



20th JUDICIAL DISTRICT OF COLORADO

ADMINISTRATIVE ORDER 99-102

SUBJECT: District Plan For Handling Dependency and Neglect Cases

To: Twentieth Judicial District Judges, Magistrates, Court Executive, Clerk of Court, Law Enforcement Agencies, Boulder County Department of Housing and Human Services, Boulder County Attorney's Office, Child Protection Unit, Respondent Parent Counsel, Guardian ad Litem, Bar Association, Boulder County Foster Care Association, and Boulder Voices for Children

From: Ingrid S. Bakke, 20th Judicial District Chief Judge

Date: November 7, 2020

This order replaces versions dated May 28, 1999, December 16, 1999 and February 7, 2011.

I. Introduction:

The procedure for handling Dependency and Neglect (D&N) cases in the Twentieth Judicial District of Colorado is set forth below. This plan incorporates the requirements of Colorado Statutes, Chief Justice Directives 98-02 and 96-08, the recommendations in the Child Abuse and Neglect Cases in the Colorado State Courts report dated June 27, 1996, and the experiences of other jurisdictions in expediting D&N cases. The Twentieth Judicial District has designated that all D&N cases fall under the Expedited Permanency Planning provisions of Colorado Statutes.

The plan was drafted collaboratively with representation from the Court, Boulder County Department of Housing and Human Services (BCDHHS), the Boulder County Attorney's Office, Child Protection Unit, Boulder Voices for Children (CASA), Guardian ad Litem (GAL), and Respondent Parents' Counsel (RPC). It is designed to facilitate the achievement of a permanent home within 12 months for every child (regardless of age) through the early development of treatment plans, early provision of services, and meaningful reviews of the progress toward treatment and permanency goals on a periodic basis. Experience suggests that there are certain keys to expediting permanency in D&N cases.

- "Front loading" D&N cases (early identification, notification and involvement of parents and interested family members in the D&N process, early assessment, and early development of meaningful treatment plans).
- Making every hearing a meaningful event with defined objectives and/or specific actions to be taken.

- Affording the parties opportunities to collaborate and to resolve issues consensually in a non-adversarial, problem-solving environment while also protecting the rights of children and Respondent Parents.
- Focusing on permanency at every stage of the case.
- Early connection to identified needed services and level of care assessments.
- Early identification of potential relative/kinship supports.
- Ensuring that the child(ren)'s voice is heard at every stage of the Court process. The Guardian ad Litem shall consult with the Court on a case-by-case basis regarding a child(ren) attending Court Hearings.

This plan will result in the following benefits to all parties involved in the D&N process:

- Expedited placement of children in safe and permanent homes.
- Earlier development of treatment plans and provision of services.
- Greater "ownership" of the treatment plan by Respondent Parents who actively participated in its development.
- Earlier identification of case needs and service matching and concurrent permanency planning or termination as appropriate.
- Reduced foster care costs.
- More productive use of professionals' limited time through better coordination and consolidation of Case Management Conferences, mediation sessions, Pre-Court Meetings Family Engagement Meetings, and other alternative dispute resources.
- More efficient use of judicial resources and professionals' time.
- More efficient docket management.
- Greater accountability of all parties involved in the D&N process.

The following sections outline the process for handling D&N cases in the Twentieth Judicial District.

II. The Indian Child Welfare Act (ICWA):

a. Purpose:

- i. The ICWA protects American Indian and Alaska Native children in state

child welfare systems and helps them remain connected to their families, culture, and communities. ICWA establishes notice requirements, jurisdictional criteria, placement preferences, tribal intervention rights, and requisite findings and burdens of proof in cases involving Indian children as defined by the Act. Compliance is mandatory and required under 25 U.S.C. § 1912.

b. Application:

- i. The Court and parties shall make continuing inquiries to determine if a child is an “Indian Child” as defined by ICWA. An “Indian Child” is a child who is: (1) a member of an Indian tribe or, (2) is eligible for membership in an Indian tribe. Each tribe has the sole authority to determine if a child is a member of the tribe or eligible for membership with the tribe. The Court will apply the ICWA standards if there is reason to know the child is an Indian child as outlined in C.R.S. 19-1-126 and 2016 BIA ICWA regulation 23.107.
- ii. **Temporary Custody Hearings:** At a temporary custody hearing the Court must make a finding, based on clear and convincing evidence and supported by testimony from a qualified expert witness, that continued custody of the child by the parent/custodian is likely to result in serious emotional or physical damage to the child.
- iii. **Termination of Parental Rights:** To terminate parental rights to an Indian child, the Court must find, beyond a reasonable doubt, that the continued custody of the child by the parent is likely to result in serious emotional or physical damage to the child.
- iv. **Active Efforts:** In considering removal from the home or termination of parental rights, the Court must determine that “active efforts” have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proven unsuccessful.
- v. **Continuing Inquiries:** At the initial hearing the Court will inquire if the family has any reason to know the child(ren) may be an Indian child(ren). The Court will continue to inquire of all parties at every permanency hearing.
- vi. **Tribal participation:** If ICWA applies, the Court will make every effort to allow the tribal representative to participate in all applicable hearings and staffings.

c. Placement Preferences:

- i. If removed from the home, an Indian Child must be placed in the least restrictive, most family-like setting that meets the child’s needs in close

proximity to the child's home and complies with ICWA placement preferences. The Court may deviate from these preferences when the tribe has established a different order of preference or the Court finds good cause to deviate based on exceptional factors.

