



COUNCIL FOR COURT EXCELLENCE

District of Columbia Child Welfare System Reform

A PROGRESS REPORT

FOREWORD

This report has two purposes: to increase public accountability of the District of Columbia's child abuse and child neglect system, and to increase the community's understanding of that system.

There is no single DC agency with overall responsibility for the child abuse and neglect system. Responsibility for making the system work for the children and families involved is shared between the executive and judicial branches of the city's government. In our opinion, none of the public agencies in the system does a good job of informing the community about their work, and there has been no mechanism for compiling the agencies' individual perspectives into a complete story. Thus, the community's understanding of their child abuse and neglect system's performance is based primarily on the tragic stories in the media about individual children's cases which have gone seriously wrong. Without minimizing those tragic stories, this report seeks to put them into context. This report provides a statistical and narrative picture of the results of the joint work by the city's executive branch and Family Court to improve service to troubled families and vulnerable children.

The story line of this report can be summarized as follows: the District of Columbia's child abuse and neglect system has been badly broken for a long time; both Congress and the DC Council have passed laws requiring specific improvements in the system; city leaders have been working collaboratively and with a sense of urgency for the past three years to improve the system to comply with the new laws; there are now some statistical signs that improvement is occurring; but there is a long way yet to go. The Council for Court Excellence intends to continue tracking the progress and reporting to the community.

This report is the result of the Council for Court Excellence's own objective and independent analysis of the current state of the DC child welfare system. We did, however, offer key leaders of the system an opportunity to comment on a draft of the report, and many of their comments helped us improve the report.

The Council for Court Excellence, founded in 1982, is a nonpartisan, nonprofit local civic organization. The Council works to improve the administration of justice in the local and federal courts and related agencies in the Washington metropolitan area. This project is led for the Council by our Children in the Courts Committee, chaired by Deborah Luxenberg, Esq. We acknowledge with gratitude the cooperation we have had on this project and report from all the members of the city's Child Welfare Leadership Team, and especially Family Court Presiding Judge Lee F. Satterfield and Child and Family Services Agency Director Dr. Olivia Golden. The full membership of the Leadership Team is listed on the inside back cover of this report.

Major financial support for this report and for this Council for Court Excellence project has been provided for the past three years by The Annie E. Casey Foundation, the Trellis Fund, the Freddie Mac Foundation, and the Mary and Daniel Loughran Foundation. We thank them for their steadfast support and for their recognition that reforming major governmental systems takes time.

October 2002



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The major public stakeholders in the DC child welfare system—the DC Superior Court, the Child and Family Services Agency (CFSA), and the Office of Corporation Counsel (OCC)—are working collaboratively to make major structural changes that will position the city to achieve dramatically improved outcomes for children.

This is the Council for Court Excellence's ("CCE") first public report on the progress made by the leaders of the District of Columbia child welfare system to bring the District into compliance with the federal and local Adoption and Safe Families Acts ("ASFA").¹ Since fall 1999, CCE has facilitated a collaboration among DC child welfare system leaders to achieve ASFA's goal of reducing the amount of time abused and neglected children spend in foster care so that they can have what every child deserves—a safe and loving permanent home.

To thrive and grow into healthy, capable adults, children need a sense of belonging to a family that provides an unconditional, lasting commitment to them. When placement in foster care becomes necessary to ensure a child's safety, services should be made available immediately to enable the child to return home safely and promptly. When return home is not an option, an alternative safe and nurturing family should be found for the child as soon as possible to avoid a prolonged stay in foster care.² Foster care should never be a permanent solution.

Congress' intent in enacting the federal ASFA is to "put children on a fast track from foster care to safe and loving permanent homes."³ ASFA requires the court in a child abuse or neglect case to hold a "permanency hearing" no later than 14 months after a child's removal from home. At that hearing, the court must decide what the child's "permanency plan" will be—whether the child can safely return home or whether the child must be placed for adoption or in another permanent living arrangement, such as guardianship or custody with a relative—and set a timetable for achieving the permanency plan.

In DC, where children spend about three and one-half years in foster care,⁴ ASFA has presented a major challenge. Nonetheless, there are measurable signs of progress, particularly a dramatic

increase in the number of permanency hearings and a decrease in the amount of time it takes children's cases to reach trial or a stipulation and disposition. There also is a new optimism about better things to come. The major public stakeholders in the DC child welfare system—the DC Superior Court, the Child and Family Services Agency (CFSA), and the Office of Corporation Counsel (OCC)—are working collaboratively to make major structural changes that will position the city to achieve dramatically improved outcomes for children. Most importantly, each of these agencies has finally received critically important funding to make the changes that are necessary. Although it will take more time before we see a significant reduction in the amount of time DC children spend in foster care, the Council for Court Excellence is pleased to report that there are reasons for optimism, including:

- A new spirit of collaboration and enthusiasm for reform among city leaders of both the executive and judicial branches;
- Passage of the “District of Columbia Family Court Act of 2001,” and the Superior Court’s development of a plan to implement the “best practices” embodied in the Family Court Act;
- The emergence of the Child and Family Services Agency from receivership as a cabinet level agency, coupled with continued court monitoring of the agency’s performance compared to practice standards;
- Consolidation of legal responsibility for child abuse and neglect cases within one agency, the Child and Family Services Agency;

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1. 42 U.S.C. §§ 670-72 & 675 and DC Code §§ 4-1301 *et seq.* and DC Code §§ 16-2301 *et seq.*

2. A recent national survey concluded that children in foster care are much more likely to have behavioral, emotional, educational, and health problems than children living with their parents even when the parent is a single low-income parent. Kortenkamp and Ehrle, *The Well-Being of Children Involved with the Child Welfare System: A National Overview*, The Urban Institute, Series B, No. B-43, January 2002.

3. Congressional Record, Nov. 13, 1997, pg. H10787.

4. Data collected for the *Progress Report on Termination of the LaShawn Receivership and Baseline Report on Probationary Period Performance Standards*, Center for the Study of Social Policy, December 4, 2001

- The creation of subsidized guardianship as an alternative permanency option for children;
- Publication of licensing regulations for foster care homes, group homes, and independent living placements;
- An almost 200% increase in staffing for the Office of Corporation Counsel abuse and neglect section and co-location of Counsel staff with Child and Family Service Agency social workers to improve agency representation;
- A 400% projected increase in the use of mediation in child abuse and neglect cases in 2002 over 2001;
- The beginning of a downward trend in the amount of time it takes to resolve child abuse and neglect allegations by trial or stipulation and to reach a dispositional hearing after a finding of abuse or neglect; and
- A significantly improved compliance rate—55% as of June 2002—with ASFA's permanency hearing requirement.

