

**Dependency and Termination Defense Pilot Project:**  
*Interim Evaluation*

January 2001

*Washington State*  
*Office of Public Defense*

**Dependency and Termination Defense Pilot Project:  
*Interim Evaluation***

January 2001

**Washington State Office of Public Defense**

925 Plum Street  
Third Floor Building 4  
PO Box 40957  
Olympia, Washington 98504-0957

Phone: (360) 956-2106  
FAX: (360) 956-2112  
E-mail: [opd@opd.wa.gov](mailto:opd@opd.wa.gov)  
Website: [www.opd.wa.gov](http://www.opd.wa.gov)

# WASHINGTON OFFICE OF PUBLIC DEFENSE

---

## Mission

The Washington State Office of Public Defense (OPD) is an independent judicial branch agency. It was created by the Washington Legislature in 1996 and is governed by an advisory committee consisting of legislators, judges, attorneys, and lay people. The Legislature has established that a central part of the Washington State Office of Public Defense's mission is to implement the constitutional right to counsel.

## Advisory Committee Members

The Honorable Harold D. Clarke, Chair  
*Retired, Spokane County Superior Court*

Russell M. Aoki  
*Aoki & Sakamoto*

The Honorable Mary Margaret Haugen  
*Washington State Senate*

Mel Jackson  
*Millionair Club Charity*

The Honorable Kathy Lambert  
*House of Representatives*

The Honorable Jeanine Long  
*Washington State Senate*

Mary McQueen  
*Court Administrator, Office of the  
Administrator for the Courts*

The Honorable Edward B. Murray  
*House of Representatives*

Andy Pascua  
*Ethnic-Minority Planner, Yakima County  
Department of Community Services*

Catherine Smith  
*Edwards, Seih, Hathaway, Smith & Goodfriend*

The Honorable Philip J. Thompson  
*Retired, Court of Appeals*

## Staff

Joanne Moore, Director

Chad Dold, Deputy Director

# CONTENTS

---

Introduction.....	1
Background on Dependency and Termination Cases.....	2
Legislative Pilot Project Requirements .....	4
Evaluation Design .....	5
Implementation of the Pilot Project.....	6
Conclusions From Reporting Forms .....	9
Appendix I: Data Analysis and Results .....	12
Table 1: Time Spent Per Month by Pilot Project Attorneys on Existing Caseload.....	13
Table 2: Time Spent on Specific OPD-Funded Legal Tasks .....	14
Figure 1: Overall Percent of Attorney Time Spent on Case Activities .....	14
Table 4: Hearings Continued by Hearing Type .....	15
Figure 2: Entities Causing the Continuance.....	16
Table 5: Reasons for Continuances .....	17
Appendix II: Dependency Case – Documentation Form.....	18
Appendix III: Legislation .....	19

## INTRODUCTION

---

The 1999 Legislature directed the Washington State Office of Public Defense (OPD) to “recommend strategies to ensure that an equitable method for paying for indigent defense costs in dependency and termination proceeding is established.” (Laws of 1999, SB 5744). At present, the county governments fund defense costs for indigent parents in these cases, while the state funds the costs of prosecution. The Washington State Office of the Attorney General represents the state’s position. In its report, *Costs of Defense and Children’s Representation in Dependency and Termination Cases*, OPD found that severe inequities exist between the amount of state funding spent on the state’s case and county funding provided for parents’ defense. The report recommended that adequate state funding be appropriated for defense representation, accompanied by mandatory defense practice standards.

The 2000 Legislature directed OPD to establish an adequate defense representation pilot program during fiscal year 2001 to be held in one eastern and one western Washington juvenile court (Appendix III). Benton-Franklin and Pierce juvenile courts were selected as sites. As part of the budget proviso language establishing the pilot, the Legislature directed OPD to contract for independent evaluations both on an interim and final basis. This report is the interim evaluation. The final evaluation will be submitted to the Governor and fiscal committees of the Legislature after the close of fiscal year 2001.

***OPD has requested an extension of the pilot during the 2001–03 biennium for the purpose of measuring the longer-term impacts of improved defense services on the overall timeliness and length of these cases, parents’ access to court-ordered services, and their outcomes for the children and parents involved.***

## BACKGROUND ON DEPENDENCY AND TERMINATION CASES

---

RCW 13.34.020 declares that the family unit is a fundamental resource of American life that should be nurtured and remain intact unless a child's right to conditions of basic nurture, health, or safety is jeopardized. When the rights of basic nurture, physical and mental health, and safety of the child and the legal rights of the parents are in conflict, the rights and safety of the child should prevail.

