

Child Welfare Program Management Guide

PREFACE

This Child Welfare Manual was prepared for your use by the Field Administration Division, and the Office of Children Youth and Family Services of the Colorado Department of Human Services (CDHS). We are indebted to Tom Westfall, Director of Yuma County Department of Social Services; Marilyn Neihart, Director of Morgan County Department of Social Services; Lezlie Mayer, Social Services Administrator for La Plata County Social Services; and Dennis Pearson, Director of Kiowa County Department of Social Services, who contributed important articles about child welfare. We are also indebted to Lynn Lehmann, retired Denver Department of Human Services Attorney, who contributed four of the articles on legal issues. He is on contract to CDHS to provide consultation and training to county departments and county attorneys. Barbra Remmenga, an attorney practicing in Montrose who was named outstanding Guardian ad Litem in 2002 wrote the article from a GAL perspective.

The most difficult challenge to you as a new director is to understand and oversee the child welfare program in your county. It is the most complex, high risk, and volatile program your agency administers. The department is required by law to directly intervene in families when parents or caretakers abuse their children or fail to provide adequate care, supervision and support. Children are the most vulnerable and dependent members of our society and their safety and welfare is a concern for everyone. This program generates strong emotions, opinions, and criticism for clients and the public and carries with it a high degree of liability.

In order to be successful, you must have competent, well-trained and committed staff that understands family dynamics and human behavior. The agency goal is to interrupt destructive behaviors that detrimentally affect children and help the parents and children adopt more constructive and satisfying behaviors that benefit them and the community. Good supervision is essential. In some counties, the new director may serve as caseworker supervisor. In any case, whether as director, supervisor, or caseworker, you are ultimately responsible for the successful implementation of the child welfare program. Make sure you are adequately trained and qualified if you have assumed the supervisory duties. Your staff needs clear direction, lots of support and continuing education. You must learn a complex set of requirements that demands knowledge, good judgment, and strong interpersonal skills.

Administering a quality child welfare program is a daunting and rewarding challenge. Good luck!

Dear County Director,

I would like to take this opportunity to congratulate you on your recent appointment and welcome you to the world of Child Welfare! If you are not already familiar with child welfare services, you will soon realize the diversity of the children and families that are served, their varying needs and the strengths they show against the many difficulties that they face. Your staff who work with these families and their children have very hard jobs as they are constantly having to weigh the parents' needs and problems against the strengths and potential for change that exists within the family while taking whatever actions need to assure the safety of the child(ren). The importance of the responsibility they carry is immense and recognized by the many layers of oversight provided them—their individual supervisor, your county's Child Protection Team, various internal review teams such as utilization review and permanency planning teams, the Court, the state's Administrative Review Division, and the overall state supervision of your agency's child welfare services.

As a state supervised county administered system, our role at the state is to provide you and your staff with the information, resources and tools to administer the delivery of child welfare services, and to provide oversight through monitoring, program review and evaluation. State Child Welfare staff provide many opportunities for county input in policy development through various work groups and other groups, as well as training, consultation and technical assistance. I encourage you to take advantage of those, as well as the materials available in this training packet.

We look forward to working with you and your staff to realize our vision that Colorado's children and families live in safe, healthy and stable environments.

Sincerely,

Jane Beveridge, Director
Division of Child Welfare Services

II. CHILD WELFARE OVERVIEW

Mission Statement

CHILD WELFARE: Everything we do will enhance the delivery of child welfare services so that Colorado's children and families are safe and stable.

Vision Statement

Colorado's children and families live in safe, healthy, and stable environments.

Values

The following values underlie the provision of child welfare services:

- Children and youth shall have the right to be raised by their families of origin. Families have the responsibility to raise and nurture their own children. Reasonable efforts shall be made to maintain the family unit through the provision of in-home services.
- Placement shall be considered when there is evidence that leaving the child in the home would jeopardize the safety of the child or community. Reasonable efforts shall be made to reunite the family as soon as safely possible if removable is necessary. When reunification is not possible, adoption and other permanency options shall be aggressively and quickly pursued.
- Appropriate and culturally competent services shall be provided to families, children, and youth in their own homes and in out of home placements.
- Children and youth who have been removed from the care of their parents shall have the right to have extended family members considered as placement resources, to be placed in a safe environment, to not be moved indiscriminately from one placement to another, and to have the assurance of a permanent family.

- Consideration of the child’s age, race, ethnicity, culture, language, religion, and special needs shall guide the choice of out of home and adoptive placements.
- Case planning shall involve the family so that relevant services can be provided to promote rehabilitation and reunification.
- Child welfare services shall be provided in collaboration with other community agencies on behalf of children, youth, and their families.
- Financial and programmatic accountability will be stressed using managed care principles to reinforce that children and their families receive all required services.
- Respect and build on staff’s strengths so that their expertise can be directed toward those assignments which will benefit the Division’s mission in such areas as technical assistance, consultation, and training others.

Statement Of Philosophy

Our society recognizes that parents have the fundamental right and responsibility to protect and nurture their children. However, when parents are unable or unwilling to do so, and put their children at serious, unreasonable risk, it is the societal and legal mandate of the public child welfare agency to intervene promptly in order to ensure the safety of the child. Rather than “rescuing the child” from the family, the philosophy in child welfare is to “rescue the family for the child.” This *child-centered and family focused* approach means that the child’s safety and protective needs are at the center of decision making, but services are focused on building the family’s capacity to protect the child.

Professional Ethics

Since casework is primarily a service provided by one person to another where the provider has significant power, control, or influence over the recipient, it is essential that the interaction be guided by ethical principles. The social work profession’s national association (National Association of Social Workers-NASW) has developed a Code of Ethics (See Appendix) that guides members in the provision of services to clients. The most important consideration is that the focus of the relationship is on helping the client understand and solve his or her own problems. The worker must not exploit or manipulate the client to meet their own emotional needs, or financially profit from the relationship.

Confidential Information

Information about families and children involved in child welfare programs is strictly confidential and cannot be shared by anyone without a written release from the parents or custodians, a court order directing the release, or by provision of state statute. Colorado law allows the sharing of confidential information about children and families with attorneys of record; law enforcement and the coroner's office, if applicable; agencies or persons providing care to the child; the Child Protection Team; the attending physician; and schools and other agencies involved in providing supervision, education or treatment. When in doubt about releasing confidential information, the new director should consult with the county attorney or state experts. County Commissioners acting as the Board of Social Services have access to confidential information in response to client complaints and in their oversight responsibility for monitoring the county department. Since they hire and fire the county director, it is essential they have knowledge of how the director makes decisions and implements policy.

History of Child Welfare Services

It was only in the past 50 years that Dr. Henry Kempe identified child abuse as a problem in this county. Dr. Kempe is a Denver based physician who identified that some children did indeed suffer maltreatment in their families. His pioneering work continues through the Kempe Center in Denver.

The Constitution of the United States does not cover things like child welfare practice. In order to get States to put certain practice standards into effect, the federal government offers the states money both for program costs and for administrative costs. Program costs, like money paid to a facility to care for a child, are fairly easy to identify. Similarly, money paid to a caseworker that is 100 percent assigned to a unit that supports the program in question is also easy to isolate. But money paid to staff to perform common supportive functions for child welfare services as well as other county department programs is harder to ascribe accurately to the various programs. These are indirect administrative costs and there is a methodology for tracking them.

Prior to 1970, the assistance payment eligibility function and casework services were provided by the same staff. In January of 1970, the federal government split the eligibility function of welfare programs from the services function. The reason for this change was to create greater efficiency in the eligibility determination process while creating a more professional service caseworker workforce.

The severing of the eligibility function caused fundamental changes in the way social programs were delivered in this country. One trend that should have been forecast was an increase in specialization in the services caseload. As late as the 1960s, child welfare activities were delivered by family services units. By the late-to-mid 70's, that was the exception to the rule. Child Welfare (Child Protection) units were

formed. Intake function was specialized within those units and as the '70s progressed, another specialty, sexual abuse, was being designed. In 1975, Colorado codified all the laws pertaining to juvenile and dependent and neglected children into the Colorado Children's Code.

The early '70s were affected by President Nixon's law-and-order emphasis and many federal organizations were created or strengthened for the purpose of providing resources, training, and other assistance to local agencies. For many reasons, there was great concern about juvenile crime. The federal Law Enforcement Assistance Administration (LEAA) provided grants to local service agencies to provide services to divert juvenile offenders from further involvement in the criminal justice system. The result was a two-fold emphasis in child welfare units on child protective service and services to youth-in-conflict.

Prior to the Reagan Administration, the federal government funded child welfare programs to states through Title XX of the Social Security Act. Each state had to submit a plan that standardized the definition and provision of child welfare services. This was heralded as the most influential change to the system until it was changed to the current block grant system. The term "program area" e.g. Program Area V – Child Protection; Program Area IV – Youth-in-Conflict; derives from the Title XX planning procedure.

Both Child Protection and Youth-in-Conflict provided out-of-home placement as one of the service alternatives available for their clients. As much attention, massive funding increases and liability issues converged, the placement of children out of their own home accelerated. By the mid '70s, there was concern that the system might not be managing the process effectively and the presence of *foster-care-drift* was identified (i.e. children moving through the foster care system, drifting in reaction to crisis rather than to a planned process).

By the mid to late '70s, the federal government had given demonstration project funding to the State of Oregon to further its Permanency Planning program. The success of this approach to the foster care drift problem was one factor that helped produce the landmark child welfare legislation, 96-272, of 1980. This law is the basis for the Title IV-E program of the Social Security Act and it encouraged States to address the issues confronting the system through entitlement funding backed by good practice requirements. It also discouraged excessive reliance on foster care placement and promoted greater use of in-home services to assist and rehabilitate families.

During the late '80s and early '90s, there was growing concern that liability issues coupled with genuine concern for child safety might result in overlooking the potential for improvement that exists within the family. This resulted in the emergence of Family Preservation Programs (FPP). Colorado began its version of FPP in July of 1994. Initially, these programs were composed of Day Treatment, Intensive Family Therapy, Sexual Abuse Treatment, Life Skills, two levels of Home

Based Programs, and optional county designed programs. These programs have since expanded into the Core Services Program, and additionally include funding for such programs as substance abuse, mental health and special economic assistance.

In 1993, the Family Preservation and Family Support Services Program (P.L. 103-66) was passed. It was further amended in 1997. This law focused primarily on the front-end of child welfare systems by providing additional funding for preventative and crisis services for children and families at risk. A focus of the legislation was to develop reliance on a broad range of community stake-holders. The law also created the Court Improvement Program.

In 1994, the Multiethnic Placement Act (MEPA - P.L. 103-382) was passed. This legislation was a response to the extended lengths of stay and poor outcomes for minority children, and the prevalence of racial preference in placement. It outlawed discriminatory practices and prohibited the delay or denial of foster or adoptive placement based solely on race. It compels states to make diligent efforts to recruit and retain a diverse base of foster and adoptive homes.

1996 saw the passage of the Interethnic Placement Provision (IEP - P.L. 104-188). It clarified a section of MEPA, making requirements clear and not subject to obfuscation. It established penalties and methods of corrective actions for states and/or agencies that fail to comply with the Act.

In 1994, the Legislature passed HB 94-1178 that inaugurated “Expedited Permanency” and changed sections of the Children’s Code to focus the system on speedier resolutions of court cases involving children in out-of-home placement who were aged 6 years and under. Permanency was to be achieved within 12 months of placement and a variety of other timelines and procedures were instituted. It was to be phased in across Colorado over a ten-year period.

This law was expanded on by the Adoption and Safe Families Act (ASFA) in 1997 (P.L. 105-867). This legislation was enacted as an amendment to titles IV-B and IV-E of the Social Security Act. This bipartisan Act focused on ensuring that child safety would be the paramount concern and that the adoption of children who cannot return to their homes would be vigorously promoted. The two main goals were to: 1) move children who are stranded in the child welfare system and 2) to change the experience of those children who are entering the system today. It is guided by five key principles:

- Safety is the primary concern that must guide all child welfare services.
- Foster Care is temporary.
- Permanency Planning efforts should begin as soon as a child enters care.
- The child welfare system must focus on results and accountability.
- Innovative approaches are needed to achieve the goals of safety, permanence and well-being.

In 1997, Colorado's SB 97-218 created great flexibility for counties to fund child welfare programs by creating a block grant of the main funding lines, allowing counties to transfer funds within the block and allowing counties to experiment with Managed Care models. Managed Care shifts risk and flexibility to the county departments that control utilization. They focus on accountability through the use of utilization review, quality assurance, shifting financial risk, and incentive-outcome based reimbursement. Additionally, counties were allowed to negotiate rates for services. Although the legislation allowed for great creativity, it also created great complexity, particularly in the management of the allocation lines.

Child Welfare Settlement Agreement

In 1992, the Colorado Department of Social Services was notified by representatives of a consortium of law firms and the American Civil Liberties Union (ACLU) that it was going to be sued for violations of Federal Law governing certain child welfare programs. Negotiations ensued which resulted in a settlement agreement. This document required strengthening and making improvements to the existing programs. 350+ caseworker FTE were distributed to counties, reimbursed 100 percent by the State. A caseload standard of 17:1 was established, revenue generation schemes were initiated, and Family Preservation Services (now Core Services) were designed and implemented. Many of the requirements in the Agreement are now incorporated into Volume 7. In 2001, there was general agreement that the agreement had achieved its goals and was closed.

Governor's Task Force on Child Welfare

Early in Governor Bill Owens' first term, four children died while counties had open child protection cases on their families. In early 1999, the Governor commissioned a Task Force of Citizen's to review the Colorado Department of Human Service's Child Welfare Program and make recommendations to improve the system. The Task Force met for about six months and came up with 36 recommendations to the courts, CDHS, Regulatory Agencies, Department of Education and the Legislature. The recommendations ranged from improving court procedures, CDHS policies, training requirements, therapeutic intervention with families, substance abuse treatment to reduce the length of stay in out of home placement, beefing up Citizens Review Panels, improving complaint procedures, and altering the Expedited Permanency Planning requirements. Many of the recommendations have been implemented. For a complete review of the recommendations, see Appendix.

Central Registry of Child Protection

The Central Registry is a secure and confidential database that provides a historical listing of individuals who have committed child abuse or neglect. Checking with the Registry is an important and required step in any new investigation. Equally important is listing of confirmed abusers. There are many protections to insure that any person who could be potentially listed has redress. The procedures may be found at 7.202.6 in Volume 7.

ColoradoTrails – An Automated System for Child Welfare

Colorado Trails is the automated case management system for Child Welfare Services. The system is designed to support casework practice and to track clients through all phases of work completed in counties in the delivery of services related to Child Welfare legislation, policy and practice. Trails was developed in response to the federal government's requirement that all states have a statewide automated child welfare system.

The system includes information on foster care and adoption services, child protection tracking (including the Central Registry for Child Protection), and licensing and certification of child care providers. In addition, Trails has a Division of Youth Corrections module that allows for similar tracking functions with the Youth Corrections clients. There are several system interfaces in place in Trails allowing eligibility tracking for public assistance and Medicaid; and payments to providers through the County Financial Management System (CFMS); and in the future, the Colorado Benefits Management System (CBMS).

Case information recorded into Trails is used by caseworkers for assessing and tracking referrals on abuse and neglect, safety assessments, assessments (formerly investigations) of abuse and/or neglect, case worker provided services, payments to providers for children in out-of-home care and general case management activities. It is also used for supervision of caseworkers and in Administrative Reviews of children who have been in placement for a period of time.

The caseworker/staff entered case recording information is used for a number of reporting and financial monitoring reasons related to federal and state audits; ensuring the Federal Title XX funding; demonstrating Maintenance of Effort; determining costs of particular programs; and management information and policy analyses. It is also the basis of a number of Federally required reports and files that must be

submitted regularly in order to ensure continued Federal funding and State Legislative actions.

Examples of these are: 1) All fiscal reports produced by accounting to meet Title XX reporting requirement; 2) the Adoptions and Foster Care Analysis and Reporting System (AFCARS) – twice yearly submissions on all children in foster care and who have had adoptions finalized; the National Child Abuse and Neglect Data System (NCANDS) – annually reported data on all allegations of abuse and/or neglect; 3) responding to State Legislative mandates and requests for information on programs so they can make funding decisions; and, 4) for provider tracking, payments, and payment audits. There are many other examples of how data are used from Trails, but probably the one of most interesting to a new County Director is that the County Allocation of funds is based on data from Trails.

(Editor's Note): The child welfare allocation using Trails' data will be determined through a mathematical formula of six drivers as follows:

1. Total child welfare involvements opened per 1000 children and adolescents;
2. Total out-of-home-placements as a percent of total open involvements;
3. Average cost per day of out-of-home placements;
4. Average days in out-of-home placements;
5. Program Services (administrative/overhead) cost per open involvements;
6. Assessments per 1000 children and adolescents.

III. MANAGING A COUNTY CHILD WELFARE PROGRAM

Leadership

The county director is appointed by the Board of Social Services to lead and direct the county department and manage the budget, staff, contracts, purchases, programs and child placements. In addition, the director is expected to coordinate programs, provide leadership on children's and family issues and advocate for adequate resources within the community.

The county department has the responsibility to select, train, direct and organize qualified staff in order to accomplish the child welfare program goals, objectives and requirements. Every county must provide required services directly or through contracts. The larger the child welfare staff required to serve the caseload, the more likely workers will specialize in one program area. Counties with fewer workers will have to rely on generalists who have knowledge of more than one program area.

An effective program can only be provided if there is leadership, knowledge, and effective supervision available to guide staff. If the size of the county department does not warrant maintaining a supervisor position, the director must provide the supervision or casework directly, or purchase services from another department of social services agency or a qualified supervisory professional.

Recruitment Of Quality Staff

A well-developed, mature program will attract high quality candidates due to its reputation and to the professional development offered to staff. If you are initially building the program, it will be important to know what the normal salary is for staff. If you expect to hire the best candidates, you will not usually succeed without offering compensation that is commensurate with their skills. Call seven or eight of your neighboring counties and ask what they currently pay and what their fringe benefits are. Arrange for the direct or contracted provision of the supervision that will support and develop top grade staff. Develop or purchase resources (cameras, tape recorders, interview rooms, reference materials) that will make their job easier and support them in their career development.

Once this is done, create the job announcement and have it posted across the state through CDHS and through the Director's e-mail hub. Contact the dean of social work at CSU, DU, and any school of social work at a nearby state. Advertise in the local papers and, where appropriate, the Denver Post and Rocky Mountain News.

Retention Of Quality Staff

Orientation Program - Insure that you have developed an effective orientation program for the position. This should include not only the standard personnel rules review, but a clear set of expectations for job scope and performance, a description of the agency mission and vision, your philosophy of child welfare services, and introduction to all the community players, and external resource guides.

Required Training - Arrange for completion of required state training tracks as soon as possible. Some of this training is done in the Denver metro area. For specifics contact the County Training Manager.

Competent Supervision - The most important factor in retaining staff is the provision of competent and supportive supervision. The supervisor must have expertise in child welfare services and have the ability to support staff and insure accountability. This will entail weekly formal supervisory sessions and regular case reviews. Additional scrutiny and accountability functions should be concentrated on the intake phase of the case as intake presents the highest risk. The Child Welfare Division offers excellent supervisory training and the contact person is Carol Wahlgren. More detail and formats for supervision are provided in the "Supervision with Results" training manual provided by Field Administration.

Staff Development Plan - Sit down with the new hire and develop a staff development plan that addresses both personal and professional goals. This step clearly conveys your expectation that this agency continuously supports the career development of its staff. The annual Child Welfare Conference provided by the State offers good workshops and a great opportunity for networking. Other conferences inside and outside of Colorado should be considered.

