

A STUDY OF THE STATE OF CONNECTICUT'S PROBATE COURTS  
AND THE MANAGEMENT OF CHILDREN'S MATTERS INVOLVING CUSTODY AND GUARDIANSHIP

FINAL REPORT

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Casey Family Services

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**Executive Summary**

This report is designed to provide the CT Probate Administration with information from a variety of stakeholders about the current state of operations in the CT Probate Courts and how children's matters involving custody and guardianship are managed. In addition, this final report will present research from a sample of other states' Probate Courts, and couple this information with that gathered from within the state to offer recommendations for reforms. Key points regarding the research design, major findings, and recommendations, are summarized here.

**Research Design**

- A purposive sample of 10 courts was selected in consultation with the Probate Court Administrator. The courts studied were Bridgeport, New Haven, Hartford, Stamford, Meriden, Killingly, New London, Newington, Danbury, and Washington.
- 92 one-on-one person interviews were conducted with Probate Court Judges, Probate Court Administrative Personnel, DCF workers, Attorneys, and Families. Three more interviews were conducted with Key Informants, for a total of 95 interviews.
- Telephone interviews were conducted with minor guardianship court personnel from California, Florida, Maine, Massachusetts, New Hampshire, New York, Vermont, and Texas. These interviews examined the organization of court systems, the processing of minor guardianship cases, social service needs, the involvement of states' child welfare agencies, and issues and challenges faced by courts.

**Major Findings**

- The Probate Courts are viewed by the majority of stakeholders as approachable, accessible, responsive, efficient, and effective.
- The adjudicative process overall is perceived as timely.
- Key areas of concern about the Probate Courts are the lack of services for families, the inability of Probate Court Judges to mandate or fund services, and the absence of any monitoring of families or services after guardianship is decreed.
- There is a huge financial discrepancy between the money that foster parents receive and the lack of money available for kin guardians appointed through the Probate Courts.

- The training and background education of Judges concerns stakeholders, who suggest that Judges receive training on DCF and Probate Court regulations and procedures, as well as courtroom etiquette.
- Timeliness of DCF reports, and to a lesser degree, the quality of these reports, is an issue that needs attention.
- Concerns about attorneys related to the following: low reimbursement rates which diminish the pool of available, qualified attorneys; the poor contact, if any, that attorneys make with families prior to their hearings; and the tendency of some attorneys to use information from DCF as a substitute for their own information-gathering efforts.
- The need for services directed at both guardians and minor children is great. The majority among each group of interviewees felt that more than half of all guardians, and more than half of all minor children, are in need of some form of social services.
- Although community services are available, they are limited. Wait lists, fees, and inadequate accommodations for non-English speaking clients are among the problems related to availability of services. Poor awareness of services, lack of money for fees, transportation difficulties, and difficulty in following through comprise problems of access.
- Families are not linked to services in any formal way through the Probate Courts. DCF workers are primarily responsible for service referrals, although Judges, clerks, and attorneys also assist during the court process.
- Views on volunteers in the Probate Courts were mixed. While many feel they are a valuable asset, some have reservations due to negative experiences. Proper training and supervision of volunteers are essential.
- Interviews with court personnel across the nation suggest that court processes vary by court size. Larger courts, because of their case volume, can justify the development of programs designed to address the specialized needs of minor guardianship cases.
- Courts in other states have developed innovative methods to serve minor guardianship cases: implementing Access Facilitation, a mediation-based program; delegating cases to different courts by case-type, which also provides contested cases access to mediation services; employing Court Investigators; developing programs that provide referral and case management services to families; and using volunteers to monitor the content of annual reports submitted by guardians.

## **Recommendations**

- Acknowledge the change in families served by the Probate Courts and recognize the pressures that their increased needs, as well as the volume and overall complexity of cases, place on the existing, somewhat outdated Probate Court system.

- Foster regular communication between the Probate Courts and DCF.
- Provide training and education for Probate Judges, DCF Supervisors and Workers.
- Improve the timeliness, the quality, and potentially the format of DCF reports. All of these related issues involve significant changes in Probate Court and DCF procedures.
- Capitalize on the benefits of volunteers by developing more programs to serve the courts, recognizing that proper training is critical to their effectiveness.
- Develop a structured system for service and resource referrals, and ideally, ensure that guardianship families who are appointed in the Probate Courts are eligible to receive the same services as those of other courts.
- Explore funding opportunities through TANF funds and Title IV-E waivers in an effort to broaden available resources and services.
- Monitor annually the safety and well-being of minor children in guardianship families.
- Address specific court processes such as Probate Judges' limitations in ordering services, screening applications, fee waivers, use of attorneys, confidentiality of DCF reports, and confusion of families around court hearings.
- Strive for parity in services and finances for guardians who apply through Probate Court and through Juvenile Court.
- Consider consolidation of the Probate Courts in light of research from other states' court systems and experiences, as well as evidence from stakeholders within CT.
- Ensure that any changes to the Probate Court system maintain the qualities of efficiency, accessibility, and sincerity that so many appreciate and expect.

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**Introduction**

Casey Family Services, the direct service arm of the Annie E. Casey Foundation, is pleased to present this study of Connecticut's Probate Courts. This study grows out of a collaboration between the Department of Children and Families (DCF), the Probate Court, and Casey Family Services to seek ways to improve services to vulnerable children and their families. The study was requested of Casey Family Services in the fall of 2002 by the Honorable James Lawlor. After reviewing the outcomes of the West Haven Demonstration Project, Judge Lawlor realized that a statewide evaluation of the management of minor guardianship cases would provide important information to Probate Administration that could enhance the system's capacity to respond to the changing needs of families seeking guardianship of minor children. Casey Family Services, in response to this request, hired consultant Dr. Judy Lee to design and execute the statewide evaluation.

Over 4,000 minor guardianship cases are heard by Probate Courts in Connecticut on a yearly basis. These cases generally involve children who are unable, for a variety of reasons, to live with their birth parents, and need a stable and nurturing family to provide for their day-to-day care. Guardian families are most often extended family members. Because of the voluntary action of birth parents and guardian families, significant numbers of children are not becoming wards of the state.

We believe that the Probate Court plays a critical function in the lives of these children. The Court determines the appropriateness of the guardian family to care for the child(ren). It is critical, therefore, that the Court functions most effectively and efficiently to assure that decisions about children's futures are timely and are based on accurate, current, and comprehensive information.

We believe that DCF also has a critical role to play in the lives of these children. Guardian families sometimes need assistance and supportive services to assure the ongoing safety and well being of the children. Often the guardian families are grandparents who, at this stage of their lives, may experience some difficulties parenting children, especially those with special needs. Other relative guardians raising their own children may also face some difficulties in bringing additional children into their household, especially if the children require specialized care. By supporting these families, the state is investing in the futures of a high-risk population of children and preventing their entry into the foster care system.

This report is designed to provide the CT Probate Administration with information from a variety of stakeholders about the current state of operations in the CT Probate Courts and how children's matters involving custody and guardianship are managed. In addition, this report will present research from a sample of other states' Probate Courts, and couple this information with that gathered from within the state to offer recommendations for reforms.

The report is divided into several sections. The Introduction reviews how this study evolved and specifies study aims. The Research Design chapter contains detailed information about the design and implementation of the study, including sampling strategy and methodology. The Data Analysis presents information collected from interviews with the following: Probate

Court Judges; Administrative Personnel who deal with children's matters concerning custody and guardianship; Key Informants identified by Judge Lawlor for their unique perspective on issues pertaining to guardianship matters; Families who have received a final decree in a Removal of Guardian hearing; Attorneys who represent families and minor children in Probate Courts; and DCF social workers. A Summary follows highlighting the major themes discussed by stakeholders. Research from other states' Probate Court systems is then presented. Finally, Recommendations and issues, incorporating suggestions and findings from within the state as well as from other states' court systems, are offered.

Through this study, we hope to identify areas that need to be addressed by the Probate Court and DCF that will improve Connecticut's ability to assist its vulnerable children.

## **Background**

For over two years, Casey Family Services, the direct services arm of the Annie E. Casey Foundation, has been involved in a demonstration project in the West Haven Probate Court to assist the court in improving its ability to make informed decisions in cases involving the guardianship of minor children. Court personnel hoped that the assignment of two consistent and highly trained Casey social workers, who would conduct home studies and make recommendations to the court in guardianship applications, would result in timely and comprehensive reports that would enable the Probate Court to make informed decisions based on the best interests of the child. This project was one of several initiated in the CT Probate Court system to explore alternative approaches to providing services to the Court in guardianship matters.

An evaluation of the West Haven Court project was carried out by Casey's Research Department, and a report on findings for the two-year project period was presented to the Court in July 2002. This report documented the movement of applications through the court process to a final decree. The study found that court reports containing the home study findings and recommendations regarding guardianship were filed, on average, 113 days after the filing of a petition. It took another 48 days from the time the Court received the home study report to issue a final decree. The evaluation report identified the various activities that social workers engaged in, in order to complete a thorough home study on applicants for guardianship. They found that in practice, the average home study took slightly over 23 hours to complete, in contrast to the estimated time of 15 hours. Other findings illustrated the extensive service needs of the families applying for guardianship as well as the children for whom they were seeking custody. In over half of the cases studied, Casey social workers made referrals to community supports and services for the guardians, and with respect to the children's needs, they determined that half of the children in the sample exhibited one or more difficulties warranting further intervention by social workers. In addition, about one-third of the referrals made on behalf of the guardians were for some form of financial assistance that would enable them to provide more adequately for the children in their custody.

Although each Connecticut Probate Court district may be unique in terms of the population it serves, the issues presented in guardianship cases, and the community resources available to guardianship families and their children, Probate Administration, together with Casey, decided that the experience with the West Haven court provided a foundation for the broader study of the operations of the Probate Court system and its management of children's matters involving custody and guardianship.

## **Study Aims**

The following three aims were agreed upon by Judge Lawlor and Casey Family Services.

- 1) To examine the existing operations of the CT Probate Court system in its management of cases involving the guardianship of children, by gathering data on: (a) the type and nature of guardianship cases adjudicated in these courts; (b) the type and quality of services provided to petitioning families; (c) the management of guardianship cases with regard to timeliness of the process, staffing, and workload; (d) the adequacy of information available to the court for decision-making; and (e) the support services available through the courts for guardianship families.
- 2) Identify and describe models used by other states' Probate Court systems to serve families seeking guardianship of minor children.
- 3) Describe and assess the effectiveness of other demonstration models for serving guardianship families that have been implemented in CT.

## Research Design

In an effort to gain a broad, comprehensive understanding of the CT Probate Court system and its management of cases involving guardianship of minor children, a purposive sample of 10 courts was selected in consultation with the Probate Court Administrator. The process and rationale for selecting these 10 courts, out of a total of 130 statewide, is discussed below. At each of these courts, one-on-one interviews, most of them in-person, were conducted with all parties relating in some way to custody and guardianship children's cases. In addition, interviews were conducted at a statewide level with key informants identified by the Probate Court Administrator for their unique experience and knowledge concerning guardianship issues of the Probate Courts. Interviewees and the methods for interviewing them is described below.

### Sample

Due to time constraints, not every one of CT's 130 Probate Courts could be studied. However, a representative sample of the courts was desired that would reflect where the majority of children's guardianship cases were heard; the range of sociodemographic, ethnic, rural/suburban settings, and economic characteristics of towns throughout the state; and the different DCF offices which supply case workers to the courts.

In order to select a sample that reflected the mathematical distribution of the caseload across the state, a list was compiled of the 22 largest courts according to how many Removal of Guardian cases they heard in 2001. Removals were chosen as the unit of analysis since Immediate Temporary Custody, Temporary Custody, and Removals all reflect the same case, and most applications filed terminate in a Removal hearing. The 22 "busiest" courts were listed because although they represent less than 20% of all the Probate Courts in CT, they handled 72% of all children's matters in 2001. Stated another way, the top 22 courts handled a total of 1183 removal cases, or 83% of all removal cases heard in the state in 2001.

Then, from among these 22 courts, the top three were selected because they handle almost half of the children's matters heard in the state; an analysis of the number of removal cases heard in these three courts illustrated that they carried a disproportionate share of the caseload. The three courts of New Haven, Bridgeport and Hartford together heard 47% of all removal cases in 2001.

After these top three courts were selected, the various factors mentioned previously were taken into consideration (i.e., ethnic composition, rural/suburban setting, household economic circumstances, and DCF office). Five more courts from this original list of 22 were selected: Meriden, Killingly, New London, Newington, and Stamford. By this point, 4 of DCF's 5 regions were represented, and within each region, a different district office. However, because there were not yet any courts representing DCF's Northwestern region, Danbury was selected as a medium-sized court, and Washington was selected as a representative small court (hearing only 5 total children's matters in 2001, and no removal hearings). The final court sample for the study is displayed in the following table (data obtained from Census 2000).

<b>Court</b>	<b>DCF Region</b>	<b>DCF Office</b>	<b>Median HH Income</b>	<b>% White Population</b>
Bridgeport	Southwestern	Southwestern Regional	\$34,658	45.0
Stamford	Southwestern	Stamford	\$60,556	69.8
New Haven	South Central	South Central Regional	\$29,604	43.5
Meriden	South Central	Meriden	\$43,237	80.2
Killingly	Eastern	Willimantic	\$41,087	93.7
New London	Eastern	Eastern Regional	\$33,809	63.5
Hartford	North Central	North Central Regional	\$24,820	27.7
Newington	North Central	New Britain	\$57,118	92.5
Danbury	Northwestern	Danbury	\$53,664	76.0
Washington	Northwestern	Torrington	\$65,288	95.7

## Method

In an effort to gain a comprehensive understanding of the Probate Court process and its management of children’s matters involving custody and guardianship, interviews were selected as the primary tool for data collection. In-depth, one-on-one person interviews afford researchers a very close look at a system, as well as an opportunity for exchange and further exploration of research goals. With the consent of the Probate Administrator, the following groups of people, each representing a different aspect of the Probate Court system, were identified as interview candidates.

- Probate Court Judges
- All Probate Court Administrative Personnel who handle matters relating to children’s guardianship and custody cases (i.e., clerks, assistant clerks, and staff attorneys)
- DCF Workers who handle cases, provide reports and make recommendations to the court in children’s guardianship and custody cases
- Attorneys who represent children and families utilizing the Probate Court
- Families utilizing the Probate Court—both petitioners and parents proposed for removal
- Key Informants

All Probate Court Judge, Administrative Personnel, Family, and Key Informant interviews were conducted in person. All DCF and Attorney interviews were conducted over the phone.

Questions for all groups except families<sup>1</sup> dealt with the following themes:

- The court process of minor guardianship cases—what aspects work well; what aspects need improvement; whether these cases are adjudicated in a timely fashion, and if not, what are the barriers to handling them in a more timely way.
- Experience with DCF reports that inform the courts’ decisions—their timeliness; their quality; the relevance of information to the courts’ decision-making; improvements to the DCF information-gathering, report writing, and communication processes.

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<sup>1</sup> Questions for families dealt more narrowly with court processes, and experiences with attorneys and DCF workers.

- Need for services on behalf of petitioning guardians and children—kinds of services needed; community resources available; how guardianship families are linked to services.
- The use of volunteers in the court (Guardians Ad Litem or GALs, and Court Appointed Special Advocates or CASAs)

The interviews with families represent a convenience sample, interviewed when the research team was available to attend removal hearings at the selected courts. At the beginning of the removal hearing, the Probate Court Judge introduced the researchers (Dr. Lee and Amy Stephens) to the court and explained the purpose of the study. Then, following the hearing, the researchers approached the parties and invited them to participate in separate 10-15 minute interviews for which they received \$20 compensation. Before beginning the confidential interview, all family members present were asked to read and sign an Informed Consent acknowledging their voluntary participation in the interview, its confidentiality, the stipend of \$20, and their ability to refuse to answer a question or to terminate the interview at any time. While the family interviews addressed some of the themes above, the questions asked of the users of the Probate Court system dealt more with their experience in court—whether they were ever confused during the process or the hearing, what they thought of the Judge’s decision, and how long they had to wait from the time they filed a petition until the Judge made a decision. Other questions asked about the nature of their relationship with their lawyer (if they had one) and their experience with DCF.

One last methodological point is that although case record reviews were a component of the original proposal from Casey Family Services to Probate Administration, this aspect of the research process was cancelled after the review of several case records by Dr. Lee, and prior to the full implementation of the evaluation. Both Dr. Dore, Director of Research at Casey, and Judge Lawlor agreed with Dr. Lee that case record reviews would not provide as much insight as originally thought into the nature of guardianship cases adjudicated in the courts, the support services either needed or available to proposed guardians and children, or the adequacy of information available to the court for decision-making. Case records contain an abundance of state-mandated forms and notices, in addition to a standardized report form (referred to as the full study, the investigative report, or the home study) that all DCF workers complete. Nuances in the relationship between the courts and DCF workers, or the various types of formal and informal communications from DCF that inform the court’s decisions, would not be captured through case record reviews. Thus, it was decided that the aims of the study were best suited by expanding the sample to 10 Probate Courts (from an originally proposed 6 courts) and by increasing the number of interviews.

The total number of interviews conducted is presented in the following table, broken down by court. [Three additional interviews were held with key informants, but do not appear on the table.] A minimum of 3 interviews with DCF workers, and 3 interviews with Attorneys, was the standard for the largest courts of Bridgeport, New Haven and Hartford; a minimum of one interview with each of these parties was the standard for all other courts. The exception was Washington, where only the Judge was interviewed. Although this court has a part-time clerk, the clerk does not handle children’s guardianship matters. In addition, the Judge could not even suggest DCF workers with whom to conduct interviews, due to high turnover and frequent transferring of cases in her district.

<b>Court</b>	<b>Judge</b>	<b>Staff</b>	<b>DCF</b>	<b>Attorneys</b>	<b>Families</b>	<b>Total</b>
Bridgeport	1	4	4	3	13	25
Stamford	1	2	2	1	1	7
New Haven	1	2	5	3	8	19
Meriden	1	1	1	2	0	5
Killingly	1	1	1	1	0	4
New London	1	1	2	1	4	9
Hartford	1	3	3	3	4	14
Newington	1	1	1	1	0	4
Danbury	1	1	1	1	0	4
Washington	1	n/a	0	0	0	1
<b>TOTAL</b>	10	16	20	16	30	<b>92</b>

## Data Analysis by Group

### Findings from Interviews with Probate Court Judges

The following information is from the ten Judges in the study sample: Judge Keyes of New Haven, Judge Hennessey of Newington, Judge Yamin of Danbury, Judge Ganim of Bridgeport, Judge Cherniske of Washington, Judge Greene of New London, Judge Killian of Hartford, Judge Dupont of Killingly, Judge Papandrea of Meriden, and Judge Fox of Stamford.

The range of experience among the Judges in the sample is from four to 18 years on the job, with an average of 11 years experience, and a mean of 12 years. When asked if they received special training on how to handle children's cases, 4 of the 10 Judges said no. The remaining 60% of Judges interviewed stated that training is on the job and through prior legal experience, and through Probate Administration—initial training for new Judges, ongoing seminars, mandatory meetings, and the exchange of case scenarios.

#### I. The Probate Court

##### A. Positive Aspects

The Judges were asked what they thought were positive aspects of the Probate Court process. Overall, they agreed that the Probate Courts do a wonderful job with children's matters. They are conducive to making families feel comfortable, as they are user-friendly, informal, flexible, and not adversarial. Family members can ask questions and interact in ways that they are unable to in Superior Court. The "localness" of the courts was also mentioned as a benefit to families. In addition to setting hearings more quickly than other courts, Probate Courts respond in a less intimidating fashion to applications and needs. The staff too are much more accessible and helpful than those of other courts: families can walk in, immediately talk to someone with experience, and receive help filling out forms. The Judges try to get families talking and keep them together, and most felt that using kin networks is a much better option than foster care. One Judge commented that because Judges are elected, they are geographically anchored to their district, and consequently, know more about the people in front of them, as well as about available services and organizations. Another felt fortunate to have the same DCF worker handling the cases of his court, and found that building a relationship with him led to "marvelous" and "very thorough" work. One Judge felt that because the Probate Courts recognize what will lead to neglect at earlier stages than DCF (i.e., Probate cases are self-initiated and often filed in an attempt to prevent substantial neglect or harm), they are more preventive.

##### B. Aspects Needing Improvement

Judges discussed several aspects of the Probate Court that need improvement.

