



DELIVERING ON THE PROMISE

PROMOTING COURT CAPACITY TO IMPROVE OUTCOMES FOR ABUSED AND NEGLECTED CHILDREN

NATIONAL
CONFERENCE
of
STATE
LEGISLATURES

A Primer for Policymakers

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EXECUTIVE SUMMARY

In the child welfare system, courts play a pivotal but often overlooked role in ensuring children's safety, permanency and well-being. Court decisions determine the future for children who are abused or neglected, including whether they remain with their biological families or become wards of the state; how long they will remain in the system; and mental health and other special treatment to which they are entitled. However, courts that hear child welfare cases face tremendous challenges, such as staggering workloads, lack of judicial expertise, inadequate collaboration with child welfare agencies, and poor data and accountability systems.

State legislators now have an unprecedented opportunity to strengthen and support the courts. Strong commitment of state judicial leaders, a rich body of court experience, growing consensus about the need for court reform, and new federal funding provide conditions that are conducive for reform. Through policy, budgetary and oversight activities, legislators can help to ensure that courts are able to fulfill their responsibilities to children and to the public trust.

This report presents background information about courts that hear child dependency cases and identifies potential state legislative strategies to promote judicial accountability and greater collaboration with child welfare agencies.

Opportunities for Improving Performance and Collaboration

Recent developments provide an opportunity for state legislators to boost the performance of courts and the child welfare system. In 2004, the Pew Commission on Children in Foster Care released an influential set of recommendations for strengthening dependency courts, focusing on collaboration among courts, agencies and tribes; the use of multidisciplinary commissions; cross-systems training; and implementation of performance standards, among other things. Based on these recommendations, Congress expanded the federal Court Improvement Program in 2005 to include new funding for training, data collection and data analysis. Federal funding and oversight of state child welfare systems now include new requirements for collaboration. Following the lead of the Pew Commission, a number of states and the District of Columbia have created collaborative bodies to improve court-agency relationships and communication. In 2005, high-level teams from 49 states, the District of Columbia and the territories participated in a national judicial summit and developed action plans for improving the lives of children in foster care.

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Strategies for Legislators to Consider

Some changes to improve judicial organization require statutory changes and, thus, the direct involvement of the legislature. Creating a unified system of court administration or specialized juvenile courts, for example, may necessitate changes in state statute. State legislators can mandate pilot programs to test innovative specialized courts or require courts to develop plans to promote more efficient and effective services. Legislators also can help clarify relationships between state and tribal courts; encourage collaboration with tribal courts and tribal child welfare agencies; and routinely examine the effects of state policies and court practices on Indian children.

Court Roles and Organization: Implications for Performance

Understanding court responsibilities and organization can help legislators ensure that state policies and resources are aligned to support better judiciary performance. Although court structure, jurisdiction and administration vary greatly from state to state and even within some states, all dependency courts function as gatekeepers or decision makers at key points in the life of a case; monitors of child welfare agency performance in individual cases and as a system; and guardians of parties' due process rights. Some courts specialize in juvenile matters, while others handle the full range of cases. Specialized courts are able to develop a high level of expertise in complex child welfare cases, but also may lack the prestige and influence of general jurisdiction courts. Many Indian tribes have their own court systems that hear cases involving Indian children.

Measuring and Improving Court Performance

The performance of the child welfare system cannot be adequately assessed without measuring the performance of courts. Courts make decisions that directly affect the safety, permanency and well-being of children and should be held accountable for the timeliness and outcomes of those decisions. Monitoring performance also is important in planning for improvement, efficient court management, and effective budgeting and use of resources.

Strategies for Legislators to Consider

State legislators can promote the collection, use and sharing of data by child welfare agencies and dependency courts, while ensuring that individual rights to privacy are protected. When legislators ask for and make use of court performance data to inform their oversight, policymaking and resource allocation decisions, they highlight not only the importance of this data but also the critical role of the courts in child welfare. Legislators can also ask for periodic reports on plans for measuring performance, inform planners about information needed to improve legislative decision-making and public oversight, and ensure that key stakeholders participate in planning and developing data systems. Legislatures in some states are also removing barriers to court-agency performance measurement by facilitating frontline information exchange, requiring individual case tracking and identification, and creating pilot programs for automated information exchange between courts and child welfare agencies.

With support from the David and Lucile Packard Foundation, three national organizations developed a set of court performance measures that address child safety and permanency, due process for all parties, and timeliness of decision making. The Pew Commission on Children in Foster Care recommended that these "Packard performance measures" be widely adopted. To do so, courts must have ongoing capacity to collect and analyze data.

Courts can begin this process without a massive investment in sophisticated information systems. With strong court-agency collaboration, state courts can begin with existing, cost-free data that are cost-free and build a platform for collecting additional information. Child welfare agencies already are collecting and reporting information on some of the recommended court performance measures

under the national Adoption and Foster Care Analysis and Reporting System (AFCARS) and the National Child Abuse and Neglect Data System (NCANDS). Courts in a number of

states are developing strategies to use AFCARS data to monitor many of the Packard performance measures. Other states—including Missouri, Virginia and Utah—have developed new data systems to monitor performance.

Promoting Collaboration Among Courts, Child Welfare Agencies, Tribes and Other Partners

Collaboration no longer is simply a good idea, it is essential to improving outcomes and now is a condition of continued federal child welfare funding. The Pew Commission on Children in Foster Care put collaboration at the center of its recommendations for strengthening courts. To be eligible for new federal court improvement grants, state courts must create multidisciplinary bodies to jointly identify and prioritize goals and issues and develop strategies for improvement. Accordingly, states that are working to improve child welfare outcomes have convened a broad and varied array of partners that includes but extends far beyond the judicial system and the child welfare agency. Courts and agencies not only are collaborating on systemic issues, but also at the case level with dependency mediation, family group decision making, court-based service programs, and family drug treatment courts.

Two pathways to more effective collaboration between courts and child welfare agencies are involvement of courts in the Child and Family Services Review (CFSR) process and judicial training, including training of judges, attorneys and court personnel and cross-training of judges and child welfare agency staff.

- A major finding of the first round of federal Child and Family Service Reviews (CFSRs) was that all states need to improve their systems and processes for expeditiously moving children in foster care to safe, permanent homes. Improvement in this area directly hinges on the courts. Accordingly, courts need to be involved in planning for the CFSRs and development of related Program Improvement Plans (PIPs). Some states, such as Ohio, are making progress in involving juvenile court judges in the CFSR process.
- With an increase in cases involving difficult issues of substance abuse, mental health, domestic violence and homelessness, judicial and legal representatives need to develop specialized problem-solving skills that are unique to child protection cases. Cross-training of judges, attorneys, tribal representatives and child welfare staff helps to ensure a common foundation of knowledge and understanding. A portion of the funds that states receive through the new court improvement training grants must be used for collaborative training.

Issues and Strategies for Legislators to Consider

State legislators in Arkansas, California, New York, North Dakota, Utah, Vermont and Washington have promoted court-agency collaboration by creating and serving on multidisciplinary commissions. State legislation mandating such commissions can articulate desired outcomes; require identification of policy, legal and funding issues that hinder collaboration; and require recommendations for legislative change. Arkansas' 2005 authorizing statute, for example, requires the group to recommend specific statutory and funding changes to improve child safety and well-being. State legislators who are concerned about adding to the growing list of collaborative planning bodies may want to build upon existing efforts or merge existing task forces that focus on similar issues.

State legislators also can support local collaboration. Colorado legislation authorizes and specifies minimum requirements for memoranda of understanding among multiple county agencies and local courts. Texas law allows the state child welfare agency, subject to funding, to employ local legal liaisons and community initiative specialists. A number of states—including Missouri, Texas, Virginia and Wyoming—have recently enacted legislation that authorizes multidisciplinary family team meetings or local child protection teams.

Conclusion

Of the many steps that state legislators can take to strengthen the courts' role in the child welfare system and improve court-agency collaboration, perhaps the most important are those that demonstrate the legislature's ongoing commitment and attention to this important issue. Legislative mechanisms to consider include routine court/child welfare oversight hearings, ongoing monitoring of performance, and thoughtful consideration of the effects of proposed policy and funding decisions on court performance. In their role as local and state leaders, legislators can raise public awareness of the courts' important role in the lives of vulnerable children and families. Tables 1, 2 and 3 summarize the legislative strategies discussed in this paper.

Table 1. Court Roles and Organization

<i>Strategies to Consider</i>	<i>Action Steps</i>
Promote effective judicial organization	<ul style="list-style-type: none"> • Pilot new approaches. • Promote coordinated judicial planning.
Strengthen court capacity on behalf of Native American children	<ul style="list-style-type: none"> • Review state-tribal agreements. • Encourage court collaboration with tribal child welfare agencies and tribal courts. • Examine the effects of state policies and court practices.

<i>Strategies to Consider</i>	<i>Action Steps</i>
Promote development of performance measurement systems	<ul style="list-style-type: none"> • Ask for periodic reports on plans for measuring performance. • Inform planners about information needed to improve legislative decision making and public oversight. • Ensure participation of key stakeholders in planning and developing performance data systems.
Remove barriers to court-agency performance measurement	<ul style="list-style-type: none"> • Promote local, frontline information exchange. • Allow individual case tracking and identification. • Provide for automated information exchange.
Ensure protection of individual rights	<ul style="list-style-type: none"> • Ensure adoption confidentiality. • Address privacy issues in small jurisdictions. • Ensure that performance measurement systems avoid inappropriate court-agency information exchange.
Develop ongoing legislative strategies for monitoring performance and outcomes	<ul style="list-style-type: none"> • Require routine reports on performance measures from courts and agencies. • Convene public hearings to examine and address issues that affect court performance. • Ensure that emerging information systems monitor court and child welfare performance.

<i>Strategies to Consider</i>	<i>Action Steps</i>
Support multidisciplinary commissions	<ul style="list-style-type: none"> • Identifying and eliminating barriers to collaboration and child welfare performance. • Building on existing collaboration.
Encourage and replicate local collaboration	<ul style="list-style-type: none"> • Providing organizational support for effective local collaboration. • Promoting state-local connections. • Safeguarding ethical judicial communication within the community.
Promote collaborative implementation of best practices	<ul style="list-style-type: none"> • Performance-based, cross-sector agreements. • Staff liaisons. • Collaborative case planning and service delivery.

1. INTRODUCTION

Courts make decisions every day that have profound and lasting effects on the lives of vulnerable children and families. Although executive branch child welfare agencies are more likely to be in the public and legislative limelight, the efforts of many partners are necessary to safeguard the estimated 500,000 children in foster care and the millions more who are at risk of placement in foster care. The courts are both a key partner and a powerful leverage point for improving the lives of children who have been abused or neglected.

The court has essential roles in the lives of vulnerable children: decision maker for individual children, protector of all parties' due process rights, and overseer of public agencies' actions. As the gatekeeper and monitor for each child who enters foster care, the dependency court is critical to improving individual safety, permanency and well-being. Foster care, family reunification, adoption and guardianship occur only with court approval. Court decisions determine the future for children who are abused or neglected: whether they remain with their biological families or become wards of the state; how long they remain in the system; mental health and other special treatment to which they are entitled; and relationships with parents, siblings, and other relatives.

The court's checks and balances are essential to an effective child welfare system and to a just society. Carefully constructed court procedures, reviews and deliberations provide important protections for individuals' rights to fair hearings, thorough consideration of each child's case, and timely justice. The court also monitors executive branch agency plans and actions on behalf of each child and works to ensure that every individual achieves a safe and stable home as quickly as possible. In this oversight role, the court is able to identify effective agency practices and needed improvements within both the community and the state.

State legislators now have an unprecedented opportunity to strengthen and support the courts. Strong commitment of state judicial leaders, a rich body of court experience, growing consensus about specific court reforms, and new federal funding provide the right set of developments for reform. Through policy, budgetary and oversight activities, legislators can help to ensure that courts are able to fulfill their responsibilities to children and to the public trust.

This report presents information about courts that hear child dependency cases, including court responsibilities, organization, budgeting and financing, and best practices that shape court performance. It emphasizes issues for legislators to consider and two directions for court improvement where legislators currently can have particular leverage:

1. Increasing the focus of the courts and the entire child welfare system on results, performance and accountability; and
2. Promoting collaboration between the courts, executive branch child welfare agencies, tribes and other partners.

Finally, the report highlights specific legislative strategies to promote court performance, court-agency collaboration, and better outcomes for children who are in foster care or who are at risk of foster care.

2. THE PROBLEM: COURTS UNDER PRESSURE

Numerous studies support the testimony of those who have grown up in foster care. The clear conclusion is that delays in decision making regarding their care, lingering in temporary placement, and moving among foster homes damages individuals' childhoods and their future well-being. Timely, well-informed decisions accompanied by vigilant monitoring helps achieve the best possible outcomes for children.

Over the years, courts with jurisdiction over child protection cases have struggled to protect children from further harm while making timely, well-informed decisions for their future. The federal Adoption and Safe Families Act of 1997 (ASFA) required new efforts by states to improve the safety, permanence and well-being of children who have been abused or neglected. ASFA requirements include additional types of judicial decisions, more frequent hearings, involvement of more parties in each case, and expeditious court actions. In addition to ASFA, federal regulations and state legislation have increased court responsibilities and accountability.

Court performance has not kept pace with increasing demands. In a 2002 GAO study, half of the states identified problems with the court system as a barrier to moving children from foster care into safe, permanent homes. Children in foster care wait between four and 16 months for the court hearing that will decide where their permanent home will be. More than half of all foster children spend nearly three years in foster care and are placed in three different homes during this time.¹

Despite the good intentions of many judges, court staff and attorneys, court capacity to improve outcomes for children is limited. The Honorable Maura Corrigan, Michigan Supreme Court Chief Justice and member of the national Pew Commission on Children in Foster Care, described the problems that courts face:

“Courts are awash in dependency cases; attorneys who practice in this area are often overworked, inadequately trained and underpaid. Those who work in the justice system are often unsure how to deal with these difficult cases because we lack uniform practice standards. Too, although we share responsibility for these children with executive branch agencies, courts and agencies often don't do a good job of communicating or working together. Birth parents and other interested parties often don't get the chance to communicate with the courts. The combined result: Children languish in the court system instead of advancing toward permanency.”²

Federal Adoption and Safe Families Act of 1997 (ASFA) Requirements for Courts

ASFA defined three outcomes as the focus of the state-federal child welfare system: child safety, a stable and permanent home, and child well-being such as health, mental health and educational success. To help meet these outcomes, ASFA, subsequent federal legislation and rules, and state laws have expanded the court's responsibilities.