Assignment Of Reasonable Caseloads

Colorado established a child welfare caseload of 17 cases to 1 FTE in the Child Welfare Settlement Agreement. This was a figure given us by the Child Welfare League of America. This is an average figure and does not factor in such variables as caseload intensity, higher workload driven at intake, specialized programs (e.g. Intensive Family Therapy; Home Based Services). It is extremely important to monitor the caseload to insure it does not exceed appropriate limits, thereby overburdening your staff, reducing their effectiveness, and increasing your liability. New caseworkers should be assigned fewer cases initially and closely supervised before assigning a full caseload.

Sound, Shared Decision-Making

The child welfare program is a community program and ownership must be shared among all the players. The director should identify the key decisions that can occur

and insure that the worker does not make them in isolation. Decisions, such as taking custody of children, or closing an intake case, should be reviewed by the supervisor, in all instances. Additionally, communities should be brought in through the Child Protection Team, a community staffed team that reviews all child protection intake cases and advises the department – mandatory if the county receives more than 50 referrals per year. (See child Protection Team Handbook and Training Manual published by Yuma County)

Many communities also maintain multiple disciplinary review teams (MDRT). These teams review the course of treatment and the progress in cases, offering suggestions, advice, and often resources. Members of such teams are often local physicians, attorneys, school representatives, probation officers, local providers, mental health and other community resources. Finally, a great resource is the child's immediate and extended family. Often, when asked, families are able to provide resources and solutions that the agency could not have developed. Further, these solutions are less intrusive, less traumatic for the child, and more efficient in resolving presenting problems. Family group decision-making is beginning to be used in most counties. Susan Ludwig is the Child Welfare Specialist at the state to contact.

Use of Data to Monitor Casework

One significant report that can be helpful in monitoring casework performance is the measurement of total cases assigned to each worker. Retention rate is an indicator that measures whether the cases may be being held too long. Beyond these two factors, data systems are most helpful in monitoring program activity. Examples of such indicators are unit costs, incidence of child abuse per thousand children, length of stay, child placement incidence, and child fatality. The most useful reports are those that compare individual counties with others of like size or compare performance over time. Effective areas for further monitoring of casework staff include review of case records, including assessment of treatment plans and monitoring of recorded case activity in relation to those plans; caseworker behavior at group events (unit or agency meetings); community feedback, and caseworker interaction with the supervisor.

Staff Burnout

Often line staff suffer burnout. This is a reactive complex of behaviors and presentations that stem from exhaustion, stress and a sense of loss of control. The key agent for early detection, presentation and/or treatment provision is the first line supervisor. Resource materials on burnout are in the Appendix.

Managing the Attorney Function

Most families get involved with social services because they have violated the laws governing the treatment of children in Colorado. Intervention often results in court action that requires the services of an attorney. A good relationship between the caseworker and the agency attorney is essential to successfully transform an individual or family case plan into an enforceable plan of action that commits the client to a change of behavior through clearly identified steps. The caseworker is in charge of the case and case plan. The attorney advises the caseworker about the possible legal options, remedies and consequences of the case plan and directs the case through the legal process.

The department is the attorney's client and, as such, the attorney should always represent the department's interests as defined by the director. The county director or County Board contracts with the attorney and the director must monitor the contract to assure that these two important but distinct roles are carried out by the attorney and staff, and intervene when that relationship does not function well. In building the contract, the director should be mindful of the market rates, which may vary depending on the locale or different services.

County Board Role in Child Welfare

As the Board of Social Services, county commissioners have the responsibility to implement all social service programs, including child welfare, by appointing a competent, well-qualified director who, in turn, staffs the agency with competent, qualified employees. Since the Board is accountable to the public, they set up policies dealing with client complaints, grievances, and conflicts of interest. The Board also selects members of the Citizens Review Panel that hears complaints about caseworker conduct with clients. In this capacity, the Board has access to certain confidential client information so they can evaluate the director's and staff performance in individual cases.

The commissioners must adhere to the same rules of confidentiality required of social service employees. For example, commissioners do not have on demand access to the Central Registry. Occasionally, county commissioners become involved in the details of specific child welfare cases. Involvement can result from a complaint brought to their attention by someone who is party to the case, or from anecdotal information received from the community. While commissioners have the *right to know* everything about the operation of programs and agencies within the county, their *need to know* usually applies only to being informed of what went into the resolution of a complaint. Any complaints must be discussed in Executive session.

Most of the time, from the commissioner's perspective, resolution of the complaint amounts to having the information they received from the complainant or the community placed into context of the usual and customary operation of the child welfare program. Directors need to work honestly with their commissioners when the Board shows an interest in, or have the occasion to become involved in the program or specific cases. It is not easy sustaining just the right balance between the *right to know* and the *need to know* and the confidentiality requirements surrounding child welfare.

The County Director has a responsibility to keep the Board informed about child welfare case data and expenditures. The Board has to appropriate a sufficient county share to fund the programs. The director usually drafts the Board policy for their consideration and approval. The director also needs to work closely with the board in dealing with complaints, staff grievances, appeals and controversial issues that might become public.

Child Welfare Grievance Process

The following information, taken from Section 7.200.3 of Volume 7, is highlighted in order to bring to the attention of the County Director the responsibilities the department and the County Commissioners have regarding any grievance filed with the department by "...any person who was the subject of an investigation of a report of child abuse or neglect or any parent, guardian, or legal custodian of a child who is the subject of a report of child abuse or neglect...".

It is important that the County Director inform the Commissioners of their potential role in any grievance and to make sure they are adequately trained in Child Welfare practice and procedure so they can fulfill their responsibility with competence and confidence.

Colorado Revised Statute 19-3-211 requires the governing body of each county to establish a grievance process.

Grievance means a complaint regarding the conduct of an employee of a county department of social services in performing his/her duties under Article 3 of the Children's Code. *Grievance* does not include complaints regarding conduct by the courts, attorneys, law enforcement officials, employees of the State, foster parents or other providers of services to children, or other family members.

Complainant means any person who was the subject of an investigation of a report of child abuse or neglect or any parent, guardian, or legal custodian of a child who is the subject of a report of child abuse or neglect and brings a grievance against a county department in accordance with the provisions of Section 19-3-211, C.R.S.

Time Frames for Resolving Grievance:

The county department shall attempt to resolve all grievances informally before using the formal grievance process. Any grievance not resolved to the satisfaction of the complainant shall be forwarded to the County Director within ten working days after it has been received by the county department.

The County Director shall act on the grievance within twenty calendar days after s/he receives it. If the County Director is able to resolve the grievance to the complainant's satisfaction, the director will issue a written decision setting forth the resolution. If the County Director is unable to resolve the grievance to the complainant's satisfaction with 20 calendar days, the County Director shall immediately refer the grievance to the Citizen Review Panel, together with the County Director's proposed resolution of the grievance.

Within thirty calendar days after receipt of the grievance from the County Director, the Citizen Review Panel will convene a hearing on the grievance and send a written recommendation regarding the grievance, together with the basis for its recommendation, to the County Director and the complainant.

If the County Director agrees with the Citizen Review Panel's recommendation the director will issue a written decision implementing the recommendation. If the County Director or the complainant disagrees with the recommendation, the grievance shall be referred to the governing body.

Within thirty calendar days of receiving the grievance, the governing body shall send its written recommendation regarding the grievance, together with the basis for the recommendation, to the complainant, the County Director and to any county employee who is the subject of the grievance. The County Director shall issue a final decision including a plan to implement the governing body's recommendation, and shall send a copy of this report to the complainant and to the county employee who is the subject of the grievance. Within thirty calendar days after issuing this final decision, the County Director shall submit a written report to the Citizen Review Panel including a disposition of the grievance, and shall send copies of the report to the complainant and to the county employee who is the subject of the grievance.

Handling Complaints

When complaints are made to CDHS regarding county departments, the Child Welfare Division coordinates the complaint with the county that is the subject of the complaint. The program specialist handling the complaint requests a written response to be shared with the complainant. The specialist may request additional information from the county.

Contract Monitoring

County departments either provide or contract for child welfare services to children and families. If they contract for treatment, out of home care, or psychological evaluations, they must do so through a formal written contract signed by the county director or County Board, and approved by the Board. The contract should have a specific section on services provided, costs, terms, time frames and actions accorded both parties for accountability of the of contract. Legal advice and review of the contract should be a routine procedure. Provisions should always be made for monitoring the contract to assure compliance.

Since the county departments have the responsibility to set rates for providers of out of home care, the execution of a contract requires knowledge and sophistication to be sure the child's needs are met for a reasonable fee. If the provider fails to deliver as indicated in the contract, some adjustment in the rate or recompense should be made to the county department.

Conflict of Interest

Because of complicated relationships that exist in the provision of child welfare services, conflicts of interest frequently arise. It is difficult for individuals to recognize conflicts since most of us believe we are fair and objective in viewing professional issues. It is the director's job to identify conflicts of interest and to take steps to avoid or resolve the conflict. Since conflict of interest is the perception of impropriety, counties must have written policies that guide them in this area. It is good practice to ask another county department to handle sensitive cases that involve staff or Board members or other prominent citizens in the county.

III. CHILD WELFARE RESOURCES

Child Welfare Statutes, Rules, and Practice Guides

There are 4 key resources that direct the Colorado's Child Welfare Programs.

- The Children's Code (Title 19 of Colorado Statutes)
- Colorado Statutes Article 26-5-101
- Policies for Child Welfare Services (State Rules Volume 7)
- Colorado Child Welfare Practice Handbook

All four of these resources should be used in conjunction with one another to provide a sound foundation for appropriate decision making and quality child welfare services:

COLORADO CHILDREN'S CODE (TITLE 19)

The Children's Code is Colorado's Civil Statutes Regarding Child Welfare Services. The purpose of this title as declared by the general assembly is:

- a) To secure for each child subject to these provisions such care and guidance, preferably in his own home, as will best serve his welfare and the interest of society;
- b) To preserve and strengthen family ties whenever possible, including improvement of home environment;
- c) To remove child from the custody of his parents only when his welfare and safety or the protection of the public would otherwise be endangered and, in either instance, for the courts to proceed with all possible speed to a legal determination that will serve the best interest of the child; and
- d) To secure for any child removed from the custody of his parents the necessary care, guidance and discipline to assist him in becoming a responsible and productive member of society.

(1.5) (a) The general assembly declares that it is in the best interest of the child who has been removed from his home to have the following guarantees:

- (I) To be placed in a secure and stable environment;
- (II) To not be indiscriminately moved from foster home to foster home;
and
- (III) To have assurance of long-term permanency planning....”

The Children's Code is divided into the following articles:

- Art. 1 General Provisions, 19-1-101 to 19-1-403.
- Art. 1.5 Task Force Study to Recodify Code (Repealed.)
- Art. 2 The Colorado Juvenile Justice System, 19-2-101 to 19-2-1105.

- Art. 3. Dependency and Neglect, 19-3-10035 to 19-3-703.
- Art. 3.5 Colorado Children's Trust Fund, 19-3.5-101 to 19-3.5-109.
- Art. 4. Uniform Parentage Act, 19-4-101 to 19-4-130.
- Art.5. Relinquishment and Adoption, 19-6-100.2 to 19-5-403.
- Art. 6. Support Proceedings, 19-6-101 to 19-6-106.

All county staff working in Child Welfare Services should be familiar with the Children's Code and have a copy readily available as a resource. Copies of the Children's Code can be secured through L. G. Printing Co. 1980 S. Quebec St., Denver, Co. 80231, Tele: (303) 751-3956, Fax (303) 755-1378. The charge per copy is \$12.50 plus \$4.00 shipping and handling. (a price break is available for larger quantities.) The latest revision of the code was August 2002/2003.

COLORADO STATUE ARTICLE 26-5-101

Article 26-5-101 of the Colorado State Statues sets forth the parameters for the provision of Child Welfare Services in the State of Colorado. The article addresses the following key topics:

- Definitions
- System Reform Goals
- Child Welfare Allocations Committee
- Funding of Child Welfare Services
- Reimbursement Procedure
- State department integrated care management program - county performance agreements
- authorized – performance incentive cash fund created.
- Limitations of article

POLICY FOR CHILD WELFARE SERVICES VOLUME 7

The Colorado Department of Human Services has developed a manual (Volume 7), which counties must follow in the provision of Child Welfare Services. County child welfare program must be in, compliance with State rules and federal regulations governing child welfare programs. Failure to do so places the department at risk for fiscal sanction. The State and federal governments conduct periodic reviews/audits to determine compliance with federal regulations and Volume 7 rules.

Volume 7 is maintained by State Program Staff. The State Board of Human Services must approve all revisions. Volume 7 is divided into sections:

- General information and policies
- Program Area 2 – Protection of at risk adults unable to protect their own interest.
- Overview of Child Welfare Services Program Area 4 – Youth in Conflict

- Program Area 5 – Children in Need of Protection
- Program Area 6 – Children and Youth in Need of Specialized Services
- Resources, Reimbursements, Reporting and Provider Requirements
- Resources Development (Program Area 7.)
- Non-Public Interstate and Foreign Adoptions.
- Child Care Facility Licensing
 - Residential Child Care Facilities
 - Day Treatment Centers
 - Family Foster Care Homes
 - Specialized Group Facilities
 - Child Placement Agency’s
 - Children’s Camps
 - School Aged Child Care Centers
 - Secure Residential Treatment Centers
 - 24 – Hour child Care
 - Homeless Youth Shelters
- Statement of Basis and Purpose, Fiscal Impact, and Specific Statutory Authority of Revisions made to Volume VII
- Glossary of Child Welfare Terms

A current copy of Volume 7 can be down loaded through <http://www.cdhs.state.co.us/default.htm> click on Rules and Regulations. A hard copy is available through Weil Publishing at a charge of \$164.00. A year’s subscription to update is an additional charge of \$99.00. Orders maybe placed through 1-800-877-WEIL. The order number is 12CCR2509 series.

COLORADO CHILD WELFARE PRACTICE HANDBOOK

The *Colorado Welfare Practice Handbook* focuses on good practice in working both with families and other child welfare professionals to achieve positive outcomes for children and families in the Child Welfare System. It brings together current views and the experience of many child welfare professionals and applies these to the decisions and activities of Child Welfare Services in Colorado. The handbook offers clear explanations of issues and concrete guidance on making decisions, taking action, and documentation.

The handbook is a companion to the Child Welfare Policy Manual (Volume 7) discussed earlier. Unlike Volume 7, the Practice Handbook is not mandated but recommends good practices. In no way does the handbook supersede Volume 7, or State law. The handbook is organized into ten chapters (numbered 1-10), eighteen appendices (A-R), and a bibliography for the chapters. An icon highlights specific information to consider when making decisions. The ten chapters address the following topics:

- 1) Mission and philosophy of Child Welfare Services in Colorado.
- 2) Making decisions
- 3) Initial Report, Referral, or Request for Services
- 4) Initial Intervention
- 5) Comprehensive Family Assessment
- 6) Planning and Delivery of Services
- 7) Achieving Permanency
- 8) Placement
- 9) Evaluating Progress
- 10) Case Transfer and Closure

Appendix covers topics such as:

- Safety and Risk
- Indicators of abuse and neglect
- Assessment
- Domestic Violence
- Court Processes
- Family Group Decisions Making
- Recruitment and Retention

The practice handbook can be accessed and downloaded through Child Welfare's website. Click on Rules and Regulations at the CDHS homepage at <http://www.cdhs.state.co.us> and follow the links to Volume 7.

Where Directors Can Go For Expertise On Practice

Sometimes, you just do not have all the answers. In this ever evolving and increasingly complex business called social services, knowing where to get the answers is just as important as having them yourself. That's what this section of the manual is all about – finding help fast.

In a typical day for a County Director of Social Services, you are pulled in many different directions. You often are a small county director who is smart and resourceful, but rarely an "expert" in many programs that you administer. So how are you going to be successful in this job if you are not the "expert." Relax, it takes flexibility, brains and innovation to succeed as a small county director – and you've got that.

So, can you really know your subject, get help for your clients, and supervise your staff armed with only a telephone and maybe a computer? Let's talk about how that can be done. When I am in trouble, I call for help. Not just anybody will do. It has to be someone who has specific knowledge and information that can be passed on to me easily.

Below is a list of the most common areas in which you will work, and need help. This list is not intended to encompass everything you will encounter in the world of Child Welfare practice, but is rather a quick “crib sheet” that notes the subject area and the contact person (including telephone number) at the State Department that will help you.

YOUR FIELD ADMINISTRATOR

This person is available to you and it is their job to advise and assist you in the full array of social services, including Child Welfare. They can also direct you to various state specialists in the programs and assist in gaining a meaningful response to your questions. Your Field Administrator is available by telephone, pager and the central office on Sherman Street in Denver, 303-866-3901.

CHILD WELFARE STAFF AND TELEPHONE NUMBERS

(See Appendix)

CHILD WELFARE PRACTICE CONSULTANTS

There are various child welfare practice consultants available to counties. These experts are funded with grant monies and are available to the counties, upon the counties request and are free of charge. They are all recognized experts in their fields. There are two key contacts staff at the State Department that will provide more information and assist county staff to contact these experts and they are as follows:

Janet Motz (303-866-5137)

- *Kempe Center* – Services include legal, medical, psychiatric, law enforcement, prosecuting attorneys (county and district) radiologist, odontologist as needed. Call Terri James MSW @ 303-864- 5241 (if unable to reach Terri, call Don Bross 303-864-5256)
- *Don Bross* – With a degree in medicine and law, Don is a “walking encyclopedia” of child protection knowledge in legal and medical arenas. (303-864-5256).
- *Larry Matthews*, MD Pediatric Consultant 303-794-3127
Larry.matthews1@prodigy.net
- *David Conrad* – Secondary Trauma debriefings and training 303-861-6183.
- *Lynn Lehmann, JD* – former head of Denver’s Human Services County Attorneys – call Janet Motz 303-866-5137 or Terri James 303-864-5256 can train regarding testimony, legal “land mines” and other issues.

- *Walt Parsons*, Arvada Police Department- is a juvenile detective who is a skilled trainer regarding investigation of child sexual abuse and other investigations – e-mail Waltp7@yahoo.com or call Janet Motz
- *Phil Setter*, Former El Paso County intake administrator - specializes in child protection intake issues, institutional abuse and fatality -call Janet Motz

Carol Wahlgren (303-866-3278)

- *Diane Baird* – Specializes in assessments of abused children - 303-432-2298, x. 16
- *Steve Brethauer* – Former child welfare supervisor, specializes in child protection -970-332-4555 srbret@plains.net
- *Kitty Arnold* – Former large county administrator specializing in child protection 303-751-3396
- *Melinda Hardage* – Specializes in child protection - 719-538-3262, x.1 mkeccc@aol.com

WEB SITES THAT YOU MAY FIND USEFUL

The actual website address is not used here since the URL's change often. Please use a search engine to obtain the most current website. The following websites may be useful to you:

- Census Bureau Homepage
- Code of Colorado Regulations, Colorado Attorney General's Office
- Colorado Department of Human Services
- Colorado General Assembly
- Colorado Statute Manager
- Fedworld Homepage
- Colorado Department of Health Care Policy and Financing
- Office of Management and Budget
- State of Colorado
- U.S. Department of Health and Human Services
- Department of Local Affairs

DATA SYSTEMS

The State of Colorado is rich in data for children that receive services and as a County Director you will want to know where you are spending your time and money in your particular county. The following contacts can help you in that search for information:

- *Managing Foster Care and Child Care Costs, Including Using the Foster Care Estimator*: Phyllis Mugele (303-866-4126)

- *TRAILS* – Child specific automated data system – Gina Montoya (303-866-5350)
- *Data on Children in Placement* (utilizing the Trails System as a database) Sean Mc Caw (303-866-3446).