III. Initial Hearing: Temporary Custody/Protective Orders and Advisement Hearings:

a. Purpose:

- i. To ensure safety for the subject child(ren) and make a determination as to temporary custody and appropriate placement of the child(ren). To ensure that all Respondent Parents are identified, represented by counsel and understand the D&N process (including potential consequences of the D&N petition and permanency options). To facilitate early case assessment and provision of services.

b. Timing:

- i. **Removal Cases:** In cases which are initiated by removal of a child(ren), the Temporary Custody/Advisement hearing will be held within 72 hours of removal of the child (exclusive of weekends and Court holidays), or within 48 hours of a police hold being granted.
- ii. **Non-Removal/Emergency Protection Order Cases:** In cases where emergency protective orders are issued an Advisement/Protective Orders Hearing will be held within 72 hours of the emergency orders being issued (exclusive of weekends and holidays).
- iii. **Non-Emergent Cases:** In cases initiated by the filing of a D&N petition where there has been no removal of a child, a hearing will be held on the soonest available hearing date from when the intake has been filed with the Court. Hearings will be held on Tuesdays or Thursdays. There will be no non-emergent hearings on Mondays.

c. Critical Tasks:

- i. All Respondent Parents will be notified of the Temporary Custody/Protective Orders Advisement Hearing by BCDHHS. Efforts will be made to ensure that Respondent Parents appear at the hearing if possible so that the D&N petition can be served, the parties advised, and counsel appointed. The expectation is that parents shall appear 1.5 hours prior to the hearing time to be advised including watching the advisement video, completing necessary paperwork, and engaging in a pre-court meeting as appropriate. Respondent Parents' counsel will be available to meet with prospective clients at least 1.5 hours prior to the Hearing. Applications for Court-Appointed Counsel, Temporary Custody Hearing and Advisement Information forms and paternity affidavits, relative affidavit, and ICWA ancestry forms will be completed at or before the hearing or at a time ordered by the Court. The following tasks will be

completed at or before the Temporary Custody/Advisement Hearing:

1. Appoint Guardian ad Litem.
2. Appoint Respondent Parents' Counsel and Guardian ad Litem for a parent as applicable.
3. File and serve D&N petition (must be submitted to court no later than 9:00 am on the day of the hearing.) unless, at the County Attorney's discretion, in exceptional circumstances, the filing of the Petition is delayed for no longer than 14 days.
4. Identify all parents (including putative fathers).
5. Identify potential kinship placements (if removal has occurred).
6. Determine cases that qualify for a Pre-Court Meeting and hold meeting. Effective immediately, if a Respondent Parent Counsel decides that their client should not participate in the pre-court meeting, they will let the facilitator know and the pre-court meeting will not include them. If more than one new case is filed the same day, a pre-court meeting will not be held, but a family meeting will be scheduled within 7 days of the hearing for removal cases or within 30 days for non-removal cases.
7. In removal cases, give Respondents a kinship affidavit form.
8. Advise respondents of their rights, potential consequences of the D&N petition, and permanency options. If possible, have the parents watch the advisement video before the hearing.
9. Inquire on the record if the parents have reason to know that the child(ren) may have Native American heritage. Give all parents the ICWA ancestry form which should be completed prior to the parent leaving the courthouse
10. Have parents complete paternity and maternity affidavit for all kids under age 6 or as appropriate.
11. Inquire of Respondents if there are any other cases involving the children subject to the D&N Petition. If existing DR Orders are in place a motion to certify issues of child custody into the D&N case will be filed by County Attorney's Office.
12. If parent(s) appears, their visitation orientation and initial visit shall be scheduled unless not appropriate.
13. If ordered, before leaving the courthouse Respondents shall sign all

necessary releases of information after opportunity to consult with counsel.

14. Who can consent to treatment for a child(ren) and who the therapeutic privilege holder should be determined if necessary. Best practice is for a determination regarding who the therapeutic privilege holder will be by the dispositional hearing; however, the issue may be addressed at later hearing if needed.

d. Required Findings and Next Steps at Temporary Custody/Advisement Hearing:

i. If removal has occurred:

1. Determine whether continuation of the child in the home would be contrary to the child's best interests (C.R.S. § 19-1-115(6)(a)).
2. Determine whether or not reasonable efforts have been made by BCDHHS to prevent or eliminate the need for removal or determine that an emergency situation exists which requires immediate temporary removal and that it is reasonable for BCDHHS not to make efforts to prevent removal due to the emergency situation (C.R.S. § 19-1- 115(6)(b)).
3. Determine whether reasonable efforts by BCDHHS have been or will be made to reunify the child and the family or determine that efforts to reunite the family have failed (C.R.S. §19-1-115(6)(c)).
4. Determine whether procedural safeguards with respect to parental rights have been applied in connection with the removal, a change in placement, and any determination affecting parental visitation (C.R.S. §19-1-115(6)(d)).
5. Enter protective orders as needed including orders regarding temporary custody, visitation, evaluations, release of familial information, and provision of services. Any information gained through court ordered evaluations, including but not limited to mental health/substance use disorder extended assessments will not be used against the Respondent at an Adjudicatory Hearing, but may be used for treatment planning purposes.
6. Inquire as to identity and location of Respondent father(s) or Respondent mother(s) or another legal guardian if not named in the petition and amend petition accordingly.
7. Inquire as to the whereabouts of non-appearing parents and efforts to locate and notify them.
8. Inquire as to potential kinship placements, order kinship affidavit completion and return, inquire as to status of

investigations regarding kin, and the need for Family Engagement Meetings. Enter any order to expedite this process including the authorization of BCDHHS to share information regarding the child and the case with kin when exploring possible placement and/or Family Engagement Meetings. (Order should be flexible enough to permit change of placement to a relative prior to the next scheduled hearing upon agreement of the Guardian ad Litem and caseworker, noting that parents may request a hearing if they do not approve of the change.)

9. Inquire as to applicability of the Indian Child Welfare Act (ICWA) and order the Native American Ancestry form completion and return.