Dependency cases are filed by the Washington State Department of Social and Health Services (Department) alleging child abuse and neglect in order to obtain court intervention to protect the child. Termination cases are filed by the Department to sever a parent-child relationship. In many of these cases, the Department initially removes the child from the home.

In most cases, a guardian ad litem is appointed by the court to represent the best interests of a child, unless independent counsel represents the child. The guardian ad litem through counsel, or as otherwise authorized by the court, has the right to present evidence, examine and cross-examine witnesses, and be present at all hearings. The guardian ad litem receives copies of all pleadings and other documents filed or submitted to the court, and notice of all hearings according to court rules.

In most dependency and termination cases, the state is represented by the Attorney General's office (the Attorney General contracts with county prosecutors in some small counties to perform this function). Defense attorneys represent the parents, guardians, and legal custodians (hereinafter referred to as parents). In the vast majority of cases, the parents are indigent. The U.S. Constitution and Washington laws require that indigent parents be afforded court-appointed counsel, because dependency cases can permanently determine fundamental child-parent relationships. Prior to 1977, the counties prosecuted dependency and termination cases and provided defense attorneys for indigent parents. With the passage of the 1977 Juvenile Court Act in Cases Relating to Dependency of a Child and the Termination of a Parent and Child Relationship, RCW 13.34, the state assumed the obligation of prosecuting dependency and termination cases. However, funding for indigent defense services remained the responsibility of the counties.

Because of the serious nature of dependency and termination cases, federal and state laws were passed in the late 1990s to manage dependency case timeframes in order to provide earlier permanent homes for the children involved. These laws have the effect of requiring parents who are seeking reunification with their children to address their parenting problems promptly, and for that reason, making it urgent that the Department provide these services to the parents in a timely way. In addition, the court is required to hold permanency-planning hearings within 12 months after the start of placement. Dependency and termination cases consist of a series of these court hearings:

- (1) **Shelter care hearings** are to be held within 72 hours of a child being removed by the Department, in order to give the parents an opportunity to contest the child's removal from the home. The court hears evidence regarding the need for shelter care from the state and the parents. The department is required to give copies of the records upon which it is relying prior to the shelter care hearing.

- (2) **Fact finding hearings** are to be held within 75 days of the filing of the dependency petition to determine whether the child is dependent. By statute, these are required to be scheduled and heard on an expedited basis.
- (3) **Disposition hearings** are to be held within 14 days of fact-finding to determine the child's placement based on the department's report. The report must be provided to the court and the parents at least 10 days before the hearing.
- (4) **Review hearings** are to be held every six months. In these status hearings, issues such as agency and parent completion of the disposition plan requirements, revised permanency time limits, the parents' efforts made to correct the conditions which led to removal, and so forth, are considered. The court at a review hearing may order that a petition seeking termination of the child-parent relationship be filed.
- (5) **A permanency planning hearing** must be held within 12 months after the start of placement. The department is required to develop a permanency plan within 60 days of assuming responsibility for providing case services. The plan must identify primary outcome goals or alternative permanency goals, such as returning home, adoption, guardianship, long-term relative or foster care, or others.
- (6) **Termination proceedings** consist of motions, conferences, and trials. Terminations determine whether all rights that exist between the parent and child shall be severed. These rights include all powers, privileges, immunities, duties and obligations, including the right to custody, visitation, or support.

## LEGISLATIVE PILOT PROJECT REQUIREMENTS

---

Though federal and state law mandate shortened time frames in these cases so that children can grow up in permanent homes rather than temporary placements, dependency and termination cases often are delayed at various stages of the proceedings. The legislatively directed goal of the pilot project is to enhance the quality of defense representation in dependency and termination hearings to:

- (1) *Reduce the number of continuances* requested by pilot attorneys, including those based on their unavailability;
- (2) Establish a *maximum caseload requirement* of 90 dependency and termination cases per full-time attorney;
- (3) Implement *enhanced defense attorney practice standards*, including reasonable case preparation and the delivery of adequate client advice;
- (4) Use *investigative and expert services* in appropriate cases; and
- (5) Ensure implementation of *indigency screenings* of represented parents, guardians, and legal custodians.



## EVALUATION DESIGN

---

In May 2001, the Washington State Office of Public Defense (OPD) requested advice from the Washington State Institute for Public Policy (Institute) regarding implementation of an evaluation of the dependency and termination defense pilot project.