INFORMAL NETWORKS

Other directors can be a huge help to you in learning the ropes of being a competent Director, especially in the area of child welfare and child protection. They can provide valuable advice, offer foster homes, share staff in complex child welfare cases, and lend an ear when you just have to vent about the stresses and pressures of the work. Get to know your neighboring directors and learn who are the best in their fields and cultivate relationships with those people and agencies – they can be a lifeline.

Introduction To Volume 7

The director is responsible for the efficient and effective operation of all programs available through the agency. The programs are roughly divided into income maintenance programs and social services programs. Child Welfare Services is one of the most important and most complex social service programs in the agency. State Volume 7 contains all of the rules governing Child Welfare Services.

As soon as possible, every new director is responsible for studying and following all the rules in Volume 7. This will have to be done by a combination of study and everyday practice. Everyday practice has a life of its own and will come at you the way it will. Study is something you have to do to contain and eventually direct everyday practice, at least from the time any alleged child abuse or neglect situation is brought to the attention of the county department.

This summary is a *partial* list of major *operational* requirements governing county child welfare practice as identified in Volume 7. The purpose of the summary is to bring the new director's attention to some of the major responsibilities of the county department in child welfare cases. It is the director's responsibility to become familiar with, and ensure that county child welfare practice is in conformance with, all of the rules, requirements, and responsibilities identified in Volume 7.

Overview Of Child Welfare Services (Program Areas 4, 5, And 6)

- 7.200 Overview of Child Welfare Services – Program Areas 4, 5, and 6
- 7.200.1 Child Welfare Services

Definition: Child Welfare Services constitutes a specialized set of services that are intended to strengthen the ability of families to protect and care for their own children, minimize harm to children and youth, and ensure permanency planning. The goal shall be to support the intactness of families, when appropriate, through the provision of services aimed at stabilizing the family situation and strengthening the parents/guardians in fulfilling their parental responsibilities to their children. Intervention shall be guided by respect for the family's integrity, knowledge of the legal base for action, and sound social work practice.

The following principles shall underlie the provision of Child Welfare Services:

1. Children and youth shall have the right to be raised in an environment free from abuse or neglect preferably by their families of origin by providing reasonable efforts to maintain the family unit through the provision of in-home services.
2. Placement shall be considered when there is evidence that leaving the child in the home would jeopardize the safety of the child or community. Reasonable efforts shall be made to prevent placement or to reunite the family as soon as safely possible if removal is necessary. In determining reasonable efforts to be made, and in making such reasonable efforts, the child's health and safety shall be the paramount concern. A court may determine that reasonable efforts shall not be required; otherwise, reasonable efforts shall be made to preserve and reunify families.
3. Appropriate and culturally competent services that promote safety shall be provided to families, children, and youth in their own homes and in out-of-home placement.
4. Children and youth who have been removed from the care of their parents shall have the right to have extended family members considered as placement resources, to be placed in a safe environment, to not be moved indiscriminately from one placement to another, and to have the assurance of a permanency plan.
5. Consideration of the child's age, race, ethnicity, culture, language, religion, and other needs shall guide the choice of all services provided, including out-of-home and adoptive placements.
6. Case planning shall involve the parents so that relevant services can be provided to permit timely rehabilitation and reunification.

7. Child Welfare Services shall be provided in collaboration with other community agencies on behalf of children, youth, and their families. Assessment tools or resources available through these community agencies *shall* be incorporated in the assessment, based on the culture, ethnicity and other special needs of the family.

7.200.3 REQUIRED NOTICE OF RIGHTS AND REMEDIES

All county departments shall utilize the state prescribed “Notice of Rights and Remedies for Families” in cases subject to Article 3 of the Colorado Children’s Code, Dependency and Neglect.”

County departments shall add county-specific information to the state prescribed form and supply copies of the notice to all law enforcement agencies within the county or district.

The notice *shall* be delivered at the time of a child’s removal to the parent(s) and family from whom the child is removed by court order or by law enforcement personnel.

7.200 PROGRAM AREA 4 – YOUTH IN CONFLICT

Program Area 4 services are provided to reduce or eliminate conflicts between youth and their family members or the community when those conflicts affect the youth’s well-being, the normal functioning of the family or the well-being of the community. The focus of services shall be on alleviating conflicts, protecting the youth and the community, re-establishing family stability, or assisting the youth to emancipate successfully.

7.200 PROGRAM AREA 5 – CHILDREN IN NEED OF PROTECTION

Program Area 5 services are to protect children whose physical, mental or emotional well-being is threatened by the actions or omissions of parents, legal guardians or custodians, or persons responsible for providing out-of-home care, including a foster parent, an employee of a residential child care facility, and a provider of family child care or center-based child care. *The county shall* provide services targeted to achieve the following:

1. Children are secure and protected from harm.
2. Children have stable permanent and nurturing living environments.
3. When appropriate, children experience family continuity and community connectedness.

7.202.4 INITIAL ASSESSMENT

The county department shall have staff available 24 hours a day to receive reports of abuse and neglect, conduct initial assessments of such reports and investigate those reports that are appropriate for child protective services. Continuously available means the assignment of a person to be near an operable telephone, pager system, or to have such arrangements made through agreements with the local law enforcement agencies.

The county department shall accept a report for investigation if it:

1. Contains specific allegations of known or suspected abuse or neglect as defined in statute and regulation. A “known” incident of abuse or neglect would involve those reports in which a child has been observed being subjected to circumstances or conditions that would reasonably result in abuse or neglect. “Suspected” abuse or neglect would involve those reports that are made based on patterns of behavior, conditions, statements or injuries that would lead to a reasonable belief that abuse or neglect has occurred or that there is a serious threat of harm to the child.
2. Provides sufficient information to locate the alleged victim.
3. Identifies a victim under the age of 18.
4. Meets the conditions of #2 and #3 above, results in a third report of suspected child abuse or neglect within a two year period and the two previous reports were not accepted for investigation. All reports with a child welfare concern occurring in any jurisdiction concerning any child in the family are to be counted towards the three or more reports.

7.202.51 WRITTEN PROCEDURES

The county department shall develop written cooperative agreements with law enforcement agencies.

7.202.6 CENTRAL REGISTRY OF CHILD PROTECTION

The county department shall report all *confirmed* child abuse or neglect cases to the Central Registry of Child Protection on the automated system as soon as the investigation is completed, but no later than 60 calendar days after receipt of the complaint. A confirmation requires a preponderance of evidence. A preponderance is established when one explanation is more likely than not.

7.202.61 CHILD PROTECTION TEAMS

A county department of social services receiving 50 or more reports of child abuse and neglect per year *shall* have a multi-disciplinary child protection team in accordance with Sections 19-1-103(22) and 19-3-308(6), C.R.S.

County departments of social services with fewer than 50 reports of child abuse and neglect per year are *strongly recommended* to have a child protection team.

7.202.75 INVESTIGATION, REPORTING, & REVIEW OF CHILD FATALITIES

The county department shall investigate child fatalities in intrafamilial and institutional settings in those cases in which:

1. There is reason to know or suspect that abuse/or neglect caused or contributed to the child's death.
2. The death is not explained or cause of death is unknown at the time of the child's death.
3. The history given about the child's death is at variance with the degree or type of injury and subsequent death.

The county department shall coordinate with the following agencies; law enforcement, district attorney's office, coroner's office, and hospitals to ensure prompt notification of questionable child fatalities.

7.202.6 FATALITY REVIEWS

When a child fatality occurs, *the county shall* submit reports for review by the State Department in accordance with Sections 7.202.7 and 7.202.78 of this staff manual, and cooperate with the State Department's review. The State Department *shall* conduct a review of cases *where the county was involved prior to the child's death*.

7.202.6 PROGRAM AREA 6 – CHILDREN IN NEED OF SPECIALIZED SERVICES

7.203.1 DEFINITION OF PROGRAM AREA 6

To provide statutorily authorized services to specified children and families in which the reason for services is not protective services or youth in conflict. *These services are limited to children and families in need of subsidized adoption or Medicaid only services, or to children for whom the goal is no longer reunification.* The purpose of services in Program Area 6 is to fulfill statutory requirements in the interests of

permanency planning for children. Children must meet specific Program requirements to receive services under these target groups.

7.203.5 YOUNG ADULTS WHO HAVE EMANCIPATED FROM FOSTER CARE

Participation in Independent Living programs is voluntary for this population of emancipated young adults, ages 18 to 21, who were in out-of-home care on their 18th birthday and who are in need of continuing support and services toward becoming self-sufficient.

7.300 CHILD WELFARE SERVICES

7.300 ASSESSMENT AND FAMILY SERVICES PLANNING

7.300.1 ASSESSMENT

The Colorado Assessment Continuum (CAC) will be utilized throughout the case. The CAC includes the:

1. Safety assessment and plan (see Sections 7.202.52, G and 7.202.62, B)
2. Risk assessment (see Section 7.202.52, I)
3. Risk re-assessment (see Section 7.202.62, C)
4. Needs assessment (North Carolina Family Assessment Scale (NCFAS); see Section 7.301.1, D)

Safety, risk, and needs assessments, as defined in this manual, shall be completed for each case accepted by the county department and shall be the basis for case planning.

7.301.2 FAMILY SERVICES PLAN REQUIREMENTS

The county department shall complete the Family Services Plan document for each child receiving services to assure that the child's needs for safety, permanency, and well-being are being met.

7.301.2 SPECIAL CIRCUMSTANCE CHILD CARE

Special circumstance child care is a service to maintain children in their own homes, or in the least restrictive out-of-home care when there are no other child care options available. Special circumstance child care is not 24 hour care.

Child care services for school-age children during regular school hours must be different from, and cannot be substituted for, educational services that school districts are required to provide under the Colorado Exceptional Children's Act.

In addition to meeting eligibility requirements in the General Information and Policies section, *the county department shall* ensure that there are no other child care options available and the child is eligible for Program Area 4, 5, or 6 as described in this manual.

7.301.2 CORE SERVICES PROGRAM

7.303.11 PROGRAM GOALS

The goals of the Core Services Program are to:

1. Focus on the family strengths by directing intensive services that support and strengthen the family and protect the child.
2. Prevent out-of-home placement of the child.
3. Return children in placement to their own home.
4. Unite children with their permanent families
5. Provide services that protect the child

7.303.11 ACCESS

County departments must make all of the Core services, except for county designed services, *available* to any client who meets the criteria for the service as documented in the Family Services Plan.

7.304.3 OUT-OF-HOME PLACEMENT CRITERIA

Not every child at risk needs out-of-home placement. These criteria are designed to provide a *decision making model* to assist in determining whether Core Service Program services and/or out-of-home placement are indicated. All three criteria must be met.

1. The child may be at imminent risk of out-of-home placement, as defined in Section 26-5.3-102(1)(B), CRS.

2. Before considering placement, as assessment is completed to determine level of risk. If assessment of risk determines that the child is at imminent risk of out-of-home placement, then child/family strengths are determined, and the appropriate services and/or community supports (reasonable efforts) needed to address the existing Criterion #1 conditions are identified. When these services are not immediately available, or are absent, unsuccessful, or exhausted, placement in the Core Services Program and/or out-of-home may be considered.
3. When placement is the best choice of available options/alternatives at this time to reduce risk to the child while continuing reasonable efforts to resolve the conditions which led to imminent risks, then, placement in the Core Services Program and/or out-of-home may occur.

7.301.2 SPECIFIC PROCEDURES FOR OUT-OF-HOME PLACEMENT

7.304.51 AUTHORITY FOR PLACEMENT

The county department shall ensure that a child may enter any out-of-home placement only when:

1. Target group and placement criteria are met.
2. An emergency is determined to exist and s/he is removed from the home by law enforcement officer, with or without a court order.
3. A parent has signed a voluntary placement agreement under conditions established by the county department and according to the Children's Code.
4. A juvenile court, or a court acting as a juvenile court (including a tribal court), has ordered the child to be placed out of the home and has transferred legal custody to the county department or a social services department of a federally recognized Indian tribe, for placement in a family care home or other child care facility.

7.304.6 MONITORING OF PURCHASED SERVICES FOR OUT-OF-HOME PLACEMENT AND CORE SERVICES

7.304.661 OUT-OF-HOME PLACEMENT

The county department shall contract with providers for specific services using the state prescribed contracts. The contract shall specify the responsibilities of the provider and the county for services to be provided to the child and family, in conjunction with the Family Services Plan. The county department shall monitor the services purchased from Residential Child Care Facilities, Child Placement Agencies,

Core Service Program and all out-of-home providers at least monthly, by face-to-face or telephone contact with the provider. *The county department shall* contact with providers to submit written quarterly progress reports to the county department and to attend Administrative Reviews in person or by conference call. *The county shall* participate in staffings or planning meetings on a regular basis as defined in the case plan. *The county shall* contract with providers to comply with the county designated visitation plan as specified in the placement agreement.

The county department shall reassess the case plan with the provider at least every six months and document progress toward goals, including discharge planning. It shall make necessary modifications to the plan based on mutual treatment planning with the provider.

If there are problems or complaints concerning the care or treatment of a child in a purchased Residential Child Care Facility or Child Placement Agency placement, or Core Services Program services, or a report of violations of child care standards, *the county department shall* report the circumstances to the licensing or certifying authority within 24 hours. If the nature of the complaint involves an allegation of abuse or neglect, a report to the local investigating authority shall be made within 24 hours.

7.306 ADOPTION SERVICES

The county department shall ensure that adoption services are provided as a service on the continuum of protective services to children. All children who are unable to return to their own home should be considered for adoption. Proceeding with termination of parental rights implies that the county will actively pursue adoption as the permanent plan for the child(ren).

7.306.4 SUBSIDIZED ADOPTION SERVICES

Subsidized adoption services *may* be provided to children whose special needs are a barrier to their adoption, who are legally free for adoption, are in the legal custody of the county department, the county department has guardianship of the person, are in the custody of a Colorado non-profit licensed adoption agency and the child is IV-E eligible, or are in the custody of a relative and the child is IV-E eligible. See Section 7.203.2.

7.306 INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC)

The purpose of the Interstate Compact on the Placement of Children is to ensure timely placements of children across state lines in the least restrictive and appropriate setting in the 50 states, District of Columbia, and the U.S. Virgin Islands. The sending and receiving state authorities *shall* have sufficient background information to make informed decisions concerning a proposed placement, to arrange for the provision of services to the child as needed, and to designate where planning, financial, and jurisdictional responsibility for the child lies.

Child Protection Service and Investigation Responsibilities

Title 19 of the Colorado Revised Statute, the Children’s Code, which is updated each year as a separate, 150 page document, identifies the laws, rules and procedures which are “...To secure for each child subject to these provisions such care and guidance, preferably in his own home, as will best serve his welfare and the interests of society.”

The following is the identification of only some of the statutorily mandated service and investigation responsibilities required of county departments of human/social services. The intent of this summary is to highlight and call to the attention of the director, as just a starting place, the importance of knowing and practicing all local, state, and national policies, guidelines, and rules governing the practice of child protection in Colorado.

SERVICES

19-3-208. Services – county required to provide – rules and regulations.

Each county or city and county *shall* provide a set of services, as defined in subsection (2) of this section, to children who are in out-of-home placement or meet the social services out-of-home placement criteria and to their families in the state of Colorado eligible for such services as determined necessary by an assessment and a case plan. A county *may* enter into an agreement with any other county or group of counties to share in the provision of these services. Each county *shall* have a process in place whereby services can readily be accessed by children and families determined to be in need of such services described in subsection (2) of this section.

“Services” *shall* be designed to accomplish the following goals:

- Promote the immediate health and safety of children eligible for these services based upon the case assessment and individual case plan.
- Reduce the risk of future maltreatment of children who have previously been abused or neglected and protect the siblings of such children and other children who are members of the same household who may be subjected to maltreatment.
- Avoid the unnecessary placement of children into foster care resulting from child abuse and neglect, voluntary decisions by families, or the commission of status offenses.
- Facilitate, if appropriate, the speedy reunification of parents with any of their children who have been placed in out-of-home placement.
- Take into account the racial background of the child if placement out-of-home is necessary; except that the placement of a child shall not be delayed due to attempts to assure racial resemblance between the child and the foster family.
- Promote the best interest of the child.

The following services *shall* be available and provided, commencing on or after July 1, 1993:

- Screening, assessment, and individual case plan.
- Home-based family and crisis counseling.
- Information and referral services to available public and private assistance resources.
- Visitation services for parents with children in out-of-home placement.
- Placement services including foster care and emergency shelter.

The following services *shall* be made available and provided based upon the state’s capacity to increase federal funding or any other moneys appropriated for these services and as determined necessary and appropriate by individual case plans.

- Transportation to these services when other appropriate transportation is not available.
- Child care as needed according to a case plan, when other child care is not available.
- In-home supportive homemaker services.
- Diagnostic, mental health, and health care services.
- Drug and alcohol treatment services.
- After care services to prevent a return to out-of-home placement.
- Family support services while a child is in out-of-home placement including home-based services, family counseling, and placement alternative services.
- Financial services in order to prevent placement.

- Family preservation services, which are brief, comprehensive, and intensive services provided to prevent the out-of-home placement of children or to promote the safe return of children to the home.

INVESTIGATIONS

In the Child Welfare Program, investigations of known or suspected child abuse or neglect are a major part of what the department does. Your agency is in the business of doing investigations of possible child abuse or neglect at the family level, for the most part, in the family setting, for allegations of abuse or neglect in institutional or facility settings, and for third-party, or non-family, non-facility settings. You need to develop the skills of your team with the end in mind that the agency is a team of investigators working independently, and as a team, to investigate possible child abuse and neglect.

19-3-308. Action upon report of *intrafamilial*, *institutional*, or *third-party* abuse – child protection team.

Intrafamilial

The county department *shall* respond immediately upon receipt of any report of a known or suspected incident of intrafamilial abuse or neglect to assess the abuse involved and the appropriate response to the report.

The investigation, to the extent that it is reasonably possible, shall include:

- The credibility of the source or the report
- The nature, extent, and cause of the abuse or neglect
- The identity of the person responsible for such abuse or neglect
- The names and conditions of any other children living in the same place
- The environment and relationship of any children therein to the person responsible for the suspected abuse or neglect.
- All other data deemed pertinent.

The assessment *shall* be in accordance with rules adopted by the state board of human services to determine the risk of harm to such child and the appropriate response to such risks.

Appropriate responses *shall* include, but are not limited to, (1) screening reports that do not require further investigation, (2) providing appropriate intervention services, (3) pursuing reports that require further investigation, and (4) conducting immediate investigations.

The immediate concern of any assessment or investigation *shall be* the protection of the child, and, where possible, the preservation of the family unit.

If, during the investigation and assessment process, the county department determines that the family's issues may be attributable to the child's mental health status, rather than dependency or neglect issues, and that mental health treatment services pursuant to section 27-10.3-104, C.R.S., may be more appropriate, the county department *shall* contact the mental health agency, as that term is defined in section 27-10.3-103 (4), C.R.S. Within ten days after the commencement of the investigation, the county department *shall* meet with a representative from the mental health agency and the family. The county department, in conjunction with the mental health agency, *shall* jointly determine whether mental health services should be provided pursuant to section 27-10.3-104, C.R.S., or whether the provision of services through the county department is more appropriate.

The investigation *shall* include an interview with or observance of the child who is the subject of a report of abuse or neglect.

The investigation *may* include a visit to the child's place of residence or place of custody or wherever the child may be located, as indicated in the report.

