

***STATE OF LOUISIANA  
LEGISLATIVE AUDITOR***

**Louisiana Foster Care  
Court Process**

December 1995



***Performance Audit***

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***Daniel G. Kyle, Ph.D., CPA, CFE  
Legislative Auditor***

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December 1995



**Performance Audit Division  
Office of Legislative Auditor  
State of Louisiana**

**Daniel G. Kyle, Ph.D., CPA, CFE  
Legislative Auditor**

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LEGISLATIVE AUDITOR

December 29, 1995

The Honorable Samuel B. Nunez, Jr.,  
President of the Senate  
The Honorable John A. Alario, Jr.,  
Speaker of the House of Representatives  
and  
Members of the Legislative Audit Advisory Council

Dear Legislators:

This is our performance audit of the Louisiana Foster Care Court Process. This audit was conducted under the provision of Title 24 of the Louisiana Revised Statutes of 1950, as amended. All performance audits are conducted in accordance with generally accepted government auditing standards.

This report represents our findings, conclusions, and recommendations as well as the response of the Louisiana Supreme Court.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel G. Kyle", is written over a faint, larger version of the same signature.

Daniel G. Kyle, CPA, CFE  
Legislative Auditor

DGK/jl

[SUPREME]



# Office of Legislative Auditor

## Executive Summary Performance Audit Louisiana Foster Care Court Process

This performance audit covered 73 sample foster care cases in four juvenile courts, three district courts, and two city courts located throughout the state. The audit found that:

- ◆ Operational differences among courts impacted the average processing times of sample cases.
- ◆ The city and district courts processed sample foster care cases in a more timely manner than the juvenile courts.
- ◆ The statistics for the East Baton Rouge Parish Juvenile Court significantly impacted the processing times for juvenile courts.
- ◆ City and district courts held the majority of their disposition hearings immediately following the adjudications, which resulted in much shorter processing times for the disposition hearings in these courts.
- ◆ Longer delays between scheduled hearing dates and actual hearing dates occurred in the juvenile courts than in the city courts or district courts.
- ◆ The reasons for continuances of court hearings were largely undocumented in the courts' records.
- ◆ Sample children and their parents did not experience consistency in the attorneys that handled their cases, and the reasons for attorney changes were largely undocumented in the courts' records.
- ◆ Notice of court hearings was generally sent to pertinent parties, but we could not determine if notice was sent to each party for each individual hearing.

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## **Audit Objectives**

This audit was conducted as part of the federal government's State Court Improvement Program. The State Court Improvement Program was established under the Family Preservation provisions of the federal Omnibus Budget Reconciliation Act of 1993. The program provides grants to state court systems during fiscal years 1995 to 1998 to assess and improve court proceedings related to foster care and adoptions.

The purpose of this audit was to analyze the state's system of processing foster care cases through the various court hearings and reviews required by law. The specific objectives of this audit were to:

- ♦ Identify federal and state statutory requirements governing the foster care court process; and
- ♦ Evaluate a sample of foster care case files in a select number of courts to determine:
  - The time elapsed between major case events;
  - The frequency and length of court continuances and reasons therefore;
  - Whether case files contained evidence of legal representation for foster children and their parents; and
  - Whether case files contained evidence that relevant parties were sent notice of upcoming court hearings and reviews.

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## **Statutory Requirements**

Federal and state law have specific requirements related to the processing of foster care cases through the court system. The Louisiana Children's Code contains time frames within which major case events (i.e., court hearings and reviews) must be conducted. These requirements are summarized as follows:

- ♦ **Continued Custody Hearing:** Must be held within three days after the child's entry into state custody; may be continued for up to three additional days upon motion and with good cause shown.

- ♦ **Petition:** Must be filed within 30 days of the continued custody hearing; may be extended upon motion and good cause shown.
- ♦ **Answer to the Petition:** If the court requires this hearing, it must be held no later than 15 days after the filing of the petition.
- ♦ **Adjudication Hearing:** Must be held within 45 days of the filing of the petition if the child is continued in custody or within 105 days of the filing of the petition if the child is not continued in custody; may be continued for good cause.
- ♦ **Disposition Hearing:** Must be held, at the latest, within 30 days after the adjudication; may be extended for good cause.
- ♦ **Case Review:** Must be held within three months after the disposition hearing if the child was removed prior to disposition or within six months after the disposition hearing if the child was removed at disposition, but in no case more than six months after removal of the child from his parents; must be held at least once every six months thereafter until the child is permanently placed.
- ♦ **Dispositional Review:** Must be held within nine months after the disposition hearing if the child was removed prior to disposition or within 12 months after the disposition hearing if the child was removed at disposition, but in no case more than 12 months after removal of the child from the home; must be held once every 12 months thereafter until the child is permanently placed. (Note: the federal law requires this hearing to be held once every 18 months.)

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### **Differences Among Courts Impacted Their Processing of Cases**

Operational differences that existed among the courts included in the audit impacted their processing of sample foster care cases. These differences related to the following areas:

- ◆ Caseloads
- ◆ Use of appearance hearings
- ◆ Scheduling of disposition hearings, and
- ◆ Conducting of case reviews and dispositional reviews.

In addition, there were two other differences that were unique to the East Baton Rouge Parish Juvenile Court:

- ◆ This court used an assistance agreement with the East Baton Rouge Parish Family Court to process foster care cases.
- ◆ This court held numerous status conferences.

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### **Time Lapses Varied Among Courts**

City and district courts processed sample cases in a more timely manner than the juvenile courts did for all major case events. The city and district courts processed the sample cases in a significantly shorter amount of time for the continued custody hearings, adjudications, and the disposition hearings.

Over 80 percent of the continued custody hearings analyzed were held within six days of the children's entry into state custody. The only continued custody hearings that took longer than six days were found in the juvenile courts.

On average, petitions for sample cases were filed in less than 30 days. Over two-thirds of the petitions were filed within 30 days after the continued custody hearings were held.

The juvenile courts took nearly three times as long as the city and district courts to adjudicate the sample children. Ninety-five percent of the cases that took over 90 days to adjudicate were found in the juvenile courts. Seven children in the juvenile courts remained in state custody over a year before they were adjudicated.

The time it took to hold the disposition hearings was nearly three times as long in the juvenile courts as it was in the city or district courts. This was because the city and district courts held the disposition hearings immediately following the adjudications. Only one juvenile court held disposition hearings immediately after adjudications.

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### **Delays and Continuances**

On average, children whose cases were under the jurisdiction of the juvenile courts experienced longer delays between scheduled and actual hearing dates than those in the city or district courts. The average delay that occurred for the adjudication hearings in the juvenile courts was over twice as long as in the city courts and over four times as long as in the district courts. The longest average delay associated with any major case event occurred during the adjudication hearings.

Ninety-one percent of the sample cases in the juvenile courts were granted at least one continuance. The reasons for nearly one-third of the continuances granted by all courts included in the audit were not documented in the courts' records. Over 40 percent of the reasons that were documented were related to the children's parents or the parents' legal representation. A disproportionate share of continuances granted were associated with adjudication hearings. While adjudication hearings accounted for only 14 percent of the total major case events, they accounted for 33 percent of the total continuances granted by all courts.

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### **Legal Representation and Notice**

The sample children and their parents did not experience consistency in the attorneys that handled their cases. On average, each sample child had 2.7 different attorneys and each parent had 2.6 different attorneys during the time period under audit. The reasons for changes in attorneys were largely undocumented in the courts' records.

Notice of court hearings was generally sent to the parties involved in the sample cases. However, a judge we interviewed stated that maintaining current addresses for pertinent parties was a problem because of communication breakdowns with OCS.

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**Recommendations**

A summary of the recommendations made in this audit report is as follows:

1. The courts may wish to assess the practice of allowing OCS to conduct case review hearings and dispositional review hearings to determine whether it is more efficient and effective for the courts to conduct these hearings or for OCS to conduct them.
2. If courts choose for OCS to conduct case reviews and/or dispositional reviews, standard criteria should be developed for inclusion in all agreements executed to establish the working relationship between the courts and OCS.
3. The courts may wish to consider evaluating the usefulness of appearance hearings to determine their potential benefits and pitfalls. In doing so, the courts should consider the effect on due process and the impact on court resources. If the benefits derived from holding appearance hearings outweigh the pitfalls, more courts may wish to use them. *If pitfalls exceed benefits, the juvenile courts may wish to decrease their use of appearance hearings.*
4. Caddo, East Baton Rouge, and Jefferson Parish Juvenile Courts may wish to consider holding disposition hearings immediately following adjudications, as is currently done in the other courts included in this audit.
5. Courts that process foster care cases should fully and clearly document all hearings and reviews conducted using terminology that is consistent with language in the Children's Code.
6. The courts should develop procedures for documenting reasons that continuances were granted. The courts should periodically review and analyze this information to determine the major causes of continuances and work with OCS to resolve these problems.

7. The courts may wish to allocate resources and efforts towards coordination with the OCS to locate witnesses and expedite other preparations necessary for adjudications.
8. The courts may wish to develop strategies to identify and retain consistent sources of legal representation for foster care clients.
9. Courts should ensure that notice is sent in a timely manner to the appropriate parties as specified in the Children's Code. The courts may also wish to develop means of improving coordination between the courts and OCS for the purpose of ensuring that they have access to current addresses for all pertinent parties. Finally, the courts should retain complete documentation of all notices served in an organized manner in the court records.

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# Chapter One: Introduction

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## **Audit Initiation and Objectives**

This audit was conducted as part of the federal government's State Court Improvement Program. The State Court Improvement Program was established under the Family Preservation provisions of the federal Omnibus Budget Reconciliation Act of 1993. The program provides grants to state court systems during fiscal years 1995 to 1998 to assess and improve court proceedings related to foster care and adoptions.

The purpose of this audit was to analyze the state's system of processing foster care cases through the various court hearings and reviews required by law. The specific objectives of the audit were to:

- ♦ Identify federal and state statutory requirements governing the foster care court process; and
- ♦ Evaluate a sample of foster care case files in a select number of courts to determine:
  - The time elapsed between major case events;
  - The frequency and length of court continuances and reasons therefore;
  - Whether case files contained evidence of legal representation for foster children and their parents; and
  - Whether case files contained evidence that relevant parties were sent notice of upcoming court hearings and reviews.

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## **Report Conclusions**

*Operational differences among the various courts in which records were reviewed impacted the average processing times of sample cases. The city and district courts processed sample cases in a more timely manner than the juvenile courts. There were significant differences in processing times for the continued custody hearings, adjudications, and disposition hearings.*

City and district courts held the majority of their disposition hearings immediately following the adjudications. This practice yielded significantly shorter processing times for the disposition hearings in these courts. Only one juvenile court held disposition hearings immediately after adjudications.

Longer delays between scheduled hearing dates and actual hearing dates occurred in the juvenile courts than in the city courts or district courts. All of the continued custody hearing delays that occurred in sample cases were found in the juvenile courts. The average delay for adjudication hearings was over twice as long for the juvenile court cases as it was for the city court cases and over four times as long as the district court cases.

The reasons for continuances granted by the courts included in this audit were largely undocumented. Based on the limited documentation that was available, over 40 percent of the reasons for continuances were related to the children's parents and the parents' legal representation.

Sample foster children and their parents did not experience consistency in the attorneys that handled their cases. Each child had, on average, 2.7 different attorneys during the course of the legal proceedings. Each parent had, on average, 2.6 different attorneys during the course of the legal proceedings. Few of the reasons for changes in attorneys were documented in the courts' records.

Notice of hearings was generally sent to parties included in the cases. However, we could not determine if notice was sent to each party for each individual hearing.

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## Background

Federal law defines foster care as a protective service that provides substitute temporary care for a planned period of time when children must be separated from their own parents or relatives. State law defines foster care as placement in a foster family home, a relative's home, a residential child caring facility, or other living arrangement approved and supervised by the state for provision of substitute care for a child in the Department of Social Services' custody. Foster care is viewed as an interim process to provide care for children until they are reunited with their families or are provided with another type of permanent living situation.

In Louisiana, the foster care program is administered by the Office of Community Services (OCS) within the Department of Social Services (the Department). The court system also plays a vital role in that courts generally provide the legal basis upon which children are taken into state custody. Courts are also involved in the subsequent review process that is required during each child's tenure in state custody.

According to the National Center for State Courts, the responsibilities of courts handling family and juvenile matters have increased, due in part to the judicial oversight functions imposed with the passage of the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96:272). Public Law 96:272 sets guidelines to which states must adhere in order to receive federal grants to operate their foster care programs. Among other things, Public Law 96:272 requires that the state develop case plans and administer a system of periodic case reviews and dispositional reviews for all children placed in state custody. State law includes similar provisions. The state requirements are provided in the Louisiana Children's Code.

In Louisiana, jurisdiction over juvenile cases is exercised in juvenile courts (special courts created for Caddo, Orleans, Jefferson, and East Baton Rouge Parishes); district courts; and city courts. According to the Children's Code, juvenile jurisdiction is exercised in these courts as follows:

- ♦ **Juvenile courts** have exclusive original juvenile jurisdiction in the parish or parishes for which they are created.
- ♦ **District courts** have original juvenile jurisdiction for the parish or parishes within their district, except where a separate juvenile court with exclusive original juvenile jurisdiction is established by law.
- ♦ **City courts** have original juvenile jurisdiction for their territorial jurisdiction, except where a separate juvenile court with exclusive original juvenile jurisdiction is established by law. This jurisdiction is concurrent with that of the district court.

Appendix A lists the courts that exercise jurisdiction over juvenile cases.

## **Statutory Requirements**

This section explains the statutory requirements set forth in state and federal law for each major foster care case event. In addition to this narrative explanation, Exhibit 1-1 on page 9 provides a flowchart of the foster care court and review process.

**State Requirements.** As previously stated, the Louisiana Children's Code provides the statutory framework for the foster care court process. The Children's Code provides time frames within which the following major case events should occur:

- ◆ Continued custody hearing
- ◆ Filing of the petition
- ◆ Answer to the petition (if applicable)
- ◆ Adjudication hearing
- ◆ Disposition hearing
- ◆ Case reviews
- ◆ Dispositional reviews

Timing and continuance provisions for each of these major case events are discussed in the following paragraphs. More detailed information about these case events is contained in Appendix C.

There are three primary ways in which children are placed in state custody: through court authorization, voluntary agreement, or act of surrender. These means are explained in detail in Appendix B.

**Instant order.** Most of the foster children whose cases we reviewed came into care via court authorization, through the use of oral or written instant order. Instant order is an order issued by the court placing children in the temporary custody of the Department pending further court hearings. The Children's Code says that once a child has been taken into state custody, the child's parents or caretakers must be promptly notified of the time and place of the upcoming continued custody hearing.

**Continued Custody Hearing.** The Children's Code requires that the court hold a continued custody hearing within three days after the child's entry into state custody. This hearing may be continued for up to three additional days upon motion and with good cause shown.

At the continued custody hearing, the court determines whether to retain the child in state custody or to return him to his home. If the court finds that the child can be safely returned home under a protective order pending adjudication, the court may order return of the child and issue the protective orders necessary for his protection and welfare. Appendix C explains the continued custody hearing in further detail.

**Petition.** If the child is continued in custody or if a protective order is issued, the Children's Code requires that a petition, which specifies the facts of the case and requests that the child be adjudicated in need of care, be filed within 30 days of the continued custody hearing. The time for filing the petition may be extended by the court upon motion and good cause shown. If a petition is not filed within the applicable time period, the child must be returned to his parents.

Once the petition has been filed, the Children's Code requires the court to issue a summons commanding that the child, his parents, and other persons as the court deems proper appear before the court at a designated time and place. Further information about the petition can be found in Appendix C.

**Answer to the Petition (Appearance Hearing).** According to the Children's Code, the court may require the parents to appear to answer the petition at any time before the adjudication hearing (which is explained in the next section) but no later than 15 days after the filing of the petition. With the approval of the petitioner, a parent whose child is the subject of pending proceedings may, with or without admitting the allegations of the petition, stipulate (i. e., agree) that the child is in need of care. If the parents enter a stipulation, there would be no trial. If the parents deny the allegations in the petition, the court sets the matter for adjudication.

**Adjudication Hearing.** The Children's Code requires that this hearing be commenced within 45 days of the filing of the petition if the child is continued in custody. If the child is not continued in custody, the adjudication hearing must commence within 105 days of the filing of the petition. At the adjudication hearing, the state determines whether the child should be deemed a child in need of care who should remain in foster care.

The court may grant, deny, or restrict a requested continuance if good cause and notice to the opposing party are shown. The court must consider the best interests of the child in determining whether to grant a continuance. If the adjudication hearing does not commence on a timely basis, upon motion of the child, the court must release the child and may dismiss the petition. Further details regarding the adjudication hearing are provided in Appendix C.

**Case Plan.** The Children's Code requires that a case plan be designed for each child in state custody. The case plan should be designed to achieve placement in the least restrictive and most family-like setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child. The contents of the case plan are the same under state law as they are under federal law.

**Disposition Hearing.** The Children's Code requires the court to conduct a disposition hearing after the adjudication hearing has been completed. The disposition hearing may be conducted immediately after the adjudication. However, at the latest, the disposition hearing must be conducted within 30 days after the adjudication. As with the other types of hearings, this period may be extended for good cause.

The purpose of the disposition hearing is for the court to determine the future status of the child. The disposition hearing is explained in detail in Appendix C.

**Reviews.** The Children's Code requires that each foster child's case be reviewed at periodic intervals while the child is in state custody. A review hearing must be conducted by the court or an administrative review body within three months after the disposition hearing if the child was removed before disposition. If the child was removed at disposition, the review hearing must be held within six months after the disposition hearing. In no case may the review hearing be held more than six months after removal of the child from his parents.

The Children's Code further requires that subsequent case reviews be held at least once every six months thereafter until the child is permanently placed. The reviews may be held earlier than this date upon motion of a party for good cause shown or upon the court's own motion. Written notice of the time, date, and place of the case review hearings must be served on all parties and counsel of record. For further information on case review hearings, see Appendix C.

**Dispositional Reviews.** Finally, if the child was removed prior to disposition, the Children's Code requires that the court conduct a dispositional review hearing within nine months after the disposition hearing. If the child was removed at disposition, the dispositional review hearing must be held within 12 months. In no case may the dispositional review hearing be held more than 12 months after removal of the child from the home.

The Children's Code requires dispositional review hearings to be held once every 12 months thereafter until the child is permanently placed. Written notice of the date, time, and place of the dispositional review hearing must be sent to all parties and counsel of record.

More information on the dispositional review hearings can be found in Appendix C. It should be noted that the state requirement for dispositional review hearings is more stringent than the federal requirements. The federal requirements are explained below.

