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# Establishing Biological Paternity Early Project in Dependency and Termination Cases



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FOR COURT RESEARCH

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## Introduction

This report details the results from the Establishing Biological Paternity Early Pilot Project (EBPEPP) funded by the AOC Court Improvement Program grant. The main goal of the project was to provide the courts with reliable, fast, and low-cost DNA testing for alleged fathers in dependency and termination cases.

Establishing paternity early has been shown to have positive impacts on dependency case processing and on outcomes for children. Aside from earlier dependency case resolution, it increases the likelihood of a father's early engagement and family reunification, as well as the likelihood the reunification will be lasting. Even in cases where reunification is with the mother, fathers who become engaged early in the dependency process are more likely to stay involved in the lives of their children. Fathers' involvement is associated with improved child well-being and with lower levels of child behavior problems. Children with involved fathers are less likely to re-enter the child welfare system<sup>1</sup>. Identifying biological fathers can also expand the pool of relative placements and resources available to children who might otherwise be placed in foster care. Since families are more likely to experience positive outcomes if paternity is established earlier in a case, it is important that courts have efficient access to DNA testing and methods for tracking how long it takes to receive the results.

In the majority of dependency cases where paternity is a question, the process for establishing biological paternity is handled by the support enforcement division of the prosecuting attorney's office.<sup>2</sup> One of the goals of support enforcement is to determine who is legally responsible for the child in question and to require that person to provide support for the child. Because court orders determining legal paternity and support are retroactive, parents who are subject to support orders can be required to pay back child support since the child's birth.<sup>3</sup> Because orders are retroactive, there is less incentive to move quickly in child support cases than in dependency cases. Dependency cases allow a limited period of time for parents to establish legal party status, participate in services, rectify any parental deficits, and secure placement of the child.<sup>4</sup> The limited timeline increases the importance that alleged fathers establish biological paternity as soon as possible.<sup>5</sup>

The EBPEPP provided several juvenile courts in Washington State with an opportunity to secure paternity testing early in the process and track the progress for each case. During the project, testing was performed on alleged fathers and children (motherless testing) in individual cases. Test fees were paid through the AOC CIP. The juvenile courts in Cowlitz, Clark, Pierce, Thurston, and Snohomish Counties participated in this project, which started in August of 2014 and ended on July 31, 2016.<sup>6</sup>

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<sup>1</sup> Washington State Dependency Best Practices Report, Commissioned by the Washington State Supreme Court Commission on Children in Foster Care, Co-Chaired by Justice Bobbe J. Bridge (Ret.) & Denise Revels Robinson

<sup>2</sup> In several counties relationships between the dependency court and support enforcement have been created. These relationships have led to agreements that eliminate duplication of services/testing.

<sup>3</sup> RCW 26.26.150

<sup>4</sup> RCW 13.34.136, RCW 13.34.145.

<sup>5</sup> RCW 13.04.011 defines parent for purposes of dependency and termination cases as the biological or adoptive parent. Establishing legal paternity is not necessary for a biological parent to gain party status in a case brought under RCW 13.34.

<sup>6</sup> Pierce County joined the project in September 2015 through August 2016.

## Study Implementation

Each of the participating counties was required to develop their own implementation plan. The plans included identification of the person(s) or agency who would be responsible for management of the program. Management included but was not limited to scheduling DNA swabs or performing the swabs, communicating with participants, and filing the information with the dependency court. Three counties used the Court Appointed Special Advocate (CASA) and Guardian ad Litem programs in their system to manage the project and two counties used Family and Juvenile Court Improvement Program (FJCIP) coordinators. Of note is the implementation plan developed by the Pierce County Juvenile Court. This program was extraordinary in that the FJCIP coordinator was available to swab alleged fathers and children at the courthouse. This substantially reduced time delays in scheduling and rescheduling appointments.

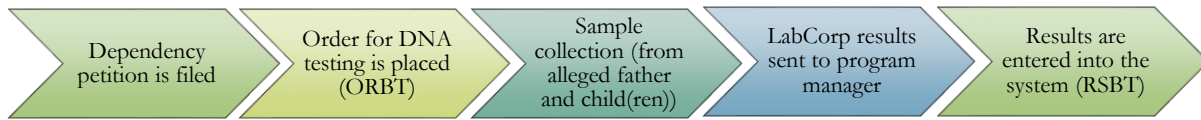
As with any research study, accurately tracking the results depends fundamentally on the quality of information provided. In the case of the EBPEPP, every effort was made to ensure each court had the opportunity to collect and submit adequate information. A variety of tools and instruments were developed to provide guidance to the participating courts. The AOC CIP provided them with the orders and docket codes to allow tracking of DNA testing through the superior court case management system. The court's implementation plan described the processes by which alleged fathers and children would be tested, how the information would be processed, and how the test results would be submitted to the court.

Another tool was an Excel template with pre-filled fields to allow courts to monitor and document each major milestone in the process (see Figure 1) as well as communicate the indicators of progress to the AOC CIP. In particular, each court was asked to record dates of the following events:

1. Dependency petition filing date
2. The date when an order for DNA testing was placed (ORBT)
3. The date when a DNA sample from an alleged father was collected
4. The date when a child's sample was collected
5. The date when LabCorp results were sent to a program manager
6. The date when the results were entered into the system (RSBT)

Using these dates, information related to the time spent on each step in the process during the pilot was captured, calculated, and compared across five participating courts. Figure 1 shows a linear sequence of the stages in DNA testing. Although for most cases in the pilot study milestones (or stages) occurred in a linear sequence, there were several cases in which some stages were skipped. For example, in cases in which the child or father had been previously tested, a saved test result could be used instead of collecting a new one. LabCorp keeps genetic information on file for seven years. Pierce County utilized stored genetic information to cut down time to schedule the father and child for a second collection.

