



## Report to the Legislature Concerning Out of Home Placement Deviations

September, 2002

**Colorado State Judicial Department**

**Basis of the Report:** C.R.S. §§ 19-2-907(5)(a), 19-3-508(5)(b), and 19-3-701(6) require individual districts to report when a judge deviates from the recommendations of social services in a dependency and neglect or a delinquency case. These deviations are to be reported to the Chief Justice of the Supreme Court, who in turn is to report to the Joint Budget Committee and the Health, Environment, Welfare, and Institutions Committees of both the Senate and the House.

## I. Introduction

The issue of out of home placement discussed in this report occurs when a judge or magistrate does not agree with the placement recommendation of the department of social/human services and orders a different placement than the one advocated by the department. This is informally called a deviation. Local departments of social/human services, and subsequently county commissioners, opine that judges and magistrates are partly responsible for forcing over-expenditures in the departments' budgets. When the judicial officer does not agree with the placement agency's recommendation, she or he is to report this to the Chief Justice of the Supreme Court, who in turn is to report to the Joint Budget Committee and the HEWI committees from both the Senate and House.<sup>1</sup> The State Court Administrator's Office, at the direction of the Chief Justice, is given the responsibility to file this report. The following pages are a discussion of the personal interviews conducted by SCAO, as well as the reports of deviations submitted by individual districts.

As impetus for this report, the Executive Director of the Colorado Department of Human Services, Marva Livingston Hammons, met with the State Court Administrator, Gerald Marroney in January of 2002, to discuss the issue of out of home placement deviations. Present at this meeting were supervisors from the Department of Human Services, and the Policy Analyst for juvenile matters at State Judicial. The issue was discussed in general, with the department agreeing to identify the counties in Colorado having problems with this issue. The Department then agreed to refer these counties to the State Court Administrator's Office (SCAO) to perform follow-up. The counties

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<sup>1</sup> The Senate's Committee is called the Health, Environment, Children & Families Committee. However, the statutes still reference the HEWI committees from both the Senate and House. For the sake of statutory conformity, HEWI will be referred to as meaning both committees from the House and Senate.

identified as having problems were: Morgan, Arapahoe, Weld, Montezuma, Prowers/Baca, and Fremont. These counties were contacted by SCAO, and their responses form a part of this report. For purposes of this report the state is analyzed as a whole first, then the identified counties are discussed.

## II. Overview of the State

Very few jurisdictions in the state report deviations from the recommendations of their local department. It is assumed in this report, and indeed confirmed by the judges in the districts, that if there is no report from their district, there was no deviation.<sup>2</sup> Several judicial officers responded that they do not report a deviation unless it costs the department money. So it is very likely that the courts are saving the departments money on out of home placements and not alerting anyone of this. The following information is mostly from the past two calendar years.

### 1<sup>st</sup> Judicial District (Jefferson and Gilpin)

- No deviations reported

### 2<sup>nd</sup> Judicial District (Denver)

- 01JD1588 & 01JD1464 – The juvenile in this case admitted to the revocation petition of his probation. The Denver Department of Human Services (DDHS) recommended in-home services with placement to remain with his mother. However, the mother admitted the child was beyond her control, and the minor continued to use and abuse marijuana. Both the probation department and the district attorney recommended placement out of the home. The child was placed at Savio House at a cost of \$160.69 per day.<sup>3</sup> Such cost was allocated to the department.
- 99JD1825 – The court agreed with the recommendations of the GAL, probation, and the individual caseworker that the child should be in a residential treatment center (RTC). The placement review team for the DDHS recommended placement with the Division of Youth Corrections (DYC.) There was no cost

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<sup>2</sup> One judicial officer has commented that, “In 8 ½ years I have done an override maybe three or four times.” The perception from judicial officers is that they do not disagree with the recommendations of the local department more than a handful of times every year. This, of course, depends on the jurisdiction, and certain districts will have more than others.