**Federal Requirements.** As previously mentioned, Public Law 96:272 contains requirements by which states must abide in order to receive foster care grant payments. The federal requirements are more general in nature than are the state requirements. The federal law primarily requires a case review system, which includes three components:

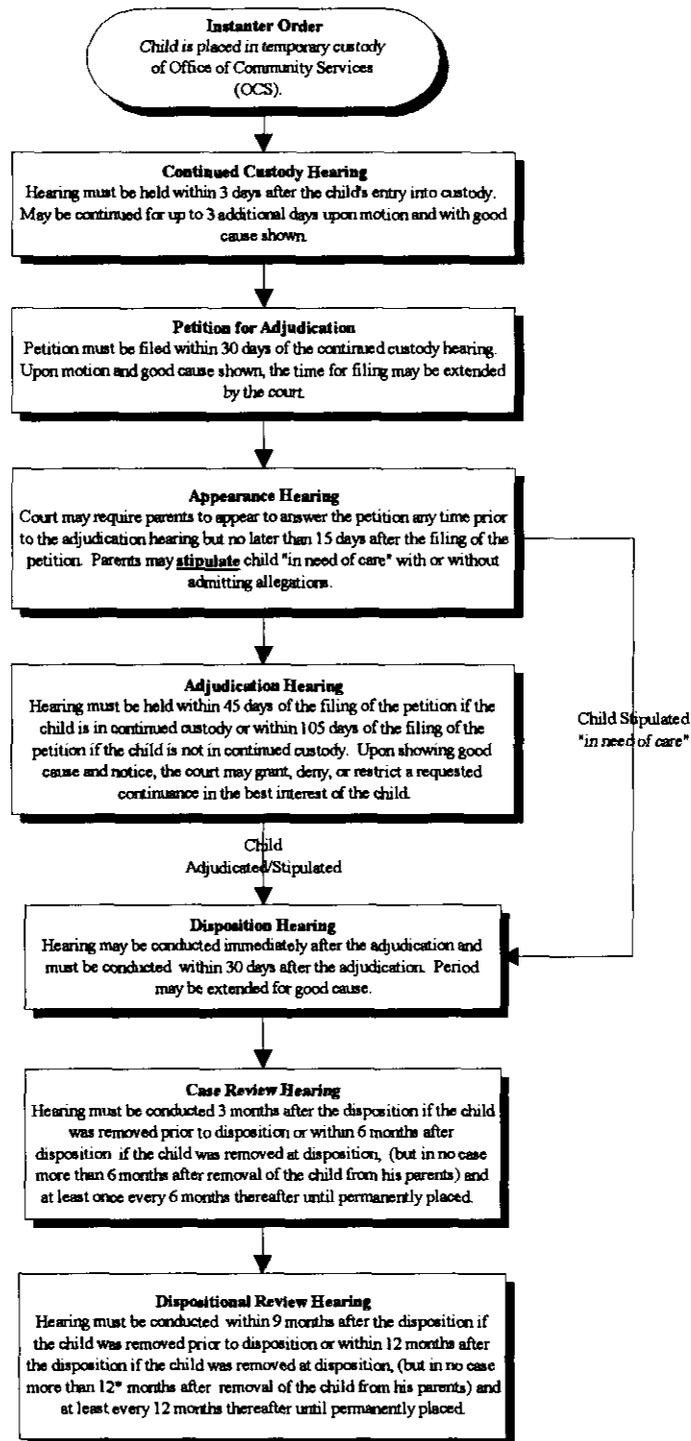
- ♦ The case plan;
- ♦ Case review hearings; and
- ♦ Dispositional reviews.

The federal requirements for timelines of these major case events are discussed on the following page. For further information on federal requirements as they relate to case plans, case reviews, and dispositional hearings, see Appendix D.

Public Law 96:272 requires that a case plan be developed for each child. Furthermore, the law requires that the status of each child be reviewed at least once every six months by either a court or administrative review body. Finally, the federal law says that a dispositional hearing must be held by the court or administrative review body no later than 18 months (as opposed to 12 months in the state law) after the original placement and periodically thereafter during the continuation of foster care.

This completes the description of statutory requirements for the processing and review of foster care cases. As previously stated, the flowchart in Exhibit 1-1 on page 9 presents these requirements graphically.

**Exhibit 1-1**  
**State Statutory Court and Review Process**  
**As of the 1994 Regular and Fourth Extraordinary Sessions**



\* 18 months according to Public Law 96:272.

**Note:** Flowchart assumes that custody of the child is not returned to the parents throughout the process.

**Note:** Case and dispositional review hearings may be conducted by an administrative review body.

**Note:** Appendix J lists the appropriate cites from the Children's Code for each major case event included in the flowchart.

**Source:** *Louisiana Children's Code: 1995 Special Pamphlet.*

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## **Scope and Methodology**

This performance audit was conducted under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. In conducting the audit, we followed applicable government auditing standards as promulgated by the Comptroller General of the United States.

This section provides a summary of the methodology used in the audit. More detailed information about the audit methodology appears in Appendix E. Based on planning meetings held with staff of the Louisiana Supreme Court, we formulated audit objectives that would address issues specific to the timeliness of Louisiana's foster care court process (including continuances), the level of legal representation, and evidence of legal notice provided. The audit focused on foster care cases opened during calendar year 1993.

To address the audit objectives, we reviewed relevant state and federal laws governing the foster care court process and documented the timeline required for major case events. We also reviewed the requirements for legal representation and legal notice contained in the Louisiana Children's Code.

To gather information about specific cases, we selected a random sample of 73 case files within selected courts throughout the state. Three primary considerations governed our selection of courts in which we reviewed cases:

- ♦ We selected cases in each type of court exercising jurisdiction over juvenile cases (i.e., juvenile courts, district courts, and city courts).
- ♦ We selected courts in each major geographic area of the state (i.e., north, central, and south).
- ♦ We selected courts with relatively large numbers of cases opened in 1993 as well as courts with relatively small numbers of cases opened in 1993.

Our review included cases at all four juvenile courts, three district courts, and two city courts. In total, we reviewed 55 cases in juvenile courts, 12 cases in district courts, and 6 cases in city courts, as depicted in Exhibit 1-2 on page 11. A map depicting the location of the 73 sampled files can be found in Appendix F.

<b>Exhibit 1-2</b>			
<b>Case Files Reviewed by Type of Court</b>			
<b>(Cases Opened During Calendar Year 1993)</b>			
<b>Court</b>	<b>Number of Cases Opened in 1993</b>	<b>Number of Files Reviewed</b>	<b>Percentage of Files Reviewed</b>
<b>Juvenile Courts</b>			
East Baton Rouge	75	12	16.0
Orleans	159	24	15.1
Jefferson	67	11	16.4
Caddo	49	8	16.3
<b>Subtotal</b>	<b>350</b>	<b>55</b>	<b>15.7</b>
<b>District Courts</b>			
4th Judicial District (Ouachita)*	19	4	21.1
9th Judicial District (Rapides)	22	5	22.7
15th Judicial District (Lafayette)**	14	3	21.4
<b>Subtotal</b>	<b>55</b>	<b>12</b>	<b>21.8</b>
<b>City Courts</b>			
West Monroe	5	2	40.0
Hammond	13	4	30.8
<b>Subtotal</b>	<b>18</b>	<b>6</b>	<b>33.3</b>
<b>Total</b>			
<b>All Courts</b>	<b>423</b>	<b>73</b>	<b>17.3</b>
<p>* This district also includes Morehouse Parish. Our review did not include any cases from Morehouse Parish.</p> <p>** This district also includes Acadia and Vermilion Parishes. Our review did not include any cases from Acadia and Vermilion Parishes.</p> <p>Source: Prepared by Legislative Auditor's staff using data from the Office of Community Services and the sample selected for review by the auditors.</p>			

The results and conclusions reported in this audit are reflective only of the 73 cases reviewed. We did not attempt to project the results of our review and analysis to the entire

population of cases opened in 1993 or to the entire population of foster children.

In conducting the file review, we relied upon court minutes, judgments, and other records contained within the files of the individual courts. In some cases, the data we sought was not available in the courts' files. In these instances, we relied upon court personnel to supplement our efforts with their personal knowledge of court processes and case histories. In addition, for some of these cases we obtained supplemental data from staff and records of the Office of Community Services.

**Timing of Major Case Events.** To test the timing of major case events, we collected information on scheduled and actual dates for each event. We used this information to calculate the actual number of days elapsed between the events. We also used this information to determine the time elapsed between the dates major events were scheduled and the dates they were actually held. We then summarized this information by individual courts and by type of court. See Appendix E for further details.

**Continuances.** To determine the nature and timing of continuances, we recorded the number of continuances for each major case event that was documented in the court records for each of the 73 sample cases. We then listed the reason given for each continuance and summarized the data. We did not attempt to determine whether continuances were granted for good cause.

**Legal Representation.** To determine whether legal representation was provided, we gathered and summarized the following information:

- ♦ The number of different attorneys assigned to each case;
- ♦ The number of changes in attorneys for each case; and
- ♦ The reasons for the changes in attorneys.

This information was analyzed for all sample foster children and their parents.

**Notice of Hearings.** Using the information that was available in the court files, we accumulated evidence of notification being sent. The time constraints involved and the condition of some of the files did not allow us to make a determination of whether notice was sent to each relevant party

for each individual court hearing or review. Therefore, the data we were able to collect and analyze yields general results only.

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## **Report Organization**

The remainder of this report is organized into four additional chapters and eleven appendixes as follows:

- ♦ **Chapter Two** describes profiles of the individual courts in which we reviewed cases.
- ♦ **Chapter Three** presents the results of our analysis of the timing of major case events.
- ♦ **Chapter Four** presents the results of our analysis of delays and continuances for court hearings.
- ♦ **Chapter Five** represents the results of our analysis of legal representation provided to sample children and their parents and notice of hearings sent to all parties.
- ♦ **Appendix A:** Courts Exercising Juvenile Jurisdiction in Louisiana
- ♦ **Appendix B:** Ways Children Enter State Custody
- ♦ **Appendix C:** Detailed Information On State Requirements for Major Case Events
- ♦ **Appendix D:** Detailed Information Regarding Federal Requirements for Major Case Events
- ♦ **Appendix E:** Detailed Methodology Regarding Timing of Major Case Events
- ♦ **Appendix F:** Map of Location of 73 Sample Foster Care Case Files
- ♦ **Appendix G:** Time Elapsed Between Major Case Events
- ♦ **Appendix H:** Reasons for Continuances
- ♦ **Appendix I:** Delays Experienced Between Major Case Events
- ♦ **Appendix J:** Cites From Louisiana Children's Code for Major Case Events
- ♦ **Appendix K:** Agency Response to This Report



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# Chapter Two: Court Profiles

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## Chapter Conclusions

Operational differences existed among the various courts included in this review. These differences impacted the average processing times of sample foster care cases. The primary differences we noted among the courts were that:

- ♦ Some judges dealt exclusively with juvenile matters, while other judges processed adult criminal, civil, and traffic cases, as well.
- ♦ Some courts conducted appearance hearings for foster care cases, while other courts did not.
- ♦ Some courts held adjudications and disposition hearings at the same time, while other courts held them separately.
- ♦ The Office of Community Services (OCS) conducted case reviews and dispositional reviews for sample cases in the district courts but not for sample cases in the city courts or juvenile courts.
- ♦ Under an agreement in effect from February 1993 until January 1995, the East Baton Rouge Parish Juvenile Court was assisted by judges from the East Baton Rouge Parish Family Court in the processing of foster care cases.
- ♦ The East Baton Rouge Parish Juvenile Court held numerous status conferences, while other courts did not.

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## Differences Among Courts Impacted Their Processing of Cases

### The Sample Courts' Processing of Foster Care Cases was Impacted by Operational Differences Among the Courts.

Operational differences that existed among the various courts included in the audit impacted their processing of sample foster care cases. During our fieldwork, we noted several differences among the three types of courts and among the individual courts included in our sample. These differences related to the following areas:

- ♦ Caseloads
- ♦ Use of appearance hearings
- ♦ Scheduling of disposition hearings, and
- ♦ Conducting of case reviews and dispositional reviews.

In addition, we noted two other differences that were unique to the East Baton Rouge Parish Juvenile Court. The East Baton Rouge Juvenile Court used an assistance agreement with the East Baton Rouge Parish Family Court for the processing of foster care cases. Also, unlike any other court in our sample, the East Baton Rouge Parish Juvenile Court held numerous status conferences.

Exhibit 2-1 on page 22 summarizes the operational differences we noted among the various courts included in our sample. Any or all of these differences may have impacted the time lapses that occurred between major case events, which are presented in Chapter Three.

### **Foster Care Caseloads**

The number of children who entered foster care in 1993 varied among the nine courts included in our sample. The number of judges and the types of cases they presided over also varied.

For the nine courts included in our sample, the number of foster care cases opened in 1993 varied across city, district, and juvenile courts. As seen in Exhibit 2-1 on page 22, significantly more foster care cases were opened in the juvenile courts in 1993 (350 cases) than in the district courts (69 cases) or in the city courts (18 cases). The juvenile courts also had the largest average number of foster care cases opened per court--87.5. The district courts averaged 23 foster care cases opened per court, and the city courts averaged 9 foster care cases opened per court during 1993.

Furthermore, the juvenile courts that had more foster care cases opened in 1993 also had more judges presiding over juvenile matters. With one exception, the judges in juvenile courts were the only judges who routinely presided over juvenile cases in those courts during the period under audit. The exception was the East Baton Rouge Parish Juvenile Court.

As previously mentioned, the East Baton Rouge Parish Juvenile Court entered into an assistance agreement whereby it used family court judges to assist in processing its juvenile caseload during 1993 and 1994. The assistance agreement with the East Baton Rouge Parish Family Court is explained in further detail on page 20.

We found that the number of judges and responsibilities of the judges also varied for the district courts. The Fourth Judicial District Court is the only district court in which the judge presided exclusively over juvenile cases. The judges in the Ninth Judicial District Court (1 judge) and the Fifteenth Judicial District Court (4 judges) presided over juvenile cases in addition to other types of cases, such as adult civil, criminal, and traffic cases.

We discussed the city court judges' responsibilities with officials at those courts. We found that city court judges in our sample presided over juvenile cases as well as adult civil, criminal, and traffic cases.

The foster care caseload and responsibilities of each judge in the different courts may have affected the time lapses that occurred in the processing of sample cases. As previously mentioned, the time lapses are analyzed in Chapter Three.

### **Use of Appearance Hearings**

We found that differences also existed in the types of hearings held by the different courts. Specifically, Article 646 of the Children's Code says that the court *may require* the parents to appear to answer the petition at any time prior to the adjudication hearing. We refer to these hearings as appearance hearings in this report.

As seen in Exhibit 2-1 on page 22, we found evidence that appearance hearings were held in the juvenile courts. We did not find any documentation indicating that appearance hearings were held in the district courts or city courts.

Although we cannot say with certainty, the use of appearance hearings by the juvenile courts may have impacted the total time it took those courts to process the sample cases through the various court hearings. The time lapses associated with the appearance hearings are discussed on pages 29 through 31 in Chapter Three.

### **Scheduling of Disposition Hearings**

Article 678 of the Children's Code states that the disposition hearing may be conducted *immediately after the adjudication*. We found that the city and district courts in our sample held the majority of their disposition hearings immediately following the adjudications. These courts held the adjudications and disposition hearings on the same day, with the disposition hearings commencing immediately after the adjudications were completed.

Orleans Parish Juvenile Court was the only juvenile court that held disposition hearings immediately after adjudications. The other three juvenile courts held the disposition hearings on subsequent dates.

Cases in which the disposition hearings were held immediately after the adjudications experienced no time between adjudication and disposition. The children whose cases were in the courts that did not hold disposition hearings immediately after adjudications experienced lengthy time lags before their disposition hearings were held. The results of our analysis of the disposition hearings are presented on pages 34 through 36 in Chapter Three.

### **Conducting of Case Reviews and Dispositional Reviews**

Article 692 of the Children's Code says that periodic *case review hearings* must be conducted by either the court or an administrative review body. Article 702(A) of the Children's Code says that the court must conduct periodic *dispositional reviews*. However, Article 702 (C) allows the court to appoint or approve an administrative body to conduct the dispositional review hearings.

We found that the district courts had agreements with OCS to conduct dispositional reviews for the sample cases. We also found that OCS conducted some of the case reviews in the district courts.

Each of the district courts in our sample had an agreement with OCS to conduct the dispositional review hearings through the OCS Administrative Review/Family Team Conference process. Two of the agreements (for the Fourth and the Ninth Judicial District Courts) require OCS to submit a report of each dispositional review to the appropriate judge for approval. The other agreement (for the Fifteenth Judicial District Court) has no requirement for the submission of reports to the court. The

agreement for the Fifteenth Judicial District only requires OCS to notify the court immediately if there is a strong disagreement between OCS and the parents, child, or foster parents so that the judge may schedule a hearing.

We found that after OCS conducted dispositional reviews for the district courts, the agency generally submitted a report to the court explaining the results of the reviews. The judges would then complete concurrence forms indicating whether they agreed or disagreed with the plans for the children as outlined in the OCS reports. According to concurrence forms found in the district courts' files, if a judge disagreed with OCS, a court review hearing would be scheduled. If the judge was in agreement with the contents of the report, he would sign the concurrence form and retain copies of the report and the concurrence form in the court records.

As previously stated, OCS also conducted some of the case reviews for district courts, as well. Since reviewing OCS's processing of cases was not within the scope of this audit, we did not review OCS's records on case review hearings and dispositional review hearings. Also, we cannot be sure that the district court records contained all applicable information related to these case reviews. Since it is possible that we may not have gathered all applicable data related to case reviews and dispositional reviews from the district court records, we removed the district courts from our analysis of time lapses between reviews. Also, the analysis of numbers of reviews conducted *may not provide a good basis for comparison among the different courts and types of courts*. The results of these analyses are presented in Chapter Three.

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### **Recommendation No. 1**

**The courts may wish to assess the practice of allowing OCS to conduct case review hearings and dispositional review hearings to determine whether it is more efficient and effective for the courts to conduct these hearings or for OCS to conduct them.**

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## **Recommendation No. 2**

**If courts choose for OCS to conduct case reviews and/or dispositional reviews, standard criteria should be developed for inclusion in all agreements executed to establish the working relationship between the courts and OCS.**

### **East Baton Rouge Parish Assistance Agreement**

In February of 1993, the East Baton Rouge Parish Juvenile Court entered into an assistance agreement with the East Baton Rouge Parish Family Court. The agreement was in response to an overload of cases at the East Baton Rouge Parish Juvenile Court. The agreement was designed to transfer a portion of the juvenile court's caseload to judges in the family court. According to the agreement, which was approved by the Supreme Court of Louisiana, the family court judges gained jurisdiction over certain juvenile cases. The agreement terminated, according to its terms, in January of 1995 when an additional juvenile judge took the bench.

According to the chief judge at the East Baton Rouge Parish Juvenile Court, the objectives of the assistance agreement were twofold:

- ♦ To make more time available in the juvenile court so that cases could be heard in a timely fashion; and
- ♦ To increase access to the juvenile court.

The chief judge told us that, while the agreement did help in some cases, the objectives of the agreement were not fully accomplished because of a lack of coordination between the two courts. This lack of coordination may have at least partially caused the lengthy time lapses that occurred in processing foster care cases in East Baton Rouge Parish, which are discussed in Chapter Three.

### **Use of Status Conferences**

During the audit period, the East Baton Rouge Parish Juvenile Court conducted numerous status conferences for the sample cases under its jurisdiction. East Baton Rouge Parish Juvenile Court was the only court in our sample that held numerous status conferences.

According to the chief judge in the East Baton Rouge Parish Juvenile Court, status conferences are used to address issues in litigation without holding contradictory hearings, which involve testimony. A status conference may also be used at the request of all parties if they believe it may result in reunification of the child and family. However, the chief judge told us that the court is now attempting to reduce its use of status conferences because they were being overused and resulted in delays in the progression of cases.