If admission to the child's place of residence cannot be obtained, the juvenile court or the district court with juvenile jurisdiction, upon good cause shown, *shall* order the responsible person or persons to allow the interview, examination, and investigation. Should the responsible person or persons refuse to allow the interview, examination, and investigation, the juvenile court or the district court with juvenile jurisdiction *shall* hold an immediate proceeding to show cause why the responsible person or persons shall not be held in contempt of court and committed to jail until such time as the child is produced for the interview, examination, and investigation or until information is produced that establishes that said person or persons cannot aid in providing information about the child. Such person or persons may be held without bond.

In addition, in connection with any investigation, the alleged perpetrator *shall be* advised as to the allegation of abuse and neglect and the circumstances surrounding such allegation and shall be afforded an opportunity to respond.

The county department, except as provided in subsections (5) and (5.3) of this section, *shall be* the agency responsible for the coordination of all investigations of all reports of known or suspected incidents of intrafamilial abuse or neglect.

The county department *shall* arrange for such investigations to be conducted by persons trained to conduct either the complete investigation or such parts thereof as may be assigned.

The county department *shall* conduct the investigation in conjunction with the local law enforcement agency, to the extent a joint investigation is possible and deemed appropriate, and any other appropriate agency.

The county department *shall* provide for persons to be continuously available to respond to such reports.

The county department *shall* have access to the state central registry of child protection for information under the name of the child or the suspected perpetrator.

Upon the receipt of a report, if the county department reasonably believes that an incident of intrafamilial abuse or neglect has occurred, it *shall* immediately offer social services to the child who is subject of the report and his family and may file a petition in the juvenile court or the district court with juvenile jurisdiction on behalf of such child.

If, before the investigation is completed, the opinion of the investigators is that assistance of the local law enforcement agency is necessary for the protection of the child or other children under the same care, the local law enforcement agency *shall* be notified.

If immediate removal is necessary to protect the child or other children under the same care from further abuse, the child or children may be placed in protective custody in accordance with sections 19-3-401 (1) (a) and 19-3-405.

If a local law enforcement agency receives a report of a known or suspected incident of intrafamilial abuse or neglect, it *shall* forthwith attempt to contact the county department in order to refer the case for investigation.

If the local law enforcement agency is unable to contact the county department, it *shall* forthwith make a complete investigation and *may* institute appropriate legal proceedings on behalf of the subject child or other children under the same care. The local law enforcement agency, upon receipt of a report and upon completion of any investigation it may undertake, *shall forthwith* forward a summary of the investigatory data plus all relevant documents to the county department.

Institutional Abuse

The state department *shall* adopt rules setting forth procedures for the investigation of reports of institutional abuse. Such rules may provide for investigations to be conducted by an agency that contracts with the state *and has staff trained to conduct investigations*, the county departments, or any other entity the state department deems appropriate. The procedures *may* include the use of a review team responsible to make recommendations to the state department concerning the procedures for investigating institutional abuse.

If, as a result of an investigation conducted pursuant to rules adopted in accordance with this subsection (4.5), institutional abuse is found to have occurred, the entity that conducted such investigation *may*:

- If the institutional abuse is the result of a single act or occurrence at the facility, request that the owner, operator, or administrator of the facility formulate a plan of remedial action.
- If the institutional abuse is one of several similar incidents that have occurred at the facility, request that the owner, operator, or administrator of the facility make administrative, personnel, or structural changes at the facility
- If an owner, operator, or administrator of a facility does not formulate or implement a plan for remedial action in accordance with subparagraph (1), recommend to the entity that licenses, oversees, certifies, or authorizes the operation of the facility that appropriate sanctions or actions be imposed against the facility.

A teacher, employee, volunteer, or staff person of an institution who is alleged to have committed an act of child abuse shall be temporarily suspended from his position at the institution with pay, or reassigned to other duties which would remove the risk of harm to the child victim or other children under such person's custody or control, if there is reasonable cause to believe that the life or health of the victim or other children at the institution is in imminent danger due to continued contact between the alleged perpetrator and a child at the institution.

Third-party Abuse

Local law enforcement agencies *shall* have the responsibility for the coordination and investigation of all reports of third-party abuse or neglect by persons ten years of age or older.

Upon receipt of a report, if the local law enforcement agency reasonably believes that the protection and safety of a child is at risk due to an act or omission on the part of persons responsible for the child's care, such agency *shall* notify the county department of social services for an assessment regarding neglect or dependency.

In addition, the local law enforcement agency *shall* refer to the county department of social services any report of third-party abuse or neglect in which the person allegedly responsible for such abuse or neglect is under age ten.

Upon the completion of an investigation, the local law enforcement agency *shall* forward a copy of its investigative report to the county department of social services.

The county department *shall* review the law enforcement investigative report and *shall* determine whether the report contains information that constitutes a case of confirmed child abuse and requires it to be filed with the state central registry within sixty days of the receipt of the report by the county department.

If, before an investigation is completed, the local law enforcement agency determines that social services are necessary for the child and, if applicable, the child's family, or that assistance from the county department of social services is otherwise required, the agency *may* request said services or assistance from the county department. The county department *shall* immediately respond to a law enforcement agency's request for services or assistance in a manner deemed appropriate by the county department.

IV. CHILD WELFARE PROGRAM OPERATIONS

Child Protection – 10 Administrative Tasks

The Child Protection Program is your most difficult and volatile. You must staff the program with mature, competent, well-trained professionals. Following are ten administrative tasks that county departments should perform in order to develop and maintain a strong Child Protection Program:

1. *Public Awareness* - The first order of business is to insure that the community is aware of the department's function and is aware of how to contact, or make a report to the department. Equally important is to perform to the level that gives the community confidence that something will be done with their concerns if they take the time to report their concerns.

The most efficient means of achieving this, or any departmental goal in the Child Protection Program, is to develop and nurture a *Child Protection Team* (CPT). This is a standing committee that can serve many purposes. It is composed of community members, many of whom deal directly and/or indirectly with child abuse situations; e.g. police/sheriff, school representatives, therapists, medical professionals, interested citizens, etc. The two essential functions are: 1) to review cases investigated by the department to insure that all that should have been done was done and that good initial plans are in place; and 2) to promote programs and awareness in the community and to expand community capacity and ownership.

The Child Welfare Division has many great resources to assist you in developing and/or reviving your CPT. We strongly recommend that you do all in your power to insure that your community has a strong and independent CPT. Colorado Statutes require a CPT in any county that receives 50 or more reports of suspected child abuse per year. The Yuma County CPT has developed an excellent resource, "Keeping the Pieces Together: Child Protection Team Handbook and Training Manual".

2. *Immediate Response* - You should insure that when reports are received, there is a well-designed agency response with 24/7 capacity. This entails insuring that anyone who might receive a report knows how to take the information, knows what questions to ask, and knows how to assess the severity of the report so that a timely response will occur. The Colorado Child Welfare Handbook has an excellent section on taking referrals.

Colorado has rules governing the amount of time in which responses to report must occur. The time allowed ranges from *Immediate* to *Within 4 working days* and is based solely on the reported severity and danger of the situation. Criteria for determining what to consider and how to respond are clearly set out in Volume 7 in section 7.202. This manual incorporates the regulatory process with very effective practice standards for how to do child protection in Colorado.

In Colorado, we have the continuum of assessment instruments available to staff for their practice. These can be found in 7.202 and 7.300, and include Safety Assessments and Plans, Risk Assessment, the North Carolina Family Assessment Scale and the Family Services Plan. Copies of the assessment instruments are in the Appendix.

Child Welfare rules contained in Volume 7 and in the Colorado Child Welfare Practice Handbook are invaluable tools for the practice of child welfare in Colorado.

3. *Adequate Training* - It is important that you insure that anyone representing your department, who is vested with the responsibility to respond to reports of child abuse and neglect, has received the required state training in its entirety. This will be time consuming and at times inconvenient; however, it accomplishes several things: 1) it assures a uniform knowledge base for working in Child Welfare; 2) it insures that consensus on best practice in this vital program is continually updated and reflected in the training of all staff; and, 3) It assures the department of having competent representatives performing this difficult function.
4. *Sufficient Resources* - The department should ensure that it has effective community resources that can help the department better serve its clients while at the same time increasing community ownership of its Child Protection Program. Obviously the Child Protection Team can be a big help here. Resources may include medical resources for diagnosing and treating the effects of abuse and neglect; mental health therapists who can provide family assessments and treatment; Core Services Program providers who can provide the vital support services on which successful outcomes depend; out-of-home placement resources and transition services providers who can facilitate entry and exit from out-of-home placement; case services providers for effective diagnostic testing and supports; and adoptive home resources.
5. *Good Supervision* - The director should ensure that there are effective resources in place to support and monitor staff. If the director provides services directly, he or she should complete the state-required worker training as soon as possible. If he or she supervises child welfare workers directly, he/she should complete the required Child Welfare supervisors training as soon as possible.

Although the Administrative Review Division (ARD) from the state regularly reviews records of children in out-of-home placement, it is equally important to ensure that CW supervisors also review both out-of-home and in-home services cases. *Under no circumstances* should a worker be able to close his own intake cases. *These must be reviewed by a superior before closure.* Regular, weekly, one-on-one supervision should be provided to the workers as both a source of support and as a means of accountability. Child protection is difficult work and an objective perspective on case activity is necessary and supportive.

6. *Competent Attorney* - Although not completely in the control of the director, it is advisable to ensure that the county attorney is conversant with family law and is aware that the department is his/her client. This position is the lynchpin in determining how your department will interact with your courts. A good relation with the courts can drive better services to your clients and fewer expenditures to your department.
7. *Learn Funding Sources* - The director should familiarize him/herself with the funding mechanisms that support the child welfare program. The major source is the Child Welfare Block. However, Core Services is very important, as are the IV-E Incentives, the Parental Fee Incentives, Expedited Permanency Plan (EPP) funding, the Chaffee Independent Living funding, and other sources of support. The priority would be on clearly understanding both the CW Block and the TANF transfer process. This can be found in the annual Preliminary Allocations and Budget Letter that the state department issues shortly after the beginning of each state fiscal year, July 1(Refer to the Child Welfare Funding section of this manual).
8. *Leadership and Education* - The department must be the identified advocate for the program. This is accomplished through articles in the paper, through providing training to the schools and other major referral sources in the community, by bringing in resources and planning events that support the program, and by providing leadership and support in the community. There is much misinformation about Child Protection in the public domain. A reasoned and basic presentation encourages the communities to include the department in the natural inclination to protect its children.
9. *Complaints and Appeals* – Since child welfare issues generate strong emotions and kindle issues of fairness and justice, the department must have a process for dealing with complaints and appeals on case decisions and treatment of clients by staff. Each county department is required to convene a Citizens Review Panel to hear complaints about staff attitudes, conduct and behavior. The Panel makes recommendations for disposition back to the county director. Court decisions are best handled in the venue of the court through the client’s

attorney. In addition to court and personal conduct issues, the county should develop a written policy and procedure on how to hear and resolve disputes that commonly arise over the case decisions and court recommendations that profoundly affect people's lives. Efficient and responsive approaches make conflicts more resolvable.

10. *Safeguard Confidentiality* - Confidentiality of reporters and of people involved in any case must be safeguarded. There are numerous instances in which the media raises issues in cases and in which the public assumes that the department of social services is hiding behind confidentiality rules. In almost all cases, if we could simply report the facts, it would make our jobs easier. However, the rules of confidentiality are based on clear state and federal laws and must be observed. No case information may be released to anyone without the written permission of the person in question, unless ordered by a court or unless the provision of information is a normal part of the case plan, e.g. providing a foster care provider with health information about a child in his/her care.

Youth in Conflict

Program Area 4 services are provided by county departments of social services to reduce or eliminate conflicts between youth and their family members, or the community when those conflicts affect the youth's well-being, the normal functioning of the family, or the well-being of the community, or to support court orders in the matters of delinquency. The focus of services shall be on alleviating conflicts, protecting the youth and the community, re-establishing family stability, or assisting the youth to emancipate successfully. This program is designed to deal with adolescent children, who in the normal stage of development can become defiant, oppositional, and contrary. This normal state of adolescence only becomes a problem when the parent-child relationship gets out of control to such a degree that it requires outside intervention.

Services to this population include crisis intervention, individual and family counseling, mental health and substance abuse treatment, and out of home placement. If the adolescent is adjudicated delinquent for law violations, the court could sentence the youth to the Division of Youth Corrections operated by CDHS. Placement in DYC could mean a restrictive lockup or a community-based placement. Often the Juvenile Delinquent has not committed a crime serious enough to warrant placement in the youthful offender system and the judge places the youth in the custody of the county department of social services. If the child requires out of home placement, they tend to be the more intensive and extensive treatment programs. Some communities receive SB 94 dollars administered by the courts for community-based treatment programs. These children are high cost and quickly drive up out of home costs.

Independent Living Program - Participation in Independent Living programs is voluntary for this population of emancipated young adults, ages 18 to 21, who were in out-of-home care on their 18th birthday and who are in need of continuing support and services toward becoming self-sufficient.

CHAFEE Program – The Chafee Foster Care Independence Program (CFCIP) is a federally funded statewide independent living program administered by counties. Its purpose is to provide age appropriate independent living resources to youth in care who are in danger of aging out of foster care without returning back home. Children who are as young as 16 to 21 may be eligible for these services. They are intended to supplement existing independent living resources and programs in county departments, Child Placement Agencies, and Residential Child Care Facilities.

Children and Youth in Need of Specialized Services

PERMANENCY PLANNING

Philosophically, Permanency Planning begins prior to ever receiving a call requesting assistance to protect a child. The county and community partners work to establish services that assist families so that the moment a county receives a call to investigate maltreatment, resources can be readily identified to meet the need. Whether the county provides in-home services or out-of-home services *every worker* involved in the case is responsible for thinking about permanency planning.

Following are some suggestions about how you can work with the community partners to develop these resources for permanency:

- Know your community and the services that are available to ameliorate issues.
- Cultivate community partners to develop programs to cover gaps in needed services.
- Involve the community with Team Decision Making (TDM) so they can be part of the solution.
- Have a strong placement review process to ensure only appropriate cases are open for placement.
- Conduct a *Diligent Search* for relatives. The more information you have about maternal and paternal relatives, the more resources you have available to meet children's needs.

Permanency includes recruiting providers who support the agency's mission and goals whether they provide foster care, group home, RTC level or in-home services.

The focus of the program is to establish a permanent living situation for children. Returning children to their birth families is the number one form of permanency.

When return home is not an option for the child, placement in a nurturing supportive family environment is best. These children should be considered for moving into a guardianship, kinship, or an adoptive home. Children must meet specific Program requirements to receive services under this program. Many of the children benefiting from Permanency Planning are children who are living with relatives and meet eligibility criteria for the Temporary Assistance to Needy Families (TANF) program. The caretaker relative is eligible to receive a money payment. These relative caretakers could be certified as Kinship parents and receive foster care rates for their care but would have to meet all the requirements for foster homes.

Adoption Services -When adoption is the goal, the county department shall ensure that adoption services are provided as a service option on the continuum of protective services to children. All children who are unable to return to their own home should be considered for adoption. Proceeding with termination of parental rights implies that the county will actively pursue adoption as the permanent plan for the child. Termination of parental rights should rarely occur if the county department does not plan to seek an adoptive placement for the child. This only makes the children become legal orphans.

Subsidized Adoption – Colorado has two subsidized adoption programs: the State-County Only Program and the Title IV-E Federal Subsidy Program. (See 7.306.41) Both of these programs were developed to ensure that children exiting from the foster care system would have a better chance of being placed in a permanent family. The programs are similar in many respects; however, only children who meet the eligibility criteria for the federal program can participate in the Title IV-E program.

County Departments are required to inform adoptive families about the subsidized adoption program and their right to apply. Counties' must determine children's eligibility for the program (see 7.001.42). Children must be legally free to participate in the program and must be identified as a child with special needs (see 7.203.22 E). They must be in the legal custody of the county department and the county has the court's consent to place the child for adoption; or are in the custody of a Colorado non-profit licensed adoption agency and the child is IV-E eligible; or are in the custody of a relative and the child is IV-E eligible.

Each county is responsible for developing a written policy that outlines the maximum amounts that the county will negotiate on behalf of an eligible child (see 7.306.42 F.2.).

Relinquishment Services

Sometimes a parent will elect to give up permanent legal custody of a child to the county department for placement with relatives or in an approved adoptive home. The department provides relinquishment counseling services to both parents or pursues termination of parental rights on the absent parent. The court makes the determination and the department places the child in an available and appropriate adoptive home, thus assuring permanency for the child.

Custody Evaluations

In divorce cases, the court will sometimes order the county department to conduct a custody evaluation to determine the appropriate living arrangements for the minor children. Custody evaluations are usually conducted by private practitioners who are paid by the divorcing parents as determined by the court. Most county departments no longer provide this service. It is time consuming and diverts staff time from Dependency and Neglect proceedings. As a new director, avoid these entanglements.

Core Services Program

The Core Services Program is designed to strengthen families and protect the child through intensive treatment services. They can be used to help prevent out of home placement, facilitate the return of children in placement back home, or unite children with their permanent families. CDHS funds these services through a separate allocation that is based on the mandated services and those designed by counties and approved by the State. This program year operates from June 1, through May 31, of each State fiscal year. Each county must submit a written plan that requires approval before funds are allocated. Each county must make all Core services in their county available to any client who meets the criteria.

Develop Foster, Adoptive, and Relative Homes

The county department has the authority to certify foster homes and kinship homes as viable placement resources for children in the county department's custody. All counties need different types of placements for children with differing needs and foster homes and kinship homes are among the least expensive and least restrictive of the placements. It is a good idea to work hard to recruit, train, and support foster homes in your county. The provision of these family based resources is fundamental to a quality child welfare program. Key components of such a program include:

- Clear statements of what to expect and what will be experienced;
- A formal, structured initial training program;
- An ongoing training program;

- A well written Policy Manual that is clear and easy to read;
- A monthly new parent meeting with experienced home providers;
- An ongoing system of communication such as a newsletter;
- A teamwork approach between the home and agency personnel;
- Most importantly, 24/7 unlimited availability, consultation and support for the home when crises occur;
- A fair, equitable rate methodology; and
- A system for monitoring of quality care and treatment services.

Family home resources can be recruited throughout the community, i.e. churches and community and service organizations. Often, a number of small counties can pool their knowledge and resources to make a combined effort at the development of these critical resources.

Indian Child Welfare Act

To hear your child protection caseworker say “Gee, I think the child that we just took into custody is Indian.....does that mean we now have to work with the Indian Child Welfare Act” strikes a chord of anxiety for many county social services directors and administrators throughout Colorado and the United States. The purpose of this section is to provide some key elements about the Indian Child Welfare Act and how it affects the practice of social services.

The History - The Indian Child Welfare Act (ICWA) of 1978, Public Law No. 95-608, 92 Stat. 3069 (November 8, 1978) is federal legislation and at 25 U.S.C. Section 1902, states as its purpose: The Congress hereby declares that it is the policy of this Nation to protect the best interest of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family programs.

When Does ICWA Apply? - For ICWA to apply, there must be a “child custody proceeding” which is defined under 25 U.S.C Section 1903 (1) to include a:

- Foster care placement;
- Termination of parental rights;
- Pre-adoptive placement; or
- Adoptive placement.

Is the Child subject to ICWA? - The child must be unmarried, under 18 years of age and either:

- A member of an Indian Tribe, or
- Eligible for membership in an Indian tribe and the biological child of a member of an Indian Tribe.

