



Judicial Officer Survey

Court Improvement Program
2009

A Statewide Assessment of Representation

Judicial Officer Survey on Practice in Nevada Regarding NRS 432B Cases

Case management in abuse and neglect cases, including appointment of counsel, Guardian Ad Litem (GALs), Court Appointed Special Advocates, for children (CASAs) and compensation for appointed counsel for children and parents.


Prepared by

Court Improvement Program
Administrative Office of the Courts

Acknowledgements

The Court Improvement Program gratefully acknowledges the time and input from the District Court Judges and their appointed Juvenile Hearing Masters with NRS 432B calendars, who responded to this survey.

COURT IMPROVEMENT PROGRAM MISSION, PURPOSE, AND GOALS STATEMENT

The seal of the Supreme Court of Nevada is a large, faint watermark in the background. It features a central figure of Lady Justice, blindfolded and holding a scale of justice. The text "SUPREME COURT OF NEVADA" is arched across the top, and "FIAT JUSTITIA" is arched across the bottom.

"The Court Improvement Program is a multidisciplinary project which seeks improvement of interrelated systems that serve children and families who enter the child welfare system. The program operates through team-oriented court and agency initiatives. The goal of the CIP is to make the systems more effective."

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I. Survey Distribution

In mid-2009, this survey was distributed using eSurveysPro for the electronic survey or mailed to 34 Judicial Officers who had assignments that included presiding over abuse and neglect cases. Personal follow-up calls were made by the Court Improvement Program Coordinator to encourage participation. As of the cut off date (July 24, 2009) for the survey, 19 responses were received.

II. Summary

A. Judicial Demographics

Of the 19 respondents, 13 were District Court Judges (including one Senior District Court Judge) and 6 were Juvenile Hearing Masters, including 1 also serving as Justice of the Peace. This sample is representative of the statewide court system consisting of both metropolitan and rural judicial district courts. Across Nevada, abuse and neglect cases are largely being heard by very experienced Judicial Officers. Nearly half, 42% of the respondents have been hearing abuse and neglect cases for 15 years or more, 21% have been hearing abuse and neglect cases for less than 15 but more than 5 years, and 37% have been hearing abuse cases for less than 5 years.

B. Case Management ¹

Questions about individual case management practices and procedures were included to obtain a snapshot of the challenges in different Judicial Districts.

- More than (68%) of the Judicial Officers that responded said child abuse and neglect cases are counted by family. Only a quarter of the child abuse and neglect cases are counted by child.
- The number of cases heard by a Judicial Officer in a single month was relatively small, reflecting Nevada's demography, which consists of expansive rural areas

¹ Courts in the populace areas (Clark and Washoe Counties) have full time judicial assignments for abuse and neglect proceedings.

with scattered population and small towns, and two major population or urban areas (Clark and Washoe Counties).

- In the rural Judicial Districts, five Judicial Officers reported having as many as 3-5 days per month allocated to abuse and neglect cases. The median number of days per month assigned to these proceedings in Judicial Districts was 2 days.
- In addition to the four Judicial Officers who reported that they allocated 1 day per month to child abuse and neglect cases, two additional Judicial Officers reported these cases were scheduled “as needed” not on a regular calendar.
- Two courts (10%) reported they are assigned to hear child abuse and neglect cases during their law and motion calendar.
- In a single day, 58% of the Judicial Officers had between one and five hearings (e.g., adjudication, dispositional hearing, permanency, termination of parental rights, etc). Only one Judicial Officer reported hearing more than 20 separate abuse and neglect matters in a single day. All of this Judicial Officer’s caseload is abuse and neglect cases.
- On an annual basis, 74% reported abuse and neglect cases represented 20% or less of their total caseload.
- Only three of the responding Judicial Officers heard abuse and neglect cases exclusively.

C. Appointment of Guardian Ad Litem (GALs), Court Appointed Special Advocate (CASA), and Children’s Counsel

Judicial Officers were asked to respond to a series of questions regarding their policies and practices associated with appointment of GALs, CASA, and counsel for parties in abuse and neglect proceedings. More than half (53%) of the respondents indicated they appointed legal counsel to represent the children in every child abuse and neglect case. Counsel was appointed “as needed” by 21% of the Judicial Officers responding and one respondent indicated legal counsel is not accepting new cases. The Judicial Officers were asked how frequently they appoint a GAL/CASA (NRS 432B.505)² to children in abuse

² **NRS 432B.505 Qualifications of special advocate for appointment as guardian ad litem.**

1. To qualify for appointment as a guardian ad litem pursuant to [NRS 432B.500](#) in a judicial district that includes a county whose population is less than 100,000, a special advocate must be a volunteer from

and neglect cases. Almost half (48%) of the respondents said they do not have enough GAL/CASAs (non-lawyer volunteers) to appoint for every child or sibling group. Only 26% said they appointed a GAL/CASA volunteer in every case.

In determining whether to appoint legal counsel to a specific child there was consensus among the Judicial Officers that they considered the following factors: the age of the child, how long the child had been in foster care, the permanency plan for the child, and the complexity of the case. Respondents provided additional factors for appointing counsel including:

- Appoint counsel when there are conflicts between the parents;
- Appoint counsel when more than one party is seeking custody;
- Appoint counsel when the child is reluctant to speak out in court; and
- Appointing counsel tends to decrease the amount of time necessary to achieve permanency.