- Many contrasted the services that are available at Superior Court with what is available through the Probate Courts. Families can receive in-home assistance and supervised visits at Superior Court, which Probate Court families could benefit from as well, but have to apply for them through DCF's voluntary services.<sup>2</sup> Although a wonderful

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<sup>2</sup> Superior Court for Juvenile Matters in Child Protection does not offer nor fund services for supervised visits. Although Judicial does have discretionary funds primarily for Juveniles involved in the delinquency system, DCF

program, DCF can take 3-4 months from the time of intake until it provides these services. In addition, Probate Court can not order voluntary services, as the Superior Courts can mandate services; Probate Court only has the power to monitor them. As one Judge confessed: “I really have no authority to order half of the services I order.” The Probate Courts have no funds for support services, such as parenting or domestic violence classes, not even psychological testing. In contrast, in Superior Court, psychological exams are readily paid for, and overall, the system of services for children and families is much broader and more readily available. Indeed, the Judges feel that not having a centralized system—someone responsible—for putting services into action for families is a huge drawback. The Judges would like DCF to keep their files open for further monitoring.

- There is “overwhelming systemic failure” in one Judge’s opinion. The Juvenile Courts are overwhelmed, the Probate Courts are overwhelmed, and DCF is overwhelmed. There is a tremendous burden on everyone and not enough money or manpower to adequately support the increasing number of families in need of services.
- Receiving adequate information from DCF was another concern of the Judges. As they themselves are limited in knowledge about the families that appear before them, they rely on the information provided to them by DCF. One Judge suggested that the Probate Courts have their own investigators. DCF is slow to produce reports, or they offer excuses such as they lost the court’s request. More investigatory resources would help provide additional perspectives and information.
- Regarding the application process, one Judge felt that the forms are overly confusing, and more importantly, that families should not be charged an application fee. If a family is poor, as in 80% of the cases, the fees are waived anyway—a process requiring a lot of employee time and paperwork, and if the family is middle class, they shouldn’t be charged for offering to take care of children.
- Facilities are inadequate to deal with children’s issues. There is no room for parties to confer, or to talk to the clerk in privacy. Security concerns were expressed by one who said that often there are emotional issues discussed, and unlike Superior Court which is well staffed with marshals, safety could be a potential problem in the Probate Courts.
- The lack of bilingual staff is another area of “real need.” One Judge has no one on staff who can speak Spanish to the many grandmothers who come into his court.
- Issues related to attorneys were mentioned as a “serious shortcoming of the system.” At the least, GALs should be compensated the same amount as attorneys, but ideally, it would be useful to have a cadre of full-time, trained lawyers on staff in the Probate Court system, who could serve as advocates.
- The lack of legal training and background for some Probate judges seems to pose particular challenges in handling difficult contested matters.

### C. Timeliness of Adjudication of Cases

When asked if the adjudication of minor guardianship cases occurs in a timely fashion, 9 of the 10 Judges said yes, and 1 said sometimes. However, their responses were qualified. Although the courts handle matters in a timely fashion, cases are often delayed because of DCF

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funds most services for children and families involved in the judicial system. By nature of the court adjudication process, and the DCF administrative process of substantiation of abuse or neglect, families become eligible for services through DCF.

reports. One Judge also mentioned that when reports are produced in the “eleventh hour,” it is unfair to everyone involved. Judges would like time to review the reports and request additional information.

Barriers to a more timely process include the following: continuances while the court waits for DCF studies, or because attorneys request more time; waiting for parties to respond to the receipt of notices; and locating parties to serve notices.

## II. DCF Reports

The Judges were asked several questions about the timeliness, quality and usefulness of DCF reports. Regardless of their answers, almost all the Judges noted significant improvements on behalf of DCF over the past 1-2 years. In addition, they expressed an awareness of the size of DCF caseloads and of how thinly spread DCF workers are.

### A. Timeliness

When asked about the timeliness of reports from DCF, 7 out of the 10 Judges answered affirmatively, although it was often qualified (e.g., “for the most part”, “yes, 80% of the time”, “pretty much”, “by and large”). Three of the 7 Judges said no, that reports were not timely or at least not consistently timely. Often, clerks have to follow up with DCF, especially once the court receives calls from families saying that they have not yet heard from DCF.

In response to a rating scale about timeliness, 2 Judges said they were ‘very satisfied’; 3 Judges said they were ‘satisfied’; 3 Judges said they were ‘somewhat satisfied’; and 1 Judge said he was ‘not very satisfied’. One Judge said that there is a huge discrepancy in the timeliness of guardianship reports and Temporary Custody reports, so that he is ‘satisfied’ with the former but ‘not very satisfied’ with the latter. One court has a “tremendous backlog” of reports indicating to the Judge that the “new rules haven’t worked”—DCF workers have excuses or do not respond to court requests for reports.

### B. Quality

In regards to the quality of reports from DCF, 8 of the 10 Judges again answered positively, and while some qualified their answers with “for the most part” or “the majority of the time,” others said that the reports were “very well done” and that they “usually hit all the spots.” Two Judges said that only some are of good quality, but not all.

In response to a rating scale, 2 of the Judges said they were ‘very satisfied’ with the quality of information provided by DCF, 5 of the Judges said they were ‘satisfied’ with the quality of information from DCF, and 3 Judges said they were only ‘somewhat satisfied.’ Several Judges felt that DCF workers “don’t investigate enough to get good information,” that DCF workers write up the reports to get them done, or that sometimes the conclusions “are off” (e.g., DCF workers may propose guardians who have had their own children taken away in the past). In complex cases, there is sometimes conflicting information in the report, and when the workers don’t show up at the hearings to answer questions, it makes decision-making difficult. In at least one court, there is such a large turnover of workers that a case may have 3 or 4 workers, and be transferred between DCF offices, before it is closed. Incorrect terminology in reports was another quality issue for a Judge.

### C. Sufficiency

A similar question asked whether the reports provide the Judges with the information necessary for decision-making. The range of responses was again between “yes” and “not entirely,” with the majority feeling that reports are generally comprehensive. Three Judges said that the information they receive from DCF is ‘almost always’ what they need in order to feel comfortable making decisions. Seven others said that the information is ‘usually’ sufficient. In general, the Judges expressed frustration at the standardized, “generic” format of DCF reports. Most wanted more information than what is currently provided. Although the reports provide a lot of factual information, Judges said they sometimes lack information on specifics. One Judge described the danger of the reports as “bureaucratic tendency”—they are not unique enough to provide adequate information particular to a certain child and his/her situation. Another said that while some reports are in-depth and discuss appropriate issues, many “just change the names and dates.” Judges appreciate the concerns that DCF flags, and the assessments of the proposed guardians and their situations, but would like more reporting on the parents, the reasons for the removal, efforts to locate fathers, details on the current living circumstances, and specifics on emotional support for the children.

The Judges were asked about the information received from DCF for Temporary Custody hearings. While many were satisfied with both the format of these reports (verbal or written) and the quality, others felt like “this is where the decisions are made” and would prefer a better investigative report earlier. All Judges want information about “where the child is right now,” but they also want information on the proposed guardians and the issues leading up to the removal of the parents. A home visit is expected by all Judges, although it appears that this does not consistently occur in all courts.

In response to questions about the type of information received from DCF for Removal hearings, the Judges’ remarks were more congruent. Many felt that the information for Removal hearings is sufficient. However, a few Judges felt that in many of these hearings, the result is obvious. Described as “no brainers,” many removal hearings are consensual, attended by a sole parent wanting to “make official” an existing, satisfactory situation. This supports the desire of many Judges to have more information provided at earlier hearings, with the option to request further information, if needed, for the Removal hearing. One suggestion was that DCF develop a checklist that would allow the courts to check off what information they need. This system, of allowing the courts to tailor requests based on need, could save a lot of work for DCF. Other Judges described the information provided for Removal hearings as “top heavy” with facts about the parents’ childhood, but “weak” in assessing family resources and alternate guardians.

### D. Suggestions for Improvements in DCF

The Judges offered several suggestions for improvements in DCF.

- Almost all Judges would like DCF to provide more services to guardians and children, as they do for families in Superior Court. Children need after school programs, grandparents need financial as well as emotional support, and families need support groups. Suggestions included more interplay of resources between Probate and Superior Courts, and using a court services officer like Superior Court to coordinate services.
- Judges are disappointed that once a worker closes a case, there is absolutely no follow up with the family or child. They would like DCF to be available to assist and monitor guardians after their appointment to ensure that the transition of care for the child is smooth, and to help the guardians, most of whom are grandparents, secure benefits,

medical care, and educational resources (“all things that are somewhat alien to those out of the parenting business”).

- DCF management needs improvement so it can hire more staff, who can attend hearings and be available to answer questions when reports are faxed immediately prior to hearings; manage districts better so that cases don’t “get bounced from office to office” within the region; and if possible, assign permanent workers to Probate Courts. The problem of timeliness definitely needs attention, as it causes cases to drag on while the courts wait for information from DCF.
- The choices for “good guardians” are limited. If the guardians that seem available are not reliable, then DCF ought to make diligent efforts to find other guardians. In one Judge’s opinion, the “great failure of the system is its inability to deal with disasters.”
- Judges want a better rapport with DCF. They wonder if DCF appreciates the informality of the courts and “what a good system this could be” with proper information and communication.
- One simple suggestion was for Terminations and Adoptions to be separate reports.

### III. Services for Guardians and Children

#### A. Quantification of Need

When asked what percentage of petitioning guardians need some social services, almost all the Judges’ responses ranged from 70 to 90%. One Judge said almost all need services, and two felt that at least 50% need services.

As for the percentage of children needing some social or mental health services, most Judges responded that between 50 and 90% of children need services. Two Judges said almost all children need services—“it’s rare when they don’t,” and one felt that about 25% of children need services. The percentage of children needing services is even higher than the guardians’ estimate because many exhibit conflict, uncertainty, and insecurity.

#### B. Kinds of Services Needed

The kinds of services needed include the following: financial; counseling, including grief and behavioral counseling for children, counseling to rehabilitate the relationship between parents and children, and bilingual counseling; psychiatric services; addiction and substance abuse services for the removed parents as well as information about drug related diseases for other family members so they know how to work with it; support for siblings of mixed families; activities for the children after school, during summers and vacations, and the financial means to pay for these activities; respite for caregivers; assistance with housing; employment-related services; access to medical systems; family violence services; parenting classes; anger management; advocacy for educational benefits; and supervised visitation services.

#### C. Available Resources

All the Judges felt that the resources available in the community to meet the needs of these families and children were limited. Most were able to name different church, school, social service, nonprofit (e.g., Salvation Army, Family and Children’s Aid), hospital or office programs, and certain counseling clinics. One Judge pointed out that the Youth Services division of the Social Services Department serves 3 towns, each with about 25,000 people, and that due to aging town populations, the youth services are severely understaffed and in need of more

resources. Although resources exist, the problem is often accessing them. In addition, the extent of services was mentioned as problematic: Wait lists and fees often discourage families. Although there are social service agencies, they do not necessarily offer the types and quality of activities that are needed. Judges admitted to referring cases occasionally to Juvenile Court because there is more money available for families to receive services for free, whereas there is a “severe deficiency of services” in the Probate Courts.

#### D. Links to Services

All of the Judges were discouraged by how families are linked to services. There is no one particularly assigned to this function. A few felt that DCF workers are very helpful in reaching out to families after a hearing. Others mentioned schools as a possible referral point, and in some instances, families already know what is available. Many Judges hope that DCF or court-appointed attorneys tell families about services, but are not sure that they do. The courts too try to provide families with information and “point them in the right direction,” but keeping up with changing programs and their availability is difficult and time consuming. Judges may recommend services (sometimes in their decrees) and ask for a report back on the family’s progress; in this way, status conferences enable the courts to keep track of the families. Most Judges mentioned how they themselves get involved with referrals, try to stay aware of community resources so that they can offer suggestions to families or attorneys during hearings, or ask the court clerks to post notices on bulletin boards for families to read. Maintaining a resource file, using CASA volunteers to link families with services, and promoting the Grandparents grant of \$250 were other strategies employed by Judges.

#### IV. Use of Volunteers

Most Judges thought the use of volunteers is a great idea, as long as they are properly trained in children’s matters. All the courts use, in some capacity, court appointed GALs and attorneys who get paid a limited stipend. In contested cases, Judges rely on GALs to further research the best interests of the child and offer an additional perspective to complement, but not replace, DCF recommendations. For some courts however, finding attorneys willing to take on Probate work is a challenge. In the opinion of one Judge, even “hired” attorneys are volunteers as they only receive \$25/hour as compared with at least \$175/hour for non-probate cases.

The three largest courts of Hartford, Bridgeport and New Haven seem to have the most experience with volunteers, especially CASA. In smaller courts, Judges rely on volunteers who are community members with some educated background, knowledge of children’s matters, or who are retired attorneys. Using non-attorney volunteers is a critical tool that helps these smaller courts cut costs. Two Judges said that they had a difficult time organizing volunteers, and that the process of training is too bureaucratic. For instance, a program may start out with a fairly large number like 40 volunteers, but by the time they complete 27 hours of required training, there are much fewer remaining, perhaps only 18 or so.

#### V. Additional Comments

Most Judges contributed additional comments at the end of the interview:

- Many of the Judges stressed how well Probate Courts respond to applications and turn cases around. They described again how the courts are local, family friendly, and

personal—a tremendous forum in which to resolve family matters. The system for petitioners is very helpful, and in general, the Probate Courts do well by families, especially when trying to convince parents that they and their children may be better off if they spent some time apart. Attorneys too are well versed and helpful in talking with their clients, so that the system is viewed by all parties as an integrated process, not a win/lose situation.

- Improvements could be made to the Probate Court system. One Judge suggested that it could be made better if the services of the Superior Court were superimposed on it. At least two Judges felt that the courts needed their own investigative branch with investigators and resources similar to Superior Court (which has non-legal staff trained in family violence, family relations, victims advocacy, and social work). A better referral system, using structured relationships, was another suggestion. Courts need the ability to order services for families. There ought to be more money available to compensate attorneys. Additionally, the terms of ‘removal’ and ‘termination’ are often confused, and it would be an improvement to somehow distinguish these better.
- Three Judges spoke of consolidating the Probate Court system. Children’s matters are special cases, and hearing these matters is the least likely function of a large percentage of courts. As such, it is impossible to have staff and a Judge remain knowledgeable about services and agencies when they may only have one case per year. In these courts, it becomes difficult to do naturally a “mental triage” and avoid making “simple things hard.” Once the Probate Courts start to interfere more than necessary in people’s lives, they will lose justification for their existence. One Judge, in 1/3 of cases, waives a full study by DCF and respects the family’s decision. In another 1/3 of cases, he needs all the information from DCF, and in another 1/3 of cases, he finds a “blend of easy and hard” issues. The future of the Probate Court system could be comprised of a cadre of highly trained, active, experienced Judges who were focused on children’s matters. Even a study conducted by Superior Court, according to one Judge, determined that Judges were more effective in decision making when their rotation was extended from 6 months to two years. Creating proper facilities, for a fewer number of courts, may be a better system, and since small communities already are often dependent on larger surrounding towns for services, consolidating the courts would only help reform the system.
- Several Judges reiterated previously discussed problems with DCF. Some wish DCF would be quicker to act in Probate Court matters, but feel that the workers and supervisors appointed to them are the least experienced in the agency. Large caseload size was another explanation for why workers are needing more time to produce information that Judges would like sooner. Working without DCF recommendations was equated by one Judge to “working in the dark,” and another felt that DCF “doesn’t always see the entire picture.” Efforts to recruit responsible guardians could be improved. Judges wish that DCF could have a stronger role in monitoring cases once they are adjudicated. Perhaps the Probate Courts, DCF, or an independent agency could review closed cases annually just to check in on the children for the purpose of answering questions like: Where are they? How are their grades in school? How do they look? Although the Probate Courts are supposed to receive an annual report from guardians, the process doesn’t really work, according to some Judges. The assignment of permanent DCF workers to Probate Courts was also suggested as a means to improve communication and operations.

## Data Analysis by Group

### Findings from Interviews with Probate Court Administrative Personnel

The following information is from 16 administrative staff of the ten sample courts: New Haven (2 clerks), Newington (1 clerk), Danbury (1 clerk), Bridgeport (3 clerks and 1 staff attorney), New London (1 clerk), Hartford (2 clerks and 1 staff attorney), Meriden (1 clerk), Killingly (1 clerk), and Stamford (2 clerks). Although the Probate Court in Washington was also visited during this time frame, there was no clerk to interview. The Judge said that the part-time clerk, who is only in the court 2 days/week, really doesn't work with guardianship cases, and that the Judge handles everything related to these children's matters. Another note regards the number of responses to particular questions. In larger courts, like Hartford and Bridgeport, the clerical duties are divided such that not every interviewee is in the position to comment on all aspects of the Probate Court process. Therefore, some of the categories below may not have an n=16.

The range of experience of Probate Court administrative staff is extensive, from 42 years to 1/2 year. The average is 9 years of experience; the mean is 7.5 years. Several clerical staff started in the courts at a different level and were promoted to Assistant Clerk or Clerk.

#### I. The Probate Court

##### A. Positive Aspects

The administrative personnel of the courts were asked about positive aspects of the Probate Court process. Many expressed a genuine admiration for the Probate Court system, with one clerk describing herself as "lover of the Probate Court system throughout the state." Staff said that the courts are user-friendly, accessible, informal, and efficient in that families receive hearings in a shorter amount of time than they would in another court. Probate Court Judges are able to discern what the family needs are and encourage the families to find solutions. Some Judges were described as non-judgmental, with a wonderful ability to offer individual attention, understand where families are coming from and make people feel comfortable. The courts also try to give immediate attention to problems (e.g., Immediate Temporary Custody cases and Temporary Guardianships). People can walk in the door, most of whom are already in trouble, and find people who will do what they can to ensure a child's safety.

Clerks are very knowledgeable about the process and help guide the families through the process, either offering an appointment to come in with the application packet or assisting immediately. They have a "genuine ability to help the public figure out what needs to be done." One said they feel less constrained by the bureaucracy in their ability to help direct families to resources. In Hartford, they have at least 4 bilingual staff so they are able to meet the needs of the families and translate documents for them. One clerk described the forms as confusing legal jargon, and said that they try to "handle people with a little TLC."

Other positive aspects of the courts included the pool of attorneys, which is very good, given the little amount of money they receive for Probate Court cases. DCF workers are genuinely concerned for the children, and considering their workload, one staff attorney said that she admires what they offer the courts and the families. When DCF workers are consistently assigned to the same court, staff appreciated this, as well as when workers attend hearings.

Another clerk said that the quality of DCF reports, with the standardized format, has improved and that the format has contributed to more focused reports.

#### B. Aspects Needing Improvement

As far as aspects of the Probate Court that need improvement, many responses compared with those of the Judges. Answers were as follows:

- Clerks expressed a frustration with the system. One clerk said that in theory the courts are a good plan, but in practice “they’re dysfunctional...it’s all a big mess.” If everyone consents to an arrangement, the system should be less bureaucratic and make it easier to finalize family systems of care that have already been informally established. A staff attorney described the system as “impoverished”: There are no resources and no services for families, and this deficit is a huge hindrance to the effectiveness of the Probate Courts. Whether it is a resident social worker, or some function of DCF, staff feel that somewhere in the system there should be someone with the responsibility of helping families find and receive services. One staff attorney said that there is little difference between some of the children in Probate Court and the children in Juvenile Court, just that the Probate Court ones are lucky to have family. That said, they still have issues, but aren’t eligible for services from DCF, as they would be if they were in another court. Due to the absence of follow up, one clerk said that many probate cases should really be heard in Juvenile Court so there could be oversight of children.
- There is misunderstanding about the Probate Courts. When people are misdirected to the courts, the staff have to redirect them elsewhere. Even in the Probate Court, there is not a clear framework of which applications to accept. For instance, one clerk said that if a Juvenile Court case is closed, they may send the case file to Probate Court. Should it then become a Probate Court case?
- Judges need training. One staff member complained that the Judge isn’t as familiar with court processes and procedures as he should be. Although the Judge tries to be creative, by proposing solutions that are beyond the control of the Probate Court, many problems arise. The Judge seems to lack understanding and appreciation of the regulatory procedures of DCF, and despite sound motivations, his orders aren’t always tenable.
- DCF reports are late and lacking in-depth information. The majority complained that reports are late, sometimes exceeding the 90 day limit required for a Removal hearing. Reports for Temporary Custody hearings, which should be done within 30 days, can take up to 40 days, and some courts wait 5-6 months for a Removal study. The constant follow-up with DCF is time-consuming and frustrating. Some clerks also complained about the quality of information provided. They felt that more information should be offered regarding fathers and the situations that lead to children being in another person’s custody. DCF recommendations were described as “wishy washy” when none were offered, or when ambivalent ones were suggested such as “develop rapport with father.”
- There is a lack of suitable lawyers to assist on cases. Some attorneys only produce a verbal report, and others will simply call the DCF worker to find out the facts.
- A lot of money and time is wasted on public announcements. Probate Administration may spend up to \$100 for announcements just on one case, and it costs even more to publish in other countries. The time it takes to publish these announcements can add weeks to the process.