**Figure 1: Study Timeframe for DNA Testing Process in Dependency and Termination Cases**



On the pages that follow, we compare the performance of the courts during each interval on the timeline (see Figure 1) and illustrate the variations in court performance. We also compare the timeliness of getting the paternity test results during the pilot against a similar group of cases tested a year prior to the pilot.<sup>7</sup>

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<sup>7</sup> When comparing the timelessness of getting paternity test results prior to and during the pilot, we do not report statistical significance tests. This is because our population of interest was completely sampled<sup>7</sup> and, according to Cowger, “*significance tests are not only inappropriate when applied to a total population but are unnecessary since the probable relation of a sample and a population is defined as unity when they are the same*” (p. 366).

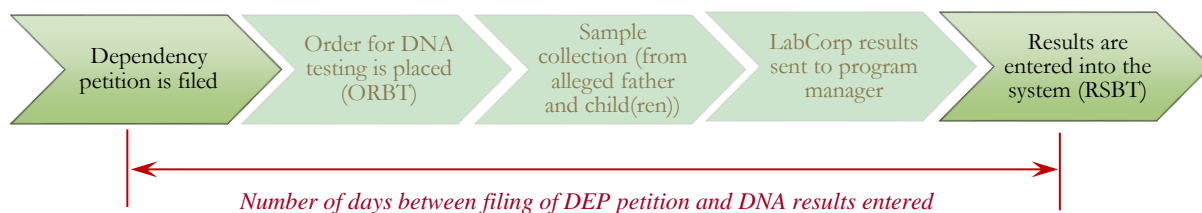
In particular, we are interested in all the tests performed a year prior to and during the pilot study for which we have complete data. Therefore, when, for example, we describe the timeliness difference between 358.5 days and 134 days, we say that the time of testing shortened by 224.5 days (or by 48%). Was there a difference in timeliness between the pilot and the time prior to the pilot? This is a descriptive question; we do not need to perform statistical testing to answer this question, and the answer is **yes**.

Cowger, Charles, 1984. “Statistical Significance Tests: Scientific Ritualism or Scientific Method?” *Social Service Review*, 58:358-372.

## Overall Improvement in Timeliness

In this section we compare the *median waiting time between filing the dependency petition and entering the DNA results (RSBT)* for the cases processed during the pilot with similar cases processed a year prior to the pilot.<sup>8</sup> The dates for these two events, which signify the beginning and the end of a DNA testing process, were the only dates available to us for the time prior to the pilot (Figure 2). That is why the difference in the median waiting time between filing the dependency petition and DNA results prior to and during the pilot was used as the main criterion for determining the improvement in timeliness.

**Figure 2: Time between Filing the Dependency Petition and Entering DNA Results into the System**



If judged by this criterion, the goal of the pilot project was achieved. DNA testing shortened the time for the paternity results in dependency and termination cases. In particular, over the course of the study, the wait time between *filing the dependency petition* and *entering DNA results* has substantially decreased for each court.

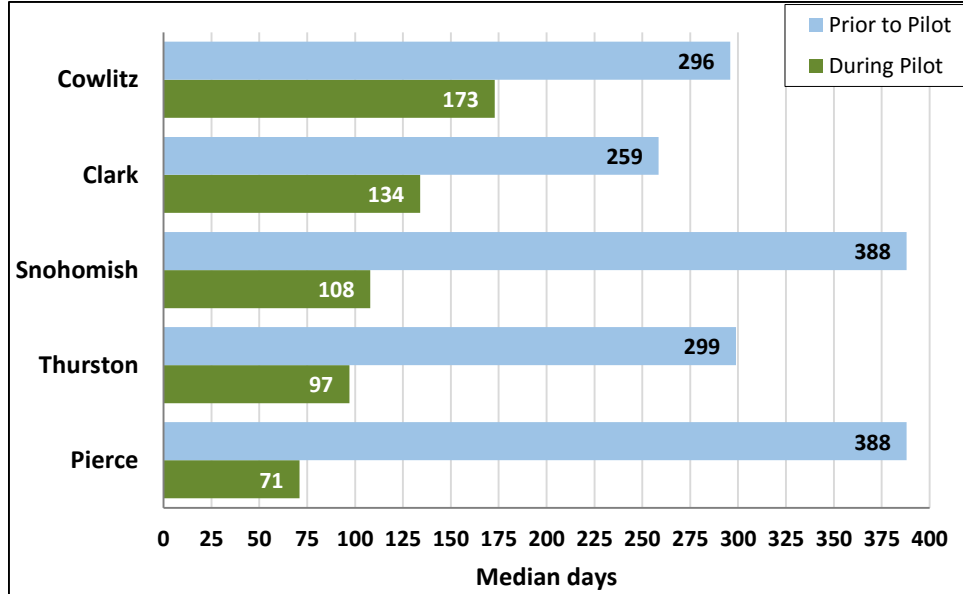
Figure 3 visually depicts the observed improvements in timeliness:

1. For Clark County Juvenile Court, the wait time decreased from 258.5 days to 134 days (48% decrease);
2. For Cowlitz County Juvenile Court, the wait time decreased from 296 days to 176 days (40.5% decrease);
3. For Pierce County Juvenile Court, the wait time decreased from 388 days to 71 days (82% decrease);
4. For Snohomish County Juvenile Court, the wait time decreased from 388 days to 108 days (51.5% decrease);
5. For Thurston County Juvenile Court, the wait time decreased from 299 days to 97 days (67.5% decrease)

Based on these results, Pierce County Juvenile Court achieved the greatest improvement in the *median waiting time between filing the dependency petition and entering the DNA results (RSBT)* for the cases processed during the pilot.

<sup>8</sup> None of the pilot counties previously tracked the time it took to receive DNA results in dependency cases. In an effort to find comparison data we matched dependency cases with alleged fathers to their parallel paternity cases with DNA testing. The most appropriate time comparison seemed to be the date of filing of the dependency petition and the filing of the DNA test results in the parallel paternity case.