Even with these improvements, funding, and optimism, the child welfare reform efforts in the District of Columbia will need continual hard work, mid-course adjustments, community support, oversight, and monitoring. City leaders also must address the chronic shortage of staffing, resources, and services for families. System reform is difficult and slow, but it is both necessary and feasible. With sustained effort, city leaders can achieve the shared goals of safety, permanency, and well being for DC's abused and neglected children.

This report quantifies the city's progress to date and identifies a baseline against which the community can measure future progress. For the sake of the city's most vulnerable children, we believe that it is essential that the measuring and monitoring continue, because "[w]hat gets measured gets done. If you don't measure results, you can't tell success from failure. If you can't see success, you can't reward it. If you can't reward success, you're probably rewarding failure."⁵

5. D. Osborne and T. Gaebler, *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector*, (Reading, Mass.: Addison-Wesley Publishing Company, 1992), pp. 146-55.



The Collaboration

The child welfare system in the District of Columbia can be compared to a three-legged stool—with each leg being equal in importance. The “legs” or major stakeholders are the Child and Family Services Agency, which identifies cases of child abuse or neglect and provides or arranges services to the children and families involved; the Office of Corporation Counsel, which prosecutes the cases of child abuse or neglect through to permanency; and the DC Superior Court, which adjudicates and supervises the cases until the child is in a permanent home and the case is closed.

In the summer of 1999, the leaders of each of these agencies asked the Council for Court Excellence to facilitate their joint work to implement ASFA in the District of Columbia. Although these agencies have not always enjoyed the best of relations, the leaders recognized that system reform could be accomplished only with the participation and collaboration of all three agencies. The Mayor’s Office and the Metropolitan Police Department’s Youth and Preventive Services Division also agreed to join in the effort.

By late fall 1999, all parties agreed upon an initial ASFA implementation plan which they formalized in a Memorandum of Understanding signed in February 2000. In November 1999, CCE began facilitating monthly meetings of the child welfare “Principals.” Meetings are used to set goals, identify interagency issues, exchange ideas, problem solve, and review case tracking data. When necessary, CCE has organized retreats to help the principals address significant issues or plan for the future.

Since the reform process began in fall 1999, each of the three agencies has changed leadership. However, membership in the group—now called the DC Child Welfare Leadership Team—has been consistent since summer 2001 and it has evolved into a productive and collegial working group. At the group’s request, representatives have been added from the DC Public Schools, the Departments of Health, Mental Health, and Human Services and the Office of the Chief Technology Officer.⁶ This has enabled the group to obtain a broader perspective and to tap into a wider variety of resources.

The expanded group continues to meet monthly. The spirit of collaboration and commitment to reform among team members is perhaps one of the most significant signs of progress.

6. The Team also includes the Presiding and Deputy Presiding Judges of the Family Court, the Director of CFSA, the CFSA Deputy General Counsel, Senior Management of the Office of Corporation Counsel, the Deputy Mayor for Children Youth, Families, and the Elderly, and the Inspector of the Metropolitan Police Department’s Youth and Preventive Services Division.



Another “best practice” required by the Act is the use of the one judge/one family approach: the same Family Court judge will hear all types of family law matters relating to a family, from the time a case is filed until it is closed.

Structural Changes

The DC Superior Court

The Family Court Act

The DC Superior Court is a major “leg” supporting the DC child welfare system. During 2001, the Court had nearly 6,800 total cases of child abuse and neglect, including 1,490 cases newly filed in 2001. At the end of the year, 5,145 cases remained open.

Congress, which has jurisdiction over the organization of the DC Courts, enacted legislation in late 2001 which mandates sweeping reform of the Superior Court’s Family Division. The “District of Columbia Family Court Act of 2001,” was signed into law on January 8, 2002.⁷ The Act renames the DC Superior Court’s Family Division the “Family Court,” and it requires the Family Court to implement certain nationally recognized “best practices,” which have been tested in successful family courts.⁸ Full implementation of these practices must be completed within two years of enactment.

Under the Family Court Act, service on the Family Court is voluntary. To promote expertise, continuity and consistency, those judges who choose to serve on the Family Court will serve a significantly

longer term of service than was customary. Currently sitting Superior Court judges who wish to serve on the Family Court will serve a three-year term of service; newly appointed judges will serve a five-year Family Court term.⁹ In addition, the Act establishes a corps of Family Court magistrate judges and provides for the expedited appointment of a magistrate judge task force to focus priority attention on child abuse and neglect cases that have been pending two years or more.

The Act also requires that all Family Court judges have prior family law experience and participate in periodic training in family law. To ensure that children benefit from this experience and training, the Act further requires that all child abuse and neglect cases be assigned to judges of the Family Court. This provision ends the Superior Court’s practice of assigning child abuse and neglect cases to all 59 judges of the Court, including those serving in other Court Divisions.

Another “best practice” required by the Act is the use of the one judge/one family approach: the same Family Court judge will hear all types of family law matters relating to a family, from the time a case is filed until it is closed. Thus, for example, a judge who hears a child abuse and neglect case also will hear a juvenile case involving a sibling, a domestic relations case involving the parents, or any custody, guardianship, termination of parental rights, or adoption case involving the family. The one judge/one family approach facilitates the coordination of cases, prevents judges and agencies from working at cross-purposes, and provides convenience and consistency for families.

The Act also requires the Court to implement a much-needed computerized case tracking and management system that can interface with the computer systems of related DC executive branch agencies. When implemented, this system will enable the Court to track a child’s abuse and neglect case from the beginning to the child’s final permanent placement and case closure—something its current computer systems cannot do. This system also will permit social workers, Office of Corporation Counsel attorneys, and service providers access to critical case information.

The Act fosters collaboration by calling for the Family Court to house a liaison office of on-site representatives of numerous DC executive branch agencies to aid the coordination of services to families served by the Family Court. To accommodate these on-site representatives as well as the new judges, magistrate judges, and other personnel that are needed, the Court is authorized to expand its physical facilities. The Court submitted a plan to the Congress which outlines an interim solution as well as a long-term master plan regarding space needs.

Furthermore, the Act provides the funds to implement the best practices outlined above. It authorizes “such sums as may be necessary to carry out” the Act. For fiscal year 2002, Congress appropriated a substantial infusion of resources to begin the implementation process: \$24 million in added funds (on top of the previous Family Division budget). The challenge will be to ensure continued adequate funding in future years.

7. Pub.L. 107-114, DC Code § 11-1101 et seq.

8. In early 2001, CCE prepared and distributed a report describing innovative court practices we observed on site visits to successful family courts and divisions throughout the country. *Family Court vs. Family Division: Does it Make a Difference in Child Abuse and Neglect Cases?* Many of these “best practices” are incorporated into the Family Court Act.

9. The term of service for a judge sitting in the Family Division on the date of enactment of the Family Court Act is further reduced by the length of his/her consecutive service in the Family Division.

