

September 27, 2000

Members of the Health and Human Services Interim Committee
Members of the Child Welfare Reform Legislative Oversight Panel
State Capitol Building
Salt Lake City UT 84114

Subject: Adoption Time Requirements (Report #2000-05)

Dear Legislators:

Foster parents who adopt their foster children have expressed frustration with delays in the adoption process. We were asked to evaluate if their dissatisfaction stems from non-compliance with statutory time requirements. We believe adoptive foster parents are justified in their dissatisfaction with the time state adoption procedures take. A limited test indicates that for 17 adoption cases, 71 percent exceeded statutory time limits. Utah's statutory time limits are intended to expedite the process of placing children with permanent families and promote adoptions when appropriate for the child.

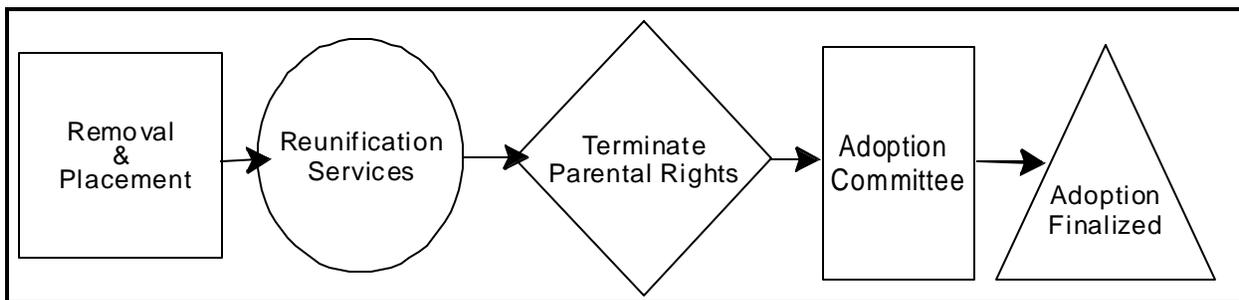
Utah statutes include two important time requirements intended to secure a permanent living arrangement and promote adoption for children in a timely manner. First, statutes limit the time period during which reunification services may be provided to birth parents to not more than 12 months for children over two years of age and 6 months for children under age two. A second statutory time requirement is that a pretrial hearing must be held to begin court proceedings to terminate parental rights within 45 days of the permanency hearing where reunification services are ended. The first two sections of this report provide information about the state adoption process and an evaluation of 17 adoption cases testing if statutory time requirements were met. In the third section we discuss possible reasons for non-compliance. The last section identifies improvements and offers recommendations for the Legislature to consider.

Utah Code Imposes Time Restrictions on The State Adoption Process

The state protects children by imposing statutory time restrictions to move children through the state's foster care and adoption process in a timely manner. Generally, there are five processes leading to a foster child's adoption: removal and placement, reunification services, termination of parental rights, adoption committee placement decisions, and the legal proceedings necessary to finalize an adoption.

Some processes include activities that must occur within a statutorily required time frame while others do not. Two important time restrictions imposed to lessen the amount of time children are deprived of permanent living arrangements involve reunification services and terminating parental rights. The following discusses the processes that may lead from foster care to adoption and relevant statutory time restrictions.

Figure 1. State Adoption Process. Five processes leading to a foster child's adoption.



■ **Removal and Placement.** Within 24 hours after a child is initially removed from his/her home, DCFS convenes a team meeting and within 72 hours a shelter hearing is held before the juvenile court. If the court orders continued removal, an adjudication hearing must be held within 15 days and a dispositional hearing within 60 days of the shelter hearing to determine custody. If custody is given to DCFS, the child is placed in a foster home, and the court may order DCFS to provide reunification services to the parents. Generally, a child is placed with a potential adoptive foster family if there is any risk the child will not be returned home.

● **Reunification Services.** Within 45 days of receiving custody, DCFS develops treatment plans for both the parents and child including a concurrent adoption plan in the event reunification with the parents fails. Utah law limits the providing of reunification services to 6 or 12 months depending on the age of the child. The **Utah Code** states:

The time period for reunification services may not exceed 12 months from the date that the child was initially removed from his home...With regard to a child who is two years of age or younger at the time the court orders reunification services, the court shall order the discontinuance of those services after six months if the parent or parents have not made substantial efforts to comply with the treatment plan. (Utah Code 78-3a-311 (2)(c) and (e)).

Utah law allows the court to extend services an additional 90 days if reunification is probable within that period and it is in the child's best interests, but *in no event may reunification services extend beyond 15 months from the date the child was initially removed from his home (Utah Code 78-3a-312 (3)(a)).*

For birth parents who have not shown substantial compliance with the service plan, the attorney general representing DCFS petitions the juvenile court for a hearing to end reunification services and to change the child's permanence goal to adoption. A periodic review hearing must be held every 6 months. If a child is not returned to his parents at the 12-month hearing, the court must end reunification services and determine if adoption is the most appropriate final plan for the child. When reunification services are not ordered, the court must hold the hearing within 30 days.

◆ **Termination of Parental Rights.** The rights of a birth parent may be dissolved either voluntarily or involuntarily if a court finds terminating parents' rights to free the child for adoption would be in the child's best interests. The termination process begins with a petition for termination being filed with the court by the attorney general representing DCFS. Termination proceedings must begin shortly after ending reunification services.

State law requires—

If the final plan for the child is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the permanency hearing (Utah Code 78-3a-312(4)).

If necessary, a trial is held after the pretrial hearing. The judge is required to render a decision within 2 months although parents have the right to appeal the decision.