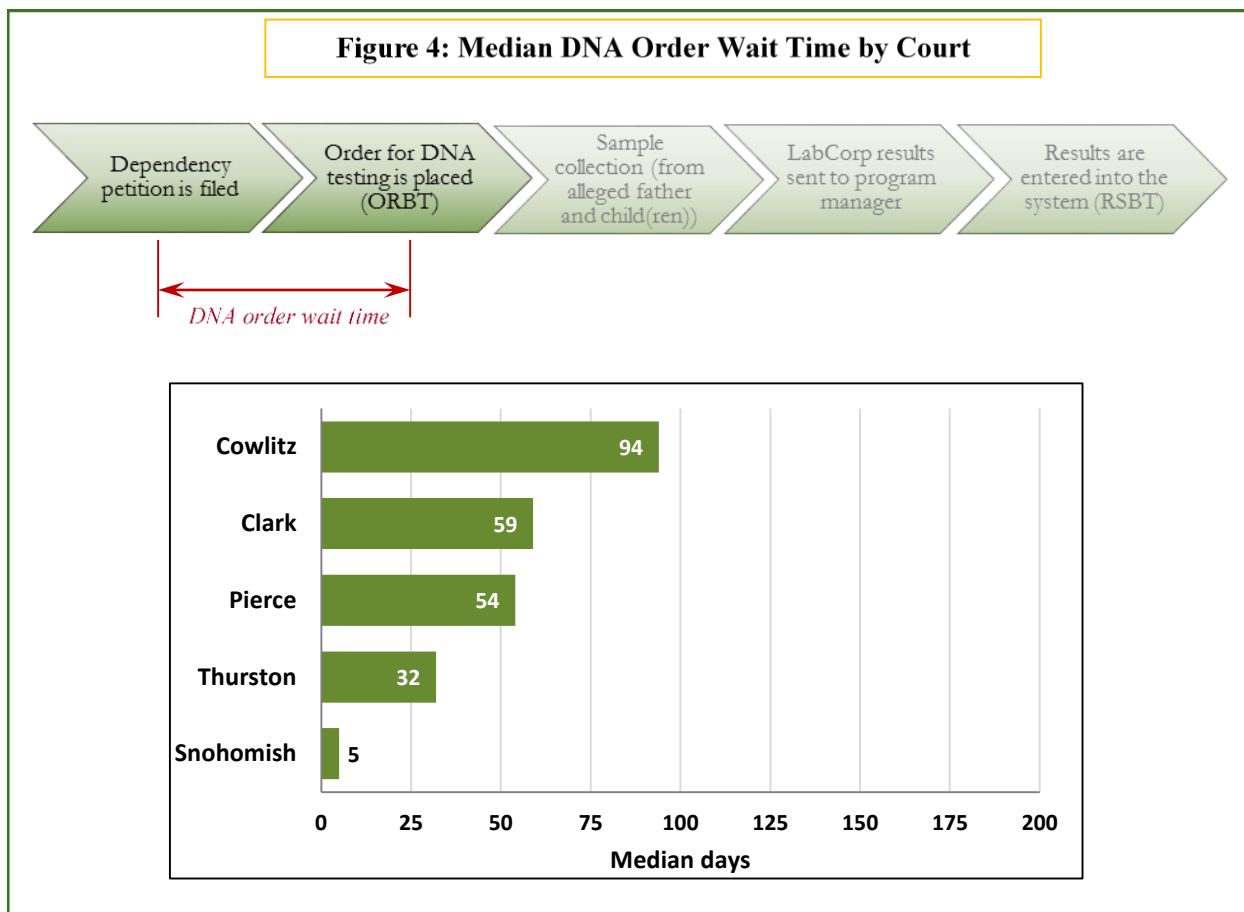
**Figure 3: Differences in the Median Waiting Time between Filing a Dependency Petition and DNA Results Prior to the Pilot and During the Pilot by Court**



With the current data available, it is impossible to tell where exactly in the process a reduction in wait time occurred (e.g., DNA order wait time, DNA sample collection wait time, DNA results wait time, etc.). However, by comparing the performance of the courts during each of the intervals on the timeline (see Figure 1), we can illustrate the variations in court performance during each stage of the process and potentially identify the practices that lead to improvement.

## DNA Order Wait Time

DNA order wait time was defined as the *difference between the time when a dependency petition was filed and the time when an order for DNA testing was placed*. Figure 4 visually depicts the time interval corresponding to these two events as well as the median time spent by courts on this stage during the pilot. The median DNA order wait time varied substantially across courts – it was the shortest in Snohomish County Juvenile Court (5 days) and it was the longest in Cowlitz County Juvenile Court (94 days). Cases processed in Pierce and Clark County Juvenile Courts during the pilot had very similar median DNA order wait time lasting about two months (54 days and 59 days). The DNA order wait time in Thurston County Juvenile Court was approximately a month (32 days).



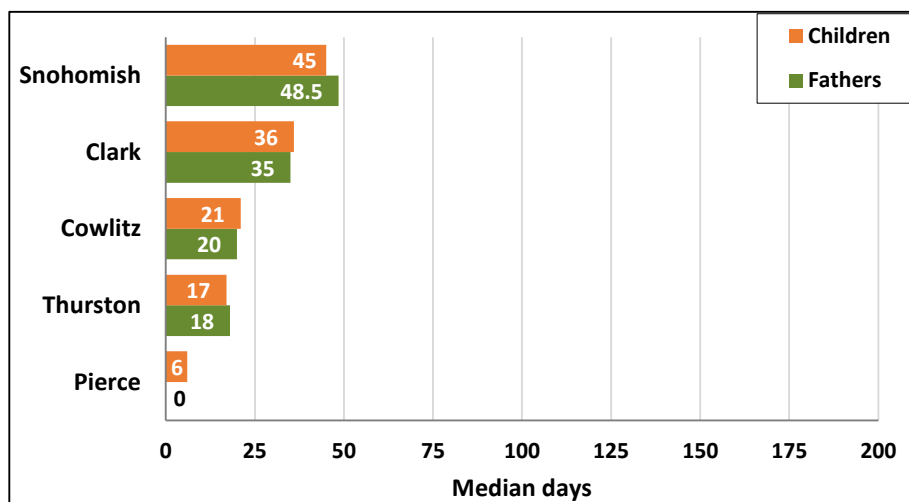
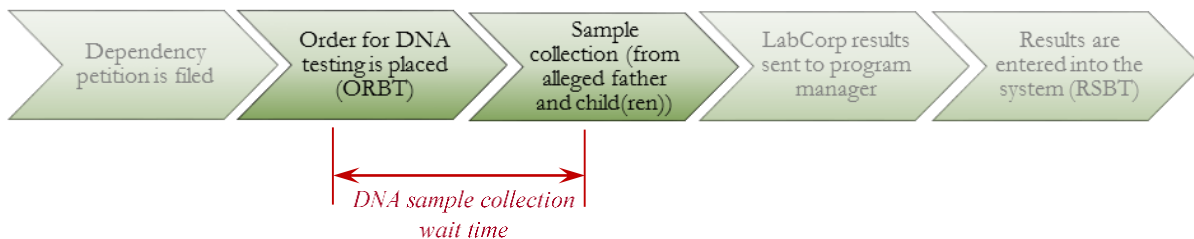