- There should be a sliding scale for court fees. Family members shouldn't be penalized if they are working—by having to pay \$150 per temporary custody application and \$150 per removal, and more money if there are additional children. Fees are waived only if family members qualify.
- A lot of people are approved for fee waivers, which makes it easy for them after filling out an application and having hearings set, to change their mind and withdraw. One staff member wondered if there would be a better way to screen families who apply.
- Only half of the system is computerized, and it would be helpful to have all the files in the computer. Searching by party name, not just the child's name, would be useful.
- One clerk admitted that her backlog of work causes the adjudicative process to be untimely.

### C. Timeliness of Adjudication of Cases

When asked if adjudication of minor guardianship cases occurs in a timely fashion, most answered affirmatively. One of the most significant barriers to the process being more timely is that DCF workers are often late with reports, which holds up the process immensely. One clerk said that 9 times out of 10 the reports are late, and clerks may send up to 5 requests for one report, only to receive excuses from both the worker and the supervisor. In some courts, if the DCF workers' reports are not thorough enough on a particularly tough case, or more information is desired, the Judge will continue a hearing until he receives supplemental reports such as parole or psychiatric reports, which then adds time to the process. Another barrier mentioned was that parents may not always cooperate with DCF or come to court when expected. Attorneys too can hold up the process. Another challenge to the timeliness of the system is finding out the location of some parents, in order to send notices. This process becomes particularly lengthy when parents live outside the U.S. or have moved. One clerk acknowledged that it is due to her workload that delays the adjudicative process.

## II. DCF Reports

### A. Timeliness

In response to a question about satisfaction with the timeliness of DCF reports, two staff members had no opinion. Of the other 14 responses, 3 (21%) said they were very satisfied, 2 (14%) said they were satisfied, 7 (50%) were only somewhat satisfied, and 1 (7%) was not very satisfied. Another said she was satisfied with the timeliness of full studies, but not very satisfied with the timeliness of Temporary Custody reports. Staff in some courts said that the average time to receive a report can be anywhere from 6 months to one year. However, it seems that timeliness varies across courts and by reports: Temporary Custody reports in some courts are very timely, although Removal studies are slow, while in other courts, the reverse is true. Timeliness also depends on the DCF worker: Some produce reports on time and in advance; with others, the court may be "begging for [the report] the day of" the hearing, and a few workers always have many excuses as to why their reports are unfinished. Staff expressed frustration that they have to send multiple requests for reports.

### B. Quality

When asked about satisfaction with the quality of DCF reports, one staff member had no opinion. Of the remaining 15 responses, one was very satisfied with only the full studies, but not

very satisfied with the quality of Temporary Custody reports. One clerk (7%) was very satisfied with all reports, nine people (60%) were satisfied, and four (27%) were somewhat satisfied. Positive comments referred to the reports as clear, substantial, and as providing insights for parties to ask further questions. Thoroughness was an issue that was raised, especially regarding information about child support, efforts to locate fathers, and grammatical or typographical errors. Some reports were described as “half-hearted” that are not as in-depth as they could be and that overlook important factors in the child’s life. Reports that are vague permit the workers to avoid offering definite opinions. Although the studies follow a template for background details, staff felt that these can be repetitive and provided at the expense of further investigation and more detailed recommendations. A staff attorney felt that the court could do with less background information on the guardians’ childhood experiences, but would benefit from more information about other household members in the proposed guardian’s home and about those providing child care. In courts with low turnover of DCF workers, the quality of reports was better, as well as the rapport between DCF and the courts.

### C. Sufficiency

Court staff were also questioned about how well the court’s need for information is met by DCF. One person had no comment while 80% of respondents (12) said that almost always, the Judge has what he/she needs to make adequate decisions. Thirteen percent (2) said that the Judge usually has what is needed for decision-making, and one said that for Removal hearings, the Judge usually has what he needs, but often does not have the proper information for Temporary Custody hearings. A few staff felt that it is the information for Temporary Custody hearings that is too general and lacks depth, especially about all the members of the family. However, another felt that at least the reports provide good background details, which the Judge cannot readily uncover. While certain workers are excellent in providing the right information, others may state that they can’t make a recommendation because of a circumstance that they haven’t investigated fully, or because they have not “scouted around” enough to find an appropriate kin guardian. If there is evidence of prior criminal problems, a DCF worker may not be able to make a recommendation, but helps the Judge in his decision-making by using the terms “no objection to the appointment of guardian.”

### D. Suggestions for Improvements in DCF

Most Probate Court administrative staff had numerous suggestions for improvements in DCF:

- Improve the timeliness of reports. One idea was for the Probate Court to mail the applications to DCF on a daily basis instead of waiting until Fridays to mail them in bulk. Another clerk said that she would like DCF to consistently send reports 5 days prior to hearings so that they do not have to beg for written reports right before the hearings.
- Attend hearings, at least occasionally, and especially for initial hearings where they can spend time with the families and initiate the process right there at Probate Court. In a few of the courts studied, DCF workers do not attend hearings unless they are very involved, and for Temporary Custody hearings, they may offer only a verbal report.
- Improve the quality of reports: Change improper wording on paperwork; expand more on what removed parents need to do in order to regain custody; pay more attention to details and follow through on them; take initiative on facts presented and try to explore them; and change the format of reports so they are less repetitive and less standardized.

- Reduce worker turnover.
- Have the local DCF office maintain follow-up responsibilities on cases so that clerks do not have to be calling different offices to find out where the case has been transferred.
- Inform the court of address changes, and include the names and addresses of all parties on all forms for the courts.
- Even if CIP/CASA volunteers are utilized in cases, they should not replace DCF as the primary gatekeeper and responsible social service agency.
- Provide more services to families and children, and help with resource referrals, especially for grandparents. In addition, one clerk said that DCF should provide funding and services equitably, so that a grandmother who offers to take care of three children, for instance, might get some financial support, as would a foster parent or guardian. Another clerk would like DCF to help parents pay for parenting classes and psychological services which if the court orders, have to be paid for out of the parents' pocket.
- Provide funding for psychological evaluations when necessary, especially in cases where a parent wants to be reinstated.
- Allow more than one person at DCF to have knowledge about a case so that in a worker's absence, a supervisor or another caseworker will be able to fill in with some knowledge.
- Transfer cases that require extensive services to Juvenile Court.

### III. Services for Guardians and Children

#### A. Quantification of Need

When asked what percentage of petitioning guardians need some social services, about two-thirds of all staff responses ranged from 70 to 95 %, and the other third of responses suggested that between 25 and 50% need services.

As for the percentage of children needing some social or mental health services, almost all court staff responded that between 50% and 95% of children need services. One clerk thought that only 20% of children need services and another had no opinion because she doesn't see the children.

#### B. Kinds of Services Needed

The kinds of services needed include the following: financial assistance for guardians; youth groups for teens; after school and activity day trips; camps; mentoring programs like Big Brother/Big Sister; counseling for children, parents, and the family unit; programs like "Babies having babies" for teen mothers; housing and medical (HUSKY) applications and awareness of services; some type of service resource/referral center; tutoring; parenting classes; social security benefits if parents are deceased; furniture vouchers (e.g., for beds, cribs); grandparent support groups; respite care; educational information including special education and enrollment help; legal assistance; alcohol and drug abuse counseling; day care for grandparents who work; and supervised visitation services.

#### C. Available Resources

All the administrative staff interviewed felt that the resources available in the community to meet the needs of these families and children were limited. Some said they just didn't know about resources, while others could name church programs like Catholic Charities, Salvation

Army programs and meetings (such as Parents the Second Time Around), United Services, the Child Guidance Center, the children's health information line, drug abuse/prevention programs, grief support for children, grandparents groups and programs, town social services, schools, and other psychiatric treatment clinics.

#### D. Links to Services

The issue of how families are linked to services is a source of disappointment for court staff as they admitted that needs are not met through the courts. Some did not know how families find out about services. Others said that 'good' DCF workers made referrals, children's attorneys helped families secure resources, CIP/CASA workers are instrumental in helping link families to resources, and the Department of Social Services provides information. Some of the clerks hand out pamphlets, make referrals over the phone, and direct families to Legal Aid and Social Services. Some thought that schools and churches help link families to services.

#### IV. Use of Volunteers

In the courts where there are no volunteers, staff said that they use paid attorneys from the Probate Administration list, which is like volunteer work given the rates of compensation (and in fact, one clerk said that some attorneys don't even file the papers because the pay is so little). Others said that their courts use CIP/CASA workers, who are like another eye for the court, and help for about 6 months after a case is closed to match children and families to resources. In the case of one smaller court, which has great difficulty finding attorneys to work on probate cases, they appoint a GAL who, 90% of the time, is within the child's family. In general, staff said that the use of volunteers is helpful for the court and beneficial for the minor children and their parents. DCF workers can be "trained to look at things one way" and "they seem like robots", whereas volunteers provide a fresh perspective. Given the limitations and requirements of DCF, having additional people on a case can only help. A few courts were mentioned as having great volunteers, and providing a wonderful resource and avenue for people to volunteer from the suburbs. Proper training of volunteers, staff felt, is very important.

#### V. Additional comments

About two-thirds of administrative staff interviewed offered additional comments.

- Many reiterated their sentiments that the Probate Courts work well, that they operate in a timely fashion, that they have staff who really try to listen to families and explain their options, and that they offer people a caring, intimate setting where individuals can walk in and receive immediate personal assistance.
- Three clerks (almost 20%) felt frustrated that no one provided follow up on families after their cases were closed, so there was neither a way to find out if the decision made by the Judge was proper, nor a way to ensure the safety of children after a decision was made, short of the case coming back before the court. Of particular concern were those families challenged with mental illness, neglect or substance abuse. Although the guardian, each year until the child turns 18, is supposed to send in a report regarding the child's status, most families lose the paperwork, and no one keeps in contact with them. Although the Probate Courts have good intent, they are not organized enough to be effective, at least in the arena of follow-up. The Probate Courts do not have enough staff or time to monitor

closed cases, and DCF also cannot monitor a family, even if they suspect them, once the case is closed. Some said that their understanding of the Probate Courts was that they were set up for routine hearings and that difficult cases did not belong in Probate Courts.

- Several clerks discussed the inequities between Probate Court cases and other courts' cases. First, they were upset by the lack of services available to Probate Court families. They also mentioned the inequity of paying foster care parents so much money while not subsidizing kin guardians at all. Even if it is in the best interest of a child to stay with the grandmother, if she cannot afford to keep the child, she may resign as guardian. One clerk asked: "Can you imagine if middle class women have problems what it must be for lower class grandmothers?"
- Several comments focused on educational issues. One staff attorney would like the Judge to attend seminars and trainings regarding court procedures and boundaries, and another felt it would be useful to educate families about Removal hearings (and the fact that the decision had to be reversed with another hearing). DCF workers too could benefit from a better understanding of the different terms used by the courts, since even after an in-house training, they still used the wrong study titles. Finally, staff thought that DCF ought to educate the courts as well as their workers about who can and who cannot read DCF reports.
- Regarding DCF, a few staff suggested that DCF workers take responsibility for referring families to available services in the community. Another was sympathetic to the burnout and caseload of workers, and recognized these as reasons for the high turnover both of social workers and program supervisors.

Other comments about the court system consisted of the following: wanting to check if there are outstanding orders in another court; wanting to increase the amount of time for hearings, but decrease the turnaround time on cases; and making families aware that the courts scrutinize the assets of a petitioner if an attorney is automatically assigned to a child.

## Data Analysis by Group

### Findings from Interviews with Probate Court Attorneys

The following information was gathered from phone interviews with 16 attorneys around the state. Each court clerk was asked to provide a list of frequently called attorneys in minor guardianship matters, and calls were then made randomly to attorneys on the lists. Efforts were taken to interview three attorneys in each of the largest courts (New Haven, Bridgeport, and Hartford), and to interview at least one attorney from all other court districts.<sup>3</sup>

Almost all attorneys interviewed worked on all types of cases heard in the Probate Courts, from conservatorships and estates to minor guardianship matters and adoptions. The average amount of time that attorneys have worked on these cases was almost 7 years, with the least amount of time being one-half year and the most experienced attorney having served for 18 years. The mean of their experience was 8 years.

#### I. The Probate Court

##### A. Positive Aspects

The attorneys had several comments regarding positive aspects of the Probate Court process. All of them felt that the Probate Courts handle their cases well by appointing attorneys for minor children, ordering investigations, considering as many opinions as possible, and most importantly, by getting “right down to the issues that matter most.” Attorneys felt that the courts operate in an informal setting, are accessible and available, and have staff who can explain the court process. The courts offer an immediate response to children’s matters, and this response is governed by a high level of concern for minors and their family relations. Many commented that Probate Judges are excellent, knowledgeable about the statutes, and apply the law well. A few attorneys appreciated the convenient and organized manner in which hearings are scheduled: Clerks make sure attorneys are available for when hearings are scheduled, and they do their best to schedule multiple hearings with the same attorney on one day. Attorneys contrasted Probate Court with Superior Court where some feel that issues get buried under a “procedural dance” that masks real issues for children. Some attorneys qualified their remarks by stating that their opinions were dependent on the specific Judges of each Probate Court, suggesting variances in the quality of services across the state.

##### B. Aspects Needing Improvement

The limitations on jurisdiction and the lack of resources of the Probate Court were a source of frustration and concern of most attorneys. Several in fact felt that more cases ought to be transferred to Superior Court in order to be handled properly. In the words of one attorney, “There is a tension between what Probate Courts can provide and what Probate Administration wants...Probate Administration needs to figure out what they want to do.” Without monies for psychological evaluations or transcripts, for example, contested matters in particular may be best served in Superior Court. The transfer statute was troubling to one attorney who felt that all family matters should be heard in one court (e.g., if a Termination of Parental Rights occurred in

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<sup>3</sup> No attorneys from the Washington Probate Court were interviewed due to the infrequency of guardianship cases and the lack or unavailability of consistently-used attorneys.

Juvenile Court, and then the case for Adoption was sent back to Probate Court, the case was being shortchanged by a lack of continuity). Of course, some attorneys would like more services offered through Probate Court, as opposed to sending more cases over to Superior Court. In the words of one attorney, “Probate Court Guardians are as worthy [of services] as those in Juvenile Court.” In either case however, it is clear that in the opinion of attorneys, the Probate Courts need to decide what types of cases they want to handle and then be prepared to serve them well.

Some attorneys wished that notices about hearings and appointments were delivered in a more timely fashion. Two to three day notices of hearings, for example, are so short that it forces attorneys to meet their clients right before the hearing, rather than in advance, and to work weekends (e.g., when they receive a call on Friday for a hearing on Monday or Tuesday). Thus, the expeditiousness of the courts is a benefit to families on one hand but a challenge to attorneys on the other. A related issue is the part-time schedule of many Judges which contributes to difficulties in scheduling hearings.

Several complained that the reimbursement rates for appointments are so low that it is “essentially volunteer work” and the reason that many attorneys, once their practice gets busier, don’t consider Probate cases. In addition to the low rates, at least one attorney said that the bureaucracy “nickel and dimes you.” Thus, although GAL appointments provide great benefits to the system, it is hard to find qualified attorneys to fill this role.

Another concern related to the experience of Probate Judges. Judges who are not attorneys have a more difficult time making legal decisions, and although they “handle it well” by asking for help, they simply do not understand law. One attorney felt that the standard for removing children from a parent was too low in a particular court, and that guardianship is sometimes too readily transferred in ex parte situations.

Other points concerned DCF. Attorneys felt that DCF took the Probate Court process less seriously than that of Juvenile Court so that reports were less timely and sometimes missing, attendance at hearings was less likely, and communication between DCF workers and attorneys prior to hearings was poor. Overall, there seemed to be an attitude of greater dislike toward the Probate Courts, or at least a minimal sense of accountability. Related to the tardiness of DCF reports, attorneys expressed frustration at not receiving copies of these reports, or at the very least, having the opportunity to read the reports before the hearings. Without information and recommendations from DCF, their job becomes much more difficult.

One attorney commented that people aren’t aware of the Probate Courts and their jurisdiction, and another said that the statutes for guardianship matters are outdated.

### C. Timeliness of Adjudication of Cases

When asked if adjudication of minor guardianship cases occurs in a timely fashion, all but two attorneys said yes (88%), considering what is involved, statutory limits, and the time-consuming nature of these cases. In addition, the courts address emergency matters efficiently with emergency hearings. Barriers to handling cases in a more timely fashion include continuances while waiting for DCF reports<sup>4</sup>, the transferring of cases, other delays in the hopes that stability within families will occur, contacting parties for interviews, and clients’ lack of understanding about the Probate Court process which prevents them from following through.

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<sup>4</sup> While the majority of attorneys cited DCF reports as the primary holdup of timely adjudicative processes, they also seemed sympathetic to DCF caseload burden and staffing issues.

## II. DCF Reports

While the majority of attorneys were dissatisfied with the timeliness of DCF reports, they were satisfied with the quality of DCF reports.

### A. Timeliness

In response to a question about satisfaction with the timeliness of DCF reports, 1 attorney (6%) was very satisfied, 2 (13%) were satisfied, 6 (37%) were somewhat satisfied, and 7 (44%) were not very satisfied. Those who were satisfied said that DCF workers did the best they could given their workload.

### B. Quality

As for the quality of DCF reports, 6 attorneys (37%) said they were very satisfied, 4 (25%) said they were satisfied, and 6 (37%) said they were somewhat satisfied. Many stated that the quality is variable depending on the worker and the court. Compared to Juvenile Court, the quality is lower in the Probate Courts. Other comments about the quality of DCF reports included the following: sometimes impressions are mixed with facts; the standardized computer reports permit simple answers without expansion (e.g., does the minor go to the guardian for comfort?); more details on family resources, existing support services for parents, and children's psychological needs are desired; and it is always appreciated when workers write reports so the reader can understand how they arrived at their conclusions.

### C. Sufficiency

Related to quality was the issue about whether DCF reports provide the court with the necessary information for decision making. Sixty-nine percent of attorneys said that DCF reports do indeed provide the critical information. The remainder had mixed feelings, commenting that while factual information was provided, reports lacked commentary on the interaction between guardians and children, and in addition, they sometimes lacked objectivity. Occasionally, recommendations could not be made either because DCF workers had not met all the necessary parties or completed collateral checks. In response to a question about how often Judges have all the information needed to make adequate decisions regarding the guardianship of minors, 7 attorneys (44%) said almost always, 5 (31%) said usually, and only 4 (25%) said sometimes.

### D. Suggestions for Improvements in DCF

Most attorneys offered some suggestions for improvements in DCF. The majority of comments pertained to improving the timeliness and quality of reports. Attorneys want workers to explain how they arrive at conclusions, and to delve deeper into certain issues, such as allegations of abuse and neglect. Another important issue for some attorneys was the objectivity of DCF workers—occasionally it was evident when they took sides instead of remaining impartial. Some attorneys noted that workers err on the side of removal because they are concerned with making the wrong recommendation. A disappointment for attorneys was the lack of service provision from DCF for probate families. Although probate unit social workers are not treatment workers, the need for treatment services is great. Attorneys, although cognizant of confidentiality issues, also want to receive a mailed or faxed copy of the report prior to the hearing.

Other suggestions for DCF included finalizing criminal and other pending checks prior to submitting the report so that recommendations could be offered; focusing less attention on unsubstantiated hotline tips (i.e., not taking everything that people say at face value); having supervisors, who fill in for workers at hearings, be informed; decreasing turnover; increasing staff to lessen workload burden; training; increasing the priority given to Probate Court cases; permanently assign some workers to Probate Units.