10. Set the Adjudicatory Hearing. By agreement of the parties a Dispositional Hearing can also be set to occur at the time of the Adjudicatory Hearing.

e. Non-Appearing Respondents:

i. In the event a Respondent Parent who has not been served does not appear at a Temporary Custody/Advisement hearing, a continued Advisement hearing is to be set within 30 days for the purpose of advisement and appointment of counsel or the Respondent being set will be advised at the next scheduled hearing. Notice of the hearing and a copy of the D&N petition is to be served on any non-appearing Respondent by the County Attorney's Office.

IV. Adjudicatory Hearing/Trial:

a. Purpose:

i. To enter an admission regarding the petition (hearing) or to contest the petition and obtain a judicial determination whether the allegations have been proven (trial).

b. Timing:

i. An Adjudicatory Hearing will be held within 30 days of the filing of the D&N Petition. If the matter is contested, every effort will be made to set the Adjudicatory trial within 45 days of the filing of the D&N Petition in a removal case and 60 days in cases where the child(ren) have not been removed from the home. The Court encourages parties to participate in a mediation session and/or Status Conference prior to any trial, whenever appropriate.

ii. **Continuances:** With the expedited timelines in place, it is the policy of the Twentieth Judicial District that continuances will be granted in emergency situations only or when the best interest of the child(ren) will

be served by the granting of a continuance. If the continued case involves children under six at the time the petition was filed, the Court is required to make the findings set forth in C.R.S. § 19-3-104.

- c. Process:** The following actions may be taken at an Adjudicatory Hearing:
- i. Accept admissions to the petition.
 - ii. Enter judgments as to any non-appearing party who has been properly served, following presentation of evidence by way of offer of proof.
 - iii. Enter judgments as to any non-appearing party who has been properly advised and given notice by publication following diligent search. In such circumstances, a verified motion for entry of default adjudication and treatment plan shall be filed by the County Attorney's Office.
 - iv. If removal has occurred or placement is continued, determine the appropriateness of the placement and whether the child's continuation in or return to the home would be contrary to the child's best interests (C.R.S. § 19-1-115(6)(a)).
 - v. If removal has occurred or placement is continued, determine whether reasonable efforts have been made by BCDHHS to prevent or eliminate the need for removal or determine that an emergency situation exists which requires immediate temporary removal and it is reasonable for BCDHHS not to make efforts to prevent removal due to the emergency situation (C.R.S. § 19-1-115(6)(b)).
 - vi. If removal has occurred or placement is continued, determine whether reasonable efforts by BCDHHS have been or will be made to reunify the child and the family, or determine that efforts to reunite the family have failed (C.R.S. § 19-1-115(6)(c)).
 - vii. If removal has occurred or placement is continued, determine whether or not procedural safeguards with respect to parental rights have been applied in connection with the removal, a change in placement, and any determination affecting parental visitation (C.R.S. § 19-1-115(6)(d)).
 - viii. If a contested adjudicatory jury or court trial is requested, enter a pre-trial order with procedural deadlines. The Court will inquire as to whether or not a Case Management Conference and/or mediation would be useful in resolving the issues that would be before the court at trial.
 - ix. Treatment planning may also be addressed during an adjudicatory hearing by agreement of the parties.
 - x. Who can consent to treatment for a child(ren) and who the therapeutic privilege holder should be determined if necessary. Best practice is for a determination regarding who the therapeutic privilege holder will be by the dispositional hearing; however, the issue may be addressed at later

hearing if needed.

V. Dispositional Hearing:

a. Purpose:

- i. To order the treatment plan and to establish the parties' commitments and abilities to comply with the terms of the treatment plan.

b. Timing:

- i. The Dispositional hearing will be held within 30 days of the Adjudicatory hearing. A treatment plan will be prepared by the caseworker, filed with the Court, and provided to the parties and counsel at least one week prior to the Dispositional Hearing unless timeframes are shortened by Order of the Court. The treatment plan will be prepared by the caseworker in collaboration with the family.
- ii. **Continuances:** It is the policy of the Twentieth Judicial District that continuances will not be granted unless good cause is shown and unless the Court finds that the best interests of the child will be served by granting a delay or continuance as set forth in C.R.S. § 19-3-104. Whenever a continuance is granted the Court shall schedule the matter within 30 days after the date of granting the continuance (C.R.S. § 19-3-104).

c. Process: The following actions may be taken at the Dispositional Hearing:

- i. Inquire as to all parties' participation in the development in the treatment plan. If the plan is contested, hear disputed issues and make a Judicial determination as to what the treatment plan should include. If additional evidence is required for determination the parties may request a contested hearing.
- ii. Review the terms of the treatment plan and inquire as to the parties' willingness and ability to comply with the treatment plan.
- iii. Advise the Respondents as to the potential consequences of not complying with the treatment plan, including termination of parental rights.
- iv. If psychological evaluations or substance abuse evaluations are ordered, the parties shall follow Twentieth Judicial District of Colorado Administrative Order 03-107 for their distribution to the appropriate parties. Parent-child interactional evaluations will also be limited to the parent, RPC for the parent, GAL, and Department.
- v. Order the treatment plan or make a finding that no appropriate treatment plan can be developed under the circumstances.
- vi. Cases in which no appropriate treatment plan can be developed due to

parental unfitness under C.R.S. § 19-3-508(1)(e)(I); § 19-3-604(1)(b) require that a Permanency Planning hearing be set within 30 days of the finding. The Permanency Planning hearing will be vacated if a motion to terminate parental rights is filed.

