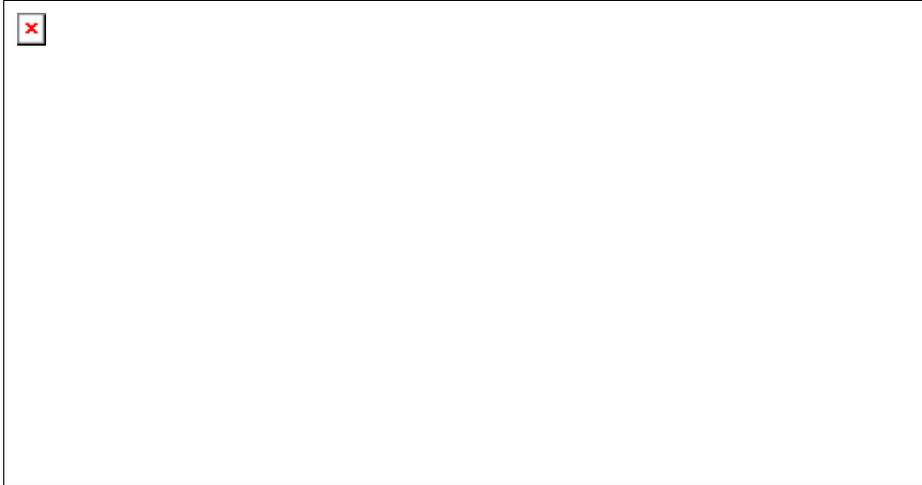
Court facilitator: "The conferences give me a chance to answer a lot of parent questions. I worry that too many plans have language that the parents don't really understand. It might make reference to 'fostering a positive parental relationship.' Does the parent know what that means?"

Court facilitators and others in the system also like the fact that the conference provides a way to avoid future problems by developing a very specific plan.

"I do a lot with the treatment plan issues. I push people to get as concrete as possible. The plan may call for an alcohol assessment. I'll push them to say what program will be used, how will the client know where to go and when to go."

## Reactions of Child Welfare Professionals

The reactions of the professionals in the dependency system to the specific tasks performed by court facilitators have been noted above. This section provides overall assessments of the case management system by the various professional groups. Two sources of information are utilized. The primary source of information comes from interviews with 36 judges, magistrates, court administrators, respondent parent attorneys, guardians *ad litem*, caseworkers, and legal counsel for social services. In addition, this section of the report draws on the results of a mail survey conducted by the Colorado Judicial Department with professionals in the following jurisdictions: the 4<sup>th</sup>, 12<sup>th</sup>, 17<sup>th</sup>, 18<sup>th</sup>, 19<sup>th</sup> (not otherwise included in this evaluation), and the 21<sup>st</sup>.



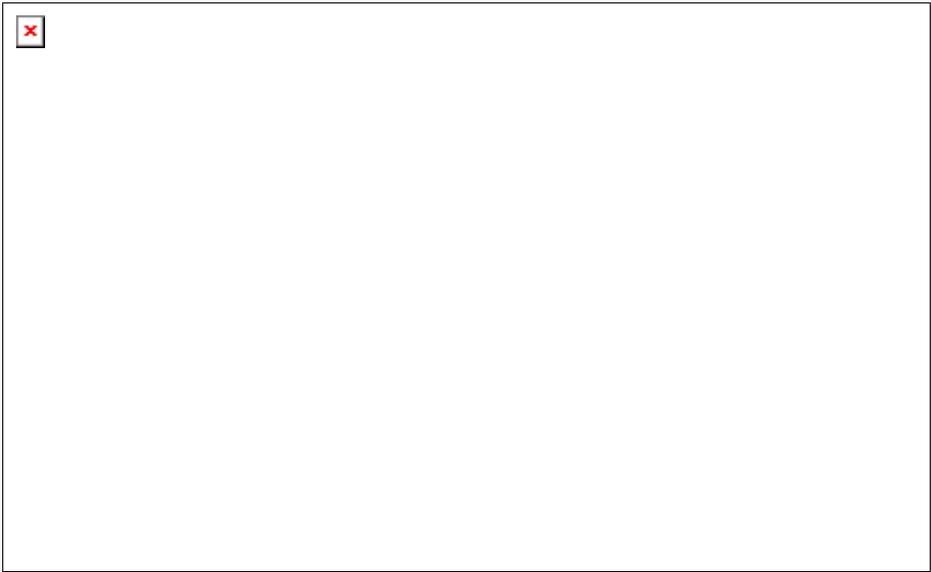
As Figure 4 indicates, about 38 percent of those surveyed said they are in frequent contact with the court facilitator in their judicial district. County attorneys and judges report the most contact, while caseworkers, attorneys for parents and GALs, and CASAs interact with the court facilitators less frequently. In part, this is because all jurisdictions rely on a relatively small number of judges/magistrates and county attorneys, which means these individuals necessarily come into contact with the court facilitators about any problem case.