- *Requiring earlier and more comprehensive permanency hearings.* ASFA requires these hearings within 12 months of initial placement (instead of the previous 18 months) and at least every 12 months as long as the child remains in foster care. The child is considered to have entered foster care on the earlier of the first judicial finding of abuse or neglect or 60 days after removal from home. The purpose of the hearing is to develop a permanency plan for the child that must include whether and when the child will be returned to the parents, placed for adoption with the state filing for termination of parental rights, referred for legal guardianship, or placed in another planned permanent living arrangement.
- *Setting deadlines for filing termination of parental rights petitions.* With certain exceptions, petitions must be filed if the child has been in foster care for 15 of the past 22 months. In the case of abandoned infants or certain serious physical harm, petitions must be filed sooner.
- *Establishing due process rights of foster parents, pre-adoptive parents or other relatives providing care.* The courts must provide these parties notice and a right to be heard in any review or hearing concerning the child.

Staggering Workloads

In many courts across the country, judges, staff and attorneys struggle to deal effectively with an enormous number of cases related to child abuse and neglect and with the complexity of those cases. In 2002, 29 states reported a shortage of judges or court staff in the child welfare system. Although data are limited regarding the number of cases or hearings or how many judges are needed, the implications are clear. Children are likely to languish in judicial bottlenecks rather than advancing toward permanency.³

Judicial Caseloads

In 2004, an estimated 872,000 children were determined to be abused or neglected, and 268,000 were removed from their homes as a result. In most communities and states, the court cases of these children are handled by general trial courts that have jurisdiction over a broad range of civil and criminal matters. Although family courts, juvenile courts or divisions within general trial courts have more specialized jurisdiction, they, too, deal with other types of cases. High-volume courts are strained to respond in a timely and effective manner to their growing caseloads.⁴

In Virginia, for example, caseloads for Juvenile and Domestic Relations district courts increased by 70 percent during the 1990s. Juvenile cases, which include child dependency and juvenile delinquency cases, comprised more than half of the courts' cases and grew by 63 percent from

1992 to 2005. In 2005, each Juvenile and Domestic Relations court judge averaged 2,450 juvenile cases and 5,429 juvenile hearings. The state total of juvenile hearings in the state was 612,382, and new cases totaled 276,803.⁵

Although formal caseload size standards do not exist, a 1999 study recognized successful dependency courts in Hamilton County, Ohio, and Kent County, Michigan. Here, judicial officers annually handled 239 and 181, cases respectively. In contrast, the presiding judge in a third location handled 1,000 cases per year—still less than half the cases handled by the average Virginia judge and those in some other states.⁶

Attorney Caseloads

Many attorneys who represent children who have been abused or neglected and other parties in dependency proceedings also experience unmanageable workloads. According to the American Bar Association, a reasonable caseload for a full-time staff attorney for a child welfare agency is 40 to 50 cases. The results of a 1999 survey revealed that half the attorneys in six California counties had dependency caseloads of 150, 25 percent had 250 or more, and the 10 percent with the largest caseloads had 600 or more.⁷

Lack of Time to Consider Complex Cases

The rising number of cases and larger workloads mean less time to carefully consider each child's case in a timely way, ultimately contributing to poor outcomes for children. Hearings frequently are delayed or continued, or they may lack substantive consideration of issues.

In addition to the sheer numbers, cases involving child abuse or neglect are challenging and time-consuming. In Iowa, civil cases involving children and families (including family law, delinquency and child welfare cases) consume a significant portion of court time—more than one-third of the state's judicial resources. Although the juvenile caseload accounts for about 1 percent of the total case filings, they account for almost 20 percent of judicial work time throughout the state. In addition, of the 2000 appeals filed annually with the Iowa Supreme Court, cases involving termination of parental rights or child in need of assistance constitute 25 percent.⁸

Courts often are unable to provide the minimum time for hearings suggested by the National Council of Juvenile and Family Court Judges' Resource Guidelines. Although the guidelines suggest about an hour for each preliminary protective hearing, Florida courts reported in 1999 that the majority of its preliminary hearings lasted only four minutes. For other courts, frequent case continuances are responsible for decision-making delays. Florida's 1999 assessment for the federally funded Court Improvement Program noted that judges granted a high percentage of requests for continuances. Missed deadlines between the initial protective hearing and termination of parental rights translated on average to nearly an additional year that a child spent waiting for a permanent home.⁹

Lack of Judicial Expertise

Although judicial branch organization differs greatly from state to state, most, child abuse and neglect cases are only a small portion of the docket in most courts. Where judges preside

over general jurisdiction trial courts or circulate among courts of specialized jurisdiction, they often lack the opportunity and time to develop the special skills that dependency cases require. Traditional education of both attorneys and judges often fails to prepare them for these cases, and the champions for children seldom find salaries, career ladders or prestige to encourage and reward them.

Turnover

The practice of frequently rotating judges who may or may not have expertise or interest in child welfare law contributes to the problem. Florida judges may be rotated out of dependency court after only six months, and in California interested and dedicated judges may be rotated out after one year. Frequent turnover of both judges and attorneys can contribute to unnecessary delays in permanency decisions. A succession of judges and attorneys who are unfamiliar with the child and family also increases the possibility that critical facts about the case will be overlooked. To combat this problem, the family court movement aims to allow a single judge to hear all legal issues for a child and family.¹⁰

Lack of Appropriate Training

Training specific to child welfare law, child development, the dynamics of child maltreatment, and other family-related topics is rarely part of the preparation that judges or attorneys receive. In many jurisdictions, they are subject to no specific training requirements other than a law degree. Court officials and judicial experts report that few have the necessary training to deal with either the legal or non-legal aspects of the cases, including the social services needs and psychological issues of the individuals involved. Without specialized training, judges and attorneys may have preconceived notions about child abuse.

According to dependency court experts, lack of training and experience limits the ability to gather enough information to make fully informed decisions about the child and family. Hearing effectiveness, timely handling of cases, the quality of decisions, and permanency for children ultimately can be affected.

Inadequate Services

Many judicial officials report frustration at their inability to effect change in the lives of children and families. A 2005 survey of judicial leaders revealed strong concern about inadequate resources to assess child and family needs or to provide assistance. A range of resource challenges undermines the ability to avoid the need for foster care, treat underlying problems, and ensure child safety and well-being. Specific issues cited by judicial leaders include difficulty engaging families in developing service plans, lack of resources to prevent maltreatment, inadequate casework staff, and absence of support for foster families and kinship caregivers.¹¹

Lack of Collaboration

To keep children safe and ensure their well-being as part of a permanent family requires the combined efforts of many partners. Although executive branch agencies, private contract agencies, tribes and courts share responsibility for improving the lives of vulnerable children, they often have failed to communicate or work well together. In fact, the partners experi-

ence similar challenges that threaten outcomes for children and make collaboration difficult: high caseloads, limited time for working with individual children and families, high personnel turnover, few opportunities to develop needed expertise, and limited data capacity to monitor performance. These same challenges make collaboration difficult, and failure to work together toward common goals contributes to a cycle of poor performance and bad results for children.

System partners often lack understanding of each other's roles and limitations. For example, some jurisdictions report a pervasive distrust among judicial officers of child welfare agency caseworkers. Local judges mistrust the judgment of caseworkers and routinely order additional tests and clinical assessments to compensate for what the judges view as professional inadequacies. Judges may delay case resolution and permanency by requiring frequent progress reports and status hearings to ensure that caseworkers are performing their assigned tasks appropriately. Judicial officers may blame individual workers for long waiting lists for services.

On the other hand, agencies may inadvertently cause delays because they do not fully understand the legal barriers that courts face. Although the problems vary, all states encounter subtle legal issues that can interfere with positive outcomes for children. For example, when courts make inadequate or incomplete findings during early hearings, it can lead to later difficulty meeting timelines. Likewise, failing to engage non custodial parents in the court process early can delay decisions to free children for adoption later.

Although judicial autonomy and the courts' oversight role influence inter-branch relations, they are inherent dynamics that must be acknowledged, rather than used as excuses for not collaborating. (In some jurisdictions, a destructive pattern of blaming each other for system failures such as child deaths may exist among courts, child welfare agencies, service providers and tribes.)

Poor Data and Accountability Systems

Courts lack adequate automated information and tracking systems, a deficiency that limits their ability to make effective decisions on behalf of individual children, to efficiently manage court dockets and operations, to monitor their own performance, or to make the systemic changes needed to make widespread improvements in children's lives.

Although courts may have information systems in place, few are well-designed to follow the movement of children through the dependency decision-making process. Without automated systems that track key events in the court process and provide basic information about individual cases, courts may miss statutory deadlines for moving children to permanency. Lack of necessary information and inability to access existing information has been cited as a factor in many system failures. For example, dependency courts may not have access to information about criminal or civil cases in other local courts that may have a bearing on a child's well-being.

Court management is limited by the inability of most judges and court administrators to track workloads, the amount of time spent on each case, or the number of continuances. Both general jurisdiction courts and specialized juvenile or family courts are unable to identify the time and costs devoted to child dependency cases. Rigorous analysis of workload and other

data that allows strategic planning and development of effective court management strategies is impossible.

With the focus on performance measures from ASFA and the Child and Family Services Reviews, states are keenly aware of the gaps in child welfare information systems. Existing systems have been designed largely in response to federal reporting requirements for point-in-time data, rather than for monitoring system performance over time or measuring long-term outcomes for children. Courts and agencies lack data to pinpoint system shortcomings and tailor strategies for improvement.

In addition to design issues, judicial culture has not embraced performance measurement or outcomes monitoring. Courts have little capacity and few incentives to objectively monitor their own performance. Decentralized courts may resist uniform standards, and judicial autonomy encourages little external oversight. Legislative oversight and funding bodies rarely require judicial performance data or attempt to monitor dependency court performance over time.

3. OPPORTUNITIES FOR IMPROVING COURT-AGENCY PERFORMANCE AND COLLABORATION

Along with increasing expectations and pressure on court systems, unprecedented opportunities exist for improvement. Judicial leaders report a new climate of reform based on broad consensus and a spirit of collaboration. This promising climate reflects more than a decade of developments that include:

- State and federal policy framework based on measurable outcomes for children and strong incentives for improvement
- Performance reviews of state child welfare systems and plans for improvement
- Standards for court performance that reflect consensus regarding best practices
- Emerging court information systems and other tools for court improvement and court-agency collaboration.

Building on these hard-won advances, recent developments provide further opportunity and capacity to boost the performance of courts and the entire child welfare system on behalf of vulnerable children. State teams of judicial and agency leaders recently issued a national call to action and developed state-specific action plans for improving the lives of children in foster care. This represents a convergence of will and action that legislators can encourage and leverage for change.

New Federal Grants and Requirements

Court Improvement Grants for Data Collection and Analysis and Training

The federal Court Improvement Program, a longstanding formula grant program, recently was expanded to triple its previous level. The Deficit Reduction Act of 2005 (DRA) created two new formula grant programs that will send \$100 million in mandatory funding to state courts over the next five years to improve their ability to track cases, collaborate with state agencies, and train judges and court personnel. Each of the new programs is funded at \$10 million annually from FY 2006 through FY 2010. The funding will be available to state Supreme Courts that submit separate, qualifying applications for:

1. A grant for data collection and analysis to help ensure that foster children's needs for safety, permanency and well-being are met in a timely and complete manner; and
2. A grant for training judges, attorneys and other legal personnel in child welfare cases and conducting cross-training with child welfare agency staff.

The federal funding formula allows a minimum grant of \$85,000 for each state plus a portion of any of the remaining federal set-aside funds based on the state's share of individuals under age 21. To be eligible, state courts must match the federal funds at a rate of 25 percent (one-third of the federal grant amount). They may use money or in-kind contributions of services, equipment or property for the match.

Federal Requirements for Court, Agency and Tribal Collaboration

Child welfare collaboration is now a federal requirement, and the federal government expects state and local collaboration to contribute to measurably better outcomes for children who have been abused or neglected. The DRA made federal child welfare funding contingent on collaboration among the courts, the state child welfare agency (or private contract agencies that administer child welfare services) and, where applicable, Indian tribes.

The new court grants to improve data collection and analysis, and training and the preexisting Court Improvement Program grants are subject to this requirement. The federal program instruction for the court improvement grants defines “meaningful and ongoing collaboration” as joint work between courts and child welfare agencies toward shared goals and activities aimed at increasing the safety, permanency and well-being of children in the child welfare system. This collaboration is to include: identifying and prioritizing issues, establishing concrete goals, joint work to achieve these goals, setting timelines for goal achievement, and monitoring and evaluating progress. Courts and agencies must jointly establish explicit measures and timelines to determine whether they are making satisfactory progress in improving outcomes. States are expected to make institutional and infrastructural changes, including an ongoing multidisciplinary task force to identify and address state and local barriers to safety, permanency, and child and family well-being.¹²

In addition, state child welfare agencies must demonstrate “substantial, meaningful and ongoing collaboration” with state courts in developing and implementing state child welfare plans for use of federal funds, including:

- Child Welfare Services (Title IV-B, Subpart 1),
- Promoting Safe and Stable Families Program (Title IV-B, Subpart 2),
- Adoption Assistance and Foster Care (Title IV-E), and
- Program Improvement Plans (PIPs) developed as a result of the Child and Family Services Reviews (CFSRs) and IV-E Foster Care Eligibility Reviews.¹³

Federal Performance Requirements: The Child and Family Service Reviews (CFSRs) and Program Improvement Plans (PIPs)

A federal policy shift during the past 10 years requires states to demonstrate that their child welfare systems make a difference in children’s lives. The federal Adoption and Safe Families Act of 1997 (ASFA) defined three outcomes as the focus of the state-federal child welfare system:

1. Child safety,
2. A stable and permanent home, and
3. Child well-being, such as health, mental health and educational success.