- vii. If removal has occurred or placement is continued, determine the appropriateness of the placement and whether the child's continuation in or return to the home would be contrary to the child's best interests (C. R. S. §19-1-115(6)(a)).
 - viii. If removal has occurred or placement is continued, determine whether reasonable efforts have been made by BCDHHS to prevent or eliminate the need for removal or determine that an emergency situation exists which requires immediate temporary removal and that it is reasonable for BCDHHS not to make efforts to prevent removal due to the emergency situation (C.R.S. § 19-1-115(6)(b)).
 - ix. If removal has occurred or placement is continued, determine whether reasonable efforts by BCDHHS have been or will be made to reunify, the child and the family or determine that efforts to reunite the family have failed (C.R.S. §19-1-115(6)(c)).
 - x. If removal has occurred or placement is continued, determine whether procedural safeguards with respect to parental rights have been applied in connection with the removal, a change in placement, and any determination affecting parental visitation (C.R.S. §19-1-115(6)(d)).
 - xi. Set the Permanency Planning Hearing within 90 days.
 - xii. Set a Review Hearing if requested by parties.
 - xiii. Set the next written court report date.
 - xiv. Who can consent to treatment for a child(ren) and who the therapeutic privilege holder should be determined if necessary. Best practice is for a determination regarding who the therapeutic privilege holder will be by the dispositional hearing; however, the issue may be addressed at later hearing if needed.
- d. Post-Removal Treatment Plan:** If removal of a child occurs after the Dispositional Hearing, an "out of home" Dispositional Hearing is to be held within 30 days of removal. At this hearing, an amended treatment plan will be ordered and a Permanency Planning Hearing shall be held within 90 days.

VI. Review Hearing (Custody with a Parent):

a. Purpose:

- i. To review treatment plan progress and any necessary modifications,

the needs of the family, and the need for continued Court involvement.

b. Timing:

- i. When a child is home with a parent an In-Court Review Hearing or Written Review by Report shall be filed within 90 days after the Dispositional Hearing and every 90 days after the initial report.

c. Types of Review:

i. In-Court Review Hearing:

1. Following the Dispositional Hearing, the Court will hold Review Hearings as necessary or at the request of a party. Written court reports are not required for Review Hearings unless requested by the court. Written notice of Review Hearings will be sent by the County Attorney's Office to all parties.

ii. Written Review by Report:

1. Following Dispositional Hearing, a Written Review by Report is due no later than 90 days in all cases. Subsequently, written reviews are due every 90 days until the Court's jurisdiction is terminated or as otherwise ordered by the Court.
2. A Written Review by Report and Motion to Approve Recommendations will be prepared by the BCDHHS, filed with the Court, and served on the parties no later than the date of the Review by Report. The report will include a brief social history (required for first written review only) and placement history, discuss the developments in the case since the last hearing and report on treatment plan compliance and progress.
3. The Motion to Approve Recommendations should include a specific recommendation as to the date and type of the next Written Review by Report or In-Court Review Hearing. If a hearing is recommended, a request for setting will be included with the motion.

VII. Permanency Planning Hearing (Child in out-of-home placement):

a. Purpose:

- i. To review case progress and adopt a definitive permanency plan for a child in out-of-home placement and to take significant steps toward implementing the plan.

b. Timing:

- i. A Permanency Planning Hearing will be held within 90 days of the Dispositional Hearing but may be vacated if a child(ren) returns home and legal and physical custody is placed with a parent before the scheduled Permanency Planning Hearing and will be set for a Written Review by Report. If a child(ren) is not in the legal and physical custody of a parent ongoing Permanency Planning Hearings will occur every 90 days unless otherwise ordered by the Court.
 - ii. A written court report and any proposed amendments to the treatment plan must be filed by BCDHHS and served on the parties at least seven days prior to the Permanency Planning Hearing. The report will include the proposed permanency plan for the child(ren).
- c. **Process:** Possible permanency planning outcomes include, but are not limited to: Return Home, Adoption (by relative or non-relative), Permanent Placement (Custody) with relative, Guardianship, and Other Planned Permanent Living Arrangement (OPPLA) Emancipation. It is best practice that prior to adding a concurrent goal or changing a goal from return home, the caseworker, caseworker supervisor, Guardian ad Litem, County Attorney, and other applicable providers shall meet with the ongoing administrator to assess case progress.
 - i. The Court may find that there has been significant progress on the treatment plan and that it is probable that the child will be returned home within 6-months.
 - ii. If the child is not returned home by the Permanency Planning Review Hearing, the Court will determine if a revised reunification date is required, if a motion for termination of parental rights should be filed, or if another appropriate permanent plan should be implemented.
 - iii. If the Court finds, either at the Permanency Planning Hearing or at the Permanency Planning Review Hearing, that there is not a substantial probability of reunification within 6-months, the Court must make specific findings concerning the placement goal of the child, as required by statute (C.R.S §19-3-702(4)).
 - iv. Who can consent to treatment for a child(ren) and who holds the therapeutic privilege should be determined if necessary. Best practice is for the therapeutic privilege holder to be determined by the Dispositional Hearing; however, the issue may be addressed at a later hearing if needed.
 - v. **Participation by Children in the Court Process:** The Court will consult with the child(ren) in a developmentally appropriate manner regarding the child(ren)'s permanency plan. The Guardian ad Litem shall consult with the Court on a case-by-case basis regarding a child(ren) attending Court Hearings.
 - 1. Guardians ad Litem, caseworkers, and CASAs will work together to ensure that the child(ren) know they have a right to be heard by the Court. They will be told that they have several options, including direct Court attendance, letter, email to the Court, or

meeting separately with the Court on the record in the presence of the Court and Guardian ad Litem only.

2. The presumption that the child(ren) will be allowed to come to Court may be rebutted by the caseworker or the Guardian ad Litem and may include such reasons as young age of the child, mental state of the child, developmental disability of the child, or preference of the child.
3. The Guardian ad Litem and the caseworker will work out transportation issues. Foster parents and CASAs should be a strong resource for transportation.
4. If a child does not participate in a Permanency Planning Hearing, the Court will inquire as to whether the child was consulted and what his/her response was. An oral report by the Guardian ad Litem addressing the child's position will be sufficient.
5. If the Guardian ad Litem and caseworker disagree on the issue of whether a child should attend a hearing, the Guardian ad Litem will make the final decision.
6. Any party may ask the Court to ask the child to step outside should the topic be one that is not appropriate for the child to hear.