The Institute recommended a pre-post comparison of practices based on data stored in the Washington State Office of the Administrator for the Courts Judicial Information System. These data include case processing time from filing to resolution, hearing timeframes, and continuance practices. Case data from 1998 to 2001 will be obtained for a comparison of prior to current practices in the two pilot courts. Because insufficient time has lapsed to measure practices under the pilot project, this interim evaluation cannot address outcome measures.

Throughout the summer and fall of 2000, the OPD director consulted with the Institute regarding the data collection forms which would capture reasons for continuances, and how attorneys spent their time (see Appendix, Table 1). The forms were developed; attorneys must submit one form monthly per case to receive payment.

The Institute developed a data entry system so OPD could track the attorney documentation forms. Information from these forms received for August, September, and October were entered into the database. Due to the Institute's heavy workload on other projects, they suggested that OPD contract with Northwest Crime and Social Research, Inc., to perform the statistical evaluation of the data from the defense attorney forms. The independent evaluative tables created by Northwest Crime and Social Research, Inc. are located in the Appendix.

The next section in this report describes the implementation of the adequate defense standards as specified by the Legislature. The final section reports OPD's conclusions based on the statistical analyses conducted by Northwest Crime and Social Research, Inc.

## IMPLEMENTATION OF THE PILOT PROJECT

---

Pierce and Benton-Franklin juvenile courts include indigent defense features found in many juvenile courts. Benton-Franklin Juvenile Court contracts with private attorneys who handle dependency and termination cases on a part-time basis. In Pierce County's juvenile court, full-time staff attorneys in the Department of Assigned Counsel represent the majority of dependency and termination indigent defense clients. These two systems provide a reasonable testing ground for the challenges faced across the state in implementing similar projects.

Each county has continued to fund dependency and termination defense at the pre-pilot 2000 level. As established in the budget proviso language, the pilot funds have been used to “*enhance* the quality of legal representation in dependency and termination hearings” (emphasis added) in the pilot juvenile courts.

### Individual County Activities

**Pierce County.** In recent years, the Attorney General has filed a relatively large number of terminations in Pierce County, in part because of a “fast track” termination program instituted pursuant to RCW 13.34.180 and the federal Adoption and Safe Families Act. The legislation allows the state to request that the court expedite termination procedures in cases involving parental criminal convictions or previous termination orders involving other children, among other circumstances. As a result, Attorney General staffing in Pierce County increased, while defense staffing remained essentially the same.

***Correcting staffing inequalities between the state’s attorneys and the parents’ public defender attorneys.*** Before the pilot project, Pierce County’s public defender’s dependency and termination program consisted of five attorneys, 1.5 legal assistants, and .6 of a social worker FTE, while the Tacoma Attorney General dependency and termination program had 20 attorneys, paralegals, and secretaries. The Tacoma Attorney General’s office handled more dependency and termination representations than the Pierce County public defender because the office represents Kitsap as well as Pierce County and covers additional cases involving parents represented by private attorneys or court-appointed panel attorneys, as well as post-termination cases. Even after subtracting the non-public defender cases, in the remaining yearly caseload of 320 to 350 or more cases open at any one time that involve the Attorney General and the Pierce County public defenders, there was a large staffing disparity. In response to a 1999 survey, the juvenile court remarked that “the system (is) out of balance as DCFS (the Department) and the AAG (Assistant Attorney General) increase staffing levels, while . . . DAC (the public defender) does not.” In order to make dependency and termination case staffing levels roughly equivalent between the state and public defender in Pierce County, an additional two attorneys, two paralegals, and an in-house investigator/social worker were added to the public defender’s dependency and termination staff. The public defender pilot project commenced in July 2000.

**Benton-Franklin County.** Before the pilot project was instituted, four private attorneys handled dependency and termination defense of indigent parents under part-time contracts with the counties. These attorneys were assigned caseloads of up to 70 dependency and termination representations of indigent parents, plus a number of additional court-appointed

representations.<sup>1</sup> OPD obtained the consent of the county commissioners to establish supplemental pilot contracts requiring adherence to the pilot practice standards with these four experienced contract attorneys. The Benton-Franklin Attorney General's office, with four full-time attorney positions, advised OPD that about half the attorney staff time was spent on dependency and termination cases.