The greater number of GALs, respondent party attorneys, and caseworkers in most systems means that any given individual will be likely to have less court facilitator contact. In addition, the type of work performed by the court facilitator will also influence the amount of interaction he or she has with various types of professionals in the system. For example, the amount of contact with attorneys will be influenced by whether the court facilitator conducts case conferences, attends court hearings, or assigns attorneys to parents or child. Caseworker contact will also be influenced by the number of case conferences conducted, hearings attended, and the court facilitator's role in monitoring upcoming and late reports.

There is less variation in the overall ratings that each professional group gives to the court facilitator. The survey asked whether interactions with the court facilitator "never," "sometimes," or "always" led to favorable impressions of the court facilitator. Overall, 74 percent of those responding said their impressions were "always" favorable. Only one survey respondent reported consistently negative reactions (see Figure 5).

Most of the professionals who responded to the interview reported that at least one aspect of the court facilitator's job had a significant impact on their work in the

dependency system. Judges and magistrates and attorneys for social services were most likely to report this, while attorneys for the parents and child and caseworkers were least likely to endorse this view (see Figure 6).



Like the survey results presented above, the interviews with professionals in the seven jurisdictions in this study revealed generally positive reactions to case management in the juvenile court. For example, when asked whether a court facilitator is a luxury or necessity in the dependency system, judges and magistrates repeatedly chose "necessity":

"A court facilitator is an absolute necessity if we are to do this job correctly, if we are to abide by the law, and if we're serious about helping families. If kids are a priority we have to have it. In the past, most judges have done a great job -- but not fast. Before case management, we tried lots of approaches and we barely kept our heads above water."

"If we're going to do it right, it's a necessity. But, if we don't use it the right way, it's a luxury. At a conference I heard someone say that the court facilitator is just another layer: GALs, caseworkers, CASAs, volunteers, and now this. I said the difference is that the court facilitator is *ours*, the court facilitator answers to the bench, none of the others do."

Other professionals in the system vary in the degree to which they see case management as a necessity based on the amount and type of contact they have with the court facilitator. Typically, the position has a higher profile and is more valued in settings where court facilitators provide case conferences. For example, an attorney for social services in one of these jurisdictions noted:

"We never have enough judicial time, that's a given. We never have enough roads, schools, judges. What the court facilitator does is eliminate the need for judges to handle everything. It frees them up. It's definitely a good use of money. It clearly saves money."

But case conferences are not the only activity these professionals appreciate. Court facilitators receive high praise in those settings where they are involved in developing and interpreting court policy and procedures and in designing new programs. In one jurisdiction, the attorney who represents the social services agency says:

"Most of the special projects going on at the court just wouldn't be going on without the

court manager. No one else is going to take it on, no one has time."

## Future Directions

There have been a number of changes in the court facilitator position since this evaluation began. Some of these changes are statewide in nature, others are local jurisdictional changes. One important statewide development is the fact that the Judicial Branch 2002 Budget request includes funds for court facilitators. This would provide all judicial districts with facilitator resources.

Other statewide changes grow out of the Supreme Court-appointed Commission on Families in Colorado Courts. This group has been charged with developing recommendations to improve policies, procedures, rules, laws, and services for families involved with the court system. It is expected that the court facilitator position will continue to evolve over the next few years to emphasize meeting the needs of each family, rather than assuming the family's needs are dictated by the type of action bringing the case into the court.

On a local level, a number of suggestions were offered in the course of the evaluation to improve the way the court facilitator position serves the court and families. In some jurisdictions, the suggestions were a reflection of frustration with the position as it currently exists. In other settings, the ideas were more in the nature of expanding the court facilitator role.