The majority of appointments of counsel (68%) for children were made at the preliminary protective custody (72-hour emergency removal) hearing. One in six Judicial

the community who completes an initial 12 hours of specialized training and, annually thereafter, completes 6 hours of specialized training. The training must be approved by the court and include information regarding:

- (a) The dynamics of the abuse and neglect of children;
- (b) Factors to consider in determining the best interests of a child, including planning for the permanent placement of the child;
- (c) The interrelationships between the family system, legal process and system of child welfare;
- (d) Skills in mediation and negotiation;
- (e) Federal, state and local laws affecting children;
- (f) Cultural, ethnic and gender-specific issues;
- (g) Domestic violence;
- (h) Resources and services available in the community for children in need of protection;
- (i) Child development;
- (j) Standards for guardians ad litem;
- (k) Confidentiality issues; and
- (l) Such other topics as the court deems appropriate.

2. To qualify for appointment as a guardian ad litem pursuant to [NRS 432B.500](#) in a judicial district that does not include a county whose population is less than 100,000, a special advocate must be qualified pursuant to the standards for training of the National Court Appointed Special Advocate Association or its successor. If such an Association ceases to exist, the court shall determine the standards for training.

(Added to NRS by [1999, 2031](#))

Officers responded they appointed counsel for children at the pretrial/motion hearing with the same amount appointing counsel for children at the adjudicatory hearing.

Uniformly, when Judicial Officers appoint counsel for children, it is anticipated that the attorney will continue to represent the child for the duration of the case. The Judicial Officers reported counsel continues to represent the child in all cases. Their practice is to preserve the attorney client relationship by maintaining the same counsel for the duration of proceedings in their court.

D. Appointment of Counsel for Parents

Specific questions about judicial policy and practice regarding the rights of parents in abuse and neglect proceedings were also included in the survey. Most Judicial Officers (82%) reported that in “every case,” they advise all parents that they may request the court to appoint counsel for them in these proceedings, if they are financially unable to do so themselves.³ The frequency in which parents are appointed counsel in “most proceedings” and “every case” were the same with respondents indicating 37% of parents are appointed counsel in “every case” and 37% responded parents were appointed counsel in “most proceedings.” One respondent wrote there were not enough attorneys available to appoint to every case. Counsel is frequently appointed at either the preliminary protective custody (72-hour or emergency removal) hearing (47%), the adjudicatory hearing (37%), or the pretrial/motion hearing (11%).

If counsel is not routinely appointed for all parents in a child abuse and neglect case, the most important factors considered in deciding whether appointed counsel is necessary were:

- The filing of a petition to terminate parental rights (19%);
- The complexity of the case (19%);
- If there are outstanding criminal charges against the parent (16%);
- The length of time child has been in foster care (13%);

³ The assumption in all the questions regarding appointment was that the parents were found financially eligible or indigent.

- The age of the child (13%); and
- If parents are indigent (10%)

Other factors listed included non-English speaking parents (3%), mentally ill parents (3%), parent that is a minor (3%), and the Indian Child Welfare Act (3%).

When asked how frequently parents are represented by counsel in the Judicial Officer's primary judicial district, 58% responded they are "frequently" represented by counsel, 21% of parents are "always" represented by counsel, and 16% are "sometimes" represented by counsel. Only one Judicial Officer noted that parents were "rarely" represented by counsel in their primary judicial district.

E. Compensation for Court Appointed Counsel

Nevada courts relied on a combination of pro bono counsel, private appointed counsel, and public agencies to provide representation for children and parents. Respondents said counsel for children were compensated at an hourly compensation structure 37% of the time and 21% had counsel that is employed by a public entity. The responses were similar when the Judicial Officers were asked how counsel for parents was compensated. Nearly half were compensated at an hourly compensation structure and 22% had counsel that is employed by a public entity.

Counties assumed the responsibility for the cost of providing representation for parents in 78% of the Judicial Districts. Approximately 72% of appointed attorneys for parents and 68% for children were compensated at an hourly rate (\$75-\$100/hour) for specific designated service(s) or at the "statutory rate" as outlined in Chapter 7 of the Nevada Revised Statutes.⁴

⁴ **NRS 7.125 Fees of appointed attorney other than public defender.**

1. Except as limited by subsections 2, 3 and 4, an attorney, other than a public defender, who is appointed by a magistrate or a district court to represent or defend a defendant at any stage of the criminal proceedings from the defendant's initial appearance before the magistrate or the district court through the appeal, if any, is entitled to receive a fee for court appearances and other time reasonably spent on the matter to which the appointment is made of \$125 per hour in cases in which the death penalty is sought and \$100 per hour in all other cases. Except for cases in which the most serious crime is a felony punishable by death or by imprisonment for life with or without possibility of parole, this subsection does not preclude a governmental entity from contracting with a private attorney who agrees to provide such services for a lesser rate of compensation.

2. Except as otherwise provided in subsection 4, the total fee for each attorney in any matter regardless of the number of offenses charged or ancillary matters pursued must not exceed:

The majority of the funding for legal counsel for children, 58%, came from the County General Fund. One in five respondents said the funding came from a combination of county and state funding, as well some grant funding; 21% responded counsel for children are compensated by county contracts; and in two courts all representation was done by pro bono lawyers who were not compensated for their services.