<sup>3</sup> If the child were Medicaid eligible, the cost to the DDHS would be \$80.34. Medicaid pays for half the cost of placement if the child has a diagnosis.

information disclosed for this case, though a DYC commitment can cost the state as a whole a considerable amount of money.<sup>4</sup>

- 98JD2102 – Probation recommended, and the court accepted, placement of the child in an RTC in lieu of a DYC commitment. The juvenile had a history of running from placements. As such the judge felt a placement out of the city was warranted. The child had also not re-offended while on probation and was thus a better candidate for child welfare placement

3<sup>rd</sup> Judicial District (Las Animas and Huerfano)

- Reports from the Chief Judge indicate no deviations

4<sup>th</sup> Judicial District (El Paso and Teller Counties)

- No Deviations Reported

5<sup>th</sup> Judicial District (Eagle, Summit, and Clear Creek Counties)

- Reports from Eagle County indicate no deviations

6<sup>th</sup> Judicial District (La Plata and Archuleta Counties)

- (Unknown case number) – The court ordered a fifteen year old boy into a child placement agency in Grand Junction instead of DYC. The department accedes that this was an appropriate placement, though the cost of the placement came from the department's budget.
- (Unknown case number) – The court ordered a ten-year old boy to a residential treatment facility in Greeley instead of to DYC. The department opines that they were not consulted prior to this placement, and if they were, a less restrictive, more cost efficient placement could have been found.

7<sup>th</sup> Judicial District (Delta, Gunnison, Montrose, Ouray, San Miguel, and Hinsdale Counties)

- No deviations reported.

8<sup>th</sup> Judicial District (Larimer and Jackson Counties)

- 09JD38, 97JD980, and 95JD224 – This case involved a dispute between the local department of human services in Larimer County and a department of social services in Nebraska. Neither department wanted to pay for the cost of treatment

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<sup>4</sup> Generally the outright cost of committing a child to DYC is greater than placing the child with Child Welfare. For example in FY 00 the cost of a DYC commitment in a state operated facility was \$157.61. Residential Treatment Center (RTC) and Residential Child Care Facility (RCCF) prices vary widely and there is no average. However, the highest price RTC is Mountain Star at \$171.36 per month, based on a B level of care. The lowest priced RTC is Adventures in Change I at \$118.69 per month, based on a B level of care. **It is important to note that children in RTCs may be eligible for Medicaid, and as such, Medicaid can pay half the price of the placement.** Therefore, using Mountain Star as an example, the individual county department would be responsible for \$85.68 of that cost. As for RCCFs, the most expensive is the San Juan Youth Works/Wilderness Experience at \$119.00 per month. All of the RCCFs are well below this rate, with the least expensive being Third Way House – Lincoln Emancipation at \$35.28 per month. Most RCCFs are in the \$70-80 range. This being said, RCCFs may negotiate their rate, and as such charge more for their services.

for the child (a sexual offender). The court ordered the local department to pay for the cost of services.

- (Unknown case number) – The court ordered a sexual offender into a treatment center in Wyoming against the department’s wishes. The department indicated that it could be from four to six months before a local placement could be obtained for the child. The Wyoming placement was available and the child needed treatment immediately. Therefore the court ordered this placement at \$160.00 per day, versus the estimated \$120.00 per day a Colorado placement would have cost.

9<sup>th</sup> Judicial District (Rio Blanco, Garfield, and Pitkin Counties)

- No deviations reported.

10<sup>th</sup> Judicial District (Pueblo County)

- No deviations reported.

11<sup>th</sup> Judicial District (Park, Chaffee, Fremont, and Custer Counties)

- Please see the discussion on pages nine through eleven on deviations within these counties.

12<sup>th</sup> Judicial District (Saguache, Mineral, Rio Grande, Alamosa, Conejos, and Costilla Counties)

- No reported deviations.