In the 4<sup>th</sup> Judicial District, a number of those interviewed reflected that the court facilitator position is too often being used to fill in gaps that should be met by others in the system, either at the court in the form of clerical staff or at the department of social services. The temptation to use court facilitators in this role is understandable; refusing to do so could mean that actions needed in a given case would not occur, or old, unworkable practices would be resumed. At the same time, there is an acknowledgment that court facilitators should be freed from these more clerical tasks to perform functions also needed by the system. Among the new tasks that court facilitators and magistrates would like to see would be greater liaison work with the community, developing new treatment and assessment resources, and greater assistance to *pro se* parents.

Although in the 12<sup>th</sup> Judicial District many court facilitator activities might be described as clerical in nature, this is not a source of frustration at this setting. The large number of counties and large geographic area covered by the 12<sup>th</sup> poses a number of unique challenges for information sharing and case monitoring. All the professionals in the 12<sup>th</sup> recognize tremendous improvements in the system since the introduction of the court facilitator. As long as these tasks continue to be performed, there is little concern about whether they properly belong to clerical staff or court facilitators.

In the remaining settings, the suggestions for improvement tend to involve adding to existing court facilitator duties. Some of these additions would be minor, but appreciated. For example, one respondent parent's attorney noted that she would appreciate any help the court facilitator might offer in keeping the professionals in the system aware of changes and potential changes. She notes that she spends increasingly greater hours in court and has correspondingly less time to find out about new developments. She expressed an interest in:

". . . a memo, it could be very brief, on new regulations and proposed, pending, and passed legislation. It would help keep us abreast. Now we just hear rumors."

Other additions might be more substantial. For example, a number of jurisdictions would like to see the court facilitator take an expanded role in recruiting and interacting with the treatment community, not unlike the approach taken in the 11<sup>th</sup> Judicial District. This would ideally lead to the develop of resource books and greater treatment options for the social services agency and the court. In another setting, the case management conference has already been expanded to include delinquency cases, and this may be promising in other jurisdictions as well.

Finally, in one jurisdiction, the judge believes that the court facilitator role may eventually evolve to focus more on the monitoring of orders. His experience in a drug court has convinced him that frequent monitoring can prevent problems or rectify them before there is a crisis. Although he is not sure how it would work in the dependency arena, he feels monitoring orders may be the most important function a court facilitator could serve:

"We have obligations to monitor what we order. I can't tell you how many times I've ordered something, set a review for 90 days, and at the review found out that whatever I ordered was just in the works. I order a psych evaluation and it gets scheduled a week before the review hearing. So at the review hearing we have no results and we continue it. After an order is entered, the court facilitator should call over to social services to check up. If there is a problem, the judge can then intervene. What we mean by monitoring also needs to be broadened. The law says there must be a permanent plan by this date. I can call any hearing a permanency planning hearing, but is it really? Is that plan permanent? We need to explore ways to monitor this as well."

This comment mirrors the recommendation to monitor compliance offered by a 1999 study of case management of child protection proceedings in the Connecticut Superior Court for Juvenile Matters. The authors of that report concluded that case management which focuses on the early appointment of legal counsel and the routine use of case conferences led to improvements in case processing time, but noted the need for automated case tracking systems to include compliance indicators.<sup>(8)</sup>

## Summary and Conclusions

In a single evaluation it is difficult to do justice to nine programs which use court facilitators in diverse ways. However, despite the sometimes substantial differences in the way jurisdictions use court facilitators, this preliminary evaluation identifies several findings that generally cut across jurisdictions.

- In most jurisdictions court facilitators are involved in a wide array of activities.

A typical day involves work on a variety of different tasks. Judges, magistrates, and court facilitators themselves are instrumental in defining the role of the court facilitator. In many jurisdictions, the position is quite flexible and court facilitators are free to take on new projects as the need for them becomes apparent. This provides the court the opportunity to address issues that would otherwise, by all accounts, not be considered by the court.

- Although the court facilitator performs a wide variety of duties, in most jurisdictions case management is being used to perform the duties originally envisioned by the Colorado Judicial Department.

