

**Understanding the  
Child Abuse and Neglect  
Legal System**

**A Resource for School Staff, Service Providers,  
Law Enforcement, Foster Parents, Advocates, and  
Others Who Work With Children and Families**

## Why Is the Court Involved?

*The purpose of Children's Court is to keep children safe, to help families create a safe home for their children, and to create permanency in children's lives, either in their own homes or through adoption. The Children's Court is not designed to punish parents, and this court does not deal with criminal charges that are sometimes filed in these cases.*

In New Mexico, we have Children's Courts that are responsible for making critical decisions in child abuse and neglect cases. When these cases are brought to the Children's Court, the Judge decides whether or not child abuse or neglect, in fact, exists and whether the child may safely remain at home. The Children's Court Judge also decides whether custody of the child should be given temporarily to the state child welfare agency, the Children, Youth, and Families Department (CYFD).

If the child is placed in CYFD custody, the Children's Court Judge will monitor the case. The Judge may also order the family to get help and comply with their treatment plan. The Judge will hold a number of judicial hearings and reviews to make sure the child is safe and to make sure the family is complying with their treatment plan. At each hearing, the Judge will make a determination about whether or not efforts are being made to return the child home or to some other permanent arrangement such as adoption as soon as possible. Each of these hearings and reviews is described in this booklet.

Before we discuss those hearings, however, we need to present some information about how the existence of abuse or neglect might affect the child and the family.



# **How Does Abuse/Neglect Affect the Child and Family?**

## **The Child**

Children who have been abused or neglected may respond in many different ways – there is no standard profile. Typically, an abused or neglected child feels sadness, grief, and loss. The child may also feel responsible and guilty. For some children, it is difficult to trust or find comfort from any adult; other children may be extremely needy. An abused or neglected child is often angry, and that anger may be turned outward (in the form of tantrums, violence, aggressiveness) or inward (in the form of depression, self-destructive behaviors, substance abuse, even suicide). Sometimes the child may feel a sense of relief that someone knows what has been happening.

## **The Family**

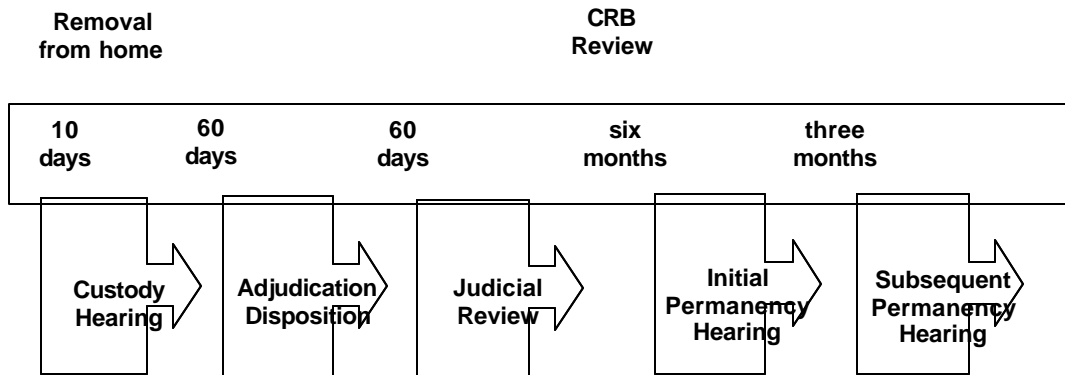
Child abuse or neglect in a family tends to be a secret. When abuse or neglect is reported, the family's secret is exposed and its functioning disrupted. The family's response at first may be denial and blaming. The parents may express anger at the CYFD Social Worker or look to another adult to blame, perhaps a teacher or someone else they suspect may have reported the abuse or neglect. Even the child victim could be blamed for "causing" the problem. When a child is removed from the family home, the disruption to the family is intensified. For everyone in the family there is a great deal of sadness and loss. And, it is important to remember that most parents who abuse or neglect their children still love them.

## **What can you do?**

Mostly, be observant. Watch the child's behavior and listen. If you notice that the child is having difficulty, you might talk to the child's CYFD Social Worker, the child's foster parents, or a professional working with the child. Don't talk to anyone else about the specifics of the case, however. It is important to protect the confidentiality of the child and the family.

## What Happens in Court in an Abuse/Neglect Case?

Most child abuse and neglect cases have at least four court hearings during the first year. The time lines for these events are spelled out in New Mexico's Children's Code.



### The Custody Hearing

Within ten working days of the child being removed from home, the Court will hold a **Custody Hearing**. At that hearing, the Judge will decide if the child should stay in the temporary custody of CYFD until the trial (adjudication) is held.

### The Adjudication and Disposition

The Adjudication or Adjudicatory Hearing is a trial before the Judge on the allegations involved in removing the child from home. It must be held within 60 days of the custody hearing. At this trial the Judge decides whether or not there is reason to find that the child has been abused or neglected. The Disposition or Dispositional Hearing is usually held at the same time as the Adjudication. If not, it must be held within 30 days. At this hearing, the Judge orders the treatment plan that the parents must follow in order to have the child returned home.

## **The Judicial Review**

Within 60 days of the Disposition, there will be a **Judicial Review** in Court. At that time, the Judge will review the case and make sure the treatment plan is being followed and that the parents and the Social Worker are all doing what has been ordered. If everyone agrees that the treatment plan needs to be changed, the Judge will order those changes.