Preparation for the Family Court

The DC Family Court Act required the Court to submit a transition plan to Congress by April 8, 2002, outlining its approach to the required reforms. The Court took on the task of preparing the plan with earnestness and determination.

The Court sought input from all who might be affected by the plan. Court representatives participated in a day-long retreat on February 14, 2002, organized by CCE, where they listened to views and advice from public and private representatives of DC's child welfare community and child welfare professionals from family courts in other jurisdictions. The Court also sought input from attorneys and other stakeholders regarding the other areas of Family Court jurisdiction, including domestic relations, juvenile delinquency, and mental health. In addition, the Court conducted a survey of urban family courts in other jurisdictions.

The final product was submitted to Congress prior to the deadline. Reaction has been positive. The plan embraces the "best practices" of the Family Court Act and provides for implementation of these practices in a thoughtful and practical manner. Congress has released the \$24 million in appropriated funds to the Court, and implementation of the plan has begun.

Twelve Superior Court judges volunteered to serve in the new Family Court. Under the terms of the Act, the Court is now seeking appointment of three new judges to serve in the Family Court. In addition, the Court promptly created the magistrate judge task force to handle older child abuse and neglect cases. On March 12, 2002, the Court swore-in five well qualified individuals for these positions, who were selected from a pool of nearly 100 applicants. An additional four magistrate judges were selected in September 2002. When fully implemented, the Family Court will have 32 judicial officers: 15 associate judges and 17 magistrate judges.

The Court's plan holds great promise; the larger challenge will be to fulfill that promise.

The Child and Family Services Agency

Another major stakeholder in the DC child welfare system is the Child and Family Services Agency; it is another leg to the three-legged stool.

On June 15, 2001, the federal court receivership, established by the U.S. District Court in 1995 under the *LaShawn A. v. Williams* decree, was terminated with the establishment of the Child and Family Services Agency as an independent DC cabinet level agency. The Agency remains in a probationary period as it continues to work toward meeting performance measures contained in the U.S. District Court's October 23, 2000 Consent Order.

Under the terms of the October 23, 2000 Consent Order the Child and Family Services Agency completed several major initiatives as a condition of termination of federal court receivership. These initiatives, which are intended to lay the groundwork for further improvements include:

Assuming Responsibility for Child Abuse Cases

The DC Council passed a law that became effective April 4, 2001, which gave the Child and Family Services Agency responsibility for child abuse cases.¹⁰ Previously, child abuse cases were the responsibility of the Superior Court Division of Court Social Services while the Child and Family Services Agency had responsibility only for child neglect cases. This "bifurcated" system was confusing to the community and it decreased system accountability. The transfer of responsibility for child abuse cases to the Child and Family Services Agency was accomplished on October 1, 2001. The agency is required to conduct child abuse and neglect investigations jointly with the Metropolitan Police

Department where criminal allegations may be involved.

Creation of Licensing Regulations for Foster and Group Homes

The District developed licensing standards for foster homes, group homes, and independent living facilities.¹¹ This is a particularly significant achievement because various efforts to develop licensing regulations had been initiated over the past decade but never completed. The group home standards address major deficiencies in staffing, staff training, programming and facility maintenance which the CFSA federal court-appointed monitor, the Center for the Study of Social Policy, identified in a recent assessment of group homes.¹²

Selection of a Director and a Management Team

Described as a "first-rate manager with a caring heart," Olivia A. Golden, Ph.D., was selected by the Mayor in mid-2001 to be the new Director of the Child and Family Services Agency. By the end of the year, Dr. Golden had appointed a management team recruited from both local and national talent.

In addition to the initiatives required to end the receivership, the agency has made other improvements. The agency's formerly scattered work force is now housed in a single modern facility. Its computer system, FACES, is helping to automate the work of the agency with the goal of generating timely and accurate case information. The agency also has improved its efforts at maximizing federal reimbursement for the cost of services it provides to DC children and families.

Another important change is that the Child and Family Services Agency will have adequate funding to discharge its responsibilities. CFSA's fiscal 2001 and 2002 budget requests were approved in full by the DC Council. As part of the Consent Order to end the receivership, the city is

10. "The Child and Family Services Agency Establishment Amendment Act of 2000," (DC Law 13-277) establishes CFSA as a separate cabinet level agency and redefines the agency's authority and responsibility.

11. The licensing standards were published as final regulations in the DC Register on July 28, 2001 for foster homes, on September 21, 2001 for group homes, and on February 27, 2002 for independent living facilities.

12. Center for the Study of Social Policy, *Foster Care Group Homes in the District of Columbia - A Review (Volume I)*, June 2001.

required to support and work for passage of the agency's full annual budget request unless it can demonstrate that the agency can achieve its performance goals with a lower budget. One of the challenges, however, has been to accurately foresee all of the budgetary needs created by the agency's transformation.

While the Child and Family Services Agency has made significant strides, major challenges remain to improve the delivery of services to children and families in need. The latest report by the court-appointed Monitor of the agency outlines the agency's performance as of the end of the receivership, May 31, 2001, creating a baseline that will be used to determine when and whether the probationary period will end.¹³ The Court Monitor's next report will review progress as of May 31, 2002.

The Office of Corporation Counsel

The third leg of the child welfare system stool is the Office of Corporation Counsel, whose Abuse and Neglect Section prosecutes child abuse and neglect cases. The October 23, 2000 Consent Order ending receivership of the Child and Family

Services Agency requires the city to provide "adequate legal staff" to the agency to enable it to meet its obligations. This provision was intended to address CFSA's concerns about having sufficient legal counsel to represent the agency in court and to prepare social workers to testify in court hearings on each of the more than 5,000 pending cases.

The Office of Corporation Counsel has made significant progress on this issue. An OCC staffing study called for in the Consent Order was undertaken by the American Bar Association Center for Children and the Law, and was completed in August 2002. Already however, the number of OCC attorneys and support staff assigned to child abuse and neglect cases has increased by nearly 200%. The Child Abuse and Neglect Section grew from 15 attorneys in 2000 to approximately 40 in 2002, the largest single staff increase in the history of the Office of the Corporation Counsel. To further improve outcomes for children, Office of Corporation Counsel attorneys and Child and Family Services Agency social workers are now co-located at the offices of the agency so that they may work more closely together in preparing cases for court.

Under an agreement among the Office of Corporation Counsel, the Mayor's Office, and the Child and Family Services Agency, CFSA provided funds for a short time in 2001 to finance the hiring of additional Corporation Counsel staff. Since then, Corporation Counsel's budget has included funds to support the additional staff.

13. Center for the Study of Social Policy, *Progress Report on Termination of the LaShawn Receivership and Baseline Report on Probationary Period Performance Standards*, December 2001.

Even with these improvements, funding, and optimism, the child welfare reform efforts in the District of Columbia will need continual hard work, mid-course adjustments, community support, oversight, and monitoring.