The analysis in Chapter Four confirms that status conferences caused a significant number of continuances in a relatively large number of sample cases in the East Baton Rouge Parish Juvenile Court. See pages 44 through 59 in Chapter Four for the analysis of continuances.

## **SUMMARY**

The operational differences among courts that are described in this chapter are summarized in Exhibit 2-1 on the following page. These differences may partially explain the variations in time lapses between major case events that are discussed in the next chapter. These differences should be considered when interpreting the results of the analyses presented in this report.

**Exhibit 2-1**  
**Characteristics of Individual Courts Included in Sample**  
**January 1, 1993 to August 18, 1995**

Characteristic	East Baton Rouge Parish Juvenile Court	Orleans Parish Juvenile Court	Jefferson Parish Juvenile Court	Caddo Parish Juvenile Court	Summary for Juvenile Courts	4th Judicial District Court (Ouachita)	9th Judicial District Court (Rapides)	15th Judicial District Court (Lafayette)	Summary for District Courts	West Monroe City Court	Hammond City Court	Summary for City Courts
Number of Judges Presiding Over Juvenile Matters (1993)	4 <sup>a</sup>	6*	3*	2 <sup>b*</sup>	15	1 <sup>c*</sup>	1 <sup>d</sup>	4 <sup>e</sup>	6	1 <sup>f</sup>	1 <sup>f</sup>	2
Number of Foster Care Files Opened (1993)	75	159	67	49	350	19	22	28	69	5	13	18
Appearance Hearings Held Regularly	X		X	X	3 of 4				0 of 3			0 of 2
Disposition Hearings Held Immediately After Adjudications		X			1 of 4	X	X	X	3 of 3	X	X	2 of 2
Numerous Status Conferences Held	X				1 of 4				0 of 3			0 of 2
Who Conducted Review Hearings?	Court	Court	Court	Court	Court	OCS and Court	OCS and Court	OCS and Court	OCS and Court	Court	Court	Court

\* Judges are assigned juvenile cases only.

a - Includes 3 judges from East Baton Rouge Parish Family Court resulting from an assistance agreement which took effect in February 1993. There was only one juvenile court judge prior to the agreement. The agreement was terminated in January 1995 when an additional juvenile court judge took the bench. There are now 2 judges in East Baton Rouge Parish Juvenile Court.

b - Caddo Parish elected another judge to the juvenile bench in 1994. There are now 3 judges in the Caddo Parish Juvenile Court.

c - There are 9 judges in this district, of which only 1 presides exclusively over juvenile matters. The other judges may preside over juvenile matters in the juvenile judge's absence.

d - There are 8 judges in this district, of which only 1 presides over juvenile matters in addition to other matters. The responsibility for presiding over juvenile matters is rotated annually among the 8 judges.

e - There are 11 judges in this district, of which 4 preside over juvenile matters in addition to other matters. The responsibility for presiding over juvenile matters is rotated annually among the 11 judges.

f - The city court judges preside over juvenile matters in addition to other matters.

Source: Prepared by the Legislative Auditor's staff using information provided by court officials and data gathered from court records.

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# Chapter Three: Time Lapses Associated With Processing Cases

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## Chapter Conclusions

On average, the city and district courts processed the sample cases in a more timely manner than the juvenile courts did for all major case events. The city and district courts processed the sample cases in a significantly shorter amount of time than the juvenile courts for the continued custody hearings, adjudications, and disposition hearings. The statistics for the East Baton Rouge Parish Juvenile Court negatively impacted the processing times for the juvenile courts to a significant degree.

Over 80 percent of the continued custody hearings analyzed were held within six days of the sample children's entry into state custody. The only continued custody hearings that took longer than six days were found in the juvenile courts.

On average, petitions for sample cases in all three types of courts were filed in less than 30 days. Over two-thirds of the petitions were filed within 30 days after the continued custody hearings were held.

The juvenile courts took nearly three times as long as the city and district courts to adjudicate the sample children. Ninety-five percent of the cases that took over 90 days to adjudicate were found in the juvenile courts. Seven children in the juvenile courts remained in state custody over a year before they were adjudicated.

The time it took to hold the disposition hearings was nearly three times as long in the juvenile courts as it was the city courts or district courts. This was because the city and district courts held the majority of their disposition hearings immediately following the adjudications. Only one juvenile court held disposition hearings immediately after adjudications.

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## **Time Lapses Varied Among Courts**

### **Sample Cases Were Processed by Juvenile Courts at a Significantly Slower Rate than Sample Cases in Either City Courts or District Courts.**

We analyzed the time lapses that occurred during the courts' processing of sample cases through the major case events. This chapter presents our analysis of the time lapses that occurred between each major case event or court hearing. Chapter Four discusses delays in the occurrence of major case events, continuances granted by the courts, and the reasons for those continuances.

In our analysis of time lapses between major case events, we found that individual courts within each type of court (i.e., city, district, or juvenile) yielded similar results to other courts of the same type. However, as mentioned in the previous chapter, there were several distinctive differences among the various types of courts that may have impacted these time lapses. The results of our analysis are reported in the text and tables that follow and are more extensively described in Appendix G, pages 1 through 6.

**For all courts included in the audit, nearly two-thirds of the average time elapsed between the sample children's entry into care and their disposition hearings occurred during the period between filing of their petitions and their adjudications.** As illustrated in Exhibit 3-1 on page 25, 64 percent of the average time elapsed between entry into care and disposition hearings fell between the filing of the petitions and the adjudications.

We discussed the reasons why significant time lapses occurred before adjudications with one of the juvenile court judges. This judge explained that, for all practical purposes, the adjudication is a trial, which requires extensive preparation, as well as location of witnesses. This may explain why the major portion of the time lapse between entry into care and disposition occurred during the time between the filing of petitions and adjudications. For a discussion of continuances granted before adjudication hearings, see pages 52 through 53 in Chapter Four.

<b>Exhibit 3-1</b>			
<b>Average Number of Days Elapsed Between Major Case Events</b>			
<b>All Sample Courts</b>			
<b>Intervals Between Major Case Events</b>	<b>Total Cases*</b>	<b>Average Number of Days Elapsed</b>	<b>% of Total Number of Days Elapsed</b>
Entry into Care and Continued Custody Hearing	70	5.1	2.8%
Continued Custody Hearing and Filing of Petition	70	27.1	15.0%
Filing of Petition and Adjudication**	72	116.1	64.0%
Adjudication and Disposition Hearing	63	33.1	18.2%
Average Number of Days Between Entry into Care and Disposition Hearing		181.4	100.0%
<p>* Case totals range from 63 to 72 because not all major case events were applicable to each sample case. Our calculations were adjusted to compensate for these differences.</p> <p>** The time elapsed between filing of petitions and appearance hearings was not included in this table because this time is accounted for in the time elapsed between filing of petitions and adjudications.</p>			
<p><b>Source:</b> Prepared by Legislative Auditor's staff using information gathered from court records.</p>			

The remainder of this chapter contains discussion and exhibits of the time lapses that occurred between major case events for the sample cases as broken down by court type. As previously mentioned, Appendix G (pages 1 through 6) contains a more detailed analysis at the individual court level.

### **Continued Custody Hearings**

As stated in Chapter One, the Children's Code requires that the court hold a continued custody hearing within three days after the child's entry into state custody. The continued custody hearing may be continued for up to three additional days upon motion and with good cause shown. At the continued custody hearing, the court determines whether to retain the child in state custody or return the child to his home.

There were 70 cases in our sample for which continued custody hearings were held. Our findings and conclusions regarding the timing of these 70 continued custody hearings are presented below.

**The juvenile courts took an average of 2.2 days longer than the city courts and 3.4 days longer than the district courts to complete the continued custody hearings.** We found that for all nine courts in which we reviewed cases, the continued custody hearings were held an average of 5.1 days following the children's entry into state custody. The sample cases in the district courts had the lowest average time lapse between entry into care and continued custody hearing. In the district courts, an average of 2.5 days elapsed between entry into state custody and the continued custody hearings. The Ninth Judicial District Court (Rapides) had the lowest average time lapse of any individual court--1.6 days.

The juvenile courts' average of 5.9 days was the highest average time lapse among the three types of courts. The relatively lengthy average time lapse for all courts (5.1 days) and for the juvenile courts (5.9 days) was caused in part by the large average in the East Baton Rouge Parish Juvenile Court. This court averaged 12.4 days between entry into care and continued custody hearing, which was the highest average for any individual court in our sample. Without the East Baton Rouge Parish Juvenile Court, the average time lapse for all courts would decrease from 5.1 days to 3.6 days, and the juvenile court average would drop from 5.9 days to 3.9 days.

Figures in Exhibit 3-2 on page 27 have been adjusted to show the impact of the East Baton Rouge Parish Juvenile Court. The high average in East Baton Rouge Parish may be at least partially attributable to the problems associated with its assistance agreement with the family court, which is discussed in Chapter Two.

**Over 80 percent of the continued custody hearings were held within six days of the sample children's entry into state custody.** We identified the number of continued custody hearings that were held within certain time intervals after the sample children entered care. We found that for exactly half of the cases we reviewed (35 of 70), the continued custody hearings were held within three days after the children's entry into care. For another 23 cases (32.9 percent), the continued custody hearings were held between the fourth day and the sixth day after entry into care. Thus, for 58 of the sample cases (82.9 percent),

the continued custody hearings were held within six days of the children's entry into state custody. For the remaining 12 cases, (17.1 percent), between 7 and 32 days elapsed before the continued custody hearings were held.

<b>Exhibit 3-2</b> <b>Average Number of Days Elapsed Between Entry Into Care and</b> <b>Continued Custody Hearings</b> <b>Sample Cases</b>	
<b>Court Type</b>	<b>Average Number of Days Elapsed</b>
City Courts	3.7
District Courts	2.5
Juvenile Courts	5.9
Juvenile Courts less East Baton Rouge Parish Juvenile Court*	3.9
East Baton Rouge Parish Juvenile Court	12.4
<b>All Courts</b> including East Baton Rouge Parish Juvenile Court	<b>5.1</b>
<b>All Courts</b> less East Baton Rouge Parish Juvenile Court*	<b>3.6</b>
<p>* Adjusted to show that East Baton Rouge Parish Juvenile Court accounted for a significant portion of the juvenile court and overall averages.</p> <p><b>Source:</b> Prepared by Legislative Auditor's staff using information gathered from court records.</p>	

Analyzing this data further, we found that all city and district courts held the continued custody hearings within six days. We also found that all 12 cases for which the time lapse exceeded six days were located in the juvenile courts. Eight of these 12 cases, or 66.7 percent, were in the East Baton Rouge Parish Juvenile Court. For more detailed information on time lapses associated with the continued custody hearings, see Appendix G, page 1.

### **Petitions**

If a child is continued in custody or if a protective order is issued, the Children's Code requires that a petition, which specifies the facts of the case and requests that the child be adjudicated in need of care, be filed within 30 days of the continued custody hearing. The time for filing the petition may

be extended by the court upon motion and good cause shown. If a petition is not filed within the applicable time period, the child must be returned to his parents.

There were 70 cases in our sample for which petitions were filed. Our findings and conclusions regarding the timeliness of the filing of these petitions are presented below.

**The average number of days elapsed between continued custody hearings and the filing of petitions was less than 30 days for all types of courts.** For all courts in our sample, we found that petitions were filed an average of 27.1 days after the continued custody hearings were held. The average length of time it took to file a petition for each type of court ranged from 26.8 days to 29.3 days. These figures are illustrated in Exhibit 3-3 below.

<b>Exhibit 3-3 Average Number of Days Elapsed Between Continued Custody Hearings and Filing of Petitions Sample Cases</b>	
<b>Court Type</b>	<b>Average Number of Days Elapsed</b>
City Courts	29.3
District Courts	26.8
Juvenile Courts	27.0
<b>All Courts</b>	<b>27.1</b>
<b>Source:</b> Prepared by Legislative Auditor's staff using information gathered from court records.	

We analyzed this data further and found that the average number of days it took to file a petition for the individual courts ranged from 4.0 days to 36.7 days. There were three courts for which the average time lapse was 15 days or less. These three courts were the:

- ◆ West Monroe City Court
- ◆ Fifteenth Judicial District Court (Lafayette), and
- ◆ Jefferson Parish Juvenile Court.

For another three courts, the average time lapse was slightly over 36 days. These courts were the:

- ♦ Hammond City Court,
- ♦ The Fourth Judicial District Court (Ouachita), and
- ♦ The East Baton Rouge Parish Juvenile Court.

**Over two-thirds of the petitions were filed within 30 days after the continued custody hearings were held.** We found that 49 of the 70 petitions filed (70 percent) were filed within 30 days after the continued custody hearings. Nineteen petitions (over 27 percent) were filed between 31 and 60 days after the continued custody hearings. Two petitions, representing less than three percent of the sample cases, were filed more than 60 days after the continued custody hearings. One of these two petitions was filed in a district court, and the other was filed in a juvenile court.

See Appendix G, page 2 for more detailed information on the average time lapses between the continued custody hearings and the filing of petitions for the individual courts in which cases were reviewed.

#### **Answers to Petitions (Appearance Hearings)**

According to the Children's Code, the court may require the child's parents to appear and answer the petition at any time prior to the adjudication hearing but no later than 15 days after the filing of the petition. The Children's Code does not include a provision allowing for continuances of appearance hearings.

We found no evidence that appearance hearings were held for sample cases in the city courts or district courts. Appearance hearings were found exclusively in the juvenile courts, thus all data reported in this section applies specifically to the juvenile courts. We analyzed appearance hearing data for 29 of the 73 total cases reviewed. Our findings and conclusions on the timing of these appearance hearings are presented below.

**On average, over two months elapsed in the juvenile courts between the dates the petitions were filed and the dates the appearance hearings were held.** As shown in Exhibit 3-4 on page 30, an average of over two months (69.9 days) elapsed in the juvenile courts between the dates the petitions were filed and the dates the appearance hearings were held. East Baton Rouge Parish Juvenile Court's average time lapse of over four months (124.8 days) was significantly higher than any of the

other juvenile courts. To give a more accurate portrayal of this data, we have adjusted figures in Exhibit 3-4 to show the impact of East Baton Rouge Parish Juvenile Court.

<b>Exhibit 3-4 Average Number of Days Elapsed Between Filing of Petitions and Appearance Hearings Sample Cases</b>	
<b>Court Type</b>	<b>Average Number of Days Elapsed</b>
City Courts	Appearance Hearings Not Held
District Courts	Appearance Hearings Not Held
Juvenile Courts	69.9
Juvenile Courts less East Baton Rouge Parish Juvenile Court*	41.0
East Baton Rouge Parish Juvenile Court	124.8
<p>* Adjusted to show that East Baton Rouge Parish Juvenile Court accounted for a significant portion of the juvenile court and overall averages.</p> <p>Source: Prepared by Legislative Auditor's staff using information gathered from court records.</p>	

When we analyzed the data for the other juvenile courts, we found that only one appearance hearing was held in Orleans Parish Juvenile Court. However, this hearing was not held until over two months (67 days) after the petition was filed. The Jefferson Parish Juvenile Court averaged 53.1 days between filing of the petitions and the appearance hearings. The Caddo Parish Juvenile Court had the lowest average--22.5 days.

**Less than half of the appearance hearings were held within 15 days after the petitions were filed.** Overall, only 14 of the 29 total appearance hearings analyzed (48.3 percent) occurred within 15 days after filing of the petitions. The remaining 15 appearance hearings occurred between 21 days and 743 days (i.e., over two years) after the petitions were filed.

East Baton Rouge Parish Juvenile Court accounted for 8 of the 15 appearance hearings that occurred between 21 and 743 days after the petitions were filed. Four of the appearance hearings in East Baton Rouge Parish were held over 100 days after the petitions were filed, including the one that was held over two years (743 days) after the petition was filed. There was one

appearance hearing in Jefferson Parish Juvenile Court that was held over 100 days after the petition was filed. Page 3 of Appendix G provides further details on our analysis of the time lapses associated with appearance hearings.

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### **Recommendation No. 3**

**The courts may wish to consider evaluating the usefulness of appearance hearings to determine their potential benefits and pitfalls. In doing so, the courts should consider the effect on due process and the impact on court resources. If the benefits derived from holding appearance hearings outweigh the pitfalls, more courts may wish to use them. If pitfalls exceed benefits, the juvenile courts may wish to decrease their use of appearance hearings.**

### **Adjudications**

The Children's Code requires that the adjudication hearing be held within 45 days of the filing of the petition if the child is continued in custody. If the child is not continued in custody, the adjudication hearing must commence within 105 days of the filing of the petition. The adjudication period may be extended for good cause. At the adjudication hearing, the state determines whether the child should be deemed a child in need of care who should remain in foster care.

There were 72 sample cases in which the children were adjudicated in need of care. Some of these children were adjudicated at the appearance hearings and therefore did not have separate adjudication hearings. In these cases, we measured the time elapsed between the filing of the petitions and the appearance hearings. Our findings and conclusions on the timing of the adjudications are presented on the following pages.

The juvenile courts took nearly three times as long as the city courts and district courts to adjudicate the sample children. The juvenile courts averaged over four and one-half months (140.3 days) between filing of the petitions and adjudications. This figure compares with 48.3 days for the city courts and 41.4 days for the district courts. Exhibit 3-5 below presents this data.

<b>Exhibit 3-5 Average Number of Days Elapsed Between Filing of Petitions and Adjudications Sample Cases</b>	
<b>Court Type</b>	<b>Average Number of Days Elapsed</b>
City Courts	48.3
District Courts	41.4
Juvenile Courts	140.3
Juvenile Courts less East Baton Rouge Parish Juvenile Court*	95.2
East Baton Rouge Parish Juvenile Court	316.5
<b>All Courts including East Baton Rouge Parish Juvenile Court</b>	<b>116.1</b>
<b>All Courts less East Baton Rouge Parish Juvenile Court*</b>	<b>80.0</b>
<p>* Adjusted to show that East Baton Rouge Parish Juvenile Court accounted for a significant portion of the juvenile court and overall averages.</p> <p>Source: Prepared by Legislative Auditor's staff using information gathered from court records.</p>	

As with several of the other types of hearings, the East Baton Rouge Parish Juvenile Court had a significant impact on the overall average time lapse. In East Baton Rouge Parish, an average of approximately 10 and one-half months (316.5 days) elapsed between the filing of the petitions and the adjudications. As mentioned previously, the high average in the East Baton Rouge Parish Juvenile Court may be partially attributable to the lack of coordination associated with the assistance agreement that was in effect between the juvenile court and the family court.

While children in East Baton Rouge Parish Juvenile Court did experience a relatively high average time lapse between filing of the petitions and the adjudications, the juvenile court average still greatly exceeds that of the city courts and district courts, even when East Baton Rouge Parish is not included. When East Baton Rouge Parish is factored out, the average time period elapsed for all courts decreases by nearly one-third (from 116.1 days to 80 days), and the juvenile court average falls nearly one-third (from 140.3 days to 95.2 days). The juvenile courts (excluding East Baton Rouge Parish) still took an average of 46.9 days longer than the city courts and 53.8 days longer than the district courts to adjudicate the sample children.