The Tribe Decides - What is probably the single most important thing to do when you have a child whom you think may be subject to ICWA? Notify the tribe involved. They will make the determination if the child is eligible under the law and will intervene as indicated. Always use a registered letter with return receipt requested and outlined in Volume 7.309.32. Current addresses and telephone numbers for recognized tribes are available from State staff listed below. Additionally the National Indian Child Welfare Association (NICWA) provides a link to the Federal Register for Recognized Indian Tribes (www.nicwa.org).

Where can you go for more information and expertise?

- Public Law 95-608
- Volume VII, Section 7.309
- Child Welfare Division ICWA Specialists: Sharen Ford (303) 866-3197, Barb Killmore (303) 866-3209 and Field Administration Division ICWA Specialist, Jim Snyder (970) 245-4772.

V. CHILD WELFARE LEGAL INTERVENTION

Important legal issues are presented in this section of the manual through a series of articles written by attorneys. Lynn W. Lehmann, former Denver Assistant City Attorney in charge of legal services for the Denver Department of Human Services, wrote four articles specifically for this publication. Barbra Remmenga, a Montrose attorney wrote the article on The Role of the Guardian ad Litem.

Managing Relationships From A Legal Perspective

By Lynn W. Lehmann

Editor's Note: Lynn W. Lehmann is a consultant for CDHS under a special Child Welfare grant and is available to provide training and consultation to county staff and county attorneys. He is the author of Managing Relationships from a Legal Perspective, Stages of a Dependency and Neglect Action, Tips on Testifying, and Burdens of Proof. His resume and a description of the services he offers are at the end of this section.

This paper addresses you, as a new County Director, working with your Board of County Commissioners, your County Attorney, the Courts, Guardians Ad Litem and Court Appointed Special Advocates.

RELATIONS WITH THE BOARD OF COUNTY COMMISSIONERS

The Board is your boss, as it hired you to be its Director of Social Services. The Board has a dual role with respect to your agency. It sits as the County Board of Social Services when it acts on your work. It is the ultimate decision-maker, subject to any rules of the State Department of Human Services.

Accordingly, you will want to advise the Board on major developments as they arise in areas such as significant legal cases and issues. These cases and suits may include child death cases resulting from allegations of abuse or neglect, and suits that allege defects in systems/processes that may trigger liability for the County. The normal day-to-day filings of dependency and neglect cases would not be ones that the Board should be concerned with.

The Board has specific duties assigned to it under the Colorado statutes, e.g., to make recommendations on child welfare grievances filed by parents or other appropriate persons. These grievances concern caseworkers' conduct, not the merits of cases that are pending before the court. In these situations, you want to be sure to remind the Board that it needs to stay out of monitoring the process; as it needs to be objective when the case finally reaches it for recommendations. It is important that you find the

written complaint and grievance procedure or, if it does not exist, create one for all parties to follow. Any recommendations come back ultimately to you for a final decision.

The Board is bound by the same rules of confidentiality that you and your staff are and may need to be told so. You will want to ask your County Attorney for help and advice when you believe the Board is overreaching.

You may want to schedule regular meetings with the Board so that you can keep them informed and to hear their concerns.

RELATIONS WITH THE COUNTY ATTORNEY

The County Attorney represents the County and the Board of County Commissioners. Normally its office will have assigned one or more assistant county attorneys or by contract will have provided legal services to your agency.

It is very important to keep in regular contact with The County Attorney. That attorney has significant influence with the Board should you need legal advice in dealing with matters that the Board is considering.

On a day-to-day basis the legal staff assigned to your agency are your key contacts. From now on, references in this paper to your attorney will be to the day-to-day one, unless the County Attorney is singled out. Look at the written contract that governs what services you are to receive and what you are paying for. In particular, look for any measures of performance, e.g., high quality, timely, ethical legal advice and representation in court.

The attorney's job is to advise you on what's legally permissible, but not to advise you on the social work that your staff performs. For example, the attorney should not be revising treatment plans, as that is what your workers are responsible for. There often is a fine line between legal and social work in the child welfare area and it requires constant consultation with your staff and your attorney to ensure that each is acting properly with respect to the other.

You will want to cultivate a close working relationship with your legal staff. Child welfare matters are heavily laden with legal requirements. It often helps to have your legal staff housed close to your workers. Many questions arise that can be dealt with on the spot and save both staffs time and energy. Be careful to not make the legal staff a "captive" audience for your staff as that will cause problems with the County Attorney' worrying (hopefully unnecessarily) about maintaining control over the "attorney."

When you meet with your attorney, you will want to have the attorney train you on the dependency and neglect process and on testifying in court. There is an outline of the Stages of a Dependency Action in this Manual. In the event your attorney is new to this area of law, you should suggest that the attorney go to the specialized training sessions that the County Attorneys offer on social services legal matters in November and in June. The courses have been offered since 1990, and The County Attorney's Office will have Manuals for these years that contain much material useful to the attorney.

In addition, the attorney can contact the Kempe Center's attorney in Denver who can be helpful. Have your attorney do a memo on the latest research on the extent of the court's authority over the Department and the extent of the Department's authority. A frequent area of conflict is the court ordering the Agency to pay for ongoing therapy, or to pay for certain placements that can "break" your budget.

Have your attorney provide you a memo on the elements of contempt actions that could be brought against your staff. Contempt includes the willful disobedience of a court order. It can occur when your caseworker gets into disagreements with the Magistrate or Judge. It can also occur when a caseworker fails to file reports within the time frames established by the Court. You want to treat seriously and promptly any such allegations and get them resolved. You will want to get at these conflicts before they reach such personal confrontations.

You need to develop a trusting interaction with your legal staff so that both you and they will keep each other informed of the latest developments. If there are issues of failing to act timely or overreaching by staff, you can be made aware of them and get a plan in place to address the issues early on. Ask your staff to tell you where they see shortcomings in the systems. Focus on the process, training, supervision and discipline as key areas. Suits that allege shortcomings in these listed areas pose the greatest risk of possible liability. Remember that your caseworkers are dealing with the lives of children and their parents. When children are hurt or die, people often look to the Department as the "deep" pocket from which to try and get damages. These cases can run into the tens or hundreds of thousands of dollars in alleged damages. It's important for you and your staff to be on top of any such allegations and to treat them with the care that they merit.

One category of cases that deserves special mention is the case of child death due to alleged abuse or neglect, especially where the Department has had prior involvement with the family. Keep as complete documentation as possible, including memos to the file about what you are doing. Always bear in mind that case notes and other documents may be discoverable by the other side so be sure that the notes are accurate and do not include gratuitous remarks, i.e., "I never liked the mother anyway." Often emotions are running high and defensive postures come into play.

Try to get the facts as best you can, often from having someone on your staff who is adept at investigation in charge of gathering the information. It would be worth identifying someone with these skills early on and getting the person special training, perhaps in consultation with the State Department of Human Services. Try to learn from what happened so that your Agency can improve its delivery of services.

Another type of case that can generate high emotion is that of termination of parental rights. It is critical that your staff and your legal staff work closely as there are many legal requirements for a case to be successful.

Remember, you are the boss but you want the very best legal advice you can get in order to properly perform your duties.

RELATIONS WITH THE COURT/JUDGE

Judges are trained to decide individual cases based upon the information presented. In the child welfare area, these cases are called dependency and neglect actions. The Professional Codes of Conduct do not permit *ex parte* communications, i.e., one party talking to the Judge without the other side being present. Thus, *you are not to discuss specific cases with the court*. On the other hand, you have a need to work with the Court to get a proper flow of cases and docketing time for your work to get done in a timely manner and pursuant to various state and federal laws. In addition, you will want to educate the Court on certain budgetary constraints that can impact the Court's Orders in specific cases. It is important to attend a court hearing to observe your staff and the court process to assist you when you do meet with the court. It would be wise to go to court now and then after an initial visit to see for yourself what's going on, and to impress upon the court that you do care about what is happening.

Accordingly, you will want to meet with the Court on a regular basis to discuss these systems' issues. *Always take your attorney with you*. Remember, the Court represents the legal system and you are at a disadvantage since you are not trained in legal matters. The legal system is an adversarial system and you want to have your representative with you to hear what the parties are saying and to be able to advise you before the meeting, in it and afterwards.

Many judicial districts employ Magistrates to help them. Your staff often will appear before them, particularly on preliminary and other contested matters that do not involve jury trials and contested termination hearings. When you get complaints about your staff or about the Magistrates' conduct, work with your attorney and listen to some of the tapes as all matters are recorded in one form or another. In the heat of exchanges, the tapes capture more accurately what happened than the parties' memories. Always assess the parties' performance with your attorney's input. If your attorney is part of the problem, you need to draw upon the strength of the relationship you have previously formed with that attorney to work through the issues.

Pick your battles with care. Find out what issues the Court has with your Agency's performance, keep track of them and work on solving those that have merit and that you have some control over. Often, it is better to settle than to make an issue of it when the facts are against you. The matter may come up again when you have a better record to work with. Again, work closely with your attorney.

RELATIONS WITH GUARDIANS AD LITEM (GALs)

A guardian ad litem (Latin phrasing meaning "for the proceeding") means an attorney appointed by the court to represent the best interests of the child in the dependency and neglect court action. Your caseworker is required by law to keep the GAL apprised of any significant developments in the case. It is important to try and get the GAL to see the case as your worker sees it. That may not always be possible. That's fine, as the Court has the final say, not the GAL.

Recently, the Legislature has created an Office of the State Child Representative. That office can be helpful to you in the event the GAL is not doing its job. Your attorney could bring up the issues with the Court, or your attorney could contact the State Office to get it to intercede and resolve matters.

RELATIONS WITH COURT APPOINTED SPECIAL ADVOCATES

Court appointed special advocates (CASAs) are community volunteers appointed by the court to be its "eyes and ears" in an individual case. Their job is to look out for the best interests of the child by conducting an independent investigation, determining whether an appropriate treatment plan has been created, whether appropriate services are being provided and whether the treatment plan is progressing in a timely manner. There is usually a CASA program director that trains and supervises the CASAs. The CASAs report directly to the court and have access to the caseworkers' information and case records. They are bound by the same confidentiality rules that the rest of the parties are. Again, it's wise to try to get them to be on your side. They often may become involved in assisting in visitation, school monitoring, etc. and can be of help to your "overworked" staff. If problems develop, you should contact the program's director first, before going to court.

Your staff may rightly feel that there are too many "others" meddling in their work. The Colorado Legislature has decreed that GALs and CASAs are available to the Court to represent the best interests of the child. Generally, all parties to the case have the interests of the child at heart. In any event, you and your staff are faced with these additional players in the cases.

STAGES OF A DEPENDENCY AND NEGLECT ACTION

By Lynn W. Lehmann

I. Preliminary Protective Proceedings—Shelter/Detention/Temporary Protective Custody/Emergency Orders.

CRS 19-1-102 (1)© and (1.5), 19-1-104 (3)(a), 19-1-113, 19-1-114, 19-3-316, 19-3-401, 19-3-403, 19-3-405 and Rule 2.3 of the Colorado Rules of Juvenile Procedure.

- (1) A child may be taken into temporary custody by a law enforcement officer without order of the court:
- when the child is abandoned, lost, or seriously endangered in such child’s surroundings or seriously endangers others and immediate removal appears to be necessary for such child’s protection or the protection of others;
 - when there are reasonable grounds to believe that such child has run away or escaped from his parents; or
 - when an arrest warrant has been issued for such child’s parent or guardian on the basis of an alleged violation of CRS 18-3-304 (violation of custody).
- (1.5) An emergency exists and a child is seriously endangered as described in paragraph (a) of subsection (1) of this section whenever the safety or well-being of a child is immediately at issue and there is no other reasonable way to protect the child without removing the child from the child’s home. If such an emergency exists, a child shall be removed from such child’s home and placed in protective custody regardless of whether reasonable efforts to preserve the family have been made.
- The Court may place or continue custody with the county department of social services if the Court is satisfied that such custody is appropriate and in the child’s best interests, or the Court may enter such other orders as are appropriate.
 - Temporary custody may not exceed 48/72 hours without a hearing on the matter.
 - The Juvenile Court is authorized to issue ex parte written or verbal emergency protective orders for the protection of a child.

II. Petition/Pre-Trial

CRS 19-3-501,502,503

The petition sets out the allegations of abuse and neglect regarding each child. The petition names the respondents to the action which include the parents, guardians, custodians, or persons alleged to have mistreated the child, and may name additional respondents having participated in the abuse or neglect or having a significant relationship with the child.

The pre-trial stage provides an opportunity to resolve any matters prior to adjudication (trial), e.g., discovery, possible settlement, exchange witness lists, narrow dependency and neglect allegations.

III. Adjudication (trial)

CRS 19-3-505

At the Adjudicatory Hearing the Court must determine by a preponderance of the evidence (clear and convincing evidence for cases falling under the Indian Child Welfare Act) whether the child is dependent and neglected. Evidence that child abuse or non-accidental injury has occurred shall constitute prima facie evidence that such child is dependent or neglected.

The purpose of the Adjudicatory Hearing is to affirm or not affirm the power of the state to intervene in the life of the child and such child's family members.

IV. Disposition

CRS 19-3-505 (7)(b), 19-3-507, 508

The purpose of the Dispositional Hearing is to adopt an appropriate treatment plan with a goal of reunifying the family. Efforts to place a child for adoption or with a legal guardian may be made concurrently with reasonable efforts to preserve and reunify the family.

A. "Appropriate treatment plan" means a treatment plan approved by the Court which is reasonably calculated to render the particular respondent fit to provide adequate parenting to the child within a reasonable time and which relates to the child's needs.

The Court may enter protective orders for the benefit of the child (e.g. ordering a person to act or refrain from acting.) CRS 19-1-114

The Court may place the child in the legal custody of one or both parents, guardian, relative, other suitable person, county department of social services, or a child placement agency for placement in a family care home or other child care facility.

V. Review

CRS 19-3-507 (4), 19-1-115 (4), 19-3-702 (6), (8), 19-3-703

The Court shall review the case to determine if continued placement is necessary and is in the best interests of the child initially in 90 days and every 6 months thereafter. Each case shall be reviewed periodically to determine respondents' progress and compliance with the treatment plan.

VI. Permanency Hearing

CRS 19-3-702 and 19-3-703

If a child cannot be returned home, the Court shall conduct a permanency hearing no later than twelve months after the original placement. At the hearing if the child is not returned home, the Court shall determine whether there is a substantial probability that the child will be returned to the physical custody of the parent within 6 months. If not, the Court shall determine the future status of the child.

In EPP cases, clear and convincing standards of evidence apply to determine whether a delay in a permanent placement is warranted.

VII. Termination of the Parent-Child Legal Relationship

CRS 19-3-601 et seq.

The Court bases its decision on the following criteria: (1) abandonment of the child; (2) no appropriate treatment plan can be devised to address the unfitness of the parent; or (3) an adjudication of dependency and neglect and that the appropriate treatment plan approved by the Court has not been reasonably complied with or has not been successful, that the parent is unfit, and that the conduct or condition of the parent is unlikely to change within a reasonable time.

In determining unfitness, conduct or condition, the Court shall find that continuation of the legal relationship between parent and child is likely to result in grave risk of death, or serious injury to the child, or that the conduct or condition of the parent or parents renders the parent or parents unable or unwilling to give the child reasonable parental care to include, at a minimum, nurturing and safe parenting sufficiently adequate to meet the child's physical, emotional, and mental health needs and conditions. The Court shall consider the mental and emotional status of the parent, abuse, injury or death of a sibling, excessive use of drugs or alcohol, neglect, long-term confinement of a parent, whether there have been reasonable efforts by child-caring agencies which have been unable to rehabilitate the parent, etc. See CRS 19-3-604 (2)

The Court shall give primary consideration to the physical, mental and emotional conditions and needs of the child.

The Motion for Termination of the Parent-Child Legal Relationship must be proved by clear and convincing evidence (evidence beyond a reasonable doubt for cases falling under the Indian Child Welfare Act.)

Tips On Testifying

By Lynn W. Lehmann

The purpose of this paper is to assist you in testifying. The most important thing to remember is to answer the questions truthfully to the best of your knowledge and then *stop*. *Listen carefully* to the questions and do not worry about where the attorney is leading you. Let your own attorney take care of that burden for you.

PRELIMINARY ITEMS

When you appear in court, dress appropriately for the seriousness of the occasion. In other words, do not wear jeans, shorts, T-shirts, etc. You want the Court and jury, if there is one, to believe your testimony. The Judge and other participants are there to listen to what you have to say and you want to make a good impression on them. Do not chew gum even if you are nervous. When you take the witness stand, all eyes are focused on you and gum chewing is annoying and distracting. When you sit at the counsel table, remember that court personnel are observing you. Do not laugh unless it is appropriate in the context as it is likely to be misunderstood. Similarly at breaks be careful what you say as it can come back to haunt you. A good rule of thumb is from the time you leave your car to appear in court to the time you return you are to act in a professional manner. For example, when you are on an elevator in the courthouse, you should not discuss your case even with your county attorney as you don't know who else is on the elevator with you.

When you take the witness stand, walk up there with confidence and as if you know what you are doing even if it is your first time as a witness. You may take notes and your file with you but be aware that the other side has a right to examine any papers that you take with you. It's helpful to most witnesses to take information with them but you will find that you know more than you think and the less you need to consult your notes, the better. Your attorney can retrieve your file for you from the counsel table if you need to refer to it.

Remember who your audience is - who you are trying to persuade. Usually, it's the judge so you want to look at that person from time to time when you speak. Attorneys ask questions but it's your answers that provide evidence for the trier (judge or juror) of fact.

PREPARING TO TESTIFY

Look at what stage of the dependency action you are at and what you need to prove to get the court to rule as you wish. Organize your thoughts around the elements that the trier of fact must decide. Review all reports and notes in your file but stop preparing by the night before you are to testify. You'll be amazed what you can recall if you have done proper preparation beforehand and have given it time to "percolate" in your mind.

Meet with your attorney ahead of time and bring to that meeting any material that is negative to the case. Perhaps you "blew up" at the parent, etc. Discuss what's the best way to handle it. Usually it's best to get any material that you feel "sheepish" about out on your direct examination so that the opposing party has one less thing to cross-examine you about.

TESTIFYING

Answer the questions truthfully to the best of your knowledge and then *stop*, particularly on cross-examination. Many questions you will be expected to know the answers and you do in fact know them. Speak precisely when you can and try not to qualify your answers except when you need to. What you want to convey, in addition to the information, is a sense that you are credible and are to be believed. How that happens is an accumulation of small bits and pieces of your conduct and work that you've done throughout the case.

You have the right to ask for the question to be repeated when you did not hear all of it, or if you do not understand it. Often attorneys' questions are compound and may have parts to them. Just answer one part at a time. Sometimes, you can't reasonably be expected to know the answer and it's OK to say, I don't know. Many witnesses have mannerisms, talking with their hands, etc. that can be exaggerated under pressure. It's a good idea to take a colleague to a hearing to observe you "under the gun" so that he or she can give you some honest feedback.

Acknowledge the truth even if it hurts. It will only enhance your credibility. Don't gloss over the negatives of a parent just to "preserve the therapeutic" relationship. It will come back to haunt you, especially at a termination hearing. If you have "gone the extra mile" with that parent, the court will recognize your efforts.

Once you have finished, return to your seat and remember that court personnel are still watching you. Watch sighs of relief or talking extensively with your attorney. You will have time to ask how it went at breaks outside the view of the court and opposing counsel.

Burdens Of Proof

By Lynn W. Lehmann

In the child welfare area there are three burdens of proof to be concerned with. They are proof by preponderance of the evidence, proof by clear and convincing evidence, and proof beyond a reasonable doubt. These terms are used in the Stages of a Dependency and Neglect Action paper in this Manual.