### III. Services for Guardians and Children

#### A. Quantification of Need

When asked what percentage of petitioning guardians need some social services, one-quarter of attorneys (4) interviewed said that 90% or more needed assistance. Half of attorneys (8) said that between 50 and 75% of proposed guardians needed some type of service, and only two attorneys, or one-eighth the sample, said 25% or under needed assistance. Two attorneys had no comment.

As for the percentage of children needing some social or mental health services, almost one-third of the attorneys interviewed (31%, or 5) felt that 99% or all children needed services. Half of attorneys (8) said that between 50 and 80% of children needed some services, and only one attorney felt that 25% of children needed assistance. Two attorneys had no comment.

#### B. Kinds of Services Needed

The kinds of services needed include the following: financial assistance; subsistence programs (e.g., Food Stamps); both individual and family psychological counseling; psychological evaluations; medical, dental and health care; housing and Section 8; parenting education; in-home services that focus, for example, on household skills; sexual assault and domestic violence counseling; substance abuse evaluations, monitoring, and treatment; personal development counseling; job assistance; supervised visitations; aides to assist in child's transition with new guardian, as well as guardian's interaction with biological parents; education and awareness about programs and services (e.g., HUSKY); assistance with learning disabilities; day care; extracurricular activities and summer camps; respite care; legal services for petitioners; and assistance for removed parents to help them understand their own problems and the meaning of transferred guardianship.

#### C. Available Resources

Not all attorneys knew what the resources available in the community were, although many could list a number of services available, such as those of churches, private institutions, counseling clinics, and Husky. One attorney mentioned the Probate Court grant. About half of the attorneys interviewed felt that there were a sufficient number of services in their community, but that usage problems related to awareness, access, and follow through since participation is strictly voluntary through the Probate Courts. For example, one attorney commented that HUSKY offered several free services, but families had to find out about them in order to use them. The other half of attorneys interviewed felt that there were insufficient community resources, that there was great need for expanded and new services, that the existing services were overburdened and had long wait lists, and that they operated currently on a triage basis.

#### D. Links to Services

When asked how families are linked to services, almost all attorneys said that DCF helps at least in identifying service needs and resources. The Department of Social Services (DSS) was mentioned by three attorneys as a key supplemental agency which refers families and monitors services. Over one-quarter of attorneys interviewed said that attorneys help with linking families to services. Other mechanisms involve the schools, the Probate Courts, and the families themselves who either know about existing services or know enough to ask questions.

#### IV. Use of Volunteers

Almost one-third of attorneys interviewed (5) had not worked on cases where the court assigned a volunteer like a GAL or CASA worker. Among those who had experience with volunteers, six attorneys had positive opinions about the volunteers' role, stating that they were necessary, effective and important, and that they increased the quality of the cases and the thoroughness of investigations. Two attorneys were opposed to volunteers in the Probate Courts, saying that they were "dangerous" because they had their own mindset and social biases, and "completely ineffective" because they were unprofessional and part of the CIP program, which suffers from many internal problems. Another three attorneys had mixed feelings, citing inconsistent abilities and biases as cause for concern, as well as accountability issues ("at least DCF is an arm of the state"). They felt that assigning two volunteers to one case was excessive and counterproductive, and that often, volunteers made emotional decisions rather than legal ones which causes a lot of controversy and "makes a mess that attorneys have to clear up". However, if trained and supervised well, volunteers could be a valuable asset to the courts, and a helpful mediator between parents and custodians.

#### V. Additional comments

When asked for additional comments, 69% of attorneys (11) had further thoughts to share. Many restated their admiration for the Probate Court system: The courts are supportive of attorneys; the process works well and is exciting and rewarding; Judges are quick to appoint GALs when they see the need; and the courts continue to serve as a helpful, informal, well-managed setting that facilitates quick, effective resolutions. The Judges, clerks and staff are respectful of families, and they display a genuine concern and sincerity toward them as they work together to reach consensus in a less intrusive way than Superior Court. One attorney had heard of Probate Administration hiring a social worker to oversee issues, and thought it was a great idea. Another was concerned that merging the courts would lead to cases being handled in a less thorough, less courteous and less caring manner.

A major limitation of the Probate Courts is that they are receiving more cases in need of services, so they look to DCF for assistance, but DCF can not offer help. In short, the increasing need for services is not being met by the courts, and "DCF is operating right now with handcuffs and shackles." Two attorneys, who were frustrated by the lack of court services and limited role of DCF, felt that the majority of Probate Court cases ought to be shifted to either Family Court or Superior Court, keeping only uncontested matters, name changes, and estates.

Other comments consisted of the following:

- Attorneys would like the courts or DCF to release the DCF report.

- They would like the pay for attorneys not to be profitable, but at least to make handling the cases worthwhile.
- Attorneys would like social workers in the court, so they could help families find appropriate services in supplemental agencies.
- Petition applications are intimidating and could be revised.
- Because Probate Court Judges are elected officials, the court system doesn't get much respect, and DCF too could do more to recognize the courts' importance.
- Confusion about the grant program—whether it was a one-time grant or annual award.
- Sometimes guardians overstep the boundaries and “usurp” parental rights.
- Probate Courts are sometimes used improperly to create problems for parents. A person moving to get guardianship ought to be required to show cause for removal and a relationship with the child. Currently however, anyone can petition the courts and have the petition considered.

## Data Analysis by Group

### Findings from Interviews with Department of Children and Families Staff

Twenty DCF social workers were interviewed over the phone for this study. They were referred by the court clerks as those who most often handled cases for the Probate Courts in the sample. In the larger courts of New Haven, Hartford, and Bridgeport, a minimum of three workers per court were interviewed, and at least one worker was interviewed from each of the other courts.<sup>5</sup>

Social workers had an average of 9.7 years experience with the Department, and an average of 4 years experience working with the Probate Courts. The most experienced worker had been with DCF for 26 years, and the longest time spent working with the Probate Courts had been 13 years.

#### I. The Probate Court

DCF workers dedicated a great amount of time to speaking about their opinions of the Probate Court process. They said that each situation however is different and that their experiences vary with the courts. One interviewee said that there is no consistency among Probate Courts and that there are “different processes regardless of policy.” In the words of another worker, the “relationship between courts and DCF is paramount”: When the courts and DCF have a good relationship, workers understand the courts’ expectations and produce high quality reports, and in turn, the courts understand the reality of DCF caseloads and treat the workers respectfully. When the relationship is strained, the courts become too rigid, “it gets ugly,” and it is ultimately the clients in the community who suffer.

##### A. Positive Aspects

The DCF workers mentioned numerous positive aspects of the Probate Court process. Many said that the courts work well. They are easily accessed, flexible, willing, and able to connect with families and DCF workers as a team for the best interests of children. People can enter the Probate Courts in an emergency and get immediate attention. Unlike Juvenile Court, the standard for intervention is lower so that it can occur earlier, in a less formal setting, and in a much quicker manner. Communication has improved. They appreciated the support and helpfulness of the clerks and Judges, both of whom seemed to have an understanding of DCF caseloads. Some Judges were mentioned too as very capable of making good character assessments and fair decisions.

##### B. Aspects Needing Improvement

Several aspects of the Probate Court process that need improvement were mentioned.

- A huge concern was the number of cases that are continued even after DCF workers submit their reports and recommendations. As one worker described the situation, “the face of the problem has changed dramatically” from simpler studies being provided

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<sup>5</sup> No DCF workers from the Washington Probate Court were interviewed because the Judge could not identify any consistently used workers in her court; high turnover of DCF staff, and the frequent transferring of cases between DCF offices, were two reasons attributed to a poor relationship with any social workers in particular.

within 90 days to complex cases that remain open for two years, really as treatment cases. Probate Courts seem to want to continue cases in the hope that DCF will still monitor them, even though that is not their responsibility. In some cases, DCF workers feel that continuing cases indefinitely puts the children at risk by not giving them closure or stability. “Some things that are required by Probate Court are things that DCF can’t do.” Although the court’s intentions are good, keeping cases open longer than necessary conflicts with Probate Court and DCF regulations, and creates an overwhelming sense that cases don’t get resolved in a timely fashion. The issue becomes one of unreasonable and unrealistic expectations of DCF. The Probate Courts want DCF more involved: They want more monitoring, substance abuse evaluations, referrals, and progress reports back to the court. However, services through the Probate Court are supposed to be voluntary, and it is only when a child is committed to DCF that the role of the Department changes dramatically. Additionally, DCF has the responsibility to refer families to infoline, but the role in the Probate Courts is not one of an ongoing relationship. Probate unit workers are not ongoing service unit or treatment workers.

- Some comments concerned the professionalism of Judges. The quality of the process depends on the Judge, and while some are very good, “frankly some aren’t.” The amount of variation in personalities and language used with families is not found in Superior Court, as it is in Probate Court. Workers have been surprised at times by unprofessional judicial behavior, language, and their understanding or free interpretation of procedure. Sometimes DCF is made out to be the scapegoat in front of families. One worker commented that a particular judge’s “ego gets in the way” to the point that she worries for the safety of the children. Two different Judges were mentioned as making derogatory comments about therapists and social workers, and saying in front of families that they don’t respect DCF or care about their opinions. For DCF workers, who feel like they are the “front line soldiers” doing “all the legwork,” it becomes a very uncomfortable and unpleasant experience to walk into the courtroom, having provided all the facts, and then be “belittled” and treated as unimportant.
- Training in the statutes and proper procedure was also suggested for some Judges. For instance, if a Judge decides to give a child over to DCF, proper procedure is to have the clerk call DCF, not simply hand the child to the Probate Court worker. Another procedural issue occurs when a Judge grants a new petitioner custody without that petitioner having filed an application; once a petitioner withdraws her application, the case should be closed and a new application filed, rather than the Judge keeping the old application open. With respect to Temporary Custody decisions, sometimes Judges make the decision to grant custody without waiting the 30 days for the DCF report. If the report presents concerns, the Judge then has to revise his decision. The issue of bias was also raised in reference to a Judge, and that even Judges brought their own views and issues into the courtroom. At least one Judge allows clients to review the DCF file and get copies of the DCF report, which “puts the DCF worker on the spot” and causes the relation between the petitioner and DCF worker to become potentially adversarial. Additionally, two workers complained that a Judge often will not tell parents his decision, but ask the worker “Have you told them the decision?” Then he sends them to the back of the courtroom so that the DCF worker can explain why they are losing guardianship. Another situation of concern was where a Judge, despite DCF

recommendations and psychological test results, followed the opposite recommendation of the attorney who happened to be his law partner.

- Almost every interviewee referenced the inability of the Probate Court system to use discretion in accepting applications. Applications are accepted that do not qualify as Probate matters. “Any case is accepted” although workers feel that probate cases should be free of protective service issues regarding the proposed guardian, and that once these issues are present, it is inappropriate to try and handle them in Probate Court. If there’s that much concern about a petitioner, DCF workers feel that they probably aren’t fit to care for someone else’s child. Other inappropriately accepted cases involve family relations matters having to do with custody disputes and visitation rights, and contested Termination of Parental Rights cases that may be better suited in Juvenile Court. Too many probate cases have criminal and protective service issues, and workers “wish they could assess appropriateness of cases” and dismiss those that are unsuitable. A related issue is that clerks accept problem matters rather than referring cases to the hotline; perhaps they do not understand that they are mandated reporters by state statutes.<sup>6</sup>
- For those who are indigent and eligible for fee waivers, there are no disincentives for them to petition the court over and over again, without waiting for any specific length of time. Accepting these petitions creates additional and unnecessary work for DCF workers when not enough time has been allowed to pass for any real change to occur. Guidelines for waiting for at least nine months, when substance abuse is present, ought to apply for reinstatement applications.<sup>7</sup>
- Incomplete petitions was another complaint. When the petitions are accepted, it would be helpful to collect the names and dates of birth of all individuals at the proposed household for the minor child, in addition to the address (no post office boxes) and phone number at the house. Additionally, when the application is made, the clerk ought to inform the families about the court procedures, differences between Superior and Probate Courts, family member’s rights, and specifically, that DCF will be involved. Having the correct information would make it easier for DCF workers to initiate contact with parties and to begin police checks. Often, clerks don’t check off any boxes for the cause of the report, or include any reasons for filing the petition, even though many cases aren’t consensual. Also, some file a petition for Temporary Custody without knowing that it automatically leads to a Removal hearing in 60 days, and it would save work for the courts and DCF if these people had the proper information from the start about guardianship and custodial rights.
- How the courts deal with interstate issues was a source of concern among DCF workers. The courts grant custody to family members of other states without confirmation of parental consent; the courts do not adhere to the interstate compact process, and try to circumvent it. For example, parents may consent to allowing their child to live for a summer with relatives in CT, and then those relatives come in and apply for Temporary

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<sup>6</sup> Judges, courts, clerks and by extension Guardians ad Litem are not mandated reporters. CT General Statute Sec. 17a-101b (Mandated Reporters Statute) lists mandated reporters. Once a matter is before the court, issues that would be brought to the attention of the hotline are brought to the attention of the Judge.

<sup>7</sup> There is no screening process. It is a person’s right to petition a court and only a Judge can dismiss a petition. In terms of Reinstatement Applications Connecticut Statute 45a-611 “Any parent who has been removed as the guardian of the person of a minor may apply to the court of probate court which removed him or her for reinstatement as the guardian of the person of the minor if in his or her opinion the factors which resulted in removal have been resolved satisfactorily.”

Custody, may have it granted, without the court knowing anything about the wishes of the biological parents.

- Improving communication between DCF and the Probate Courts was mentioned frequently as an aspect needing attention. The courts don't treat social workers like professionals, and do not always contact DCF when they cancel hearings. Some courts lose DCF studies, so that workers get the clerk to sign for the study so that they have written proof that it was already produced to the court. DCF social workers realize they need to take the initiative when dealing with court clerks, especially regarding requests for studies and producing reports. They would also like to be informed of outcomes on cases on which they've worked.
- A separate issue of concern was poor representation of clients on the part of court appointed attorneys. Although workers realize that attorneys do not receive much compensation, nevertheless they ought to visit the families prior to hearings. Instead, what happens on occasion is that they may read the DCF worker's preliminary report, or talk to DCF workers over the phone, and then use DCF opinions as their own in their report to the Judge. Saying what a child wants, without ever having met the child, is very unfair to the child and not the way the system was designed to work.
- The timeliness of the courts was another aspect needing improvement. In one court, hearings are very delayed so that reports produced in October did not have hearings set until February, and in one instance, a worker waited up to a year for a hearing to be set. One petitioner filed an application in June, but DCF didn't receive a request for a report until the fall. In other courts, DCF receives requests within a week of the court's receipt of an application. A related issue to timing is the process that clerks follow to send requests to DCF. In one court, they hold petitions until they get a "batch" and then send them over; this however takes time away from the workers who have only so many days from the time the application was filed in which to complete reports.
- Other aspects of court processes were mentioned. One was the short timeframe for Temporary Custody reports. Since much of the information produced for these hearings remains the same until the Removal hearing, one suggestion was to try and combine the two hearings on clear-cut cases. This would allow slightly more time for a fuller investigation, but provide the opportunity to come to a disposition sooner. Another issue was that there is no record of proceedings to refer to the hearing, other than Judges' notes. A few interviewees mentioned the Probate Courts' complete dependence on DCF workers. They felt that it might be beneficial if the courts had their own social worker who could get to know something about the families and who could work closely with DCF. This would increase communication between the courts and DCF, while decreasing the reliance on any particular DCF worker, especially since their capabilities and experience levels vary.
- Aspects of DCF need improvement too. One worker explained that over the past ten years, the processes involved in investigating Probate cases have become much more involved such that the number of cases has increased as well as their complexity, without any changes to the DCF structure. DCF supervisors were also mentioned as not understanding the requirements of probate cases and the changes that have occurred in the nature and demands of these cases. In short, policies and expectations between the courts and DCF conflict, putting DCF workers in the middle. One worker pointed out

that she is only capable of obtaining information for criminal background checks in-state, so that she never knows of any criminal history that might exist elsewhere.

### C. Timeliness of Adjudication of Cases

The majority of DCF workers (9 workers, or 45%) felt that adjudication of minor guardianship cases occurs in a timely fashion. However, 30% felt that it was not timely, and another 25% had mixed feelings. Reasons for delays were “two-sided” meaning that both the courts and DCF are at fault.

Court-related barriers to timely adjudications included the following: Judges continuing cases and keeping them open too long “even when it is painfully apparent that the parent is inept” or after the guardianship issues are resolved (but visitation schedules, for example, still need to be resolved); Judges requesting a lot of additional information (e.g., school and counseling reports); the non-legal background of some Judges; attorneys requesting continuances because they haven’t completed their research on time; holding petitions too long before requesting studies from DCF; delays on the part of DCF because they don’t have all the pertinent information on the application to conduct police checks or initiate contact (e.g., date of birth, phone number, address, social security number); lack of cooperation from families; the amount of information that DCF has to collect takes time, especially medical records; and traveling to see parents in jail, in other states, and during summer vacations is time consuming.

The high volume of cases in some courts was cited as a main reason for delays, so that in the instance of one court which got backlogged, hearings were being set for up to a year after studies were completed. Workers reiterated their concerns that the information requested of the courts for studies has increased, so that many are becoming like treatment cases. On the surface petitioners may seem appropriate, but in-depth investigations into police, school, health records and substance abuse evaluations reveal otherwise. One DCF worker said that there is a misunderstanding that Probate cases are easy and simple, but this isn’t true. He “goes through with a magnifying glass.” Another simply stated, “there is tremendous amount of work with each probate case.”

Another concern expressed by workers related to requests for Temporary Custody and Removal reports. One asked why, in cases where there is no urgency, and the child has already been living with the petitioner for a year or more, the courts do not ask just for a removal study. In some instances, workers feel that reducing the number of reports, on clear cut cases where studies will not change anything for families anyway, would increase the timeliness of the court process by reducing workload. Another worker felt that “it doesn’t serve the process well to have time be the same for all cases”; some cases may need only three interviews which can be simply done, while others may need 12 interviews and extra time.

Other barriers to timeliness related to the internal DCF bureaucracy. Because it requires two to three people to look over a DCF worker’s study, supervisors don’t always return studies in a timely fashion. As supervisors change, their demands change, and workers have to adjust to these differences. There is a lack of bilingual DCF workers which causes some delays. DCF also gives low priority to Probate Court cases so that they are handled after abuse and neglect cases. Crises arise that take precedence. If referrals come in on a case, a DCF worker must stop work on it until the protective service investigation is complete. DCF management “requests

workers to do non-essential fact-finding on non-household members and non-guardians.” High turnover among DCF workers also affects workload and causes caseloads to fluctuate.

## II. DCF Reports

When asked to estimate how many reports each worker had prepared for the Probate Court on minor guardianship petitions, 3 workers (15%) had prepared 6 or fewer reports, 4 workers (20%) estimated between 30-50 reports annually, 2 workers (10%) figured they prepared 60-72 reports annually, another 5 (25%) estimated well over 100 reports annually, and 6 (30%) could not even guess, saying that there were “too many to count.”

### A. Timeliness

In response to a question about satisfaction with the timeliness of DCF reports, 6 DCF workers (30%) were very satisfied, 4 (20%) were satisfied, 7 (35%) were somewhat satisfied, and 3 (15%) were not very satisfied. Several mentioned, in discussing the different types of reports they produce for Probate Court Judges, that they often need the 30 days to prepare the Temporary Custody reports but often are not given this time because of time lapse between the court receiving the petition and DCF receiving the request. Others said 30 days was not enough time to produce all the information and complete the visits and interviews required.

### B. Quality

As for the quality of information that they provide to the court, all DCF workers were either very satisfied (16, or 80%) or satisfied (4, or 20%). DCF workers were also asked how often they wished they had more resources, more time or assistance on a case. Twenty-five percent (5) workers said that almost always they wished for more time or resources on a case; 20% (4) workers said they usually wished for more assistance; 45% (9) workers said that only sometimes they needed more resources; and 10% (2) said it was not very often that they needed more time or assistance. Training for workers and supervisors was suggested on the following topics: ways to refine studies and make them less lengthy; “how to prevent people from giving up on kids”; specifics on what the courts need for decision-making, court policies, expectations, and DCF regulations; family assessments and cultural issues; report writing and interviewing; and creating standards for probate reports that are not dependent upon or subject to DCF supervisor’s styles. Other suggestions included having someone else type reports; providing better services and resources to families; holding meetings with the courts to improve DCF’s working relationship with them; enabling workers to get information from other states; paying overtime for writing probate reports; increasing staff; and helping clients without medical records to get appointments.

