



Lean Analysis Summary Report

State of Vermont, Court Administrator's Office

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OVERVIEW

In 2015, the Judiciary began to recognize that cases across the Family Division were taking longer to resolve than the established time frame. At fiscal year-end 2013, the percentage of Family Division cases that had been pending longer than the established goals was 18%. The data for fiscal year 2016 indicated that this number had grown to 29%. To address this concerning trend, the Court Administrator's Office, in partnership with the Department of Environmental Conservation (DEC), conducted a "Lean" analysis of how the Family Division processes child abuse/neglect cases.

The group focused its work on the initial stages of a case (from the emergency care order up to merits) and, using the expertise of the team and the current available data, outlined the following action steps designed to address the delays in the family court docket.

The primary goal for the analysis was to examine the suspected causes of case backlog, e.g. increased caseload, scheduling conflicts between court parties, and potential inefficiencies embedded within the statutory scheme and procedures for processing cases.

Secondarily, the team was tasked with determining how the above-mentioned (and other) causes can be addressed to increase responsiveness to court customers.

ANALYSIS PARTICIPANTS

The following team participated in a half-day orientation facilitated by Justin Kenney (DEC), Lean Facilitator, and the subsequent four-day analysis facilitated by Kimberly Cunningham (VP, Leanovations LLC), Lean Facilitator.

Judge Kevin Griffin, Family Division Judge
Gaye Paquette, Family Division Operations Manager
Jody Racht, Office of Attorneys General
Kerry MacDonald-Cady, State's Attorney
Marshall Pahl, Public Defender
Adele Pastor, Public Defender
Jane Kleinsinger, Family Division Guardians ad Litem
Christine Barnes - Family Division Guardians ad Litem
Paula Catherine Department for Children and Families Social Worker
Margo Bryce, Department for Children and Families
Neysa Stuart, Department for Children and Families
Jim Forbes, Department for Children and Families

REVIEW OF THE DATA

The group reviewed available caseload data and compared the ratio of cases in which an initial case plan had been filed within 60 days from the child's removal from the home (as required by 33 VSA § 5314[a]) to all cases where an emergency care order had been filed. They examined these ratios in the Family Divisions in each county. While the team lacked access to the full data needed to comprehensively understand all the causes of the backlog, there was general agreement on several areas that did appear to be supported by the available data:

1. Increased caseloads do not appear to be the driving factor of the backlog. Districts with the highest caseloads are not consistently the districts with the longest delays.
2. Unsubstantiated allegations outlined in the initial affidavit appear to have a direct correlation to the increase in the number of contested Temporary Care Hearings; e.g., defendants are more likely to contest individual unsubstantiated allegations prior to the merits hearing, thereby increasing the amount of court time needed.
3. The lack of resources to support supervised visitation can cause increased delays as parents may be more likely to reject a temporary custody agreement that does not include adequate visitation.
4. Districts with judges and attorneys who have experience / expertise with juvenile cases appear to have better outcomes with regard to timeliness in abuse/neglect case resolution.
5. Districts with better collaboration among parties appear to have better outcomes. This includes, but is not limited to, access to services, timely signing of releases of information, timely investigation of placement alternatives for children, and regular Bench Bar meetings to discuss the availability of services.

PROPOSED CHANGES

Goal 1: Improve the quality of the initial affidavit to focus on substantiated risk.

Goal 2: Improve the consistency of State's Attorneys' review of affidavits.

Goal 3: Improve the quality of collaboration between parties outside of court time.

Goal 4: Increase the amount of time allocated for hearings and schedule subsequent hearings from the bench at the Temporary Care hearing.

Goal 5: Increase resources for supervised visitation.

Goal 6: Improve training for all parties on mediation and collaboration.

Goal 7: Create a pilot program with the Lean recommendations for a more collaborative model.