13<sup>th</sup> Judicial District (Sedgwick, Phillips, Logan, Morgan, Washington, Yuma and Kit Carson Counties)

- No deviations reported for 2000-2002. There was a deviation reported in 1998: A severely psychologically disturbed youth was recommended to return to Sedgwick County with his parents. All indications were that no services were available for him in the county, and as such, the return home would be disastrous. As such the court ordered the child to remain in treatment, but allocated some of the costs to the parents. Please also see discussion on page seven

14<sup>th</sup> Judicial District (Moffat, Routt and Grand Counties)

- 01JD42 and 00JD34 – The court ordered the child placed with the department instead of committed to DYC as the department had suggested. Every recommendation was in favor of a therapeutic placement except the department’s. The child was in need of specialized treatment that could not be obtained in a correctional facility, therefore the court ordered the placement with the department. The cost of possible placements was identified as such: therapeutic foster care - approximately \$1,000 per month, RTC – approximately \$3,000 per month, RCCF – approximately \$2,300. As noted DYC detentions are \$152 per day, or approximately \$4560 per month.
- 01JV06 – The court provided this case as a deviation, but no deviation information was noticeable.
- 01JV04 - The court provided this case as a deviation, but no deviation information

was noticeable.

- 01JD18 – The minor child in this case had attempted suicide and was in a severe depressive state. The department recommended the child be placed with either the mother, with whom the child had interpersonal relationship problems and who had abandoned the child, or the grandmother, who was elderly and also had relationship problems with the child. The court ordered the child into a therapeutic setting. No cost of the placement was provided to the court.
- 95JD82, 95JD107, and 96JD56 – In 1999 the court ordered the child released from the custody of the department of human services against their recommendations. The child was turning 18 in six months, and was taking positive steps in improving her life. Releasing the child from the department's custody saved the county between \$1711 and \$2520 per month.

15<sup>th</sup> Judicial District (Cheyenne, Kiowa, Prowers, and Baca Counties)

- No reported deviations, but please also see discussion on page nine.

16<sup>th</sup> Judicial District (Otero, Bent, and Crowley Counties)

- (Unknown case number) – The court deviated from the recommendations of social services, with a resulting cost of \$683.36 per month.
- 97JD84 – The court's deviation from the recommendation of social services cost the department \$1340.10 per month.
- (Unknown case number) - The court's deviation from the recommendation of social services cost the department \$3089.02 per month.

17<sup>th</sup> Judicial District (Adams and Broomfield Counties)

- Reports from year 2000 for Adams County say no deviations. There were no other reported deviations.

18<sup>th</sup> Judicial District (Arapahoe, Douglas, Lincoln, and Elbert Counties)

- Please see the report on Arapahoe from pages 12-14.

19<sup>th</sup> Judicial District (Weld County)

- Please see the above report on Weld County from page eight.

20<sup>th</sup> Judicial District (Boulder County)

- 02JD38 – The court accepted the plea agreement between the district attorney and the juvenile. The agreement was for the youth to be placed on probation (which was favored by probation), and to be placed with the Larimer County Department of Social Services. The department disagreed with the recommendations of probation and the district attorney. There were no costs provided by the department or the court, but it is assumed the cost of the placement was allocated to the department.

21<sup>st</sup> Judicial District (Mesa County)

- 00JD392 – A highly violent and dangerous juvenile was placed in an out of state

treatment facility in Utah per the local department's request. After several months the child showed remarkable improvement. The department then wanted to bring him to a newly opened RTC in Grand Junction to complete treatment. The treatment provider, GAL, and grandmother all requested the child stay at the out of state placement. The cost of the Utah placement was \$229.68 per day. The cost of an RTC in Colorado varies considerably. Subsequently the department recommended the child be sent home. The court again determined that the child should stay in treatment, as he was doing so well, and the court believed a change in placement was precipitous.

- 99JV297 – The department recommended that parental rights be terminated and the child be placed out of the home. The court overruled this recommendation and determined the child could be placed with the child. No cost figures were provided for this, but it is assumed this deviation saved the county money.

22<sup>nd</sup> Judicial District (Montezuma & Delores Counties)

- Please see report on page eight and nine. Additionally, reports from the Chief Judge of the 22<sup>nd</sup> indicate no deviations.