PREPONDERANCE OF THE EVIDENCE

Preponderance refers to evidence supporting a proposition outweighing the evidence opposing it. Basically, it means a little more than fifty-fifty. This standard is used at the adjudicatory hearing, the dispositional hearing and at most other hearings.

CLEAR AND CONVINCING

Clear and convincing means substantially free from doubt. It is used at termination hearings. For instance your attorney must prove the parent is unfit by clear and convincing evidence as one of the elements to gain a termination.

BEYOND A REASONABLE DOUBT

Beyond a reasonable doubt is normally used in criminal cases to prove that the defendant committed a crime. The language speaks for itself. In the dependency area it applies only in an Indian Child Welfare Act case when you are seeking termination of parental rights. Also in ICWA cases adjudication must be proven by clear and convincing evidence rather than by the lesser standard of preponderance of the evidence.

The Indian Child Welfare Act applies when you have a person who is unmarried, under 18, and who is a member of an Indian tribe, or is eligible for membership in an Indian tribe, and who is the biological child of a member of an Indian tribe.

LYNN W. LEHMANN
Attorney-at-Law
2496 S. Leyden St.
Denver, CO 80222
Phone & Fax: 303-758-8793
Email: lwl@estreet.com
January, 2003

Employment

1984-2001 Assistant City Attorney, Supervisor, Human Services Section, Denver City Attorney's Office-Supervised 25 Assistant City Attorneys and 34 support staff in giving legal advice and representation in the areas of child abuse and neglect, child support, elder abuse, mental health and alcohol, welfare fraud, employment law and claims, primarily to the Denver Department of Human Services. Retired in 2001 from the City of Denver.

1973-1984 Solo practitioner, general practice.

1969-1973 Captain, US Army, Judge Advocate General's Corps.

Efforts that I'm Particularly Proud of

Provided leadership to a large section of professionals in the important area of human services law to the City of Denver.

Weston Settlement Agreement-Advised and assisted DDHS in settling Weston case, a class action suit brought by former recipients against Denver and Adams Counties and the Colorado State Dept. of Human Services for failure to give proper notice when sanctioning recipients of TANF benefits. Denver paid neither attorneys' fees nor costs to plaintiffs. Trial court ruled against Adams County and the State. Court of Appeals affirmed trial court's ruling. State did not appeal.

Assisted in developing strategies for and advising state-county negotiating team culminating in the Child Welfare Settlement Agreement (1994). Denver received 90 social caseworker permanent positions funded by the State.

Initiated, secured funding for and oversaw the successful DDSS Termination Backlog Project- (107 cases disposed of, 1996-1997).

Created (1993) and continued to run Geraldine Thompson Family Project into 2001 with its focus on truancy reduction in 18 Denver Public Middle Schools and 1 Denver High School. Improved student attendance and grades.

Created and led break-out training Colorado County Social Services Attorneys at CCAA seminars (1990-1995).

Created and taught course on Eliminating Intimidation When Testifying for new Social workers throughout the state (1983-96) and at DDHS (1996-1998).

Legislative Efforts

Co-author and /or contributor to many amendments to the Colorado Children's Code:

- 1983-Setting first statutory time frames (90 days for adjudication and 45 days for disposition) for processing dependency and neglect cases.
- 1987-Major revision to Children's Code, separating dependency from delinquency
- 1993-94-Revision to permanency planning sections to insure compliance with federal law and to have sound state law

Member, appointed by Legislature, to the Colorado Children's Code Task Force to review entire Code. Legislative Oversight Committee sponsored four bills based on our work, totaling more than 500 pp. (1994-1995).

Education

J.D., 1968, Stanford School of Law, Stanford, CA.

B.A., 1963, cum laude, Ohio State University (major: international studies; member of Phi Beta Kappa, Beta Theta Pi).

Personal

Married 34 years; two sons; enjoy gardening-flowers and vegetables.

Availability Of Services

I am available to train social workers on Eliminating Intimidation When Testifying. It includes Qualifying as an Expert, Direct and Cross Examination, Tips on Testifying, and Phases of a Dependency and Neglect Action. It is very interactive. I am also available for specific case consultation but am not the county's lawyer. I work closely with its attorney. For supervisors and administrators I have a course called Legal Landmines for Managers. It focuses on the legal aspects of personnel decisions and program issues, including how to investigate, how to testify and how to structure programs.

I care a great deal about the Human Services field from a legal perspective. In order to use me you must first contact Janet Motz at the State Department, Child Welfare Services.

Role of the Guardian ad Litem

By Barbra J. Remmenga

Editor's Note: Barbra J. Remmenga is an attorney from Montrose who frequently serves as a Guardian ad Litem. Barbra just received an award from State Judiciary for being the Outstanding GAL in Colorado in 2002. Barbra is the former director of Gilpin County Department of Social Services and is uniquely qualified to comment on the role of the GAL in Dependency and Neglect Actions.

There are several kinds of cases in which the Court can appoint a guardian ad litem (GAL) to represent the best interest of a child: domestic relations, probate, juvenile delinquency, dependency and neglect, education and mental health.

Although departments of social services or human services can be involved in all of these types of cases, they are primarily involved in dependency and neglect cases. Title 19 of the Colorado Revised Statutes, also known as the Children's Code, contains statutes pertaining to the appointment of, and the duties of GALs and statutes directing the county department of social or human services to provide information or notice to a guardian ad litem. C.R.S. §19-1-103(59) defines guardian ad litem. C.R.S. §19-1-111 controls the appointment of a guardian ad litem in all types of cases. C.R.S. §19-3-203 also contains the statutory requirement that the court appoint a guardian ad litem in all dependency and neglect actions and outlines the duties of the guardian ad litem. The practice standards for guardians ad litem are specified in more detail in Chief Justice Directive 97-02.

Sharing information and developments within a dependency and neglect case is primarily the responsibility of the local county department of social or human services. C.R.S. §19-3-203(2) contains the requirement that all reports be provided to the GAL and that the GAL be kept apprised of the significant developments in the case. §19-3-213 requires county departments, GALs and other parties to comply with placement criteria and specifically requires that county departments inform the GAL and other parties of changes in placement of a child. There is no time frame on the notice of a change of placement. There is a 10-day limit on the county department notifying the guardian ad litem and other parties if a child has run away from placement.

§19-3-203(3) contains the requirements placed on the GAL. The attorney appointed to represent a child best interest is charged with independently investigating the allegations contained in the Petition, participating in all hearings and trials as an attorney and making recommendations to the court about what is in the best interest of the child. The relationship between the GAL and the child is not a true attorney-client relationship because the guardian ad litem is not charged with doing what the child wants.

As with effective delivery of child protection services to the community and individual families, dealing with GALs is fundamentally about establishing a good working relationship, and that is the responsibility of both the guardian ad litem and the caseworker. It should be recognized that many different ideas about what might be in the best interest of a child can and do co-exist, and the probability is that more than one of the ideas is viable. Listening to and freely sharing information and opinions, even in the midst of disagreement, is essential in meeting the needs of children who are involved in the judicial system.

Guardians ad litem have a duty to be well-informed. If the information gathered by the department of social services or human services is readily available and the guardian ad litem has gathered his/her own information, useful discussions between the caseworker and GAL are possible. There is a higher likelihood that a reasonable and workable plan for a child can be fashioned by agreement in that atmosphere. If an agreement cannot be reached, it should not be perceived as an insult or affront to either caseworker or guardian ad litem. It is legitimate for the Court to make decisions under those circumstances.

VI. CDHS OVERSIGHT

Since Colorado is one of 13 states in the U.S. that operates a State-supervised, county-administered social services system, the Colorado Department of Human Services has a key role in setting policy, determining good practice, and monitoring county department performance. Under Colorado Statute, the county department is an agent of the state in the provision of services to our clients. In the child welfare area, CDHS has six formal processes for fulfilling the supervisory oversight:

Overview Of Administrative Review Division

Administrative Review began in 1991, in response to a Federal law mandating Administrative Reviews of all children in out-of-home placement. In 1999, the Administrative Review Division (ARD) was separated from the Child Welfare Division to ensure objectivity of reviews. ARD is now part of the Office of Performance Improvement under the State Department of Human Services. Administrative Review is one of the primary responsibilities of the ARD. ARD staff provide both technical assistance and oversight to all 64 County Departments of Social Services and five Division of Youth Corrections' (DYC) regions in Colorado. "The mission of ARD is to promote safety, well-being and permanency for Colorado's children."

Administrative Review is a program that conducts regular on-site assessments of all children/youth in out-of-home placement. The reviews are mandated by Federal and State law and are conducted every six months for each child who remains in placement and in the care and responsibility of the state or social services' custody. The review ensures that the requirements set by Federal (422 requirements) and State (Colorado Revised Statutes or Children's Code) law, State rules (Volume 7) are met.

The focus of the reviews is to promote safe permanency for children in foster care by ensuring that each child has a permanent goal and that progress is being made to achieve that goal. The intent of the law is to help prevent foster care drift and to help ensure that children's and families' needs are being met. In 1997, additional federal legislation was passed, the Adoption and Safe Families' Act (ASFS). This Act emphasized the safety, permanency and well-being of children.

This statewide system assures compliance with federal and state statutes, thereby capturing federal funds and avoiding federal fiscal sanctions and ensuring state reimbursement for the cost of out-of-home placement. In the process of the review, reviewers provide technical assistance, identify needed resources, collect important data on children and families, and share information about other county, state, and community programs. The primary goal is to improve services to families and children, ensure safety (to the child and the community), and to promote permanency for Colorado's children in foster care.

Reviewers read the child's case record, which is maintained by the county departments of social services and DYC's regional offices, to determine compliance with applicable State and Federal laws, rules, and to promote good social work practice. In this comprehensive case review, the reviewer looks for appropriate documentation for compliance. During this process, they learn about the history of the agency's involvement, services that have been provided, and progress towards reunification or other forms of permanency. After the "paper review", a "face-to-face" meeting is held.

During this portion of the review, more qualitative information is obtained, analyzed and reported for county and state staff to use in evaluating and designing new programs or policy. Invitations are sent out in advance to potential participants. The following parties must be invited to the face-to-face reviews: the caseworker or casemanager, biological parent(s) or guardian(s) (unless parental rights have been terminated), provider(s), the child (as appropriate), and the court-appointed guardian ad litem. The caseworker/case manager may decide that other important parties, such as therapist, should attend the review. These individuals may also be invited as long as it meets the rules of confidentiality.

The court, at its discretion, may order administrative reviews, conducted by ARD, to substitute for the court review of the placement. If the review has been court-ordered, all attorneys of record must also be invited. The County Administrative Review Coordinators and Regional Administrative Assistants are responsible for scheduling the face-to-face reviews.

Some of the areas covered in the periodic reviews include the following:

- The child's best interest;
- Continuing need for and appropriateness of placement;
- Extent of compliance with the case plan;
- Extent of progress made toward alleviating causes necessitating placement;
- The protection of due process rights (e.g., the review is open to provider participation and parental participation except when parental rights have been terminated);
- The child's needs in respect to health, education, therapy, culture, etc.;
- A likely date by which the child may be returned home, placed for adoption, etc.;
- Reasonable efforts towards reunification;
- Appropriateness of the permanency plan;
- Appropriateness of services to the child, parent(s), and foster parent(s);
- Barriers hindering progress;
- Appropriateness of existing time tables; and,
- Whether additional or different services are needed.

The reviewer makes written findings covering compliance with state and federal rules. The overall findings provide feedback to counties/regions about work well done and areas that need action or improved documentation. These findings are provided to the county departments of social services and regions as part of the child's file. The county is also responsible for noting the significant findings in their court reports. If the review was court-ordered to substitute for a court review, the county department provides copies of the actual findings to the court along with their court report.

Some findings can result in non-compliance actions. In some cases, fiscal sanctions can be taken. The county has the opportunity to appeal the reviewer's decision. Clear guidelines and procedures are set up to allow due process. Many times the issue can be resolved without going to appeal.

Another critical component of the Administrative Review Division is the Quality Assurance (QA) Process. ASFA required that all states develop a Quality Assurance Process for the for the Child Welfare and Division of Youth Corrections service delivery programs covered under the State's IV-B plan. The Administrative Review Divisions', Quality Assurance Program, has two major components. One of the components is the Quality Assurance Reviews. The Quality Assurance Reviews collect, analyze and report data on the full array of service delivery. The QA review is combined with the Administrative Review process for the longer term out-of-home population. A separate QA review is then conducted on a stratified random sample of cases receiving in-home and short-term placement services.

The second major component of the overall QA Process is the Client Satisfaction Surveys. The Administrative Review Division conducts Client Satisfaction Surveys for service recipients and stakeholders on both the internal Administrative Review Division processes as well as the service delivery system. These surveys assist the state in identifying the strength and needs of the service delivery system.

If you have any questions about the Administrative Review Division or it's responsibilities, please contact the reviewer(s) in your county or the ARD office. The main number for all reviewers is: (303) 894-7500.

State Institutional Abuse Team

County departments are responsible for investigating abuse and neglect in public and private licensed facilities like foster homes, Child Placement Agencies, Residential Treatment Centers and Residential Child Care Facilities providing 24-hour care in their counties. Within 60 days of the investigation, the county department is required to submit a written report of the investigation, findings, and recommendations to the State Institutional Abuse Team. The State Institutional Abuse Team, consisting of professionals from CDHS and other agencies serving children, shall review the written report and make findings and recommendations to the county about the adequacy of the investigation and any follow up steps they feel are necessary.

Followup could include a Stage II Investigation by a special 24-hour child welfare monitoring unit that conducts onsite reviews for program and licensing compliance. Corrective action could be required of the 24-hour facility, or suspension or closure if the violations are serious enough.

Child Fatality Review

Whenever a child dies under suspicion of abuse or neglect where there was prior county department involvement, a State Fatality Review Team conducts an onsite review of the department's handling of the case. This includes case review and interviews of staff and others. CDHS then issues a report about how well the county department handled the case on compliance and practice issues. The report is also released to the press since it is a public document.

Child Care Licensing

The Child Care Licensing Division of CDHS licenses and monitors most of the state's day care homes and all of the day care centers and 24-hour child care centers. They perform this statutory function in order to assure that these facilities meet all of the required standards and operate programs that adequately serve children and families. The division has the authority to discipline a facility, require a corrective action, or shut them down for rule violations. Counties certify their own foster homes and some counties license day care homes. Even though the State holds these facilities to a minimum standard of care, the county department is responsible for the quality of care for children placed there.

Field Audits Division

The Field Audits Division of CDHS provides an external audit function that independently verifies fiscal information. The unit makes sure that counties and providers the counties contract with are spending state and federal funds in accordance with applicable laws and regulations. The Field Audits Division schedules periodic audits of county departments and pulls a sample of foster care, child care or core services client records to verify appropriate expenditures. They can also schedule ad hoc audits based on special circumstances. Part of their job is to minimize the opportunity for embezzlement and fraud.

Program Review

Child Welfare Services staff, in partnership with other state staff, periodically conduct child welfare program reviews in individual county departments. The reviews are a part of the regular monitoring responsibility for Child Welfare Services, or are conducted ad hoc in response to a particular incident or issue. Reviews can include case monitoring; staff, board, community, client and provider agency interviews; organizational climate surveys; and data analysis. Since reviews are formal, a written report is issued with findings and recommendations. The final report on these reviews is a matter of public record and copies of them can be obtained upon request.

VII. MONITORING FOR QUALITY

How Do You Know if Your Program is OK?

SMALL SCALE OPERATIONS

This discussion is aimed at county directors who supervise casework staff as the child welfare supervisor. If your agency employs supervisors and/or administrators, a section at the bottom of this document addresses larger scale operations.

The harsh reality is, you never do know whether or not you are OK absolutely, because one little error can cause disproportionate problems; however, there are certain things you can do to reasonably assess whether or not your program is operating effectively, and whether or not you are performing appropriate oversight.

All the following presumes that you are having regular weekly supervisory meetings with each one of your casework staff. If you are not, *you are not doing your job*. Outlines for conferences and for case reviews are attached to this discussion.

1. The single best indicator of program health is the case record. You should be reviewing a set number of cases per week, so that you are familiar with the caseload and with how your workers are performing. This review should cover about 2 cases per worker, per week and should be directed at:
 - Is the problem[s] that caused this case to be opened clearly identified? As the case progresses are new problems clearly identified?
 - Is there a treatment plan that pragmatically addresses each problem identified, and is the plan time-limited?
 - Is there case recording in the record, up to about 2 weeks before your review, that describes the course of the plan and how it is addressing the identified problem and performance within the timelines?

If the answer to these three questions is YES, the chances are that your agency is on the right track.

2. The second indicator is: Does the director [you] have knowledge enough about child welfare programs to have a vision that details how your agency will deliver services within the wider framework of your county community [read: community agencies]. This indicator is another strong test because:
 - Acquiring or having the requisite knowledge to direct the administration of child welfare services in your community is extremely important, and is your best safeguard.

- Utilization of community agencies makes the welfare of county children a community responsibility, not just a social services duty. It gives the community the power to insure that its values enhance the provision of services to its children.
 - The involvement of those agencies will provide you with invaluable feedback on the quality of the services that your agency is providing.
3. The third indicator is the monitoring of your caseworkers' presentation and involvement in unit meetings, regular supervision with you, and during day-to-day operations. This monitoring is done without extra work because it occurs during the normal course of the day's activities. The effective manager is listening carefully to the "noise" of the department's operation.
 4. The fourth indicator is the monitoring of your financial position. Your accounting staff should provide you a report on a monthly basis, no later than three weeks after the close of the month that details cumulative expenditures:
 - by discreet line in relation to each county appropriation (calendar year).
 - by discreet line in relation to each state allocation (state fiscal year).

Additionally, the report should project, by an approved method, the total estimated expenditure for each line. Forewarning -- done early, can save needless disruption of service. Each month's delay in recognition of a financial problem causes an internal increase of 8.5 percent to the magnitude of a financial problem. The existence, receipt and review of these reports are prime indicators of the health of both your child welfare program and your financial operation.

LARGE SCALE OPERATIONS

For larger scale operations, the indicators provided by review of financial documents and the feedback from community agencies are as important as they are for small scale departments. Also listening to the daily operation is key for all functions. Whether the size causes reliance on supervisors or administrators, the director should carefully consider what [s]he is asking the subordinates to do. In the case of a subordinate supervisor, the following questions should be answered:

- Does the Supervisor have regular weekly supervisory conferences with each worker?
- What is the tone of the Supervisor's Unit Meetings?
- What training has the supervisor provided or arranged for staff?

- Are personnel performance plans meaningful and up to date? Are they reviewed and considered beneficial by staff?
- Can the Supervisor articulate his/her approach to the unit's provision of Child Welfare Services and can [s]he knowledgeably discuss particular cases when issues arise?
- To what extent can the supervisor describe each caseworker's:
 - o Knowledge base
 - o Strengths
 - o Weaknesses
 - o Demeanor
 - o Use of Training
 - o Work Habits
 - o Special skills

VIII. MANAGEMENT OF DEPARTMENT LIABILITY

Liability Planning

Operating a county department of social services is a high-risk endeavor since it involves legal intervention into fundamental parental rights; making critical decisions based on judgments; and the expenditure of public monies.

Most all involved in the provision of public service want to provide good services and want to be accountable in that provision. There is a difference between being held accountable and living with constant concern. The litigious environment that our culture has produced has led us to experience anxiety due to our perceived vulnerability to adverse legal action, with or without merit.