One of the important lessons CCE has learned is that it is not only important to measure what has taken place, it is important to measure what has not taken place.

Measuring Progress Toward Achievement of ASFA Goals

Over the past two and one-half years, DC's child welfare system leaders have made steady, measurable progress toward achieving the goals of ASFA. To measure progress, all agreed they needed to track cases against ASFA deadlines. The Court designed a computerized case tracking system for the Juvenile and Neglect Court Clerk's Office and CCE has been helping the Court by providing data entry specialists who input the data from child abuse and neglect cases filed since February 1, 2000, the effective date of ASFA implementation in DC. Since this tracking system began, CCE has produced data reports quarterly for the use of the Child Welfare Leadership Team. Some of the data provided below was obtained from this system.

Compliance with ASFA's Permanency Hearing Requirement

One of ASFA's most important requirements is that a permanency hearing be held within 14 months of a child's removal from home, to decide the child's permanency goal and to set a timetable for achieving it. Compliance with this requirement is important not only to expedite permanent placement of children but also to

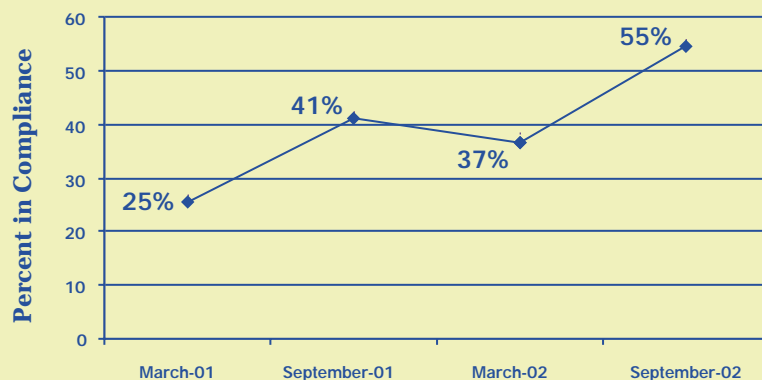
ensure that federal funds will be available to pay the cost of foster care. Federal regulations condition eligibility for federal foster care subsidies upon compliance with ASFA, and the city receives nearly \$80 million annually in such funds.

Data from the abuse and neglect cases filed in the past two and one-half years shows that about 80% of these children were removed from their homes at the initial hearing. "Removal from home" is defined as placement with a relative or placement in "shelter care," which is the term used for foster care prior to adjudication. Unless the safety of the home has improved sufficiently to allow these children to return home earlier, ASFA requires that they have a permanency hearing within 14 months of their removal.

While the city has not yet reached 100% compliance with this permanency hearing requirement, the data displayed in Figure 1 shows dramatic and rapid improvement over a short period of time.

Our latest analysis, in September 2002, shows that 55% of cases were in compliance with ASFA's permanency hearing requirement, via either a permanency hearing or dismissal by the 14-month deadline. This is a tremendous improvement over the 41% compliance rate of September 2001 and the 25% compliance rate of March 2001. To help boost the compliance rate, in October 2001 CCE began providing the Court, the Child and Family Services Agency, and the Office of Corporation Counsel with monthly "ticklers" or reminders by case number of upcoming permanency hearing deadlines. Another boost should come from the Court's adoption in August 2002 of an ASFA-compliant uniform court order form for all judges to use for permanency hearings. Uniform court orders were also adopted for every other stage of child abuse and neglect cases.

Figure 1: Cases in Compliance with ASFA Permanency Hearing Requirement



Compliance with DC ASFA Deadlines— Trial and Disposition

Unlike the federal ASFA, the DC ASFA statute sets deadlines for trial (where the truth or falsity of the neglect or abuse allegations is determined), and for disposition (which focuses on remedying the conditions of abuse or neglect determined at trial to be true). The deadlines differ depending upon whether the child is removed from the home. In general, if the child is *not* removed from the home, both the trial and disposition must be held within 45 days of the filing of the petition.¹⁴ If the child is removed from home, the statute allows 45 days from “entry into foster care,”¹⁵ a term borrowed from the federal ASFA statute, which results in a 105 day deadline for the trial and disposition of out-of-home children’s cases.¹⁶

In our second quarterly data report for 2002, CCE tracked the cases filed in each of the three years since the implementation of ASFA in DC—2000, 2001, and 2002—as three separate groups or “cohorts,” calling them Year 1 Children, Year 2 Children, and Year 3 Children. We tracked whether and when trials, or stipulations in lieu of trials, and dispositions occurred for each group, and we compared the results to determine whether progress is being made toward DC ASFA goals. We applied different deadlines depending upon whether the child was removed from the home. The results for out-of-home children are demonstrated in Figures 2 and 3. There was little change in the amount of time it took to reach trial/stipulation (about 130 days) and disposition (about 210 days) for children who were not removed from the home.

While the city does not meet the 105-day statutory deadline, Figure 2 shows a clear downward trend from Year 1 to Year 2 in the amount of time it took out-of-home children’s cases to reach trial or stipula-