The following are some examples of how local funding is being used:

- Counsel for parents in one metropolitan area is provided through the Special Public Defender's Office. Private counsel is appointed if the Special Public Defender's Office is not accepting new appointments.

(a) If the most serious crime is a felony punishable by death or by imprisonment for life with or without possibility of parole, \$20,000;

(b) If the most serious crime is a felony other than a felony included in paragraph (a) or is a gross misdemeanor, \$2,500;

(c) If the most serious crime is a misdemeanor, \$750;

(d) For an appeal of one or more misdemeanor convictions, \$750; or

(e) For an appeal of one or more gross misdemeanor or felony convictions, \$2,500.

3. Except as otherwise provided in subsection 4, an attorney appointed by a district court to represent an indigent petitioner for a writ of habeas corpus or other postconviction relief, if the petitioner is imprisoned pursuant to a judgment of conviction of a gross misdemeanor or felony, is entitled to be paid a fee not to exceed \$750.

4. If the appointing court because of:

(a) The complexity of a case or the number of its factual or legal issues;

(b) The severity of the offense;

(c) The time necessary to provide an adequate defense; or

(d) Other special circumstances,

↪ deems it appropriate to grant a fee in excess of the applicable maximum, the payment must be made, but only if the court in which the representation was rendered certifies that the amount of the excess payment is both reasonable and necessary and the payment is approved by the presiding judge of the judicial district in which the attorney was appointed, or if there is no such presiding judge or if he or she presided over the court in which the representation was rendered, then by the district judge who holds seniority in years of service in office.

5. The magistrate, the district court or the Supreme Court may, in the interests of justice, substitute one appointed attorney for another at any stage of the proceedings, but the total amount of fees granted to all appointed attorneys must not exceed those allowable if but one attorney represented or defended the defendant at all stages of the criminal proceeding.

[1:86:1875; A 1911, 318; 1945, 103; 1943 NCL § 11357] + [2:86:1875; BH § 2421; C § 2456; RL § 7541; NCL § 11358]—(NRS A 1963, 510; 1964, 8; 1965, 598; 1967, 1468; 1969, 478; 1973, 168; 1975, 1153; 1977, 419, 875; 1981, 874; 1983, 109, 1095; 1985, 1023, 1024; 1987, 1295; 1991, 2077; 1993, 2465; [2003, 442](#))

- County has a contract with the State Public Defender’s Office and a contract with a group of conflict counsel.
- One county enters into an annual contract with a local law office to represent all cases assigned for an annual fixed fee.

F. Standards/Criteria for Appointment

Criteria for appointment varied according to the availability of counsel and resources. Generally, Judicial Officers have not established formal criteria for appointing attorneys to represent either children or parents. The most common response to questions regarding criteria for appointment was that appointments were based on “availability.” While acknowledging limitations on the availability of counsel for appointment, other Judicial Officers stressed their desire to appoint “experienced lawyers.”

A few Judicial Officers discussed specific factors that influenced their appointments:

- Attorneys seeking to be appointed are required to “shadow” an experienced attorney in a dependency case prior to being considered for appointment. “Experience and training is of the utmost importance” to this Judicial Officer making appointments to represent either children or parents.
- One senior judge cited “passion for protection” as his criteria for appointing counsel for children, and “a demonstrated history of effective representation” as his criteria for appointment of counsel to parents.
- One county relies on the Children’s Attorney Project to choose the attorneys for the children. The attorney will be a CAP staff attorney or a pro bono attorney they have trained.
- Another county contracts with three local experienced attorneys to represent both parents and children; appointments are based on the parties’ residence; appointments are rotated to avoid conflict.
- Attorneys are appointed from the Special Public Defender’s Office. If they are not accepting new cases, private attorneys who have been approved by the county to handle these matters are appointed.
- Attorney’s ability to meet with parents on short notice to prepare for hearings.

G. Training

More than half (68%) of respondents said they have received training relating to abuse and neglect proceedings since January 2007. The statewide FOCUS ON KIDS training, sponsored by the Supreme Court (CIP) December 6-7-, 2007, was attended by more than two-thirds of the Judicial Officers.

When the Judicial Officers were asked if additional training would be helpful 11% of the Judicial Officers broadly expressed interest in receiving more training about federal laws and regulations. The next most frequently identified areas of interest for additional training were permanency options (9%), reasonable efforts (9%), mediation (9%), Nevada statutes (9%), and risk and safety assessments (8%). The majority of Judicial Officers (71%) were willing to set aside two days per year (e.g., at a conference) for training on these topics and 40% specifically preferred a statewide conference. In responding to questions about which training format they would prefer, one-third of the Judicial Officers endorsed using all the suggested methods, e.g., statewide conference, regional conference, and web-based training. Monthly updates from the State Bar Association were also suggested as one means of providing ongoing training.

III. Conclusion

As in other western states, Nevada's population is clustered around two populace areas and the remainder of the population is distributed among small towns of varying size and composition. Consequently, the majority of Nevada's Judicial Officers have assignments that include a mix of cases and calendars, which may include only a few dependency cases in any month. The urban judicial districts, which include Clark and Washoe Counties, responded in a single day, on an average abuse and neglect (and related matters) calendar, they hear between 6-20 separate matters, allowing the courts to have dedicated judicial assignments.