ACTION PLAN

The action plan below outlines the steps needed to implement the goals outlined in the proposed changes. The “Action Timeline” is the estimated amount of time needed for implementation. The goals are listed sequentially, from the least to the most amount of time needed for implementation. The team members indicated in each goal have committed to act as consultants to work teams (to be established) moving forward. Work teams will need to have dedicated time for the project, project management, and a strong connection to the original Lean team for clarification of the over-arching mission.

GOAL 1: IMPROVE THE QUALITY OF THE INITIAL AFFIDAVIT TO FOCUS ON SUBSTANTIATED RISK

Action Timeline: 0 – 3 months

Team: Jody Racht, Kerry MacDonald-Cady, Jim Forbes

- Review current procedures and revise/create policy as needed for Judiciary/SA/DCF feedback
- Review non-court-involved case policy to create criteria and timelines for filing
- Provide training to FSD staff

GOAL 2: IMPROVE THE CONSISTENCY OF STATE’S ATTORNEYS’ REVIEW OF AFFIDAVITS

Action Timeline: 0 – 3 months

Team: Jody Racht, Kerry MacDonald-Cady, Jim Forbes

- SA's will update standards for affidavit review
- Prepare a final document coordinated with DCF policy and disseminate info to SA's and DCF

GOAL 3: IMPROVE THE QUALITY OF COLLABORATION BETWEEN PARTIES OUTSIDE OF COURT TIME

Action Timeline: 3 - 6 months

Team: Judge Griffen, Kerry MacDonald-Cady, Jim Forbes, Jane Kleinsinger, Christine Barnes

- Identify community resources for ESD worker in court on juvenile days, MH, Sub Ab, housing etc.
- Create economic services information sheet for use if resource person is not present
- Identify resources for FGC/AD Resolution and when to apply
- Hold regular Bench Bar meetings that focus on services in all districts

GOAL 4: INCREASE THE AMOUNT OF TIME ALLOCATED FOR HEARINGS AND SCHEDULE SUBSEQUENT HEARINGS FROM THE BENCH AT THE TEMPORARY CARE HEARING

Action Timeline: 3 - 6 months

Team: Judge Griffen, Marshal Pahl, Gaye Paquette

- Identify revision standards for hearing times (15 to 30 TCH and 30 to 60 Merits)
- Schedule next hearing date from bench
- Review process for scheduling public defender and contract attorneys

ACTION PLAN, CONTINUED

GOAL 5: INCREASE RESOURCES FOR SUPERVISED VISITATION

Action Timeline: 6 - 12 months

Team: Jim Forbes, Jane Kleinsinger, Christine Barnes, Margo Bryce, Neysha Stuart

- Assess foster parent feasibility for supervising visits
- Create third level of visit supervision study and review of existing resources

GOAL 6: IMPROVE TRAINING FOR ALL PARTIES ON MEDIATION AND COLLABORATION

Action Timeline: 6 - 12 months

Team: Judge Griffen, Jody Racht, Kerry McDonald-Cady, Jeremy Zeliger,

- Create training that includes the following content areas: collaboration around problem-solving, fast track to merits with new model, courtroom civility, scheduling new hearings from bench, visitation protocol, and criteria for pre-trial hearings
- Apply DEC Skills Matrix to current judges

GOAL 7: CREATE A PILOT PROGRAM WITH THE LEAN RECOMMENDATIONS FOR A MORE COLLABORATIVE MODEL

Action Timeline: 12 -18 months

Team: Judge Griffen, Kerry MacDonald-Cady, Jeremy Zeliger, Jody Racht, Marshal Pahl

- Hire “Judicial Master” and identify pilot community
- Create written description of concept
- Obtain Superior Court admin order or other formal start-up for pilot

LEAN ANALYSIS MAP

The map below represents the current system, the proposed changes, and the “collaborative hearing” pilot. The presumption is that the success of the recommended changes is predicated on two decision points. The first occurs at the point of the affidavit. The second occurs if a family participates in the pilot program after the collaborative hearing.