## DNA Sample Collection Wait Time

DNA sample collection wait time was defined as *the difference between the time when an order for DNA testing was placed and the time when a DNA sample was collected*. Figure 5 visually depicts the time interval corresponding to these two events as well as the median time spent by courts of this interval. There are two bar charts on the graph, one representing the median father’s sample collection wait time and the other one representing the median children’s sample collection wait time. At the median, Pierce County spent the shortest time (0 days) on obtaining a father’s sample and 6 days on obtaining a DNA sample from children. These results were achieved because Pierce County began offering genetic testing on site at the juvenile courthouse immediately after the entry of the order for DNA testing. Sample collection wait time was the longest in Snohomish County (approximately 48 days). Some of the reasons for this were identified in their final report:

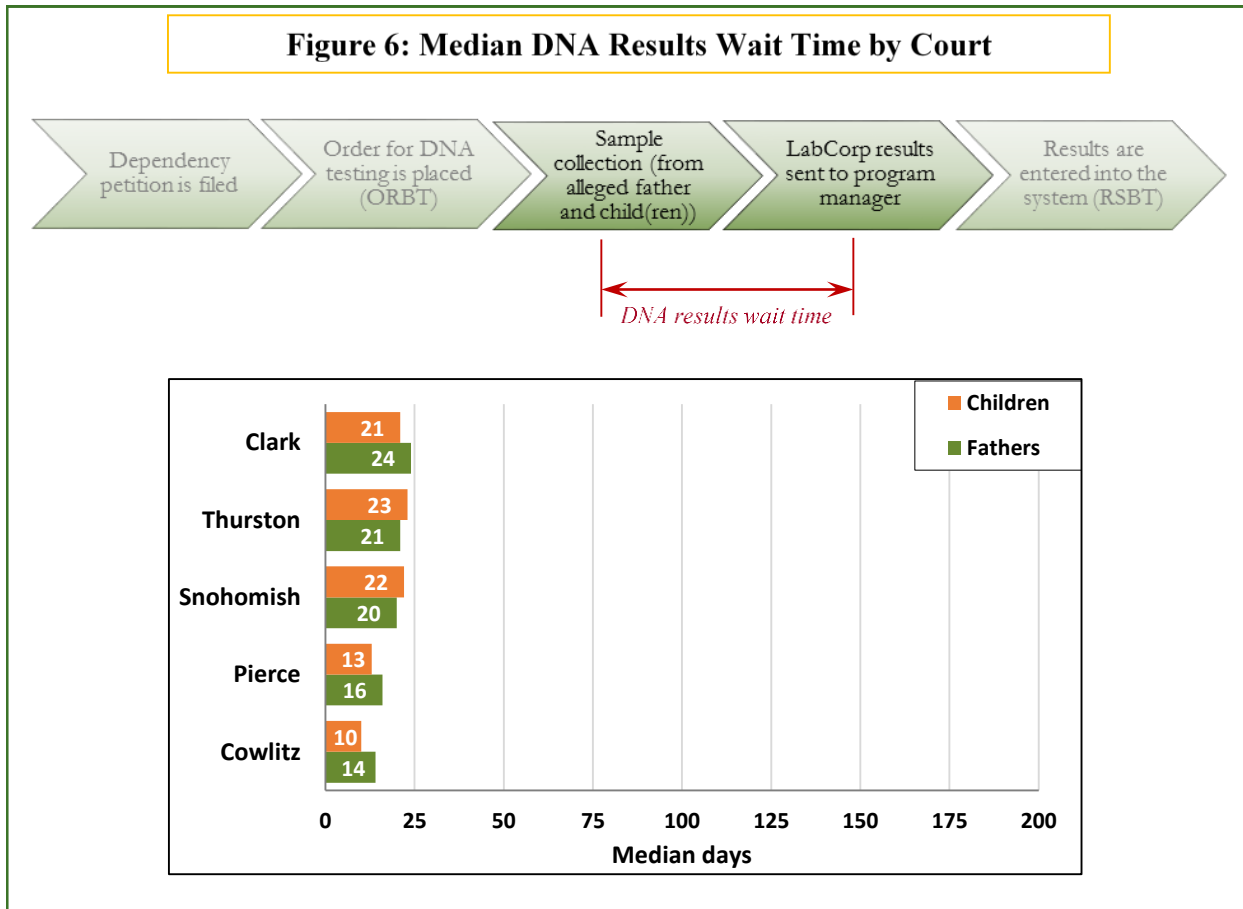
1. There was lack of knowledge or clear understanding of the project among the stakeholders involved.
2. No person or agency was identified to provide on-site sample collection at the juvenile courthouse.
3. During the second year of the pilot, the prosecutor’s office collected samples at their office, but there were some technical and legal difficulties as well as lack of communication within and between agencies, which sometimes resulted in fathers needing to return for a second sample collection.