VIII. Permanent Home Hearing:

a. Purpose:

- i. The goal of this plan is to facilitate the achievement of a permanent home within 12 months for every child in our district. In order to document progress toward this goal, in reports filed with the Court later than nine months into a case, the caseworker shall include information about: (1) if the child is in a potentially permanent home or not, (2) what efforts are being made to identify a potentially permanent home, and (3) if the child is in a sibling placement.

b. Timing:

- i. A Permanent Home Hearing shall occur as close as possible to the eleventh month of the case.

c. Process:

- i. A Permanent Home Hearing shall be set along with the Permanency Review Hearing on the regular D&N docket. All parties who appear for the Permanency Review Hearing shall also appear for the Permanent Home Hearing.
- ii. Both the caseworker and the Guardian ad Litem shall provide a report or

verbal update to the parties and the Court regarding the efforts that have been made to place the child(ren) in a permanent home.

- iii. The Court will make specific findings at the Permanent Home Hearing pursuant to §19-3-702(5)(a)-(f).
- iv. If the Court finds at the first Permanent Home Hearing that the child(ren) is not in a permanent home, every subsequent Permanency Review Hearing Shall also be a Permanent Home Hearing. These combined hearings shall be set no more than six months out.

IX. Benchmark Hearing:

a. Purpose:

- i. To provide an opportunity for Court involved youth to personally update the Court and the parties about their future planning, to review statutory requirements regarding youth who are aging out of the system, to problem-solve barriers to successful emancipation, and to celebrate achievements made by the youth while under Court jurisdiction.

b. Timing:

- i. A Benchmark Hearing may be held a few months prior to a youth's 18th birthday, or earlier, as needed. More than one Benchmark Hearing may be held, as deemed appropriate by the Court. Upon approval of the Court, a Benchmark Hearing may be combined with a Permanency Review Hearing. A Benchmark Hearing often occurs well after the initial Permanency Planning Hearing. It is scheduled off the regular court docket for approximately 30 to 45 minutes.

c. Process:

- i. The following representatives will be required to appear at all benchmark hearings:
 - 1. **Guardian ad Litem:** Responsible for assisting with preparing youth for the hearing and following up with youth regarding progress on goals between hearings.
 - 2. **Court Appointed Special Advocate (CASA):** Responsible for assisting with preparing youth for the hearing and supporting youth with achieving goals between hearings. Also responsible for gathering educational information and assisting with educational advocacy when appropriate.
 - 3. **Caseworker:** Responsible for review of the specifics of the service plan and its implementation at all Permanency Hearings, assisting with preparing youth for the Court Hearings and supporting them in achieving their goals between hearings. Ensuring that

arrangements have been made for transporting the youth to and from court. The caseworker will be responsible for providing the Court with a report outlining: vital documents, education, housing, employment, financial, medical/dental/mental health, community resources, and personal supports.

4. **County Attorney:** Represents BCDHHS and the People of the State of Colorado.
5. **Judicial Officer:** Conducts hearings.
6. **Respondent Parent Counsel:** Required to appear whether parent is appearing or not. Respondent Parents may attend if approved by the youth.
7. As directed by the youth, the following individuals may also be present:
 - a. Sibling(s) and parents
 - b. Therapist(s)
 - c. Chafee Worker
 - d. Foster Parent(s)
 - e. Other representative(s) selected by the youth as part of their support system (coach, teacher, mentor etc.)
- ii. Benchmark Hearings will be conducted in an informal manner. All parties will sit together at the courtroom tables. The hearing will be on the record. The Court will review the Benchmark Hearing Checklist with the youth. The Benchmark Hearing Checklist includes the following topics: vital documents, education, housing, employment, financial, medical/dental/mental health, community resources, and personal supports. The youth will be given the opportunity to talk directly to the Court about the checklist and their needs. Other parties should allow the youth the opportunity to speak on their own behalf but be prepared to assist with specifics when necessary.
- iii. At all times, the intent of the Benchmark Hearing is to be strength-based and focused on the positive achievements made by the youth. However, there may also be serious deficits in the youth's plan for emancipation and these will be addressed in a straightforward manner, with the goal of the youth's own identification of the gaps and ways to fill those gaps in the future.
- iv. Immediately following the Benchmark Hearing, parties will adjourn to enjoy a treat, ideally, one that that is chosen by the youth.

X. Guardianship:

a. Purpose:

- i. To determine alternative options for permanency outside of parent

termination/adoption. Guardianship may be subsidized.

b. Caregiver Level of Authority:

- i. Decision making authority including support, care, education, health and welfare.

c. Conditions for Appropriate Use:

- i. Reunification is not a viable option.
- ii. It is in the child's best interest and parents either consent or are unwilling or unable to exercise parental rights (i.e., child in the custody of county child welfare agency).
- iii. Termination of parental rights is not required; however, if parental rights have not been terminated parental consent is required
- iv. Child age 12 or older must consent.
- v. Guardian is deemed qualified by the Court.
- vi. If it is a relative guardianship, the relative guardian must name a successor guardian.

d. How to Initiate:

- i. If guardianship is determined to be the appropriate permanency plan for case closure the County Attorney's Office will file a Petition for Guardianship with the Probate Court.

e. Decisions Made by the Probate Court:

- i. Legal need for guardianship.
- ii. Appropriate person to oversee affairs of child/ward, based on best interest of the child.
- iii. Person agrees to be guardian. Guardianship may be limited, if appropriate.
- iv. Court must approve residing outside of Colorado.

f. Modification of Caregiver Responsibility by the Court:

- i. Guardian may file a motion to vacate at any time, which must be approved by the Court.
- ii. A child over 12 may request change or termination of guardian (C.R.S. § 15-14-203(2)).