Nevada courts have not as of yet adopted standards or criteria for the appointment of counsel for either parents or children. Like many states, Nevada does not have a statewide system of appointing counsel for parents and relies on Judicial Officers and

county funding to ensure that counsel are properly appointed. At present, Nevada does not insure that all children are represented either by legal counsel or a trained GALs (NRS 432B.500)⁵. Nevada judges do not have sufficient CASA volunteers to appoint one for each child and in some districts, there are insufficient numbers of attorneys to represent all children. Washoe, Clark, Nye, and Churchill Counties all responded they do not have enough GAL/CASAs to appoint to every child.

The vast majority of Judicial Officers are advising parents that they may request court appointed counsel to represent them in the proceedings, provided they are indigent. A few courts mentioned that parents will occasionally hire their own attorneys and one respondent mentioned parents sometimes waive their right to counsel. The overall frequency in which parents are represented by counsel is high; out of the 19 responses received, not one judicial district responded they “never” have parents represented by counsel in their primary judicial district.

⁵ **NRS 432B.500 Appointment of guardian ad litem after filing of petition.**

1. After a petition is filed that a child is in need of protection pursuant to [NRS 432B.490](#), the court shall appoint a guardian ad litem for the child. The person so appointed:

(a) Must meet the requirements of [NRS 432B.505](#) or, if such a person is not available, a representative of an agency which provides child welfare services, a juvenile probation officer, an officer of the court or another volunteer.

(b) Must not be a parent or other person responsible for the child’s welfare.

2. No compensation may be allowed a person serving as a guardian ad litem pursuant to this section.

3. A guardian ad litem appointed pursuant to this section shall:

(a) Represent and protect the best interests of the child until excused by the court;

(b) Thoroughly research and ascertain the relevant facts of each case for which the guardian ad litem is appointed, and ensure that the court receives an independent, objective account of those facts;

(c) Meet with the child wherever the child is placed as often as is necessary to determine that the child is safe and to ascertain the best interests of the child;

(d) Explain to the child the role of the guardian ad litem and, when appropriate, the nature and purpose of each proceeding in the case;

(e) Participate in the development and negotiation of any plans for and orders regarding the child, and monitor the implementation of those plans and orders to determine whether services are being provided in an appropriate and timely manner;

(f) Appear at all proceedings regarding the child;

(g) Inform the court of the desires of the child, but exercise independent judgment regarding the best interests of the child;

(h) Present recommendations to the court and provide reasons in support of those recommendations;

(i) Request the court to enter orders that are clear, specific and, when appropriate, include periods for compliance;

(j) Review the progress of each case for which the guardian ad litem is appointed, and advocate for the expedient completion of the case; and

(k) Perform such other duties as the court orders.

(Added to NRS by 1985, 1379; A [1999, 2039](#); [2001 Special Session, 48](#))

Based on the responses the main source of funding for legal representation for both the children and the parents falls on the counties. The two urban areas (Clark and Washoe Counties) responded they receive their funding for legal representation for parents from the counties. A few Judicial Officers responded they received some funding for legal representation for children from grants, one court said they were able to use some grant funding for CASA volunteers.

The Judicial Officers recognize training in various areas of abuse and neglect proceedings including federal laws and regulations, ethics, Nevada Statutes, etc., are an important part of this process. Many of the Judicial Officers have attended trainings including the Las Vegas Model Court Training, sponsored by the National Council of Juvenile and Family Court Judges and the Annual Family Law Conference sponsored by the Administrative Office of the Court's Judicial Education Unit.

The information collected in this study will assist the Court Improvement for the Protection and Permanency of Dependent Children (CIP) strategic planning to improve practice in dependency proceedings, helping to ensure that children and parents receive competent representation, and identify training needs or desires for Judicial Officers. The survey has produced statewide baseline data from both the urban and rural areas, which can be used to guide in planning and funding.

APPENDIX A

Judicial Officer Survey: Questions and Answers

Judges and Judicial Officers
Legal Representation Practice in Nevada on Abuse and Neglect Cases (432B)

INTRODUCTION

This survey was conducted by the Nevada Court Improvement Project (CIP) at the direction of the Supreme Court. Among the priorities of Nevada’s strategic plan for improving practice in dependency proceedings is ensuring that children and parents receive competent representation and providing comprehensive training for judicial officers. When completed, this survey will produce statewide baseline data, which will be used to guide planning and funding. We need your input and experience in order to create an accurate picture that reflects all our courts, rural and urban.

Part I: Background Information

1. Identify your jurisdiction:

| Response | % of Respondents | Number of Respondents |
|-------------------------|------------------|-----------------------|
| District Court Judge | 68.42% | 13 |
| Juvenile Hearing Master | 26.32% | 5 |
| Justice of the Peace | 5.26% | 1 |

2. Just with respect to your role as a judicial officer in child abuse and neglect cases, in which county or counties do you spend **most** of your time? (Check all that apply, and use space at the end of this question in other, if you would like to give explanation around multiple counties that you serve.)