### **III. Identified Counties**

As mentioned, Morgan County was identified as having a significant problem with placement deviations. In conversations with Marilyn Neihart, the Director of Human Services for Morgan County, this was not indicated to be the case. Ms. Neihart commented that, “there are not a lot of cases where we have had problems.” Ms. Neihart reported there were three cases in the past two years where the court disagreed with the recommendations made by her social services department. In the first case the court returned the child to the parents in opposition to the department's recommendation. In the second case the court gave custody of the children to kin against the department's wishes. The third case involved an order out of Arapahoe County placing the child in an expensive placement in Denver against the county's wishes. Ms. Neihart indicated that the department was over budget but the amount over budget was hard to attribute to the actions of the court. It is noteworthy that, in two of the three cases, the actions of the

court actually saved the department money by not placing the child and returning the child to family or kin.

Weld County has historically been identified as a county experiencing problems with out of home placement deviations. Interestingly enough, when contacted to discuss this issue, Judy Griego, the Director of the Weld County Department of Social Services (WCDSS), commented that the issue seems to ebb and flow as to its severity and it is not an issue right now.<sup>5</sup> They were not over budget this year, and the Department and the Court are working together on a plan to report any deviations in the future. The District Court in Weld County is one of the counties that sends a report to SCAO. Below are the reports from Weld County and the 19<sup>th</sup> Judicial District:

- 99JD806 & 01JD332 – The court ordered an immediate placement for the child at Arapahoe House, though the caseworker did not recommend inpatient treatment. The cost was \$3077.14 per month.
- 01JV192 – The court ordered the minor child into foster care at a cost of \$411.00 per month pending the resolution of allegations of physical abuse. The department recommended placement be with the mother who had been accused by the father of harming the child.
- In the Interest of RS et. al – At the Emergency Shelter hearing, the department requested that the minor children be removed from the aunt and uncle’s custody and be placed with the WCDSS. The court disagreed and continued the placement with the relatives. This resulted in a cost savings to the department.
- In the Interest of AR – At the emergency Shelter hearing the department requested that temporary custody of the minor child be placed with the aunt. The mother had been arrested for drunk driving, hit and run, and child abuse. The court disagreed and returned the child to the parents with substance abuse monitoring in place. This decision by the court resulted in no cost to the department.
- In the Interest of MJ et. al – The court declined the department’s request to place the child with respondent father due to the fact that there was an existing DR case that determined temporary orders in regard to custody of the minor child. The result was no additional cost to the department.

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<sup>5</sup> In fiscal year 2000 and 2001 Weld County had 231 dependency and neglect case. Based on the deviation reports above, the court in Weld deviated from the recommendations of the local department in 2.1% of the cases.

Montezuma County had little to report on the issue of placement deviations. The Director of Social Services, Dennis Story, commented that it was not necessarily true that his county had a problem with this issue. He could think of only one case where a deviation had occurred, and that was an exceptional case. He indicated that, as a whole, the Department and the Court work well together – each knowing the strengths and limitations of the other, and respecting both. He commented that he did not believe his county had a problem with the deviation issue.

Linda Fairbairn, the Director of the Prowers/Baca Departments of Social Services mentioned that the deviation issue is not a problem in her county, as the department does not always get asked what their opinion is. She mentioned that the courts are “pretty good with the D & N cases,” and when there is a disagreement it is a perspective issue. As for the delinquency cases the court will often merely tell the department to take custody and to find a placement without being consulted about an appropriate placement. However, she mentioned no specifics as to court-ordered deviations, and believed that any amount her department was over budget could not be fairly attributed to the courts.

As for Fremont County, the prevailing thought there was that it had been an issue in the past, but because of staffing changes, the deviation issue is no longer prevalent. Steve Clifton, the Director of the Fremont Social Services, indicated that the issue has dissipated to the point where it is no longer problematic. The District Court in Fremont County has submitted its own documentation regarding the issue of deviations. They are a part of the 11<sup>th</sup> Judicial District, and as such, have reported for other counties within that district. The court reports eight times in the past two years where it did not

agree with the recommendations of the local department. Below is the 11<sup>th</sup> Judicial

District's report:

- YEAR 2000 --- Fremont County
  - 00JD29 - Fremont County Department of Human Services (FCDHS) recommended DYC detention for this child. Probation and Senate Bill 94 staff recommended foster care. Detention would have cost approximately \$125.00 a day, or \$3,750.00 a month. The ordered foster home cost was \$1,700.00 a month.
  - 00JD190 - FCDHS recommended that the child be sent to a relative in California with no Interstate Compact on the Placement of Children (ICPC) request or home study. The District Attorney and Senate Bill 94 staff recommended that a home study be completed first due to allegations that family members residing in the home were convicted criminals. The home study was ordered and the child sent to the relative as recommended by FCDHS at that time. Foster care was ordered pending receipt of the report indicating that the home was safe for the child. The cost for the foster care was not disclosed to the court.
  - 99JV1 - FCDHS recommended that the child either return to the home of his mother or that venue be transferred out of Fremont County so that the cost of placement could be avoided. There had been no treatment progress on the part of either the child or his mother during the period of out-of-home placement. The request was denied until such time as a realistic plan had been developed for the child.
  
- YEAR 2000 --- Chaffee County
  - 98JD68 & 99JD22 - Chaffee County Department of Human Services (CCDHS) recommended a DYC commitment at an approximate cost of \$150.00 a day, or \$4,500.00 a month. The child was instead ordered into foster care through child welfare at an approximate cost of \$1,700.00 a month.
  
- YEAR 2001 --- Fremont County
  - 97JD157 - FCDHS recommended that sex offender treatment for this child terminate. The only realistic alternative would have been for the child to be committed to DYC to receive the treatment at a cost of approximately \$150.00 a day, or \$4,500.00 a month. Instead FCDHS was ordered to pay the estimated few hundred dollars a month for the treatment.
  - 01JD25 - The child was placed in foster care due to an unsafe home as a result of mother's drug/alcohol abuse, failure of treatment, refusal to obey court orders, and refusal to take a drug test. FCDHS recommended the child be placed with mother. A few months later its recommendation changed to placement of the child in an RTC facility. The FCDHS RTC recommendation was approved and ordered by the court. The foster care cost was approximately \$1,700.00 a month. The only alternative would

have been a DYC commitment at an approximate cost of \$150.00 a day, or \$4,500.00 a month.

- YEAR 2001 --- Chaffee County
  - 99JD20 - CCDHS recommended that the child be sent to the home of her father in Delaware. The evidence supported that she would likely have ended up homeless and that her father's home was not safe from abuse. Foster care was ordered at an approximate cost of \$800.00 a month. She has since graduated from high school, been accepted into college, and is in an emancipation program.
  
- YEAR 2002 --- Fremont County
  - In the Interest of TD - FCDHS had recommended an RTC placement for this child. The D.A., Probation, Senate Bill 94 staff, and every treatment professional involved with the case recommended in-home treatment. The cost of the recommended placement has not been disclosed, but it is estimated to be approximately \$5,000.00 a month. There is no cost for the ordered placement of the child at the home of his father and step-mother.
  - In the Interest of KL – The FCDSS recommended foster care for the child at an estimated cost of between \$700-\$1,700 per month. The court ordered the child home to the mother, with a resulting cost-savings to the department.
  
- YEAR 2002 --- Chaffee County
  - None

It is important to realize that there is a cost differential between committing a child to the Division of Youth Corrections (DYC) and granting custody to the local department of social/human services.<sup>6</sup> If the court commits the child to DYC, the state as a whole is responsible for the cost out of the General Fund. When a court grants custody to the department, the local department incurs the financial responsibility for the child. Judicial officers, social workers, and all county attorneys are bound to do what is in the best interests of the child(ren). Judicial officers as a whole are beholden to this principle, and should not consider what will save the county the most money. Instead they consider what will best help the child in each case.