■ **Adoption Committee.** A regional adoption committee meets to select the adoptive family and then to authorize the adoption to proceed once the family is ready to finalize the adoption. The adoption committee places a child who is at risk of not returning home with a foster family who will consider adopting him or her. For a child whose permanency goal is adoption, DCFS must make intensive efforts to place her in an adoptive home within 30 days after the court has approved the adoption service plan.

▲ **Adoption Finalized.** After receiving adoption committee authorization, the adoptive parents petition the court to adopt the child, and the court finalizes the adoption. A final decree of adoption may not be entered until the child has lived in the adoptive home for 6 months.

Statutory Time Requirements Are Often Exceeded

A limited examination of 17 adoption cases indicates that both DCFS and the juvenile courts often do not comply with statutory time requirements. Our limited test of 13 randomly selected cases and 4 cases referred by adoptive parents indicates that 71 percent (12 of 17) of the cases exceeded one or both of the statutory time restrictions for ending reunification services or holding the pretrial hearing to terminate parental rights. It appears that adoptive foster parents are justified in the frustrations they expressed regarding delays in completing state adoptions.

In evaluating the timeliness of the adoption process for the 17 cases, we focused on two particular functions: reunification services and termination of parental rights. The **Utah Code** limits reunification services provided to birth parents to not more than 12 months for children over two years of age and 6 months for children under age two. Statutes also require that a pretrial hearing for terminating parental rights be held within 45 days of the permanency hearing where reunification services are ended.

We reviewed the files and interviewed DCFS caseworkers and Guardian ad Litem attorneys for 17 adoption cases to determine how much time each process involves and if the time limits were met. The following figure lists the approximate time used to complete each process for the 17 cases and identifies the cases that exceeded statutory time limits.

Figure 2. Months to Complete Each Process From Initial Removal to Adoption.
 Checks (✓) indicate 12 of 17 cases (71 percent) exceeded one or both of the statutory time limits for ending reunification services and holding the pretrial hearing to terminate parental rights.

Case	Age	A ■ ●	B ◆ C		D ■	E ▲	F
		Reunification Services*	Terminate Parental Rights		Adoption Committee	Adoption Finalized	Total Months
			Pretrial	Trial & Decision			
A	5	NA	✓ 2.1	3.5	6.6	1.1	13
B	1	✓ 8.7	✓ 2.9	1.3	1.1	.3	14
C	2	5.0	✓ 7.4	.6	0	2.6	15
D	0	✓ 13.3	0	1.9	2.5	1.1	19
E	0	✓ 15.5	0	0	3.4	.9	20
F	1	8.2	✓ 2.7	0	11.5	0	21
G	10	✓ 12.8	6.7	.7	.8	.8	22
H	6	10.9	1.0	4.5	1.4	4.3	22
I	4	✓ 15.6	✓ 5.2	.8	.5	1.4	24
J	4	8.6	.9	1.3	11.5	2.1	24
K	0	✓ 18.2	✓ 2.7	0	.2	3.4	25
L	8	✓ 21.7	✓ 2.0	4.2	0	1.0	29
M	0	11.5	3.1	4.6	14.3	.2	34
N	3	11.8	0	† 7.3	9.2	.1	36
O	5	11.6	NA	NA	NA	.5	58
P	5	9.8	✓ Pending	Pending	Pending	Pending	Pending
Q	5	NA	✓ 6.9	10.7	Pending	Pending	Pending
Average Months		12.2	3.0	2.7	4.0	1.3	25.9

* Months from initial removal until juvenile court ended reunification services.
 NA not applicable—indicates the process was either unnecessary or information was unavailable.
 † An additional 8 months elapsed while an appeal to terminate parental rights was pending.

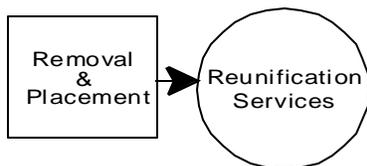
As columns A and B in Figure 2 show, 12 of the 17 (71 percent) adoption cases exceeded one or both of the statutory time limits for ending reunification services or holding the pretrial hearing to terminate parental rights. Specifically, 7 cases did not comply with laws limiting reunification services, and 9 cases did not hold a pretrial hearing to terminate parental rights within the required time period. These violations appear to

justify the frustration adoptive foster parents expressed regarding delays in the state adoption process.

The sample cases reviewed conveyed the complexities involved in state adoptions and that timeliness issues are very often unique to each case. For example, two cases that included the most number of months until the children were adopted complied with statutory time requirements but were lengthened for other reasons. For case “O”, most of the 58 months that elapsed until the adoption was finalized involved efforts to locate one home suitable for both the child and his two siblings—all three who had severe behavior problems. After placements were unsuccessful, first with a relative and then with an adoptive foster family, a second foster family adopted all three children. Similarly, case “N” involved a child whose adoption was not finalized for 36 months and then one family adopted the child and all 6 of her siblings. The adoption was delayed for 8 months while the birth mother appealed the courts decision to terminate parental rights.

Another case that demonstrates the complexities of cases involving timeliness involved a case where the adoption is still pending. Case “P” exceeded the 45 day limit on holding a pretrial hearing to terminated parental rights while attempts were made to place the child with tribal members located outside of the United States. The termination hearing was delayed intentionally because an international transfer would have been more complex and taken more time had parental rights already been terminated.

Although a case’s duration and exceeding statutory time requirements do not necessarily indicate a mishandled adoption case, they point out system weaknesses. The next section discusses in more detail each segment of the adoption process and concerns identified while evaluating each case.