| Response | % of Respondents | Number of Respondents |
|-------------|------------------|-----------------------|
| Carson City | 3.57% | 1 |
| Churchill | 7.14% | 2 |
| Clark | 7.14% | 2 |
| Elko | 7.14% | 2 |
| Esmeralda | 3.57% | 1 |
| Eureka | 3.57% | 1 |
| Humboldt | 3.57% | 1 |
| Lander | 3.57% | 1 |
| Lincoln | 3.57% | 1 |
| Lyon | 10.71% | 3 |
| Mineral | 3.57% | 1 |
| Nye | 14.29% | 4 |
| Pershing | 3.57% | 1 |
| Storey | 3.57% | 1 |
| Washoe | 14.29% | 4 |
| White Pine | 7.14% | 2 |

3. As a Judge or Juvenile Hearing Master, how long have you been hearing abuse and neglect cases?

| Response | % of Respondents | Number of Respondents |
|--------------------|------------------|-----------------------|
| 15 years or more | 42.11% | 8 |
| Less than 5 years | 26.32% | 5 |
| Less than 10 years | 10.53% | 2 |
| Less than 15 years | 10.53% | 2 |
| Less than 1 year | 10.53% | 2 |

Part II: Case Management

4. In your court, how are child abuse and neglect cases counted?

| Response | % of Respondents | Number of Respondents |
|-----------------------------------|------------------|-----------------------|
| By Family | 63.16% | 12 |
| By Child | 21.05% | 4 |
| Mother's Name | 5.26% | 1 |
| By Petition | 5.26% | 1 |
| We count by families and children | 5.26% | 1 |

5. How many days per month are you assigned to hear only child abuse and neglect proceedings?

| Response | % of Respondents | Number of Respondents |
|--|------------------|-----------------------|
| 3-5 days | 26.32% | 5 |
| 1 day | 21.05% | 4 |
| ½ day | 10.53% | 2 |
| 2 days a month on average | 5.26% | 1 |
| As needed | 5.26% | 1 |
| Every other 2 weeks during law and motion. Evidentiary hearings on 432B cases are heard as needed. | 5.26% | 1 |
| On Law & Motion Calendar | 5.26% | 1 |
| Every Weekday | 5.26% | 1 |
| Upon assignment as Senior Judge | 5.26% | 1 |
| Varies based on # of evidentiary hearings; at least 15 a month. | 5.26% | 1 |
| Child abuse and neglect cases are scheduled along with all other matters. There is no separate abuse and neglect calendar. | 5.26% | 1 |

6. In a single day, on an average abuse and neglect (and related matters) calendar, how many **separate** matters (i.e., Preliminary Protective Custody Hearing (72-Hour or Emergency Removal Hearing), Pretrial Hearing and Motion, Adjudicatory Hearing, Dispositional Hearing, Semi-Annual and Review Hearing, Permanency Hearing, Guardianship Hearing, Termination of Parental Rights (TPR) Pretrial Hearing and Motion, TPR Hearing, Post-Termination Review Hearing, Post Termination Permanency Hearing, Adoption Hearing, etc.) do you hear?

| Response | % of Respondents | Number of Respondents |
|--------------|------------------|-----------------------|
| 1-5 | 57.89% | 11 |
| 6-10 | 21.05% | 4 |
| 11-20 | 15.79% | 3 |
| More than 20 | 5.26% | 1 |

7. On an annual basis, what percent of your **total** caseload represent child abuse and neglect cases?

| Response | % of Respondents | Number of Respondents |
|---------------|------------------|-----------------------|
| Less than 20% | 73.68% | 14 |
| 100% | 15.79% | 3 |
| 51-75% | 10.53% | 2 |

Part III: Appointment Practice for Children’s Counsel, CASA, GAL

8. How frequently do you appoint legal counsel to represent children in child abuse and neglect cases?

| Response | % of Respondents | Number of Respondents |
|--|------------------|-----------------------|
| Every Case | 52.62% | 10 |
| As needed | 21.05% | 4 |
| Half of the proceedings | 10.53% | 2 |
| 25-40% | 5.26% | 1 |
| 25% or less | 5.26% | 1 |
| Currently, they are not accepting new cases. | 5.26% | 1 |

9. How frequently do you appoint a GAL/CASA (NRS 432B.505) to children in abuse and neglect cases? (Two check boxes allowed.)

| Response | % of Respondents | Number of Respondents |
|--|------------------|-----------------------|
| Do not have enough GAL/CASAs to appoint for every child. | 47.83% | 11 |
| Every Case | 26.09% | 6 |
| As needed | 13.04% | 3 |
| 25% or less of the proceedings | 8.70% | 2 |
| Half of the proceedings | 4.35% | 1 |

10. Which of the following factors do you consider in deciding whether to appoint an attorney to represent a child? (Check all that apply.)

| Response | % of Respondents | Number of Respondents |
|---|------------------|-----------------------|
| All of the above, which include <i>age of the child, how long the child has been in foster care, permanency plan, and complexity of the case.</i> | 72.73% | 16 |
| Attorney appointed in all cases | 15.79% | 3 |
| We appoint in all cases. It tends to decrease the amount of time necessary to achieve permanency. | 4.55% | 1 |
| Conflicts between parents, more than one party seeking custody, reluctance of child to speak out in court, etc. | 4.55% | 1 |

11. What is the **earliest stage** that you appoint counsel for **children**?

| Response | % of Respondents | Number of Respondents |
|---|------------------|-----------------------|
| Preliminary Protection Custody (72-hour or Emergency Removal) hearing | 68.42% | 13 |
| Pretrial/Motion Hearing | 15.79% | 3 |
| Adjudicatory Hearing | 15.79% | 3 |

NOTE: No response for dispositional hearing, review hearing, permanency hearing, guardianship hearing, filing of the petition to terminate parental rights (TPR), or the hearing on termination of parental rights (TPR).