While the experience is rarely pleasant, its occurrence can be minimized by following a few recommendations:

1. Remember, your best defense is responsible, knowledgeable behavior in the conduct of the job.
2. It is important to know from where in your department the issues will come. The majority of cases come from child protection. (A list of the five main areas of performance is included in this article).
3. It is important to remember that the State and counties have *sovereign immunity* unless they choose to relinquish it. Generally speaking, this means that in policy setting and policy matters, there is no liability. Most litigation centers around *ministerial function* (or staff performance of the policy). This is a most critical point. If policy level activity is not subject to litigation, and if staff is acting well within the boundaries of policy, then staff and their department are well defended in the event.
4. It is therefore important to insure that your department's policies are congruent with the State's and that they have been thoroughly examined in the local community. Conformity to State rule and to State recommended practice, assures that your policy reflects standards that are considered effective and responsible. Also, since they will have been scrutinized in your own community, they will represent the consensus position for performance.

5. Having accomplished this, the next task is to insure that 1) your staff are trained and that they meet qualifications for the performance of their jobs; and, 2) that there is consistent oversight to insure that performance reflects the policy (see above). In this way, if performance is within the limits of rule and practice, any discussion of an event must involve concerns about the policy as opposed to the staff performance. Since the policy was publicly vetted, since it reflects approved, responsible standards and since the policy arena is protected, liability is minimized.
6. The final task is to Document! Document! Document! Document the workers training and qualifications; document your oversight of the worker; have your workers document their performance; and document your policy setting processes.

KEY AREAS OF LIABILITY IN CHILD PROTECTION

- Failure to Diagnose
- Failure to Report
- Failure to Properly Investigate
- Wrongful Removal or Detention of Children
- Failure to Properly Select or Monitor Placement

LEGAL PROTECTION FROM LIABILITY

There are certain legal concepts that also protect individual employees on the job as they carry out their duties as child welfare workers. They are:

- Theory of *respondeat superior* – “*Let the Master Answer*” The master or employer in certain cases is liable for what the servant, employee, or agent does, or fails to do. The employer is liable for what the employee does in the course of employment.
- Distinction between Public Policy Acts vs Ministerial Acts – This concept was explained above as protection for the employee from liability as long as the employee carries out the employer’s policy within the scope and parameters of that policy.

DEFENSES

The county department can take precautions to defend itself from incurring liability from lawsuits. The director should do the following:

- Research your county liability coverage to establish exact limits of coverage. Discuss the limits with the county attorney, county manager, insurance agent and/or issuing company, CCI.
- Assure that your agency has:
 - o Clear, written intake procedures
 - o Written guidelines for removal of children
 - o Written guidelines for return of children
 - o Procedures for meeting required response times
 - o 24/7 on-call response capacity
 - o Working agreements with law enforcement, schools, health departments., MHASA, courts, judges, District Attorneys, physicians, hospitals, etc.
 - o All staff receive State child welfare training
 - o Staff perform in compliance with Volume 7
 - o Staff perform per Child Welfare Practice Handbook
- Assure regular, weekly supervision of casework staff:
 - o Case Planning on new cases
 - o Review of progress on open cases
 - o Continuing education/training activities
- Close no case without supervisory review and approval.
- Hold cases at intake for 30 days or less.
- Open no cases without supervisory review and approval:
 - o Within one week except:
OOH Placement cases (same day)

GENERAL LIABILITY ISSUES

You should investigate the insurance coverage that the county provides for your department. Some small counties have limits of \$ 3 million per instance with \$ 4 million total coverage. Additionally, there should be consideration of internal problems which could include such activities as embezzlement. Does your insurance cover such problems? If not, discuss alternatives, such as bonding (including the type

of bonding), with your county administration. Currently, Volume 5 suggests amounts of \$ 10,000. Since employees now handle much more than that, it is best to seek coverage that equates to amounts actually handled.

POST SCRIPT

Finally, sometimes people who threaten legal action are really only looking for a forum in which to express their frustration and anger with the public system. The use of local grievance procedures can allow for this to occur and thereby offset the more costly (financially and emotionally) court process. Also, advising people of what to expect of the system at the very front end of the process avoids unpleasant surprises toward the end.

IX. COOPERATION AMONG COUNTIES

This section deals with situations that frequently arise in the course of business between counties that require a spirit of cooperation between the directors and staff of both counties for satisfactory resolution. The responsibility for many of these situations is subject to interpretation, and therefore can lead to misunderstandings and bad feelings if not handled appropriately by both parties. This section will discuss change of venue, handling conflict of interest, courtesy supervision and sharing foster homes.

Decisions about sharing or providing services for clients or staff residing in other counties, always challenges limited resources. If a county is serving some other county's staff or clients, it reduces resources available for its own staff and clients.

The transfer of financial and legal responsibility from one county to another is not always as clear as we would like, and sometimes lends itself to manipulation and conflict.

The rule of thumb to follow is: don't ask another county to provide services for your county unless it will serve the client better, or it helps you avoid an ethical violation, or conflict of interest.

Change of Venue

One of the most difficult situations facing counties is transferring financial and legal responsibility for a child from one county to another. Nobody likes to inherit a case in the middle where important case decisions have already been made that commit you to a case plan or outcome in which you didn't participate. The general rule of thumb is that custody and financial responsibility follows the county of residence. Residence is usually determined by where the child's custodial parent resides in D&N proceedings. If the custodial parents are out of the picture, the child's residence is with the county that has legal custody or guardianship. There are exceptions to this rule outlined in 7.304.4.

Venue is defined as the proper or most convenient location for trial of a case. Normally, the venue in a criminal case is the judicial district or county where the crime was committed. For civil cases, venue is usually the district or county which is the residence of a principal defendant, where a contract was executed or is to be performed, or where an accident took place." Venue is defined in Colorado by CRS 19-2-105 [Delinquency] and 19-3-201 [D & N].

Jurisdiction, which is distinct from Venue, is defined in Colorado by CRS 19-1-104 and is the court's authority to handle legal decisions about and for that child. Generally speaking, the court's jurisdiction is established in two ways: 1) for Criminal cases [delinquency] the court in authority where the crime took place has jurisdiction; and, 2) for Civil cases [D & N] the residence of the child is the determining factor.

As outlined in Agency Letter CW-01-10-A, the rules governing Change of Venue for Child Welfare cases are outlined in Volume 7.304.4E. Requirements for the sending and receiving county are outlined, as well as identifying the responsibility for each county to designate a Change of Venue coordinator.

Remember, it is up to the court to authorize a Change of Venue, although they are always interested in your agency's recommendation and reasons to either accept or deny the request for a Change of Venue. A change in custody and financial responsibility usually follows a Change in Venue because judges like to consolidate all parts of the case in their jurisdiction. They prefer to order "their" county department to implement a plan they developed rather than one developed by another county.

County departments should base recommendations to the court on the "Best Interests of the Child" where the child's Family Services Case Plan can best be realized, not on finances or other considerations.

Conflict of Interest

Conflict of interest is a situation in which regard for one duty results in disregard for another. In the public arena, it is an inconsistency between the public interest and the personal interest of a public official that arises in connection with the performance of official duties. The conflict can also be the public's perception that an impropriety has occurred in the handling of the official duties. It is important to first recognize actual or potential conflicts of interest, then have a process in place to avoid or resolve them.

Conflicts frequently occur in the administration of the child welfare program, particularly in smaller county departments where many of the community leaders or providers are related by birth or marriage, or where other business, social, or religious interests intersect. Conflicts often occur in the investigation of child abuse, where a staff member, relative, friend, or business acquaintance is directly or indirectly affected. Problems can also arise in certifying county residents as foster or adoptive parents. Often, these conflicts cannot be avoided or resolved without involving staff from a neighboring county department.

The best antidote to accusations of conflict of interest, or to the perception of conflict, is to develop a strong written policy defining and addressing the different forms. The next critical step is to actually recognize when you, your staff, or your agency are in a conflict situation and implement the written policy to avoid or resolve it. It is a good idea to discuss your policy with other directors and get their agreement to handle your conflicts before an actual conflict arises. Obviously, they will likely expect a reciprocal service from you to deal with their conflict situations. Coordinate and reciprocate.

Courtesy Supervision

Counties are required by rule to provide courtesy supervision services when requested by another county or state when there is court jurisdiction, and services must continue in order to protect the child. If there is no court jurisdiction, the county receiving the request to provide the supervision must make an assessment to determine whether services are needed in order to protect the child. Services shall be provided if indicated. This situation often occurs when another county has placed a child in a foster or kinship home certified by the receiving county. If the county is at some distance from the placement, the placing county frequently asks the certifying county to provide the courtesy supervision.

Sharing Foster Homes

County departments have different philosophies about developing county-certified homes and different capacities to do so. If a county has an excess of foster homes, they are more likely to share placements with neighboring counties. Foster parents with openings prefer to accept children, even if from neighboring counties. The county that certifies the home must give permission to another county for use.

If a county department wishes to certify a home when the foster parents reside in another county, the certifying county must obtain written permission from the director of the county of residence. In this way, the State reduces the likelihood that turf wars over important placement resources occur. The licensing of a foster home in another county arises when foster parents move from one county to another and prefer to continue to work with the county that originally certified them. The other situation that occurs is that people interested in foster parenting might live in a county that has no foster home certification program.

It is important for counties to work cooperatively together in these situations for the good of the foster parents and the children they care for.

X. CHILD WELFARE FUNDING

Child Welfare Block Allocation

The financing of Child Welfare programs at the county level is one of the most complex tasks confronting any department. There are the two main allocations: the Child Welfare Block and Core Services. In State Fiscal Year 2003, the total Child Welfare Block amounted to \$283,165,251 and the Core Services block totaled \$36,131,452.

The Child Welfare Block has four major components with the fourth (80/20 Block) having six sub-component lines:

1. *The 100 Percent Administration line* totals \$24,114,992 and is all state general fund that should be used to fund child welfare staff. This line was the direct result of the Child Welfare Settlement Agreement (1994 – 2001).
2. *The RTC – Medicaid line* is to be used to fund the treatment costs of high-end out-of-home placement in Residential Treatment Centers (RTC) for children in counties' custody. It totals \$59,850,830 and is comprised of 50 percent state general fund and 50 percent federal funds. There is a county refinancing charge that is used to offset some of the state general fund. Also, Room and Board RTC charges are funded in the 80/20 OOH line (see below).
3. *The Colorado Habilitation Residential Program (CHRP)* allocation totals \$8,383,379. This Medicaid funded program is for severe, dually diagnosed, developmentally disabled children who need out-of-home placement to avoid institutionalization. It is funded similarly to RTCs, but the Medicaid portion is net of SSI payments, and the balance is 20 percent county and 80 percent state-federal.
4. *The 80/20 block* totals \$181,733,905. This portion is comprised of the following major lines:
 - Out-of-Home placement that includes such costs as foster homes, CPAs, and room and board but not treatment costs of RTCs;
 - Case Services funds costs for diagnostics, etc.;
 - Special Circumstances Child Care which funds child care costs for child welfare, not Self-Sufficiency needs;
 - Subsidized Adoptions that are payments to help offset special needs costs to adoptive families;
 - Administration which includes all child welfare administration expenditures not covered by the 100 percent line;
 - Cost Allocated administrated expenses through RMS.

There are two special lines that serve counties based on their size. The Balance of State Counties (BOSC) mitigation line of \$1,699,937 is a 4 percent hold out of the BOSC allocation to be used to mitigate the effect of over-expenditures beyond the control of an individual county. Near the end of the State Fiscal Year, the overspent counties must apply for mitigation funds to a county-run mitigation committee.

The Large Counties CPA/MHASA transfer program is \$7,382,211. The CPA/MHASA transfer allows counties to transfer half the calculated amount of treatment of children in CPAs to the MHASA where Medicaid funding doubles the amount based on the Federal Medicaid Assistance Percentage (FMAP).

Funds in the child welfare block may be transferred between its component lines or they may be transferred to CORE Services. CORE services funds may not be transferred out of that allocation. Up to 10 percent of the federal portion of the TANF/WORKS grant to a county may be transferred to the child welfare line. TANF funds so transferred assume the characteristics of Title XX dollars.

Core Services is composed of 5 sub sections. The two main funding streams are the 80/20 and the 100 percent program lines that fund the programs that are outlined in the county's Core Services Plan. There are three smaller lines: Special Economic Assistance (small grants to help families overcome barriers to self direction), Mental Health contracts to provide mental health services to families not eligible for Medicaid, and Alcohol and Drug services.

In addition to these two sources, there are several small grants, such as Chaffee Independent Living and Expedited Permanency; there are incentive streams such as IV-E (Foster Care and Adoption section of Chapter IV, Social Security Act) and Parental Fee Collection Incentives.

Medicaid Funding

There are important sources of revenue used in the financing of child welfare activities. The obvious one is Medicaid (Title XIX of the Social Security Act). This often offsets the cost of therapy for children in out of home placement, and it is a major component in the RTC and CHRP lines. Medicaid reimburses expenditures made at the Federal Medicaid Assistance Percentage, an anchor rate for federal reimbursement programs in the Social Security Act arena. The FMAP varies from year to year and state to state. It is derived from calculations using unemployment rates and other economic factors. It currently stands at about 50 percent for Colorado.

Title IV-E Foster Care Eligibility and Funding

Another important federal funding stream is IV-E of the Social Security Act. This program (Foster Care and Adoption) is the result of the landmark federal legislation passed in 1980 (92-272). It allows federal reimbursement of eligible out-of-home and adoption *maintenance* payments at the FMAP. It also allows straight 50 percent reimbursement for administrative costs tied to the eligible populations based on Colorado's IV-E penetration rate and on RMS.

AUTHORITY

Title IV-E of the Social Security Act [U.S. Code Title 42, Chapter 7, Subchapter 4, Part E, "Federal Payments for Foster Care and Adoption Assistance."]

PURPOSE

The Title IV-E Foster Care program's purpose is to help States provide proper care for eligible children who need placement outside their homes, in a foster family home, or an institution.

FEDERAL FUNDING

Title IV-E remains an open-ended entitlement program. Federal financial participation is available for the following expenditures.

1. *Foster Care Maintenance*: Room, board and other maintenance and supervision costs for fully licensed or certified foster care providers. The Federal match rate for maintenance costs is currently 50 percent based on the Medicaid FMAP rate.
2. *Administration*: Staff and administrative costs incurred when working with the child, family and out of home care provider. Title IV-E funds are currently earned through a cost allocation process in which a Title IV-E penetration rate is applied. Federal financial participation is made at a 50 percent match rate for administrative expenditures.
3. *Training*: For staff, including out of home care providers, who work with the child. Federal financial participation is made at a 75 percent match for training expenditures.

ELIGIBILITY REQUIREMENTS

Judicial Determinations – A judge or magistrate must make the following judicial determinations for a child to be determined IV-E eligible:

- "Removal from the home is in the best interests of the child." This determination must be made in the first order pertaining to the removal of the child from the home.

- “Reasonable efforts have been made to prevent the child’s removal from the home.” This determination must be made within 60 days of the child’s entry into foster care.
- “Reasonable efforts have been made to finalize the permanency plan for the child.” This determination must be made within 12 months of the child’s entry into foster care and every 12 months thereafter.

AFDC Eligibility - The child must meet the requirements for eligibility for the Aid to Families with Dependant Children (AFDC) as in effect July 16, 1996. AFDC eligibility criteria includes:

- Living with a specified relative criteria.
- Deprivation of parent support.
- Income and Resource test – using AFDC need standard
- Citizenship requirement.

Provider Eligibility - The out-of-home care provider must be fully licensed / certified for foster care maintenance costs to be claimable through IV-E funding. Provisional or probationary certification or licensure is not claimable through IV-E funding.

Should IV-E collections exceed the amount appropriated by the Legislature in the Long Bill, the excess amounts are distributed to the counties based on their proportion of the IV-E population. In 2002, many small counties received around \$10,000 and some large counties may have received \$1,000,000 or more. The funds become county funds but must be spent on early intervention, placement prevention, or family preservation. The statute concerning these incentive payments may be found at CRS 26-1-111 (2) (d) (II).

Parental Fees and Refunds

Parents with children in out-of-home placement are usually assessed a fee which constitutes their portion of the cost of the placement. Colorado gives counties an incentive to increase their collections by refunding any collections they make that exceed the baseline total collected in SFY 1991. The monies are to be spent for the same purposes as those listed in the IV-E section above. Statute that outlines this incentive may be found at CRS 26-5-104 (2).

Since budgeting and close-out are based on net expenditures, refunds are an important way to reduce costs of programs to the counties. One significant source of refunds is Supplemental Security Income (SSI – Title XVI of the Social Security Act). These are payments that total slightly more than \$500 per month. Although refunds are a good method for reducing costs, it is important to manage them carefully as income to a child beyond a certain limit can make the child ineligible for Medicaid. Note: this warning does not apply to SSI, as SSI eligibility carries Medicaid Eligibility with it.

XI. EXPERT OPINION

This section contains articles written by county directors or staff who have been seasoned on the firing line and have a valuable perspective to share with newly-appointed county directors. Included are articles by Marilyn Neihart from Morgan, Lezlie Mayer from La Plata, Tom Westfall from Yuma, and Dennis Pearson from Kiowa.

Child Welfare Responsibility For A New Director Of A Small Or Mid-Sized County

By Marilyn Neihart

Editor's Note: Marilyn Neihart is the county director for Morgan County Department of Human Services. She has been a child welfare worker, supervisor and administrator, and has a unique perspective on the challenges awaiting new directors who have to direct the child welfare program.

What do you need to know? How should you approach the responsibility?

IT IS DIFFICULT

It is difficult to be a director in social services without some child welfare background. The complexity of child protective issues, and the high liability involved in these cases, can place the new director in a frustrating and worrisome position. In addition, the county itself can be put into a place of possible lawsuits, with accompanying expense.

In some mid-sized counties and all small counties, the director must be the case manager of the child welfare case. Good casework requires a thorough knowledge of the child welfare system, an understanding of developmental needs of children, protection of children, placement theory, adoption issues, permanency for children, legal aspects of a child welfare case, and other crucial areas of good child welfare practice.

Even if the new Director is fortunate enough to have skilled administrative or management staff with sound knowledge of child protection and child welfare issues, the director needs enough knowledge of the system to comfortably handle difficulty when "the buck stops here". Supporting staff is crucial in child welfare, and the director must provide that support. This must occur even as the director might be feeling the isolation of upper administration.

Another difficulty involves the balancing act imposed upon directors as they must focus not only on child welfare, but all other programs, and budget too, for heaven's sake!

The learning curve for a new director is extremely steep and almost impossible to climb some days. Not only is the learning curve steep, it is an impatient learning curve in that the director must acquire needed knowledge as quickly as possible after taking the position. Child protective crises are ongoing and unpredictable and wait for nothing.

Questions can be overwhelming: Should a child be placed out of home? What do the bruises mean? What is a shaken baby or a failure to thrive child? Should all children in a day care center be interviewed for possible abuse? Should the Department pay assessment costs for a sexual perpetrator? What should a working protocol with law enforcement cover? How is a CORE budget developed? How do you conduct a child abuse investigation? What standards of evidence are needed in the adjudicatory stage of a Dependency and Neglect court case? How is a subsidized adoption policy developed? What information can you give the media in the death of a child in an open child protection case? If the director has no resource for answers to these questions, serious consequences can result - as well as premature aging of the director!

DIFFICULT—BUT NOT IMPOSSIBLE

There is help for the new director, but it takes effort, time and patience to secure it and learn as much as possible. It requires breaking down all the seemingly overwhelming subjects into workable pieces, and then putting them together.