Since 2000, the U.S. Department of Health and Human Services (DHHS) has administered Child and Family Services Reviews (CFSRs) of all states to assess their progress toward ASFA goals. The CFSRs use national standards to measure state performance toward these goals. To address performance areas identified as needing improvement, states must develop and implement Program Improvement Plans (PIPs) and are subject to federal financial penalties for failing to make satisfactory progress.¹⁴

CFSR findings underscore the importance of court participation in the CFSR and PIP processes if states are to make and sustain measurable improvements in achieving timely permanency for children in foster care. DHHS noted a serious lack of court involvement in the initial round of reviews and program improvement plans. One federal priority for the second round of CFSRs and PIPs is to ensure that the courts are stronger partners in improving outcomes for children. Recent federal program guidance identifies specific indicators of collaboration, including court participation at each stage of the review and program improvement plan.

- The statewide assessment, which uses data to assess outcomes for the state's children, explores influencing factors and identifies areas for improvement;
- Onsite reviews, including participation in case reviews and stakeholder interviews;
- Identifying strategies for improvement to incorporate in the PIP; and
- Implementing provisions of the PIP.¹⁵

The Child and Family Services Reviews: What Do They Assess?

Outcomes. The Child and Family Services Reviews examine the following child outcomes. For each outcome, data and performance indicators measure each state's performance according to national standards and monitor progress over time.

Safety Outcomes

1. Children are, first and foremost, protected from abuse and neglect.
2. Children are safely maintained in their homes whenever possible and appropriate.

Permanency Outcomes

1. Children have permanency and stability in their living situations.
2. The continuity of family relationships and connections is preserved for children.

Child and Family Well-Being Outcomes

1. Families have enhanced capacity to provide for their children's needs.
2. Children receive appropriate services to meet their educational needs.
3. Children receive adequate services to meet their physical and mental health needs.

Systemic Factors. The CFSRs examine the following factors to determine if the systems necessary to achieve positive outcomes are in place.

1. *Statewide automated information systems* that can determine the status, demographics, location and goals for all children in foster care.
2. *Case review system* that includes written case plans, frequent court reviews of case plans, frequent permanency hearings, timely filing of petitions to terminate parental rights, and parent and caretaker notification of hearings.
3. *Quality assurance system* with standards and capacity to monitor service quality, issue reports and evaluate measures.
4. *Training*, including ongoing staff development programs and training for foster and adoptive parents.
5. *Service array* that is accessible and individualized to meet child and family needs.
6. *Agency responsiveness to the community*, including consultation with stakeholders, joint development of progress reports, and coordination with other federal programs.
7. *Foster and adoptive parent, licensing, recruitment and retention systems* with standards that are uniformly applied; criminal clearance procedures; ethnic and cultural diversity reflecting the children needing placement; and use of cross-jurisdictional resources.¹⁶

Best Practices for Dependency Courts

At the same time that state and federal child welfare policies are focusing on performance and collaboration, dependency courts have developed a rich body of experience and best practices. Innovative local courts, state court leaders and judicial organizations have worked to identify and implement needed reforms. This court improvement movement provides a strong foundation for improving individual dependency courts' practices and for building a dependency court system that will support better outcomes for children.

Original Court Improvement Grants

The new Court Improvement Program (CIP) grants to improve data/accountability and training build on an existing federal formula grant program established in 1994. The Child and Family Services Improvement Act of 2006 extended the CIP through Federal Fiscal Year 2011.¹⁷ The current funding level is \$12.31 million per year as a set-aside within Title IV-B, Subpart 2.¹⁸

All 50 states, the District of Columbia and Puerto Rico participate in the grant program. Participation has enabled the highest court of each state to complete a detailed self-assessment, develop recommendations to improve the court system, and implement the recommended reforms. As a result of their self-assessments, state courts have pursued a range of practice and system improvements, including:

- Better legal representation of children and parents,
- Implementation of mediation programs,
- Development of management information systems,
- Better management of court dockets,
- Improved training for judges and other court participants, and
- Expedited termination of parental rights proceedings.¹⁹

Model Courts

Started in the 1980s with private foundation funding, the Model Courts Project has been funded since 1992 by the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP). With leadership from the National Council of Juvenile and Family Court Judges, 31 individual, participating courts in 23 states and the District of Columbia currently are working to improve outcomes for abused and neglected children through court reforms. Due to lack of federal funding for expansion, additional courts can participate only with independent funding.

Model courts serve as “laboratories” for reform, rather than purporting to have achieved ideal practice or created the perfect system. Each features a multidisciplinary team and advisory committee to facilitate the contributions of all stakeholders, including judicial, child welfare agency, child advocacy, legal representatives, direct service providers, and—sometimes—former foster youth, foster parents and educators. The project seeks to disseminate the experiences of the model courts within and beyond its national network. Thus, the effects of the project have spread beyond the small number of participating courts.

Coordination of Model Courts and State Court Improvement Project

These two initiatives share similar goals, and stakeholders often work together to develop and implement reforms through joint training, other dissemination strategies and broader integration. In some states, including New York, the model courts also are CIP demonstration courts. Other model courts, such as the participating court in Toledo, Ohio, are funded by the state CIP. In Salt Lake City, the model court's advisory committee serves as the steering committee for the Utah state CIP.²⁰

Development of Problem-Solving Approaches

As court improvements have flourished, dependency courts have adopted new problem-solving approaches to case management and judicial decision making. The complex family dynamics of dependency cases, ongoing involvement of the court in reviewing remedial steps and case progress, and time-limited steps toward permanency all support the need for a hands-on judicial role. Judges are expected to understand child development, family dynamics, and the effects of substance abuse, mental health problems or learning disabilities on parents and children. They must determine which services and resources are most appropriate for individual children and their families. In some cases, judges and court staff have joined with child welfare agencies and service providers to enhance case management practices and skills and to address system problems such as agency staffing patterns and service delivery practices.

Family group conferences and mediation are among the problem-solving approaches that courts are implementing. These two strategies are reported to eliminate the need for court proceedings in some cases, reduce the number and duration of contested proceedings, limit court time spent explaining procedures, and decrease caseload.

Family drug treatment courts are a specialized form of drug court. The dockets are certain abuse, neglect and dependency cases in which parental substance abuse is identified as a primary factor. Judges, attorneys, child protection services and treatment personnel unite to help parents regain control of their lives and provide safe, stable homes for their children. Their goal is to enhance family reunification within mandatory legal time frames. The first phase of a national control group study, the Family Drug Treatment Court National Cross-Site Evaluation, found that children whose parents participated in treatment courts reached permanent placement three months sooner, experienced fewer days in out-of-home care, and were reunified sooner than children whose parents were not enrolled in family drug treatment courts.²¹

Measuring Court Performance

To achieve the outcomes that federal and state policies prioritize for children and to improve court performance, courts recognize that systems for measuring progress are needed. Local and state courts are developing court data systems to better manage their work, ensure legal protections for individuals, and improve the timeliness of decisions on behalf of children. A growing number of courts are working with child welfare agencies to share existing data and use the information to monitor system performance, track the progress and outcomes of children, and identify and address systems issues.

Several initiatives have provided a foundation for developing court performance measures and systems. As individual courts have cultivated capacity and understanding, national organizations have created important standards and tools. Together, this groundwork provides a body of understanding and experience upon which to build.

SANCA Grants

In 2000, the federal Strengthening Abuse and Neglect Courts Act (SANCA, Public Law 106-314) was enacted to help courts:

- Reduce the backlog of abuse and neglect cases, and
- Expedite the flow of individual cases through the court system by automating case-tracking and data-collection systems.

SANCA provides relatively small grants to courts to fund projects that target these goals. (In FY 2003, Congress appropriated \$2 million for the program.) It has helped individual and state courts develop data capacity and is informing broader efforts.²²

Standards and Tools for Measuring Court Performance

In 2001, three national judicial and legal organizations that focus on child abuse and neglect (the National Council of Juvenile and Family Court Judges, the National Center for State Courts, and the American Bar Association) developed standards for specifically assessing court performance. They also developed with tools and other resources to assist courts and legal professionals. Called the Packard model, these standards parallel and support the CFSR safety, permanency and well-being measures. Some indicators assess collaboration with the executive branch and other partners in meeting court performance goals.

Development of Data Systems

Many types of data serve as crucial tools for improving court practices, child welfare system performance and children's lives. Local and state courts are developing court data systems to better manage their work and improve the timeliness of decisions on behalf of children. A growing number of courts are working with child welfare agencies to share existing data and use the information to monitor system performance, track the progress and outcomes of children, and identify and address systems issues.

Upcoming Toolkit

With federal funding, leading judicial organizations are developing a toolkit to provide practical assistance for courts in the use of performance data. The goal is to help courts, whether they use automated or nonautomated information systems, to measure and improve performance on behalf of children who have been abused and neglected.

Growing Consensus about Strategies for Improving Court Performance

Numerous independent voices have joined together to call for court improvement and court-agency collaboration.

Pew Commission Recommendations

In its 2004 recommendations, the Pew Commission on Children in Foster Care, a national blue ribbon task force, reflected the growing consensus. The commission recommended the court improvement grants and requirements for court/agency/tribal collaboration that Congress approved in the Deficit Reduction Act, including multidisciplinary state commissions on children in foster care and cross-system training. In addition, the commission urged every dependency court and state judicial leader in the country to use the Packard standards as performance measures to improve their oversight of children in foster care and to make decisions regarding the allocation of judicial resources. Other recommended court reforms include:

- Local and state-level court-agency collaboration to collect and share relevant aggregate data and information aimed at better decision making and improved outcomes for children;
- Improved representation and direct participation of children and families in court proceedings; and
- Leadership of state chief justices and court administrators to promote best practices, to ensure that judges and attorneys are knowledgeable and effective, and to promote dedicated courts and departments for dependency cases.²³

State Multidisciplinary Commissions

At least 15 states (Arizona, Arkansas, California, Colorado, Indiana, Michigan, Minnesota, Nebraska, New York, North Dakota, Ohio, Texas, Utah, Vermont, Washington) and the District of Columbia have created commissions, task forces or other collaborative bodies to ensure that courts and child welfare agencies are working together to improve outcomes for children. At least seven more state groups are being established. Whether created by the legislature, the governor or the courts, these entities signal growing recognition of the importance of court-agency collaboration, and they provide high-visibility vehicles for change.²⁴

National Judicial Summit and State Action Plans

In September 2005, a national judicial leadership summit resulted in individual state action plans for improving the lives of children in foster care. By all accounts, it was a landmark event that participants expect to serve as a catalyst for change far into the future.

The event was sponsored by the Conference of Chief Justices, the Conference of State Court Administrators, the National Center for State Courts, and the National Council of Juvenile and Family Court Judges. For the first time, teams of judicial and agency leaders came together from 49 states, the District of Columbia, Puerto Rico, Guam and the Northern Mariana Islands. The leadership of state court chief justices was noteworthy; also included were secretaries of human services, directors of child welfare agencies, appellate and trial court judges, state and local court administrators, child advocates, and attorneys.

Although each state's specific action plan is based on its own issues and priorities, four key types of strategies emerged:

- Enhancing accountability through performance measures, standards and best practices;
- Fostering collaboration among courts, agencies and other stakeholders;
- Asserting judicial leadership by preventing trial-level delays and barriers to permanency and by expediting appeals; and
- Providing an effective voice for parents and children by improving the availability and quality of representation.

With shared vision, agreement regarding specific strategies, and unprecedented will to succeed, the summit is likely to affect state court developments in the coming years. For example, judicial leaders can use the action plans to guide use of the new Court Improvement Program grants.

State Legislative Support: Building on Foundations for Further Improvement

In every state, the legislature has provided a statutory framework for court decision making on behalf of abused and neglected children. As policymakers, funders and local leaders, legislators are uniquely positioned to help courts build capacity and partnerships to strengthen that framework and improve the lives of children. Legislators now have an opportunity to support judicial officers and staff as they work to improve court performance, to strengthen their partnerships with child welfare agencies and tribes, and to achieve better outcomes for children.

4. COURT ROLES AND ORGANIZATION: IMPLICATIONS FOR PERFORMANCE

Understanding the responsibilities and organization of the state dependency courts can help legislators ensure that courts have the necessary capacity to improve the lives of the state's children, to meet federal requirements, and to achieve state policy goals. This knowledge can help legislators who serve on child welfare committees, judicial committees or appropriations bodies to ensure that state policies and resources are aligned to support court performance and better outcomes for children.

The roles and responsibilities of courts in dealing with individual cases may seem well-defined. However, the United States' court system for children who have been abused and neglected is, in fact, 50 separate, unique and often complex systems. With more than 500 recognized tribes in the country, state-tribal agreements and tribal court jurisdiction further complicate these systems. From state to state, court structure, jurisdiction, administration and other factors that affect judicial performance vary enormously. Within each state, every court has some degree of autonomy, and individual judges and their staff steer day-to-day operations.

Roles and Responsibilities of Dependency Courts

The dependency court has a unique role within the judiciary. It is not punitive (as is criminal court), and it does more than resolve disputes (as does civil court). Dependency courts serve to protect children and rehabilitate parents and families. They serve both the parties who appear before them and communities, often by actively working to tailor solutions to complex problems. Individual judges are responsible for making crucial decisions in children's lives, monitoring each child's well-being and the child welfare agency's actions, and guarding the legal rights of all parties.²⁵

Gatekeeper

In the role of gatekeeper, judges make a range of decisions and determinations with the overall aim of achieving child safety, permanency and well-being. The court applies the legal framework, definitions and considerations established by state and federal law to the lives of individual children and their families. To a large extent, the court decides which children are part of the child welfare system and what services they receive. The court determines:

- Whether child abuse or neglect actually occurred, based on state and federal statutory definitions and the child welfare agency's findings and assessment;
- Whether the child remains at home with his or her family or is removed;
- Where the child lives while in temporary out-of-home care—with a relative, with a foster family or in a group facility;
- When and if the child can return home safely;
- Whether the parents' rights are terminated; and
- Whether the child is adopted, placed with a legal guardian or placed in another permanent setting.