***Correcting representation inequalities in Benton-Franklin cases.*** Because the pilot budget language requires maximum dependency and termination caseloads of 90 cases for full-time attorneys, the juvenile court and OPD worked together for several weeks to ascertain optimum staffing arrangements and other parameters of the pilot. It was decided that two attorneys should be added, and the contract attorneys' cases should be reduced so that all attorneys would have up to 45-case caseloads on a half-time contract basis. This number of attorneys was necessary to handle the Benton-Franklin total of up to approximately 240 to 270 defense representations.<sup>2</sup> In August 2000, each defense attorney's caseload averaged approximately 39 cases. (After school started in September, the average caseload rose to approximately 43 or 45.)

OPD then conducted a Request for Proposal process to solicit applications and obtained two additional attorneys, both of whom have over six years' dependency and termination experience. Pilot contracts requiring that all six half-time attorneys devote half their time to their pilot cases, carry a caseload of approximately 45 cases, and comply with adequate defense standards and other pilot requirements were executed. The Benton-Franklin pilot program began on August 2, 2000.

**Training.** Problems faced by many dependency and termination defense attorneys include being isolated, unable to obtain specialized training on a periodic basis, and deficient in resources such as brief or form banks, as well as lacking the oversight of experienced supervisors, unlike their counterparts in the Attorney General's office. In order to provide program support and implement the defense standards set by the Legislature, OPD conducted two one-day training sessions for pilot project staff. The October session was concerned with the adequate defense standards established in the budget proviso language. The December session covered effective methods of obtaining court-ordered services for parents and working with experts. Through the training sessions, OPD has been able to emphasize the priorities in the proviso language and standards: to provide more parent communication and advice to parents, prevent delays and continuances, enhance parents' ability to access services, better prepare for hearings, and effectively represent parents in court.

**Investigators and Experts.** The state retains and pays many experts who treat, evaluate, and assess parents and children in dependency and termination cases and funds its staff of social workers to investigate on behalf of the state's cases, among other job duties. In addition, the Attorney General's Office has an expert fund to reimburse doctors and other expert witnesses for their court time. Statewide, dependency and termination indigent defense attorneys obtain

---

<sup>1</sup>The Benton and Franklin juvenile civil contracts are typical of those found in many counties. These part-time contracts are for indigent civil representation for mental and alcohol involuntary commitment hearings, at-risk youth, trancies, representation of children in dependency and termination cases, and juvenile criminal conflict cases.

<sup>2</sup> In a given county's cases, there are always more dependency and termination defense representations than state representations. Separate attorneys are appointed for most parents due to conflicts of interest arising from the fact that most dependency and termination parents are divorced, were never married, or have adverse interests with respect to the allegations in the case.

public funding for experts only in rare circumstances, and most have no access to investigators. In recognition of this inequity, the proviso language directs pilot attorneys to use investigative and expert services in appropriate cases.

Benton-Franklin's half-time contract attorneys each have a \$10,000 fund earmarked for expert and investigative services. Due to economies of scale, the Pierce public defender has been able to hire a full-time social worker to assist in investigating cases.<sup>3</sup> Pierce pilot public defense attorneys also have access to pilot funds available for experts.

**Indigency Screening.** Pierce County has an established indigency screening system for dependency and termination parents requesting court-appointed attorneys. The Benton-Franklin juvenile court has instituted an indigency screening system for all parents seeking court-appointed attorneys. These screening systems will be covered in the final evaluation of the pilot.

---

<sup>3</sup> The final report will address the time spent and work completed by the Pierce public defender's social workers.

## CONCLUSIONS FROM REPORTING FORMS

---

Northwest Crime and Social Research, Inc. analyzed data from the August, September, and October documentation forms to determine the time pilot defense attorneys spent on active cases, how they spent their time, whether hearing issues were being resolved by agreement as well as by contested hearings, and whether defense attorneys were responsible for a significant percentage of hearings continuances (Appendix I).

These data have some limitations. First, the data only cover active cases. Cases that do not require any attorney time during a given month are called inactive cases. In these cases, no events are scheduled that require preparation or communication during the month. During the total three-month period reported here, pilot defense attorneys spent time on approximately 95 percent of the cases in their caseloads. The Pierce public defender's caseload in October was 354 cases. The Benton-Franklin contract attorney's caseload was about 258 cases.<sup>4</sup>

Second, the data on court hearings and continuances derive from the recordings of the defense attorneys on their monthly documentation forms, and therefore are not from a third party such as the court clerk (Appendix II). Each attorney's statement was signed under penalty of perjury. Since pre-pilot documentation regarding the attorneys' practices does not exist, the pilot results are compared here to statewide reports on dependency and termination defense attorney practices.