### C. Suggestions for Improvements in DCF

Most workers had several suggestions for changes within DCF that would improve the Probate Court process.

- Many felt that inconsistencies within DCF need to be dealt with, such as different demands of different supervisors, defining the roles for workers and keeping them

consistent within and across probate units, and not blurring probate case responsibilities. Reducing supervisor turnover may help decrease the various sets of expectations that workers are subject to as their supervisors change. Once a case has a substantiated referral, it should be immediately transferred to treatment and not left for probate workers to handle. Timeliness of probate cases might be less of an issue if probate workers were treated like foster care and treatment workers, and received overtime pay for their paperwork.

- Supervisors need to be strong, in order to understand Judges and the needs of Probate Courts, acknowledge and be aware of the demands of current probate cases (versus those of the 1970s and 80s), keep Probate cases from being put on the “sideburner” by making them a priority, and perhaps even notify the courts when incomplete applications are received. A repeated request by DCF workers was to train supervisors only to request information in studies that the Judges’ needed, and that was relevant to a petitioner’s evaluation. Some expressed frustration with supervisors who were unsupportive, critical, and undependable in the worker’s absence. DCF management ought to be proactive in establishing good relations with the courts. They ought to educate the Probate Courts on DCF policies, in an effort to try and foster better communication and cooperation between them. Managers should allow DCF workers’ roles to end once they produce a study and custody is determined, or adjust their caseloads accordingly so that the volume of work could be reduced and workers would have more time to spend per study.
- Some workers wish they could help families obtain services, even though it is “dictated” to them that it’s not their role to set up services. Other services DCF should provide are psychological assessments, advocacy services, drug screenings, and monetary assistance. At least two workers suggested setting up a DCF office or a DCF social worker at Probate Court, and one requested a computer program that accepts voice dictation to expedite her report-writing.
- Several comments pertained to information gathering. Some felt that DCF requires its workers to find out excessive and unnecessary information. One worker suggested changing the Removal Form to profile the child in more depth, find out about mental health issues, and determine financial and marital stress elements for the family.

### III. Services for Guardians and Children

#### A. Quantification of Need

When asked what percentage of petitioning guardians need some social services, 11 DCF workers (55%) said that between 75 and 100% of proposed guardians needed some assistance. Four workers (20%) said that between 40 and 60% of guardians needed services, 3 workers (15%) said that only 15-20% were in need, and 2 workers had no comment.

As for the percentage of children needing some social or mental health services, 9 DCF workers (45%) felt that between 75 and 100% of children needed services, 6 workers (30%) said that between 40 and 50% of children needed some social or mental health services, and another 5 (25%) felt that only 25% and under needed assistance.

#### B. Kinds of Services Needed

DCF workers listed several kinds of services needed among guardians, children, and parents: financial; counseling—for behavioral problems, anger, grief, and handling the

transitions in living arrangements; child support groups; medical care; HUSKY health insurance; psychological evaluations; grandparent support groups; parent aides to teach structure; mentoring programs for children; educational guidance; drug counseling and substance abuse therapy; housing; food assistance; clothing vouchers; parenting skills training; transportation to services; and extracurricular activities for children.

#### C. Available Resources

Many workers said that sufficient resources were available in the community, but in some instances, families don't know how to access them, and in other cases, the resources are "very tight." Given recent welfare changes, DSS financial assistance was becoming increasingly limited. Although counseling and treatment services exist, there are usually long wait lists unless families go to private providers. There is also a long wait list for family preservation services, and not enough service providers for teen counseling, child therapy, or extracurricular activities. Some DCF workers could name lots of town resources like family centers, child guidance clinics, hospital programs, grandparent support groups and outreach programs. Several mentioned how helpful the Probate Court's grant program is to families. HUSKY is also available but families sometimes need assistance in signing up for it. Three workers commented that there is a lack of resources for the non-English speaking population, and another stressed the lack of mental health services, programs, and shelters for teens.

#### D. Links to Services

When asked how families are linked to existing resources, all DCF workers said that they help with referrals and recommendations. Sometimes families may already be connected, and because Probate cases are voluntary, the role of the DCF worker is limited. Some mentioned how frustrating the process of making referrals is, without being able to assist with follow through. Despite extending the duties of their job, almost every worker mentioned providing extra information, making phone calls on behalf of families, contacting providers, and assisting with DSS applications. Others who assist families in linking to community services are school social workers, Judges, and CIP volunteers.

### IV. Use of Volunteers

The majority of DCF workers (18, or 90%) had experience on cases where the court assigned a volunteer; only two workers did not have this experience. Thirteen (65%) felt that volunteers can be very beneficial, especially in complicated cases. They provide a different, neutral perspective and often "click" better with clients. They are often able to connect families to services, and investigate issues which then reinforce DCF recommendations.

Five (25%) felt that the use of volunteers was not a good idea, or at least as implemented, it posed problems. Volunteers have varying amounts of inexperience, which can contribute to fearfulness of situations, manipulation by clients, and little understanding of ethnic backgrounds, addictions, religions, and child development. Often, they rely on the DCF worker's information which merely duplicates services. Very few know what is really going on, and may not understand the implications of the information they receive. Making recommendations based on feelings rather than facts concerned some DCF workers. Some form an alliance with the adults and then are unable to make recommendations in the best interest of the child. For these reasons, some suggested using volunteers who were attorneys rather than

CIP workers, who may be less objective. Some only talk to children on the day of the hearing and therefore do not understand their lifestyles, needs, culture, or wishes. Even if a child is young, the volunteer ought to meet them and view their environment. Two workers were concerned about confidentiality issues with volunteers, and another suggested that volunteers share their background with DCF workers.

## V. Additional Comments

Most workers shared final thoughts. Good communication and understanding between and about the Probate Courts and DCF was mentioned as a key ingredient to handling guardianship petitions successfully. Numerous comments pertained to the Probate Courts:

- Gain a better understanding about DCF workers' roles, responsibilities and limitations (e.g., when protective service issues arise, ongoing treatment).
- Assess applicants more thoroughly to determine which are truly probate matters and which belong in Superior Court.
- Judges and clerks need training about what should be reported to the hotline.<sup>8</sup>
- Judges shouldn't allow themselves or attorneys to disrespect DCF workers who have done all the investigating and understand what is best for the child.
- Send letters to DCF workers about the outcome of their cases when they are not present at the final hearing.
- Have their own social worker to deal with emergencies, assess applicants, report to the hotline.
- Judges should close cases once guardianship is determined so DCF workers can close their cases.
- Clerks should mail petitions to DCF as they come in.
- Don't charge DCF workers for copies.
- Compile packets that identify community services to help with referrals for families.
- Provide more follow up for families so case does not return as a child protective service issue.
- Advocates would be of great value to grandparents in helping them get to programs and in helping them with children in the home
- Keep formal records of hearings.
- Do not hold up hearings once reports are produced.
- Hire bilingual staff and interpreters for Spanish-speaking families.
- Make families aware of Probate Court resources.

Other comments pertained to DCF. Primarily, there needs to be consistent standards for the quality of reports, both within and across units, and supervisors need to be more realistic about workers' caseloads. Inexperienced workers may overlook safety issues so they need to review prior history records, and overall, workers need to be better informed about Probate Court expectations and procedures.

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<sup>8</sup> Judges, courts, clerks and by extension Guardians ad Litem are not mandated reporters. CT General Statute Sec. 17a-101b (Mandated Reporters Statute) lists mandated reporters. Once a matter is before the court, issues that would be brought to the attention of the hotline are brought to the attention of the Judge.

## Data Analysis by Group

### Findings from Interviews with Families Utilizing the Probate Court System

The data presented come from a total of 30 interviews with families: 21 interviews were with petitioners, and 9 interviews were with parents to be removed. Interviews took place at New London (4), New Haven (8), Hartford (4), Stamford (1), and Bridgeport (13). Where applicable, results are discussed in terms of whether the interviewee was a petitioner or a parent proposed for removal.

Families were asked what they were petitioning for in court, or why they were appearing. The range of reasons was broad, including custody of a son or daughter, grandchildren, nephews and nieces. When asked how long they waited from the time the petition was filed until a decision was made (the day of the interview), the amount of time ranged from as short as 1 month to as long as 1 year. No differences were observed according to petitioner status. In total, 15 families waited 4 months or less for a decision; 8 families waited 5 to 6 months; and the remaining 7 families waited anywhere from 7 months to 1 year. 77% of the family sample received a decision in 6 months or less.

#### I. Experience with Lawyers

Families were asked if they hired a lawyer or had one assigned, to help them with the process. Of the petitioners, 4 had one assigned, 2 had a lawyer, and 15 did not have a lawyer. Of the parents to be removed, 3 did not have a lawyer, 4 had a lawyer assigned, and 2 hired a lawyer. Among the 12 who had a lawyer, 10 reported that their lawyer explained the process to them and was helpful, even though two added that they never met their lawyer. Two interviewees were unhappy because they hadn't met their lawyers until the court hearing.

One set of parents to be removed commented that the court would not change the date of any hearings even when their attorney could not attend. They said that sometimes they only received 3 days notice of a hearing and by then, their attorney was not available. Another set of parents to be removed said their attorney informed them of the illegality of the petition filed, since the grandmother did not have the children in her custody, as the law requires, when she applied for custody.

#### II. Court Procedures

##### A. Clarity

When asked if they were ever confused about the court procedures, what was happening or being said during the court hearing, or the outcomes, 16 petitioners said no, that they were never confused, and 5 said that they were at some point (e.g., one seemed confused about the outcome, and how although he petitioned for custody, he was denied guardianship; another had thought everything was finalized with the first court hearing, but then realized she had to come to court again because now the study was complete). Among the parents to be removed, opinions about clarity were more evenly divided: 5 reported that they had never been confused, and 4 said that they had been confused at some point. In total, 21 family members, or 70%, were never confused during or about court procedures, and 9 (30%) had been confused.

Families also discussed if anyone, other than an attorney, ever explained the court procedures to them. Among the 9 removed parents, 6 said no one explained any procedures to them, beyond an attorney if they had one. Three reported that yes, someone explained court procedures to them (i.e., a judge in another district where the petition should have been filed, their daughter's attorney, and a DCF worker). Of the 21 petitioners, 5 (24%) said no one explained anything, while 16 (76%) said that yes, either DCF workers, Judges, court clerks, their child's attorney, or someone else explained procedures to them. In total, 19 families, or 63%, had someone other than an attorney explain court processes to them, while 11 (37%) never had anyone help them understand court matters.

#### B. Judicial Decisions

All but two family members described the Judges' decisions as OK, good, great, fair, honest, excellent, or correct. This is a surprising number given that parents to be removed, as well as petitioners, were pleased with judicial decisions. Many recognized that the decisions were made in the best interests of the child. In response to a rating scale, 24 of the entire sample said they were very pleased with the Judge's decision, 4 interviewees said they were somewhat pleased, 1 was not pleased at all, and 1 did not understand the decision. In saying that she was only somewhat pleased, one mother commented that "there is never anything happy about giving rights away." When questioned about if the Judge had all the information needed to make the right decision, 26 said yes, 2 family members said no, and 2 had no comment.

### III. DCF Experience

#### A. Home Visits

Petitioners and parents to be removed were asked if someone from DCF had come to their house to interview them and other family members. Twenty-seven of the 30 interviewed (90%) said yes, that they had come in contact with DCF in their home. Only 3 said they had not, all of whom were parents to be removed, and one admitted that contact from DCF had been attempted. Of the 27 who had received contact from DCF, 21 said that no one else made a home visit to gather information for the court, but 6 said that either a guardian ad litem for the child, or a lawyer for the child, made home visits as well.

#### B. Reports

Families were also asked whether they had seen the report that the DCF worker prepared. Nineteen interviewees (63%) said no, they had not seen the report, but some expressed aggravation at not being allowed to read it. One parent to be removed said the DCF worker didn't show her anything she could read, that she "just wrote on her pad all the time." Other parents to be removed said they "went in blind" to the hearing, like they were being punished, and they hadn't read anything besides the notices they were served. Eleven, or 37% of the sample, said that they had seen the DCF report, and that the information was accurate.

Among the 19 who had not read the DCF report, 11 were told what was in it, and they thought that the information was good. However, another 8 interviewees, or 42% of those who hadn't read a DCF report, were not told what was in the report.

#### IV. Additional Comments

##### A. Issues Overlooked by the Court

Interviewees were given an opportunity to mention issues that they feel were not considered, but should have been, by either the DCF caseworker or the court. 19 respondents felt like everything important had been considered. Of the 11 who mentioned issues that were overlooked, 6 were parents to be removed and 5 were petitioners. Issues overlooked by the court that were troubling to families were as follows:

- visitation schedules that were not worked out.
- removed parents' issues that were left unaddressed.
- proposed child's guardian's issues, suggesting negligence or unsuitability, that were ignored.
- lack of understanding or discussion of fathers' situations, contributions or child support
- lack of support for a young couple of parents to be removed, who said that no one gave them credit while they were homeless for trying to get into emergency shelters, from which they were turned away because they were full; the court and DCF only said that it was inappropriate to be living temporarily with friends.

##### B. Additional comments

When given the opportunity to comment on the court process in its entirety and share any remaining thoughts, over half of the sample had nothing additional to contribute. The remainder offered these comments:

- Several commented that the courts are courteous, "on the kids' side", handle matters appropriately, everything was fair, that the Judges knew what they were doing, and that the staff were very helpful.
- A petitioner wished she met her attorney or had heard from him.
- An interviewee said that a parking pass (in New Haven) would have been helpful and that the court shouldn't charge for copies.
- Two interviewees complained that the wait before their hearing was very long (in one case two hours), and another complained about the slowness of the system to process the case.
- A petitioner said that housing assistance would be helpful because she had to wait for the court's decision to qualify for improved housing.
- Two parents who were to be removed, but got guardianship, said that the court never investigated the petitioner, her mental stability, or the fact that her new husband had complaints with DCF.
- A set of parents who were removed said that they felt like they had no say, like the Judge wouldn't look at or listen to them.
- An interviewee said that the court should give more information to parents who are being proposed for removal, instead of only serving them notices.
- A petitioning uncle explained that his niece and nephew were being removed from their grandmother and coming to live with him in another state because the grandmother was not receiving any financial aid to care for the teenagers and was ready to retire. He felt that the system ought to have some financial incentives for families to care for their own rather than sending them into the foster care system.

## Data Analysis by Group

### Findings from Interviews with Key Informants

Key informants are often very valuable sources of information as they have the opportunity to view a system from the outside or from a slightly different perspective than other interviewees. For this study, Judge Lawlor suggested interviewing Jeanne Milstein, the CT Children’s Advocate<sup>9</sup> since June 2000, and a committed investigator of guardianship issues for over ten years; Ellen Scalettar, JD, a senior policy fellow at CT Voices for Children and the Director of Advocates for Connecticut’s Children and Youth (a lobbying organization)<sup>10</sup>; and a Probate Court Judge, who has experienced firsthand the challenges and changes of the court system over several years.

#### I. The Probate Court

##### A. Positive Aspects

All three informants, when asked for their opinions about the Probate Court process, said that the Probate Courts work well: They are effective, efficient, caring, and well connected with families and communities. The Judge commented that DCF workers also enjoy working with the Probate Courts more than with the Superior Juvenile Courts because they feel that the Probate Courts “can do more” for the families and children, and in a more effective manner. Ellen Scalettar added that families are more comfortable at Probate Court than they are at DCF because they get more respect there and because Probate Court is less likely to terminate parental rights. As explanation for these differences, the Judge suggested that is the adjudicative philosophy of the Probate Courts, in contrast to other courts, that creates an atmosphere where people are respected and recognize that the court is trying to help them do their best.

##### B. Differences with DCF (Ellen Scalettar)

It is the differences between DCF and Probate Court that Ms. Scalettar expanded on—while Probate Court tries to work with grandparents and keep children with family, DCF seems to place children in foster care too quickly without fully exploring kin care. Placing children with a foster family never, in the Judge’s opinion, has a permanency plan, whereas if kin guardians are identified for a child, the question should be “How can we support them?” Support for kin guardians should include assigning a social worker to help them with the transition and with identifying public money and services, and increasing the amount of public money (e.g., TANF) to which they ought to be entitled as a guardian. The Judge stated the dilemma as trying to determine the extent of the state’s responsibility to those seeking kinship guardianship. He offered the following example: If Superior Court identifies a grandmother as a guardian, it can mandate DCF to order counseling, services, and other supports. In contrast, if

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<sup>9</sup> The CT Children’s Advocate is an office appointed by the Governor and acts as a ‘watchdog’ over DCF. Thus it is DCF’s and the Probate Court’s lead critic, with huge legal powers and the ability to intervene in court on behalf of children.

<sup>10</sup> CT Voices for Children is a policy organization which is currently examining the discrepancy between DCF placements and Probate Court guardian appointments. Its sister, lobbying organization is Advocates for Connecticut’s Children and Youth.

Probate Court identifies a grandmother as a guardian, it can either request that DCF serve the family through its voluntary service needs program (which has a 6 month wait list), or ask DCF to take the child into its custody (i.e., appoint the Commissioner as guardian) in order to give the child necessary services.

The financial discrepancy is “huge” as is the difference in services (such as respite, counseling, support) that are available to foster care families and children but not to Probate Court families. For example, a grandmother may receive \$380/month versus \$2000/month that foster care families receive to care for a child. Low-income families then, in particular, are at a disadvantage because even if they want to become guardians, their financial status may prevent them from doing so. Ms. Scalettar feels that DCF consistently opposes parity for grandparents as guardians. “Policy should encourage children staying in families,” according to Ellen, yet it does not. Not only for the best interests of the child should policy support kin guardians, but as the Judge stated, the cost to society without them would be staggering.

### C. Diversity Among Courts

The Judge insisted that the study of CT’s Probate Court reflect the diversity of towns in the state. Communities are different, especially with regard to poverty level and whether they are suburban or urban, and they therefore pose different problems and solutions for families. Additionally, the relationship between courts and DCF offices differs; there are few commonalities in these relationships across the state. For instance, while one court may have full-time caseworkers assigned to it, and therefore receive good quality and timely work, other courts may not have as efficient or friendly a relationship with DCF.

### D. Consolidation

The Judge suggested consolidating the courts, from 130 to 75 or 50, given that already, a few courts do almost all of the work. Three Judges alone handle 50% of the caseload statewide. He suggested the creation of maybe 15 specified Probate Courts that only hear children’s matters, such as Removals. This would both address DCF’s complaint that their workers have to attend hearings in several different courts throughout a region, requiring too much travel time, and address the reality that many small courts already handle few, if any, children’s matters.

## II. DCF

### A. Improvements in Training and Education

Although the relationship is improving between DCF and the Probate Courts, Jeanne Milstein advocates for more training and education of DCF workers. They need to improve communication with the courts, as well as receive better supervision within their own agency. In general, Ms. Milstein feels that there ought to be “much more accountability” within DCF. The systems would function better if the Probate Courts could expect timely and good quality reports from DCF, without these expectations being dependent on the worker. Currently, reports may be of excellent quality, or they may not reflect reality well at all and may even have grammatical mistakes. If supervisors could randomly check reports for their accuracy and ability to investigate and recommend realistic options to the courts, then the courts in turn would not have to deal with “uneven” quality. Her final point concerned the lack of initiative or creativity among DCF workers: They produce reports that are too “cookie-cutter” and follow a “one size

fits all” philosophy when in fact, more creative investigations and recommendations would better suit Probate Court families and children.

#### B. Studies are not Always Needed

The Judge feels strongly that DCF studies are not needed in all Probate Court cases, and that he “does not want to make work for DCF” when a study is unnecessary. In fact, he feels that the six busiest courts could be served by privatized case management in an effort to create a thorough, yet streamlined intake process that would lead to the identification of cases needing full studies (that would be provided by DCF) and those needing less (e.g., when all parties consent). This rudimentary screen could consist of a checklist to assess the stability of the proposed guardian’s household and a background check. According to his calculations, if there are 1500 Removals statewide, and 1000 Temporary Custody cases, the difference between these of 500 represents “accommodating” family cases. By this, the Judge means cases that transfer custody for some of the following reasons: a child’s attendance in a better school district, a parent gets a new job, or a parent wants to continue education and leave the child with another guardian temporarily. With this group of children’s matters, representing about 1/3 of the cases heard, the court does not need the level of detailed information which DCF provides on every case regardless of its substance. The Judge adapts by simply not requesting a full study in at least 25% of cases, but expecting extra interviews and more in-depth investigations on tougher cases. In thinking of a statewide strategy however, he suggested a system where these 1/3 cases were handled privately, and the remaining 2/3 cases (in need of a study) would stay under the Probate Courts’ and DCF’s jurisdiction.