Case Monitor

The court oversees the treatment of individual children to determine if progress is made to ensure the child's safety, movement to permanence as quickly as possible, and the child's overall physical, mental emotional and educational well-being. The court monitors:

- Case plans that are developed to achieve safety and permanency;
- Actions taken by the child welfare agency, service providers, the child's parents and others;
- The child welfare agency's efforts to reunify the child and family, if appropriate;
- Progress toward reunification and concurrently toward an alternative permanent home; and
- The child's safety and well-being while in state custody.

Guardian of Due Process

One of the cornerstones of democracy is the judiciary's responsibility to decide cases impartially and thoroughly, based on sound evidence. All parties to a dependency case are entitled to due process, including:

- Explanation of the court process and what it means;
- Timely notice in advance of hearings;
- Adequate legal representation;
- Sufficient time allotted for hearings;
- Continuity and stability, including informed counsel, consistent judicial involvement and follow-up on permanency planning.²⁶

Two key issues in dependency cases are adequate representation and direct participation.

Adequate Representation

Effective judicial decision making hinges on legal representation for children, parents and the government. Effective representation incorporates the following.

- Timely appointment of counsel for all parties;
- Stable representation to ensure consistent information and to avoid the loss of relationships with children and parents;
- Legal advocates who are well trained, culturally competent, and adequately compensated.

Children are especially likely to lack adequate legal representation, whether a court appointed special advocate (CASA), guardian ad litem, or court-appointed counsel. In addition to gathering background information and staying informed, the advocate must meet face-to-face and frequently with the child. This helps to ensure current knowledge of the child's living situation, educational and mental health status, general well-being, and wishes and desires regarding the issues at each hearing.²⁷

Direct Participation

When individual children, parents and caregivers actively participate in court proceedings, they are likely to benefit along with judicial decision making. Participation in court proceedings helps to ensure fairness and well-informed actions. Being present can help young people

understand and come to terms with decisions that will affect the rest of their lives. Federal law requires that foster parents, pre-adoptive parents, and relative caregivers be given notice and have the right to be heard at case reviews and permanency hearings.²⁸

To serve a changing society, courts have begun administering a range of services such as multi-lingual interpreters, alternative dispute resolution approaches, treatment programs, and social services aimed at increasing access to the judicial process. Making court participation easy and needed services accessible can contribute to better outcomes for children.

System Monitor

Although it is seldom a legally defined role, judicial officers are well-positioned to see the bigger picture of child welfare system performance as they monitor and decide the cases of individual children. (Often, they can identify systemic barriers and successful practices for achieving safe and permanent homes in a timely way). Judges and court staff gain insight regarding the effectiveness of particular practices, service delivery agencies and policies. They may identify gaps in needed services, potential resources that might be better used, and actions that contribute to better outcomes. Judges often oversee the child welfare agency if it is the subject of a lawsuit.

The court also is in a position to identify critical issues outside the jurisdiction of the child welfare agency, such as community resources that could help prevent child abuse and neglect, inadequate legal representation for children or other parties, and needed improvements in training and professional development of child welfare professionals. The judiciary is an important partner for legislators interested in improving the child welfare system and the lives of vulnerable children.

The Court Decision-Making Process

Decision making on behalf of individual children consists of intertwined court and child welfare agency responsibilities. (Appendix A, “A Child’s Journey through the Child Welfare System,” diagrams major decisions and options of the court and the agency.²⁹) The agency gathers information through investigations and assessments of the child, family, kin and placement providers; makes emergency placements; develops permanency plans; finds temporary and permanent placements; and obtains or provides services. The court reviews the actions and findings of the agency and others and determines the best option for the child’s care.

Although the court process varies enormously across jurisdictions and states, there are certain hearings are typical and some are required by federal law and funding requirements.

Typical Hearings in Child Welfare Cases³⁰

- ***Protective Hearing.*** (Also called preliminary hearing, detention hearing or emergency custody hearing). Usually conducted after the child protective services agency substantiates a report of abuse or neglect, the hearing determines whether the child should be placed in emergency, temporary out-of-home care or if he or she can remain at or be sent home. The court also may require conditions for keeping the child at home or being reunified.
- ***Adjudicatory Hearing.*** Often combined with disposition, this hearing is held to determine if abuse or neglect occurred.
- ***Dispositional Hearing.*** The court determines the child's placement and permanency plan, including who will have custody of the child, where the child will live, what conditions are placed on the agency and parents, and what actions they must take. For the agency to receive federal funds for the child's out-of-home care, the court must make a determination that remaining in the home would be contrary to the child's welfare and that the agency has made reasonable efforts to prevent removal and to reunify the family (except in certain cases, including abandonment, torture or sexual abuse).
- ***Periodic Reviews.*** At least every six months the child remains in foster care, the court or an administrative body reviews the child's case plan to determine if placement remains necessary and if progress is being made to reunify the family or move toward permanency.
- ***Permanency Hearing.*** Federal law requires this hearing within 12 months of the child's initial placement, but some states require it sooner. The court reviews the permanency plan to ensure that it meets state and federal requirements, the permanency goal and steps to be taken.
- ***Termination of Parental Rights Hearing.*** With some exceptions, federal law requires states to initiate termination of parental rights for any child who has been in foster care for 15 of the last 22 months.
- ***Adoption or Guardianship Hearing.*** The court makes the child legally part of another family through adoption or by establishing legal guardianship.

How Courts Are Structured to Make Child Protection Decisions

Legislators who seek to promote effective dependency court practices and monitor court performance often discover a complex organizational structure. Traditionally, court systems have been highly decentralized, partly to allow decisions to be made by citizens' peers within their own communities. Although unified state courts are a growing trend, some states have as many as 50 different civil, criminal and appellate court systems.

Appendix B lists the types of trial courts that have jurisdiction over child welfare cases—the court or courts where evidence is presented, testimony is heard and individual cases are decided. In many states, more than one type of trial court hears dependency cases. High-volume courts in large population centers may specialize in juvenile or family matters, while courts in rural areas may hear a much broader range of cases. In a few states and local jurisdictions, two or more courts have concurrent jurisdiction; they share authority to hear dependency cases.

In addition to court structure, administrative, management and personnel systems affect judicial performance. Some state courts have unified administrative systems where all court staff are state employees, and the state court administrator provides a range of supports to local courts. At the same time, in some states and communities, locally elected judges hire their own staff, and some locally elected court clerks do not report to judges at all.³¹

General Jurisdiction Courts

In 33 states, child welfare cases are handled by state courts with general jurisdiction over many or all types of legal matters. In additional areas (90 Nebraska counties, 98 Texas counties, and seven Oregon counties), county general jurisdiction courts hear child welfare cases. Called district courts, circuit courts, superior courts or general sessions courts, general jurisdiction courts may hear criminal and civil cases, including small claims, probate, contract matters, traffic violations, misdemeanor and felony cases, mental health issues, domestic relations, juvenile delinquency cases, and child welfare matters.

Challenges

Because judges hear all types of cases, they may be unable to develop special child welfare expertise, problem-solving skills and knowledge of developing policies, system issues, and community resources. Because only a small fraction of their caseload is children's cases, general jurisdiction judges may be challenged to find the necessary time and resources to develop child welfare expertise and partnerships.

General jurisdiction courts also are likely to face systemic challenges, such as providing specialized judicial and staff training and up-to-date policy and technical information on child welfare issues. Information management systems, whether automated or nonautomated, must help judges and court staff manage a highly diverse docket. Specialized systems that track the specific information needed for child welfare cases—such as frequency of hearings and permanency plan progress—often are lacking.

Specialized Courts

In a growing number of states and local jurisdictions, specialized courts handle child dependency cases. Even specialized juvenile or family courts hear other types of cases in addition to those involving child welfare matters. They take three forms:

- A specialized juvenile or family division of the general jurisdiction court;
- A separate family court that typically handles child protection, marriage, divorce and child custody cases;
- A separate juvenile court with jurisdiction over children and youth who violate a law or who are abused, neglected or dependent.

A judge's docket and term of service in juvenile and family court may vary. For example, judges may:

- Serve exclusively in juvenile or family court for the entire duration of their service;
- Be rotated among specialized and/or general jurisdiction courts every few years, annually, or even every six months; or
- Hear a docket of cases involving juvenile and family matters on certain days and hear other types of cases on other days.

Challenges

Many judicial experts, legal and judicial organizations, and child and family advocates favor specialized juvenile and family courts. Some favor family courts where a single judge hears all matters related to a family and its individual members and thus is able to work with the entire family. With a more targeted docket, judges can become experts in the child welfare system, stay up-to-date on policy and practice issues and developments, and develop problem-solving skills for working with children and families.

There are unique challenges, however. Within the judicial hierarchy, juvenile and family courts often lack the prestige of other courts. They may have less influence and receive less recognition within the judicial system, and they may lack the infrastructure and administrative supports of larger courts. Career-minded judges and attorneys may be reluctant to serve there. Juvenile and family court judges handle complex cases that require a particular set of interests and skills, often without commensurate pay or opportunities for advancement, while attorneys who represent children, families, caregivers and child welfare agencies often are underpaid.

Probate Courts

Although probate courts typically handle cases involving dependent children who are not involved in the child welfare system, they have an increasing role in promoting permanency. State and local probate courts settle estates and award custody of children whose parents are deceased or incapacitated. Often, relatives go through probate court to obtain legal custody or permanent guardianship of children whose parents are not able to care for them due to death, incarceration, illness or other incapacity. In many states, kinship caregivers are encouraged to file for permanent custody through the probate court to avoid placing a child in foster care. Access to legal representation and probate court can facilitate permanent placement of children with relatives. Probate court officials who understand the issues of relative caregivers and vulnerable children help promote lasting placements where children thrive.

In some jurisdictions, probate courts have a more direct role in child welfare cases. They may handle termination of parental rights and/or adoption proceedings for children in foster care.

Tribal Courts

The federal Indian Child Welfare Act of 1978 (P.L. 95-608) provides conditions for states that serve Indian children and families and reaffirms the rights of tribes to take jurisdiction of child welfare services. In all states, Indian people are entitled to services that similarly situated, non-Indian people receive. Even so, jurisdiction over cases involving Native American children often is confusing and apt to raise questions.

Tribes retain exclusive jurisdiction over child welfare matters that arise on tribal lands and involve tribal members. Tribal juvenile courts operate in more than 200 of the 500 federally recognized tribes. However, P.L. 95-608 states that tribal courts have concurrent jurisdiction over other cases that involve Native American children. This provision results in disputes regarding jurisdiction over cases involving Indian children who do not live on tribal lands; this is a continually growing population.

Many tribes and states have developed agreements to clarify responsibilities and authority. These nonmandatory agreements are intended to prevent frequent problems in cases involving Indian children, including delays in services and failure to promptly reunify children with their biological parents or place them with extended family within the tribe.

Challenges

States, communities and tribes must overcome tremendous challenges to ensure positive outcomes for Indian children, including complicated legal issues. Even where states and tribes have developed agreements regarding jurisdiction and procedures, the decentralized structure of state trial courts leads to wide variation in practice. In addition to differences from one community to another, enormous gulfs may exist between tribal and non-tribal procedures for achieving similar goals, failure to understand cultural views regarding family and permanency, and different priorities in some cases.

To further complicate the state-tribal relationship, tribes are not bound by state child welfare laws unless compliance is a condition for receipt of state funding or if the state has custody of an Indian child. Virtually all tribes have some level of child welfare services, but state court officials and child welfare staff may have little understanding of the resources available. Indeed, tribes are not eligible to receive service funding directly from major federal sources, and the array of services available varies enormously among tribes.³²

Strategies for Legislators to Consider

Support Effective Judicial Organization

Two trends in court structure are specialized juvenile and family courts and unified statewide courts. Although state and local courts usually lead the effort to reorganize, legislative support has been instrumental in these movements. Creating separate juvenile or family courts is likely to require statutory changes or a constitutional amendment.

South Carolina's unified statewide family court system was created by statute in 1976. In West Virginia, voters in 2000 approved a constitutional amendment to allow the Legislature to create family courts. The new courts went into effect in 2002.

Pilot new approaches

Some states initially have developed specialized courts under pilot programs to test new approaches. In 1998, the North Carolina General Assembly authorized family courts in this manner. In 2004 and 2005, funds were allocated to expand the pilot programs to 11 family court sites.³³

The Connecticut legislature recently authorized expansion of a unique children's probate court pilot program (2005 Conn. Acts, HB 6747, P.A. 05-225). With the advice of local judges, the probate court administrator is authorized to establish six new regional probate courts to handle cases involving guardianship, termination of parental rights, adoption, paternity claims, emancipation and voluntary admissions. The legislation requires a future report to the Judiciary Committee on the operation and effectiveness of the new courts.

Promote coordinated judicial planning

Legislators can take a number of steps to encourage coordination of highly decentralized courts. Judicial leaders may suggest strategies suited to state and local court systems.

The Michigan Legislature requires the chief circuit court judge and the chief probate court judge in each judicial district to develop a "family court plan" to promote more efficient and effective services to families and individuals. The plan must detail how the family division will be operated in that circuit and how the services of judicial agencies will be coordinated. (Mich. Comp. Laws, Sec. 600.1011)

Strengthen Court Capacity on Behalf of Native American Children

Legislators can significantly affect on outcomes for Native American children and the performance of child welfare systems on their behalf. Promoting clear and effective relationships between state and tribal courts is an important step.

Review state-tribal agreements

Legislators may need to review existing state-tribal agreements to ensure that state, local and tribal courts' authority and responsibilities are specified and appropriate; that the agreements respond to federal and state child welfare policy developments; and that they focus on performance outcomes for vulnerable children. These efforts may involve reaching out to members of legislative committees that have jurisdiction over Indian affairs but that may have little exposure to child welfare issues.

Encourage court collaboration with tribal child welfare agencies and tribal courts

Legislators can encourage judicial leaders, legal organizations and individual courts to build better relationships with tribal child welfare agencies and tribal courts. Improved communication, information exchange and capacity-building contribute to more timely permanency decisions on behalf of children. For example, state courts can extend judicial training, training and recruitment of court-appointed special advocates and guardians ad litem, and other opportunities to tribal court officials, staff and tribal members.