As can be seen in Exhibit 3-5, the most timely adjudications occurred in the district courts, which averaged 41.4 days. The Hammond City Court and the Ninth Judicial District Court (Rapides) had the most timely individual average adjudication periods. These two courts, on average, adjudicated the sample children in less than 28 days.

**Ninety-five percent of the sample cases that took over 90 days between filing of the petitions and adjudications were found in the juvenile courts.** Overall, we found that 29 of the 72 adjudications (40.3 percent) were held within 45 days after filing the petitions. Twenty-three adjudications (31.9 percent) occurred between the 46th and 90th day after filing of petitions. Thus, 72.2 percent of all sample adjudications reviewed (52 of 72) occurred within 90 days of the dates the petitions were filed.

Analyzing this data further we found that there were 20 children (27.8 percent) that had not been adjudicated by the 90th day after filing of their petitions. Nineteen of these cases (95 percent) were in juvenile courts, as follows:

- ♦ Nine cases were in the East Baton Rouge Parish Juvenile Court.
- ♦ Six cases were in the Orleans Parish Juvenile Court.
- ♦ Two cases were in the Caddo Parish Juvenile Court.
- ♦ Two cases were in the Jefferson Parish Juvenile Court.

There was only one adjudication over 90 days that was not in a juvenile court. This case was in a city court.

Seven children in the juvenile courts remained in state custody for over a year after their petitions were filed and before they were adjudicated. The four longest adjudication periods, each of which exceeded one and a half years, were in the East Baton Rouge Parish Juvenile Court. One of these cases took over two years to adjudicate. Another took almost a year and one-half to adjudicate. The other two adjudications had not yet occurred at the time of our review. One of these open cases had been waiting over a year and a half to be adjudicated, and the other had been waiting over two years. See Appendix G, page 4 for further information on the time lapses associated with adjudications.

### **Disposition Hearings**

The Children's Code requires the court to conduct a disposition hearing after the adjudication hearing has been completed. The Children's Code says that the disposition hearing may be conducted immediately after the adjudication. However, at the latest, the disposition hearing must be conducted within 30 days after the adjudication. As with other types of hearings, this period may be extended for good cause. At the disposition hearing, the court determines the future status of the child.

There were 63 cases in our sample for which disposition hearings were held. The results of our analysis of the timing of these hearings is presented below.

**City courts and district courts in our sample held disposition hearings at the same time as the adjudication hearings.** We found that city and district courts in our sample held the majority of their disposition hearings immediately following the adjudications. As explained earlier, these courts held the disposition hearings on the same day as the adjudications. Because of this, the average number of days elapsed between adjudication and disposition for these courts was significantly lower than it was for the juvenile courts.

The average number of days elapsed for cases in the juvenile courts (39.2 days) was nearly three times as long as the average number of days elapsed for cases in the city courts (13.2 days) and in the district courts (13.6 days). Exhibit 3-6 on page 35 shows the average time elapsed between adjudication and disposition for each type of court.

<b>Exhibit 3-6</b> <b>Average Number of Days Elapsed Between Adjudications and Disposition Hearings</b> <b>Sample Cases</b>	
<b>Court Type</b>	<b>Average Number of Days Elapsed</b>
City Courts	13.2
District Courts	13.6
Juvenile Courts	39.2
<b>All Courts</b>	<b>33.1</b>
<b>Source:</b> Prepared by Legislative Auditor's staff using information gathered from court records.	

**Eighty percent of the city and district courts' disposition hearings were held immediately following their adjudications.** Overall, we found that 39 of the 63 disposition hearings (61.9 percent) were held within 30 days after adjudication. In 33 of these cases, the disposition hearings were held immediately following the adjudications.

Twelve of the 33 cases for which disposition hearings were held immediately following adjudications were in city or district courts. This accounted for 80 percent of the disposition hearings held in those courts. In contrast, only 21 of the 48 disposition hearings held in the juvenile courts, or 43.8 percent, were held immediately following adjudications.

Orleans Parish Juvenile Court was the only juvenile court in our sample that held disposition hearings immediately following adjudications. As a result, cases in Orleans Parish Juvenile Court experienced an average time lapse of only 2.8 days between adjudications and disposition hearings. Removing Orleans Parish from the sample would increase the average number of days between adjudication and disposition by 79 percent (from 39.2 days to 70 days) for the juvenile courts.

Page 5 of Appendix G contains further information on the timing of the disposition hearings for each individual court in which sample cases were reviewed.

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## **Recommendation No. 4**

**Caddo, East Baton Rouge, and Jefferson Parish Juvenile Courts may wish to consider holding disposition hearings immediately following adjudications, as is currently done in the other courts included in this audit.**

### **Reviews**

The Children's Code requires that each foster child's case be reviewed at periodic intervals while the child is in state custody. A case review hearing must be held by the court or an administrative review body no more than six months after removal of the child from his parents and every six months thereafter until the child is permanently placed. At the case review hearings, the court reviews the progress that has been made in the child's case plan. The Children's Code also says that a dispositional review hearing must be held no more than 12 months after removal of the child from the home and every 12 months thereafter until the child is permanently placed. At the dispositional review hearings, the court determines the future status of the child. The court may appoint or approve an administrative body to conduct these dispositional review hearings.

There were 72 children in our sample who were in state custody over six months and were thus subject to the requirement for periodic reviews.

As mentioned earlier, there is a possibility that case reviews and dispositional review hearings for cases in the district courts were held by OCS but were not documented in the district courts' records. Because of this, we may not have collected all applicable data related to case reviews and dispositional reviews for the district courts. Therefore, we did not include the district courts in our analysis of time lapses between reviews.

We did include the district courts in our analysis of the numbers of reviews conducted. However, the results for the district court may be understated because of the possibility of undocumented reviews. We also encountered problems with the data in the city courts and district courts when we attempted to analyze the numbers of review hearings held. These problems included:

- ♦ Inconsistent use of terminology among the courts, which made it difficult to determine what type of hearing (i.e., case review hearing versus dispositional review hearing) was actually held; and
- ♦ Consolidation of some case review hearings with dispositional review hearings at some courts.

Because of inconsistent use of terminology in court records and the possibility of consolidated reviews, we did not attempt to make a distinction between case reviews and dispositional reviews in our analysis. Thus, the term "review(s)" as used in the following paragraphs refers to either case review(s) or dispositional review(s). Our findings and conclusions regarding the timing of reviews are presented below.

**Cases in the city courts had the highest average number of reviews per case.** In the records for all courts, we found documentation of 235 reviews for the 72 cases analyzed. This figure yields an average of 3.3 reviews per case. As can be seen in Exhibit 3-7 below, the cases in the city courts had the highest average number of reviews (3.8).

<b>Exhibit 3-7 Average Number of Reviews Per Case Sample Cases</b>	
<b>Court Type</b>	<b>Average Number of Reviews per Case</b>
City Courts	3.8
District Courts	2.8*
Juvenile Courts	3.3
<b>All Courts</b>	<b>3.3*</b>
<p>* May be understated due to the possibility that reviews were performed by OCS and were not documented in the district court records.</p> <p><b>Source:</b> Prepared by Legislative Auditor's staff using information gathered from court records.</p>	

We analyzed this data further and found that the Jefferson Parish Juvenile Court averaged 4.6 reviews per case, which was the highest average of any individual court. Hammond City Court had the second highest average, with 4.5 reviews per case. The remaining courts ranged from 2.3 reviews per case to 3.6 reviews per case.

We also found that three or more reviews were held for 49 of the 72 cases (68.1 percent). For five of these 49 cases (10.2 percent), more than five reviews were held. All of these five cases were in juvenile courts. The remaining 23 cases received fewer than three reviews each.

**On average, after the sample children entered state custody, it took over eight months to receive their first reviews.** As previously stated, the Children's Code requires that a case review be held no more than six months after removal of the child from his parents. We examined the time elapsed between the sample children's entry into state custody and their first reviews for the cases in the juvenile courts and city courts. (District courts were not included in this analysis because of the reasons previously explained). We found that the first reviews were held, on average, over 8 months (242 days) after the children entered care. However, as shown in Exhibit 3-8 on page 39, the time intervals between subsequent reviews steadily decreased.

See page 6 of Appendix G for information on the individual courts related to the time lapses associated with the first reviews conducted.

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## **Recommendation No. 5**

**Courts that process foster care cases should fully and clearly document all hearings and reviews conducted using terminology that is consistent with language in the Children's Code.**

<b>Exhibit 3-8</b>				
<b>Average Number of Days Elapsed Between Reviews</b>				
<b>Sample Courts</b>				
<b>Review</b>	<b>City Courts</b>	<b>District Courts</b>	<b>Juvenile Courts</b>	<b>All Courts</b>
First	184.6	N/A	247.4	242.0
Second	173.6	N/A	165.6	166.3
Third	139.4	N/A	170.5	166.8
Fourth	105.6	N/A	185.9	170.5
Fifth	123.7	N/A	127.1	126.3
Sixth	-	N/A	128.8	128.8
Seventh	-	N/A	119.0	119.0
Eighth	-	N/A	70.0	70.0

**N/A:** The district courts were not included because all applicable data related to case reviews and dispositional reviews may not have been available in the district court records.

**Source:** Prepared by Legislative Auditor's staff using information gathered from court records.

## SUMMARY

**Continued Custody Hearings.** Over 80 percent of the continued custody hearings were held within six days of the sample children's entry into state custody. The only continued custody hearings that took longer than six days occurred in the juvenile courts.

**Petitions.** On average, in all three types of courts, petitions for the sample children were filed within about the same length of time. On average, the petitions in juvenile, district, and city courts were filed between 26.8 and 29.3 days after the continued custody hearings were held. Overall, over two-thirds of the petitions were filed within 30 days after the continued custody hearings.

**Appearance Hearings.** The juvenile courts were the only courts that held appearance hearings. Less than half of these appearance hearings were held within 15 days after the petitions were filed.

**Adjudications.** The juvenile courts took nearly three times as long as the city courts and district courts to adjudicate the sample children. Ninety-five percent of the cases that took more than 90 days to adjudicate were found in the juvenile courts. Seven children in the juvenile courts remained in state custody over a year before they were adjudicated.

**Disposition Hearings.** The length of time it took to hold disposition hearings was nearly three times as long in the juvenile courts as it was in the city courts or district courts. This variance occurred because the city and district courts in our sample held the majority of the disposition hearings at the same time as the adjudications. Only one juvenile court held disposition hearings concurrent with adjudications.

**Reviews.** Sample children whose cases were processed by city courts received their first reviews more timely than did sample children whose cases were processed by juvenile courts. On average, the city courts' first reviews were about two months more timely than the juvenile courts' first reviews. Reviews for district court cases were not analyzed because OCS conducted some of these reviews, and OCS's operations were not within the scope of this audit.

**Overall Results.** On average, the city and district courts processed the sample cases in a more timely manner than the juvenile courts for all major case events analyzed. Moreover, city and district courts processed the sample cases in a significantly shorter amount of time than the juvenile courts did for the following major case events:

- ♦ Continued Custody Hearing,
- ♦ Adjudication, and
- ♦ Disposition Hearing.

For these three case events, sample children under the jurisdiction of city and district courts experienced significantly shorter time lapses between court hearings than did sample children whose cases were processed by juvenile courts.

Exhibit 3-9 on page 41 presents a summary of results for all major case events by type of court.

<b>Exhibit 3-9</b>				
<b>Average Number of Days Elapsed Between Major Case Events</b>				
<b>Summary for All Types of Courts</b>				
<b>Sample Cases</b>				
<b>Time Elapsed Between:</b>	<b>Juvenile Courts</b>	<b>District Courts</b>	<b>City Courts</b>	<b>All Courts</b>
Entry into Care and Continued Custody Hearing	5.9	2.5	3.7	5.1
Continued Custody Hearing and Filing of Petition	27.0	26.8	29.3	27.1
Filing of Petition and Appearance Hearing	69.9	N/A	N/A	69.9
Filing of Petition and Adjudication	140.3	41.4	48.3	116.1
Adjudication and Disposition Hearing	39.2	13.6	13.2	33.1
Entry into Care and First Review	247.4	N/A	184.6	242.0
N/A: Not Applicable.				
Note: Even if East Baton Rouge Parish Juvenile Court were excluded from the analysis, these rankings would not change.				
Source: Prepared by Legislative Auditor's staff using information gathered from court records.				

The analysis of the time lapses that occurred between major foster care case events concludes here. The time lapses between major case events were caused by:

- ♦ The time period between the ending of one event and the date the next event is scheduled to occur; and
- ♦ The delays between the dates that hearings are scheduled to occur and the dates they actually do occur.

In Chapter Four, we discuss the delays experienced in processing the sample cases through the court system. Chapter Four also contains an analysis of the continuances granted by the courts for each type of hearing and the reasons those continuances were granted.



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# Chapter Four: Delays and Continuances

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## Chapter Conclusions

**On average, children whose cases were under the jurisdiction of the juvenile courts experienced longer delays between scheduled and actual hearing dates than those in the city courts or district courts. The children whose cases were in the city and district courts experienced significantly shorter delays associated with the continued custody hearings and the adjudication hearings.**

**No delays occurred in almost three-fourths of the continued custody hearings and disposition hearings. All of the continued custody hearing delays that occurred were found in the juvenile courts. The average delay that occurred for the adjudication hearings in the juvenile courts was over twice as long as in the city courts and over four times as long as in the district courts. The longest average delay associated with any major case event occurred during the adjudication hearings.**

**Nearly all of the cases for which two or more continuances were granted were found in the juvenile courts. Ninety-one percent of the sample cases in the juvenile courts were granted at least one continuance.**

**The reasons for nearly one-third of the continuances we identified were not documented in the courts' records. Over 40 percent of the reasons that were documented were related to the children's parents and the parents' legal representation. All continuances associated with the continued custody hearings were granted in the juvenile courts. The city and district courts did not document the reasons for nearly two-thirds of the continuances that were granted during the adjudication hearings. The city courts experienced no delays or continuances associated with the disposition hearings.**

**A disproportionate share of continuances granted were associated with adjudication hearings. While adjudication hearings accounted for only 14 percent of the total major case events, they accounted for 33 percent of the total continuances granted by all courts.**

## Delays and Continuances Associated With Major Case Events

### Sample Cases in the Juvenile Courts Experienced Longer Delays and More Continuances Than Cases in Either the City Courts or District Courts.

The time lapses between major case events, as reported in Chapter Three, are made up of two components as follows:

- ♦ The time period between the ending of one event and the date the next event is scheduled to occur; and
- ♦ The delays between the dates that hearings are scheduled to occur and the dates they actually do occur.

As mentioned in Chapter One, the Children's Code allows continuances for good cause for most major case events.

We calculated the delays that occurred for the major case events for the sample cases by examining the time between the dates hearings were scheduled to occur and the dates they actually did occur. We also determined the number of continuances, and reasons for those continuances, which caused the hearing delays.

**The longest average delays occurred in the juvenile courts.** We found that for the nine courts in which we reviewed cases, there were a total of 426 case events for which scheduled and actual dates were documented in the court records. As seen in Exhibit 4-1, the juvenile courts had the highest average delay associated with the major case events--26 days.

<b>Exhibit 4-1 Average Delays Associated With Major Case Events Sample Cases</b>		
<b>Court Type</b>	<b>Total Number of Case Events</b>	<b>Average Delay (in Days)*</b>
City Courts	41	14.2
District Courts	38	16.7
Juvenile Courts	347	26.0
<b>Total</b>	<b>426</b>	<b>24.0</b>
<p>* Refers to the average number of days elapsed between the dates that hearings or reviews were scheduled to occur and the dates they actually did occur.</p> <p>Source: Prepared by Legislative Auditor's staff using data gathered from court records.</p>		

Nearly all of the sample cases with more than two continuances were found in the juvenile courts. As can be seen in Exhibit 4-2, we found that 33 of the 73 sample cases experienced over two continuances. Thirty-one of these 33 cases (93.9 percent) were found in the juvenile courts. The juvenile courts also had the highest percentage of cases with at least one continuance. Ninety-one percent of the juvenile cases (50 of 55) experienced at least one continuance. In both the city courts and district courts, exactly two-thirds of the cases had at least one continuance.

<b>Exhibit 4-2</b>					
<b>Frequency of Continuances for Each Type of Court Sample Cases</b>					
<b>Type of Court</b>	<b>Continuances per Case File</b>				<b>Total Cases</b>
	<b>0</b>	<b>1 or 2</b>	<b>3 to 6</b>	<b>7 or More</b>	
Juvenile Courts	5	19	26	5	55
District Courts	4	7	0	1	12
City Courts	2	3	0	1	6
<b>Total</b>	<b>11</b>	<b>29</b>	<b>26</b>	<b>7</b>	<b>73</b>
<b>Source:</b> Prepared by Legislative Auditor's staff using data gathered from court records.					

The reasons for nearly one-third of the continuances were not documented in the courts' records. As can be seen in Appendix H, we found that no reasons were documented in the courts' records for 74 of the 229 total continuances we identified (32.3 percent). We were able to identify reasons for the remaining 155 continuances. We identified a total of 161 reasons for these 155 continuances.<sup>1</sup> We grouped these reasons into eight categories as follows:

- ♦ The parent was absent from the hearing.
- ♦ A status conference was scheduled.
- ♦ The parent's legal counsel was absent.
- ♦ The child's legal counsel was absent.
- ♦ Legal counsel for the child had to be appointed.
- ♦ Legal counsel for the parents had to be appointed.

<sup>1</sup> Some continuances had more than one reason.

- ♦ A homestudy needed to be performed.
- ♦ Other reasons (includes any reason that did not fit into one of these categories).

The "other reasons" category included reasons such as absence of the judge due to illness, the need to hold an informal adjustment agreement, the need to get an expert opinion, and the need to locate a foster child who had run away.

We found that 69 of the 161 reasons for continuances (42.9 percent) related to the children's parents and the parents' legal representation. As seen in Appendix H, the parents' absence during hearings accounted for 28 of all reasons identified (17.4 percent). The need to appoint an attorney for the parents represented 13.7 percent (22 of 161) of all reasons, and the absence of the parents' attorney accounted for 11.8 percent (19 of 161) of the total reasons for continuances that were documented in the court records.

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## **Recommendation No. 6**

**The courts should develop procedures for documenting reasons that continuances were granted. The courts should periodically review and analyze this information to determine the major causes of continuances and work with OCS to resolve these problems.**

The remainder of this chapter contains discussion and exhibits of the delays and continuances associated with each major case event for the sample cases as broken down by court type. Appendix I (pages 1 through 5) contains a more detailed analysis at the individual court level.

### **Continued Custody Hearings**

As discussed in Chapters One and Three, the continued custody hearing, also known as the detention hearing, is conducted to determine whether to retain a child in state custody or to return him to his home. There were 69 cases in our sample for which we were able to determine the scheduled and actual dates of the continued custody hearings. Our findings and conclusions regarding the delays and continuances associated with these 69 continued custody hearings are presented below.

**All of the delays associated with the continued custody hearings occurred in the juvenile courts.** We found that for all nine courts in which we reviewed cases, the continued custody hearings were delayed an average of 2.3 days from the originally scheduled hearing dates. However, none of these delays was found in the city or district court cases. All delays occurred in the juvenile courts. The juvenile courts had an average continued custody delay of three days.