12. As a juvenile hearing master when appointing counsel to represent a child, does that counsel continue to represent the child for the duration of the case? As a judge, when you appoint counsel for a child, is it your practice to keep any previously appointed counsel for that child?

| Response | % of Respondents | Number of Respondents |
|----------|------------------|-----------------------|
| Yes | 94.44% | 17 |
| No | 0.00% | 0 |

Additional Comment:

- With the exception of termination of parental rights cases, which are heard by the district court. In those cases, the attorney for the child would have to be reappointed to the case by the district judge.

13. As a judge, when you appoint counsel for a child, is it your practice to keep any previously appointed counsel for that child?

| Response | % of Respondents | Number of Respondents |
|----------|------------------|-----------------------|
| Yes | 94.44% | 17 |
| No | 0.00% | 0 |

Additional Comment:

- Your question assumes the practice in Clark County; i.e. that the judge gets the case after it was with a master. Only Clark County does that. In Washoe County, whether appointed initially by a judge or master, the counsel will continue for the duration of the case. The cases do not transfer from master to a judge; the first judicial officer to get the case will have it for the life of the case.

Part IV: Appointment Practice for Counsel for Parents. These questions apply only to abuse and neglect proceedings, not the appointment of counsel for parents in criminal cases.

14. Do you regularly advise parents that they may request court appointed counsel to represent them in these proceedings, if they are indigent? (Two check boxes allowed)

| Response | % of Respondents | Number of Respondents |
|--------------------------------|------------------|-----------------------|
| Every case | 82.35% | 14 |
| Most proceedings | 11.76% | 2 |
| 25% or less of the proceedings | 5.88% | 1 |
| Half of the proceedings | 0.00% | 0 |

15. In your court, how frequently are **all parents** appointed counsel? (Two check boxes allowed.)

| Response | % of Respondents | Number of Respondents |
|--|------------------|-----------------------|
| Every Case | 36.84% | 7 |
| Most proceedings | 36.84% | 7 |
| Half of the proceedings | 10.53% | 2 |
| 25% or less of the proceedings | 10.53% | 2 |
| Do not have enough lawyers to appoint in every case. | 5.26% | 1 |

16. If counsel is not routinely appointed for all parents in a child abuse and neglect case, what are the most important factors considered in deciding whether appointed counsel is necessary? (Check all that apply)

| Response | % of Respondents | Number of Respondents |
|---|------------------|-----------------------|
| Complexity of the case | 19.35% | 6 |
| Filing of petition to terminate parental rights (TPR) | 19.35% | 6 |
| Other (specify) | 19.35% | 6 |
| Outstanding criminal charges | 16.13% | 5 |

| | | |
|--|--------|---|
| against the parent | | |
| Age of the child | 12.90% | 4 |
| Length of time child has been in foster care | 12.90% | 4 |

Other responses:

- Non-English speaking; mentally ill parents; parent who is a minor; ICWA.
- Although I checked “most” not all cases in Q. 16, counsel is not appointed **ONLY IF** the parent is not indigent. Otherwise, appointment will occur.
- Parents will occasionally hire their own attorney. Sometimes parents will waive their right to counsel. I appoint counsel to parents whenever they request an attorney and they cannot afford to hire their own.
- Availability of counsel.
- Counsel is always appointed unless the party retains their own attorney.
- Counsel is always appointed if the parents are indigent.

17. At what stage of the child abuse and neglect proceeding do you **most often** appoint counsel for **parent(s)**?

| Response | % of Respondents | Number of Respondents |
|---|------------------|-----------------------|
| Preliminary Protection Custody (72-hour or Emergency Removal) hearing | 47.37% | 9 |
| Adjudicatory Hearing | 36.84% | 7 |
| Pretrial/motion hearing | 10.53% | 2 |
| Filing of the petition to terminate parental rights (TPR) | 5.26% | 1 |

NOTE: No response for dispositional hearing, review hearing, permanency hearing, guardianship hearing, or the hearing on termination of parental rights (TPR).

18. In your **primary judicial district**, how frequently are parents represented by counsel?

| Response | % of Respondents | Number of Respondents |
|------------|------------------|-----------------------|
| Frequently | 57.89% | 11 |
| Always | 21.05% | 4 |
| Sometimes | 15.79% | 3 |
| Rarely | 5.26% | 1 |
| Never | 0.00% | 0 |

V. Compensation for Appointed Counsel in your Judicial District

19. How are counsels for children compensated?

| Response | % of Respondents | Number of Respondents |
|-------------------------------|-------------------------|------------------------------|
| Hourly Compensation Structure | 36.84% | 7 |
| Employed by public entity | 21.05% | 4 |
| Other (specify) | 21.05% | 4 |
| No compensation, pro bono | 10.53% | 2 |
| Do not know | 10.53% | 2 |
| Flat fee per case | 0.00% | 0 |

Other responses:

- County Contract-One attorney is counsel for all children in 432B cases.
- Contract with annual fee for all cases assigned.
- Contract with State Public Defender and contract with a group of conflict counsel.
- Counsel for children are contracted with and appointed for parents are paid an hourly rate of \$100 per hour.