Routinely examine the impact of state policies and court practices on Native American children

As legislators review judicial and executive branch budgets, forge policies and oversee state child welfare performance, they can routinely consider the effects on tribal capacity and outcomes for children. By incorporating tribal considerations into routine reviews and legislative decision making, legislators can increase the visibility and understanding of tribal issues and promote improved performance.

5. MEASURING AND IMPROVING COURT PERFORMANCE

As states work to improve the lives of children who have been abused and neglected, they must be able to measure their progress/success. Performance measures can help answer the following questions:

- How much did we do?
- How well did we do it?
- And, most importantly, is anyone better off?

States can use performance data to monitor the overall safety, permanence and well-being of children who are involved in the child welfare system. These outcomes require the efforts of many partners: the state child welfare agency, the courts, caregivers, private service-providing agencies, attorneys and other child advocates, policymakers, and others. Ongoing data are needed to monitor their overall achievements.

At the same time, performance data provide information about the separate components and partners of the child welfare system. They can help individual courts assess how well they are doing, and they can help state court leaders and administrators monitor the performance of the courts statewide. Policymakers also can use the information as they make policy decisions that affect the courts, allocate funding to support the courts, and monitor child welfare system performance.

Courts are developing strategies to collect and monitor the information they need to improve their performance on behalf of abused and neglected children. Although some are farther along than others, recent and upcoming developments provide opportunities for all courts. In 2005, state courts took an important step when they met as state teams to develop action plans for court improvement, including performance monitoring. The new federal Court Improvement Program grants for data collection and accountability, issued in September 2006, provide resources for state courts to develop and implement plans for measuring court performance. Legislators can provide important incentives and support for performance measurement. In the process, they help improve child welfare accountability, public confidence, most important they help to ensure that all children are able to thrive.

Why Measure Court Performance?

Performance data serve as tools for many purposes, including strategic planning, management, budgeting, accountability and continuous improvement. In all these areas, specific statistics can help courts assess their contributions to the overall goals of safety, permanence and well-being for children and their success in providing due process protections and making timely decisions.

Although statistical information and analysis are important, numbers alone may not provide an accurate or complete picture. To make meaningful improvements, statistics need to be accompanied by case file reviews, direct observation of court proceedings, and information from court participants and judicial experts obtained through focus groups, interviews and/or surveys. Each of these approaches provides specific information from a different perspective. Together, these research methods help stakeholders obtain a fuller understanding of court

performance, influencing factors that must be addressed, and potential strategies for improvement.

Planning for Improvement

Performance measurement is one cornerstone of well-informed and effective planning. By establishing an initial baseline of performance data, individual courts can identify what they are doing well and what they need to improve. They can use this information to develop and test new strategies and to build needed capacity for ongoing improvement.

Track and analyze caseloads

With adequate capacity and support, both individual courts and state court systems can track and analyze their caseloads to identify problem areas and successes. For example, courts can tell how quickly cases move through each stage of the court process, where delays occur, and whether they are meeting state and federal timelines for case reviews, permanency hearings and termination of parental rights.

Identify outcomes for children

Performance data systems allow courts to identify how frequently the children they see are abused or neglected again and which categories of children most often experience repeat incidents. They can identify how many of the children who come before the court safely return home, how many are adopted, and how many are placed with permanent legal guardians.

Self-assess court decision-making practices

With performance measures, courts have objective information about specific legal procedures and protections. For example, information systems allow courts to identify the time they spend on individual hearings, when parents and other parties are issued notices of upcoming hearings, the representation and participation of children and other parties at hearings, and additional factors that contribute to sound legal decision making.

Identify and implement best practices

With data systems that allow statewide performance monitoring, state court leaders and administrators can support judicial officers and staff. They can identify promising practices, test them in pilot programs, and tell if they improve outcomes for children or the use of public resources. Objective information will allow courts to determine if court reforms should be expanded and maintained. For example, performance information systems will enable courts to test strategies such as family group decision making and specialized family treatment courts.

Build court expertise and capacity

Performance data can help state courts identify individual courts that need more resources or assistance; develop effective training and supports for judges, staff and attorneys; and ensure that courts have the capacity to meet state and federal requirements. By documenting effective practices, performance measurement can inform the field and contribute to continuing court improvements.

Contribute to child welfare system improvement

By monitoring the performance of individual courts and the court system, the entire child welfare system stands to benefit. For example, by monitoring caseloads, the timeliness of hearings and other factors, states can pinpoint where permanency decision making becomes stalled.

Working together, child welfare agencies, courts and other partners can identify the issues that need to be addressed and develop plans for improvement.

Efficient Court Management

Performance data can help individual courts manage their dockets and use public resources more effectively. In addition to statistics about outcomes, many courts lack basic information about the children who come before them, individual case plans, and actions of the child welfare agency and others. Ultimately, efficient courtrooms with adequate information systems contribute to more timely decision making and permanence for children. Effective court management reduces unnecessary continuances, helps to ensure that all parties come to court prepared, and promotes well-informed decisions. Once established, automated information systems boost court efforts to manage case flow, ensure timely notices, and schedule hearings.

In addition to improved court functioning, effective court management contributes to child welfare system performance. For example, well-managed dockets reduce the time caseworkers spend waiting for hearings and frees them to spend more time working directly with children, families and caregivers. Agency attorneys, often saddled with their own overwhelming caseloads, can better manage their time.

Effective Budgeting and Use of Resources

Performance measurement informs the allocation and use of resources for individual courts and state court systems. As courts are able to identify the barriers to timely and effective decisions and develop strategies for improvement, they are in a better position to determine how much funding is needed and how it should be allocated.

Within the judicial budgeting process, requests that are backed by data may increase the visibility and clout of dependency courts. Performance data allow dependency courts to develop budget requests that accurately reflect their needs and document the cost of improvements.

State and local policymakers also are able to make better informed appropriations decisions when they have performance information. Performance data help to clearly align resources with outcomes for children in the child welfare system. Courts also can document the effect of policy changes and justify the effects on their budgets.

Accountability

Even though the courts are a separate branch of government, they have a responsibility to document their performance. Indeed, their autonomy requires accountability. The Virginia judiciary's 2004-2006 strategic plan states:

“The immense responsibility that comes with judicial independence requires accountability to the law, to other branches of government and to the public. Although an inherent tension exists with the juxtaposition of independence and accountability, maintaining the proper balance between the two is of critical importance to our system of government.”³⁴

Although the courts are the primary users of performance data, the measures also allow child welfare agencies, the legislature and the public to determine how well the courts are meeting the needs of vulnerable children. As legislatures tighten time frames for court hearings, enhance representation for children, and set other requirements, they want to ensure that their actions lead to better outcomes for children and to stronger court performance. Only objective measures can enable legislators to monitor changes and identify additional actions that are needed.

In addition, the public often is unaware of the court's responsibilities and has little information about its effectiveness in promoting safety, permanency and well-being for children. Performance measures are a tool for boosting public trust and confidence in the court system.

Performance data help stakeholders measure whether the courts:

- Achieve timely permanency for children with minimal disruption;
- Help to ensure the safety and well-being of children under court jurisdiction;
- Comply with state and federal timelines and other requirements;
- Hold substantive, meaningful and timely hearings; and
- Provide procedural protections for the legal rights of all parties, including children, parents and caregivers.

Continuous Improvement

The goal for dependency courts is not a one-time boost in performance. Instead, performance data are intended to support an ongoing process of improvement. Automated performance measurement systems can help courts monitor progress over time, adjust strategies in response to achievements and emerging issues, and build capacity for continuous improvement. Only through ongoing data tracking can individual and state courts sustain improvements.

What Should Be Measured?

Identifying effective performance indicators and developing strategies to systematically collect, monitor and report the information is challenging, especially for courts that already face unprecedented demands. Fortunately, courts do not need to start from scratch. There is an existing framework, a growing body of practical experience, and an emerging set of tools for performance measurement.

With support from the David and Lucile Packard Foundation, three national judicial and legal organizations (the American Bar Association Center on Children and the Law, the National Center for State Courts, and the National Council of Juvenile and Family Court Judges) collaborated for four years to develop a process that courts can use to measure court performance and judicial workload. The Packard tools are easily adaptable to the needs and capacities of individual jurisdictions. A new toolkit, issued in fall 2006, outlines performance measurement strategies and provides user guides for courts with automated and nonautomated systems. The toolkit builds on the experiences of a dozen courts that have developed a variety of performance measurement systems.

Recommended Performance Measures

The Packard project identified court performance measures that reinforce the child welfare outcomes identified by the federal Adoption and Safe Families Act and the performance indicators used in the federal Child and Family Service Reviews. The recommended measures enable the courts to assess their performance in achieving goals for child safety, permanence, due process and timeliness.

The Packard measures do not address the ASFA outcome of child well-being. Measures for educational success, mental health and physical well-being specifically for child welfare cases are areas for future development.³⁵

Table 4. Packard Recommended Court Performance Measures	
Goal: Safety	Children are, first and foremost, protected from abuse and neglect. No child should be subject to maltreatment while in placement.
Performance Measures: 1. Percentage of children who do not have a subsequent petition of maltreatment filed in court after the initial petition is filed. 2. Percentage of children who are the subject of additional allegations of maltreatment within 12 months after the original petition was closed.	
Goal: Permanency	Children have permanency and stability in their living situations. The continuity of family relationships and connections is preserved for children.
Performance Measures: 1. Percentage of children who reach legal permanency within six, 12, 18, and 24 months from removal (by reunification, guardianship, adoption, planned permanent living arrangement or other legal categories that correspond with ASFA). (Specific time lines should be adapted to meet state requirements.) 2. Percentage of children who do not achieve permanency in the foster care system 3. Percentage of children who reenter foster care pursuant to court order within 12 and 24 months of being returned to their families, adopted or placed with a permanent guardian. 4. Percentage of children who are transferred among one, two, three or more placements while under court jurisdiction.	
Goal: Due Process	Enhancement of due process by deciding cases impartially and thoroughly, based on evidence brought before the court.

Table 4. Packard Recommended Court Performance Measures (continued)

Performance Measures:	
<ol style="list-style-type: none"> 1. Percentage of cases in which both parents receive written service of process within the required time or where notice of hearing has been waived by parties. 2. Percentage of cases in which there is documentation that notice is given to parties in advance of the next hearing. 3. Percentage of cases in which the court reviews case plans within established time guidelines. 4. Percentage of children receiving legal counsel, guardians ad litem or CASA volunteers in advance of the preliminary protective hearing or equivalent (within established time frame). 5. Percentage of cases where counsel for parents are appointed in advance of the preliminary protective hearing or equivalent (within established time frame). 6. Percentage of cases in which legal counsel for children changes (as well as number of changes in counsel if possible). 7. Percentage of cases in which legal counsel for parents changes (as well as number of changes in counsel if possible). 8. Percentage of cases where legal counsel for parents, children and agencies are present at each hearing. 9. Percentage of children for whom all hearings are heard by one judicial officer (as well as two, three or more judicial officers). 	
Goal: Timeliness	Expedition of permanency by minimizing the time from the filing of the original petition or custody order to permanency.
Performance Measures:	
<ol style="list-style-type: none"> 1. Average or median time from filing of the original petition to adjudication. 2. Average or median time from filing of the original petition to disposition. 3. Percentage of cases that are adjudicated within 30, 60 and 90 days after the filing of the dependency petition. 4. Percentage of cases that receive a disposition within 10, 30 and 60 days after the dependency adjudication. 5. Average or median time from filing of the original petition to permanent placement. 6. Average or median time from filing of the original petition to finalized termination of parental rights. 7. Percentage of cases for which the termination petition is filed within three, six, 12 and 18 months after the dependency disposition. 8. Percentage of cases that receive a termination order within 30, 90, 120 and 180 days after the filing of the termination petition. 9. Percentage of cases for which an adoption petition is filed within one, three and six months after the termination order. 10. Percentage of cases for which the adoption is finalized within 1, 3, 6, 12 months after the adoption petition. 11. Percentage of hearings (by hearing type) not completed within times frames set forth in statute or court rules. Where possible, the reason(s) for noncompletion also should be captured.³⁶ 	

Develop Capacity to Measure Performance: Strategies and Examples

To improve court and child welfare system performance, one-time measurement is not sufficient. Ongoing data are necessary to monitor changes, identify and enhance progress, and address areas of low achievement. Legislatures can both promote effective systems and make use of them. In addition, they can help to ensure that the data systems provide useful information and contribute to better outcomes for children.

Some of the recommended court performance measures exist in data that state child welfare agencies already collect. With strong court-agency collaboration, state courts can start with the data that are cost-free and build a platform for collecting additional information. When choosing indicators to track, judicial experts recommend that each court or court system examine each measure individually and determine if it passes several tests.

- The measure is important, needed and useful.
- Accurate, up-to-date data are available or proxy measures can be used.
- Privacy issues and other potential barriers can be overcome.
- The usefulness of the information justifies the cost of obtaining the data.³⁷

Existing Child Welfare and Court Data Systems: What They Tell Us and What They Don't

Existing child welfare data systems have been shaped by federal reporting requirements. For the most part, they were developed before the focus on child outcomes and child welfare performance promoted by ASFA, the Child and Family Services Reviews and state policy. Despite significant investment of financial and other resources, the systems have limited capacity to effectively measure and track performance data related to child safety, permanence, well-being, due process or timeliness. At the same time, courts and state child welfare systems are working together to develop statistical methods, software and analysis techniques that offer potential for using existing data to measure performance. The federal Child and Family Services Reviews rely on two sources listed below.

The Adoption Foster Care Analysis and Reporting System (AFCARS)

States are required to submit semi-annual case-level information on all children in foster care for whom state child welfare agencies have responsibility for placement, care or supervision, and on children who are adopted under the auspices of the public child welfare agency. Every six months, states submit 37 adoption data elements and 66 foster care data elements. They are subject to penalties for failure to collect and report information in a timely manner.