Reunification Services Exceeded Statutory Limits

Almost half (7 of 17) of the cases reviewed exceeded the statutory requirement limiting reunification services provided to birth parents to not more than 12 months for children over two years of age and 6 months for children under age two.

In the cases reviewed, both DCFS and the juvenile courts were responsible for delays in ending reunification services. For 5 of the 7 cases that exceeded statutory time limits, the attorney general representing DCFS failed to file a petition within the required time frame requesting the court to take action to end reunification services and change the child's goal to adoption. Even if the attorney representing DCFS filed a petition close to the 6 or 12 month limit, they still must leave sufficient time for the court to hold a hearing. In 5 of the 7 cases exceeding the reunification time limits, the courts also contributed to a significant portion of the delays in deciding to end reunification services.

In some cases, both DCFS and the juvenile courts were slow in acting on the same case. For example, case "L" (shown in Figure 2) included the greatest amount of time until reunification services were ended, almost 22 months or 10 months beyond the 12 months allowed by statute. In this case, the attorney representing DCFS was more than 3 months late in filing the petition. DCFS has not tracked how much of the delay was with the caseworker or with the attorney who actually filed the petition. The juvenile court took an additional 7 months before holding the hearing to end reunification services. Consequently, the time the child was in state custody was extended by 10 months which frustrated the adoptive foster parents. The foster mother felt that the delays were at the expense of the child's well being.

Reunification Time Limits for Very Young Children Need Clarification. Existing statutes limiting reunification services to 6 months for children age two years or younger may not clearly communicate the intent of the law. **Utah Code** 78-3a-311 (2)(e) states:

With regard to a child who is two years of age or younger at the time the court orders reunification services, the court shall order the discontinuance of those services after six months if the parent or parents have not made substantial efforts to comply with the treatment plan.

The intent of the **Utah Code** is to reduce the amount of time younger children are in a non-permanent relationship. Statutes allow the 6 month time period to begin from the day the court orders reunification services. However, the child can be removed from the home many months before the court orders reunification services. In comparison, the **Utah Code** requires the 12 month time period for children over two years of age to begin from the day the child is removed from the home. Consequently, the 6 month limit on reunification services for younger children may not actually reduce the amount of time until these younger children are in a non-permanent relationship.

Counting the 6 month limit on reunification services from when the court orders services and not from initial removal has led to extending the time until very young children are in a permanent relationship. Figure 3 (taken from our sample) identifies the amount of time from when the six children age two years or younger were removed from their home until the court ordered DCFS to provide reunification services. This time period averaged 3.6 months. The number of months reunification services were provided once the court ordered services averaged 8.9 months. Therefore, reunification services were not ended until an average of 12.6 months after children age two years or younger were removed from their home.

Figure 3. Delays in Ordering Reunification Services Extended the Time Until Children Under Age Two Were Adopted. Court delays in ordering services for children age two years or younger averaged 3.6 months and extended the time until reunification services were ended to 12.4 months after removal from their home.

Case	Age	Delay After Removal Until Court Ordered Services	Reunification Services Once Ordered	Removal Until Reunification Services Ended
B	1	0.4	✓ 8.3	8.7
D	0	1.5	✓ 11.7	13.3
E	0	2.7	✓ 12.7	15.5
F	1	2.9	5.3	8.2
K	0	9.0	✓ 9.2	18.2
M	0	5.2	† 6.3	11.5
Average Months*		3.6	8.9	12.6

✓ Checks indicate the cases where the 6 month statutory requirement was exceeded.

† Case preceded statutes effective date.

* Totals may include rounding errors.

In one instance, Case “K”, the court agreed to extend reunification services because the services being provided were not court ordered. Although DCFS provided reunification services soon after the child was removed from the mother, the judge agreed to extend services for an additional 6 months because the court had not officially ordered those

services. Reunification services were ended, and the child's permanence goal was changed to adoption 18 months after the child's initial removal. Services exceeded 6 months partly because the **Utah Code** allows the 6 months to be counted from when the court orders services instead of from initial removal.

To summarize, many cases exceeded statutory limits for providing reunification services both because the attorney representing DCFS did not file a timely petition and because the juvenile courts did not take legal action to end services. In addition, more restrictive time limits established for children age two years or younger need clarification to better assure that very young children are in permanent relationships sooner.



Pretrial Hearing for Terminating Parental Rights Exceeded Statutory Limits

Over half (9 of 17) of the cases reviewed in Figure 2 exceeded the statutory requirement that a pretrial hearing for terminating parental rights be held within 45 days after the hearing ending reunification services and changing the child's permanency goal to adoption.

For our sampled cases, the pretrial hearing to terminate parental rights was held an average of 3 months after reunification services were ended. This was double the 1.5 months (45 days) standard established by statute. Both DCFS and the juvenile courts were responsible for delays in meeting the requirement. For 4 cases, the attorney general representing DCFS did not file a petition requesting a court hearing within the 45 days requirement, and for 6 cases the juvenile courts delayed holding a pretrial hearing for at least another 45 days.

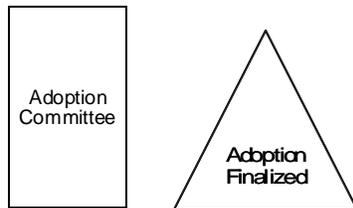
Time Limits Compelling the Court to Complete Termination Proceedings Are Needed. After the pretrial hearing is held, few statutes compel the court to complete the termination proceedings within a set time frame. Judges are required to render a decision within 2 months of completing the trial, but statutes do not mandate when the trial must be

completed. Consequently, the court may postpone the trial indefinitely once the 45 day pretrial hearing requirement is met. We believe setting time limits for completing termination trials may reduce the time children are deprived of permanent living arrangements.