19a. If your answer above was Hourly Compensation Structure, what is the amount per hour?

| Response | % of Respondents | Number of Respondents |
|--|-------------------------|------------------------------|
| \$100 per hour | 55.55% | 5 |
| Statutory rate for Public Defender's per NRS Chapter 7 | 33.33% | 3 |
| \$75 per hour | 11.11% | 1 |

20. How are counsels for parents compensated?

| Response | % of Respondents | Number of Respondents |
|-------------------------------|-------------------------|------------------------------|
| Hourly Compensation Structure | 52.63% | 10 |
| Employed by public entity | 21.05% | 4 |
| Other (Specify) | 15.79% | 3 |
| Flat Fee per case | 11.11% | 2 |
| No compensation, pro bono | 0.00% | 0 |
| Do not know | 0.00% | 0 |

Other responses:

- Contract with annual fee for all cases assigned.
- Currently, they are paid at \$100 per hour, but we are going to be using the public defender in most cases and privately appointed conflict counsel at \$100 per hour.
- Contract with State Public Defender and contract with a group of conflict counsel.

20a. If your answer above was Hourly Compensation Structure, what is the amount per hour?

| Response | % of Respondents | Number of Respondents |
|--|------------------|-----------------------|
| \$100 per hour | 63.63% | 7 |
| Statutory rate for Public Defender's per NRS Chapter 7 | 27.27% | 3 |
| \$75 per hour | 9.09% | 1 |

21. What is the source of funding for legal representation for children?

| Response | % of Respondents | Number of Respondents |
|-----------------|------------------|-----------------------|
| County Funding | 57.89% | 11 |
| Combination | 21.05% | 4 |
| Do not know | 10.53% | 2 |
| Grant Funding | 5.26% | 1 |
| Other (specify) | 5.26% | 1 |
| State Funding | 0.00% | 0 |

Other response:

- County funding through contracts with private counsel and the state public defender.

21a. If your answer above was Combination, please list combined sources of funding.

Responses:

- State and County Funding
- County and Grant Funding
- Mostly County Funding but we also use some Grant Funding fro CASA volunteers

22. What is the source of funding for legal representation for parents?

| Response | % of Respondents | Number of Respondents |
|-----------------|------------------|-----------------------|
| County Funding | 77.78% | 14 |
| State Funding | 11.11% | 2 |
| Combination | 5.56% | 1 |
| Other (specify) | 5.56% | 1 |
| Grant Funding | 0.00% | 0 |
| Do not know | 0.00% | 0 |

Other Response:

- County funding through contracts with private counsel and the state public defender.

22a. If your answer above was Combination, please list combined sources of funding.

Responses:

- State and County Funding
- County funding through contracts with private counsel and the state public defender.

23. What criteria do you use in deciding which attorney to appoint to represent a child in abuse and neglect proceedings? If you have any experience or training requirements, please describe. Please list in order of importance.

Short Responses:

- Availability
- Experience in abuse and neglect cases
- A passion for protection
- The case is complex
- There may be charges or there may be a termination
- They need or want an attorney
- Competency in area of child abuse and neglect cases
- We have a small pool of attorneys

Long Responses:

- We appoint Washoe Legal Services (WLS). WLS attorneys are employed full time by WLS for the purpose of representing the children. WLS makes the specific determination which of their attorneys to appoint.
- Appointment is through Washoe Legal Services. They are also responsible for training counsel.
- The attorney is selected by Legal Aid Center of Southern Nevada
- The county has a contract with one attorney in the judicial district to provide legal representation to all children in 432B cases.
- We rely on the Children's Attorney Project to choose the attorneys for the children. It will be either a CAP staff attorney or a pro bono attorney they have trained.
- We have a contracted attorney who is very experienced in abuse and neglect cases. Anyone who wants to be appointed would have to "shadow" an experienced attorney in a case before being appointed counsel. Experience and training is of the utmost importance.
- The County has a contract with three local experienced attorneys. They are appointed based on the location of the parties.
- There are no conflicts with parties in the case and prior experience in abuse and neglect cases.
- We use public defenders that are under contract. If I have to go outside due to conflicts, then I appoint on basis of experience in the area.
- The ability to meet with parents on short notice to prepare for hearings.
- The party that requires the highest level of representation is appointed to the Public Defender's Office; the party with the least is appointed a Conflict Attorney. The purpose of this is to help save county funds when possible.

24. What criteria do you use in deciding which attorney to appoint to represent a parent in abuse and neglect proceedings? If you have any experience or training requirements, please describe. Please list in order of importance.