**Figure 5: Median DNA Sample Collection Wait Time by Court**



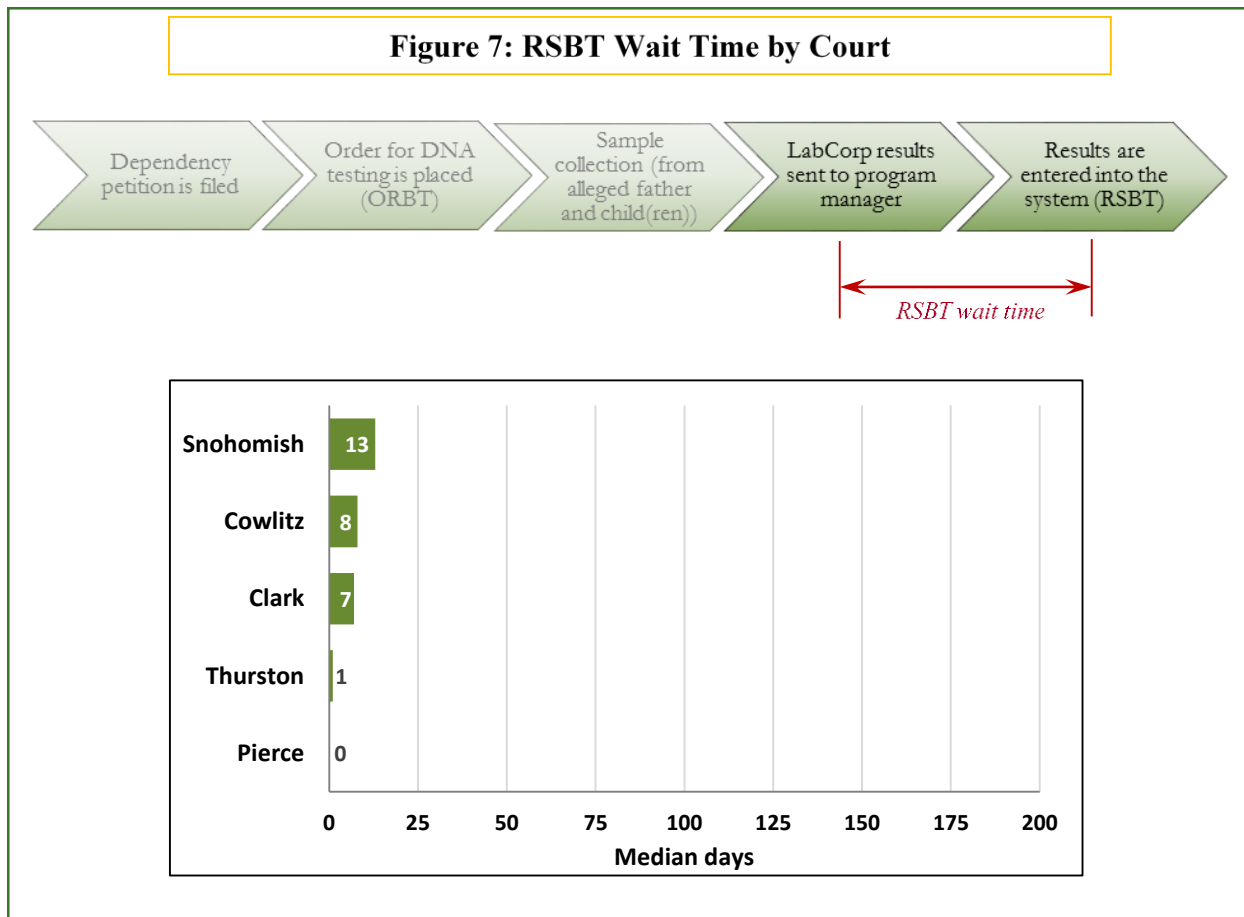
## DNA Results Wait Time

DNA results wait time was defined as *the difference between the time when a DNA sample was collected and the time when the LabCorp results were sent to a court*. Figure 6 visually depicts the time interval corresponding to these two events as well as the median time spent by courts on this stage. Because the testing was performed on alleged fathers and the children, there are two bar charts on the graph, one representing the median father’s results wait time and the other representing the median children’s results wait time. The median DNA results wait time varied insignificantly across courts. It was the shortest in Cowlitz County Juvenile Court (10-14 days) and Pierce County Juvenile Court (13-16 days), and it was a bit longer in Snohomish County Juvenile Court (20-22 days), Thurston County Juvenile Court (21-23 days) and Clark County Juvenile Court (21-24 days).