The data describe the population of children in foster care on a given date, children who entered care during the previous six months, who exited care, who were waiting to be adopted, and who were adopted. For each of these groups, AFCARS captures:

- Demographic data of children including ages, gender, and race/ethnicity;
- Some information about foster and adoptive parents;
- Case goals for children in care;
- Length of stay in foster care, including some major time markers (e.g. time between termination of parental rights and adoption); and

- Number and percentage of children in various types of foster care and permanent placements.³⁸

National Child Abuse and Neglect Data System (NCANDS)

NCANDS is a voluntary national data collection and analysis system to which states may contribute. Information focuses on children who are reported as abused and neglected and the state response to them. It includes demographic data for children and perpetrators who are reported to child protective services (CPS) screening and investigations, preventive services, and child fatalities.³⁹

State Automated Child Welfare System

In addition to these reporting systems, states have been encouraged to develop the Statewide Automated Child Welfare Information System (SACWIS) through enhanced federal Title IV-E funding. SACWIS is intended to serve as a comprehensive, automated case management tool that supports social workers' foster care and adoptions assistance case management practice. A SACWIS is required to support reporting of AFCARS and NCANDS data and to interface with the state Temporary Assistance for Needy Families (TANF) and child support systems. Most states and the District of Columbia are at some stage of SACWIS planning, development, implementation or operations. Total costs exceed \$2 billion and continue to increase.⁴⁰

Court Data and Reporting Systems

Many state courts are creating new information systems to help local court staff do their jobs more effectively. Many of these systems focus on court management responsibilities, such as scheduling hearings, issuing automatic notices to parties, and filing and processing documents. However, few of these focus on child welfare timelines, due process requirements, permanency planning or decision making. In states and communities with specialized juvenile or family courts, there is greater potential to construct information management systems that are useful for monitoring dependency cases.⁴¹

In addition, a number of state court administrators or chief justices issue annual reports describing the operations of trial courts, appellate courts and the high court. These reports typically focus on the quantity of services the courts offer, including the number and types of cases filed, hearings held, and adjunct services provided. They may provide data related to individual courts and specific types of cases and often serve as annual updates on overall state court developments and priorities.

Adapt Existing Data Systems

Courts in Arizona, Arkansas, Georgia and Missouri are developing strategies to use AFCARS data for monitoring many of the Packard performance measures. They are working with child welfare agencies to share data that already are being collected, overcome system barriers, and use the information in new ways. Experts are developing statistical methods to link AFCARS data from one six-month reporting period to another, thus allowing courts and agencies to track certain factors and performance indicators over time.

In Georgia and Missouri, courts are working to develop websites for judges, child welfare agencies and others to monitor performance by judicial district and counties. Guided exercises help judges examine data and compare the performance of their court to others. Stakeholders in

one Georgia county, for example, found that their children were entering foster care at triple the average rate.

Potential Benefits and Challenges

Although efforts to use existing AFCARS data are in the early stages of development, they offer promise for many courts and other stakeholders.

- State child welfare agencies already collect the data. With minimal analysis, it can be converted to longitudinal information that allows performance tracking.
- Using existing data avoids development of costly new systems.
- Aggregated data does not reveal the identities of individual children, families or caregivers and avoids the risk of sharing confidential information.
- There is potential for a range of stakeholders to monitor child welfare performance, including judicial officers and court staff, social workers and agency administrators, legislators, local officials and the public.

Challenges include:

- The technical challenges of linking data while maintaining its statistical integrity; and
- Lack of state and local experience in court-agency collaboration especially in data sharing, including the resistance of many courts to rely on the child welfare agency for timely, accurate data and barriers for the child welfare agency and agency reluctance to share data.⁴²

Develop New Court Performance Data Systems

Court systems in some states—including Colorado, Minnesota, Ohio, Oregon, Utah and Virginia—have developed new data systems to monitor performance. Many of these systems are the product of collaborative efforts with state child welfare agencies and other entities that are working to improve outcomes for children.

Missouri

In 2003 the Supreme Court Commission on Children's Justice issued recommendations to speed processing of child abuse and neglect cases, and the 2004 General Assembly mandated time frames for hearings and reviews in the comprehensive Child Welfare Reform Act. The state court system then developed the Juvenile Milestone Tracking System specifically to ensure that courts monitor and document their performance. The system enables courts to track hearings for children in protective custody, set due dates for hearings, link siblings' information, monitor reasons for missed time frames, and create management reports that show all hearings and whether time frame standards were met. The legislation also requires the presiding judge in each circuit to submit to the Office of the State Court Administrator and the Commission on Judicial Retirement, Removal and Discipline a quarterly report on all hearings that are not held in a timely manner.⁴³

A new module of the state's existing Judicial Information System (JIS) case management enables multiple judicial and executive branch agencies to share information. The Juvenile Information Governance Commission (JIGC) approves categories of information that can be exchanged among the Office of the State Courts Administrator, the Juvenile and Family Court Divisions of the Circuit Courts; and the departments of Social Services, Mental Health Elementary and Secondary Education, and Health and Senior Services.

Utah

Utah's unified juvenile court system is able to measure timeliness indicators statewide. Reports on compliance with time standards are produced routinely. The web-based system, CARE (Courts and Agencies Records Exchange), is linked to databases of the child welfare agency, the attorney general and the courts. The system incorporates improved case tracking and pinpoints reasons for delays. In addition, multiple state and local entities that are involved in children's lives—including the court, child welfare agency and schools—can identify and track data about children in the child welfare or juvenile justice system.⁴⁴

Virginia

As of January 2006, all but one of the state's Juvenile and Domestic Relations District Courts had the capacity to collect data for the Packard performance measures. Court personnel received training and resource guides. In addition, six pilot courts funded by a federal SANCA grant have programmed and installed software that allows them to generate reports on the measures.⁴⁵

State courts are using three general approaches to implement new statewide data systems.

- **Unified**
The state owns the software and all courts use the same system. In Oregon, for example, all performance measurement and information system development is conducted by the state Supreme Court.
- **Decentralized**
Each local court may have its own software and collect different information. In Illinois for example, local courts purchase their own information system packages. Unless courts agree to data collection standards, this approach limits data exchange, statewide performance tracking, and comparative analysis.
- **Combination**
Larger general jurisdiction courts develop or purchase software and other courts elect to use it. An issue with this approach is whether the system is appropriate for monitoring child welfare measures.

Next Steps

Using existing data or developing new data systems is not an either-or choice. As courts develop ways to collect and use performance data, they are learning:

- What judges, court staff and other stakeholders want to know,
- How to improve data systems to produce that information, and
- How the data can be reported and used more effectively.

The insights will help as courts and agencies build new systems and enhance existing ones.

With the impetus of the new federal Court Improvement Grants and the federal requirements for court-agency collaboration, great potential exists for the next generation of performance measurement systems. Common goals for children, supported by shared performance measures, create a strong foundation for court-agency data exchange. Joint planning will help

courts, agencies and tribes leverage existing capacities to make better decisions and achieve better outcomes for children.

Issues and Strategies for Legislators to Consider

During the first grant year (FY 2006) of the new federal Court Improvement Program (CIP) grants for data collection and analysis, state courts must develop strategic plans that identify both the short- and long-term activities that will help their states address the CFSR child outcomes of safety, permanent and stable homes, and positive well-being. The strategic plan must address how the court will collect and analyze data to evaluate the quality of court performance and measure the success of court improvement efforts.

Although state legislative or policy changes may not be necessary, legislators are in a position to promote positive outcomes as performance data systems are developed. In addition to promoting data that will be useful to the courts and child welfare agencies, legislators can help to ensure that data contribute to improved accountability for the public and policymakers.

Promote Development of Performance Measurement Systems

Ask for periodic reports on plans for measuring performance

Legislators can require regular reports regarding the steps that courts are taking to develop performance management systems. Some key factors to consider include the following.

- How developing data systems will help courts and agencies improve outcomes for abused and neglected children, including safety, permanence, well-being, due process and timeliness.
- How developing systems will respond to state requirements and options such as reasonable effort requirements, time frames for hearings, permanent guardianship options, efforts to preserve relationships with kin, foster parents' rights, etc.
- Who is involved in planning and how stakeholders are working together to plan, collect, analyze and use data.
- How tribes specifically are involved in planning and how they will be included in developing and implementing performance measures.
- The anticipated effects of performance measurement on child welfare staff, court staff, judicial officials and their workloads.
- Steps that both the courts and child welfare agencies are taking to use existing data.
- Both short- and long-term strategies for measuring performance, including plans for adapting as performance and systems change over time.
- Barriers to measuring performance, including factors that hinder information exchange.

Inform planners about information needed to improve legislative decision making and public oversight

In addition to frontline planning and decisions for children, performance measures can improve legislative decision making and public understanding of the courts and child welfare systems. Legislators and the general public have different needs and uses for performance data. Legislators who serve on child welfare policy committees, judiciary committees and appropriations bodies can work together to identify:

- What information they need to make better-informed policy, appropriation and oversight decisions;
- What information will help them ensure that policies and resources are aligned to improve child welfare results;
- How developing data systems can help legislators and others monitor progress toward specific state and federal requirements, including CFSR measures, state time frames for hearings and decisions, and others;
- Strategies for analyzing and reporting the information that will be useful for policymakers and the public.

For example, legislators may want to ensure that court data plans include strategies for making performance information available to the public through state and local websites and other means. They may want to require data reports by county or judicial district.

Ensure participation of key stakeholders in planning and developing performance data systems

With the incentive of federal grants and new federal requirements for court, agency and tribal collaboration, legislative requirements may not be necessary to eliminate resistance to sharing data. By communicating with court and agency leaders, legislators may be able to determine if other steps are needed to encourage collaboration. In highly decentralized court systems, for example, the legislature may need to require court information-sharing and make uniform requirements for data collection and reporting.

In addition to child welfare agency, tribal and court stakeholders, legislators may want to ensure consultation with others who have a role in child welfare accountability. Child ombudsman offices and legal representatives for children and families have essential roles in accountability systems. Existing task forces, councils and commissions that work at the state and local levels to improve outcomes for children may have insights about specific issues, collaboration and performance monitoring. Other participants to consider include advocates for children and families, local education agencies, and representatives of foster parents, kinship caregivers, and foster care youth or alumni.

The California Legislature created the California Child Welfare Council (2006 Cal. Stats., Chap. 384), composed of leaders of state agencies, the courts, the Legislature, county agencies, tribes and other child welfare stakeholders. Council responsibilities include recommendations to the governor, the Legislature and the public on the development of data and information sharing protocols. Annual progress reports also are required.

Remove Barriers to Court-Agency Performance Measurement

As courts and multidisciplinary teams plan systems for measuring performance, they are likely to pinpoint statutory and other barriers. Legislatures may need to be prepared to consider specific measures to facilitate information exchange. Following are examples of recent steps legislatures have taken.

Promote local, frontline information exchange

In 2005, South Dakota (2005 S.D. Sess. Laws, SB 178, Chap. S.J. 796) created county interdisciplinary child information teams to facilitate the exchange and sharing of information that one or more team members may be able to use in serving a child. The legislation requires a written agreement and authorizes school districts to release information to a team. It also pro-

vides for confidentiality of information exchanged among team members and for immunity from liability arising out of good-faith participation on a team.⁴⁶

Allow individual case tracking and identification

Florida (2005 Florida Laws, SB 348, Chap. 239) authorized the state Supreme Court to create a system for identifying individual families within the family court system.⁴⁷

Provide for automated information exchange

Texas (2005 Tex. Gen. Laws, SB 6, Chap. 268) required the child welfare agency to develop a pilot program for the paperless exchange of information between the child welfare agency and courts to facilitate the progression of child protection cases through the judicial process.⁴⁸

Ensure Protection of Individual Rights

Performance measures are aggregated data about numbers of children rather than information about individuals. However, as courts and agencies develop collaborative performance measurement systems and exchange information in new ways, it is important to ensure that privacy and confidentiality are protected and to avoid legal or ethical issues.

Ensure adoption confidentiality

Legislatures may need to ensure that adoption information can be aggregated and exchanged among courts and between courts and agencies without compromising the parties' confidentiality. For example, when one court is hearing a case involving abuse and neglect and termination of parental rights and another is handling the adoption of the same child, the courts need to share information in order to monitor the time between the termination and adoption.⁴⁹

Address privacy issues in small jurisdictions

Attorneys, especially those who represent children in small jurisdictions, have expressed concern that individual cases may be identified by inference. System planners may need to develop strategies to ensure that aggregated data do not inadvertently allow individuals to be identified.⁵⁰

Ensure that performance measurement systems avoid inappropriate court-agency information exchange

Although performance data are aggregated, it is important to ensure that court-agency information systems do not allow unethical ex parte communications when agencies transmit information to the court. Sensitive case information is communicated ex parte when it goes to the court but not to other parties. Such communication is unfair and improper because it prevents the other parties from challenging and rebutting the information. Steps for ensuring that individual case information is shared in this way include the following

- ***Ensure that a firewall exists to prevent judges from reviewing/obtaining specific types of information.*** Information exchange can be restricted to aggregated performance data or to information for administrative purposes, such as scheduling hearings or providing timely notice to parties. This protection would prevent judges and court staff from obtaining specific information in case files that could affect the case, but would allow them to access other general information such as the child's date of birth.

- *Make specific information available to all parties.* Another way to avoid ex parte communication issues is to make information available to all parties. Exceptions, such as addresses of foster parents, can be specified.⁵¹

Develop Ongoing Legislative Strategies for Monitoring Performance and Outcomes

Legislators directly contribute to the accountability of the child welfare system for improving results for children. By systematically monitoring performance measures over the long term, legislators can help to spur and sustain improvements. Bringing visibility to solving court issues can help to increase public understanding and confidence in the courts and the child welfare system. The following strategies are steps to consider.

Require routine reports on performance measures from courts and agencies

Legislators may want to require reports on performance measures from courts and agencies as part of their budget requests or routine oversight hearings. It is critical that performance monitoring become a regular, ongoing part of legislative oversight activities. Only then can issues be identified and addressed before they become serious problems. Courts, agencies and the public rely on close legislative scrutiny as part of the checks and balances that safeguard the use of public resources and the well-being of vulnerable children.

Convene public hearings to examine and address issues that affect court performance

In addition to written reports on changes in performance measures, legislators can convene oversight hearings to address specific aspects of court performance. These oversight processes may require participation of legislators who serve on policy and appropriations committees. For example, legislators may ask court officials, child welfare agencies, and other stakeholders to testify and work together to develop recommendations regarding specific issues.