The relatively high average delay for all courts (2.3 days) and for the juvenile courts (3.0 days) was caused in part by the large number of delays in the East Baton Rouge Parish Juvenile Court. East Baton Rouge Parish's average delay of 9.7 days was the highest delay of any individual court. Without the East Baton Rouge Parish Juvenile Court, the average delay for the juvenile courts would decrease from 3.0 days to 1.1 days, and the average delay for all courts would drop from 2.3 days to less than one day. Exhibit 4-3 on page 48 shows the average delay between the dates continued custody hearings were scheduled to occur and the dates they actually did occur for each type of court.

We found no delays in almost three-fourths (51 of 69) of the continued custody hearings for which scheduled and actual dates were available. As mentioned earlier, none of the 17 cases in the city and district courts experienced delays. In contrast, only 34 of the 52 juvenile cases (65.4 percent) experienced no delays. The remaining 18 juvenile cases experienced delays of between one day and 31 days. Exactly half of these 18 cases (9) were found in the East Baton Rouge Parish Juvenile Court. Only three cases in East Baton Rouge Parish, or 25 percent, experienced no delays between the scheduled and actual dates of the continued custody hearings.

<b>Exhibit 4-3</b>	
<b>Average Delays Associated with Continued Custody Hearings Sample Cases</b>	
<b>Court Type</b>	<b>Average Delay (in Days)</b>
City Courts	0
District Courts	0
Juvenile Courts	3.0
Juvenile Courts less East Baton Rouge Parish Juvenile Court*	1.1
East Baton Rouge Parish Juvenile Court*	9.7
<b>All Courts</b> including East Baton Rouge Parish Juvenile Court	<b>2.3</b>
<b>All Courts</b> less East Baton Rouge Parish Juvenile Court*	<b>.7</b>
<p>* Adjusted to show that East Baton Rouge Parish Juvenile Court accounted for a significant portion of the juvenile court and overall averages.</p> <p><b>Source:</b> Prepared by Legislative Auditor's staff using data gathered from court records.</p>	

**All continuances granted during the continued custody hearings were found in the juvenile courts.** We identified 26 continuances that were associated with the delays that occurred during the continued custody hearings. All of these continuances were for cases in the juvenile courts. We were able to identify reasons for 22 of the 26 continuances. A total of 24 reasons were identified for these 22 continuances. The reasons for four of the continuances were not documented in the court records.

Seventeen of the 24 reasons for continuances (70.8 percent) related to children's parents and the parents' legal representation. The reasons for these continuances as documented in the court files included:

- ♦ The parent(s) was (were) absent from the hearing. (5 instances)
- ♦ The parent's attorney was absent from the hearing. (1 instance)
- ♦ An attorney needed to be appointed for the parent(s). (11 instances)

### Answers to Petitions (Appearance Hearings)

As discussed in Chapters One and Three, appearance hearings allow parents to answer the allegations contained in the petition. As previously explained, city and district courts did not hold appearance hearings for the sample cases we reviewed. Appearance hearings were held exclusively in the juvenile courts. Consequently, all data reported in this section applies specifically to the juvenile courts.

There were 29 juvenile court cases in our sample for which we were able to determine the scheduled and actual dates for the appearance hearings. Our findings and conclusions on the delays and continuances associated with these appearance hearings are presented below.

**The appearance hearings were delayed, on average, nearly two months in the juvenile courts.** We found that the appearance hearings for the sample cases in the juvenile courts were delayed an average of 55.4 days. The East Baton Rouge Parish Juvenile Court's average delay of nearly four months (108 days) was significantly higher than any of the other juvenile courts. As with previous sections of this report, we adjusted the figures in Exhibit 4-4 to show the impact of the East Baton Rouge Parish Juvenile Court.

<b>Exhibit 4-4 Average Delays Associated With Appearance Hearings Sample Cases</b>	
<b>Court Type</b>	<b>Average Delay (in Days)</b>
City Courts	Not Applicable
District Courts	Not Applicable
Juvenile Courts	55.4
Juvenile Courts less East Baton Rouge Parish Juvenile Court*	27.6
East Baton Rouge Parish Juvenile Court	108.1
* Adjusted to show that East Baton Rouge Parish Juvenile Court accounted for a significant portion of the juvenile court average.	
<b>Source:</b> Prepared by Legislative Auditor's staff using data gathered from court records.	

Overall, 20 of the 29 appearance hearings analyzed (69.0 percent) experienced no delays. The remaining nine hearings, or 31.0 percent, were delayed between 16 days and 724 days from the originally scheduled dates.

We analyzed the nine hearings that were delayed between 16 and 724 days and found that four of these hearings (44.4 percent) were delayed over 100 days. There was one appearance hearing that was delayed over 100 days in the Jefferson Parish Juvenile Court. The remaining three delays occurred in the East Baton Rouge Parish Juvenile Court.

Even though East Baton Rouge Parish represented only 10 of the 29 juvenile cases for which appearance hearings were held (34.5 percent), it accounted for 1,081 of the 1,606 days in delays (67.3 percent). Removing the four cases with over 100 days of delays would reduce the average delays for the juvenile courts from 55.4 days to 9.52 days.

**Over two-thirds of the reasons for continuances granted during the appearance hearings were related to the children's parents and the parents' legal representation.** We identified 14 continuances associated with the delays that occurred during the appearance hearings in the district courts. We were able to identify reasons for 11 of these 14 continuances. A total of 13 reasons were identified for these 11 continuances. The reasons for three of the continuances were not documented in the court records.

Nine of the 13 reasons for continuances (69.2 percent) related to the children's parents and the parents' legal representation. The reasons for continuances that were associated with the parents were the same as those given for the delays in continued custody hearings. They included:

- ♦ The parent(s) was (were) absent from the hearing. (3 instances)
- ♦ The parent's attorney was absent from the hearing. (3 instances)
- ♦ An attorney needed to be appointed for the parent(s). (3 instances)

### **Adjudication Hearings**

As we discussed in Chapters One and Three, at the adjudication hearing, the state determines whether the child should be deemed a child in need of care who should remain in foster care. There were 61 cases in our sample for which we were able to determine the scheduled and actual dates of the adjudication hearings. *Our findings and conclusions on the delays and continuances associated with these 61 adjudication hearings are presented below.*

**The average delay that occurred for the adjudication hearings in the juvenile courts was over twice as long as in the city courts and over four times as long as in the district courts.** We found that adjudication hearings for the sample cases in the juvenile courts were delayed an average of over two and a half months (78.5 days) from the originally scheduled hearing dates. This figure compares with 17.4 days for the district courts and 32.2 days for the city courts. Overall, courts in all jurisdictions averaged delays of 62.9 days. The Jefferson Parish Juvenile Court had the lowest average delay of any court in our sample (16.3 days).

The East Baton Rouge Parish Juvenile Court's average delay was over 9 months (271 days), which was significantly higher than any of the other individual courts. When East Baton Rouge Parish is factored out, the average delay for all courts decreases from 62.9 days to 36.0 days, and the juvenile court average drops from 78.5 days to 42.1 days. We adjusted the figures in Exhibit 4-5 on the following page to show the impact of the East Baton Rouge Parish Juvenile Court.

Two additional juvenile courts and one city court also experienced lengthy delays associated with the adjudication hearings. The average delay was 52.7 days in the Caddo Parish Juvenile Court and 49.8 days in the Orleans Parish Juvenile Court. The West Monroe City Court had an average delay of 79 days. Exhibit 4-5 shows the average delays that occurred in each type of court.

We found no delays in over half (35 of 61) of the adjudication hearings for which scheduled and actual dates were available. The remaining 26 adjudication hearings (42.6 percent) were delayed between two days and 741 days. The city court had the highest percentage of cases without delays (66.7 percent).

<b>Exhibit 4-5 Average Delays Associated With Adjudication Hearings Sample Cases</b>	
<b>Court Type</b>	<b>Average Delay (in Days)</b>
City Courts	32.2
District Courts	17.4
Juvenile Courts	78.5
Juvenile Courts less East Baton Rouge Parish Juvenile Court*	42.1
East Baton Rouge Parish Juvenile Court	271.0
<b>All Courts</b> including East Baton Rouge Parish Juvenile Court	<b>62.9</b>
<b>All Courts</b> less East Baton Rouge Parish Juvenile Court*	<b>36.0</b>
<p>* Adjusted to show that East Baton Rouge Parish Juvenile Court accounted for a significant portion of the juvenile court and overall averages.</p> <p>Source: Prepared by Legislative Auditor's staff using data gathered from court records.</p>	

Nine of the delays associated with adjudication hearings were over 100 days in length. Eight of these delays occurred in the juvenile courts. The other delay over 100 days occurred in a city court. The two longest delays occurred in the East Baton Rouge Parish Juvenile Court. Even though the East Baton Rouge Parish Juvenile Court represented only 7 of the 44 juvenile cases for which adjudication hearings were held (15.9 percent), it accounted for 1,897 of the 3,455 days in delays (54.9 percent).

**The district and city courts did not document the reasons for nearly two-thirds of the continuances that were granted for the adjudication hearings.** We identified 75 continuances that were granted for the delays that occurred during the adjudication hearings. We were able to identify reasons for only 52 of these continuances (69.3 percent). A total of 53 reasons were identified for the 52 continuances. The reasons for 23 of the continuances (30.7 percent) were not documented in the court records.

The reasons for nearly two-thirds (9 of 14) of the continuances granted in the city and district courts were not documented in the court records. In contrast, the juvenile courts did not document reasons for only 14 of 61 continuances (23 percent).

Seventeen of the 53 reasons for continuances (32.1 percent) related to the children's parents and the parents' legal representation. The reasons for continuances that were associated with the parents were the same as those given in the previous sections. They included:

- ♦ The parent(s) was (were) absent from the hearing. (9 instances)
- ♦ The parent's attorney was absent from the hearing (3 instances)
- ♦ An attorney needed to be appointed for the parent(s). (5 instances)

We identified 23 continuances in the East Baton Rouge Parish Juvenile Court that were associated with the adjudication hearing. Over half of these continuances (12 of 23) were granted in order to hold status conferences. The East Baton Rouge Parish Court was the only one of the nine courts in our sample to grant continuances in order to hold status conferences. As discussed in Chapter Two, the chief judge in East Baton Rouge Parish Juvenile Court told us the court is currently decreasing its use of status conferences because they delay the process.

As we discussed at the beginning of this chapter, we grouped the reasons for continuances into eight categories. Any reasons for continuances that did not fall into one of these predetermined categories was placed in a separate category called "other reasons." The "other reasons" category accounted for the largest percentage of the reasons that were documented for the continuances that were granted during the adjudication hearing phase of the process. Twenty-one of the 53 reasons fell into the "other reasons" category (39.6 percent). Some of the reasons that were included in the "other reasons" category included:

- ♦ The need to get an expert opinion,
- ♦ The need to hold an informal adjustment agreement, and
- ♦ The need to locate a foster child who had run away.

### Disposition Hearings

As we discussed in Chapters One and Three, the disposition hearing allows the court to determine the future status of the child. There were 63 cases in our sample for which we were able to determine the scheduled and actual dates of the disposition hearings. Our findings and conclusions regarding delays and continuances associated with these 63 cases are presented below.

**The city courts and one district court experienced no delays associated with the disposition hearings.** As we discussed in Chapter Three, we found that the city and district courts in our sample held the majority of their disposition hearings on the same day as the adjudications. Orleans Parish Juvenile Court was the only juvenile court that held disposition hearings immediately following adjudications. Because of this, the average delays that occurred during the disposition hearings in the city and district courts were lower than in the juvenile courts, as can be seen in Exhibit 4-6 and Appendix I, page 4.

We found that for all nine courts in which we reviewed cases, the disposition hearings were delayed an average of 15.2 days from the originally scheduled hearing dates. None of the delays were found in the city courts. In addition, we found no delays for the sample cases in the Fifteenth Judicial District Court (Lafayette). All of the delays occurred in the remaining district courts and juvenile courts.

<b>Exhibit 4-6 Average Delay Associated With Disposition Hearings Sample Cases</b>	
<b>Court Type</b>	<b>Average Delay (in Days)</b>
City Courts	0
District Courts	10.8
Juvenile Courts	17.7
<b>All Courts</b>	<b>15.2</b>
<b>Source:</b> Prepared by Legislative Auditor's staff using data gathered from court records.	

We found no delays in over three-fourths (49 of 63) of the disposition hearings for which scheduled and actual dates were available. The remaining 14 disposition hearings were delayed between 14 days and 203 days. Only 2 of the 10 sample cases in the district courts (20 percent) experienced delays, and only 12 of the 48 sample cases in the juvenile courts (25 percent) experienced delays. The Fourth Judicial District Court, the Ninth Judicial District Court, and the Orleans Parish Juvenile Court each had only one sample case that was delayed during the disposition hearing.

**There were no continuances granted by the city courts during the disposition hearings.** We identified 23 continuances that were associated with delays that occurred between the scheduled and actual dates of the disposition hearings. As discussed previously, there were no delays in the city courts. Therefore, there were no continuances granted by these courts during the disposition hearing phase of the process.

We were able to identify reasons for 17 of the 23 continuances (73.9 percent) granted by the district and juvenile courts. The reasons for the remaining 6 continuances (26.1 percent) were not documented in the court records.

We found that 6 of the 17 reasons for continuances associated with the disposition hearings (35.3 percent) related to the children's parents and the parents' legal representation. These reasons included:

- ♦ The parent(s) was (were) absent from the hearing. (3 instances)
- ♦ The parent's attorney was absent from the hearing. (3 instances)

Four disposition hearings were continued to allow the court to perform evaluations of potential placements for the children.

### **Review Hearings**

As discussed in Chapters One and Three, the Children's Code requires that each foster child's case be reviewed at periodic intervals while the child is in state custody. Case review hearings are held by the court or administrative review body to review the progress that has been made in the child's case plan. Dispositional review hearings are held by the court or administrative review body to determine the future status of the child.

As stated in Chapter Three, we did not attempt to make a distinction between case reviews and dispositional reviews in our analysis. Thus, the term "review(s)" as used in the following paragraphs refers to either case review(s) or dispositional review(s).

There were 62 cases in our sample for which we were able to determine the scheduled and actual dates of at least one review. We found a total of 204 reviews with scheduled and actual dates. Our findings and conclusions regarding the delays and continuances associated with these reviews are presented below.

**The average delays associated with the reviews in the city courts and juvenile courts were under 17 days.** We found that, overall, the 204 reviews were delayed an average of 18 days. As seen in Exhibit 4-7, the city courts had the shortest delay of 16.2 days, while the juvenile court had a slightly higher average of 16.9 days. The highest average delay associated with the reviews was found in the district courts. The district courts' average delay was 55.8 days.

The Ninth Judicial District Court experienced no delays associated with reviews. However, this is based on only one review for which scheduled and actual dates were found in the records. As can be seen in Appendix I, page 5, four courts in addition to the Ninth Judicial District Court averaged delays of less than 18 days. These four courts were the:

- ♦ Hammond City Court,
- ♦ Caddo Parish Juvenile Court,
- ♦ Jefferson Parish Juvenile Court, and
- ♦ Orleans Parish Juvenile Court.

As we discussed in the previous chapter, many of the reviews in the district courts were completed by OCS. We did not find documentation in the courts' records of scheduled and actual dates for most of these OCS reviews. Overall, only six case files had scheduled and actual dates available in the district court records. In two of these cases, the reviews were performed by OCS.

<b>Exhibit 4-7</b>	
<b>Average Delays Associated With Reviews</b>	
<b>Sample Cases</b>	
<b>Court Type</b>	<b>Average Delay (in Days)</b>
City Courts	16.2
District Courts	55.8
Juvenile Courts	16.9
<b>All Courts</b>	<b>18.0</b>
<b>Source:</b> Prepared by Legislative Auditor's staff using data gathered from court records.	

Overall, we found no delays in over two-thirds (138 of 204) of the reviews for which scheduled and actual dates were available. The remaining 66 reviews, or 32.4 percent, were delayed from 5 days to 365 days. Only 21 of the 62 cases analyzed (33.9 percent) experienced no delays during any of their reviews.

**The reasons for over 40 percent of the continuances associated with the reviews were not documented in the courts' records.** We identified 91 continuances associated with the delays that occurred during the reviews. We were able to identify reasons for only 53 of these continuances (58.2 percent). A total of 54 reasons were identified for the 53 continuances. The reasons for 38 of the continuances (41.8 percent) were not documented in the courts' records. Also, the reasons for four of the five continuances granted in the district courts (80 percent) were not documented in the records.

The majority of reasons for the continuances did not fall into any of our eight predetermined categories explained previously. These continuances were placed in a separate category called "other reasons." The other reasons category accounted for over half of the reasons for the continuances that were granted during the reviews (32 of 54).

Twenty of the 54 reasons for continuances of reviews (37 percent) related to the children's parents and the parents' legal representation. These reasons included:

- ♦ The parent(s) was (were) absent from the hearing.  
(8 cases)
- ♦ The parent's attorney was absent from the hearing.  
(9 cases)
- ♦ An attorney needed to be appointed for the parent(s).  
(3 cases)

## SUMMARY

The longest average delay of any major case event was associated with the adjudication hearing. As seen in Exhibit 4-8, we found that the longest average delay of approximately two months occurred during the adjudication hearings. As mentioned in Chapter Three, a discussion with one of the judges gave insights into the lengthy delays associated with adjudications. The judge explained that, for all practical purposes, the adjudication is a trial, which requires extensive preparation and the location of witnesses. This need for preparation and location of witnesses may explain why the adjudication hearings experienced the highest average delay.

<b>Exhibit 4-8</b>		
<b>Average Delays and Continuances for Major Case Events</b>		
<b>All Sample Courts</b>		
<b>Case Event</b>	<b>Total Number of Case Events*</b>	<b>Average Delay per Case Event** (in Days)</b>
Continued Custody Hearing	69	2.3
Appearance Hearing***	29	55.4
Adjudication Hearing	61	62.9
Dispositional Hearing	63	15.2
Reviews	204	18.0
<b>Total</b>	<b>426</b>	<b>24.0</b>
<p>* Refers to the total number of hearings for which we were able to determine the scheduled and actual dates the hearings occurred.</p> <p>** Refers to the average number of days between the dates the case events were scheduled to occur and the dates the events actually did occur.</p> <p>*** Appearance hearings occurred only in juvenile courts.</p>		
<p>Source: Prepared by Legislative Auditor's staff using information gathered from court records.</p>		

A disproportionate share of the continuances were associated with the adjudication hearings. We found that for the nine courts in which we reviewed cases, there were a total of 229 continuances associated with the major case events. As seen in Exhibit 4-9, we also found a total of 462 major case events that had documented actual hearing dates in the courts' records. While the adjudication hearing accounted for 13.9 percent of the total hearings (64 of 462), they accounted for 32.8 percent of all continuances (75 of 229).