Given these two caveats, these are OPD's conclusions.

**(1) Enhanced defense attorney practice standards are being implemented.**

Attorneys are spending the majority of their time reasonably preparing their cases and communicating with their clients. This contrasts with the practice standards reported in *Costs of Defense and Children's Representation in Dependency and Termination Cases* of numerous dependency and termination indigent defense attorneys statewide who have high caseloads and spend little time on their cases outside of court.

**(2) A substantial amount of attorney time is being spent on cases.**

Attorneys are averaging 3.6 hours per month on their active dependency cases, and 5.5 hours per month on their active termination cases. This is a substantial increase from what many non-pilot defense attorneys reported in a 1999 OPD survey, reporting such high caseloads that they could only spend an average of as few as 9 hours *per year* on each case. Some cases require a large amount of preparation. From August through October, the 11 pilot attorneys reported that they extended their preparation time on a total of 62 difficult cases as follows: 15 hours on 37 cases; over 20 hours on 19 cases; over 30 hours on 8 cases; and over 40 hours on 2 cases.

**(3) Pilot attorneys are meeting with clients before and after hearings, speaking with them on the telephone, and providing written communication to them.**

---

<sup>4</sup> One attorney in Benton-Franklin has not yet submitted any documentation forms or invoiced OPD. Therefore, his cases are not reported in this interim evaluation.

About one-third of the pilot attorneys' time is spent communicating with their clients. This represents a substantial increase from the practice of many dependency and termination defense attorneys. In the 1999 statewide survey of non-pilot dependency and termination attorneys, half the attorneys reported they rarely or only occasionally meet with clients before many dependency and termination hearings. Pilot training has emphasized the importance of early and clear communications with clients, and pilot attorneys are now making efforts to continue increasing communication with the client throughout the case.

**(4) Pilot attorneys are reasonably preparing their cases.**

With lower caseloads, pilot attorneys are spending half their time investigating and analyzing parents' cases, interviewing caseworkers and witnesses, preparing documents, and preparing for hearings. This contrasts sharply with the widespread perception that many dependency and termination defense attorneys' caseloads are so high that they do not have time to provide services other than appearing in court. The overwhelming majority of non-pilot defense attorneys who answered the 1999 survey reported that they file written motions or briefs only rarely or occasionally, and about half reported that they only rarely or occasionally investigated alternative services that might be provided to their clients.

**(5) Continuances caused by pilot defense attorney over-scheduling are infrequent.**

*Costs of Defense and Children's Representation in Dependency and Termination Cases* reported that defense attorney over-scheduling (being scheduled to be at two hearings at the same time) is a major cause of continuances statewide, and the AG reported in 1998 that the unavailability of defense attorneys is in many instances a barrier to efficient prosecution of dependency and termination hearings. During the first three months of this pilot, defense attorneys with lower caseloads were able to cut their continuances resulting from being over-scheduled to only 6 percent of all reported continuances.

**(6) Few pilot attorneys have yet accessed defense expert services.**

Pilot defense attorneys have not yet utilized funds for defense experts with any frequency. These funds were for the most part not available prior to the inception of the pilot, and statewide defense attorneys rarely obtain defense experts for parents. If parents believe state-funded psychological or other reports about them or their child(ren) are inaccurate, their role is generally limited to attempting to dispute the reports through cross-examination. At the December pilot training, methods for finding, obtaining and using defense experts were addressed, and it is expected that the use of defense experts by pilot attorneys will increase.

In conclusion, even in its first months of existence, the pilot has enhanced the quality of defense representation in dependency and termination cases. Based on contemporaneous defense attorney reporting (but not on independent third party reporting) the pilot project appears to have reduced defense attorney continuances and improved attorney services for parents. Thus, the pilot project is beginning to satisfy its legislatively directed goals.

The final evaluation will provide analysis of the pre-and-post pilot records of the processing of cases from filing to resolution, hearings timeframes, and continuances. It will also continue to track the implementation of the Legislature's dependency and termination defense goals and specifications set for the pilot. These two sources of information are expected to provide a clear record for examining the impacts of more equal defense services on dependency and termination cases.