Figure 2: Number of Days from Petition to Trial/Stipulation

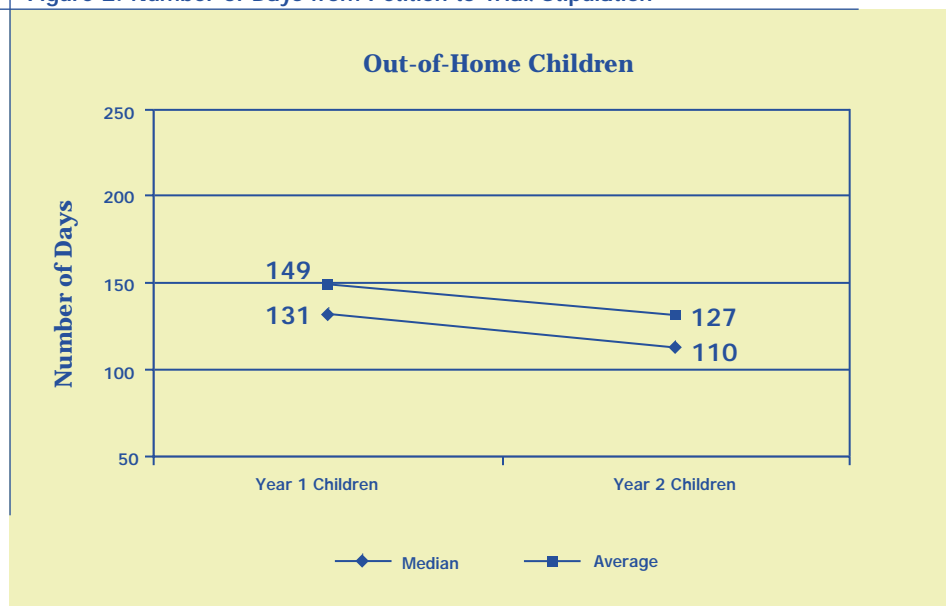
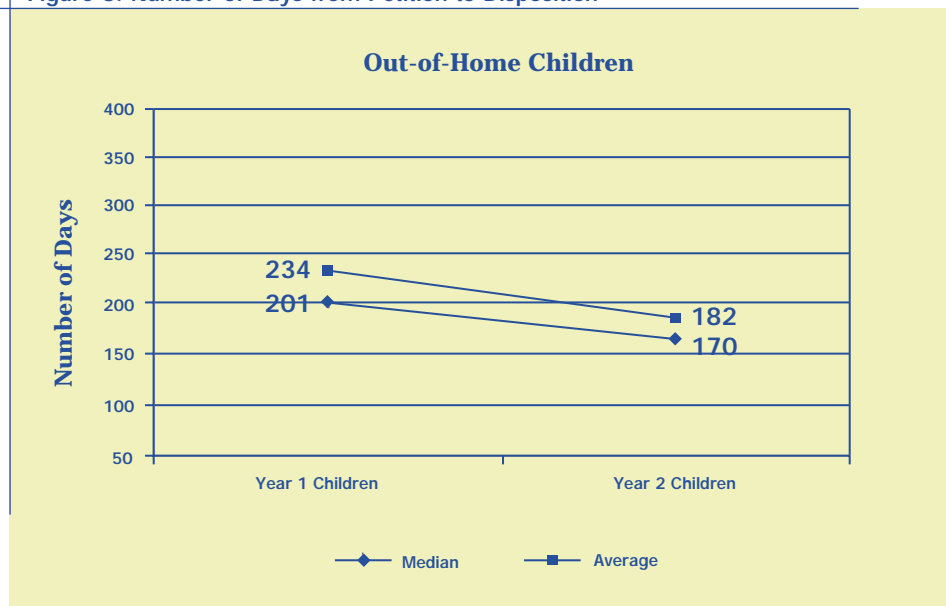


Figure 3: Number of Days from Petition to Disposition



tion in lieu of trial. A trial or stipulation is a particularly significant milestone because once the truth or falsity of the allegations is established the parties thereafter can focus solely on providing services and finding a permanent placement for the child.

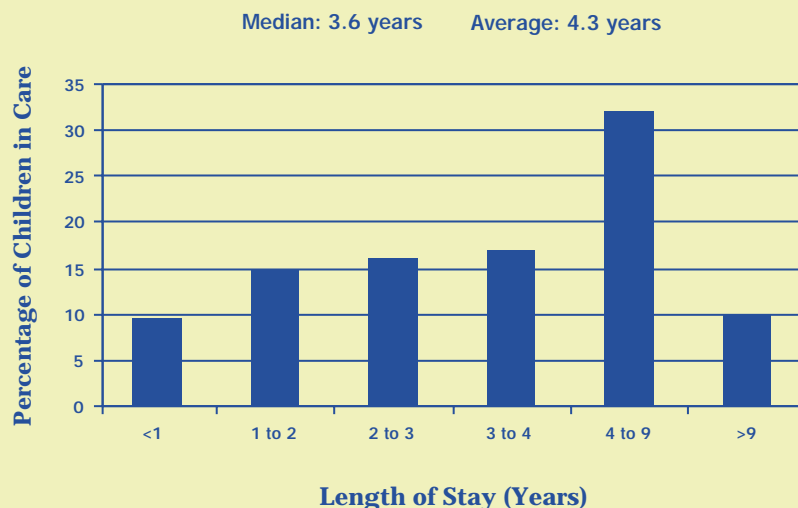
There is insufficient data at this date to reach a conclusion regarding Year 3 Children—more than 40% of Year 3 Children’s cases are still pending trial. One of the important lessons CCE has learned is that it is not only important to measure

14. DC Code §16-2316.01(1).

15. The DC statute adopts the federal definition of “entry into foster care” which is (a) the date of the first judicial finding that the child has been neglected; or (b) the date that is 60 days after the date on which the child is removed. It does not make sense to say that a trial shall be held within 45 days after the first judicial finding of neglect because a trial and a judicial finding of neglect are one and the same. Also, it seems contrary to federal ASFA policy to expedite the cases of children at home over children who are separated from their parents. In any event, it appears that the city’s efforts are focused on expediting out-of-home children’s cases.

16. DC Code §16-2316.01(1) and §4-1301.02(9).

Figure 4: Length of Stay in Foster Care (As of May 31, 2001)



what has taken place, it is important to measure what has not taken place. See the Appendix for a pie-chart summary of what has and has not taken place for Years 1, 2, and 3 Children.

Figure 3 also shows a downward trend from Year 1 to Year 2 in the amount of time it took out-of-home children's cases to reach disposition. The median number of days from petition to disposition for out-of-home children decreased by more than 30 days; the average decreased by more than 50 days. While the city does not yet meet the 105-day DC ASFA deadline for disposition hearings for out-of-home children, these results show significant improvement. Again, there is insufficient data to reach a conclusion regarding disposition for Year 3 Children.

Length of Stay in Foster Care

The Court's computerized case tracking system which CCE has operated since early 2000 tracks only child abuse and

neglect case files. The system does not track information on a related subsequent termination of parental rights, adoption, guardianship, or custody case. This information is kept in separate case files in separate branches of the Family Court Clerk's Office. Thus, unless a child is returned home, the child's abuse and neglect case file generally does not reveal the end result of the child's case or, more importantly, how long it took to achieve that result; that is, the length of time the child spent in foster care.

The Center for the Study of Social Policy ("CSSP") reported information on the length of stay in foster care as of May 31, 2001, based upon a statistically valid sample of 166 cases pulled from Child and Family Service Agency records.¹⁸ CSSP found that DC children spend a median of 3 1/2 years in foster care. The largest group of children, 32%, spend from four to nine years in such temporary homes. The challenge of ASFA is to reduce the length of children's foster care stays to two years or less. CSSP's results are broken down as shown in Figure 4.¹⁹

The Superior Court is working to upgrade the prototypical case tracking system for use as an interim system until the comprehensive case tracking and management system required by the Family Court Act can be put in place. The upgraded interim system will include information from the subsequent related case files as well as the abuse and neglect case file. This will enable the Court to track each child from entry into the system until he or she reaches a permanent home and exits the court system.

Progress Towards Permanency

The federal ASFA sets forth permanency options for foster children in priority order—reunification, adoption, guardianship, and, if for compelling reasons none of these options is appropriate, "another planned permanent living arrangement."