The director should immediately sign up for, and complete, the CORE caseworker training at the State, as well as introductory Trails training. These courses will give an overview of the system and provide an idea of what their caseworkers are being taught. Other very good child welfare trainings are offered by the State, some through video conferencing which could help in remote areas.

Finding time to leave the office for blocks of training is a challenge. Some help might come from a director and/or staff from an adjacent county as they cover for you during those times. It is crucial that the new director take the time needed to learn the child welfare system so they can function in whatever capacity is needed, given the staffing structure of their county.

There are also consultants at the State who can help with specific program areas. The District Field Administrator is a good resource for either direct suggestions, or leading the director to others who may be able to give important information. There is no stupid question, and it is extremely important that the director believe that.

Seasoned directors are usually generous with their time, and willing to train in various areas. The new director might find a mentor in one of these other directors. There might be a skilled child welfare worker on staff who could give good suggestions and some history of how things have been done in the department. It is important the

director feel comfortable asking questions of staff in this situation. District director meetings can be very helpful, and the new director should try to attend these meetings.

Colorado County Director Association meetings and CCI meetings of the Health and Human Services Committee add more information to the needed overview. Another group, which might be helpful, is the Child Welfare Administrators Group (CWAG), which is a group of child welfare administrators and some directors. CWAG provides information and seeks input on child welfare issues. These meetings are accessible via video conferencing from Arapahoe County DSS.

Written materials are available and should be accessed. Volume 7 and the Colorado Children's Code should be thoroughly studied. The latter can be discussed with the county attorney, with whom there should be regular meetings. The Child Welfare Practice Handbook has excellent directions on how to handle various child welfare situations. At least one should be available in each department. Agency Letters on child welfare issues should not be bypassed. Any questions about it can be directed to the program person listed at the bottom of the Agency Letter.

The director might visit other county departments of mid or small size, asking how case files are set up, how child welfare caseloads are distributed, how caseworkers manage cases. It would be helpful to go out on a case with an experienced caseworker, supervisor or director. It is important for a director to have a clear view of the overall operation in child welfare: from referrals, to investigations, to case management, and child welfare budgeting.

It is crucial to learn the sources of child welfare funding and how they impact services and the county budget process. Experienced directors can be extremely helpful with budget and funding information. The new director must keep in close contact with their accounting office as well. A good accounting person is worth his or her weight in gold, and can be extremely helpful to the new director.

HANG IN THERE

Discouragement and a real sense of feeling overwhelmed can take a new director down very quickly. The new director should expect that it will take one to two years to know the child welfare system well enough to comfortably navigate it. Patience is the key in learning difficult jobs, but the new director's common sense and past experience in hard situations will do well in carrying him or her through until sufficient knowledge of the child welfare system can be assimilated.

Being comfortable with child welfare is an achievable goal. It can be done!

La Plata's Recruitment and Retention of Staff

By Lezlie Mayer

Editor's Note: Lezlie Mayer is the Child Welfare Administrator for the La Plata County Department of Social Services.

When asked to write this article I first thought to myself, well this is beautiful Durango, Colorado - who wouldn't want to live here! My next thought was, that alone is not what makes our staff longevity substantial - but it helps. Striving for open communication and respect for all staff is the underpinning to our management philosophy. We may sometimes fall short, but the bar remains high and we continue to work toward this goal.

The management vision consists of valuing staff, being available to consult, and supporting the needs of staff - training, promotions, and everyone's need to take care of themselves. These management values are applied to the families we work with. They are treated in a similar fashion. When families are treated with respect and through a strength-based approach, there are fewer adversarial situations so families can stay focused on their goals.

Including staff in the decision-making process is a time-intensive endeavor up front, but one that always pays off in the end. Although there is not much turnover in the agency, we include staff in a discussion of the functions of the unit when a person resigns. Quite frequently, staff develops a plan that allows them to redesign their jobs, incorporating pieces of the vacant position, which then reconfigures the job duties for the position to be filled. Of course, this all occurs within the limits of good practice set by the supervisors.

Performance expectations are clear - including audit results, job duties, paperwork, independent decision-making authority; and most importantly, how the families we work with are to be treated. Direct service staff cannot meet these goals alone - it is the responsibility of management to assure the necessary support staff are available to assist. This is not only administrative support but also management support.

Supervisors meet with each staff member weekly, and teams form as needed during the week to staff cases as crises arise. A weekly all staff meeting allows general information to be shared; rule changes to be discussed and incorporated into practice; outside agencies have an opportunity to provide information about their programs; and cases are reviewed with the entire team: therapist, case manager, families, GAL, DSS attorney, foster parent and any other involved outside agency.

Needing to "walk the walk and talk the talk", I asked services staff for their input on the retention and longevity issue. These were their quick responses about working for La Plata DSS:

- We emphasize team decision-making and manageable caseload size;
- We have competent, supportive supervisors and an approachable director;
- We are able to staff cases as needed with the necessary participants;
- We have an unconditional, positive regard for all;
- Not everything is antagonistic/court involved - we provide a lot of voluntary services;
- We use a strength-based approach;
- It is safe to complain, debrief, and move on;
- There is an emphasis on service and how to meet the needs of families within the rules. We are creative and don't let the bureaucracy drive our intentions;
- We look for stable, emotionally healthy staff to begin with; and,
- A sense of humor.

Does this mean we have it all figured out? Absolutely not! However, I think if I had to write a *Top Ten List* on the recruitment and retention of staff, it would be the list comprised by the staff.

Involving the Community in Effective Child Protection Services

By Tom Westfall

Editor's Note: Tom Westfall is director of the Yuma County Department of Social Services and author of several books on Archaeology. His Child Protection Team produced the "Keeping the Pieces Together: Child Protection Team Handbook and Training Manual".

"So what are you going to do about this?" The question had been shouted above the din of an angry crowd of concerned community members. The questioner was a stridently vocal member of the community and the question for which he sought an answer was about an alleged child sexual assault with multiple victims. At that time, my children were still quite small; and even though as the social service's director, I was supposed to have the answer, his words and the frustrations of those gathered resonated deeply within me as well.

In the ensuing moment of almost total silence that followed his verbal diatribe, I focused my thoughts in preparation for my response. "Indeed," I asked myself, "what am I going to do?" Looking out at those gathered, I recognized most of them as friends, community leaders, former classmates, and I realized that they were scared—scared that something like child sexual assault could happen in our community, and scared for the safety of their individual children. And they weren't wrong. I stood up and took the microphone. The crowd quieted and I began. "My friends and fellow community members," I began, "the better question that must be asked tonight is this: What are WE going to do about this?"

The event described above happened nearly twenty years ago. I am blessed to live in a community that, for the most part, has embraced the challenge and understands that protecting children isn't just one agency's responsibility; it is the shared responsibility of the entire community.

Thinking about the continuum of child safety, I am reminded that safety of children begins pre-natally, and I'm thankful for doctors and local health departments that are continually reminding pregnant women to eat healthily and refrain from using drugs, alcohol, or tobacco products during the tenure of their pregnancies. And when a baby is born in many communities, the hospital insures that the parents have an appropriate car seat for the infant and a Warm Welcome visitor meets with the new parents and explains many of the services available in the community. Often times, the parents accept home visitation services through a community volunteer, a trained paraprofessional or expert nurse home visitor.

It seems, however, that somewhere between this initial blush of community support (I like to think of this as a community "claiming" behavior—accepting a new child into the "clan") and later issues of child protection, things sort of fall apart. At least this is the tendency unless a conscious effort is directed towards insuring the community's

participation in the full spectrum of the promotion of strong and safe families. So how can we, as social services directors play a role in this?

First and foremost, we need to examine our beliefs about community. Do we truly believe that community is the aforementioned “clan” and that as clan, we are collectively responsible for insuring some level of protection and security for all our families? John Dewey, one of the principle founders of the American Education movement said it well—“What the best and wisest parent wants for his/her child—that must the community want for all its children.” Dewey made this comment in reference to education, but it has a much broader application. Unless you, as a social services director (and by virtue of this role) a community leader, embrace the value of community participation in child welfare, it is unlikely that a truly integrated, collaborative effort will result.

Too many times it appears to other services providers as if social services directors focus so narrowly upon the management of their specific agencies that they fail to grasp the “gestalt”—the bigger picture of the role of community in child protection. In other words, if you don’t believe in the efficacy of “community,” it is likely that your agency will turn inward rather than outward and your efforts; though they may be consistent with state mandates, and perhaps even modestly successful, will ultimately fail in the larger picture of a strengthened and improved community.

Let’s assume for the remainder of this discussion that you are dedicated to the notion of the department’s (and your specific) role in building a stronger community through insuring a continuum of service availability for families, with a strong child protection aspect. How can this task be accomplished?

It’s too bad that there isn’t some magical formula to answer this question, but there isn’t. Furthermore, even if we think we find “the answer,” it is fluid, a moving target—it morphs over time and requires resilient thinking and innovating. I’ve been in social services as a caseworker and director for 27 years now. I offer the following observations about how to involve the community in building a strong child protection program:

1) The paradox of control - Let’s face it, you wouldn’t be a director if you didn’t like to be in control of things—and if you’re reading this and say, “No, I don’t like to be in control,” then probably you are ill suited for the vocation you have chosen. Truth is, most effective leaders like to be in charge. The problem with this, relative to child protection is this—to the extent you try and be “in control” of child protection, you essentially preclude the effective participation of others in the process. Ultimately, the way to create an effective product (child protection in this case) is to “give up control.” This means that you actively pursue and value the input of the community in the business of child welfare. At times, this can mean exposing yourself and your agency to negative scrutiny. And while none of us likes to hear criticism, the measure of our ultimate success may have more to do with how we respond to this than how we “manage” or “deflect” this.

Thus, when I asked that question many years ago, “What are WE going to do about this,” I was giving up personal control and inviting the participation of the entire community. This was not done without some trepidation—what if the community responded poorly? What if my agency was exposed to negative attention? The paradox of course is this—since I appeared completely non-defensive about engaging the community in the solution, the community realized that an attack posture wouldn’t be beneficial; and because I was perceived as “open,” the community bestowed upon me the mantle of leadership and empowered me to work with a broad-based community group to develop and implement new and more effective intervention and prevention strategies.

2) *Build from Strengths* - It’s easy to find “scapegoats.” Over the years, I have had numerous conversations with educators, mental health folk, social service agency representatives and others about improving services for the families of our communities. One of the consistent themes I’ve heard is that “this or that agency isn’t pulling their weight.” Social services criticizes mental health. Mental health is critical of the schools. The school professionals have little regard for either mental health or social services...and on and on. In truth, we all must shoulder some responsibility for poor performance at times. Assuming that we aren’t occasionally guilty of poor practice is either arrogant or ignorant.

In reality, however, we can only build from strengths—not weaknesses. Thus, while an occasional discussion with another agency about a perceived deficit may be in order, correctly identifying that agency’s strengths is the foundation upon which a relationship of mutual trust and respect will be predicated. If you believe that agencies want to be effective team players in the delivery of services and model this behavior, it is more likely that those agencies will become effective team players in child protection.

3) *Engage Child Protection Team* - One of the most effective tools for community involvement in the practice of child protection services is an engaged child protection team. In some communities, the child protection team exists because the law requires it to. Team members may lack a vision of why they are asked to participate and the department controls the flow of information. It is strongly recommended that the leadership of the child protection team be from outside the agency. For small counties, it is recommended that the director serve as the team coordinator—sending out meeting notices and minutes and arranging for meeting rooms. Someone other than agency representative, however, should chair the team. This provides a powerful symbol to the community that the team is not there to rubber-stamp the agency’s recommendations. When the school is critical of an investigation because, “we reported this and nothing happened,” it is much more difficult for them to sustain this criticism if, for example, the Director of Guidance for the district is also the chairman of the child protection team. A strong team gives the community confidence that a wide range of ideas and values are helping shape the delivery of protective services.

4) *Using the media* - One of my favorite country sayings is “second liar doesn’t have a chance.” Now of course, I’m not suggesting that there be any misinformation shared with anyone, but what often happens in many rural counties is that little is known about the local department of social services until some sort of crisis occurs. Then the first information that people hear about is the case where a child is injured following an inadequate investigation, or a child is removed from the home of a prominent community member and the locals are outraged at the “intrusive nature of jack-booted thugs masquerading as social workers” (Actual quote, unfortunately). Fortunately, there is a method for routinely informing the community of the role of the department and child protection specifically.

One of the goals of our local child protection team is to produce at least one article on child welfare services each quarter for publication in each of the local weekly newspapers, and for airing on the local radio stations. If the community is routinely cognizant of the role of child protection, it is much less likely that they will react negatively to any specific incident regarding child protection. Most small town papers appreciate good copy and are willing to publish almost anything that is submitted. Of course, it does take some time and energy to think through how to present information to the community in written form, but it’s well worth the effort.

5) *The role of the faith-based community* - There is a verse in the New Testament of the Bible that essentially says, “If anyone would cause one of these (children) to go astray, it would have been better if he had been cast into the ocean with a millstone around his neck.” Now that’s a pretty powerful statement regarding child protection, and yet many social services agencies eschew the valuable role that the faith-based community can assume in child protection. First and foremost, the community sees having a member of the clergy on the child protection team as encouraging a balanced approach to child protection. Furthermore, most churches and synagogues have some type of “local mission” which often includes ministering to the poor and disadvantaged.

Many families that find themselves caught up in child protective services are living lives of spiritual chaos. Addictions to drugs, alcohol, gambling and sex are poor substitutes for finding real meaning. For many of the families with whom we work, finding a church home, which ultimately helps them develop a support network, is a positive step in developing more effective lifestyles and parenting practices.

When working with the faith-based community, it is recommended that the first encounter not be associated with a crisis. Meeting the minister at the court hearing of the family whose children you just placed in foster care, is less likely to insure a successful dialogue, than if you had previously met under less tumultuous circumstances. With the passage of the recent legislation that made ministers, rabbis and priests “mandated child abuse reporters,” a perfect opportunity exists to connect with the local ministerial alliance. Contact the head of the local ministerial association and offer to do a presentation for them on the child protective services in

the community, including their obligation as mandated reporters. Plan on spending some additional time, as this group of individuals is likely to have a lot of questions. Once answered, however, this group can serve as a powerful ally for the protection of children.

6) *Be a community resource* - To the extent that you are engaged in the business of your department, you are doing your job. To the extent that you step outside this narrowly defined role and serve your community in other, often related ways, you are demonstrating at a practical level the manner in which you value children and their families. For example, you might want to consider serving on the town council or school board. There are never enough Boy Scout leaders, nor youth mentors. Offer to be a speaker/trainer on children and family services for the local civic and service organizations. Volunteering to teach a parent education class is a way of “putting your money where your mouth is.” Modeling this type of pro-social value for your community promotes your individual credibility and can serve many unmet needs in your community.

7) *Value diversity* - This isn't a statement necessarily about race or ethnicity. In terms of child protection services, it means valuing a wide range of ideas and opinions. Sometimes the search for the truth in child protection is akin to the six blind men who each have a hold of the elephant in different places and are describing the beast based solely upon their observations. Over the years, I have been supported by my friends and those with whom I share similar opinions. I have learned a great deal more, however, from my critics and from those whose opinions were dissimilar to mine. They have challenged my thinking and made me continually re-evaluate my beliefs and practices. Encourage dialogue regarding the delivery of child protective services. Everyone who is participating in the discussion is a potential piece of the solution.

In summary, the task of involving the community in the development of effective child protective services is enormous. There are risks, but these are overshadowed by the potential for the delivery of truly integrated, seamless services that protect children while supporting families. There is “unity” in community. A nursery rhyme from my childhood concluded this way, “The more we get together, the happier we'll be.” There is a profound truth in this simple song. When applied to the collective work of child protection; not only will we ultimately be “happier,” but clients will be better served, services will be less fragmented, and the community will actively adopt the mantra that “WE are the solution.”

County Boards Of Social Services Role In Child Welfare Issues

By Dennis Pearson

Editor's Note: Dennis Pearson is the Director of the Kiowa County Department of Social Services.

In Colorado counties, the Board of County Commissioners serves as the Board of Social Services with clearly defined statutory duties and responsibilities, as outlined in Colorado Revised Statutes 26-1-116 through 26-1-125. These duties include, generally, the managerial oversight of the Social Services office, policy setting where allowed by law, personnel matters, and financial solvency of the department.

Occasionally, entire Boards of Social Services or individual members of those boards may attempt to expand their role and become involved in what is commonly known as micro-management of the department. Micro-management is generally considered to be a *poor* practice, but micro-management in matters pertaining to child welfare and child protection may prove to be disastrous for both families and for the county.

Child welfare casework requires highly skilled, exceptionally well-trained individuals to competently deal with the complex issues that define child welfare. Child welfare workers routinely make decisions when dealing with families that can, and often do, affect a family *forever*. Obviously, this is not a responsibility to be taken lightly, nor is it to be undertaken by untrained, non-professional personnel, including, county commissioners if they have not been trained.

The micro-management of child welfare practice that a board or board member may attempt could range from something as simple as ordering the department to become involved (or, conversely *not* become involved) with a family, to dictating how a particular case should be handled, to ordering the department to bring a child home from placement prematurely. In extreme cases, a board or board member might even take it upon themselves to intervene directly with a family or individual regarding a child protection issue. However, no matter how a board or board member attempts to become directly involved in child welfare, it is a dangerous and unacceptable practice.

In addition to the danger of having untrained personnel actively involved in child welfare matters, another potential problem is that county Boards of Commissioners are likely to be an integral part of the official grievance process, should a family choose to file a grievance against the department regarding a child welfare matter. Even though counties are mandated to have a Citizens Review Panel to address child welfare grievances, the appellate process most often includes the county Boards of Social Services, unless a regional board has been established. If a board or board member has been actively involved in a child welfare case, it becomes problematic

that the same board, or board member, would be able to objectively evaluate a grievance. In either event, a conflict of interest would then exist.

The potential ramifications of a board or board member involvement in a child welfare matter also may include increased legal fees if the matter ends up in court. It is virtually assured attorneys will make commissioner involvement an issue, and increased time would need to be spent by the county attorney in trying to justify this involvement. The case itself might also become complicated by the issue, extending the child and family's involvement with the court.

Direct involvement by a board or board member also increases the potential liability to the county should the involvement of the board or board member prove to be detrimental to the best interests of the child(ren) involved. Even if litigation occurs but is not successful, the legal fees involved in defending the liability issue would create an unwanted and un-necessary cost. At worst, the county could be held directly liable, with unknown financial costs associated with that liability.

The question then becomes how to prevent such micro-management. Two words can go a long way in addressing the issue – *communicate and educate*. Directors have a responsibility to keep their commissioners informed about the proper role for the board and for the director; and therefore, avoid the potential consequences of micro-management. This may be most effectively accomplished through discussions about specific cases as they arise.

Directors should communicate to their boards what the consequences of micro-management may be, particularly in the area of child welfare, and educate their board as to what the proper role of the Board of Social Services is. If a director does not feel comfortable telling his or her board how to perform the job, then the director may want to consult with their Field Administrator to assist with the board education.

It may also be helpful to have the county attorney address the role of the Board of Social Services regarding the potential for litigation that exists when the board member acts out of that prescribed role. County attorneys are hired to provide legal guidance, and educating commissioners about the liabilities of micro-management is certainly within the scope of an attorney's duties.

Fortunately, most county commissioners are far too busy and far too intelligent to insist upon micro-managing social services departments. Those commissioners who are compelled to micro-manage must be educated regarding the negative consequences of doing so, particularly in the area of child welfare. This should be done in the hope that child welfare matters will be left where they legally and appropriately belong, in the capable hands of well-trained professionals.