## **APPENDIX I: DATA ANALYSIS AND RESULTS**

---

*By Northwest Crime and Social Research, Inc.*

Data from all case activity reports in Pierce and Benton-Franklin Counties from August through October of 2000 were analyzed to address the most relevant questions at this point in the pilot project. The following tables and charts represent the results of those analyses, and address the following questions:

1. How much time are pilot project defense attorneys spending on dependency and termination cases?
2. How did pilot attorneys spend their time?
3. How often are hearings continued?
4. What types of hearings are continued, and which parties are responsible for the continuances?



## How Much *Total* Time Was Spent by Pilot Defense Attorneys on *Active* Cases?

*Table 1*  
Time Spent Per Month by Pilot Project Attorneys on Existing Caseload  
August – October 2000

HOURS SPENT ON CASES PER MONTH	DEPENDENCY CASES (N = 485)	TERMINATION CASES (N = 91)	ALL CASES <sup>5</sup> (N = 597)
UP TO 1 HOUR	29%	23%	28%
1 TO 2 HOURS	20%	15%	19%
2 TO 5 HOURS	32%	34%	32%
MORE THAN 5 HOURS	19%	28%	21%
TOTAL	100%	100%	100%
AVERAGE HOURS PER CASE PER MONTH	3.6 hours	5.5 hours	3.8 hours

### *Findings*

1. Attorneys spent an average of 3.6 hour on dependency cases and 5.5 hours on termination cases per month.
2. Attorneys spent up to one hour during a month in a little over 25 percent of the cases.
3. Attorneys were nearly twice as likely to spend five hours or more on termination cases as they were on dependency cases.<sup>6</sup>

<sup>5</sup> Note: Some cases were not identified as being either dependency or termination. Therefore, the total number of cases (597) is more than the sum of dependency and termination cases (485+91).

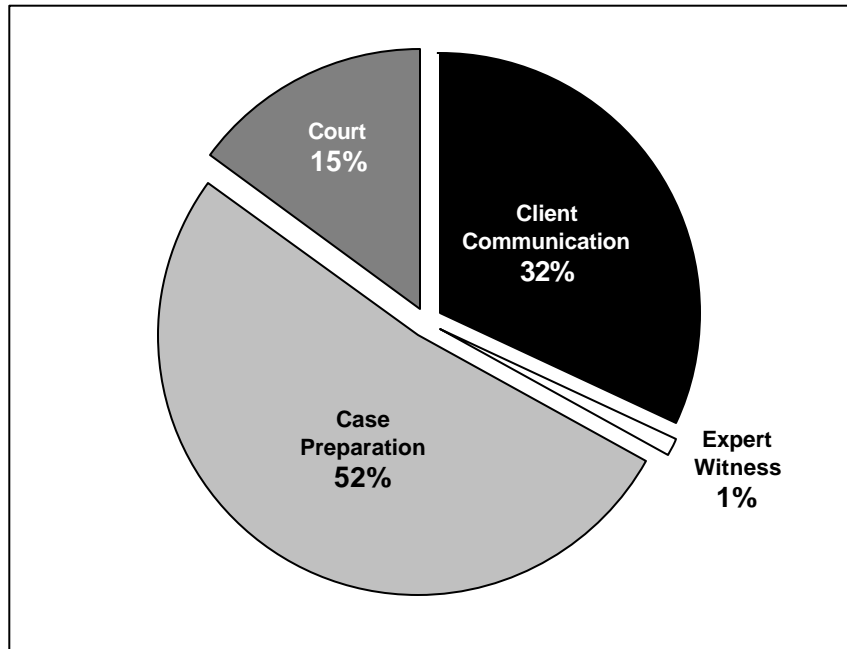
<sup>6</sup> In many of their cases, attorneys exceeded the monthly average of time spent on cases. Attorneys spent over 15 hours on 37 cases, over 20 hours on 19 cases, over 30 hours on 8 cases, and over 40 hours on 2 cases.

## How Did Pilot Defense Attorneys Spend Their Time?

*Table 2*  
**Time Spent on Specific OPD-Funded Legal Tasks**  
 August – October 2000

NUMBER OF HOURS SPENT PER CASE PER MONTH	CLIENT COMMUNICATION	EXPERT WITNESS	CASE PREPARATION	COURT
ZERO HOURS	21%	93%	11%	26%
UP TO ONE HOUR	35%	5%	31%	18%
OVER ONE HOUR	44%	2%	58%	56%
TOTAL	100%	100%	100%	100%
PERCENT OF TIME ON EACH ACTIVITY	32%	1%	52%	15%

*Figure 1*  
**Overall Percent of Attorney Time Spent on Case Activities**



### **Findings**

1. Attorneys spent slightly more than half their time on case preparation and about one-third of their time on client communications.
2. Very little time was spent on defense expert witnesses.