## RSBT Wait Time

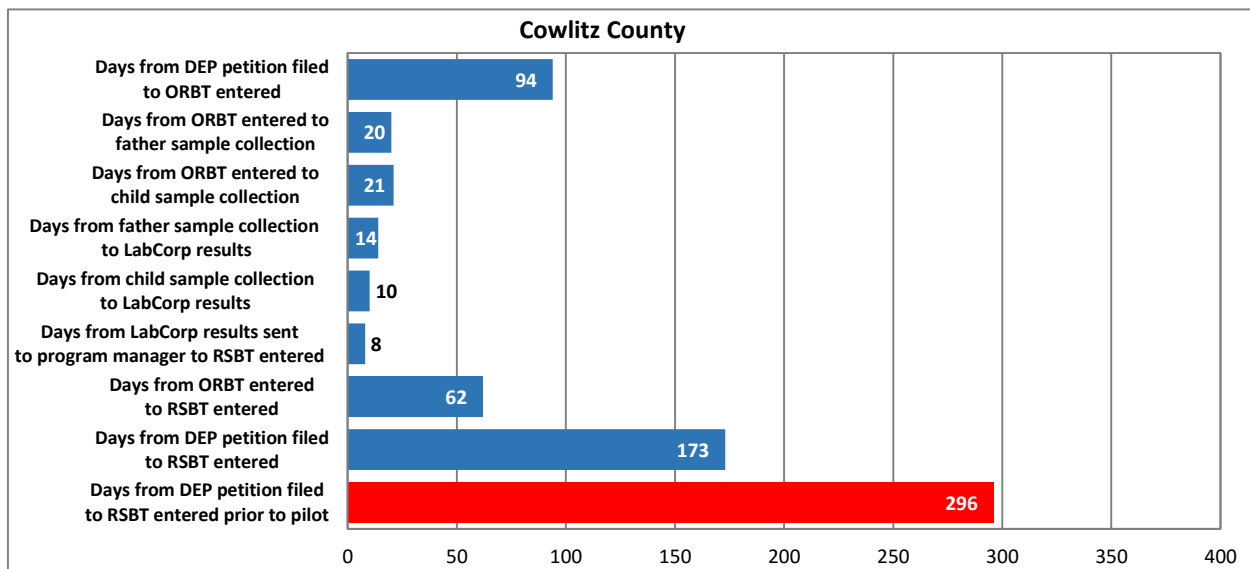
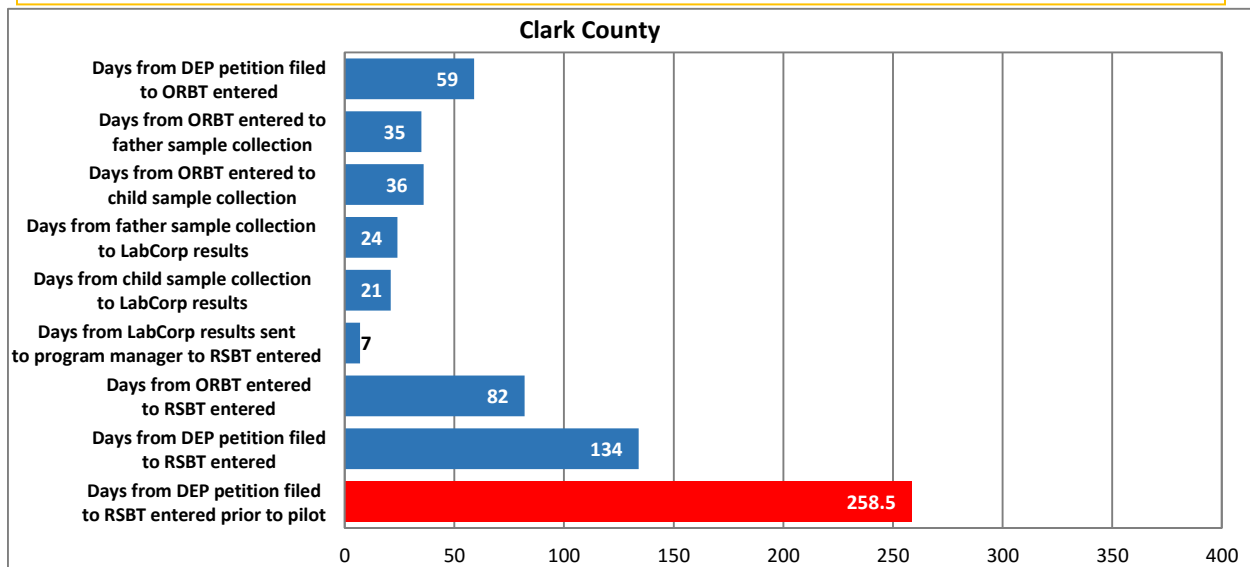
RSBT wait time was defined as *the difference between the time when the LabCorp results were sent to a program manager and the time when these results were entered into the system*. Figure 7 visually depicts the time interval corresponding to these two events as well as the median wait time spent by courts on this interval. Here, we see variability across courts. At the median, Pierce County spent less than a day on entering the results. Thurston County spent a day on the same task. The median RSBT wait time in Clark County and Cowlitz County was a week, and it was approximately two weeks in Snohomish.