The amount of time for completing termination proceedings appeared excessive for several of the cases we reviewed. As shown in Figure 2, the total amount of time from ending reunification services until parental rights were terminated averaged 5.7 months (columns B+ C). Although several cases were completed at the pretrial hearing, 6 cases took an additional 3 months or more to complete the proceedings and render a decision once the pretrial hearing was held.

Postponing termination proceedings and decisions have frustrated adoptive foster parents. For example, for Case “Q” listed in Figure 2, termination proceedings were drawn out for 17 months before the trial was completed and a decision was rendered. The trial was held 6 months after the pretrial hearing. The court did not render a decision until 4 months after the trial was completed. The adoptive foster parents involved with this case have been frustrated with court delays and decisions. First, they were frustrated because the judge returned the three children home on four separate occasions contrary to Utah Code 78-3a-311 (3) (b) stating—*there is a presumption that reunification services should not be provided to a parent if...the child has been removed from his home on a least two previous occasions.* Unfortunately, these adoptive foster parents now plan to adopt only two of the three children because the oldest child’s behavior has deteriorated. The adoptive foster mother believes the judge closed the window of opportunity for this child to have a normal life after ordering the children returned home for the fourth time. The adoptive parents were again frustrated because the judge did not render a decision on the completed trial within the 2 month statutory requirement.

In summary, both DCFS and the juvenile courts contributed to the delays in holding the pretrial hearing to terminate parental rights within the statutorily required time frame. Although the **Utah Code** requires the pretrial hearing be held within a set amount of time and that judges render a decision within 2 months of completing the court proceedings, there are no limits for when the trial must actually be completed. In our opinion, setting a limited time frame for completing termination proceedings is needed to hasten the adoption process.



Adoption Committee Decisions and Finalization Process Appeared Timely

The amount of time appeared reasonable to finalize adoptions once parental rights were terminated for the cases we reviewed. As columns D and E in Figure 2 show, the time until adoption committees authorized families to proceed with their adoptions averaged 4 months, and adoptions were finalized approximately 1 month later. Although few time restrictions are placed on finalizing adoptions, adoption committee decisions sometimes delay the process and frustrate adoptive families.

Regional adoption committees meet to make three decisions—foster family placement, adoptive family placement, and an authorization to proceed with an adoption. First, a committee meets to decide which foster family a child will be placed with. Children who are at risk of not returning home are placed with a legal risk foster family, a family that is willing to consider adopting them. Then, a committee decides the suitable adoptive placement. Ideally, the foster family is the adoptive family, and the child will not need to be moved to another placement. Finally, once parental rights are terminated, a committee authorizes the family to proceed with the adoption.

Two statutory time requirements involve adoption committees. First, DCFS is required to make intensive efforts to place a child in an adoptive home within 30 days after changing the child's permanency goal from reunification to adoption. Second, a child must have lived with the adoptive parents a minimum of 6 months before finalizing an adoption.

Adoption committees sometimes require that a child spend more time with the adoptive family before allowing them to proceed with the adoption. Adoption committees waited nearly a year or more before authorizing adoptions to proceed for three of the cases reviewed in Figure 2. Reviewing these cases generally disclosed reasonable explanations for the delays. For one case, delays could have been reduced had the committee selected the legal risk foster family instead of an out-of-state family to adopt. The committee's decision

delayed the child's adoption and upset the foster parents. In our opinion, the foster parents' concerns have merit.

The foster parents we spoke with felt the adoption committee's decisions were not in the best interest of their one-year-old foster child. They were frustrated with the committee's decision because they felt the child had already moved too many times. The final move would not have been necessary if the committee had selected the foster family instead of an out-of-state family to adopt. The out-of-state family selected by the committee had expressed an interest in adopting the child shortly after her removal because they had privately adopted the child's half-brother several years before. Because they lived out-of-state, they could not serve as foster parents and could only wait until parental rights were terminated. After parental rights were terminated, the committee instead selected a local relative to adopt but the adoptive placement failed. Although the child had lived with the foster family on and off for 11 months, the committee then selected the out-of-state family to adopt instead of the foster family. By favoring the child's relationship to the half-brother above the time spent with the foster family, the child's permanency was disrupted and the adoption was delayed further because state law requires a child to live in an adoptive home for a minimum of 6 months before an adoption can be finalized.

Causes for Exceeding Time Requirements

We believe exceeding statutory time limits occurs because both DCFS and the juvenile courts provide little oversight to assure compliance and do not adequately track the status of cases in relation to statutory time requirements. DCFS caseworkers report heavy workloads and employee turnover contribute to non-compliance. Juvenile court administrators report that judges also have heavy workloads, and compliance to statutory requirements is only self-administered. Because our work was limited, potential causes for exceeding time requirements are the result of interviews with caseworkers, judges and court administrators and are not related to the specific cases we reviewed.

Causes for DCFS Exceeding Time Requirements

Heavy workloads and employee turnover may have eroded procedures DCFS established to ensure compliance with statutory time requirements. Interviews with caseworkers indicate only the caseworker takes responsibility for ensuring statutory time frames are met and that procedures promoting compliance have been eliminated. For

example, although the SAFE computer program alerts caseworkers of impending deadlines, there are no repercussions for not responding to the computer alert. While procedures require that supervisors and regional managers must be notified whenever deadlines are missed, we were told that notifications rarely occur. In addition, DCFS recently eliminated a computer alert notifying caseworkers that they needed to take action to meet a statutory deadline. The alert was eliminated in an effort to reduce employee workload. However, eliminating procedures promoting compliance may increase the number of cases that exceed statutory time requirements and extend the time until children are adopted while doing little to reduce caseworker workloads.