DECISION POINT ONE – The State’s Attorney:

This decision point follows the review and acceptance of the affidavit and is made by the state’s attorney based on recommendations from DCF.

1. The information contained in the affidavit constitutes an emergency (i.e. the child is at imminent risk of harm) and moves forward through the emergency track, or
2. The information in the affidavit does not constitute an emergency and moves forward through the non-emergency track, or
3. The information in the affidavit does not constitute an emergency **and** the case is deemed appropriate for the “collaborative hearing” pilot and moves forward through this track.

Regardless of the determination of the appropriate track, counsel and a GAL are assigned, releases are provided, and necessary information is distributed to all parties within 24 hours. In both the emergency and non-emergency track, cases proceed as they have historically with two proposed changes:

1. All hearings are set at the time of the temporary care hearing, and
2. Hearings are set for no less than 30 or 60 minute blocks.

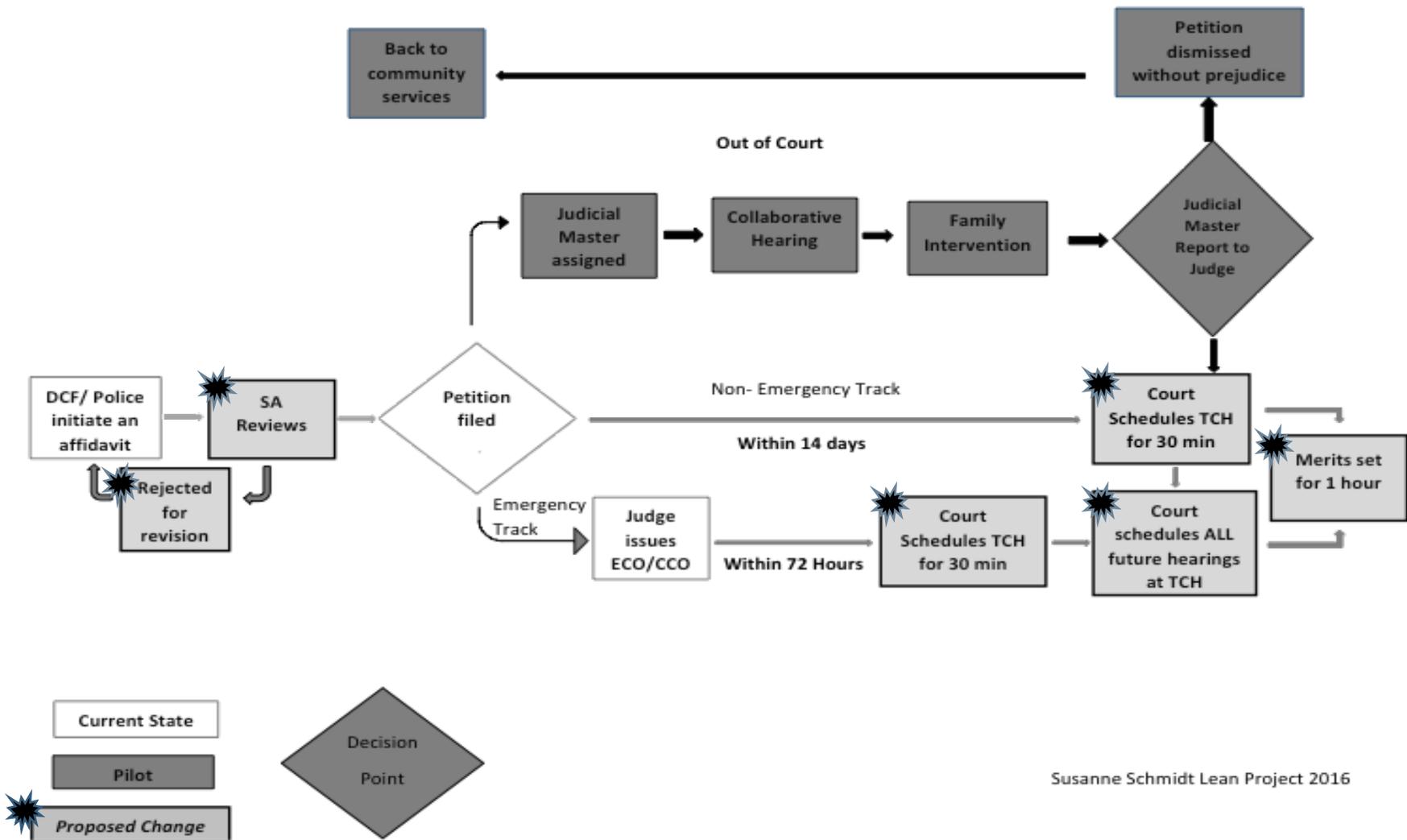
DECISION POINT TWO – The Judicial Master:

This decision point follows the collaborative hearing and is made by the presiding judge based on recommendations from the judicial master. If the family is following the “collaborative hearing” track, the following elements will have been provided prior to the decision point.

- A judicial master will work with the parent(s), the assigned attorneys, the GAL, and DCF to develop a plan that, if followed, could prompt the assistant state’s attorney to withdraw the petition without prejudice.
- The judicial master will function much like a regional treatment coordinator, coordinating substance disorder treatment services and other support services that would allow the family to remain intact under a plan developed with input from DCF.
- A mediator from the Vermont Superior Court Family Mediation Program will be available to help facilitate the development of a plan, or a plan may be developed through a family group conferencing model.

In cases where the assistant State’s attorney does not withdraw the petition, the judicial master would prepare a report for the judge detailing placement options, risk factors, treatment options, and recommendations. If the assistant State’s attorney withdraws the petition but the parent(s) subsequently do(es) not comply with the plan, the assistant State’s attorney could re-file, and the case would proceed conventionally.

LEAN ANALYSIS MAP OF PROPOSED CHANGES



COST SUMMARY

Lean Analysis

Expenses

	Estimated	Actual
Total Expenses	\$13,973.00	\$10,848.34

Staff	Estimated	Actual
Facilitator Fee	\$5200.00*	\$5,200.00
Project Manager Fee	\$7,616.00	\$3,576.71
Coverage for Judge	\$3,000.00	?
Total	\$10,616.00	\$8,776.71

Food	Estimated	Actual
Breakfast	\$165.00	\$298.37
Lunch	\$1,292.00	\$802.04
Total	\$1,457.00	\$1,100.41

Facility Fee	Estimated	Actual
Orientation (1 day)	\$250.00	\$0.00
Analysis (4 days)	\$1,250.00	\$600.00
Total	\$1,500.00	\$600.00

Miscellaneous	Estimated	Actual
Supplies	\$0.00	\$155.22
Facilitator Mileage	\$400.00	\$216.00
Total	\$400.00	\$371.22

* This is 50% of the actually cost to be shared with DEC

This budget does not reflect mileage reimbursement for participants other than the facilitator and does not include funds needed for staff coverage

CONCLUSION / NEXT STEPS

- The analysis provided the beginning of a map that will need additional work to achieve the desired results. It is recommended that the original Lean analysis team have a follow-up meeting, with assistance from a DEC Lean facilitator, to maximize success.
- Ongoing input from the original Lean analysis team will be helpful to secure cross-agency buy-in, make recommendations on the configuration of heterogeneous intra-departmental work teams, and assure that these teams maintain the integrity of the model designed during the Lean Analysis.
- Access to real-time data will be critical as the work progresses. Data will need to be available across both the judicial and DCF systems. Work teams will achieve greater success if information technology staff are embedded into the structure of the team.
- While there are some action steps that may take time and additional resources to implement, several recommendations are cost-neutral and have a shorter implementation trajectory. Prioritization of these early gains will help to build confidence in and outside the judiciary.
- We recommend that the court administrator's office continue to work with Justin Kenny from the Department of Environmental Conservation to benefit from his assistance with project management and lower-cost Lean expertise.