For example, to greater and lesser degrees, all court facilitators are involved in monitoring and tracking cases as they move through the system. Most court facilitators also conduct case conferences with problem cases and these conferences are highly valued in most jurisdictions. A few courts do not employ case conferencing, or question its value, either because the jurisdiction routinely uses mediation or because the court has no difficulty in keeping up with case processing demands.

Where they are used, case conferences seem quite similar to most court-based dependency mediation, although the court facilitator is often more directive than the mediator would be. The sites vary in the extent to which the conference results in information or recommendations being provided to the judge. Regardless of official policy on providing recommendations, in most cases it appears that the conference results in the parties reaching their own consensus about how to proceed.

- There is preliminary data to suggest that holding case conferences may serve to speed case processing.

Although further, more rigorous data are needed to confirm these results, preliminary data from the 17<sup>th</sup> Judicial District suggests that case conferences may reduce the amount of time that elapses between the petition and permanent planning hearing by approximately two months.

- In many jurisdictions court facilitators are also being used to address communication problems or simply to expand the amount of communication that occurs among all the professionals in the system.

This has not always eradicated the tensions that often exist between the court and social services agency, but it has often helped.

- To the extent that there is controversy surrounding case management, it has to do with the degree to which court facilitators should be involved in the more strictly clerical aspects of cases.

In general, judges and magistrates acknowledge that clerical work probably does not make sufficient use of the skills the court facilitators bring to the job. All sites would welcome approaches to free court facilitators from the more clerical aspects of their jobs. For example, having a support person travel to metro-area jurisdictions to complete input on the database would be most welcome.

Fortunately, at most sites, clerical work is only a small part of the court facilitator's job. However, when court facilitators are used primarily for clerical tasks, it is due to the lack of other staff and the significant, often enormous, improvements that result from having *someone* take on these duties. This is especially true in rural districts where other clerical staffing is generally not available.

- Clearly, if court facilitators can be freed from clerical activities, it appears that there will be no shortage of other tasks for them.

In addition to the ways in which court managers are already being used, a number of new roles have been proposed for them. For example, it has been suggested that court facilitators might be more involved in identifying service resources in the community, helping these providers to understand the dependency system, and helping both courts and the social services agencies take advantage of these providers to create more tailored treatment plans. It has also been suggested that court facilitators should take on a greater role in monitoring how the court's orders are being implemented. Arguably, this would ensure that orders result in quick action, with feedback to the court about problems or next steps as they are needed.

- Court facilitators, as well as their judges and magistrates, agree that the opportunities that have been provided for court facilitators to meet jointly have provided a great deal of cross-pollination.

That is, court facilitators and the court system benefit when court facilitators have an opportunity to learn from one another about innovative approaches and how to implement them. Unfortunately, it is frequently difficult for court facilitators outside the metro area to attend such meetings.

- Research is still needed to address the full impact of court facilitators. Better

information is needed about how court facilitation influences and enhances timely case processing. Information will also be needed on how court facilitators can best assist families with multiple types of court action pending.

- Finally, regardless of the role the court facilitator performs in a given jurisdiction, judges and magistrates generally report that court facilitators have helped them respond to the demands of ASFA and Supreme Court Directive 96-08.

There is nearly unanimous agreement that removing court facilitators from the juvenile court would be a significant step backwards.

## Endnotes

1. Although the 19<sup>th</sup> Judicial District was one of the first to use case facilitation in the juvenile court, it was not included in this study due to a change in court facilitators just as the evaluation began.

2. National Council of Juvenile and Family Court Judges, Publications Development Committee. *Resource Guidelines. Improving Court Practice in Child Abuse & Neglect Cases*. Spring 1995: 10.

3. Adoption and Safe Families Act. 42 U.S.C. §671(1)(15).

4. *Supra*, note 1.

5. Non-Judicial Court Staff Help Achieve Permanency for Children. *Child Court Works*, Vol. 3, No. 4, November 1999: 1.

6. These cases typically had a dependency petition filed in either 1997 or 1998 (84%).

7. Analysis of Case Management on Child Protection Proceedings for the State of Connecticut Superior Court for Juvenile Matters. Final report by the Edmund S. Muskie School of Public Service, National Child Welfare Resource Center for Organizational Improvement, January 1999.

8. *Ibid*.