Heavy workloads and high turnover may make it difficult for caseworkers to fulfill all the requirements necessary to move children through the foster care process as quickly as is statutorily required. Caseworkers report they must track the status of many cases and act on the statutory time requirements for each. Some caseworkers reported they have as many as 27 cases, far above the nationally recommended 15-18 cases. High employee turnover may also lead to non-compliance with time requirements. A division official provided us with data indicating turnover was 23 percent over a recent 10 month period. Remaining caseworkers often must assume former employee's caseloads because budget constraints prevent DCFS from hiring replacement workers. The possibility of exceeding time requirements increases when case information is not passed on to new caseworkers. Division officials believe turnover may be related to low Utah salaries when compared with neighboring states. They pointed out that low salaries are not consistent with the educational requirements and work demands required by the position.

Causes for Juvenile Courts Exceeding Time Requirements

The juvenile courts also report that heavy caseloads may make compliance with statutory time requirements difficult. The number of dependency, abuse and neglect cases increased almost 20 percent between 1998 and 1999. In addition, interviews with court administrators indicate the status of cases is not well tracked in relation to statutory time requirements. The court tracks the number of cases for which permanency hearings were held within the statutorily required time frame and the amount of time each judge takes to complete trials to terminate parental rights. However, they do not track the status of cases in relation to each statutory time requirement. For example, court statistics might show that 10 permanency hearings were held within the past month and all were within 12 months of when the children were initially removed from their home. However, they could not tell us if reunification services were ended at any of those hearings nor could they tell us

the status for a specific child. Court administrators are presently working on a better reporting system.

In addition, there are no controls compelling judges to comply with statutory time requirements. Accountability is mostly self-administered. The Office of the Guardian Ad Litem, which represents the state's foster children in juvenile court, reported filing writs to hold judges accountable for cases they felt were not handled appropriately. However, such actions occur after cases are completed and do little to move an individual case through the legal system within the statutorily required time frame.

To encourage compliance with statutory time requirements, we believe both DCFS and the juvenile courts should track the status of each out-of-home case especially in relation to compliance with requirements for ending reunification services and for holding the pretrial hearing to terminate parental rights.

Adoption Process More Timely

Although our evaluation identifies cases not meeting two statutory time requirements, studies show that both DCFS and the juvenile courts have improved their timeliness. DCFS has increased the number of adoptions and reduced the amount of time until children are adopted. By comparison, Utah's performance has exceeded most other states. In addition, the juvenile court is participating in several programs and implementing recommendations designed to speed up court proceedings. Although entities within and independent of DCFS appear to effectively monitor timeliness, requiring reports from DCFS and the juvenile courts regarding compliance to specific statutory time requirements may be beneficial.

More Children Were Adopted in Less Time

According to DCFS data, more children were adopted out of the child welfare system and, they spent less time in foster care until adoptions were completed. As shown in Figure 4, the number of children adopted increased from 283 in fiscal year 1997 to 383 in fiscal year 1999. At the same time, the average months an adoptive case was open decreased by almost 5 months. About half (49 percent) of the 1999 adoptions were by the child's foster family.

Figure 4. Number of Adoptions Increased and Average Months Cases Were Open Decreased. Since 1997, the number of adoptions increased 35 percent and the average time cases were open decreased 17 percent.

	FY 1997	FY 1998	FY 1999
Number Finalized Adoptions	283	345	383
Average Months Case Open	28.59	25.41	23.83

Source: DCFS Outcome Measures Report Fiscal Year 1999

Utah Leads in the Ratio of Children Adopted. National studies show Utah is a leader in the ratio of children who were adopted when compared with other states. According to the most recent comparison provided by the Child Welfare League of America (CWLA), in 1996 Utah ranked the fourth highest state in the number of children adopted per 1,000 children in out-of-home care. Although Utah ranked fourth in the number of children adopted, CWLA statistics also showed that Utah children waited longer in 1996 to be adopted when compared with a number of other states. CWLA reported only 5 of 25 states reported waiting longer than the 19 months Utah children waited from the time parental rights were terminated until adoptions were finalized. DCFS reports considerable improvement since CWLA comparisons were released. In fiscal year 1999, DCFS reported the average wait was reduced to only 10 months. Children in our sample averaged only 5.3 months from when parental rights were terminated until they were adopted.

Juvenile Court Timeliness Is Being Addressed. The Utah Juvenile Courts are participating in several programs to improve court timeliness. For the past two years the juvenile courts have been re-engineering the juvenile justice information system and continue to receive federal funding from the Juvenile Accountability Incentive Block Grant (JAIBG) designed to enhance information sharing and reporting on compliance with statutory time frames. Since 1995, the Juvenile Courts have also addressed timeliness by participating in a federally funded court improvement project designed to improve delays to court proceedings. The juvenile courts' ongoing self-evaluation has led to several recommendations designed to speed up the process. For example, the project steering committee recommendations included that judges strictly adhere with the 12 month statutory limit for holding a dispositional review hearing and that hearings for children likely to be placed for adoption should be set no more than 9 months after removal to enable the court to set a permanent termination trial much closer to the 12 months mark.