- iii. Guardianship terminates upon minor's death, adoption, emancipation or attainment of majority, or as ordered by the court.

g. Birthparent Involvement:

- i. Parental involvement at discretion of caregiver.
- ii. Parents may file to dismiss current guardianship or obtain own guardianship at a later time.

h. Financial Assistance:

- i. The guardian may petition for child support from the parents.
- ii. If kin, the caregiver may be eligible for some financial assistance, if statutory requirements are met, based on special needs of the child and financial circumstances of the relative guardian(s) and subject to negotiation, i.e., Relative Guardianship Assistance Program (RGAP).
- iii. If child is IV-E eligible in foster care, they will get Medicaid through RGAP.
- iv. Chafee if child is 16 and RGAP is in place prior to guardianship.

XI. Allocation of Parental Responsibility (APR):

a. Caregiver Level of Authority:

- i. May have sole or joint decision making for the child related to daily care, health, education and religion. Can be subsidized.

b. Legal Conditions for Appropriate Use:

- i. Reunification is not an option.
- ii. Termination of Parental Rights not required.
- iii. In the child's best interest.
- iv. Custodian approved or ordered by the Court.

c. How to Initiate:

- i. Juvenile/District Court (this is started in the D&N case, then certified to a Domestic Relations case).

- ii. If an APR motion is contested the matter should be set for hearing as soon as practical. If there is an existing Domestic Relations Case, issues of parenting time and decision making will be addressed in the D&N case. If there is no open Domestic Relations case and the motion is filed and heard in the D&N case, the D&N clerk will certify permanent custody orders into a new Boulder County Domestic Relations Case.

d. Financial Assistance:

- i. Caregiver may be eligible for assistance, if statutory requirements are met and based on special needs of the child and financial circumstances of the caregiver(s) and subject to negotiation.
- ii. The kin can apply for child-only Temporary Aid for Needy Families (TANF). This will include Medicaid coverage.
- iii. Chafee if child is 16 and proposed RGAP under APR is in place.

XII. Termination of Parental-Child Legal Relationship:

a. Purpose:

- i. To obtain a Judicial determination as to whether there are statutory grounds to sever the parent-child legal relationship and whether termination is in the best interest of the child(ren).

b. Timing:

- i. The Hearing to Terminate the Parent-Child Relationship shall be held within 90 days of the filing of the Motion.
- ii. Continuances: With the expedited timelines in place, it is the policy of the Twentieth Judicial District that continuances will be granted in emergency situations only or when the best interest of the child(ren) will be served by the granting of a continuance. If the continued case involves children under six at the time the petition was filed, the court is required to make the findings set forth in C.R.S. § 19-3-104.

c. Process:

- i. Either the Boulder County Department of Housing and Human Services or Guardian ad Litem for a child(ren) may file a Motion to Terminate Parental Rights.
- ii. A Pre-Trial Order will be issued to set procedural deadlines regarding the hearing.
- iii. The Court will set the Post-Termination Review Hearing for the purpose of reviewing the post-termination permanency plan. This

Hearing will be set no later than 90 days after the Termination Hearing.

XIII. Relinquishment:

a. Purpose:

- i. To obtain a judicial determination as to whether the relinquishing parent is making a knowing and voluntary decision to give up their parental rights and whether they understand the consequences of that decision.

b. Timing:

- i. The petition for relinquishment can be filed once all the statutory criteria are met as outlined in C.R.S. § 19-5-103. The petition for relinquishment may be filed the same day as the hearing.
- ii. Parent Options Counseling may be completed as agreed to by a Respondent any time after a concurrent goal is in place and return home is no longer the sole goal unless otherwise approved by the Court. The Relinquishment Petition will be filed and heard by a Judge/Magistrate as soon as possible.

c. Process:

- i. The following individuals are required to attend a Relinquishment Hearing: relinquishing parent, their counsel and Guardian ad Litem (if applicable), the parent-options counselor, and the child(ren)'s Guardian ad Litem. The parent(s) may also invite support people to the hearing subject to Court approval.
- ii. The parent-options counselor will prepare and file necessary paperwork with the Court. The parent-options counselor will notify Respondent Parent Counsel prior to meeting with the parent(s). If the parent(s) have a Guardian ad Litem appointed for him/her, the Guardian ad Litem must attend all parent-option counseling sessions.
- iii. If one parent decides to relinquish his/her parental rights and the other parent still has parental rights intact the Order of Relinquishment will be held in abeyance pending the parental rights of the other parent being terminated unless a court finds good cause and extenuating circumstances to enter the Order on the date of the Relinquishment hearing

XIV. Post-Termination Review Hearing:

a. Purpose:

- i. To review and amend, if necessary, the post-termination permanency plan

that will best serve the interests and needs of the child(ren).

b. Timing:

- i. The Post-Termination Review Hearing will be held within 90 days of the Decree of Termination of Parental Rights. A written post-termination report is to be filed by BCDHHS and the Guardian ad Litem and served on the parties and counsel at least one week prior to the Hearing. Subsequent Permanency Review Hearings will be set based on the facts and circumstances of the case but shall be set at least every six months.

c. Process:

- i. The Court will determine if the permanency plan remains appropriate. The treatment plan for the child(ren) shall be modified as appropriate.
- ii. If the plan is for the child to remain in placement following the hearing, the Court will determine whether reasonable efforts have been made to finalize the permanency plan.