<b>Exhibit 4-9</b>				
<b>Percentage of Continuances Per Major Case Event</b>				
<b>All Sample Courts</b>				
<b>Case Event</b>	<b>Total Case Events*</b>	<b>% of Total Case Events</b>	<b>Total Number of Continuances</b>	<b>% of Total Continuances</b>
Continued Custody Hearing	70	15.2%	26	11.4%
Appearance Hearing**	30	6.5%	14	6.1%
Adjudication Hearing	64	13.9%	75	32.8%
Dispositional Hearing	63	13.6%	23	10.0%
Reviews	235	50.9%	91	39.7%
<b>Total</b>	<b>462</b>	<b>100%</b>	<b>229</b>	<b>100%</b>
<p>* Refers to the total number of hearings for which we were able to determine the actual dates the hearings occurred.</p> <p>** Appearance hearings occurred only in juvenile courts.</p>				
<p>Source: Prepared by Legislative Auditor's staff using information gathered from court records.</p>				

## **Recommendation No. 7**

The courts may wish to allocate resources and efforts towards coordination with OCS to locate witnesses and expedite other preparations necessary for adjudications.



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# Chapter Five: Legal Representation and Notice

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## Chapter Conclusions

The sample children and their parents did not experience consistency in the attorneys that handled their cases. On average, each sample child had 2.7 different attorneys throughout the course of their legal proceedings. The children in the juvenile courts experienced a significantly higher average number of attorneys than children in either the city courts or district courts. Each parent had, on average, 2.6 different attorneys.

On average, each sample child changed attorneys 1.9 times throughout the course of the legal proceedings. Each parent changed attorneys an average of 1.6 times.

The reasons for changes in attorneys were largely undocumented in the courts' records. Relevant documentation was available for less than 12 percent of the attorney changes identified for the children and for only one-fourth of the attorney changes identified for the parents.

Notice of court hearings was generally provided to the parties involved in the sample cases. However, a judge we interviewed stated that maintaining current addresses for the pertinent parties was a problem because of communication breakdowns with OCS.

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## Legal Representation for Sample Children

### Legal Representation Provided for Sample Children was Inconsistent Due to Changes in Attorneys.

We analyzed whether legal representation provided for the sample children and their parents was consistent throughout the proceedings conducted during the time period under audit. This section presents the results of the analysis as it applies to the sample children. The consistency of legal representation provided for the children's parents is discussed in the following section of this chapter.

There were 68 cases in our sample for which some type of documentation regarding legal representation for the children was available in the courts' records. For the remaining five cases, there was no documentation available that would allow us to assess the consistency of legal representation. All five cases that lacked documentation were found in one of the district courts. Our findings and conclusions regarding the 68 sample cases for which we were able to analyze legal representation are presented below.

**On average, each sample child had 2.7 different attorneys throughout the course of the legal proceedings.** For the period audited, the average number of attorneys per child was 1.9 for the cases in the district courts. For cases in the city courts, the children averaged 1.3 attorneys per child. The children in the juvenile courts averaged 2.9 different attorneys each, which was significantly higher than both the district court and city court averages and somewhat higher than the overall average of 2.7. Thus, the sample children did not experience consistency in the attorneys that handled their cases.

We analyzed the data further and found that the average number of attorneys per child in two of the juvenile courts exceeded the overall average per child. These two courts were the East Baton Rouge Parish Juvenile Court and the Orleans Parish Juvenile Court. For the cases in the East Baton Rouge Parish Juvenile Court, sample children averaged 3.9 different attorneys. For cases in the Orleans Parish Juvenile Court, sample children averaged 2.8 different attorneys per child. Exhibit 5-1 on page 63 shows the number of different attorneys for the sample children by court.

**On average, each sample child changed attorneys 1.9 times throughout the course of the legal proceedings.** As can be seen in Exhibit 5-1, the children whose cases were in the district courts averaged .9 changes in attorney per child. The children whose cases were in the city courts averaged .3 changes in attorney. The children whose cases were in the juvenile courts averaged 2.2 changes in attorney per child. The juvenile court average was higher than both the city and district court averages, as well as the overall average, which was 1.9.

We analyzed the juvenile court data further and found that the sample children in East Baton Rouge Parish Juvenile Court averaged 3.8 changes in attorney per child. This figure

exceeded the juvenile court group average of 2.2. In addition, as compared to the average for all sample children taken as a whole, the children in East Baton Rouge Parish averaged almost twice as many changes in attorneys as the other children.

<b>Exhibit 5-1</b> <b>Average Number of Different Attorneys and Average Number of Changes in Attorneys Per Child</b> <b>Sample Cases</b>					
<b>Court</b>	<b>Number of Cases</b>	<b>Number of Different Attorneys*</b>	<b>Number of Changes in Attorneys Between Hearings</b>	<b>Average Number of Attorneys per Child</b>	<b>Average Number of Changes in Attorneys per Child</b>
East Baton Rouge Parish Juvenile Court	12	47	45	3.9	3.8
Orleans Parish Juvenile Court	24	66	44	2.8	1.8
Jefferson Parish Juvenile Court	11	28	19	2.5	1.7
Caddo Parish Juvenile Court	8	19	12	2.4	1.5
<b>Total Juvenile Courts</b>	<b>55</b>	<b>160</b>	<b>120</b>	<b>2.9</b>	<b>2.2</b>
4th Judicial District Court (Ouachita)	4	8	4	2	1
9th Judicial District Court (Rapides)	0	N/D	N/D	N/D	N/D
15th Judicial District Court (Lafayette)	3	5	2	1.7	.7
<b>Total District Courts</b>	<b>7</b>	<b>13</b>	<b>6</b>	<b>1.9</b>	<b>0.9</b>
West Monroe City Court	2	4	2	2	1
Hammond City Court	4	4	0	1	0
<b>Total City Courts</b>	<b>6</b>	<b>8</b>	<b>2</b>	<b>1.3</b>	<b>0.3</b>
<b>Total</b>	<b>68</b>	<b>181</b>	<b>128</b>	<b>2.7</b>	<b>1.9</b>
<p>* An attorney included in more than one case file was counted once for each case file.</p> <p>N/D: Not determinable from the courts' records.</p> <p>Source: Prepared by Legislative Auditor's staff using information gathered from court records.</p>					

The remaining three juvenile courts had higher averages than any city or district court. The highest average found in any city or district court was only one change in attorney per child.

**Reasons for changes in attorneys were largely undocumented in the courts' records.** We attempted to identify reasons for the changes in attorneys experienced by the sample children. However, we found that relevant documentation was available for only 11.7 percent of the total number of attorney changes we identified.

We could not find relevant documentation at five of the individual courts in which we reviewed records. Documentation was available at the:

- ◆ West Monroe City Court
- ◆ Fourth Judicial District Court
- ◆ Orleans Parish Juvenile Court
- ◆ Jefferson Parish Juvenile Court

However, the documentation that was available in these other courts' records was limited. Although we had identified 128 overall changes in attorneys for the sample children, we were only able to identify reasons for 15 of these changes, or only 11.7 percent. Exhibit 5-2 on page 65 presents the results of our search for documentation on the reasons why sample children experienced changes in their attorneys.

Because most of the court records lacked sufficient documentation, we were not able to develop overall conclusions on the major causes of changes among the sample children's case attorneys. However, the 15 reasons we were able to identify were as follows:

- ◆ Temporary counsel was assigned or used. (10 cases)
- ◆ The child's attorney was a stand-in. (2 cases)
- ◆ The attorney's employment terminated. (3 cases)

Having inconsistent legal representation could mean that children's cases may not be represented as well as they could be (i.e., if the new attorneys are not well versed on the case histories). Changes in the children's legal representation could

also cause delays in the progression of cases through the foster care system. These potential weaknesses and delays related to legal representation may not be in the best interests of the child, which is a primary focus of Public Law 96:272.

<b>Exhibit 5-2 Number of Reasons Identified for Changes in Attorneys Sample Children</b>			
<b>Court</b>	<b>Number of Changes in Attorneys Between Hearings</b>	<b>Number of Reasons Identified</b>	<b>Percentage of Changes With Reasons</b>
East Baton Rouge Parish Juvenile Court	45	0	0.0 %
Orleans Parish Juvenile Court	44	10	22.7 %
Jefferson Parish Juvenile Court	19	1	5.3 %
Caddo Parish Juvenile Court	12	0	0.0 %
<b>Total Juvenile Courts</b>	120	11	9.2 %
4th Judicial District Court (Ouachita)	4	3	75.0 %
9th Judicial District Court (Rapides)	N/D	N/D	N/D
15th Judicial District Court (Lafayette)	2	0	0.0 %
<b>Total District Courts</b>	6	3	50.0 %
West Monroe City Court	2	1	50.0 %
Hammond City Court	0	0	0.0 %
<b>Total City Courts</b>	2	1	50.0 %
<b>Total</b>	128	15	11.7 %
<b>N/D:</b> Roles of individuals who participated in hearings and reviews were indistinguishable in the court records.			
<b>Source:</b> Prepared by Legislative Auditor's staff using information gathered from court records.			

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**Legal  
Representation  
for Parents of  
Sample  
Children**

**The Parents of Sample Children Also Experienced Changes in Legal Representation.**

As stated in the previous section, we analyzed the consistency of legal representation provided for sample children and their parents. This section contains the results of the analysis as it relates to the parents. There were 69 cases which we were able to analyze. Our findings and conclusions related to the consistency of representation for the parents<sup>2</sup> are presented below.

**On average, each parent had 2.6 different attorneys throughout the course of the legal proceedings.** For the period audited, the parents whose cases were in the juvenile courts and city courts averaged 2.7 and 2.8 different attorneys, respectively. The parents whose cases were in the district courts averaged 2.1 different attorneys throughout the course of the legal proceedings. The overall average for all courts was 2.6 attorneys per parent. Thus, as we found with the children, the parents also did not experience consistency in the attorneys that represented them.

We analyzed this data further and found that the average number of attorneys per parent for cases in three of the sample courts was significantly higher than the overall average for all sample courts. The parents with cases in the West Monroe City Court averaged four attorneys per parent. The parents with cases in the Orleans Parish Juvenile Court and the Caddo Parish Juvenile Court each averaged 3.5 attorneys per parent. These figures compare to the overall average of 2.6 attorneys per parent in all courts. Exhibit 5-3 on page 67 shows the number of different attorneys for the sample children's parents by court.

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<sup>2</sup> Legal representation may have been provided for the mother and/or the father and/or both parents throughout the course of the legal proceedings. The term "parent" or "parents" as used in this section refers to any of these situations.

<b>Exhibit 5-3</b>					
<b>Average Number of Different Attorneys and Average Number of Changes in Attorneys Per Parent*</b>					
<b>Sample Cases</b>					
Court	Number of Cases	Number of Attorneys	Number of Changes in Attorneys Between Hearings	Average Number of Attorneys per Parent	Average Number of Changes in Attorney Per Parent
East Baton Rouge Parish Juvenile Court	12	18	7	1.5	0.6
Orleans Parish Juvenile Court	24	83	58	3.5	2.4
Jefferson Parish Juvenile Court	11	17	10	1.5	0.9
Caddo Parish Juvenile Court	8	28	19	3.5	2.4
<b>Total Juvenile Courts</b>	<b>55</b>	<b>146</b>	<b>94</b>	<b>2.7</b>	<b>1.7</b>
4th Judicial District Court (Ouachita)	4	11	5	2.8	1.3
9th Judicial District Court (Rapides)	1	1	0	1	0
15th Judicial District Court (Lafayette)	3	5	0	1.7	0
<b>Total District Courts</b>	<b>8</b>	<b>17</b>	<b>5</b>	<b>2.1</b>	<b>0.6</b>
West Monroe City Court	2	8	5	4	2.5
Hammond City Court	4	9	5	2.3	1.3
<b>Total City Courts</b>	<b>6</b>	<b>17</b>	<b>10</b>	<b>2.8</b>	<b>1.7</b>
<b>Total</b>	<b>69</b>	<b>180</b>	<b>109</b>	<b>2.6</b>	<b>1.6</b>
* Representation of parents consists of instances where both parents or an individual parent was represented by counsel.					

**On average, each parent changed attorneys 1.6 times throughout the course of the legal proceedings. As can be seen from Exhibit 5-3, parents with cases in the district courts averaged 0.6 changes in legal representation during the audit period. This average was significantly less than the 1.7 average for parents whose cases were in the juvenile courts. Parents with**

cases in the city courts also averaged 1.7 changes in attorneys per parent. The overall average number of changes in attorneys for all courts was 1.6.

Parents in three individual courts averaged significantly more changes in attorneys than the overall average of 1.6. These three courts were the Orleans Parish Juvenile Court (2.4), the Caddo Parish Juvenile Court (2.4), and the West Monroe City Court (2.5).

**Reasons for changes in attorneys were largely undocumented in the courts' records.** As we did for the children's cases, we attempted to identify reasons for the changes in legal representation experienced by the parents of the sample children. However, we were only able to locate documentation for 24.8 percent of the changes in attorneys identified.

We found documentation explaining the reasons for attorney changes for only 27 of the 109 total changes identified. The results of our search for documentation are presented in Exhibit 5-4 on page 69. Based upon this limited data, the following reasons were given for changes in parents' legal representation:

- ◆ Temporary counsel was assigned or used. (12 cases)
- ◆ A stand-in attorney was used. (4 cases)
- ◆ The parents waived their right to counsel. (3 cases)
- ◆ The attorney's employment terminated. (2 cases)
- ◆ The attorney withdrew from the case. (1 case)
- ◆ The attorney was hospitalized. (1 case)
- ◆ The parents could not pay the attorney. (1 case)
- ◆ The attorney had prior commitments. (1 case)
- ◆ The parents, who were previously not represented, decided to use an attorney. (1 case)
- ◆ The attorney was transferred to another division of the Indigent Defender Board. (1 case)

<b>Exhibit 5-4 Number of Reasons Identified for Changes in Attorneys Parents* of Sample Children</b>			
<b>Court</b>	<b>Number of Changes in Attorneys Between Hearings</b>	<b>Number of Reasons Found</b>	<b>Percentage of Changes With Reasons</b>
East Baton Rouge Parish Juvenile Court	7	3	42.9 %
Orleans Parish Juvenile Court	58	11	19.0 %
Jefferson Parish Juvenile Court	10	4	40.0 %
Caddo Parish Juvenile Court	19	4	21.1 %
<b>Total Juvenile Courts</b>	<b>94</b>	<b>22</b>	<b>23.4 %</b>
4th Judicial District Court (Ouachita)	5	2	40.0 %
9th Judicial District Court (Rapides)	0	0	N/A
15th Judicial District Court (Lafayette)	0	0	N/A
<b>Total District Courts</b>	<b>5</b>	<b>2</b>	<b>40.0 %</b>
West Monroe City Court	5 <sup>a</sup>	2 <sup>b</sup>	40.0 %
Hammond City Court	5	1	20.0 %
<b>Total City Court</b>	<b>10</b>	<b>3</b>	<b>30.0 %</b>
<b>Total</b>	<b>109</b>	<b>27</b>	<b>24.8 %</b>
* Representation of parents consists of instances where both parents or an individual parent was represented by counsel.			

Weaknesses in case knowledge on the part of the new attorneys and delays in processing cases through the court could result from changes in the parents' legal representation. As reported in Chapter Four, we did find that almost 14 percent of continuances were granted because new attorneys were assigned to parents' cases.

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## **Recommendation No. 8**

**The courts may wish to develop strategies to identify and retain consistent sources of legal representation for foster care clients.**

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### **Notice of Hearings**

**Notice of court hearings was generally provided to the parties involved in the sample cases.** The Children's Code requires that notice of court hearings be sent to pertinent parties involved in foster care cases. We analyzed the level of notice sent for all sample cases included in the audit.

Using information available in the courts' records, we were able to gather only limited data on notification efforts. Thus, we were able to obtain general results only in our attempt to analyze the extent of notification. The evidence we were able to obtain indicated that notification was generally sent to the parties involved in the sample cases. However, as discussed in Chapter One, the condition of the files and time constraints of the audit did not allow us to make a determination on whether notice was sent to each relevant party for each individual court hearing. We were also not able to determine the timeliness of notice provided. Therefore, the data we were able to collect and analyze yields general results only.

Records in all of the sample courts contained general evidence indicating that notification was sent to the parties involved. We could not locate evidence of notice for two of the five sample cases (40 percent) in one of the district courts. We did find evidence that either verbal notice was provided in court or that written notice, such as court summons, was sent to the parties for all other sample cases in the other courts. As previously stated, however, the nature of the documentation was general in nature and was not specific to individual hearings. We therefore could not determine whether proper notice was sent to all appropriate parties for each court hearing that was held.

We discussed notification with one of the juvenile court judges. This judge stated that OCS often does not notify the court of changes in addresses of parties involved in the cases. According to the judge, this situation impacts the court's efforts to serve notice on the parties who need to be present for particular hearings.

## **SUMMARY**

The condition of court records and time constraints of the audit did not allow us to fully assess the level of notice sent to the parties involved. We were able to determine that notice was generally provided by the courts, based on the documentation that was available in the court records. However, we were not able to determine if notice was provided to each individual for each hearing or review. We were also not able to determine if notice was provided in a timely manner. Finally, a judge we interviewed indicated that the court often did not have access to current addresses of relevant parties to whom notices needed to be served.

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## **Recommendation No. 9**

**Courts should ensure that notice is sent in a timely manner to the appropriate parties as specified in the Children's Code. The courts may also wish to develop means of improving coordination between the courts and OCS for the purpose of ensuring that they have access to current addresses for all pertinent parties. Finally, the courts should retain complete documentation of all notices served in an organized manner in the court records.**

# Appendixes

# Appendix A: Courts Exercising Juvenile Jurisdiction in Louisiana

First	Caddo
Second	Bienville, Claiborne, Jackson
Third	Lincoln, Union
Fourth	Morehouse, Ouachita
Fifth	Franklin, Richland, West Carroll
Sixth	East Carroll, Madison, Tensas
Seventh	Catahoula, Concordia
Eighth	Winn
Ninth	Rapides
Tenth	Natchitoches
Eleventh	DeSoto, Sabine
Twelfth	Avoyelles
Thirteenth	Evangeline
Fourteenth	Calcasieu
Fifteenth	Acadia, Lafayette, Vermilion
Sixteenth	Iberia, St. Martin, St. Mary
Seventeenth	Lafourche
Eighteenth	Iberville, Pointe Coupee, West Baton Rouge
Nineteenth	East Baton Rouge
Twentieth	East Feliciana, West Feliciana
Twenty-First	Livingston, St. Helena, Tangipahoa
Twenty-Second	St. Tammany, Washington
Twenty-Third	Ascension, Assumption, St. James
Twenty-Fourth	Jefferson
Twenty-Fifth	Plaquemine
Twenty-Sixth	Bossier, Webster
Twenty-Seventh	St. Landry
Twenty-Eighth	LaSalle
Twenty-Ninth	St. Charles
Thirtieth	Vernon
Thirty-First	Jefferson Davis
Thirty-Second	Terrebonne
Thirty-Third	Allen
Thirty-Fourth	St. Bernard

Source: Prepared by Legislative Auditor's staff using information from the Louisiana Supreme Court and the Roster of State Officials.