In addition, the steering committee recommended a tickler file be established for the courts designed to inform judges of each child's status and when the permanency hearing should occur. Both recommendations were being implemented, and further evaluations are planned to determine if changes have expedited the process.

Monitoring Entities Improve Procedures

In addition to improvements by DCFS and the juvenile courts, other entities are monitoring timeliness—including the Bureau of Services Review, the Office of Child Protection Ombudsman, and Foster Care Citizen Review Boards.

Bureau of Services Review (BSR) conducts compliance reviews and has identified timeliness problems and noted trends or improvements over time. For example, BSR monitored whether or not adoption workers had submitted to the attorney general information necessary for terminating parental rights within 60 days of establishing the adoption plan and within 15 days of submitting the necessary information requesting a hearing date if relinquishment had not been obtained. In addition, BSR recently initiated a qualitative case review to professionally appraise the adequacy of services for children in state care. Our office annually reviews a sub-sample of the BSR cases.

Office of Child Protection Ombudsman (OCPO) fields complaints and investigates whether an act or omission of DCFS with respect to a particular child is contrary to statute, rule or policy (**Utah Code 62A-4a-208**). Investigators have evaluated individual complaints and recommend improvements and policy changes that involve problems with the adoption process. For example, OCPO recommendations resulted in policy changes regarding Adoption Committee decisions, training of specific workers, and efforts to streamline foster provider applicant procedures.

Foster Care Citizen Review Boards (FCCRB) organize reviews of foster care cases by panels of trained volunteer citizens. Board reviews of 1,855, or 83 percent of the children in DCFS custody, have identified timeliness problems. For example, in its 1999 Annual Report, FCCRB identified problems with court delays or the length of time for the appeals process in 21 of 157 cases and the lack of legal action by the attorney general's office for 11 of 52 cases. They also evaluate if the child's permanency goal established by DCFS and the Court is appropriate and recommend changes.

Reporting Compliance With Statutory Requirements Is Needed. Although the entities monitoring timeliness appear to effectively identify concerns, no one identifies the status for each case in the system and if statutory time requirements are met. In our opinion, reporting the number of cases not meeting time requirements is needed to identify to what extent there is difficulty in complying with statutes.

In conclusion, while there have been substantial improvements in the timeliness of the state adoption process, our limited review of compliance with statutory time requirements indicates that adoptive foster parents are justified in their dissatisfaction. DCFS and the juvenile courts should account for compliance with these statutory time requirements.

Recommendations:

1. We recommend DCFS and the juvenile courts comply with the statutory time requirements for ending reunification services and for holding the pretrial hearing to terminate parental rights and report to the Legislature the number of cases not in compliance and provide an explanation for non-compliance.
2. We recommend the Legislature clarify the intent of the Utah laws limiting reunification services to 6 months for children ages two years and younger.
3. We recommend the Legislature evaluate the feasibility of adding additional time restrictions for completing the legal proceedings to terminate parental rights.

We hope this letter addresses your concerns in this area. A response from the Department of Human Services and State Juvenile Courts is included in this report. If you would like additional information or further clarification, please feel free to contact our office.

Sincerely,

Wayne L. Welsh
Auditor General



DIVISION OF

Child & Family Services

September 7, 2000

Mr. Wayne L. Welsh
Auditor General
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Box 140151
Salt Lake City, Utah 84114

Dear Mr. Welsh,

Thank you for the opportunity to respond to Report # 2000-05 Adoption Time Requirements. The Division of Child and Family Services appreciates the respectful and professional conduct of your staff throughout this audit. The adoption process is a complex part of the larger set of processes of Public Child Welfare. Your staff made significant efforts to explore, understand and communicate that complexity. The audit report, while finding concerns, also serves to educate its readers on a process important to the well being of children served by executive and judicial branch agencies in Utah.

We offer the following observations and comments to this audit:

- (1) The Division of Child and Family Services in cooperation with many provider agencies and the Juvenile Court has performed its adoption responsibilities with significantly increasing levels of success since 1997. The number of adoptions completed annually has increased while the time it takes to accomplish them has decreased. The audited sample does accurately reflect delays from statute. However, when Utah's performance is compared to national norms it is readily apparent that the system is performing significantly faster.
- (2) In examining the causes for exceeding statutory time limits the report discusses heavy workloads and high turnover as contributing factors. The report states that some caseworkers have caseloads as high as 27. This workload is higher than average for the Division, but significant turnover rates often drive individual caseloads above 20 while replacement caseworkers are being recruited, trained and mentored, (see Utah Code Annotated 62A- 4a-107 re: mentoring requirements).

The problem of staff turnover is primarily rooted in Social Worker compensation. The salaries, when compared to the educational requirements and work demands, do not serve to attract or retain a consistent pool of well-prepared child welfare practitioners. Studies by the University of Utah, The Child Welfare League of America and others have



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documented Utah’s pay dilemma for public child welfare social workers. The chart below depicts 1999 Utah pay compared to border states.

Salary Comparison – Utah to Neighboring States

State	Salary
Arizona	CPS Specialist – Level I \$25,263-\$34,352
Colorado	Social Caseworker – Level I \$39,270-\$57,990 – small counties \$43,284-\$57,990 – mid and large counties
Idaho	Social Worker \$30,264-\$44,512
Nevada	Social Worker – Level I \$30,403-\$40,955
Utah	Human Service Worker \$22,214-\$33,384

(3) The report also describes positive effects by DCFS and the other Utah child welfare system members in increasing the number of adoptions and speeding up the process since 1997. We appreciate this recognition. As a result of this work we have increased the number of children (and their adoptive families) receiving post adoption subsidies from 500 in 1995, to over 2,400 today.