## How Many Hearings Were Continued? Were There Differences Between Hearing Types?

*Table 4*  
**Hearings Continued by Hearing Type**  
**August – October 2000**

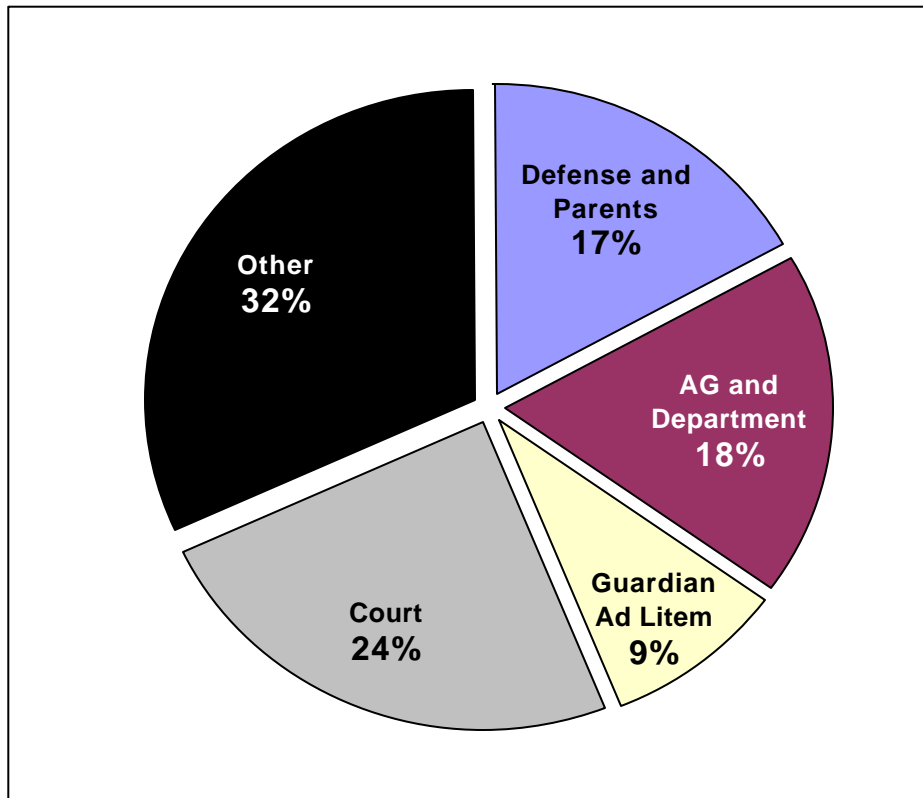
HEARING TYPE	NUMBER HEARINGS	PERCENT CONTINUED
CONFERENCE	100	5.0%
MOTIONS	100	9.0%
SHELTER CARE	80	10.0%
RESCHEDULED	17	11.8%
DISPOSITION	67	11.9%
PERMANENCY PLANNING	27	14.8%
REVIEW	225	16.0%
FACT FINDING	50	26.0%
TERMINATION	28	39.3%
<b>Total</b>	<b>694</b>	<b>13.8%</b>

### **Findings**

1. Overall, 13.8 percent of all hearings resulted in continuances.
2. Termination hearings had the largest percentage of continuances (39 percent), followed by fact-finding hearings with 26 per cent.
3. Conferences and motions were rarely continued.

## Which Entities Are Responsible for Continuances?

*Figure 2*  
Entities Causing the Continuance  
(N = 101)



### *Findings*

1. Fewer continuances were caused by the defense than by either the state or the courts.
2. Situations where "Other" entities were responsible for continuances usually resulted from the court requiring additional information. A variety of circumstances influenced these delays, such as the need to hear from an unrepresented party, to obtain results of a related case being set for trial, to hear from overscheduled non-pilot defense attorneys who could not appear at the hearing, or to accommodate other individual circumstances.