Reunification

ASFA recognizes that it is best for a child to be with his or her birth parents. Unless it is unsafe or another permanency plan is determined to be necessary, ASFA requires the social service agency to make reasonable efforts to prevent the child's removal from home in the first place or, if removal has occurred, to reunify the child with his family. The DC ASFA complements the federal law by requiring the agency to provide family preservation services, family support services, and time-limited family reunification services.

CCE was unable to locate any data regarding the number of DC foster care children who are reunited with their birth families. To gauge progress it is critical that the city be able to track the number of children and families who are successfully reunified. We urge the Court to include this as a measure of progress in its new comprehensive case tracking and management system.

18. Foster care was defined as placement in a licensed foster care home, which includes placement with a relative if the relative is a paid foster care provider. The CSSP sample size has a possible error rate of plus or minus 7%.

19. Data collected for the *Progress Report on Termination of the LaShawn Receivership and Baseline Report on Probationary Period Performance Standards*, Center for the Study of Social Policy, December 4, 2001.

Adoption

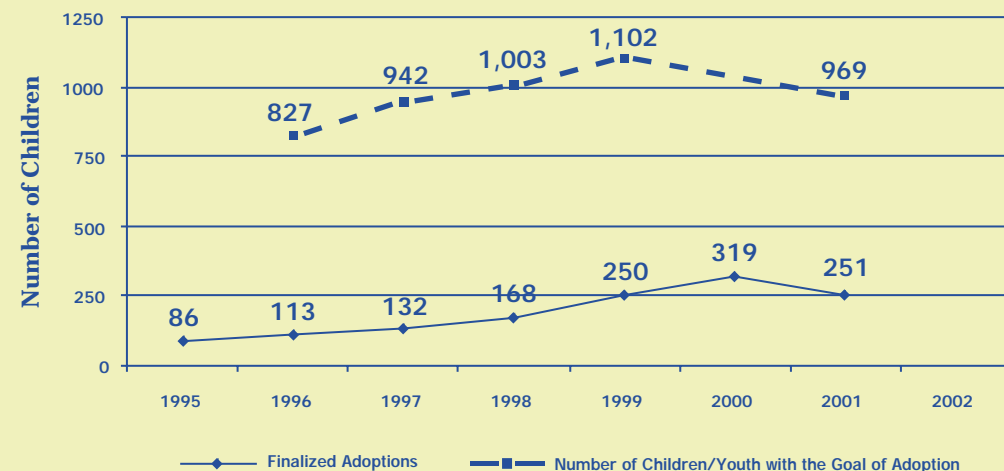
Increasing the number of adoptions of children in foster care is one of the major goals of the Adoption and Safe Families Act. Adoptions in DC have increased significantly since 1995. However, Figure 5, supplied by DC Action for Children, a local child advocacy organization, shows sadly that the number of adopted children is a small fraction of the number of the city's foster children who have the goal of adoption. Two of the Child and Family Service Agency's priority goals are to increase the number of finalized adoptions and to recruit more adoptive homes for foster children. Also, to meet the conditions related to termination of its post-receiver-ship probationary status, the agency has been processing an increasing number of cases to terminate parental rights, a precondition in many cases to adoption.

Guardianship

Guardianship, the third option specified in ASFA, was not a permanency option under DC law when the federal ASFA was enacted. Consequently, a working group that included the Child and Family Services Agency, the Office of Corporation Counsel, the Court, and other child advocates, most notably the Children's Law Center, collaborated to draft a guardianship law for the District of Columbia, the "Foster Children's Guardianship Act of 2000."²⁰ The law was passed by the DC Council and became effective April 4, 2001.

Guardianship is an option for children who cannot be reunited with their parents but for whom adoption and the consequent termination of parental rights is not appropriate. For example, a teenager whose mother cannot care for him because of mental illness, but nonetheless maintains a loving relationship with him, may be placed under the guardianship of a supportive relative, such as a grandmother. The teenager is in a safe permanent placement and he can visit with his mother because she maintains certain parental rights including the right of visitation. Furthermore, the court case can be closed because the child is permanently

Figure 5: Adoptions



placed and the city has complied with ASFA.

For those guardians who qualify based upon financial need, guardianship may carry with it a subsidy to pay for the care of a child. The subsidy is available to the extent that DC funds are appropriated; there is no guaranteed federal funding source for the subsidy. It is unclear how many guardianship petitions have been filed or granted by the Family Court to date. Thus far, only a handful of guardianship subsidy applications have been processed. Family law practitioners may have been awaiting the Child and Family Service Agency's recently issued rules or the Court's January 9, 2002 Administrative Order regarding implementation of the guardianship statute for guidance. Other possible explanations for the small number of guardianship applications may be concern about the certainty of the subsidy or unfamiliarity with the new guardianship law.

Expanding the Use of Alternative Dispute Resolution Methods

The Family Court recently began expanding its mediation program for child abuse and neglect cases, which is run by the

Multi-Door Dispute Resolution Division of Superior Court. For nearly four years, the Multi-Door Division has conducted a Child Protection Mediation Program. While the program has a high overall case settlement rate—91% in 2000 and 86% in 2001—it has served only a small number of families each year (78 in 2001).

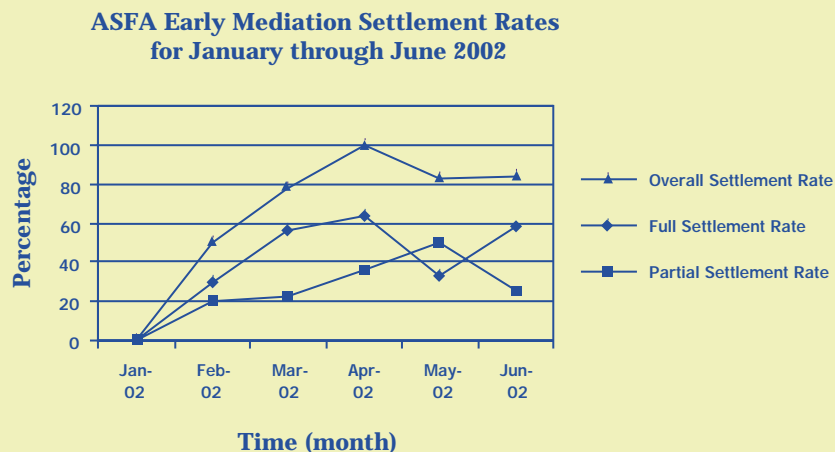
ASFA Mediation Pilot Project

In January 2002, the Family Court began referring every other newly filed child abuse and neglect case to the Multi-Door Division for early case mediation—within 30 days after the first court hearing. The theory being tested by the pilot project is that early participation in mediation, a cooperative rather than adversarial process, will result in an earlier case plan, earlier access to needed services for the child and family, and earlier permanency for DC children. The one-year pilot project is funded by CCE with grant funds provided by The Annie E. Casey Foundation. At the conclusion of the project, the results in the mediated cases will be compared to the cases that followed the traditional adversarial path to determine whether the project should continue.