(4) On August 9, 2000, the U.S. Department of Health and Human Services released its “report card” on individual state performance. The report was a requirement of the Adoption and Safe Families Act. The information is for Federal Fiscal Year 1998. The report gives DCFS and the Legislature the opportunity to compare Utah’s performance to national norms. The following chart depicts Utah’s performance. The time measurement is from the date the child was removed from their home until the adoption was finalized.

	National	Utah
< 12 months	5%	13%
12-23 months	11%	36%
24-35 months	16%	33%
36-47 months	19%	12%
48 + months	49%	6%
Total	100%	100%
Number	18,858	279

Eighty-two percent of Utah Adoptions are completed in less than three years compared to 32% nationally. Nationally nearly half of all children wait more than 4 years. The same report shows that in Utah only 13% of the children who enter foster care before their thirteenth birthday fail to be adopted or reunited with family. Nationally 35% fail to reach one of these forms of permanency.

(5) We do know that approximately 50% of all DCFS adoptions are made to the child’s foster parents. We have therefore developed and have begun implementation of a “single home study” procedure in cooperation with the DHS Office of Licensing and the Utah Foster Care

Foundation. This means that persons can switch between being considered for provision of foster care to being an adoptive parent with minimal delay and duplication of approval processes.

(6) Utah Code Annotated 62A – 4a - 103 serves as the charter for the Division of Child and Family Services. In describing our charge the statute calls for us to maintain the “integrity of family.” We are additionally charged with swiftly finding permanent homes for children. Annually 14% of all children who leave DCFS custody do so because they cannot be reunited with their parents, or relatives, and they are adopted. While we consider foster and adoptive parents as a vital resource to process of caring for Utah’s children, the majority of children are successfully protected and cared for by reunification and kinship efforts. The public child welfare system is not principally oriented toward finding children for the purpose of adoption, but rather children require adoption because the severity of their maltreatment or parental inability to respond to reunification efforts.

It is my experience that DCFS and the Juvenile Court take a highly individualized view of each child and each family. No formula approaches are used in either agency or court decision making. Therefore while statutory time limits are never intentionally violated, individualizing the decision making around each child and each family may lead to time lapses. Sometimes the lapses are due to assuring that both the child and the adoptive family are ready to make the lifetime commitment.

Again we appreciate the opportunity to review and comment on this audit.

Sincerely,

Ken Patterson, MSW

cc: Becky Oakley, DCFS Board Chair

Administrative Office of the Courts

Chief Justice Richard C. Howe
Chairman, Utah Judicial Council

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

September 22, 2000

Mr. Wayne Welsh
Auditor General
Office of the Legislative Auditor
130 State Capitol
Salt Lake City, Utah 84114

Re: Adoption Time Requirements - Report Number ILR 2000-05

Dear Mr. Welsh,

The Administrative Office of the Courts is pleased to have the opportunity to respond to the "Exposure Draft" of the Adoption Time Requirements Audit (Report No. ILR 2000-05) submitted this week. As you requested, we have not circulated the draft copy of the report that was supplied to us. In fact, the members of the Board of Juvenile Court Judges have not seen the report and have not had an opportunity to participate in the preparation of this response. We believe the Board of Juvenile Court Judges would appreciate an opportunity to provide information and input for your consideration. In the interim, this brief response is provided by the undersigned on behalf of the Juvenile Court Administration.

We also want to recognize the fine work of your staff in researching and preparing this report. They made significant efforts to understand and explain the complicated processes of child welfare cases. We found working with them on this project to be rewarding.

In response to the report, we first note that the auditors have provided some valuable information to court administrators through this audit. Administrators will use this information in their efforts to improve tracking of the timeliness of case processing. The auditors' case review has also prompted court administrators to consider conducting a similar study of cases in the five judicial districts outside the Wasatch Front to determine whether similar delays occur in these districts, which were not reviewed in the audit.

**The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.**

Time Restrictions and Compliance

It must be acknowledged that the data reported identifies a problem with time frame compliance. While the scope of the problem is unclear, especially outside the districts along the Wasatch Front, the problem of "delay" exists. One of the most concerning issues is that at present the Juvenile Court cannot produce data to establish the extent or frequency of these "delays." This is a deficiency that we recognize must be corrected.

While we are cognizant of these facts, it is also important to note that Utah courts process child welfare cases very quickly in comparison to most other states. In fact, as also noted in the response from Ken Patterson of DCFS, the period of months most children are in the system prior to adoption is much lower than most other states in the country. This strong point in Utah's system should be recognized.

Time Restrictions and Available Hearing Time

As is stated in the report, the Utah statutes identify a number of time limits that must be complied with. These are the three day Shelter hearing requirement, 60 day adjudication limit, 90 day maximum time to disposition, 12 month deadline for a permanency hearing, and the 45 day limit for a pretrial on a petition to terminate parental rights. Each of these requirements puts a burden on the court to adjust its calendar to find time for a mandated hearing. Some of these dates, of necessity, carry a greater weight than others.

Admittedly, all the requirements are statutory and must be complied with by the court. In fact, some are met better than others; some are probably complied with better in rural areas than they are in the heavily impacted urban areas surveyed. It is believed that the court's compliance with all these time frames is good, although not perfect, even in light of heavy, and continuously increasing, caseloads. (Child Welfare cases represent the fastest growing case type in the Utah courts, with a 25% increase being experienced in the last fiscal year alone.) Unfortunately, the court administrators are not able to determine where there are substantial problems and where there is complete compliance. What is known is that the amount of the court's time that is devoted to these cases has steadily increased since 1994. The most recent data available to court administrators demonstrates that child welfare cases, which comprise less than ten per cent of the court's total filings, are given more than 40 per cent of the available court time. This allocation, while necessary, demonstrates the amount of time required by these cases.