## What Were the Reasons for the Continuances?

*Table 5*  
**Reasons for Continuances**  
**August – October 2000**

CAUSES OF CONTINUANCES	NUMBER	PERCENT
<b>DEFENSE</b>		
DEFENSE ATTORNEY OVERSCHEDULED	6	6%
PARENTS DIDN'T APPEAR	11	11%
<b>STATE</b>		
AG OVERSCHEDULED	1	1%
DSHS FAILURE TO FILE REPORT	14	14%
FAILURE TO SERVE PARENTS	3	3%
<b>GUARDIAN AD LITEM</b>		
FAILURE TO FILE REPORT	9	9%
<b>COURT</b>		
JUDGE OR COURT OVERSCHEDULED	24	24%
<b>MORE INFORMATION REQUIRED</b>	33	33%
<b>TOTAL</b>	<b>101</b>	<b>100%</b>

### **Findings**

1. *Defense attorney* overscheduling was responsible for 6 percent of all continuances.
2. *Judge or Court* overscheduling was responsible for 24 percent of all continuances.
3. *DSHS's failure* to file reports was responsible for 14 percent of all continuances.
4. *The Guardian Ad Litem's failure* to file reports by GAL was responsible for 9 percent of all continuances.
5. *Parents'* failure to appear was responsible for 11 percent of all continuances.

**Dependency Case - Documentation Form**

Case Activity for Month/Year: \_\_\_\_\_ Attorney: \_\_\_\_\_

Case name: \_\_\_\_\_ Case number: \_\_\_\_\_

Date of Filing \_\_\_\_\_ Dependency: \_\_\_\_\_ Termination: \_\_\_\_\_ Guardianship: \_\_\_\_\_

***I. Note below hearing(s) held and court appearances during the month:***

Type of Hearing	Original Scheduled Date	Contested, Agreed, or Default?	Heard, Stricken, or Continued?	If Heard, Prevailing Party?	If continued, at Whose Request?	# of Continuances of this Hearing this Month	If Continued, Reason(s)*
Shelter Care							
Conference							
Fact-finding							
Disposition							
Review							
Permanency Planning							
Motions							
Termination Trial							

\*Reasons for Continuances: a -defense attorney overscheduled; b -state's attorney overscheduled; c- court time overscheduled; d-commissioner or judge unavailable; e -courtroom unavailable; f -court required more information; g -DSHS failed to timely provide ISSP; h -GAL failed to timely provide report; i -parents failed to appear; j -failure to serve; k -criminal proceeding pending.

***II. Activities and Attorney Time Spent. Note amount of time spent for each, if any.***

- (1) \_\_\_\_\_ met with client before hearing
- (2) \_\_\_\_\_ met with client after hearing
- (3) \_\_\_\_\_ phone calls - client
- (4) \_\_\_\_\_ expert & investigative services (obtain and interrogate experts)
- (5) \_\_\_\_\_ obtain information other than experts (interview, discovery, obtain reports)
- (6) \_\_\_\_\_ case analysis (review services, research, analyze files and evidence)
- (7) \_\_\_\_\_ case resolution (draft documents, negotiations, hearing preparations)
- (8) \_\_\_\_\_ court time (hearings and waiting)
- (9) \_\_\_\_\_ staff/contractor time (time spent by investigators, paralegal, client met with staff, administration time)

-----  
***Declaration of Attorney***

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Place

\_\_\_\_\_  
Date

## DEPENDENCY AND TERMINATION LEGAL REPRESENTATION PILOT PROGRAM

(4) The entire general fund-state appropriation is provided solely for a dependency and termination legal representation funding pilot program.

(a) The goal of the pilot program shall be to enhance the quality of legal representation in dependency and termination hearings, thereby reducing the number of continuances requested by contract attorneys, including those based on the unavailability of defense counsel. To meet the goal, the pilot shall include the following components:

(i) A maximum caseload requirement of 90 dependency and termination cases per full-time attorney;

(ii) Implementation of enhanced defense attorney practice standards, including but not limited to those related to reasonable case preparation and the delivery of adequate client advice, as developed by Washington state public defense attorneys and included in the office of public defense December 1999 report *Costs of Defense and Children's Representation in Dependency and Termination Hearings*;

(iii) Use of investigative and expert services in appropriate cases; and

(iv) Effective implementation of indigency screening of all dependency and termination parents, guardians, and legal custodians represented by appointed counsel.

(b) The pilot program shall be established in one eastern and one western Washington juvenile court.

(c) The director shall contract for an independent evaluation of the pilot program benefits and costs. An interim evaluation shall be submitted to the governor and fiscal committees of the legislature no later than January 1, 2001. A final evaluation shall be submitted to the governor and the fiscal committees of the legislature no later than ninety days following the close of the 1999-01 fiscal biennium.