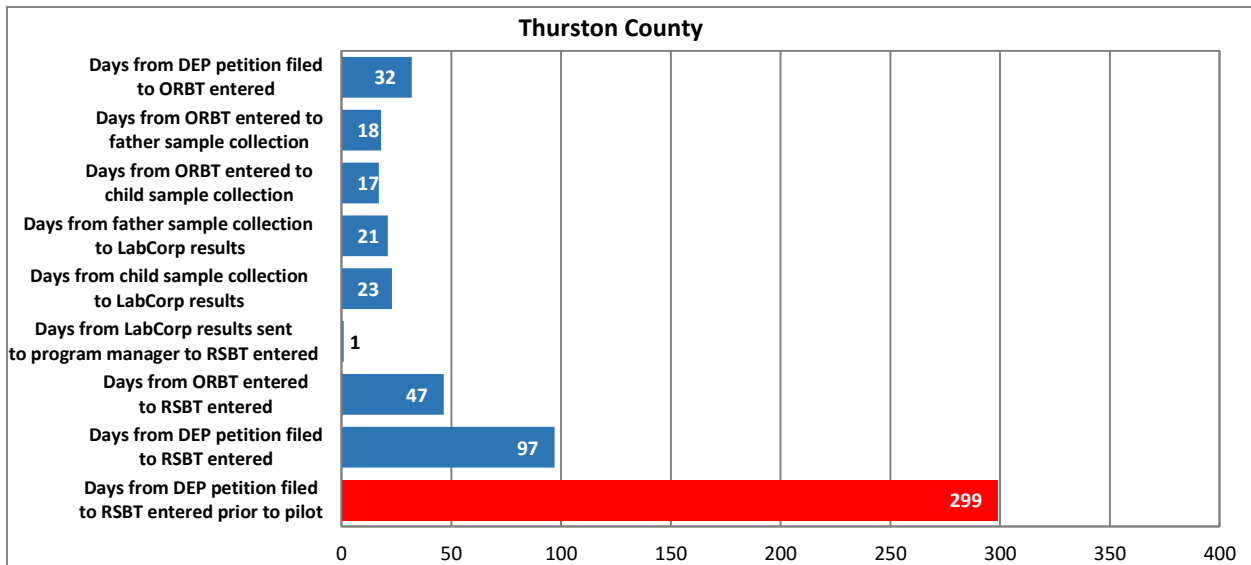
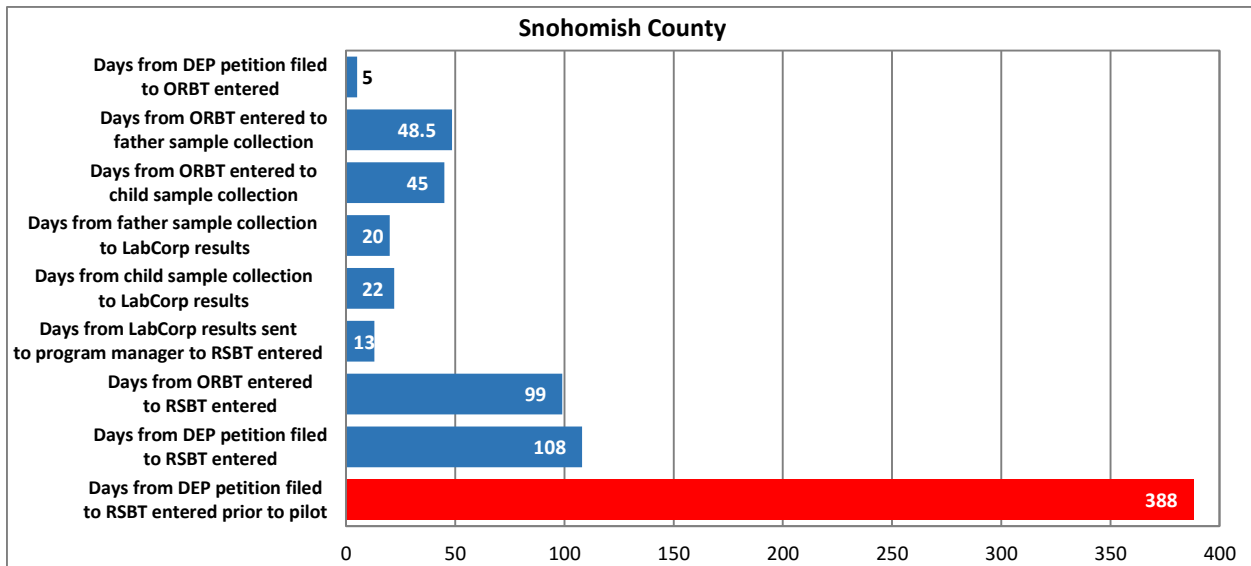
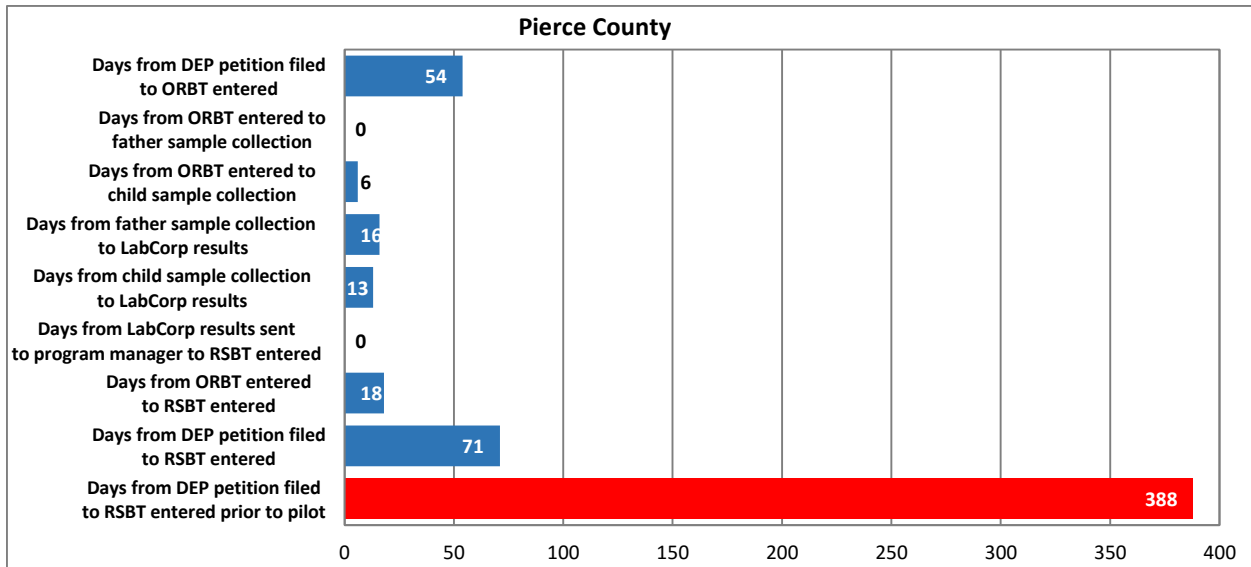


## A Glance at All the Stages of DNA Testing at Once

Figure 8 visually depicts the information reported earlier in this report but in a different way. It shows the length of time spent on each stage in the project separately for each court. The study timeframes (or intervals between two dates corresponding to different milestones) are shown on the left side of each graph. The length of time spent on each interval, measured by median number of days, is depicted by horizontal blue-colored bars. Here we included one additional time interval: *the difference between the time when a DNA order was placed and the time when test results were entered into the system*. The red bar on each graph represents *the median waiting time from filing the dependency petition to entering the DNA results in dependency cases a year prior to the pilot*. If compared to the blue bar next to it, this bar visually shows improvement in overall timeliness.

**Figure 8: Median Wait Time for Each Major Milestone in DNA Testing by Court**





## Cost Savings

A total of 144 tests were completed in dependency actions between August of 2014 and July 31, 2016. Pierce County completed 46, Snohomish County completed 36, Thurston County completed 26, Clark County completed 18 (two cases involved siblings), and Cowlitz County completed 18.

The AOC contracted with Labcorp to provide testing for each of the counties at the state government rate. The cost for each swab was approximately \$30.<sup>9</sup> In most cases the cost of determining if an alleged father was the biological father of a child in a dependency case was \$60. Lab fees for genetic testing by a private party or without a contract are approximately \$525 per case. Potential cost savings for the 144 cases that completed testing via this project was \$66,960.