The Court's Duty and Improvements

Despite the burden of this increasing caseload, the statutory time requirements are clear. The Juvenile Court can ensure compliance with those requirements only if cases are tracked adequately and problem cases are identified. The identification of areas of delay as well as specific problems is necessary to guarantee full compliance.

Court administrators do not presently have the ability to easily identify when cases are far outside of the statutory time requirements, however, the court is continually seeking ways to identify and avoid delay. One of the most important projects in this respect is the effort currently underway to redesign the court's computer system. The current system, which pre-dates the Child Welfare Reform Act of 1994, tracks delinquency matters well but is quite ineffective with regard to child welfare matters. That system cannot be adjusted to meet the case tracking needs of the child welfare system. Consequently, there is no electronic method for monitoring and reporting the information needed to ensure compliance with all the time limitations. The next juvenile court system, which is being designed and produced through the use of approximately one million dollars in Federal grants, will provide for close tracking and monitoring of case processing. The development of that system is a multi-year project involving many participants in the child welfare system. We anticipate that the first components of that system will be brought on line early next year.

Another important effort is the court-initiated child welfare mediation program. This innovative process is now being used to resolve cases even at the point of termination proceedings and is proving to be extremely effective. Every mediated case that reaches an agreement leads to a direct saving of court time and creates space for other mandated hearings. In addition, it is generally believed that mediation is preferable to litigation in most of these cases. As a consequence, a decision to mediate a matter may lead to a decision to delay hearing on the matter for a short period. That case may then be out of compliance with a time requirement although the interests of the parties are being well served. Again, data on how often such delays occur is not available. The information system being developed will identify if, and how often this occurs.

Adoptive Parents' Frustration with the Adoption Process

While we acknowledge that the periodic failure to comply with statutory time requirements does cause some delay, we believe the conclusion that adoptive parents are justified in their frustration with the court process is not borne out by the data presented. A review of the data from the seventeen cases sampled demonstrates that the actual time to completion of a termination/adoption case is quite short. For 10 of the 15 cases in which the adoption has been finalized the entire process, from removal through reunification efforts, to finalization took no more than two years. Another case took only 25 months. In addition, in almost all of those cases a majority of the time was consumed by efforts to reunify the family. The time from termination of reunification services to adoption was less than half the life of the case. Consequently, while there were cases falling outside of the statutory time frames, in most of these cases the actual "delay" in the proceedings was brief. This short time from removal to adoption is more impressive in light of the increasing termination/adoption caseloads that Utah courts and agencies have been experiencing since 1994. As shown by the national data on time to adoption provided by Ken Patterson, Utah looks even better when viewed in relation to other states.

Certainly in some of the cases there was cause for significant frustration and heartache. That fact

should not be stretched to reach the conclusion that adoptive parents in all the non-compliant cases were frustrated by delays. We call your attention to Case B for example. In that doubly non-compliant case reunification efforts were halted at less than 12 months. The termination of parental rights process and the adoption took only an additional five months. The entire process was completed in only 14 months. That case fell outside the statutory time requirements but nevertheless was processed quickly and brought to an appropriate conclusion.

Juvenile Court administrators believe statutory requirements should be complied with and recognize that frustrations with delays do occur. Nevertheless, we believe the overall effectiveness and rapidity with which these complex cases are processed by the courts should be acknowledged and commended.

Response to Recommendations

1. The juvenile court administrators agree that statutory time requirements generally should be adhered to. In fact, we believe the time frames have contributed to the improved timeliness with which these cases are handled. We also appreciate the recognition of improvements which have been made and which are continuing, as noted in the Report findings. It must also be noted that given the complexity of these cases and the important interests that must be protected, perfect compliance with these tight time limitations will probably not be achieved. . Nevertheless, any failure to do so should be identified, acknowledged and, explained. Causes of real delay should be identified and addressed wherever possible. As the report states, court administrators need to track and report on cases better if this is to be achieved.

2. The Juvenile Court administration believes clarification of the statute regarding services to families with a child under two years of age would be useful. The court administrators believe that the judge should be left the discretion to continue reunification services to a total of twelve months (or 15 months if the proper facts are established) upon a showing the parent has made significant progress during the first six months. That discretion exists in the statute at present.

3. The Juvenile Court administration supports the concept of time limits for these types of cases and is committed to efforts to move cases through the system more quickly. The court does urge the Legislature recognize the pressure those time limits place on court calendars and recognize that additional expectations, especially in the area of termination proceedings, will put a substantial additional burden on the court calendars. To carry that burden the court would need substantial additional resources.

Conclusion

We appreciate the opportunity to respond to the "exposure draft" of the audit report. We recognize the continuing increase in child welfare caseloads makes tracking of timeliness even more important. The information provided by the Auditor's report has reinforced with court administrators the need for better tracking and evaluation. That effort, already begun, will

continue in the wake of this report. When the report is released we will share it, and our response, with the members of the Juvenile Court bench. We will then look forward to supplying information to the Legislature in future that provides additional information on the court's effectiveness in processing these complicated cases.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam F. Trupp', written in a cursive style.

Adam F. Trupp, Esq.
Assistant Juvenile Court Administrator