Ensure that emerging information systems monitor court and child welfare performance

Many court systems are developing automated information systems to improve court management. Legislators can encourage the courts—whether they have general or specialized jurisdiction—to ensure that these systems monitor and facilitate the handling of child welfare cases.

Likewise, many legislators are interested in developing capacity to monitor the child welfare performance of individual counties or other local jurisdictions, much as the federal Child and Family Services Reviews monitor statewide performance. California, for example, is implementing the 2001 Child Welfare System Improvement and Accountability Act (AB 636) to improve outcomes for children in the child welfare system while holding county and state agencies accountable for the outcomes achieved. As other states develop these systems, legislators will want to ensure that local reviews acknowledge the role of the courts, require court-agency collaboration, and monitor court-specific performance measures.

6. PROMOTE COLLABORATION AMONG COURTS, CHILD WELFARE AGENCIES, TRIBES AND OTHER PARTNERS

Collaboration no longer is simply a good idea. Better results for children who are involved in the child welfare system require the efforts of many partners working together. Despite serious challenges, there are emerging opportunities and incentives for courts, agencies tribes and other partners to work together on behalf of vulnerable children. As states strive to make measurable improvements, there is increasing urgency to move collaboration from talk to action.

Recent federal policy and regulatory changes require that courts, child welfare agencies and other partners work together. Federal grants to state courts, as well as core federal funding to state child welfare agencies now are contingent upon substantial, meaningful and ongoing collaboration. The requirement applies to new and existing Court Improvement Program (CIP) grants, Child and Family Services Reviews (CFSRs) and Program Improvement Plans (PIPs), and to other state child welfare plans required for federal funding (including Title IV-E, Title IV-B and CAPTA).

Consensus regarding the need for collaboration is broad, and in many communities and states, agencies and courts are working together to measure and improve performance. The national Pew Commission on Children in Foster Care put collaboration at the center of its recommendations. National and state judicial organizations have advocated more involvement by courts in the CFSR and PIP processes, and tribal organizations have long urged more consultation and collaboration. State court-agency teams that convened for a national summit in 2005 developed collaborative action plans for improving child welfare and now are working to implement those plans.

Why Collaboration Is Essential for Improving Outcomes

Ensuring safe, permanent and stable families where children thrive is beyond the capacity of any single agency, system or sector of government. It requires many partners working together toward these common goals and may require fundamental changes in how they work, both individually and collectively. Agencies, courts, tribes and others with a stake in better outcomes must:

- Enhance the performance of the child welfare system by *focusing on desired results* for children.
- *Bring together all the necessary partners* to strategically plan and implement reforms.
- Develop systems for *jointly tracking performance* measures.
- Ensure *efficient and appropriate use of resources* by improving court and child welfare practices, maximizing funding, and allocating resources strategically.
- Develop their collective capacity to make *continuous and sustained improvements* by becoming proactive, problem-solving organizations.

Not only do courts, agencies and other partners need each other to improve results for children, they also have much to offer the child welfare system. The nature of the work—improving child safety, permanence and well-being—demands multidisciplinary approaches. A variety of perspectives are necessary to identify and fully understand barriers to positive results. To develop strategies that work, all partners must have a voice in crafting them.

Child Welfare Agency Contributions

To make sound decisions, the courts depend on the information that agencies provide. Only when judges have complete, accurate and timely information about the children before them can they hold effective hearings and reviews. Capable agency attorneys and caseworkers help ease the burdens of courts' workloads by being prepared for hearings, knowledgeable about individual children and their treatment, and able to follow through on case plans and requirements.

Cases that involve child abuse and neglect require a wider range of social services than other types of court cases. By providing or obtaining the services that children, families and caregivers need, public and private agencies and their partners help move children to safety and permanence. Agencies may be able to help judicial and legal representatives understand the culture and factors that affect other partners. Agencies also can serve as the courts' key allies in the policy arena. Agency leaders have more contact with governors and, often, with state legislators. They can help to ensure that state policies and plans address key legal and judicial issues.

The relationships between child welfare agencies and tribes are critical to better outcomes for Native American children. Formal agreements regarding case practices and procedures, state funding, information exchange, joint training and capacity-building help to improve the performance of both tribal and state child welfare systems.

Court Contributions

Courts, in turn, contribute to child welfare agency and tribal performance. By exercising their leadership and authority, judges can help bring people together, establish cooperative working arrangements, and ensure that tasks are accomplished. They also provide continuity and keep initiatives on track an especially critical factor for sustaining improvements due to high turnover among child welfare caseworkers and politically appointed leaders. By participating in the CFSRs and PIPs, courts boost the state's capacity to make improvements. If courts make sound decisions regarding the safety of abused and neglected children, the CFSR will reflect the fact that children are safer. If courts make timely decisions in child welfare cases, foster children will achieve permanent placement more quickly.

Courts can help to ensure that critical legal and judicial issues are addressed, including subtle barriers that can impede achievement of child safety, permanency and well-being.

The child welfare agency often does not fully recognize the dimensions or potential barriers of the legal and judicial system. For example, agencies may not realize that the early stages of the court process must set the stage for later phases. When courts make inadequate or incomplete findings during early hearings, it may be more difficult later in the court process to bring and sustain timely proceedings for guardianship, termination of parental rights and adoption. Similarly, the agency may not understand that noncustodial parents must be brought into the court process early to avoid later delays in freeing the child for adoption.

By managing their dockets well, courts can eliminate time that child welfare workers spend waiting for hearings or preparing for procedures that are delayed. Avoiding delays provides more time for workers to interact with children and families.

Who Are the Partners?

Federal collaboration requirements name a limited number of partners: the state child welfare agency, private contract agencies that administer child welfare services for the state agency, the courts, and tribes. Although these may be the primary partners, many efforts that improve results for children feature outreach to a broader group of state and local partners.

States that are working to improve child welfare results have convened a broad and varied range of partners. The following list reflects the recommendations of judicial experts and of the broad membership of existing state commissions and task forces that are working to improve child welfare and the courts.

<p>Judiciary</p> <ul style="list-style-type: none"> Chief justice of the state's highest court State Council of Juvenile and Family Court Judges or its equivalent Court Improvement Project Other selected judges Retired judges with special expertise and interest <p>Court administration</p> <ul style="list-style-type: none"> State court administrator Clerks of court <p>Tribal court leaders and representatives</p> <p>Legal representatives</p> <ul style="list-style-type: none"> For children, parents, child welfare agency and state State Bar Association <p>State or local foster care review program</p> <p>Child welfare agency</p> <ul style="list-style-type: none"> Executive director Clinical services division Administration and policy division Information management staff State and county/local agencies Tribal agencies <p>Agencies that administer services for children and families or services that affect children</p> <ul style="list-style-type: none"> Human services Substance abuse Mental health and behavioral health Physical health/public health Health care financing School board/education service providers Juvenile corrections Adult corrections Environmental quality Information technology State parole board 	<p>Service providers associations</p> <p>Advocates</p> <ul style="list-style-type: none"> Child and family advocacy organizations Domestic violence advocates Education advocates Advocates for minority children <p>Community representatives</p> <ul style="list-style-type: none"> Faith community Community-based organizations Business community <p>Universities and colleges</p> <ul style="list-style-type: none"> Schools of social work Law schools <p>Child and family research organizations</p> <p>Private philanthropies</p> <p>Individuals served</p> <ul style="list-style-type: none"> Parents with closed cases Children, youth and foster care alumni Foster parents Kin and other care providers Adoptive parents <p>U.S. congressional representatives</p> <p>State legislators</p> <ul style="list-style-type: none"> Chairs and/or key members of budget committees Chairs and/or key members of policy committees with jurisdiction of child welfare issues <p>State governor</p> <ul style="list-style-type: none"> Governor's office for children, youth and families Governor's policy advisor <p>County/local officials</p> <ul style="list-style-type: none"> County supervisors or commissioners Association of counties⁵²
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Key Considerations: Multidisciplinary Participants

The National Council of Juvenile and Family Court Judges recommends considering the following criteria when selecting participants for a core collaboration group or for advisory groups.

- Stakeholders with formal decision making power, such as policymakers, lead judges, agency executives and tribal officials;
- Stakeholders with power to block a decision or reform initiative;
- Stakeholders with relevant information or experience about the current reality of practice, policies and results;
- Individuals and organizations that bring new perspectives, expertise and/or resources to the effort; and
- Stakeholders affected by decisions and changes in policy and practice.⁵³

Outreach to New Expertise

One way to tap valuable resources is to reach out to partners who are not part of the traditional child welfare system. Former Chief Judge Richard FitzGerald of Louisville, Kentucky, reports that business leaders bring a fresh perspective, business expertise and potential resources to the table. Judge Nancy Salyers, former presiding judge of the Cook County, Illinois, Juvenile Court's Child Protection Division, encourages courts and agencies to forge partnerships with local colleges and universities, especially schools of social work. Like relationships with law schools, these ties are mutually beneficial arrangements that bring an outsider's perspective and help develop expertise for the system of the future.⁵⁴

Developing a Network of Champions

Multidisciplinary commissions or task forces can help states and communities develop networks of champions for children in the child welfare system and for those who work in the system. Broad support helps to increase visibility and to ensure that reforms can be implemented and sustained as inevitable challenges arise.

Working Together to Improve Outcomes

To be effective, collaboration must be ongoing and built into the day-to-day operations of partners. Federal guidelines specify that collaboration among courts and agencies must include:

- Multidisciplinary commissions or task forces and other infrastructure;
- Ongoing meetings to jointly identify and prioritize goals and issues, develop strategies for improvement, and monitor progress; and
- Effective methods of communication and exchange of ideas.

Multidisciplinary Commissions and Task Forces

To be eligible for the new Court Improvement Program grants for data collection and accountability and training, all state courts must create multidisciplinary bodies. Almost half the states currently have or are developing multidisciplinary task forces or commissions dedicated to improving results for children in foster care. A few of the existing commissions have long histories, such as:

- The New York Permanent Judicial Commission on Justice for Children, which was initiated by the State Supreme Court in 1988;
- The District of Columbia Child Welfare Leadership Team, created by the nonprofit Council for Court Excellence in 1999; and
- The Minnesota Children's Justice Initiative, formed in 2001 when the state Supreme Court justice convened local judges and the Department of Human Services commissioner.⁵⁵

Multidisciplinary groups provide infrastructure for courts, agencies, tribes and other stakeholders to provide information and guide reforms. Experiences of other collaboratives for children and families and existing court-agency commissions offer some lessons for consideration.

Organization: Core Groups, Committees and Advisors

To ensure that collaboratives are able to accomplish their missions more easily, many create core groups of the key leaders that are complemented by advisory groups composed of broad stakeholder representation. In other cases, large commissions that allow inclusive participation organize committees to focus on specific issues and goals. These goals—such as developing performance measures or improving timeliness of decisions—may be clear from the beginning, or they may be identified as the core group works together.

Capacity to achieve results

In addition to strong leaders, mid-level, cross-sector staff have an important role. Mid-level agency managers, judicial administrators and court clerks often implement policies set by blue ribbon commissions and other prestigious bodies. Because their support is essential and they have practical expertise, their voices need to be heard. Some collaboratives include key staff as members of the group. Others have working groups of staff who advise leaders and implement commission recommendations.

Case-Level Collaboration

To improve results for children requires collaboration at the point where children and families are served. To expedite safety and stability for children, courts and agencies are developing mediation programs, specialized cross-disciplinary services, and other collaborative practices.

Mediation

Problem-solving court practices such as mediation and agency approaches such as family group conferencing are intended to help all parties to a child protection case reach agreement about a plan that is best for the child.

For more than a decade, the Juvenile Dependency Court in Santa Clara County, California, has operated the Dependency Mediation Program. All parties to child protection cases and their attorneys participate, and others—including family members, significant friends and professionals—are invited to join. A male and a female mediator conduct each session. In three-quarters of the cases referred to mediation, the parties were able to resolve all issues, and in another 17 percent of cases, some of the issues were resolved.⁵⁶

Specialized, multidisciplinary services

The complex dynamics of many cases that involve abused and neglected children and their families sometimes include substance abuse, domestic violence, mental health, health care, housing, and other issues. To improve results for children, courts and child welfare agencies may need to tap the expertise, assistance and resources of experts in these fields. A Florida juvenile court partnered with a child development expert to create a series of evidence-based parenting programs. The judge in Sedgwick County, Kansas, enlisted the help of mental health professionals to reduce long waiting lists for mental health evaluations. They designed a more efficient clinical assessment tool that answered the judge's questions, took less time to complete, and reduced the waiting time for reports.⁵⁷

Collaborative Child and Family Services Reviews and Plans

Court participation in Child and Family Services Reviews (CFSRs) and Program Improvement Plans varies among states, but is lacking overall. After the first round of CFSRs, the federal government strengthened requirements for state child welfare agencies to collaborate with the courts in the review process and in developing and implementing the resulting PIPs. Federal concerns focused on the failure of any state in the initial reviews to comply with standards for achieving permanent and stable living situations for children in the child welfare system. In addition, of the seven systemic factors the reviews examine, fewer states demonstrated satisfactory Case Review Systems than any other factor. Both of these areas hinge directly upon court involvement and performance.

Participation of judicial representatives can increase mutual understanding of the issues and challenges that both agencies and courts face. Judicial participants are invaluable in developing effective improvement plans. In addition, court involvement in these required reviews and plans can help to ensure that collaboration becomes embedded in child welfare system practices. In Ohio, a project called "Beyond the Numbers," led by the chief justice, brings together agencies and courts to actively identify and solve problems. Created in response to the CFSRs, the project now goes beyond responding to federal mandates by proactively seeking to improve practice by working collaboratively.⁵⁸

Judicial participation

The following strategies are recommended for court participation in CFSRs and PIPs, but they also would put states closer to compliance with new federal collaboration requirements for other child welfare plans.