#### C. Information for Hearings

The Judge views 3 types of Removals: 1/3 of Removals represent an absolutely clear and consensual family decision; 1/3 of Removals offer a clearly definable family resolution; and the remaining 1/3 of Removals reflect protective cases with only the possibility of stable family supports. However, it is the Temporary Custody hearing, often the first decision, that is “fundamental”. The same issues that are present here are also present at the Removal hearing, yet there is no formal report from DCF at this initial hearing. An “informed” decision is most difficult at this junction, and as the beginning of the court process, it can cause the most damage to the child’s and parents’ lives. As a solution, for 80% of the Temporary Custody hearings held in his court, the Judge will have a DCF worker out to visit the home of the proposed temporary guardian. He has found that when DCF adequately investigates a Temporary Custody case, he doesn’t always need a further full study, and if he does, it is produced quicker because the initial investigation is already completed. One solution that the Judge offered, that would allow for fuller studies statewide to be presented in Temporary Custody hearings, was to extend the number of business days (from 5 to 10) in which DCF had to provide information to the court.

### III. Services for Guardians and Children

The key informants commented that petitioning guardians and minor children need additional services such as financial assistance, respite, parenting and life skills, substance abuse counseling, and mental health treatment. Although there are some resources available in communities to assist these families (Ms. Milstein mentioned Kid Care, DCF’s new mental health initiative, and multisystemic therapy, MST, for substance abusers), the need for more services is great.

#### IV. Use of Volunteers

All informants felt that the use of court assigned volunteers is a very good idea, as long as they are trained well. Volunteers can relieve some of the burden felt by DCF, and additionally, training volunteers to help families in their own community can be very empowering. On the issue of training, Ms. Milstein added that not all Probate Court Judges are trained on child welfare issues.

## Summary of Major Themes

Interviews with 95 stakeholders around the state yielded a great number of insights about the current state of the Connecticut Probate Court system. Certain perspectives, as one would expect, were unique to the interviewee's experience with the system. However, many key themes emerged regardless of one's position relative to the courts, and those common threads are summarized here.

Most striking was the reflection from many around the state that the Probate Courts operate according to an older set of rules and procedures that do not necessarily apply anymore to current guardianship matters. The clientele of the Probate Courts has changed, and so too have their needs. Many tensions that the courts, DCF, attorneys, and families are experiencing can be explained by this evolution. Ten or twenty years ago, guardianship cases were reported as "cut and dry" or "clearcut." DCF workers could write up a report quickly about a proposed guardian, the hearing would take place, and the case was closed. Now however, cases are not as simple, in-depth investigations are sometimes required, and there are multiple service needs on behalf of the removed parents, the proposed guardians, and the minor children.

It is this complexity of cases, stemming from increased psychosocial needs of many families, that has posed new demands on a court system set up to operate quickly, cleanly, and efficiently. Recognizing this change in families, and the new pressures it places on an existing, somewhat outdated Probate Court system, is a critical first step to understanding the issues presented in this study, and ultimately, to improving the delivery of services to families and children.

### I. The Probate Court

#### A. Positive Aspects

There was great consensus on the positive aspects of the Probate Courts. Most appreciated the courts for their user-friendly, informal, flexible, and responsive approaches to guardianship matters. They encourage families to work out solutions among themselves, providing guidance from attorneys, DCF workers, and court staff. All sets of interviewees acknowledged the helpful nature of Court Clerks, as well as the genuine, knowledgeable, and fair dispositions of most Judges. Several compared the Probate Courts to the Superior Courts, stating that they created a more comfortable, less intimidating, and more interactive atmosphere for families, while handling cases in a more timely manner.

Many also commented that a good working relationship between the Probate Courts and DCF is a key ingredient to the overall functioning of the courts. One method of facilitating this is to assign permanent DCF workers to particular courts. Several noted that the relationship between the courts and DCF seems to work more smoothly and effectively when this occurs.

#### B. Aspects Needing Improvement

Many were well aware of aspects of the Probate Courts that need improvement. The greatest concern was the multitude of differences between the Probate and Superior Courts: 1) Probate Judges can not order or mandate services; 2) Probate Courts can not fund any support services for families, but merely recommend and refer to DCF's voluntary services; 3) there is no oversight or monitoring of children and families once guardianship is appointed in Probate

matters; and 4) Kin guardians appointed in Probate Court do not receive any financial compensation, as contrasted with the foster parents appointed in Superior Court.<sup>11</sup> The limitations on jurisdiction and the lack of resources of Probate Courts were reason for many, from different stakeholder groups, to suggest that more cases ought to be transferred to Superior Court where they could be handled more appropriately in terms of services and monitoring.

The training and education of Judges was a common subject. Several felt, including Judges themselves, that Judges with legal training were better equipped to handle guardianship matters, especially contested cases. Additionally, training for Judges on DCF and Probate Court regulations and procedures, as well as professional courtroom etiquette, was urged.

Aspects of the court process could be improved. Particularly, the lack of screening in the application process\*, fee waivers and the charging of fees were subjects of concern. Incomplete petitions were mentioned by DCF workers as a reason for delaying investigations due to inadequate contact information. Thirty percent of families reported being confused during or about court procedures.

Another primary concern related to the timeliness and quality of information from DCF. Judges, court staff, and attorneys would like time to review reports prior to hearings, and ideally, with enough time to exchange thoughts or ask questions of DCF workers—either during the hearing or over the phone prior to the hearing. Timeliness of reports was clearly a huge issue, although most attributed the cause of late reports to caseload burden and increased caseload complexity. Many who read DCF reports were satisfied with them, but they felt that attention to some quality issues could improve the reports further, such as writing reports that were more in-depth, provided less standardized information, and offered unambiguous recommendations.

The attorney pool was a source of frustration for many concerned with the fair representation of families and minor children. Qualified attorneys are difficult to find, and for those attorneys willing to handle Probate cases, the reimbursement rates for their appointments reduced their assignments to volunteer work. Some families were frustrated by not meeting their attorneys ever or not meeting them until the day of the hearing. DCF workers expressed frustration as well, because they felt that attorneys sometimes read their reports or called them over the phone to substitute for in-person meetings with minor children or their families.

Although the timeliness of the adjudicative process was discussed among interviewees, most felt that cases were processed in a timely fashion. Approximately 90% of Judges, Administrative Staff, and Attorneys felt that adjudication was timely, in contrast to 45% of DCF workers. Seventy-seven percent of families interviewed received a decision in 6 months or less from the time a petition was filed. Barriers to a more timely process were identified: court continuances for more information from DCF, waiting for DCF studies, difficulties locating parties, attorney requests for continuances, DCF bureaucracy, and the volume and complexity of cases. DCF workers expressed frustration with Probate Judges who keep cases open for the purpose of monitoring families, when that is beyond the scope of their responsibilities.

## II. DCF Reports

### A. Timeliness

In general, respondents were less content with the timeliness of DCF reports than the quality of the reports. Among Judges, 50% reported being satisfied or very satisfied with the

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<sup>11</sup> Kin guardians may be eligible, however, for TANF.

\* See Footnote 7.

timeliness of DCF reports, compared to 19% of attorneys, 35% of Administrative staff, and 50% of DCF workers who said that they were either satisfied or very satisfied. Timeliness was reported to vary by report, court, and worker.

#### B. Quality

Satisfaction with the quality of DCF reports was higher than it was for timeliness. Seventy percent of Judges reported being satisfied or very satisfied with the quality of DCF reports, compared to 62% of attorneys, 67% of Administrative staff, and 100% of DCF workers who said that they were either satisfied or very satisfied. Among families who had either seen the DCF report or were told what was in it (73% of the total sample of families), all of them thought the information was accurate.

The majority of each respondent group was predominantly satisfied with the sufficiency of information that was available to the Judges to inform their decision-making. All Judges felt that they almost always or usually had the information necessary to make decisions, 75% of attorneys and 93% of Administrative staff felt that the Judges almost always or usually had the necessary information.

Quality issues mentioned concerned thoroughness, depth, specificity, uniqueness, objectivity, definitive conclusions and recommendations. DCF workers suggested training supervisors and workers on the needs of the courts, on report writing, and on creating standards.

#### C. Suggested Improvements

Most stakeholders would like DCF to provide more services to guardians and children. In addition, DCF workers seem to be the first choice among interviewees to monitor families' progress, ensure receipt of services, and check on the safety of minor children. Issues of training and education of supervisors and workers were recommended to improve timeliness and quality of reports, caseload management, consistency within DCF, and communication with the courts. Overall, most felt that the timeliness of reports needed improvement, and while the quality was deemed adequate, certain quality issues could be improved. Attendance at hearings was mentioned as an important aspect of the court process, as it permits exchange between DCF workers, attorneys, and Judges. Finally, permanent assignments of workers to Probate Courts was viewed as a positive step toward improving communication, rapport, and productivity between DCF and the courts.

### III. Services for Guardians and Children

#### A. How many are in need?

The majority among each group of interviewees felt that over 50% of guardians and over 50% of children are in need of some form of social services (including financial). Many expressed that the need is prevalent among almost all guardians and/or children. For example, one-third of attorneys said that 99 to 100% of minor children need some social services, and another 50% of attorneys said that between 50 and 80% of children are in need. Among Judges, all said that at least 50% of guardians need services, with the majority stating that 70 to 90% of guardians are in need of supports. All but two Administrative staff suggested that between 50 and 95% of children need social services. In short, the need for services targeted at both guardians and minor children is great.

#### B. What services are needed?

Responses to the types of services needed on behalf of minor children, their guardians, and their parents were very similar across respondent groups. Suggestions consisted of the following: financial assistance; Food Stamps; clothing and furniture vouchers; both individual and family psychological counseling; psychological evaluations; medical, dental and health care; housing and Section 8; parenting education; in-home services; sexual assault and domestic violence counseling; substance abuse evaluations, monitoring, and treatment; personal development counseling; job assistance; supervised visitations; aides to assist in child's transition with new guardian, as well as guardian's interaction with biological parents; education and awareness about programs and services (e.g., HUSKY); transportation to services; educational assistance with special education and enrollment needs; day care; extracurricular activities, vacation programs, and summer camps; youth groups specifically for teens; mentoring programs; respite care; grandparent support groups; legal services; and assistance for removed parents to help them understand their own problems and the meaning of transferred guardianship.

#### C. Are resources available?

Most interviewees could mention several resources available to families in the community, but the consensus was that these resources are limited. The extent of services is problematic because many have long wait lists, some charge fees, and several are ill-equipped to serve bilingual populations. Problems of accessing services included awareness about services, as well as having the financial means, transportation, and ability to follow through. Many felt that services needed to be expanded and developed. Bilingual populations and teens were two groups identified as severely needing services.

#### D. How are families linked to services?

All respondents were discouraged by the informality of this function within the Probate Court system. Most thought that DCF workers were helpful in referring families to services. The courts try to assist as well by providing information to families, posting notices about support programs, and having knowledgeable clerks who can direct families. Judges themselves try to stay informed about community programs so that they can offer suggestions during hearings. Other possible links were attorneys, school counselors, CASA/CIP volunteers, the Department of Social Services, and churches. Some families, of course, already know about and may be receiving services.

#### IV. Use of Volunteers

Many thought the use of volunteers provided numerous benefits to the Probate Courts. In fact, all Judges and Administrative Staff felt that volunteers provide a fresh perspective to the courts and complement the opinions of DCF workers. Over one-third of Attorneys also held positive opinions about volunteers, citing their contribution as necessary, effective, and important. Sixty-five percent of DCF workers too felt that volunteers were beneficial, especially because families often trusted them more readily, and they could link families to services.

However, some attorneys and DCF workers had negative opinions about volunteers based on their experiences. They felt that volunteers could be ineffective, unprofessional, and dangerous because of their biases, lack of objectivity, and inability to understand the implications of their recommendations. Volunteers have varying levels of experience and

knowledge about child development, other ethnicities, and addictions. Often they rely on the DCF worker's information which merely duplicates services.

Some Judges and Clerks commented that organizing and sustaining volunteers was difficult. In smaller courts, community volunteers were heavily relied upon because court appointed GALs willing to take on Probate cases were almost impossible to find and, in addition, using volunteers helped them cut costs. All respondents, whether for or against the use of volunteers, felt that proper training and supervision were essential.

## **Minor Guardianship Across the Nation**

By Amy Stephens

### **Background**

A national scan of minor guardianship processes reveals an assortment of court systems, protocols, court constituencies, and case circumstances. Even within a state, variations in court structure and processes may be found. The autonomy and flexibility enjoyed by many of these “community courts” enable them to meet the unique needs of their constituencies. However, summarizing the complexity of these systems is quite challenging, particularly when many of the courts are small and community-based.

It was initially thought that the most convenient and efficient way to gather information about other states’ court systems would be through the Internet. Though all of the states included in this study operate state court web-sites, most sites only indicate which court has jurisdiction over guardianships in that state. The most specific information, pertaining to guardianship courts, found on these sites is a listing of court addresses. Thus, gathering specific information about states’ guardianship proceedings requires personal contact with states’ guardianship courts. As a result, a research protocol was developed to create a systematic way of gathering information from these courts.

### **Research Protocol**

#### **I. Court Sample**

Because time limitations and funding prohibited a survey of all guardianship courts nationally, a sample of states was selected, taking care to represent different geographical areas of the United States. All New England states surrounding Connecticut, of particular interest to this study, were included in the sample. States included in the sample are California, Florida, Illinois, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Texas, and Vermont. Despite numerous attempts to contact court staff in Rhode Island<sup>12</sup> and Illinois, efforts to interview court personnel from these states were unsuccessful. As a result, the final sample consists of eight states, including California and Texas, two of the most populous states in the country.

#### **II. Areas of Interest**

There were five areas of interest for this study: 1) organization of court systems, 2) processing of minor guardianship cases, 3) social services needs, 4) involvement of states’ child welfare agencies, and 5) issues and challenges faced by courts. A telephone survey method using a standardized questionnaire helped to ensure uniform data collection across all states.

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<sup>12</sup> Information obtained from the Internet revealed that each Rhode Island “town or city has its own Probate Court with its own Probate Judges...appointed by the town or city council (except for the Town of New Shoreham where the town council acts as Judge)... While probate law is state law, the courts themselves are municipal courts, and the procedures may vary slightly from one to another.” [Available On-line: <http://www.ribar.com/public/probate.asp>]

### III. Participants

Potential interviewees were initially identified via state courts' web-sites. If a state court's web-site clearly identified a central administrative office overseeing the pertinent court's activities, this office was contacted. Otherwise, one of the state's larger courts responsible for processing minor guardianship was targeted. Letters explaining the research study and the role of Casey Family Services were mailed to target interviewees—Probate Registers/Court Clerks, Judges, and Court Investigators. Follow-up calls were made to schedule telephone interviews with the targeted interviewees, and in some cases, other court personnel as recommended by the interviewees. Overall, ten interviews were conducted, including five interviews with Judges and five interviews with six court personnel across eight states.

Only one state's judicial administrative office (Massachusetts) provided information for this study. When administrative offices were contacted for interviews, most suggested that courts were better equipped than administrative offices to provide information requested in the interview. Consequently, courts provided the bulk of information reported here, and while interviewees made efforts to provide information about their states' minor guardianship court system as a whole, comments represent experiences in their courts and may not represent every court in the state.

#### **Minor Guardianship Courts**

##### I. Courts in Other States

###### A. Court Types and Prevalence

Minor guardianship cases are heard in Probate, Family, or Probate/Family hybrid courts. Maine, Vermont, New Hampshire, and Florida hear minor guardianship cases in Probate Courts. California processes such cases through the Superior Court's Probate Division. Massachusetts hears these cases in the Probate and Family Court, New York utilizes the Family Court, and Texas hears minor guardianship cases in multiple settings. The prevalence of these respective courts within a state varies widely and depends on factors such as a state's land area and population density. Courts typically are situated geographically, affected by population density and geographical boundaries, but even within a state, court composition may differ from county to county. Although most courts are situated by county, sometimes additional courts are found in more densely populated counties. The number of minor guardianship courts<sup>13</sup> found in states varies: New Hampshire, 10; Massachusetts, 14; Maine, 16; California, 58; and New York, 62.

Texas has the most complex model, where minor guardianship cases may be heard in different courts depending on court availability, one's place of residence, and whether the case is "court-initiated" or "self-initiated." In Texas, guardianship cases are heard by Statutory Probate Courts, when available. Counties without Statutory Probate Courts process minor guardianship cases in county courts or other state Statutory Courts. Minor guardianship cases in larger counties (with Statutory Probate Courts) may be heard in either the County (Statutory) Probate Court or Family Court. Within the past ten years, the Texas court system has been overhauled,

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<sup>13</sup> Some interviewees, possibly because of large state size or prevalence of courts, were not able to indicate how many minor guardianship courts were present in their state. Consequently, states with a higher prevalence of minor guardianship courts *may* not be reported here.

so that “court-initiated” cases are no longer routinely heard in Probate Courts. Cases that are non-contested (e.g., birthparent is deceased or is permanently unable to parent) and considered long-term arrangements (i.e., permanent guardianships) are still heard in the Probate Court. Other minor guardianship cases, including contested hearings and guardianships of temporary nature (i.e., self-initiated), are heard in the Family Court, though most cases heard in the Family Court are conservatorships (e.g., custody hearings).

## B. Jurisdiction

Though some states, such as Vermont and Maine, *may* transfer cases to other courts, all interviewees stated that their courts have jurisdiction over cases once the case enters their court. For example, if the court begins to suspect abuse or neglect, these courts are not obliged to transfer the case to Superior Court. The cases generally continue in the Probate/Family Court. If jurisdictional conflicts arise, they tend to be resolved at a case’s onset. The inception of more complex cases in these courts, such as those involving abuse and neglect, may compel the Judge to request involvement of the child welfare agency or assistance from a Guardian ad Litem or other officer of the court. Interestingly, California’s minor guardianship cases are heard in the Probate Division, which is part of the state’s Superior Court.

## II. Court Oversight and Support

Given the variety among court operating procedures, it is not surprising that the administrative structure of these courts differs greatly as well. Half of the interviewees identified an administrative office responsible for overseeing all of the Probate/Family Courts in their state. Vermont’s Probate Courts are overseen by the Court Administration’s Office, which provides judicial training, funding, and standardized forms and procedures for the Probate Courts. New York’s Office of Court Administration trains Judges, decides court procedures, and provides funding to its Family Courts. When administrative offices exist, they appear to be fairly removed from courts’ daily activities. Administrative offices may provide funding, some educational services, and perhaps collect statistics from the courts, but they do not regularly interact with families. One interviewee described the relationship as follows: “They oversee our courts, but they don’t interfere with us.”

Some Probate/Family Courts find support through colleagues from similar courts in their state. For example, Texas Probate and Family Court Judges meet regularly with their respective colleagues to review policies and address issues arising in their Probate or Family Courts. These meetings provide a venue for Probate Judges to share concerns and insights. These courts, responsible for guardianship, probate, and mental health commitment hearings, are generally able to tailor procedures around the needs of the court’s constituency, as long as the courts comply with state statutes. For example, Judges may use court funding to staff the court in a way that best serves the court’s constituency. Therefore, these meetings provide a valuable opportunity for Judges to exchange ideas that may affect court practice.

## III. Court Staffing and Protocol

Court staff play an important role in the processing of minor guardianship cases. Court staffing looks different from state to state, and from court to court. In larger courts, there may be full-time elected Judges, Associate Judges, Court Registers/Clerks, Clerical Staff, Administrative

Supervisors, Court Investigators, Probation Officers, Bailiffs, Reporters, and specialized program staff. In smaller courts, there may be only a part-time Judge, a Court Clerk, and a few clerical staff. The court's size and staffing affect how minor guardianship cases are processed. The more thoroughly staffed a court is, the more likely it is that a court's structure can support an office with staff who specialize in specific case types (e.g., minor guardianship, adoption). For example, New York City's Family Courts have 47 Judges, who specialize in custody/domestic violence, abuse/neglect, and juvenile delinquency. New York's Family Courts also illustrate how procedures within a state can vary. New York City Judges are appointed by the Mayor, yet the state's remaining Family Court Judges are elected. California's Judges are appointed to six-year terms, but then they must be re-elected. Slightly over half of the Judges in the states interviewed are elected. Other states' Judges are appointed by the Governor, including those in Massachusetts, New Hampshire (life appointment), and California.