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<sup>6</sup> See *supra* n.4

Judicial officers are many times presented with differing opinions as to what is in the best interests of the child. Although the local department's recommendations are to be accorded "great weight"<sup>7</sup> in making these decisions, the judicial officer is not bound to follow the department's suggestions.<sup>8</sup> If the court were bound by the department's recommendations, the department would effectively have veto power over the court's decisions. That is not the system of checks and balances we have in Colorado and around the United States, and would most likely be found unconstitutional in consideration of the separation of powers doctrine. In the preceding examples from the 11<sup>th</sup> Judicial District, the court was presented with differing opinions as to what was in the best interests of the child. Knowledgeable people can disagree as to the most appropriate treatment for the child, and it is up to the court to determine what is in the best interests of the child.

Lastly, Arapahoe County was identified as having problem with a large number of deviations. In conversations with the child welfare manager, Carla Finch, she indicated that there is a bit of an issue with the deviations. Her department does not keep track of the deviations, so she was unable to identify specific cases where this was a problem. The department is over budget and it is her feeling that this is partly attributable to the courts. Fortunately the District Court in Arapahoe County submits reports of deviations.

Below are the deviations for 2001 and 2002:

- 01JV102 – The court ordered the child into an RTC instead of foster care. This was a sex assault case where the child was not responding to a lower level of care. The district attorney in the case recommended an RTC level of care. The department provided no figures on cost, but foster care can run approximately \$2500 a month, versus an RTC at \$3600 per month.
- 02JV512 – The court ordered the child returned home to the parents with services

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<sup>7</sup> See C.R.S. § 19-2-907(5)(b)

<sup>8</sup> The Colorado Court of Appeals has held that "the recommendations of the social workers are not binding on the court..." *In the Interest of R.J.A.*, 38 Colo. App. (1976). Each court carefully weighs the recommendations of the department to determine if it is in the child's best interests.

provided. The department recommended an RTC level of care. As noted, and RTC can be quite expensive, generally starting at about \$3600 per month. There was a cost savings on this case.

Below are the deviations for the second and third quarters of 2001 from Arapahoe:

- 01JV492 – Arapahoe County Department of Human Services (ACDHS) recommended return home on 4/01; The Court ordered foster placement; no cost reported but foster care can run \$2,500 per month.
- 00JD1654 – ACDHS recommended Jefferson Hills or Denver Children’s Home RTCs. The Court ordered the child to Vision Quest per the mother’s request. There was an estimated savings of over \$3,000 per month.
- 01JV421 – ACDHS recommended remaining at home for the minor child. The child was clearly beyond the control of the parent (as indicated by the mother) and placement was ordered. Despite a request and order of the court, no cost information was provided to the court.<sup>9</sup>
- A female offender was sent to Vision Quest at Probation’s recommendation for a nine-month stay at \$3,900 per month (total \$35,100). The department had recommended three months at Denver Children’s Home and six months with Third-Way Lincoln with an anticipated cost of \$36,180.
- 99JV394 – The court did not commit to NYC as the ACDHS recommended. Instead the sentence was to Excelsior per probation’s and the GAL’s recommendation. The cost of a NYC commitment is \$157.61 per day out of the State General Fund. Excelsior is approximately \$147 per day.
- 00JV394 – Due to ongoing risk of injury to the child, the court ordered the child out of the home and placed with kin. The department had recommended return home. There was no cost of this placement.

The following are first quarter 2001 and fourth quarter 2000 deviations:

- 00JV1049 – The court ordered a 30-day placement at a shelter instead of staying at home awaiting placement. There were serious safety concerns with this case and the cost to the department was \$3067.50.
- 00JV1561 – the court ordered the child returned home against the recommendations of the department, who was advocating a return to foster care. There was a cost savings to the department on this.
- 00JV1282 – The court ordered the children to remain at home instead of foster care placement, thereby saving the department the cost of placement for two children.
- 00JV1289 – The court ordered the children home with support services instead of foster care, thereby saving the department the cost of foster care.
- 99JD508, 99JD1888, & 99JD518 – The court ordered a placement with Synergy with a stayed NYC sentence, rather than a straight NYC commitment. Synergy costs \$121.62 for the county, versus the \$157.61 for the state. The juvenile had

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<sup>9</sup> For cost computation, this case is unable to be used.

serious drug abuse issues and no prior RTC level of treatment.