Short Responses:

- Availability
- Overall Competency
- Public Defender
- Experience in abuse and neglect cases
- We have a regular group of experienced attorneys
- A demonstrated history of effective representation

Long Responses:

- Appointment is made from the Public Defender’s Office. If there is a conflict, the Alternate Public Defender will make the appointment. If there is further conflict, the Conflict Group administrative attorney will make the appointment.
- We appoint attorneys from the Special Public Defender’s Office. If they are not accepting new cases, we appoint private attorneys who have been approved by the County to handle these matters.
- The Public Defender’s Office and Alternate Public Defender’s Office train their own counsel
- The Washoe County Public Defender’s Office is appointed. If there is a conflict, they will arrange for conflict counsel.
- The County provides qualified names of attorneys. Each attorney is assigned to a courtroom and cases are assigned by rotation.
- We have a list of attorneys that are willing to accept these types of cases and attorneys are assigned randomly and based upon attorney availability.
- We have a contracted attorney who is very experienced in abuse and neglect cases. Anyone who wants to be appointed would have to “shadow” an experienced attorney in a case before being appointed counsel. Experience and training is of the utmost importance.
- The County has a contract with three local experienced attorneys. They are appointed based on the location of the parties.
- There are no conflicts with parties in the case and prior experience in abuse and neglect cases.
- We use public defenders that are under contract. If I have to go outside due to conflicts, then I appoint on basis of experience in the area.
- The ability to meet with parents on short notice to prepare for hearings.
- The party that requires the highest level of representation is appointed to the Public Defender’s Office; the party with the least is appointed a Conflict Attorney. The purpose of this is to help save county funds when possible.

Part VI: Training

25. Have you received any training since January 2007 relating to abuse and neglect proceedings?

| Response | % of Respondents | Number of Respondents |
|----------|------------------|-----------------------|
| Yes | 68.42% | 13 |

| | | |
|----|--------|---|
| No | 31.58% | 6 |
|----|--------|---|

26. If Yes, briefly describe the training you received by subject matter, sponsor and location.

- Las Vegas Model Court Training, April 1-2, 2009, NCJFCJ
- Las Vegas Seminar put on by Supreme Court
- Administrative Office of the Courts
- Court Improvement Project in Las Vegas
- Annual Judge's Family Law Conference
- Model Court Lead Judges Conference NCJFCJ
- Boston Breakthrough Collaborate
- Casey Nevada training by CIP
- Las Vegas State Bar of Nevada
- Len Edwards
- Child Abuse Neglect Institute through NCJFCJ
- Reno Model Court All Sites Conference through NCJFCJ
- CIP Model Court Training Conference, New Orleans, LA
- National Convening Conference, Washington, D.C.
- Washoe County Dept. of Social Services Round Table
- Reno Casey Breakthrough Collaborative
- Web Conference Call, Anaheim, California

27. Did you attend the "Focus on Kids" training sponsored by CIP in Las Vegas on December 6-7, 2007?

| Response | % of Respondents | Number of Respondents |
|----------|------------------|-----------------------|
| Yes | 68.42% | 13 |
| No | 31.58% | 6 |

28. If yes, did you attend as:

| Response | % of Respondents | Number of Respondents |
|-------------------------|------------------|-----------------------|
| Judge | 58.33% | 7 |
| Juvenile Hearing Master | 33.33% | 4 |
| Attorney | 8.33% | 1 |

29. Would additional training related to abuse and neglect proceedings be useful to you?

| Response | % of Respondents | Number of Respondents |
|----------|------------------|-----------------------|
| Yes | 88.89% | 16 |
| No | 11.11% | 2 |

30. If yes, check all those topics that you would be interested in additional training? (Check all that apply.)

| Response | % of Respondents | Number of Respondents |
|--|------------------|-----------------------|
| Federal laws and regulation (*ASFA, ICPC, ICWA, MEPA, CAPTA, etc.) | 11.11% | 13 |

| | | |
|--|-------|----|
| Nevada Statutes | 8.55% | 10 |
| Permanency Options | 8.55% | 10 |
| Reasonable Efforts | 8.55% | 10 |
| Mediation | 8.55% | 10 |
| Risk and Safety Assessment | 7.69% | 9 |
| Including the child's voice in court | 6.84% | 8 |
| Ethics | 5.98% | 7 |
| Substance Abuse | 5.98% | 7 |
| Termination of Parental Rights | 5.98% | 7 |
| Educational Rights of Children | 5.13% | 6 |
| Sexual Abuse | 4.27% | 5 |
| Domestic Violence | 3.42% | 4 |
| Child Development | 3.42% | 4 |
| Other (specify) | 3.42% | 4 |
| Age appropriate interviewing of children | 2.56% | 3 |

Other responses:

- Any would be good and appreciated
- Case Management
- I think there is a great opportunity to incorporate mediation into DCFS cases. Additionally, we need Dependency Drug Courts to help with addition in dependency cases.
- Physical abuse, medical testimony, rules of evidence in these matters

31. How much time could you set aside for training on the above topics?

| Response | % of Respondents | Number of Respondents |
|---------------------------------|------------------|-----------------------|
| 2 days a year (at a conference) | 64.71% | 11 |
| 8 hours per year | 11.76% | 2 |
| 4 hours per year | 11.76% | 2 |
| Other (specify) | 11.76% | 2 |
| 1 hour per month | 0.00% | 0 |

Other responses:

- Varies by heaviness of docket
- 2 days a year with monthly bench bar updates and topics

32. Where would you like training to be held?

| Response | % of Respondents | Number of Respondents |
|----------------------|------------------|-----------------------|
| Statewide Conference | 39.13% | 9 |
| Regional Conference | 21.74% | 5 |

| | | |
|-------------------------|--------|---|
| In my Judicial District | 4.35% | 1 |
| Via the Web | 4.35% | 1 |
| All of the above | 30.43% | 7 |