One example of how courts with large case volume are able to develop specialized services is found in a Texas Probate Court, where the large volume of guardianship cases (843, FY 2002)<sup>14</sup> warranted the establishment of a Court Investigator's Office. Likewise, the Probate Division of the Sacramento Superior Court staffs its office with six Court Investigators. However, courts with smaller volume, such as Maine's Probate Court, have few staff available to assist petitioners with the filing process and do not perform tasks associated with minor guardianship cases that are perceived as a "lawyer's job."

#### IV. Court Expenses

Most interviewees indicated that their courts charge a filing fee for minor guardianship petitions. New York is the only state that does not require a filing fee for minor guardianship petitions or any other service offered through its Family Court. Fees range from \$25 and \$30 in Maine and New Hampshire to \$200 and \$240 in Florida and California. Additionally, petitioners in Texas are charged for a court reporter plus \$400 to recover the cost of a social study. Other states charge for court records as well; New York records its proceedings on audio tape and sends them for transcription, which may then be ordered by the parties. California charges \$5 for an audio tape of proceedings, and like Texas, it recovers the cost of its Court Investigators' activities by charging about \$490 for an investigation, though this fee may be waived for families in financial need. Five courts record proceedings, sometimes on audio-tape, which then may be transcribed. One New England state reported that the Judge's Secretary takes court minutes. Three courts reported taking minutes when circumstances necessitate (e.g., contested cases).

#### V. Court Processes

##### A. Case Type

The processing of cases is affected by the *types* of cases heard within a given court, and the types of cases presented reflect the community's circumstances and needs. Florida and Vermont reportedly process a significant number of cases involving minors' estates. In fact, when asked about issues and concerns in her court system, one interviewee responded, "parents like to spend their kids' money," reflecting the prevalence of "money guardianships" in her court. Maine's court system hears many "school-related" guardianship cases. In this court, the Judge works hard to contact and include all parties privy to the matter, especially the

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<sup>14</sup> Only 81 of these cases were considered *minor* guardianship cases.

birthparents. Texas Probate Courts mainly hear permanent guardianship cases, so any contested or “open guardianships” (i.e., temporary) are heard in Family Court. Of the cases heard in Family Court, many involve custody and child support issues related to divorce. Naturally, the types of cases heard affect who attends hearings. Petitioners and legal counsel, when employed, are always present; removed parents (i.e., birthparents), Guardians ad Litem, Court Investigators, and child welfare workers attend hearings when circumstances warrant. Children may attend proceedings in some circumstances (e.g., non-contested hearings, when they’re over age 14), but they are discouraged from attending hearings in some courts, particularly when cases are contested.

#### B. Timeline for Adjudication

The length of time it takes to process minor guardianship cases depends on the type of case being heard and whether it is contested. Some cases are heard and finalized the day they are filed, while others take more than three months to finalize. New Hampshire, for example, hears temporary guardianships, on the day the case is filed. These temporary guardianships are valid for ten days until a permanent guardianship hearing can be held. The temporary guardianship hearing permits rapid processing of ex parte cases and works well in emergency situations. Cases involving sexual abuse may be processed in one day, while cases involving more general child welfare concerns may be heard within a week. Maine’s permanent guardianships are processed, on average, in about 90 days. When cases require supplemental information, such as a home study or “social study,” processing typically takes longer. For example, hearings in Texas take place upon receipt of a social study from the Court Investigator’s office, which typically takes about 90 days to complete.

Interviewees from both Texas and California courts indicated timelines exist for the processing of these cases. These courts indicated that processing of minor guardianship cases is dictated by minimum timeline standards. These standards in Texas and California require a minimum number of days between a case’s filing and hearing date, eleven and thirty days respectively. These timelines are instituted to protect the rights of absent parents (ex parte cases), including notification of court proceedings, and allows time for objections to occur.

### **Ensuring Child Welfare**

#### I. State Child Welfare Agencies

##### A. Involvement

Half of the interviewed states involve their state’s child welfare agency with minor guardianship cases, but this involvement is often conditional. Most states involve the state child welfare agency to assess a petitioner’s fitness or to ensure the long-term safety of the child. Child welfare involvement occurs on an ad hoc basis, as determined by the Judge. For example, when child protective questions exist, or if the family has a known history of drug involvement, the Judge requests the agency’s involvement. Some states’ child welfare agencies may initiate involvement when a guardianship family is known to the agency. One state’s Probate Court indicated that their state child welfare agency is rarely involved with cases, though “it would be helpful if they could be more involved.” Because the child welfare agency is already overburdened with numerous cases, many involving explicit abuse and neglect, probate cases are not typically a high priority for this state child welfare agency.

Interviewees that indicated state child welfare involvement with minor guardianship cases were questioned further about the agency's involvement. None of the states identified a protocol for the assignment of specialized or specific workers to minor guardianship cases. The volume and nature of cases processed in New York City's Family Courts require a social worker from the Administration for Children's Services (ACS) to be on call in the courthouse. When Judges need social work expertise or information from the ACS information system, Judges may call upon this worker to attend a hearing or assist the court by gathering and reporting information. However, investigations by ACS occur only at a Judge's request, and the threshold which merits a request varies by court. Even then, ACS only provides a report to the court but does not provide case management services to families. In states where the child welfare agency is involved, their involvement is typically initiated by the Judge. Known involvement with the criminal system, drug history, "hidden agendas," or other concerns observed by judges may be cause for child welfare involvement.

### B. Quality

Courts that indicated involvement with a state child welfare agency were also asked to rate aspects of their experiences with the agency: quality of reports received from the agency, timeliness of reports, working relationship, and communication and understanding. Interviewees were asked to rank these aspects based on a five-point scale: excellent, very good, good, fair, or poor. When asked to evaluate the quality of agency reports, considering thoroughness and usefulness, interviewees' responses included excellent, good, and very good. Responses about the timeliness of these reports differed slightly; rankings included very good, good, fair, and poor. Overall, the timeliness of these reports was ranked more poorly than the quality of these reports, a reflection of child welfare agencies' demanding workload. The working relationship between the courts and the child welfare agency was described as very good (n = 3) or good (n = 1). Communication and understanding between the courts and child welfare agency were rated as very good (n = 2) or "in between very good and good" (n = 2).

## II. Alternate Approaches

### A. Litigation

Some states' courts that do not interface with a child welfare agency have alternate methods of examining child safety and well-being. Florida's minor guardianship cases are fully litigated. Petitioners do not file paperwork; instead, every petitioning guardian must acquire legal representation. These attorneys are responsible for filing all paperwork and forms, including the only formal documentation required that verifies a petitioner's fitness to serve as guardian, though petitioners are required to attend guardianship classes as well.

### B. Court Investigators

Cases requiring child welfare involvement in Texas are referred to the Family Court. However, Tarrant County Probate Court<sup>15</sup> has developed a program to evaluate a petitioner's fitness and optimize children's welfare. Tarrant County's Court Investigator Program provides

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<sup>15</sup> Interviewees from Tarrant County's Probate Court emphasized the authority Texas Statutory Probate Judges have to fund and staff programs in their respective courts. Because the Court Investigator's Program is specific to this court and the prevalence of similar programs across the state is not known, this program is referred to as a Tarrant County program rather than a Texas program.

“social studies” to the court, which inform the court’s decision-making in minor guardianship cases. These studies detail a thorough history of relevant parties, including information obtained from background checks. The Court Investigator’s Office, directed by an attorney and staffed by master’s level social workers, provides referral and case management services as needed. The Court Investigator oversees three other staff, including the Manager of the Court Visitor’s Program, an Assistant Court Investigator, and a Guardianship Advisor. However, only a small percentage of guardianship cases managed by this office involve minor guardianship.

Likewise, California courts employ six Court Investigators responsible for performing studies on every petitioning family. California’s Court Investigators’ roles are fairly limited though. Unlike Tarrant County’s Court Investigator’s Office, California’s Court Investigators act only as investigators for the court; they do not provide case management, and referral services for petitioning families are very limited. Five to six weeks after a case is filed, these Investigators submit a written recommendation to the Judge, which describes what type of placement is in the child’s best interest.

### C. Informal Systems

Typically, far less formal systems serve the courts. Half of the states interviewed involve their state child welfare system occasionally, depending on case circumstances. However, no formalized assessments or instruments are utilized by these agencies. Usually a verbal recommendation is made, which is accompanied sometimes by a written recommendation to the court. Information in these reports may be collected from personal interviews, home studies, and background checks. Though none of the courts reportedly uses formalized instruments or assessments in their reports to the courts, Tarrant County’s Court Investigator’s Office outlines four areas of concern in its court reports: suitability, willingness, availability, and eligibility. These areas are evaluated and submitted to the court in written (narrative) form. Florida’s petitioning guardians rely on their attorneys to convince the court they are appropriate guardians. The Florida Bar Association reportedly produces a form, required for processing of minor guardianship cases, that is designed to demonstrate a proposed guardian’s suitability.

## **Social Services for Guardianship Parties**

The social service needs of people involved with guardianship proceedings reflect the communities in which they live and the constituencies that the court serves.

### I. Service Needs

#### A. Petitioners

When asked about the needs of petitioning guardians, a Maine respondent indicated that child support was the greatest need of petitioners. Vermont’s interviewee indicated that mental health evaluations, therapy, and parenting classes are needed, but Florida’s interviewee<sup>16</sup> reported that petitioners in her court do not routinely present with social service needs. A New Hampshire representative agreed that mental health needs are a concern, along with medical and general financial needs. One Judge initially struggled to identify specific needs of the

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<sup>16</sup> The Florida Court included in this study was located in Palm Beach, an affluent area that is not representative of all courts in Florida. However, findings from this court illustrate how Probate Courts function very differently, depending on their court constituency.

petitioners, but stated that petitioners “just aren’t prepared for these kids.” Parenting classes may be helpful in some cases, but many petitioners are older, perhaps in ill health, and are often ill-equipped to handle the challenges associated with children whose home-life has been disrupted.

### B. Children

The most frequently identified social service need of children involved in minor guardianship proceedings was mental health services. Other needs identified included medical care/insurance, educational services, and counseling or other supportive services. One Judge suggested that children in his court could be served better with the availability of day care and a “safe and stable” alternative care provider on which guardians could rely. Again, because of the types of petitions heard in Florida, one interviewee pointed out that children in their court system don’t often present social services needs. In response to this question about the social service needs of children, she stated that, “We handle minor guardianship cases, not abused children.” Most interviewees were able to clearly identify social services needs of children. One Judge expressed his concerns: Though society (and legislatures) identify child rearing as a “parent’s responsibility,” these children lack parental involvement. “Even though they have *biological* parents, they *have no* parents.” The lack of parental involvement results in poor discipline, negatively affecting school performance, subsequent job preparedness, and life skills. These factors make it difficult for children to succeed in adulthood, which may eventually draw these children to criminal behaviors.

### C. Removed Parents

Interviewees were also asked to identify social service needs of removed parents. Removed parents are not always present in minor guardianship proceedings, making their social services needs more difficult to assess. Despite removed parents’ absence in many cases, the conditions resulting in minor guardianship proceedings are well known among interviewees. Substance abuse treatment was identified as the major need of respondents. One Judge identified alcohol/substance abuse as a precipitating factor to other challenges (e.g., domestic violence) faced by birthparents. Other needs, according to interviewees, include parenting classes, mental health evaluations/treatment, counseling or other supportive services, financial assistance, and educational services and job training.

## II. Service Provision

In response to these needs, only Tarrant County Probate Court staffs a program designed to provide case management and referral services. One Judge explained that petitioning families in his court are often already connected to social services, and that the court’s role generally entails encouraging and supporting families’ existing connections to social services. Although formalized programs are rarely in place, some Judges refer families to needed services, sometimes even mandating such services (e.g., birth parents attending drug treatment, domestic violence classes). Referrals are often made to private, community-based services that are provided on a sliding-scale, based on a client’s income. Some services are accessible through state or county agencies, including CHIP<sup>17</sup>, Food Stamps, and mental health services. Two Judges find a tremendous resource in their states’ child welfare agencies, as they provide the bulk of social services to families. Another Judge hesitates to refer families to his state child

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<sup>17</sup> The Children’s Health Insurance Program (known in Connecticut as “Husky”)

welfare agency, because once a referral is made to the agency, the family is then subject to the requirements of that agency (e.g., parenting classes). Regardless of whether an abuse/neglect allegation has ever been filed, the family must comply with the agency or risk upsetting an agency with the authority to remove the child from their home. Two Judges stated that guardianship families only receive services from their state's child welfare agencies if the families are already involved with the agency. Services may not be available to children who are not officially wards of the state.

### **Case Follow-Up**

Even after a final decision is made in minor guardianship cases, most courts maintain involvement with the guardianship family. Courts typically maintain case involvement to monitor the child's welfare in the guardianship home. Florida's cases remain open until the child reaches adulthood and the courts require guardians to file annual reports, as do courts in Texas, Vermont, and New Hampshire. Massachusetts courts require annual accounts, and some judges even require "guardianship plans" in addition to annual reviews. Guardians ad Litem may be appointed to review these plans for the court. Florida's Courts employ Court Auditors that review annual reports to ensure guardians submit accurate and thorough reports in a timely manner. New Hampshire not only requires an annual written report, but guardians appear before the court annually to provide an account of the child's welfare and to resolve any issues of concern (e.g., support or visitation). Tarrant County's Court Investigators perform annual checks on guardianship families and file annual reports with the court as well. Interestingly, these guardianships are valid for only 16 months. This provides a four-month grace period for annual reports to be submitted so that guardianships can be re-approved. Despite the initial involvement of Court Investigators in California, no follow-up services are performed because funding is inadequate for long-term monitoring of these cases.

### **Court Reforms and Initiatives**

Court reforms and initiatives have improved some states' processing of minor guardianship cases. In 1993, Texas laws were overhauled, and the Court Investigators program started shortly thereafter. Court administration prioritized social service needs, and staff hours were cut back to re-allocate county funds to the newly developed Court Investigator's Program. After the merits of the program were fully realized, more funding was shifted to this program. Since 1996, when the first social work position was added to the office staff, the Court Investigator's program has grown to a staff of four.

New York City's Family Court Administration, upon the recommendations of a national judicial association, instituted regular meetings with officials from the Administration for Children's Services (ACS) to increase communication and collaboration. Greater understanding was created as participants learned each others' roles, limitations, rules, and expectations. Participants' working relationship benefited so greatly that parties have continued these regular meetings to discuss issues and foster greater understanding and integration. In another example, Massachusetts utilizes a Supreme Judicial Court Child Welfare Committee to share ideas and concerns. One Judge reported using informal or "back-door" opportunities for relationship-building, and another Judge identified adoption proceedings as an opportunity to work more closely with her state child welfare agency.

## Issues and Concerns Among the Courts

Interviewees were encouraged to share other concerns not specifically addressed by the interview protocol.

### I. Concerns with Court Constituencies

#### A. Drug Involvement

One Judge expressed a grave concern about the frequency of drug-related cases she has seen in her court. "We've got to get serious in [our state] about heroin addiction." Parental drug involvement has presented many complex situations for her court. Though some community clinics are available for treatment, there are often not enough spaces, and recovery can be quite difficult to sustain.

#### B. Conflict Resolution

Another court reported its major problem was parents "not respecting the law." Because of the temporary nature of guardianship, guardians were not given much legal protection. Consequently, birthparents undermined guardians' authority, which made it difficult for guardians to discipline children or even physically maintain children in their homes. A lot of "back-and-forth" disagreement between guardians and birthparents played out in the courts, draining the court's time and resources. Over time, it seemed the adversarial nature of the court process became more of a hindrance than a help to these feuding families. As a result, guardianship laws changed to grant more legitimacy and authority to guardians, and an alternative dispute-resolution model was created so that fewer conflicts entered the courtroom.

The Tarrant County Family Court's "Access Facilitation" program, created for contested cases, is ordered by the Judge prior to the Court Investigator's social study. Access Facilitation entails a confidential meeting, which engenders open communication between the parties, led by a master's level social worker. The social worker listens to both sides and combines social work training and mediation skills to help parties negotiate an agreement. The program also has elements of arbitration, as the Access Facilitator submits recommendations to involved attorneys, who then advise their clients to "proceed or concede." Unresolved issues are still processed through the court, but this program "weeds out" most unnecessary conflict from the courtroom. California also started a mediation program for contested issues as a way to allocate the court's time and resources more efficiently, and a counseling/mediation program known as PEACE will soon be mandated in New York City's Family Courts. Another interviewee expressed a concern with the court's time management and the enormous "consumption of time" caused by conflicts in the courts, especially regarding visitation. "They're always in turmoil. It's a whirlwind of turmoil." He suggested that these families need social services, not court services.

### II. State Laws

#### A. New Authority: Terminating Parental Rights

A concern expressed by a Vermont interviewee resulted from a change in state law in the mid 1990s. Guardians of minor children were exasperated with birth parents, and a new law granted Probate Courts the authority to terminate parental rights. However, state law requires

counsel for parents whose rights are being terminated. Unlike some courts in the state (e.g., Family Court), Probate Courts are not connected to the Public Defender's Office. Therefore, the court is responsible for locating counsel for these parents on a case-by-case basis. Though the statute providing the court more authority was well-intentioned, it may not have adequately equipped the court to perform its new duties.

#### B. New Responsibility: Monitoring Guardianships

Concern by Florida's interviewee also was generated shortly after a new statute was instituted in 1989, requiring annual reports from caregivers. Court staff were required to monitor the content and timeliness of these reports, initially creating an enormous backlog of these cases for staff to process. Since that time the Clerks have been able to better manage the follow-up required by this statute. The Massachusetts interviewee indicated his major concern was "increased volume" in his court. In the past two years, the overall volume of his court has increased 12%<sup>18</sup>; additionally, the number of petitions filed by unrepresented litigants has increased 26%<sup>19</sup>. Another court's concern revolved around the long-term well-being of children in guardianship homes, because no system is in place to monitor these placements over time.

### Conclusions

#### I. Resources

The National College of Probate Judges, The National Center for State Courts, The National Council on Juvenile and Family Court Judges, the National Guardianship Association, the American Bar Association's Center on Children and the Law, The Vera Institute of Justice, and the National Conference of Commissioners on Uniform State Laws (University of Pennsylvania Law School) all provide valuable information on the topic of minor guardianship. Though these organizations produce helpful information, there is no readily identifiable organization that specifically addresses minor guardianship issues. Interviewees reported that more formal and informal associations are present at the state level.

#### II. Research Process

The scarcity of readily available minor guardianship information led to the development of a research protocol involving telephone interviews. Although this method of information gathering was convenient and relatively efficient, the sample of states and interviewees included in this sample is likely censored in some ways. Though smaller states were included in this survey, the courts contacted for these interviews were typically the largest, or one of the largest, courts in the state. Therefore, findings reported from the "smaller" courts (i.e., smaller states) of our sample actually often represent the largest courts in these less-populated states. Further, this "cold-calling" format failed to persuade two courts in the research sample to participate in the interviews.

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<sup>18</sup> Petitions filed in the Massachusetts Probate and Family Court Department: 3864, FY 2000; 4337, FY 2002.

<sup>19</sup> Petitions filed in the Massachusetts Probate and Family Court by unrepresented litigants: 2425, FY 2000; 3055, FY 2002.

### III. Research Findings

#### A. Court Constituencies

One interesting finding relates to the states' court constituencies. Several factors, including types of guardianship (e.g., estate, military related), are affected by the make-up of the court's constituency. The filing fees charged for minor guardianship petitions are an example of a factor related to courts' constituencies. A wide range of fees was found, from no fee to a fee of more than \$200 plus other court related costs. Not surprisingly, when an interviewee from a court that processes several estate guardianships was asked to identify social service needs of children in her court, she replied, "We handle minor guardianship, not abused children."

#### B. Court Fees

Naturally, the higher costs associated with minor guardianship petitions in some states may prohibit filing by some potential guardians, though the availability of fee waivers may assist some petitioners; in contrast, the absence of court fees in New York may invite a higher rate of filings for guardianships and other court matters. Though most courts charge a filing fee for petitions, interviewees from every court that assesses filing fees indicated that qualifying families may be eligible for fee waivers. Qualifying for fee waivers requires the petitioner to demonstrate financial need, but requirements for obtaining fee waivers differ from state to state.