- 00JV864 - The court ordered the child to the Visionquest program in Oklahoma. This was a serious drug and run risk case with repeated failures in Colorado programs. No one in Colorado remained willing to have him. The court entered findings that there were no appropriate options in Colorado. The cost was approximately \$3900 per month - comparable to other RTC programs.

Below are Arapahoe's reported deviations for the first, second and third quarter of 2000:

- 99JD888, 99JD578, 99JD1578, & 98JD1508 – The court ordered placement at an RTC level of care, while the department recommended DYC. There was a two-month wait for substance abuse treatment at DYC, while there were immediate programs available for the child at an RTC. Again, while the cost was allocated to the department for this, the DYC commitment would have cost the state more from the General Fund.
- 00JV1282, 00JV1289, & 00JV1561 – In all three of these cases the court ordered the child home against the recommendations of the department, who was advocating foster care. Again, this is a cost savings for the department
- 00JV429 – The Court ordered the child returned home against the wishes of the department, thereby resulting in a cost savings for the department.

#### **IV. Cost Differential**

Arapahoe County is a good example to study for the ultimate cost of

The various placements to the local departments. From the reports generated out of their district, the total cost of placements where the court overruled the recommendation of the local department was \$18,424 per month. However, the savings generated when the court overruled the recommendation and sent the child home instead of placement was \$19,100 per month. The total savings to the department therefore, taking into consideration costs and savings, was \$675 per month<sup>10</sup>. That the courts occasionally disagree with the department's recommendation is true. That the deviations always cost the department money in the long term is questionable.

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<sup>10</sup> There is difficulty in assessing a definite number to cost savings or cost incursions. For example, while a cost savings of \$675 per month is articulated above, the court does not have immediate information as to the duration of any particular placement. A placement may have been for one month, or twelve. Without that information accurate figures are unable to be determined. Further collaboration needs to occur between the Judicial Branch and the departments of human services to obtain accurate information.

Another issue to raise in discussion of costs is the cost shifting associated with placing a child with DYC versus placing in the child welfare system with the local department. Using Fremont County as an example, the recommended placements with DYC would have cost the State of Colorado \$8,250. The placements with the local department cost them \$3,400. This is an overall cost savings to the state of Colorado of \$4,850. This type of cost savings is considered not unusual in Colorado, and further study and dialogue on this issue is warranted between State Judicial and the Colorado Department of Human Services. The savings from the placements with child welfare instead of DYC negate any potential excessive costs incurred by the local departments in placing children. Again, further discussion needs to occur on this subject to get an accurate picture of the issue.

## **V. Conclusion**

The reports from individual counties mentioned by the Colorado Department of Human Services as having significant problems, as well as the reports from individual districts, demonstrate that out of home placement deviations occur several times a year in many jurisdictions. However, the reports indicate that, while the court may deviate from the recommendations of the local departments, taking all things into consideration, these deviations may save the individual counties money (in the case of Arapahoe County, the cost savings was \$675.00 per month). This is not to mention the cost savings generated to the State of Colorado as a whole. DYC placements are almost uniformly more expensive than RTC, RCCF, and foster care placements. When the department recommends placement at DYC versus an RTC, the state is responsible for the DYC

commitment out of the general fund. RTC, RCCF, and foster care placements are paid for out of the individual department's budget.

This being said, this report is a starting point for future discussions between State Judicial, the Colorado Department of Human Services, local departments, and individual judicial districts. A more comprehensive look at the issue needs to be undertaken; one in which local departments collaborate with their districts to obtain accurate figures as to deviations and their true costs. Local department directors and supervisors should work with the individual districts to develop procedures that ensure adequate reporting of deviations. Judicial districts are unable to report on the cost of placements when they are not provided with accurate financial information. In conclusion, all parties need to be mindful that the child's best interests need to be protected and evaluated in all of these placement decisions. The judge, as ultimate arbiter of the child's best interests, needs to be mindful of different placements and is ultimately responsible for ensuring the child receives an appropriate and safe temporary residence.