The Multi-Door Division has recruited and trained 35 mediators for this project who, under the guidance of Multi-Door staff,

20. DC Code §§ 16-2381 - 2399.

Figure 6: ASFA Early Mediation Pilot Project²¹



expect to mediate the cases of 400 families in 2002. This represents a 400% increase over the number of families served in 2001. Because the project has started recently, the data available is limited.

The project has an excellent settlement rate. In June 2002, the overall settlement rate was 81%. This represents the sum of the full settlement rate (agreement on both a stipulation and case plan) plus the partial settlement rate (agreement on either a stipulation or case plan). These early settlements yield a significant reduction in case processing time. Cases that reach an overall settlement at early mediation are reaching the disposition stage within 40 days of entering the system—well within the DC ASFA disposition deadlines for in-home and out-of-home children. Cases that are not fully resolved at mediation are nonetheless ready for trial or stipulation within 60 days of entering the system. This is considerably faster than the case processing time for cases that do not undergo mediation, as shown in Figures 2 and 3. In time, earlier trials, stipulations, and dispositions should yield earlier permanency, and thus less time in foster care, for DC's children.

Permanency Mediation

The Council for Court Excellence's case tracking activities and the majority of the data provided in this report are focused on child abuse and neglect cases filed on and after February 1, 2000, the date the city began to implement ASFA. However, the city's ASFA implementation efforts are equally focused on bringing older cases into compliance with ASFA—cases that were open before February 1, 2000, and that have been pending for more than two years.

Over two years ago, the Court created a "Remedial Project" and gave it the Herculean task of bringing into ASFA compliance cases pending more than two years. These cases have proven to be among the Court's most difficult. At the outset of the project in early 2000, it was determined that there were approximately 3,300 such children's cases. In mid-summer 2001, the Court counted nearly 3,600 children's cases over two years old.

The Remedial Project is now receiving assistance from the newly created Permanency Mediation Project launched in February 2002 and funded by a grant from the federal Department of Health and

Human Services. This form of mediation is expected to be useful in cases where the possibility of reunification with parents is minimal because of, for example, a chronic drug problem, mental illness, or incarceration, but the parents wish to maintain some form of continuing contact with their child. Permanency mediation can be used to negotiate a permanent placement for the children, while allowing the parents input into the process. The permanency mediation project has 10 trained mediators who are expected to conduct a total of 10 mediations in the next six months; each case is expected to average six mediation sessions.

Additional assistance to the Remedial Project will come from the task force of five Family Court magistrate judges, who are being assigned to address children's cases that have been pending for more than two years. This should also provide a boost to the city's effort to reduce the number of older cases.

21. No mediation was conducted in the first month of the project, January 2002, so that attorneys and social workers could have 30 days to prepare their cases.



One clear lesson the Council for Court Excellence has learned over its twenty years of experience is that justice system reform is difficult and that it takes time, sustained attention, and commitment.

Other Collaborative Efforts

The Children's Advocacy Center

Under an interagency agreement first signed in 1995 and updated in 2001, city agencies have been working collaboratively to develop and improve the DC Children's Advocacy Center, a child-friendly place where children who are the victims of sexual abuse can be interviewed, assessed, treated, and prepared for court. The Center uses a coordinated, multidisciplinary approach to minimize the trauma to child victims. Trained forensic interviewers conduct all interviews of the children, and case reviews are conducted bi-weekly with representatives from multiple agencies in attendance.

The Children's Advocacy Center project was initiated by the Office of Corporation Counsel and the United States Attorney's Office, which prosecutes child abuse that rises to the level of a criminal violation. Other organizations also played an important role in the Center's development. The Deputy Mayor for Children, Youth, Families, and Elders promoted the project, while the DC Council worked to improve coordination among the participating agencies. The Council employed its authority to prod the Metropolitan Police Department to organize its child sexual abuse investigations to better coordinate with the

Center and the Child and Family Services Agency. MPD and CFSA are now hammering out a joint protocol for investigating these cases.

Because of its limited size and capacity, the Children's Advocacy Center handles only child sexual abuse cases and cases where a child is a witness to the suspicious death of a sibling. There has been much discussion about expansion of the Center, but little progress has been made. Recently, however, the DC Council unanimously passed a bill that would mandate a multidisciplinary investigation in every instance of child sexual abuse.²³ The bill also requires that the Center's multidisciplinary team adopt written protocols for additional types of abuse cases that can be handled by the Center. The Mayor signed the bill on September 3, 2002 and it is now pending before Congress.

The Child Fatality Review Committee

By order of the Mayor, the Child Fatality Review Committee was established in 1992. Its mission is to reduce the number of preventable child fatalities by conducting in-depth reviews of the circumstances surrounding a child fatality and issuing recommendations for improvement to the agencies responsible for protecting and serving children and their families. Notwithstanding its reorganization in 1998, the Committee suffered from a lack of meaningful participation from key agencies which impaired the effectiveness of its recommendations. It was unable to command access to necessary documents and information because it lacked subpoena power and it was not immune from being subpoenaed itself, which posed a threat to the confidentiality of

such documents and information. The Mayor's order creating the Committee was insufficient to provide it with subpoena powers or immunity from outside administrative, criminal or civil subpoenas.

To strengthen the role of the Committee and overcome these barriers, a collaboration of public agencies, most notably the Office of Corporation Counsel, the Child and Family Services Agency, the Deputy Mayor for Children, Youth, Families, and Elders, and the DC Council worked together to enact the "Child Fatality Review Committee Establishment Act of 2001."²⁴ The Act establishes the Child Fatality Review Committee as a part of the DC government to review child deaths, giving special attention to those that may be caused by abuse, neglect, or other maltreatment. Committee members are appointed by the Mayor from a multitude of public and private agencies and the community.

The Act gives the Committee access to broad categories of documents and information as well as subpoena power to compel their production, if necessary. On the other hand, it gives the Committee immunity from administrative, criminal or civil subpoenas. Committee documents and information are confidential and its meetings are closed to the public.

The Committee is required to compile an annual report of findings and recommendations. Recommendations directed toward a specific agency are to be incorporated into the agency's annual performance plan.

A collaboration of agencies as well as DC Councilmembers Cropp, Patterson, and Allen also worked to enact the "Public Disclosure of Findings and Information in Cases of Child Fatality or Near Fatality Amendment Act of 2001."²⁵ This Act

23. "The Improved Child Abuse Investigations Amendment Act of 2002," Bill 14-372.