## **The Initial Permanency Hearing**

The **Initial Permanency Hearing**, an extremely important event, is held within six months of the Judicial Review, or about 10 or 11 months after the child is removed from home. Before the case goes to the Initial Permanency Hearing, the local Citizens Review Board meets to review the case and make recommendations to the Judge. At the hearing, the Judge hears from the Social Worker, the child's attorney, the parents' attorney, and possibly the Court Appointed Special Advocate (CASA) and others about whether or not the child can be safely returned home.

## **The Subsequent Permanency Hearing**

If the Judge decides that the child can not be safely returned home, a **Subsequent Permanency Hearing** is held in three more months to decide if the child's permanency plan should be changed to adoption or some other permanent arrangement outside of the parents' home.

## **Subsequent Judicial Reviews**

If a child remains in custody after the Subsequent Permanency Hearing, there will be a **Judicial Review** in court every six months thereafter, until the case is dismissed. At each review, the **Judge** will consider the appropriateness of the child's permanency plan and make sure that reasonable efforts are being made to implement the plan. The local Citizen Review Board will also continue to review the case approximately every six months for the life of the case.

## Who Else Might Be Involved in an Abuse/Neglect Case?

In addition to the oversight of the Children's Court Judge, many other individuals may be involved in different aspects of a child abuse or neglect case, including:



- the CYFD Social Worker
- the child's attorney (GAL)
- the parents' attorney
- the Children's Court Attorney
- the child's foster family
- the Court Appointed Special Advocate (CASA)
- the local Citizen Review Board (CRB)

### The CYFD Social Worker

There are usually two social workers involved in different stages of an abuse/neglect case. The **Investigation Social Worker** investigates reports of abuse or neglect and decides whether or not the report should be substantiated. He or she will make a recommendation about removing the child from the home and write an affidavit explaining the circumstances of the case for the Children's Court. The Investigation Worker may also make preliminary recommendations about what the family will need in order to be reunified. The **Treatment Social Worker** works with the family to develop a treatment plan, which lists the steps that must be taken for the child to return home. The Treatment Worker visits the child and the family regularly and monitors progress on the treatment plan. The Treatment Worker reports on that progress to the Children's Court Judge.

### The Child's Attorney

The child will have an attorney appointed by the Court; this attorney is called a **Guardian ad Litem (GAL)**. The GAL is required to meet with the child and others involved in the case and report to the Court about what is best for the child.

## **The Parents' Attorney**

Parents involved in abuse/neglect cases are named as *respondents*. Respondents have the right to have an attorney and, if they cannot afford one, an attorney will be appointed by the Court. The **Respondent Attorney** is required to meet with the parents, help them understand their rights, and represent their wishes in Children's Court.

## **The Children's Court Attorney**

CYFD is also represented by an attorney, the **Children's Court Attorney**. The Children's Court Attorney puts the basic facts of the case into writing and presents them to the Judge. In Court, the Children's Court Attorney argues CYFD's case as to why the child should, or should not, be in custody.

## **The Foster Family**

When a child's safety requires that he or she be removed from home, CYFD must find a placement for that child. The Department's first choice is to place the child with relatives when possible. If that's not possible, the child will likely be placed in a family-like setting with **foster parents** who have been trained and licensed to provide safe and stable care for the child.

## **The Court Appointed Special Advocate (CASA)**

The Judge may appoint a **Court Appointed Special Advocate (CASA)** in a child abuse/neglect case. The CASA is a trained volunteer who meets with the child and others involved in the case. The CASA prepares a report to the Court about how the child is doing and makes recommendations about what is believed to be in the child's best interest.

## **The Local Citizen Review Board (CRB)**

The **Citizen Review Board (CRB)** is a group of trained volunteers from the community. If an abuse/neglect case stays in Court long enough to reach an initial Permanency Hearing, the CRB will meet to review the case and make recommendations to the Judge. Everyone involved with the case, including the parents and all attorneys, will be invited to talk to the CRB at that review or to send in written comments. Input from foster parents, service providers, and school staff is also invited.

## **Why This Booklet? How Might I Be Involved?**

As an advocate for children, a foster parent, teacher, counselor, health or mental health provider, or other professional working with a child or family, you could be an important person in the life of an abused or neglected child.

As such, it may be helpful to brief you about the child abuse and neglect legal system and the other systems involved with these children and their families. This booklet is intended to explain the major judicial events in a child abuse or neglect case. The legal time frames are outlined and the purpose of each hearing is summarized. The various people who could be involved in the case are described. Perhaps most importantly, the potential impact of child abuse and neglect and foster care on the child and the family is discussed.

Here's how to reach some organizations that may be of assistance:

- CYFD Statewide Central Intake: 1-800-797-3260
- CYFD Foster a Future Program: 1-800-432-2075
- New Mexico CASA Network: 1-888-543-2272
- New Mexico Citizen Review Board Project: 1-888-836-2020



**PREPARED BY SHAENING AND ASSOCIATES, INC. AND  
THE NEW MEXICO SUPREME COURT'S COURT IMPROVEMENT PROJECT TASK FORCE**

**Funding provided by the U.S. Department of Health and Human Services - Administration  
for Children and Families, the N.M. Children, Youth & Families Department,  
The Annie E. Casey Foundation, and the State of New Mexico**

For further information about the Supreme Court Foster Care Task Force and the  
New Mexico Court Improvement Project, contact Robert J. Klein, Project Manager,  
Administrative Office of the Courts, 505-827-4808 or aocrjk@nmcourts.com