#### C. Court Structure

Wide variance in court size and prevalence was revealed in this study. The number of minor guardianship courts reported by states ranged from ten in New Hampshire to sixty-two in New York. Though court volume was not specifically investigated as part of this study, a court's size and volume is related to availability of services within the court. Specialized investigative staff, tremendously valuable to ensuring the initial and long-term well-being of children, are often limited to large courts able to fund such programs. Texas Courts even found it valuable to assign different types of cases (e.g., contested, non-contested) to different courts to better allocate its resources. Of particular assistance to the Family Court, which handles contested issues, is the Access Facilitation program based on a mediation model.

#### D. Mediation Models

Given that interviewees expressed a concern for increased court volume and consumption of the court's time by "conflicts," it is no surprise that mediation models serve the courts well. Though one judge's court does not reportedly have an organized mediation program for minor guardianship cases, his court protocol for contested cases includes asking parties if they have discussed their differences. Most often, he finds, they have not communicated very well. At that point, he immediately sends them out of chambers to discuss the issues at hand before he hears the case. "Sometimes they just need permission to do it," he explained.

Formalized mediation-style programs provide a valuable process to the courts, as many parties are able to negotiate an agreement. This method benefits the court by reducing the amount of time-consuming conflict that the Judge must sort through, and the parties receive benefits associated with mediated agreements. They become more invested in agreements they have negotiated, increasing the likelihood that both parties will follow through with the terms of the agreement. Parties also are more likely to find a mutually agreeable solution in mediation than when a judgment is "handed down" in favor of one party over another. Further, in cases

where family members are involved, the mediation approach promotes renewed communication, which may improve long-term family relations for the child and deter future family quarrels from becoming formal court battles.

#### E. Support for Change

Finally, another valuable lesson learned from other states' courts pertains to the provision of support necessary for change. Though one court was empowered with the authority to terminate parental rights, the necessary supports for terminating parental rights are not readily available. Florida courts experienced growing pains when the state instituted reforms requiring annual reports by guardians to be filed and reviewed by court staff, who were unprepared for the increased workload. Not only is it important to provide short-term support for implementation of new policies and programs, but it is also wise to remember that some issues may not surface immediately. Long-term monitoring and support of newly implemented court changes help to ensure that the changes affect the court positively and achieve their intended outcomes.

## Recommendations

This list summarizes the major issues facing the CT Probate Court system in its management of minor guardianship petitions. Represented here are the most commonly discussed concerns that were mentioned by stakeholders around the state. Recommendations are a combination of ideas offered by Probate Court Judges, Probate Court Administrative Personnel, Attorneys, DCF workers, Families, and Key Informants, as well insights gained from other states' court experiences.

### I. Communication between Probate Courts and DCF

Clear communication between Probate Court Judges, Administrative Personnel, and DCF workers and their supervisors would alleviate many of the conflicting expectations that were reported among these groups. Regular communication, that could be structured at multiple levels (i.e., statewide, district or regional, and between each Probate Court and the DCF workers assigned to handle its cases), would achieve the following: 1) consistent practices across the state, 2) mutual understanding of responsibilities, regulations and restrictions, 3) appreciation of the informality of the Courts and the work of DCF, and 4) development of new practices that would be mutually beneficial and agreed upon by the Courts and DCF.

One form of this communication could be *meetings*, similar to those that occur between New York City's Family Court Administration and the Administration for Children's Services (ACS). Another possibility for communication could be in *written form*, which either 'side' could generate and expect to be addressed by a designated party of the receiving agency or court. A third option might be to address the *attendance* of DCF workers at court hearings, which many feel would improve communication between Judges, Attorneys, and DCF workers, while allowing for in depth exchange of ideas, questions and answers. Finally, the *permanent assignment* of DCF workers to specific Probate Courts would be received positively by both Probate Court Judges and Staff, and DCF workers. In courts where this arrangement already exists, interviewees reported better communication, rapport, and productivity.

### II. Training and Education

#### A. For Judges

*Training for Judges*, provided on some regular basis, would inform, educate, and create consistency across Probate Courts. This training could focus on the following: 1) professional etiquette in the courtroom, especially with respect to treatment of DCF workers, 2) education about CT statutes, Probate Court procedures, and the extent of the Courts' jurisdiction, and 3) awareness of DCF regulations, as well as DCF workers' responsibilities and limitations. A training forum could also provide an appropriate venue for the dissemination of information regarding child development research, child welfare issues, policy developments, and social service delivery systems. Other states with administrative oversight offices, such as Vermont's Court Administration's Office and New York's Office of Court Administration, provide judicial training and guidance on court procedures.

The issue of whether Judges need to have legal training in order to perform their decision-making duties and handle contested guardianship matters needs resolution, since several expressed concern about Judges who are not attorneys.

#### B. For DCF Staff

*Training for DCF Supervisors* was advocated mostly by DCF workers, who felt that educating supervisors could lead to several positive outcomes: 1) improved communication with the Probate Courts, 2) consistent practices and expectations within DCF, 3) awareness of differences between Probate cases and other DCF cases, 4) better caseload management, 5) increased timeliness and improved quality of reports, 6) understanding of workers' responsibilities, and 7) insight into the changing nature of Probate cases and the increased demands of these types of cases. In addition, if DCF Supervisors underwent routine training and education, workers would not be subject to variances among supervisors' practices and expectations, which create ongoing challenges for them as supervisors rotate.

*Training for DCF workers* could focus on the following: 1) managing caseloads, 2) producing timely reports, 3) producing high quality reports without typographical errors or mistakes in court language, and 4) maintaining open communication with Probate Court Judges and Administrative Personnel.

Within DCF, communication between workers and supervisors could be improved upon. Ideally, efforts directed at training, education, and communication within DCF might contribute to reducing staff turnover at various levels.

### III. DCF Reports

#### A. Timeliness

Similar to other states' court experiences, the timeliness of DCF reports was more of an issue than the quality of these reports. Certain aspects are admittedly out of any one's control, such as locating parents in other states and countries, and the willingness of parties to cooperate with DCF. However, improving timeliness would involve potential changes by both the Probate Courts and DCF.

The Probate Courts could consider reviewing some of the *statutes* that mandate the time frames by which DCF tries to abide. For example, the Judge who served as a Key Informant suggested legislative changes that would extend the number of business days required for DCF to provide information to the courts. Similarly, if the Probate Courts *revise the standardized method of requesting studies for every case* (as discussed under Quality), timeliness would be impacted. *Probate Court Administrative Staff* could implement the following procedures as well: 1) send requests to DCF within one to two days of receiving petitions, 2) ensure that all contact information is complete, and 3) inform petitioners that DCF will be contacting them as part of the court process.

Regarding DCF's responsibility to improving timeliness, *education and training of DCF supervisors and workers* might help address this issue. Caseload management seems to be the cause of most time-related concerns, so realizing the increased volume of Probate cases and then adjusting caseloads accordingly might be one strategy. DCF workers might benefit from understanding the difficulties that producing (often faxing) their reports, last minute, impose on Judges, Court Staff, and Attorneys.

## B. Quality

Satisfaction with the quality of DCF reports, both within CT and among a national sample of courts, is higher than satisfaction with the timeliness of these reports. However, several Judges, Administrative Personnel, and Attorneys expressed the desire for information that was more in depth, unique, case-specific, objective, and offered clear, unambiguous recommendations. Specifics on biological parents, reasons for the removal, steps that removed parents need to follow to regain custody, efforts to locate fathers, attempts to recruit responsible guardians, details on current living circumstances, and the emotional needs and supports for children were requested.

Similar to the two-sided process suggested for improving timeliness, improving the quality of reports would involve efforts on behalf of DCF as well as the Probate Courts. Improving the quality of reports could be addressed as a *training issue for DCF workers and supervisors*, who might benefit from instruction on court needs, report writing, and quality standards. It might also be an *educational issue for Attorneys, Judges and Court Staff*, who may have unrealistic expectations of DCF workers' responsibilities. Informing Judges about DCF procedures might help them realize the implications of their requests for additional information.

Additionally, there is a tension between the Courts' desires for standardization and consistency among reports, and flexibility, creativity and in depth analyses when circumstances warrant them. To resolve this conflict, the *Probate Courts may need to prioritize* what is most important to them, and balance it with the increased volume and complexity of cases. For instance, some Judges reported wanting more information up front, for Temporary Custody hearings, with the option to request further, more specific information if necessary. Some recommended developing a checklist whereby Judges could identify the types of information they needed on a case-by-case basis. Another suggestion, by the Judge who was interviewed as a Key Informant, was to develop a screening process by which the court could identify those cases needing full studies and those cases needing less, possibly consisting of background checks and a brief home visit. This Judge already waives a full study in at least 25% of cases, expecting extra interviews and more in depth investigations on tougher cases. A more radical solution, one that is employed in other states, is for Probate Courts to hire their own staff of investigators to provide studies tailored to the needs of the courts.

A review of other states' practices suggests that the CT Probate Court system, which statutorily mandates full studies for every removal hearing, is more standardized than other court systems. Although some states involve their state's child welfare agency, this involvement is often conditional and dependent on Judges' initiation and specific requests. In Texas and California courts, however, the Judges rely on their own Court Investigators to perform studies on petitioning families.

## IV. Use of Volunteers

Many interviewees in CT felt that volunteers provide numerous benefits to the Probate Courts, including a fresh, additional perspective, the ability to gain the trust of families more readily than DCF workers or Attorneys, the empowerment of community members to help their own, and the time to link families to services. From interviews with other states' court personnel, the issue of volunteers was raised in relation to the occasional appointment of GALs. Some courts use GALs in a similar fashion to CT, to investigate further the best interests of the

child, but in Massachusetts, the courts appoint GALs to review annual reports and guardianship plans. The use of *volunteers for case monitoring* ought to be considered in CT.

The development, implementation, training, and maintenance of volunteers are not easy. Not all Probate Courts have been able to benefit from the use of volunteers. Therefore, one recommendation is that the courts which utilize and rely successfully on volunteers develop a handbook or training protocol as a means to educate other courts about their program. Another possibility would be to use standard literature about volunteers to educate and train designated staff in the Probate Courts, who would be charged with developing volunteer programs.

Those who experienced the use of volunteers in the courts offered several suggestions for improving their services and performance. All agreed that *training* of volunteers is critical and should focus on the following: 1) ensuring consistent services and abilities across volunteers, 2) education about other ethnicities, religions, and in general, recognizing one's own biases, 3) how to maintain objectivity, 4) developing their own independent assessments rather than relying on DCF worker's information, and 5) understanding the implications of their recommendations.

## V. Service Needs and Linkages

There was widespread consensus across the state on the need for services to guardianship families and types of services needed. Many felt that the need for services exists among almost all guardians and minor children, and even conservative estimates usually originated around 50%. The kinds of services needed, although numerous, could be categorized under the following: financial assistance, mental health services, substance abuse evaluations and treatment, child care and youth programs, and personal assistance with employment, housing, service referrals, health care, subsistence programs, and education. Parents who are removed are also in need of these services. Research from other states reflected virtually the same needs identified in CT.

Addressing the issue of resource availability is complex. Stakeholders in the state described services as limited, with problems relating to extensiveness, accessibility, awareness, follow through, and efficacy. The issue of service provision is fundamentally an issue about money. The existing programs already operate on very small budgets, and the Probate Courts lack the resources to fund any of the necessary services. This predicament is not unique to CT by any means. Findings from other states' experiences suggest, however, that there may be creative solutions for financially strapped child welfare systems. Some states, for example, have been successful at drawing on federal funding streams, such as unused TANF funds and Title IV-E waivers. Although CT has taken the first step legislatively toward subsidized guardianship, it would benefit the Probate Court system to *explore federal funding opportunities* through TANF and Title IV-E waivers. A related issue is that under current policy Probate families do not qualify for DCF services. *If the policy was changed* to include these families, it would offer them the same benefits that others, who resemble them and have cases which are heard in other courts, already receive.

The concern for unmet service needs was so great, particularly among Attorneys, DCF workers, and Probate Administrative Staff, that many recommended transferring cases to the Juvenile or Superior Courts where services could be provided. Ideally, the Probate Court system needs to 1) recognize how minor guardianship cases have changed with respect to volume and complexity, 2) decide what kinds of cases it should hear, and 3) ensure that all families served receive the full range of proper services. Even if funding all of the necessary services is not a

feasible financial option, the Probate system would improve significantly only if it developed a *service linkage system* for minor guardianship families. Such a system would address two other important issues around service needs: accessibility and knowledge.

As many around the state admitted, the Probate process ends abruptly in assisting families and children by not having a centralized, dependable, structured system in place to ensure proper resource referrals. Two Judges recommended that the Probate Courts develop their own investigative branch that could help with resource referrals, similar to the Court Investigators Program in Texas which provides referral and case management services. Other suggestions included the following: extending the responsibilities of DCF workers in Probate cases to assist formally in service referrals; assigning a DCF worker to Probate Court to handle service linkages; using trained volunteers like Children in Placement (CIP) to assist families in gaining access to services; and maintaining resource files and manuals to hand out to families. Other recommendations that could impact services for families include increasing the authority of Probate Judges to order services, and incorporating into the court process the effective monitoring of cases (see below).

## VI. Monitoring Families

The changing nature of Probate cases with respect to the needs of families has necessitated the development of several informal methods for monitoring cases. Although guardians are required to send in an annual report to the courts, they often lose the form or do not remember to mail it back. According to some Probate Judges and Administrative Staff, the reporting process does not work well, and there is no consistent contact with families to ensure the safety of children after guardians are appointed. In efforts to compensate, Probate Judges keep cases open beyond the determination of guardianship in the hope that DCF workers will continue to monitor their progress. Some Judges continue cases indefinitely so that DCF will remain involved, even though their responsibility formally ends with the production of a Removal study, which is not supposed to be updated every few months for the courts' monitoring purposes. Guardianships may even be classified as temporary, so that DCF and the courts can continue to meet around the needs of children and families.

Clearly, guardianship families and minor children served by the Probate Courts need *monitoring*, as expressed across all groups of stakeholders in CT. Even families, themselves, mentioned issues of concern (e.g., visitation schedules) that were not addressed during court hearings, but could be dealt with easily through follow-up services. The importance of monitoring families has been illuminated recently as well in several newspaper articles which have documented the failings of child welfare and other service organizations to keep track of the progress and safety of clients<sup>20</sup>. Finally, a review of other states' practices indicated too that most courts maintain involvement with the guardianship family. These methods include keeping cases open until minors reach adulthood; requiring guardians to file annual reports that are reviewed by court auditors, volunteers, or Court Investigators; checking up annually on guardianship families; and requiring that guardians appear before the courts to provide an annual account of the child's welfare. Other options for improving the monitoring of cases in the CT

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<sup>20</sup> See for example, Kaufman, L. & Jones, R.L. (2003, April 6). A boy's grim journey in New Jersey's care, from infancy to death. The New York Times, p. A21; Barry, E. (2003, January 5). A mother's deadly struggle for her sanity. The Boston Globe, pp. A1, A24-A25.

Probate Courts were suggested by Probate Judges, who felt that the courts, DCF, or an independent agency could review closed cases annually.

## VII. Specific Court Processes

Interviewees identified certain court procedures that need attention. One issue of major concern is that Probate *Judges can not order or mandate services* to families, which compromises the likelihood that families will follow through with service recommendations and referrals. This is a difficult issue to resolve, as it requires either the transferring of contested and/or complex cases to courts where the Judges have more power, or the revision of state statutes that empower Probate Court Judges.

Another specific procedure that needs discussion and possible revision is *screening of applications*. Currently there is no screening as Connecticut statute permits anyone to petition the court whenever he/she wants. This can create a great deal of work for the Courts and DCF. Sometimes an application is filed by a removed parent requesting reinstatement in too short a time frame to demonstrate any real recovery. In other instances, a petitioner may file an application for custody simply to create problems for parents. A related issue, reported by DCF workers, Probate Court Personnel, and Attorneys, is that petitions are accepted even if they involve criminal and protective service issues, and would be better served in other courts. Guidelines for discretion of Probate applications could address some of these matters. Other comments regarding applications pertained to their complicated and intimidating *format*.

The issue of *fee waivers* and the *charging of fees* concerns many as well. On one hand, some feel that no fees ought to be charged—in the majority of cases fees are waived anyway creating a lot of employee time and paperwork; and, in the remaining cases, families should not have to pay to take care of children. However, the lack of fees worries others who feel that families who qualify for fee waivers do not take seriously the application process. Addressing this issue will entail assessing the message that the Probate Courts wish to convey to potential petitioners, measuring how much time is consumed by the fee waiver process, and researching and possibly testing whether the implementation of some nominal fee discourages the haphazard filing of applications. The relationship between filing applications and the charging of fees was mentioned as a problem by at least one Judge in another state.

The pool of *attorneys*, described by one Judge as a “serious shortcoming of the system,” needs expansion. Smaller courts have a difficult time finding attorneys who are willing to handle Probate cases; and, among attorneys who agree to the work, some only produce verbal reports, and some call DCF workers as a substitute to their own fact-finding. Families too reported dissatisfaction with the availability of their attorney prior to hearings. Several stakeholders offered the same recommendation for addressing this issue: Increase the fees that Probate Administration pays attorneys. A possible payment schedule could include a higher rate of hourly reimbursement but also take into account task completion (e.g., visits with children) to ensure that attorneys spend time with clients. The current reimbursement rates are considered so low by many that they do not even bother to file the papers to receive payment. Making the paperwork simpler for attorneys to receive reimbursement for services would also make Probate cases more attractive.

Another court procedure that needs attention involves the *confidentiality* of DCF reports—who can read them and who can not. Whatever policy is decided upon between DCF and the Probate Courts should be implemented consistently across courts.

Finally, 30% of *families reported being confused* during or about court procedures. While these issues were not explored in depth in this study, further attention to the language used in the courts, and the quality of assistance that parties receive prior to, during, and following court hearings may be warranted.

### VIII. Financial Discrepancies Among Guardians

Across all groups of interviewees, from families to Judges, a major complaint about the Probate Court system was the *inequities* involved in supporting its guardians as compared to foster parents. The Key Informants described the financial discrepancy as “huge” as well as the difference in services that are available free of charge to foster families but not to kin guardians. Although the cost to society without kin guardians would be “staggering,” there are few and limited state policies which encourage relative caregivers to take responsibility for their own.

Literature on subsidized guardianship offers recommendations on this issue. For example, in an article entitled “The Case for Expanded Subsidized Guardianship,” Geballe and Scalettar (a Key Informant) outline the advantages to family placements<sup>21</sup>. They also offer legislative remedies that would provide benefits to children living in low-income families whose guardians have been appointed by Probate Courts and have not been through the DCF system. The solution to this issue clearly involves policy change at the state level, for which much research in support of kin guardians already exists.

### IX. Consolidation of Probate Courts

Although not a specific question asked of interviewees in CT, three of the ten Judges interviewed, as well as a Key Informant, discussed the *benefits of consolidating* the Probate Courts. Reasons offered in favor of consolidation included giving children’s matters, which are special cases, the proper Judicial training and expertise, creating proper facilities to hear minor guardianship cases, and offering adequate and timely services to families. In CT, three courts handle 50% of the caseload statewide. Thus, the creation of a few specified Probate Courts, dedicated to children’s matters, would validate an existing trend among the courts as well as allocate DCF services among a smaller number of courts, enabling workers to attend hearings, develop better communication channels, and provide consistent and tailored information.

Evidence in favor of consolidating the courts comes from within CT and from other states’ experiences. Stakeholders within the state complained about inadequate court facilities, lack of bilingual staff, and inadequate access and availability of qualified attorneys. Other states’ court personnel conveyed a clear message that larger courts with greater volume could justify the development of services, staff, and programs (e.g., Court Investigators, Access Facilitation) that would serve the needs of families involved with minor guardianship matters. Additionally, a review of the number of minor guardianship courts found in other states suggests that CT has an unusually high number of courts (as compared, for instance, with much larger states like Massachusetts which has 14, California which has 58, and New York which has 62).

The decision to consolidate the Probate Courts will involve the financial and physical needs of the courts, as well as the needs of families. Everyone interviewed for this study recognized the unique contribution and role of the Probate Court system. Any changes to this

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<sup>21</sup> Geballe, S. & Scalettar, E. (2001). The Case for Expanded Subsidized Guardianship. *Connecticut Lawyer*, 11(7), pp. 12, 14, 31.

system *must* continue to foster its efficient, caring, and accessible nature that most appreciate and expect.