24. DL 14-28, § 4601 *et seq.*, of Fiscal Year 2002 Budget Support Act of 2001, effective October 3, 2001.

25. DC Code §§ 4-1303.31 *et seq.*

seeks to strike a balance between confidentiality of child fatality information and the public's right to know about the weaknesses of the child welfare system in preventing child fatalities. Essentially, information related to a child fatality or near fatality may be disclosed unless disclosure would endanger the safety or emotional well-being of a child, reveal personal information unrelated to the cause of the fatality, or interfere with an ongoing criminal investigation related to the fatality. An exception also is made to prevent disclosure of the identity of the person who reported the abuse, neglect or maltreatment leading to the fatality.²⁶

26. This Act as well as the Child Fatality Review Committee Establishment Act incorporate certain requirements of the federal Child Abuse Prevention and Treatment and Adoption Reform Act, 42 U.S.C §§ 5101 et seq., which require states to comply with child fatality confidentiality and public disclosure requirements as a condition of receiving federal child abuse prevention and treatment grants. See 42 U.S.C § 5101a(b)(2)(A) and § 5101a(c)(4)(B)(i).

There is much more work to be done to protect the city’s children and reduce the amount of time they spend in foster care.



Conclusion

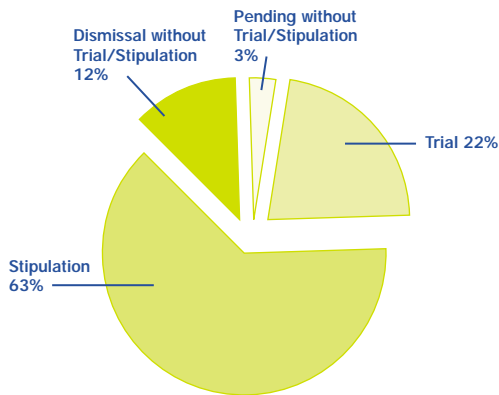
The Council for Court Excellence is privileged to be working with the leaders of the city's child welfare system to achieve better results for the city's abused and neglected children. We admire the dedication and commitment these public officials have shown thus far, and we applaud their accomplishments to date which have benefited the city's most vulnerable children. This public report is an attempt to record that progress for the benefit and use of everyone in the city. Our goal is to create a statistical baseline against which future progress can be measured.

One clear lesson the Council for Court Excellence has learned over its twenty years of experience is that justice system reform is difficult and that it takes time, sustained attention, and commitment. The DC child welfare system reform effort is still in its early stages. There is much more work to be done to protect the city's children and reduce the amount of time they spend in foster care. We will continue to support city officials' efforts and to measure their results.

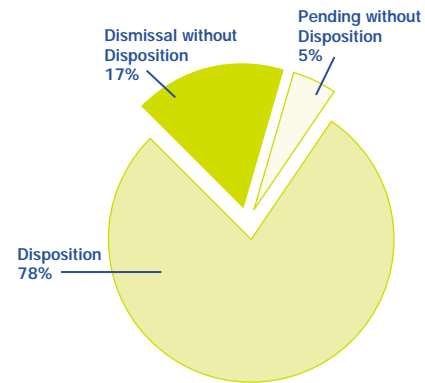
Appendix

Data as of April 30, 2002

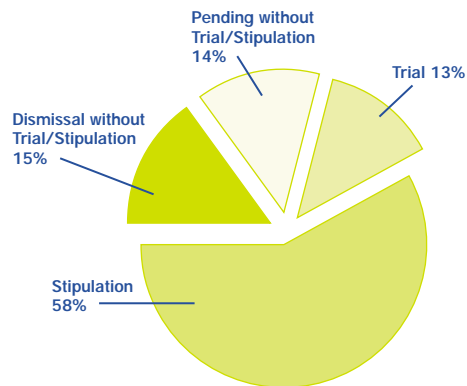
Trial/Stipulation for Year 1 Children (Cases filed in 2000)



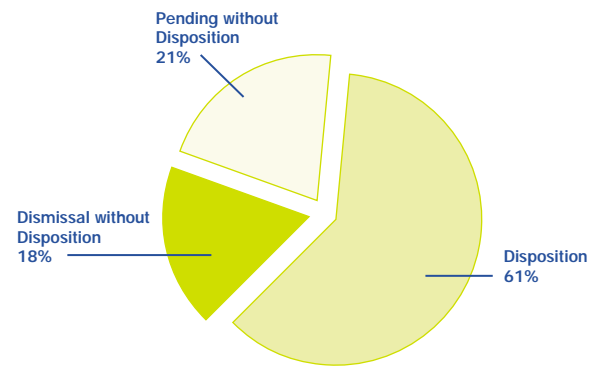
Disposition for Year 1 Children



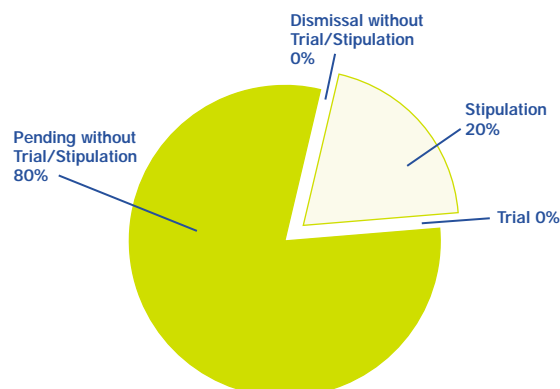
Trial/Stipulation for Year 2 Children (Cases filed in 2001)



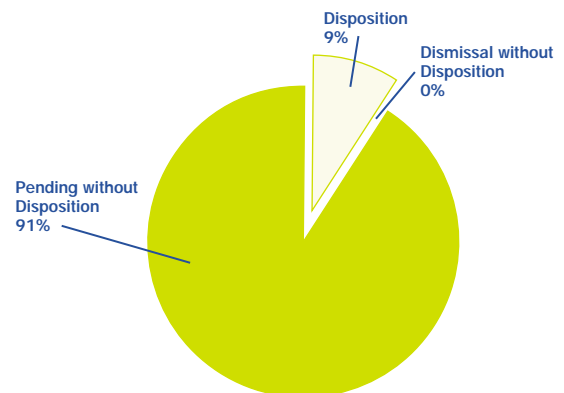
Disposition for Year 2 Children



Trial/Stipulation for Year 3 Children¹ (Cases filed in 2002)



Disposition for Year 3 Children



1. There is insufficient data to draw any conclusions regarding Year 3 Children. It is still possible for some but not all Year 3 Children's cases pending without a trial/stipulation or disposition to meet the DC ASFA deadlines for these case milestones. All Year 1 and Year 2 Children's cases should have had a trial/stipulation and disposition by now.

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Formed in Washington, DC in January 1982, the Council for Court Excellence is a nonprofit, nonpartisan, civic organization. The Council works to improve the administration of justice in the local and federal courts and related agencies in the Washington metropolitan area and in the nation. The Council accomplishes this goal by:

- Identifying and promoting court reforms,
- Improving public access to justice, and
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