Thirty-Fifth	Grant
Thirty-Sixth	Beauregard
Thirty-Seventh	Caldwell
Thirty-Eighth	Cameron
Thirty-Ninth	Red River
Fortieth	St. John the Baptist

Parishes	Parishes
Abbeville	Vermilion
Alexandria	Rapides
Baker	East Baton Rouge
Bastrop	Morehouse
Baton Rouge	East Baton Rouge
Bogalusa	Washington
Bossier	Bossier
Breaux Bridge	St. Martin
Bunkie	Avoyelles
Crowley	Acadia
Denham Springs	Livingston
DeRidder	Beauregard, Vernon
Eunice	Acadia, St. Landry
Franklin	St. Mary
Hammond	Tangipahoa
Houma	Terrebonne
Jeanerette	Iberia
Jennings	Jefferson Davis
Kaplan	Vermilion
Lafayette	Lafayette
Lake Charles	Calcasieu
Leesville	Vernon
Marksville	Avoyelles
Minden	Webster
Monroe	Ouachita
Morgan City	St. Mary
Natchitoches	Natchitoches
New Iberia	Iberia
New Orleans	
First	Orleans
Second	Orleans
Municipal Court	Orleans
Traffic Court	Orleans
Oakdale	Allen
Opelousas	St. Landry
Pineville	Rapides
Plaquemine	Iberville
Port Allen	West Baton Rouge

Source: Prepared by Legislative Auditor's staff using information from the Louisiana Supreme Court and the Roster of State Officials.

Circuit Courts	
Rayne	Acadia
Ruston	Lincoln
Shreveport	Bossier/Caddo
Slidell	St. Tammany
Springhill	Webster
Sulphur	Calcasieu
Thibodaux	Lafourche
Vidalia	Concordia
Ville Platte	Evangeline
West Monroe	Ouachita
Winnfield	Winn
Winnsboro	Franklin
Zachary	East Baton Rouge
Intermediate Courts	
Caddo Parish	
East Baton Rouge Parish	
Jefferson Parish	
Orleans Parish	

Source: Prepared by Legislative Auditor's staff using information from the Louisiana Supreme Court and the Roster of State Officials.

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## Appendix B: Ways Children Enter State Custody

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There are three primary ways in which children enter state custody. They are through court authorization, voluntary surrenders, and acts of surrender. These means are explained below.

### I. Court Authorization. There are four types of court authorization:<sup>1</sup>

**A. Instanter orders** place children in the temporary custody of the Department pending further court hearings. Instanter orders may be either written or oral, depending on the circumstances of the case, as described below.

- ♦ **Written instanter orders:** The Children's Code permits a peace officer, district attorney, or employee of the local child protection unit to file a verified complaint alleging facts showing that there are reasonable grounds to believe that a child is in need of care and that emergency removal is necessary to secure the child's protection. *If the court determines that the child's welfare cannot be safeguarded without removal, the court may issue a written instanter order directing that the child be taken into custody. A summons must then be served upon the parents or caretakers commanding them to appear in court for a continued custody hearing. Department employees must secure an instanter order from the court before they take a child into custody. Department employees must then promptly notify the parents or caretakers of the nature of the allegations and of the time and place of the continued custody hearing.*
- ♦ **Oral instanter orders:** The Children's Code also allows the use of oral instanter orders. The Code states that in exceptional circumstances, the facts supporting the issuance of an instanter order and the exceptional circumstances may be relayed orally, including telephonically, to the judge and the order directing that a child be taken into custody may be issued orally. *In these cases, an affidavit containing the information that was relayed orally must be filed with the clerk of court within 24 hours, and a written order must be subsequently issued. The Children's Code requires the Department to promptly notify the parents or caretakers of the nature of the allegations and of the time and place of the continued custody hearing.*

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<sup>1</sup> In limited cases, the Children's Code permits children to be taken into custody without a court order.

**B. Court orders placing children in custody of the Department after formal hearings have been held.**

**C. Court orders declaring children to be legally abandoned.** These court orders terminate all parental rights and responsibilities and free children for adoption.

**D. Termination of parental rights orders.** These orders free children for adoption based on their parents' inability to resume parenting responsibilities.

**II. Voluntary Agreements.** Children may also be placed in foster care through voluntary agreements. There are two types of voluntary agreements:

**A. Parental Consent Agreements:** These agreements are used for children whose parents give written consent to give OCS care, custody, and control of their children for 30 days.

**B. Client Consent Agreements:** These agreements are used for foster children who have reached the age of 18 and wish to voluntarily remain in the agency's care in order to complete vocational or educational training.

**III. Acts of Surrender.** Finally, children may be placed in state custody through acts of surrender. An act of surrender is a legal document executed by the parents in the presence of a notary public and two witnesses. Acts of surrender permanently terminate all parental responsibilities and rights, except those pertaining to property.

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## Appendix C: Detailed Information Regarding State Requirements for Major Case Events

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### **Continued Custody Hearing**

The purpose of the continued custody hearing is to determine whether the state should retain the child in state custody. The Children's Code says that at the continued custody hearing, the state has the burden to prove the existence of a ground for continuing the child in custody. Once a ground is proven, the court may authorize continued custody prior to adjudication.

In making its decision, the court must determine whether the Department has made reasonable efforts to prevent or eliminate the need for removal of the child from his home. The court must also determine whether the Department has made reasonable efforts to make it possible for the child to return home. After the continued custody hearing, the court may take one of three actions:

- Return the child to the parents;
- Place the legal custody of the child with a suitable person; or
- Continue the child in state custody.

### **Petition**

The Children's Code says that the petition sets forth specific information concerning the child and parents and contains the facts showing that the child is in need of care. The petition concludes with a request that the court adjudicate the child to be a child in need of care.

The petitioner may amend the petition at any time to cure defects of form. The petitioner may also amend the petition to include new allegations of fact or requests for adjudication. If the petition is amended, the child or parent may request a continuance of the adjudication hearing. The court may grant a *continuance for such period as is required in the interest of justice.*

## **Adjudication Hearing**

According to the Children's Code, the adjudication hearing is to be held before the court without a jury. At the adjudication hearing, the state must prove the allegations of the petition by a preponderance of the evidence. After the adjudication hearing is completed, the court must declare whether the evidence warrants an adjudication of child in need of care. If the court finds that the evidence does not warrant such an adjudication, the petition is dismissed.

The Children's Code allows adjudications to be overturned under certain circumstances. The court may vacate an adjudication if:

- ♦ The adjudication was obtained by fraud or mistake sufficient to justify vacating it;
- ♦ The court making the adjudication lacked jurisdiction; or
- ♦ New evidence not previously discoverable by due diligence requires vacating the adjudication in the interest of justice.

## **Disposition Hearing**

The Children's Code requires the court to make a determination regarding the future status of the child at the disposition hearing. The court may select one of five alternatives for the child's disposition:

- ♦ Place the child in the custody of a parent or other suitable person on terms and conditions deemed to be in the best interest of the child;
- ♦ Place the child in the custody of a private or public institution or agency;
- ♦ Commit a child found to be mentally ill to a public or private mental institution or institution for the mentally ill;
- ♦ Grant guardianship of the child to any individual; or
- ♦ Make any other disposition or combination of the above dispositions as the court deems to be in the best interest of the child.

The Children's Code further requires the court to enter a written judgment of disposition after the disposition hearing has been completed. The written order should describe:

- ♦ The nature of the disposition;
- ♦ The maximum duration of the disposition; and
- ♦ The agency, institution, or person to whom the child is assigned, including the responsibilities of any other agency, institution, or person having legal responsibility to secure or provide needed services to the child.

### **Case Review Hearings**

According to the Children's Code, the court or administrative review body considers all relevant evidence offered by the parties at the case review hearings. At the conclusion of the review, the court may approve the plan and order compliance by all parties or find that the case plan is not appropriate and order the department to revise it accordingly.

### **Dispositional Review Hearings**

*At the dispositional review hearing, the court determines the permanent plan for the child. The options available to the court under the Children's Code are to determine whether the child should be:*

- ♦ Returned to the parent;
- ♦ Continued in foster care for a specified period;
- ♦ Freed for adoption;
- ♦ Placed for guardianship of the person of the child; or
- ♦ Continued in foster care on a permanent or long-term basis.

The Children's Code requires that the court's determination be committed to writing or be placed on the record.



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## Appendix D: Detailed Information Regarding Federal Requirements for Major Case Events

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### Case Review System

A case review system is defined in the federal law as a procedure for assuring that each *child in foster care* has a case plan designed to achieve placement in the least restrictive (most family like) setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child. The three components of the federally required case review system are the case plan, case review hearings, and dispositional review hearings. These components are described below.

### Case Plan

According to Public Law 96:272, each child must have a case plan designed to achieve placement in the least restrictive (most family like) setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child.

The case plan is defined as a written document that includes the following information:

- A description of the type of home or institution in which the child is to be placed.
  - This description should include a discussion of the appropriateness of the placement and how the responsible state agency (i.e., OCS) plans to carry out the judicial determination.
- A plan for:
  - Assuring that the child receives proper care and that services are provided to the child, parents, and foster parents in order to improve the conditions in the parents' home;
  - Facilitating the return of the child to his own home or the permanent placement of the child; and
  - Addressing the needs of the child while in foster care.

## **Case Review Hearings**

Public Law 96:272 requires that cases be reviewed at least once every six months. The purpose of the case review hearings is to determine:

- ♦ The continuing necessity for and appropriateness of the placement;
- ♦ The extent of compliance with the case plan;
- ♦ The extent of progress that has been made towards alleviating or mitigating the causes necessitating placement in foster care; and
- ♦ A likely date by which the child may be returned to the home or placed for adoption or legal guardianship.

## **Dispositional Review Hearings**

Public Law 96:272 requires that dispositional review hearings be held no later than 18 months after the original placement and periodically thereafter. The dispositional hearing is to determine the future status of the child. The determinations that the court can make at the dispositional review hearings include, but are not limited to:

- ♦ Returning the child to his parents;
- ♦ Continuing the child in foster care for a specified period;
- ♦ Placing the child for adoption; or
- ♦ Continuing the child in foster care on a permanent or long-term basis.

## **Parental Rights**

Finally, Public Law 96:272 says that the case review system should assure that procedural safeguards will be applied with respect to parental rights pertaining to the removal of the child from the home of his or her parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents.

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## Appendix E: Detailed Methodology Regarding Timing of Major Case Events

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This appendix provides further details on the methodology used to test the timing of major case events. Each major case event is listed below and is followed by a detailed explanation of how the calculations and determinations were made.

### **Continued Custody Hearing**

We computed the time elapsed between the children's entry into foster care and their continued custody hearings by comparing the dates of the oral instanter orders to the dates recorded in the court records as the dates that the continued custody hearings were held. If an oral instanter order was not used in a particular case, we used the written instanter order. In a few cases, instanter orders were not required at all because of the specific circumstances involved. In these cases, we referred to other appropriate documentation (e.g., acts of surrender, transfer of custody orders, et cetera) which denoted the dates the children were placed in state custody.

Using information contained in the courts' records, we also determined the dates the continued custody hearings were originally scheduled to be held and the dates these hearings actually occurred. We compared these two dates to determine the length of the delays. We then recorded and categorized all applicable continuances that were documented in the court records to determine the reasons for the delays.

### **Filing of the Petition**

We computed the time elapsed between the continued custody hearings and the dates the petitions were filed by comparing the dates of the continued custody hearings (as identified above) to the dates recorded in the court records as the dates the petitions were filed.

### **Appearance Hearing**

We computed the time elapsed between the dates the petitions were filed and the dates of the appearance hearings by comparing the dates the petitions were filed (as identified above) to the dates recorded in the court records as the dates that the appearance hearings were held.

Using information contained in the courts' records, we also determined the dates the appearance hearings were originally scheduled to be held and the dates these hearings actually occurred. We compared these two dates to determine the length of the delays. We then recorded and categorized all applicable continuances that were documented in the court records to determine the reasons for the delays.

## **Adjudication Hearing**

We computed the time elapsed between the dates the petitions were filed and the dates the children were adjudicated in need of care by comparing the petition dates (as identified on page E.1) to the dates recorded in the court records as the dates the adjudication hearings were held. In a few cases, the children were adjudicated in need of care at the appearance hearing, and therefore no adjudication hearing was held. In these cases we used the appearance hearing date.

Using information contained in the courts' records, we also determined the dates the adjudication hearings were originally scheduled to be held and the dates these hearings actually occurred. We then compared these two dates to determine the length of the delays. We then recorded and categorized all applicable continuances that were documented in the court records to determine the reasons for the delays.

## **Dispositional Hearing**

We computed the time elapsed between the children's adjudications and the dates of their initial dispositional hearings by comparing the dates for the adjudications (as identified above) to the dates recorded in the court records as the dates the dispositional hearings were held.

Using information contained in the courts' records, we also determined the dates the disposition hearings were originally scheduled to be held and the dates these hearings actually occurred. We compared these two dates to determine the length of the delays. We then recorded and categorized all applicable continuances that were documented in the court records to determine the reasons for the delays.

## **Case Review Hearings and Dispositional Review Hearings**

We documented the various review hearings held for the sample cases based on the hearing dates recorded in the court records. Using this information, we calculated the average number of reviews per case. We also computed the time lapses between the children's entry into state custody and their first review hearing.

Using information contained in the courts' records, we also determined the dates the reviews were originally scheduled to be held and the dates these reviews actually occurred. We compared these two dates to determine the length of the delays. We then recorded and categorized all applicable continuances granted by the courts that were documented in the court records to determine the reasons for the delays. We did not attempt to distinguish between case reviews and dispositional reviews because of the use of inconsistent terminology among the courts and the possibility of consolidation of some case reviews with dispositional reviews.

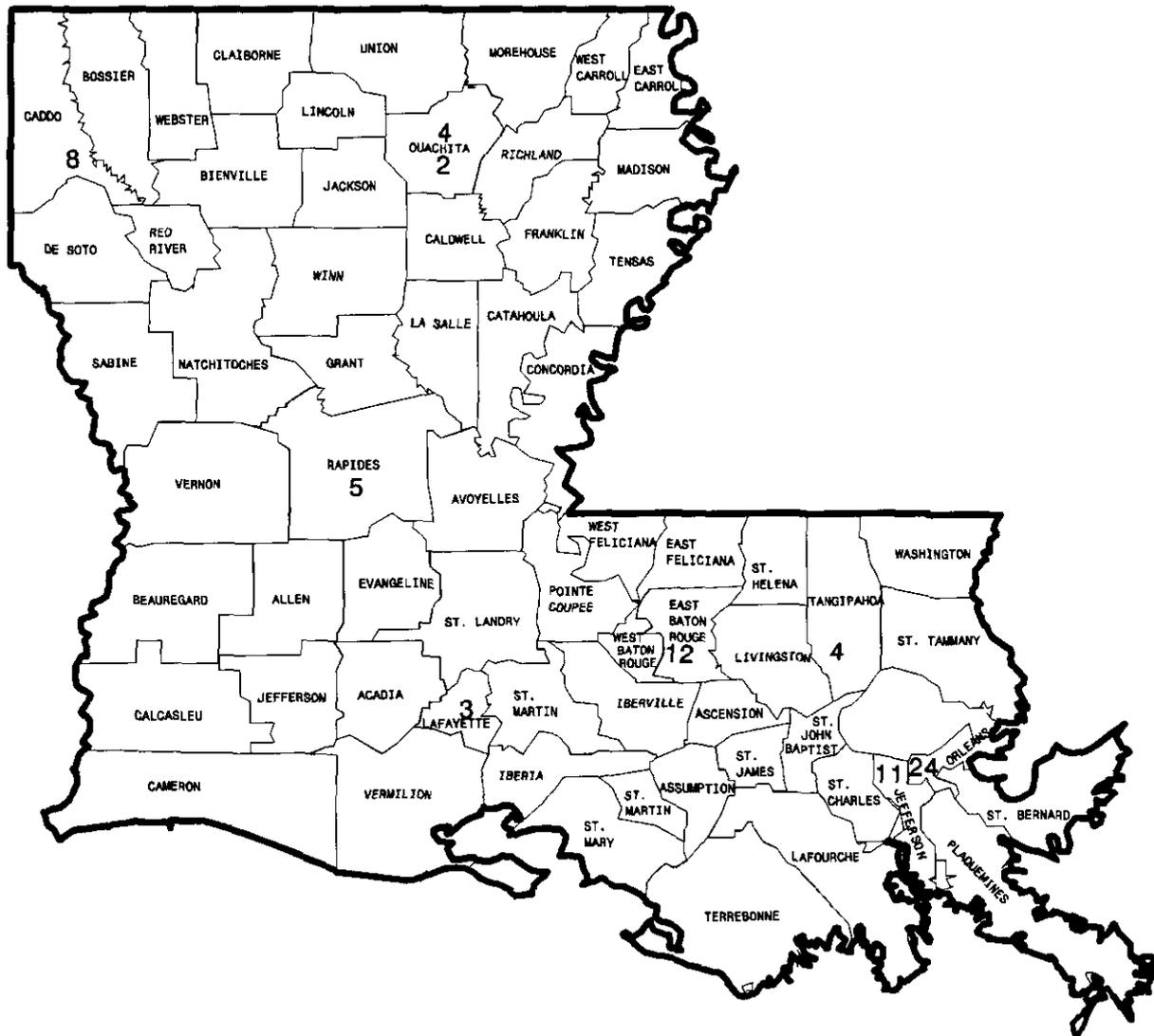
**Note:** In calculating the time lapses between major case events, we did not factor in any holidays that may have occurred during some of those time periods. Any adjustments we might have made because of holidays would have had an immaterial impact on the results reported.

**Source:** Prepared by Legislative Auditor's staff.

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## Appendix F: Location of 73 Sample Foster Care Case Files

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**Note:** This map reflects the parishes in which the 73 sampled cases opened in 1993 were located.

**Source:** Prepared by Legislative Auditor's staff using information obtained from the Office of Community Services.

# Appendix G: Time Elapsed Between Major Case Events

**Average Number of Days Elapsed Between  
Entry into Care and Continued Custody Hearings  
Sample Cases**

Court Type	Jurisdiction	Number of Cases Sampled	Total Number of Days Elapsed	Average Number of Days Elapsed
City	Hammond	4.0	13.0	3.3
	West Monroe	2.0	9.0	4.5
	<b>Subtotal City Courts</b>	<b>6.0</b>	<b>22.0</b>	<b>3.7</b>
District	Fifteenth Judicial District (Lafayette)	3.0	11.0	3.7
	Fourth Judicial District (Ouachita)	4.0	11.0	2.8
	Ninth Judicial District (Rapides)	5.0	8.0	1.6
	<b>Subtotal District Courts</b>	<b>12.0</b>	<b>30.0</b>	<b>2.5</b>
Juvenile	Caddo	8.0	60.0	7.5
	East Baton Rouge	12.0	149.0	12.4
	Jefferson	9.0	39.0	4.3
	Orleans	23.0	57.0	2.5
	<b>Subtotal Juvenile Courts</b>	<b>52.0</b>	<b>305.0</b>	<b>5.9</b>
<b>Total All Courts</b>		<b>70.0</b>	<b>357.0</b>	<b>5.1</b>

Source: Prepared by Legislative Auditor's staff using information gathered from court records.