Determining whether an alleged father is in fact the biological father can take upwards of a year. The Attorney General's Office (AG) generally publishes on any and all unknown fathers to avoid any unnecessary delays. At the beginning of the project there was an agreement that AG's would hold off on publication if the paternity results were coming in quickly enough. Not every court submitted information regarding the number of avoided publications due to the availability of testing through this project. To estimate the cost savings is not an easy task because the cost of publication varies greatly from area to area and from paper to paper. Courts often run several publications at one time. Some publications are done outside of the ordering county (if a parent is known to reside outside of the ordering county, the publication is done using their last known location).

For example, the Thurston County Clerk's Office paid a total of \$18,013.70 to publish 42 Summonses in dependency actions, or an average of \$428.89 per case.

With an average cost of \$428.89 per case, we were able to estimate the publication avoidance savings for three courts:

1. Thurston County saved \$8,577.80 by avoiding the cost of 20 publications;
2. Pierce County saved \$15,440.04 by avoiding the cost of 36 publications; and
3. Clark County saved \$6,862.24 by avoiding the cost of 16 publications.

Overall potential publication cost savings for three courts was \$30,880.08.

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<sup>9</sup> The cost of swabs taken by court personnel versus LabCorp personnel were approximately \$25.

## **Additional Results and Cost Savings**

Providing fast, reliable, low-cost paternity testing saves money by removing barriers to children reaching permanency. For the majority of cases that have utilized these tests, it is too soon to determine the final outcomes for the families. However, in some cases there are reportable results and cost savings.

Out of the 46 paternity tests conducted in Pierce County:

- Ten children were placed with their biological father.
- Five children were placed with paternal relatives.
- Eleven alleged fathers were dismissed as they were not a genetic match. As a result:
  - Services being provided were ended for the non-biological fathers: visitation, psychological evaluations, parenting assessments, substance abuse evaluations, etc.
  - Parents' attorneys withdrew.
  - Social workers, CASAs, and GALs were able to focus their time on the other parties and continue to seek out the biological father as a potential resource.
- Travel costs paid by Children's Administration for the alleged father to get to the testing site was minimized, as most tests were conducted at the court.

Out of the 26 paternity tests conducted in Thurston County:

- Approximately 12% of cases wherein the alleged father was determined to be the biological father via genetic testing, placement was made with the biological father within six months or less from the receipt of test results.
- Approximately 4% of cases wherein the alleged father was determined via genetic testing to be the biological father, placement was made with paternal relatives within 10 months of the receipt of test results.

## Conclusion and Recommendations

One main objective of dependency court is to move cases in a prompt and efficient manner toward a resolution that meets the permanency, safety, and well-being needs of the child. Any unnecessary delays interfere with children achieving timely permanent placement. The Court Improvement Program is committed to improving court operations by equipping its professionals with best practices, steeped in evidence. That is why this study was so critical to the dependency court setting.

The purpose of the project was to provide several juvenile courts in Washington State with an opportunity to secure paternity testing early in the process and monitor the progress for each case. The juvenile courts in Cowlitz, Clark, Pierce, Thurston, and Snohomish Counties participated in this project. The project succeeded in showing a significant reduction in the *waiting time from filing the dependency petition to entering the DNA results*. Some expected outcomes of early paternity testing include the following:

- Earlier overall case resolutions in all types of permanency, including reunification with parents, guardianships, and adoptions;
- Reduction in overall judicial workload due to fewer hearings; and
- Children are more likely to be placed with a relative rather than in foster care.

The project also succeeded in showing a significant cost-savings in the price of the tests and reduced costs for publication in cases when the biological father was identified more quickly.

### Recommendations: How Can Practice be Improved?

Our findings illuminated the central role of case management in the dependency and termination court process. Case management, whether carried out by a formally designated person or split among multiple team members, along with interagency cooperation and coordination, is essential for timeliness and efficiency in establishing biological paternity in dependency and termination cases. Some of the techniques that might help include:

- **Time standard:** Enforcing time standards for the completion of each stage in the DNA testing process. Courts should ensure that the main stages are documented and can be tracked. Judicial officers should familiarize themselves with the time standards and track the process. Data must be reviewed quarterly to assess the need to adjust provisions of services.
- **Early Court Interventions:**
  - Place an order for a DNA testing as soon as possible after a dependency petition has been filed. Snohomish County succeeded at ordering testing at a median of five days.
  - Expedited DNA sample collection techniques should be used on alleged fathers and children—Pierce County showed how delivery of specialized training to key participants in juvenile court is essential to achieving timely DNA results.



- Work closely with LabCorp to expedite the testing and have an agreement to use the test samples already on file.
- **Training:** Multiple stakeholders are typically involved in dependency and termination cases. Meetings should occur to allow judges, court administrators, and other judicial leaders to increase their awareness and understanding of the findings of this project and to encourage judicial leadership in this area. Specialized cross-training events should be developed and presented to improve knowledge regarding how earlier establishment of paternity might improve timeliness in dependency and termination cases. Use the results of the pilot study as the basis for these trainings.
- **Working with Parents:** Finally, work should be done with parents, educating them about the effects of early identification of family members, early paternity testing, and how early paternity testing can help them to move their case forward. As practice shows, it is not uncommon for parents not to trust Child Protective Services (CPS) and to be reluctant to identify family members. One of the ways to engage the parents is through Dependency 101 programs. Counties currently offering Dependency 101 include: Grays Harbor, Island, King, Kitsap, Mason, Pacific, Pierce, Skagit, Snohomish, Spokane, Thurston, Whatcom and Yakima. A 2011 study of King County's Parent to Parent Program found that attendance at Dependency 101 significantly changed parent perceptions of the child welfare process. Surveyed parents indicated that as a result of attending a Dependency 101 program, they were more likely to trust CPS, be aware of the issues they needed to address to reunify with their children, and better understood the roles of professionals in the dependency system<sup>10</sup>.



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<sup>10</sup> Washington State Dependency Best Practices Report, 2012: <http://www.uwcita.org/>