XV. Adoption Hearing:

a. Purpose:

- i. When appropriate, the Court has the authority to proceed with adoption when all parental rights are terminated, or relinquishment occurs and the child(ren) are considered legally free for adoption. The Adoption Hearing permanently places a child with adoptive parents who are assuming all parental rights and responsibilities. Adoption Hearings are typically held in Division M.

b. Timing:

- i. The Adoption Hearing shall be held as soon as possible after the child(ren) becomes legally free for adoption (if no appeal, the child(ren) is free 21 days after entry of the Decree of Termination of Parental Rights; if an appeal is filed, the child(ren) is not legally free until a final Mandate is issued by the Appellate Court.
- ii. In cases of relinquishment, the child is not legally free until 90 days after an uncontested relinquishment order.

c. Process:

- i. When hearing an Adoption Petition for a child in foster care, the Court will determine that:

1. Either parental rights have been voluntarily relinquished or that parental rights have been terminated and the appeal process is over.
2. All required consents to adoption are provided.
3. Home studies, child studies, and/or court-ordered reports are properly reviewed.
4. Adoptive parents understand that adoption is permanent and irreversible.
5. The prospective adoptive parents have been fully advised of all the necessary services and special circumstances of the child(ren), understand the adequacy of adoption subsidies, and are aware of services and assistance that will be available after the adoption.
6. Proper ICWA inquiries have been made and the applicable Tribe(s) and/or Bureau of Indian Affairs (BIA) is properly served with a copy of the Petition for Adoption and Notice of Hearing. Proof of proper notice shall be filed with the Court.
7. In most cases, the court will issue the Adoption Decree at the Hearing. The prospective adoptive parents, child(ren), BCDHHS caseworker, and ICWA representative (if applicable) are required to attend. While not required to attend, it is also best practice for the child(ren)'s Guardian ad Litem to attend the Hearing. A County Attorney may also appear if requested by the Court.

XVI. Family Engagement Meeting:

a. Purpose:

- i. To facilitate case communication, explore kin relationships and support, and identify and offer additional services/supports to child(ren) and parents. Family meeting facilitators are BCDHHS employees but are neutral facilitators who are not involved in making case decisions. These meetings should be family-centered and collaborative.

b. Timing:

- i. If child(ren) are placed out of the home an initial family meeting shall occur within seven business days from the time of the Temporary Custody Hearing. A pre-court staffing fulfills this requirement. After the initial family meeting, ongoing family meetings shall be offered every 90 days for cases involving children placed outside the home and every 180 days for cases involving children who remain in the home. Family meetings are voluntary, and a parent has the right to refuse a family meeting.

c. Process:

i. The family meeting facilitators attend Temporary Custody Hearings and facilitate Pre-Court Meetings if possible, the same day of the hearing. If not possible, the Family Meeting Facilitators coordinate with parties to schedule a meeting as soon as possible, but not later than seven business days from the time of the Temporary Custody Hearing. Following the initial family meeting, family meeting facilitators will reach out to parties to coordinate scheduling. Family meeting facilitators will take notes and distribute to parties present for the meeting. Information discussed at family meetings is not confidential.

ii. Attendance:

1. Family meeting participants shall be invited based on the discretion of the parents. Family meetings typically include a parent(s), the ongoing caseworker, Guardian ad Litem, and other professionals working with the family. Best practice is for as many family members/kin supports as possible to attend the meeting. If a parent wishes for his/her attorney to attend the family meeting the County Attorney assigned to the case shall also be invited to attend the family meeting. If a parent has a Guardian ad Litem appointed the family meeting shall not occur without the Guardian ad Litem for the parent present.

iii. How to Support A Successful Family Engagement Meeting:

1. These meetings should be family-centered, led by the clients themselves, in their own voice, and facilitated by a neutral facilitator. These are strength-based meetings, not legally focused meetings, and they are not adversarial in nature. These meetings are about assisting a family in working with their support systems to make decisions, setting goals to achieve desired outcomes in a context that empowers and encourages families to have their own voice in the process.
2. Answering scheduling requests promptly allows for strengths and issues to be addressed in a timely, relevant and effective manner. This enables issues to be addressed on a preventative level thus avoiding crises.

XVII. Mediation:

a. Purpose:

i. In mediation, the mediator is a trained, neutral third-party facilitator who helps parties identify issues that need to be addressed and come to mutually acceptable agreements. Mediation services are most often used where there is disagreement regarding allocation of parental responsibilities, there is conflict over the terms of the adjudication, and/or disputes regarding formulation of and continuing compliance with the treatment plan.

b. Timing:

- i. Best practice is for mediation to be completed prior to the Pre-Trial Settlement Conference in all contested Adjudication cases. Mediation can occur at any time during a case if there is an agreement from all parties to proceed or if the Court orders it.

c. Process:

- i. Participation of all parties is required. Following a mediation session, the facilitator will file a report with the Court indicating the date the conference was held, the purpose of the session, the parties who attended, and the case name and court case number. Any stipulation will be drafted by a designated party, reviewed by parties, and submitted to the Court as soon as possible.

XVIII. Case Management Conference:

a. Purpose:

- i. To facilitate communication among the parties in cases experiencing unnecessary delays, conflict, and/or complex issues.

b. Timing:

- i. A Case Management Conference can be requested by any party at any time and/or by Order of the Court.

c. Process:

- i. A Case Management Conference is a meeting facilitated by the D&N Magistrate at which the parties have an opportunity to share information and to identify and resolve issues in cases. Participants required to attend include applicable Respondent Parents, caseworkers, Guardian ad Litem, counsel, Guardian ad Litem for a parent if applicable, and all other parties to the case. Other non-party participants may be requested to attend including the child (if age appropriate), interested family members, service providers, therapists, foster parents or other custodial adults, CASA volunteer, probation officer, and any other person working with the child(ren) and/or family.
- ii. Following the Case Management Conference, the Magistrate will produce a report indicating the parties in attendance and not in attendance, the issues addressed, and whether each issue was resolved. Any stipulation will be drafted by a designated party, reviewed by parties, and submitted to the Court as soon as possible.
- iii. In setting the Case Management Conference, every effort will be made to accommodate the schedules of the parties. All conferences will be

scheduled as soon as possible by the Court's clerk upon receipt of a motion requesting a Case Management Conference.