**Average Number of Days Elapsed Between  
Continued Custody Hearings and Filing of Petitions  
Sample Cases**

Court Type	Jurisdiction	Number of Cases Sampled	Total Number of Days Elapsed	Average Number of Days Elapsed
City	Hammond	4.0	146.0	36.5
	West Monroe	2.0	30.0	15.0
	<b>Subtotal City Courts</b>	<b>6.0</b>	<b>176.0</b>	<b>29.3</b>
District	Fifteenth Judicial District (Lafayette)	3.0	12.0	4.0
	Fourth Judicial District (Ouachita)	4.0	144.0	36.0
	Ninth Judicial District (Rapides)	5.0	166.0	33.2
	<b>Subtotal District Courts</b>	<b>12.0</b>	<b>322.0</b>	<b>26.8</b>
Juvenile	Caddo	8.0	227.0	28.4
	East Baton Rouge	12.0	440.0	36.7
	Jefferson	9.0	36.0	4.0
	Orleans	23.0	699.0	30.4
	<b>Subtotal Juvenile Courts</b>	<b>52.0</b>	<b>1,402.0</b>	<b>27.0</b>
<b>Total All Courts</b>		<b>70.0</b>	<b>1,900.0</b>	<b>27.1</b>

Source: Prepared by Legislative Auditor's staff using information gathered from court records.

**Average Number of Days Elapsed Between  
Filing of Petitions and Appearance Hearings  
Sample Cases**

<b>Court Type</b>	<b>Jurisdiction</b>	<b>Number of Cases Sampled</b>	<b>Total Number of Days Elapsed</b>	<b>Average Number of Days Elapsed</b>
City	Hammond	N/A	N/A	N/A
	West Monroe	N/A	N/A	N/A
	<b>Subtotal City Courts</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
District	<i>Fifteenth Judicial District (Lafayette)</i>	N/A	N/A	N/A
	<i>Fourth Judicial District (Ouachita)</i>	N/A	N/A	N/A
	<i>Ninth Judicial District (Rapides)</i>	N/A	N/A	N/A
	<b>Subtotal District Courts</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
Juvenile	Caddo	8.0	180.0	22.5
	East Baton Rouge	10.0	1,248.0	124.8
	Jefferson	10.0	531.0	53.1
	Orleans	1.0	67.0	67.0
	<b>Subtotal Juvenile Courts</b>	<b>29.0</b>	<b>2,026.0</b>	<b>69.9</b>
<b>Total All Courts</b>		<b>29.0</b>	<b>2,026.0</b>	<b>69.9</b>

N/A: Appearance hearings are not applicable for city or district courts.

Source: Prepared by Legislative Auditor's staff using information gathered from court records.

**Average Number of Days Elapsed Between  
Filing of Petitions and Adjudications  
Sample Cases**

Court Type	Jurisdiction	Number of Cases Sampled	Total Number of Days Elapsed	Average Number of Days Elapsed
City	Hammond	4.0	103.0	25.8
	West Monroe	2.0	187.0	93.5
	<b>Subtotal City Courts</b>	<b>6.0</b>	<b>290.0</b>	<b>48.3</b>
District	Fifteenth Judicial District (Lafayette)	3.0	169.0	56.3
	Fourth Judicial District (Ouachita)	4.0	192.0	48.0
	Ninth Judicial District (Rapides)	5.0	136.0	27.2
	<b>Subtotal District Courts</b>	<b>12.0</b>	<b>497.0</b>	<b>41.4</b>
Juvenile	Caddo	8.0	760.0	95.0
	East Baton Rouge	11.0	3,481.0	316.5
	Jefferson	11.0	984.0	89.5
	Orleans	24.0	2,349.0	97.9
	<b>Subtotal Juvenile Courts</b>	<b>54.0</b>	<b>7,574.0</b>	<b>140.3</b>
<b>Total All Courts</b>		<b>72.0</b>	<b>8,361.0</b>	<b>116.1</b>

Source: Prepared by Legislative Auditor's staff using information gathered from court records.

**Average Number of Days Elapsed Between  
Adjudications and Disposition Hearings  
Sample Cases**

<b>Court Type</b>	<b>Jurisdiction</b>	<b>Number of Cases Sampled</b>	<b>Total Number of Days Elapsed</b>	<b>Average Number of Days Elapsed</b>
City	Hammond	3.0	0.0	0.0
	West Monroe	2.0	66.0	33.0
	<b>Subtotal City Courts</b>	<b>5.0</b>	<b>66.0*</b>	<b>13.2</b>
District	Fifteenth Judicial District (Lafayette)	3.0	0.0	0.0
	Fourth Judicial District (Ouachita)	4.0	73.0	18.3
	Ninth Judicial District (Rapides)	3.0	63.0	21.0
	<b>Subtotal District Courts</b>	<b>10.0</b>	<b>136.0*</b>	<b>13.6</b>
Juvenile	Caddo	8.0	418.0	52.3
	East Baton Rouge	8.0	654.0	81.8
	Jefferson	10.0	748.0	74.8
	Orleans	22.0	62.0	2.8
	<b>Subtotal Juvenile Courts</b>	<b>48.0</b>	<b>1,882.0</b>	<b>39.2</b>
<b>Total All Courts</b>		<b>63.0</b>	<b>2,084.0</b>	<b>33.1</b>

\* The majority of the Dispositional Hearings in these courts were held immediately after adjudication

Source: Prepared by Legislative Auditor's staff using information gathered from court records.

**Average Number of Days Elapsed Between  
Disposition Hearings and First Reviews  
Sample Cases**

Court Type	Jurisdiction	Number of Cases Sampled	Total Number of Days Elapsed	Average Number of Days Elapsed
City	Hammond	4.0	689.0	172.3
	West Monroe	1.0	234.0	234.0
	<b>Subtotal City Courts</b>	<b>5.0</b>	<b>923.0</b>	<b>184.6</b>
District	Fifteenth Judicial District (Lafayette)	N/A	N/A	N/A
	Fourth Judicial District (Ouachita)	N/A	N/A	N/A
	Ninth Judicial District (Rapides)	N/A	N/A	N/A
	<b>Subtotal District Courts</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
Juvenile	Caddo	7.0	2,236.0	319.4
	East Baton Rouge	12.0	2,509.0	209.1
	Jefferson	11.0	2,805.0	255.0
	Orleans	23.0	5,561.0	241.8
	<b>Subtotal Juvenile Courts</b>	<b>53.0</b>	<b>13,111.0</b>	<b>247.4</b>
<b>Total All Courts</b>		<b>58.0</b>	<b>14,034.0</b>	<b>242.0</b>

N/A: Reviews were not analyzed for district court cases.

Source: Prepared by Legislative Auditor's staff using information gathered from court records.

## Appendix H: Reasons for Continuances for All Types of Hearings, Sample Cases

Court Type	Parents Absent	Status Conference	Parent's Attorney Absent	Child's Attorney Absent	Appoint Attorney for Child	Appoint Attorney for Parent	Homestudy	Other	Total Number of Reasons	No Reasons Found
Juvenile Courts	26	12	14	3	4	20	4	64	147	59
District Courts	2	0	1	0	0	0	2	1	6	10
City Courts	0	0	4	0	0	2	0	2	8	5
<b>Total</b>	<b>28</b>	<b>12</b>	<b>19</b>	<b>3</b>	<b>4</b>	<b>22</b>	<b>6</b>	<b>67</b>	<b>161</b>	<b>74</b>
<b>Percentage of Total</b>	17.4%	7.5%	11.8%	1.9%	2.5%	13.7%	3.7%	41.6%	100.0%	

Source: Prepared by Legislative Auditor's staff using data gathered from court records.



# Appendix I: Delays Experienced Between Major Case Events

**Average Number of Days Delay Between  
Scheduled and Actual Dates for Continued Custody Hearings  
Sample Cases**

Court Type	Jurisdiction	Number of Cases Sampled	Total Number of Days Elapsed	Average Number of Days Elapsed
City	Hammond	4.0	0.0	0.0
	West Monroe	2.0	0.0	0.0
	<b>Subtotal City Courts</b>	<b>6.0</b>	<b>0.0</b>	<b>0.0</b>
District	Fifteenth Judicial District (Lafayette)	2.0	0.0	0.0
	Fourth Judicial District (Ouachita)	4.0	0.0	0.0
	Ninth Judicial District (Rapides)	5.0	0.0	0.0
	<b>Subtotal District Courts</b>	<b>11.0</b>	<b>0.0</b>	<b>0.0</b>
Juvenile	Caddo	8.0	27.0	3.4
	East Baton Rouge	12.0	116.0	9.7
	Jefferson	9.0	8.0	0.9
	Orleans	23.0	7.0	0.3
	<b>Subtotal Juvenile Courts</b>	<b>52.0</b>	<b>158.0</b>	<b>3.0</b>
<b>Total All Courts</b>		<b>69.0</b>	<b>158.0</b>	<b>2.3</b>

Source: Prepared by Legislative Auditor's staff using information gathered from court records.

**Average Number of Days Delay Between  
Scheduled and Actual Dates for Appearance Hearings  
Sample Cases**

Court Type	Jurisdiction	Number of Cases Sampled	Total Number of Days Elapsed	Average Number of Days Elapsed
City	Hammond	N/A	N/A	N/A
	West Monroe	N/A	N/A	N/A
	<b>Subtotal City Courts</b>	N/A	N/A	N/A
District	Fifteenth Judicial District (Lafayette)	N/A	N/A	N/A
	Fourth Judicial District (Ouachita)	N/A	N/A	N/A
	Ninth Judicial District (Rapides)	N/A	N/A	N/A
	<b>Subtotal District Courts</b>	N/A	N/A	N/A
Juvenile	Caddo	8.0	105.0	13.1
	East Baton Rouge	10.0	1,081.0	108.1
	Jefferson	10.0	420.0	42.0
	Orleans	1.0	0.0	0.0
	<b>Subtotal Juvenile Courts</b>	<b>29.0</b>	<b>1,606.0</b>	<b>55.4</b>
<b>Total All Courts</b>		<b>29.0</b>	<b>1,606.0</b>	<b>55.4</b>

N/A: Appearance hearings are not applicable for city or district courts.

Source: Prepared by Legislative Auditor's staff using information gathered from court records.

**Average Number of Days Delay Between  
Scheduled and Actual Dates for Adjudication Hearings  
Sample Cases**

Court Type	Jurisdiction	Number of Cases Sampled	Total Number of Days Elapsed	Average Number of Days Elapsed
City	Hammond	4.0	35.0	8.8
	West Monroe	2.0	158.0	79.0
	<b>Subtotal City Courts</b>	<b>6.0</b>	<b>193.0</b>	<b>32.2</b>
District	Fifteenth Judicial District (Lafayette)	2.0	55.0	27.5
	Fourth Judicial District (Ouachita)	4.0	115.0	28.8
	Ninth Judicial District (Rapides)	5.0	21.0	4.2
	<b>Subtotal District Courts</b>	<b>11.0</b>	<b>191.0</b>	<b>17.4</b>
Juvenile	Caddo	6.0	316.0	52.7
	East Baton Rouge	7.0	1,897.0	271.0
	Jefferson	9.0	147.0	16.3
	Orleans	22.0	1,095.0	49.8
	<b>Subtotal Juvenile Courts</b>	<b>44.0</b>	<b>3,455.0</b>	<b>78.5</b>
<b>Total All Courts</b>		<b>61.0</b>	<b>3,839.0</b>	<b>62.9</b>

Source: Prepared by Legislative Auditor's staff using information gathered from court records.

**Average Number of Days Delay Between  
Scheduled and Actual Dates for Disposition Hearings  
Sample Cases**

Court Type	Jurisdiction	Number of Cases Sampled	Total Number of Days Elapsed	Average Number of Days Elapsed
City	Hammond	3.0	0.0	0.0
	West Monroe	2.0	0.0	0.0
	<b>Subtotal City Courts</b>	<b>5.0</b>	<b>0.0*</b>	<b>0.0</b>
District	Fifteenth Judicial District (Lafayette)	3.0	0.0	0.0
	Fourth Judicial District (Ouachita)	4.0	45.0	11.3
	Ninth Judicial District (Rapides)	3.0	63.0	21.0
	<b>Subtotal District Courts</b>	<b>10.0</b>	<b>108.0*</b>	<b>10.8</b>
Juvenile	Caddo	8.0	147.0	18.4
	East Baton Rouge	8.0	239.0	29.9
	Jefferson	10.0	357.0	35.7
	Orleans	22.0	106.0	4.8
	<b>Subtotal Juvenile Courts</b>	<b>48.0</b>	<b>849.0</b>	<b>17.7</b>
<b>Total All Courts</b>		<b>63.0</b>	<b>957.0</b>	<b>15.2</b>

\* The majority of disposition hearings in these courts were held immediately after the adjudication

Source: Prepared by Legislative Auditor's staff using information gathered from court records.

**Average Number of Days Delay Between  
Scheduled and Actual Dates for Review Hearings  
Sample Cases**

Court Type	Jurisdiction	Number of Reviews	Total Number of Days Elapsed	Average Number of Days Elapsed
City	Hammond	19.0	100.0	5.3
	West Monroe	5.0	288.0	57.6
	<b>Subtotal City Courts</b>	<b>24.0</b>	<b>388.0</b>	<b>16.2</b>
District	Fifteenth Judicial District (Lafayette)	4.0	268.0	67.0
	Fourth Judicial District (Ouachita)	1.0	67.0	67.0
	Ninth Judicial District (Rapides)	1.0	0.0	0.0
	<b>Subtotal District Courts</b>	<b>6.0</b>	<b>335.0</b>	<b>55.8</b>
Juvenile	Caddo	23.0	223.0	9.7
	East Baton Rouge	31.0	785.0	25.3
	Jefferson	50.0	689.0	13.8
	Orleans	70.0	1,251.0	17.9
	<b>Subtotal Juvenile Courts</b>	<b>174.0</b>	<b>2,948.0</b>	<b>16.9</b>
<b>Total All Courts</b>		<b>204.0</b>	<b>3,671.0</b>	<b>18.0</b>

Source: Prepared by Legislative Auditor's staff using information gathered from court records.

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## Appendix J: Cites From Louisiana Children's Code for Major Case Events

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Major Case Event	Children's Code Articles
Instant Order	619 - 621
Continued Custody Hearing	624 - 627
Petition	631 - 645
Appearance Hearing	646 - 650
Adjudication Hearing	659 - 667
Disposition Hearing	680 - 686
Case Review Hearing	687 - 700
Dispositional Review Hearing	701 - 711

Source: Prepared by Legislative Auditor's staff using the Louisiana Children's Code.

# Appendix K

## Agency Response



CHIEF JUSTICE  
PASCAL F. CALOGERO, JR.  
JUDICIAL ADMINISTRATOR  
HUGH M. COLLINS, PH.D.

# Supreme Court

STATE OF LOUISIANA  
301 LOYOLA AVENUE  
ROOM 109

New Orleans

70112-1887

TELEPHONE (504) 568-5747  
FAX (504) 568-5687

December 20, 1995

Daniel G. Kyle, Ph.D., CPA  
Legislative Auditor  
Office of the Legislative Auditor  
Post Office Box 94397  
Baton Rouge, Louisiana 70804-9397

Dear Dr. Kyle:

Thank you for the opportunity to review and comment on the draft of the Performance Audit of the Foster Care Court Process in selected juvenile, district and city courts throughout the state. We are confident that it will help to improve the courts and thereby benefit the children of the state.

Our comments are directed to only a few issues raised in the audit. Our first comment addresses the findings relating to the longer time taken by juvenile courts in processing foster care cases than in district or city courts. The juvenile courts in Caddo, East Baton Rouge, Orleans and Jefferson Parish handle the bulk of foster care cases. Many of these cases are serious in that they involve delinquency and probation as well as foster care issues. Thus, they require more preparation and court time than cases that are confined solely to abuse and neglect matters.

While the audit measures the time required to bring foster care cases to completion in the selected courts, it does not, and was not expected, to analyze how the vast differences in court structure, procedures and financing affect the timely processing and disposition of cases. Yet we know that many factors not included in the study substantially influence the timeliness of cases in the courts, including the number of judges, the total caseload carried by each judge, the nature of each caseload, the total workload of the court, and the resources available to each court. Slow service of process often contributes to delays as well.

We provide a table that partially explains the workload differences in the courts. Measuring court workload by filings is one means of comparing courts statewide. However, in juvenile courts, the number of new filings under-represents their workloads. A juvenile court may have 9,000 new filings in a given year, of which 150 are new foster care cases, but in Daniel

addition, the court must hold review hearings for 2,000 or more open cases from filings in previous years. The concentration of foster care, delinquency, and status offense cases that require repeated hearings undermines the validity of citing filings as totally representative of workloads.

The lack of resources is an additional problem in most juvenile courts. Generally, juvenile courts are under-funded. Sufficient legal representation is often difficult to obtain. For example, Orleans Parish Juvenile Court held more than 2,000 abuse and neglect hearings in 1993. Yet it has one indigent defense attorney per court section, and, in every case, must rely on pro bono attorneys who are in short supply and are sometimes poorly trained in juvenile law.

Our second comment relates to the specific problems relating to the discussion of time lapses within the East Baton Rouge Juvenile Court. Chapter Three of the audit notes that an agreement was reached in February 1993 enabling the East Baton Rouge Family Court to assist the EBR Juvenile Court in the processing of juvenile cases. The report implies that this agreement may have been a source of some delay in that it created difficulties in coordination between the two courts. We agree with the implied conclusion of the audit. This situation, however, has been resolved. Following the appointment of an additional juvenile court judge in January 1995, this agreement was terminated, and, as a result, case processing in the East Baton Rouge Juvenile has been substantially improved.

Additionally, in 1993, the East Baton Rouge Juvenile Court began using a court automation system, the IBM AS400, to track juvenile delinquency cases. Since January 1994, new child in need of care cases have been entered in this system. The software permits the entry of docket activities, and includes minute entries, as well as relevant family history. These entries can be coded, thereby permitting more accurate and efficient data entry. This system is supported by an imaging component that photographs court orders and judgments from the Office of Community Services (OCS) for inclusion into the case file.

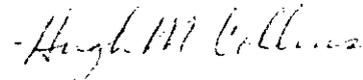
The third comment relates to the size and selection of the audit sample. The findings are limited to the 73 cases reviewed, and although the sample was randomly drawn, the selection of the courts was representative but non-random. Thus its results cannot be extrapolated to the entire population of

G. Kyle, Ph.D., CPA  
December 20, 19965  
Page 3

juvenile cases opened in 1993, or to the entire foster child population of Louisiana. Furthermore, in studying the sample courts, the audit correctly emphasizes the courts' vastly different approaches to the handling of abuse and neglect cases.

We appreciate the professional manner in which you conducted the study and interacted with our staff. We know that the information you have developed will be useful to the CARE project in its continuing efforts to improve the courts' processing of abuse and neglect cases.

Sincerely,



Hugh M. Collins, Ph.D.

Enclosure  
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cc: Honorable Ernestine S. Gray

TABLE 1

<b>JUDGES CASELOAD</b>				
<b>COURT</b>	<b>SAMPLE EXAMINED*</b>	<b>TOTAL FC CASES 1993*</b>	<b>TOTAL JUVENILE FILINGS**</b>	<b>TOTAL FILINGS**</b>
CADDO JUV	8	49	3,677	3,677
EBR JUV.	12	75	5,908	5,908
JEFF. JUV.	11	67	10,544	10,551
ORLEANS JUV.	24	159	9,016	9,016
4TH JDC	4	19	1,754	21,019
9TH JDC	5	22	389	19,126
15TH JDC	12	55	1,939	18,856
W.MONROE CITY COURT	2	5	120	5,440
HAMMOND CITY COURT	4	13	915	14,177
	*Source: Legislative Auditor's Report, December, 1995			
			**Source: Supreme Court Judicial Administrator's Office	