XIX. DANSR:

a. Purpose:

- i.** To increase permanency for children in D&N cases. To increase safety for children who have been abused or neglected and to reduce recidivism of cases re-entering the Court. To support recovery for parents struggling with Substance Use Disorder (SUD) by providing early access to treatment. To support judicial responsivity with more frequent court hearings and face-to-face time with the Magistrate.

b. Timing:

- i.** Adjudicatory and Dispositional Hearings will be set on regular docket days. After Disposition, DANSR cases will be heard once per month on the Tuesday morning docket.
- ii.** A pre-court staffing will occur prior to each DANSR Hearing and will include the following participants: Magistrate, County Attorney, Respondent Parent Counsel, Guardian ad Litem, Caseworker, MHP representative, and DANSR coordinator. Other participants may include: CASAs, MHP peer mentor, probation officer. DANSR Hearings are generally closed to the public, but Respondents may invite support people if they wish.

c. Process:

- i.** Every other D&N case filed becomes a part of the DANSR initiative if one or more of the children in the case is age 6 or under and the presenting safety issue in the case is parental Substance Use Disorder.
- ii.** Multi-Disciplinary Hearings (MDT's) will be scheduled at the Emergency Hearings. A formal MDT will not be held until after adjudication of all available parents. The purpose of the MDT is for all professionals to meet and receive updates on the case as well as to treatment plan for therapeutic services and other services the family may need. Respondent Parents are not participants at MDTs.
- iii.** Caseworkers will provide monthly DANSR reports to the Court and all parties after Disposition.
- iv.** Clients will be able to access therapeutic services rapidly as ROI's are to be signed at the Emergency Hearing and MHP assessments are scheduled for the client before they leave the Emergency Hearing.
- v.** Clients will be set up for drug/alcohol monitoring and may be ordered to provide a UA before they leave the Emergency Hearing.

XX. Family Integrated Treatment Court (FITC):

a. Purpose:

- i.** The Family Integrated Treatment Court (FITC) is a collaborative effort of the Courts and involved attorneys, treatment providers, and BCDHHS to stabilize families impacted by SUD and to ensure the protection of children, reduce substance use, and preserve families. The FITC partnership coordinates therapeutic interventions and provides consistent Court oversight with a focus on accountability and community support to break the cycle of addiction and child maltreatment.

b. Timing:

- i.** The FITC program consists of five phases (which are explained in detail in the FITC Handbook) and takes a minimum of 12 months to complete. Prior to moving phases, participants are required to complete a phase reflection worksheet.
- ii.** Participants attend Review Hearings a minimum of every two weeks through phase III. The treatment court team has the discretion to hold review hearings in either shorter or longer intervals based on compliance and in accordance with phase protocol, ultimately at the discretion of the Magistrate.
- iii.** Participants must meet the following criteria in order to be eligible for graduation: the participant is required to successfully complete all five program phases. The participant must maintain demonstrated sobriety for 90 consecutive days prior to graduation.

c. Process:

- i.** Every Dependency and Neglect Case involving substance use is FITC eligible unless otherwise screened out. Each Dependency and Neglect case involving substance use is screened, via the FITC screening tool, by the DANSR Care Coordinator at or around the time of the Emergency Hearing (Temporary Custody Hearing). At this time, the potential participant is provided with an FITC Handbook to review. The potential participant is offered an invitation to observe the next FITC hearing so they can review this option with their attorney. If the potential participant is not ruled out the DANSR Care Coordinator extends an FITC offer to the Respondent Parent Counsel and team. The participant's decision to join is ideally made within five business days of the offer but no later than 90 days into the case. If the potential participant accepts the offer, the Respondent Parent Counsel has the participant sign the FITC Waiver and the participant formally enters the program.
- ii.** Prior to Review Hearings, caseworkers, the MHP liaison, and probation officers (if applicable) provide updates regarding each client to the


Problem-Solving Court Coordinator who compiles that information into reports for distribution to the larger FITC team.

- iii. Pre-Court staffings are held prior to all Review Hearings to review participant progress in the program, make treatment recommendations, discuss phase advancement and implement responses based off compliance and non-compliance.
- iv. FITC is a voluntary program. Participants can withdraw at any time, under the following conditions: Those requesting to withdraw will be required to observe a two-week waiting period before the decision is deemed final by the Court; Any responses imposed by the Court must be completed before the participant is allowed to withdraw.
- v. As head of the FITC team, the Judge or Magistrate will make all final decisions regarding participant status in the program, with frequent and regular input from the other team members. The following participants are expected to attend all FITC pre-court staffings and hearings: Magistrate, County Attorney, participant's attorney, participant's Guardian ad Litem if applicable, Guardian ad Litem, caseworker, MHP representative and/or other treatment representatives, and the Problem-Solving Court Coordinator. Other participants may include: CASAs, MHP Peer Support Specialist, probation officer (if applicable).

XXI. Conclusion:

The Twentieth Judicial District Plan for Handling Dependency and Neglect Cases is to be followed by all parties involved in a D&N case in the Twentieth Judicial District of Colorado. Not all the timelines outlined in this plan are statutorily required; however, they are benchmarks established for this district and are expected to be successfully attained. The plan's effectiveness will be formally evaluated annually based on the goals outlined in section I, Introduction. Any comments or suggestions should be addressed, in writing, to:

Magistrate Carolyn McLean
Twentieth Judicial District, Division 0
P.O. Box 4249 Boulder CO 80306



Hon. Ingrid S. Bakke
Chief Judge
Twentieth Judicial District