- Notify court representatives of upcoming reviews and plans.
- Encourage court participation in all phases of reviews and planning, including advance planning, data analysis and statewide assessment, participation in on-site reviews, serving as on-site reviewers, conducting and participating in stakeholder interviews, and drafting and reviewing narrative sections of the review and the plan.
- Identify barriers to legal involvement, make training available, and take other steps to facilitate participation.
- Involve courts in developing and implementing strategies to improve performance.⁵⁹

Build on the CFSRs to collaboratively improve outcomes

Promoting judicial participation may require special efforts by court, agency and other state leaders. However, it can leverage great returns in results for children. The intensive, local process used in Ohio draws overwhelmingly positive feedback from both judicial and agency participants. Judicial leaders have brought together juvenile court judges in seven Ohio regions to learn more about the CFSR, to examine local performance measures, and to consider the effects of court actions. The Ohio Supreme Court calls a regional meeting of judges to familiarize them with the CFSR process and outcome measures and to discuss the effects of judicial actions. A second regional meeting includes county teams with the child welfare agency director, juvenile court judges and magistrates. Together, the team examines local CFSR outcomes and conducts an exercise to analyze how a case moves through the court process. Each team examines a group of 10 closed, local cases that did not meet the CFSR permanency outcome (achieving permanency within 24 months from the initial custody date).⁶⁰

Training

Training is essential for improving individuals' skills and practices, court performance, and the performance of the child welfare system as a whole. In addition, collaborative training can help stakeholders better understand each other and develop effective strategies for improving timely decisions and child outcomes. Judges and agency administrators in many states and communities are working to improve training, and the new federal Court Improvement Program grants will provide additional resources for developing and systematizing training.

State and federal policy changes, CFSRs and PIPs, and emerging best practices necessitate ongoing training for courts, agencies and other partners. In California, for example, a collaborative summit has been held for more than 25 years. After the federal Adoption Assistance Act of 1980 was passed, the state child welfare agency and state court held a summit to discuss the implications of the new law. That summit has grown over the years. Now called the Beyond the Bench Conference, it attracts more than 1,000 multidisciplinary participants each year and often focuses on collaborative issues and strategies.

Judicial training

Because cases have become more complex, judicial and legal representatives need to develop specialized problem-solving skills that are unique to child protection cases. Specialized judicial training that is routinely available is particularly critical in communities and states where these cases fall under the jurisdiction of general trial courts or where judges rotate out of juvenile and family court.

Court Improvement Programs have made great inroads in developing and providing judicial and legal training to improve handling of dependency cases. For example, in 2005, Virginia's Court Improvement Program sponsored or participated in 14 training events that reached more than 1,000 people. Routine training was provided through the state court system for judges, substitute judges, court clerks and their staff. Collaboration with the educational arm of the state bar allowed attorneys to receive continuing legal education credit for training sessions. In conjunction with local courts, the program sponsored intensive interdisciplinary training and dialogue with community professionals who handle dependency cases.⁶¹

Universities are another resource for judicial training. With assistance from the Court Improvement Program, the University of Colorado Law School began a Juvenile Law Clinic in 2003. In addition, the State Administrative Office of the Courts offers judicial scholarships for the annual Family Law Institute.⁶²

Cross-training

Providing training to people from various sectors and agencies helps to ensure a common foundation of knowledge and understanding. It can help:

- Educate stakeholders about the challenges, requirements and dynamics of other cultures, agencies, organizations and branches of government;
- Implement collaborative practices such as family group conferences and problem-solving approaches; and
- Develop strategies for improving child welfare.

A portion of the funds that states receive through the new Court Improvement Program training grants must be used for collaborative training. Among topics of mutual interest to various partners are mental health, substance abuse, education of children in foster care, the role of caseworkers in court, and the preparation and use of court reports.⁶³

Tribes

To make tribes true partners in child welfare improvement, cross-training is critical. Encouraging participation of tribes in judicial, agency and joint training can increase mutual understanding and help ensure that tribes receive the information they need. In addition, tribal participation can help other stakeholders understand tribal decision making, child welfare and court systems, and views of family and permanency. Training and technical assistance is a necessary step for helping tribes develop and maximize resources for child welfare services and decisions.

Accessible training

Making training accessible to court, legal and agency staff who face daunting workloads is a challenge. To receive the new federal training grants, state courts must ensure accessibility by making participation convenient, providing inducements or imposing requirements for attendance, and tracking attendance.⁶⁴

Issues and Strategies for Legislators to Consider

Support Multidisciplinary Commissions

Although it is the responsibility of the state courts to develop the multidisciplinary commissions required by the new federal Court Improvement Grants, legislators may influence and support these groups. Several existing state collaboratives have been created by legislation, and legislators serve on these bodies in Arkansas, California, New York, North Dakota, Utah, Vermont and Washington. In addition, legislators are likely to oversee the groups and respond to their recommendations. By clearly articulating the desired outcomes and monitoring their progress, lawmakers can help to ensure that collaborative efforts stay on track. As legislators consider state child welfare policies and potential reform strategies, they use commissions as resources for obtaining stakeholder input, providing expert perspectives, and reviewing proposals.⁶⁵

In 2005, the Arkansas General Assembly (2005 Ark. Acts, SB 1030, Act. 2000) created a multidisciplinary Supreme Court task force on abused and neglected children modeled on the national Pew Commission on Children in Foster Care. The statutory duties of the task force include examining multidisciplinary cooperation, legal advocacy for children, and accountability. It further directs the task force to determine best practices and recommend appropriate distribution of funds for the prevention of child abuse and neglect.

In 2006, the California Legislature created the California Child Welfare Council (2006 Cal. Stats., Chap. 384), a high-profile advisory body "... responsible for improving the collaboration and processes of the multiple agencies and the courts." The council is required to report annually on its recommendations and state progress in improving outcomes for children and families, including:

- Ensuring coordinated funding and services;
- Increasing the quality, appropriateness and effectiveness of services and judicial processes;
- Promoting consistent excellence across counties;
- Increasing coordination among county, state and federal agencies and the courts;
- Ensuring that state child welfare and court improvement plans demonstrate effective court-agency collaboration; and
- Developing data and information sharing agreements and protocols.

Co-chaired by the secretary of California Health and Human Services and the chief justice of the State Supreme Court (or his or her designee), the council must include leaders of the state education system, social services, health and mental health services, alcohol and drug programs, developmental services, and the juvenile justice system. Legislative representatives are the chairs of both House and Senate human services committees and judiciary committees (or other members appointed by legislative leaders. The statute also requires participation of the state foster care ombudsman; four current or former foster youth; and representatives of county public agencies, tribes, child advocacy organizations, labor groups, and professional associations.

Identify and eliminate barriers to collaboration and child welfare performance

As agencies, courts and tribes work together to develop and implement state child welfare plans, unprecedented opportunities for improvement can be expected. Legislators can request that stakeholders work together to identify policy, legal and funding factors that hinder collaboration and better results for children along with their recommendations for legislative changes.

For example, Arkansas' authorizing statute for the multidisciplinary Task Force on Abused and Neglected Children (2005 Ark. Acts, SB 1030, Act. 2000) requires the group to recommend specific statutory changes that will improve child safety and welfare and funding allocations that will help prevent child abuse and neglect.

New York's Permanent Judicial Commission on Justice for Children, which includes judges, state and local agency officials, legislators, advocates, social workers and others, sponsored a series of child welfare roundtables. These forums contributed to enactment of 2005 permanency legislation that expedites and improves court and agency decisions by allowing continuous scheduling of child protection court proceedings, providing uniform standards for permanency hearings, and other changes.⁶⁶

Build on existing collaboration

Many legislators are concerned about the growing number of collaboratives for children and families within their states and communities. Federal program or funding directives increasingly require states to develop collaborative planning groups. State and local policymakers have created commissions, councils or task forces to target specific populations (such as young children or youth), issues (such as substance abuse or delinquency) or desired results. For stakeholders, proliferating collaboratives can become time-consuming and duplicative, despite their potential benefits.

To mitigate these risks, legislators may want to encourage merging multidisciplinary commissions to build on existing collaborative efforts. Strategies to consider include:

- Enhancing an existing collaborative to ensure that it has adequate membership, leadership, authority, capacity and resources to lead child welfare and court improvement efforts; or
- Merging existing task forces or groups that focus on similar issues or incorporating them into the court-agency commission as advisory groups.

Legislative action may be needed to restructure existing collaboratives that have statutory mandates.

Encourage and Replicate Local Collaboration

Provide organizational support for effective local collaboration

At the same time that it is important to avoid over-proliferation of collaborative planning entities, local level groups that correspond to or inform a state commission offer important benefits. Many practices that improve court-agency performance have been developed by local judges, agency staff, and other stakeholders working together within their own communities. They may convene under the auspices of the court, use an existing local collaborative or develop formal or informal mechanisms to support their efforts.

In Allegheny County, Pennsylvania, the administrative judge, Department of Human Services, and Court of Common Pleas Family Division began working together in 1996 to improve the lives of abused and neglected children. Their collaborative work includes monthly meetings, cross-agency training, and regular visits by judges to child welfare offices. They credit their partnership for a range of measurable improvements, including:

- Reducing the number of placements by more than 20 percent,
- Cutting the average length time in care by a full year,
- Decreasing adoption backlog by two-thirds,
- Reducing the length of the adoption process from 48 to nine months, and
- Improving representation for children and parents.⁶⁷

Like their state counterparts, local multidisciplinary groups can promote collaboration among local judges, child welfare agency administrators and staff, community organizations and leaders, and tribes. Especially where courts are highly decentralized, local efforts can help to ensure that state-level recommendations are implemented and sustained. Local collaboratives also can identify issues, challenges and strategies that are unique to the community or that state leaders may overlook.

The Minnesota Children's Justice Initiative is mirrored in each of the state's 87 counties, where a lead judge, local judges and county child welfare administrators work together. The initiative, which is credited with spearheading a range of system reforms, started in 2000 with 12 pilot counties and by 2003 had spread to all 87 counties of the state.

Promote state-local connections

To bring local issues to the state-level collaborative and to implement statewide improvements, local liaisons are needed. One strategy is to better connect existing organizations, such as the regional structures of state court systems and the local field offices of child welfare agencies.

In addition, local representation on state-level commissions provides a useful link. California's Blue Ribbon Commission on Children in Foster Care includes a county supervisor, county child welfare administrators and local judges. Minnesota's state-level Children's Justice Initiative includes a lead judge from each county who serves as the liaison with the local collaborative. Other types of collaboratives for children and families have used a local stakeholder advisory committee to provide input to the state body.⁶⁸

Safeguard ethical judicial communication within the community

Although judicial and legal experts advise that judges should not become isolated from the community and they certainly have much to offer, concerns about improper communication may need to be addressed. This may require a protocol or written agreement among participants in local planning activities. Judges also may seek the advice and assistance of state court leaders or national organizations.

In preparation for the statewide Children's Justice Initiative, Minnesota's Court Improvement Program hosted judges from other jurisdictions who shared their experiences and advice about collaboration strategies that address ethical and practical concerns.⁶⁹

Promote Collaborative Implementation of Best Practices

Legislators can encourage courts, child welfare agencies, tribes and other stakeholders to work together as they develop and disseminate practices that improve safety, timely decision making, and permanence for children. Coordination of these efforts may help prevent duplication and allow even more effective responses to children and families. To implement cross-cutting policies and practices may require legislation, collaborative rule-making and cross-sector memoranda of agreement. Collaborative planning and implementation of performance measurement systems can help maximize existing resources, address potential barriers to information exchange, and monitor collective progress toward shared outcomes for children. Increased staff, reduced caseloads, or other provisions can help free agency and court officials to participate in collaborative planning meetings.

Performance-based, cross-sector agreements

Colorado legislation (2004 Colo. Sess. Laws, HB 1451, Chap. 353) authorizes and specifies minimum requirements for memoranda of understanding (MOU) among multiple county agencies and local courts. The goal of the agreements is to promote a collaborative, performance-based approach to interagency oversight and provision of services to children and families. The parties to the agreements are county departments of social services, local judicial districts, health departments, school districts, community mental health centers, and mental health assessment and service agencies. The legislation also creates a performance-based col-

laborative management incentive cash fund to be allocated to parties that have met or exceeded performance measures.⁷⁰

Staff liaisons

Texas legislation (2005 Tex. Gen. Laws, SB 6, Chap. 268) allows the Department of Family and Protective Services, subject to funding, to employ local legal liaisons and community initiative specialists.⁷¹

Collaborative case planning and service delivery

Legislators can act to ensure that family group conferences and multidisciplinary teams include the courts and other key stakeholders.

- Missouri's 2004 HB 1453, authorizing "family support team meetings," requires that notice and opportunity to attend be given to the parents, the legal counsel for the parents, the guardian ad litem for the child, the foster parents, the legal guardian or custodian of the child, the volunteer advocate, and any designee of the parent who has written authorization. It also requires that a family support team meeting be held within 24 hours following a protective custody hearing and that additional meetings be held before to any action is taken regarding the child's placement.⁷²
- Texas legislation (2005 Tex. Gen. Laws, SB 6, Chap. 268 Sec. 1.52) allows the state child welfare agency to collaborate with the courts and other appropriate local entities to develop and implement family group conferencing as a strategy to promote family preservation and permanency.
- In 2004, the Virginia General Assembly (Va. Acts, HB 420, Chap. 220) authorized local multidisciplinary child protection teams, to include members of the medical, mental health, legal and law enforcement professions. Specified legal system representatives include the attorney for the Commonwealth or his or her designee and the guardian ad litem or other court-appointed advocate for the child.⁷³
- Wyoming courts are required to appoint a multidisciplinary team after a petition is filed alleging that a child is neglected. In 2005 (Wyo. Sess. Laws, SF 39, Chap. 236), the Legislature expanded the membership of the team to include the child's attorney or guardian ad litem and volunteer lay advocate if appointed by the court. The legislation also required the team to involve the child in development of case planning recommendations to the extent appropriate.⁷⁴

7. CONCLUSION: IMPROVING COURT PERFORMANCE, OVERSIGHT AND ACCOUNTABILITY

Legislators can take many steps to support courts and their partners as they work to improve the lives of children who have been abused or neglected. In fact, the legislature is a key partner in this effort. As tables 5, 6 and 7 (see pages 56-57) illustrate, this report presents a range of legislative strategies for promoting effective court organization and funding, performance measurement, and collaboration.

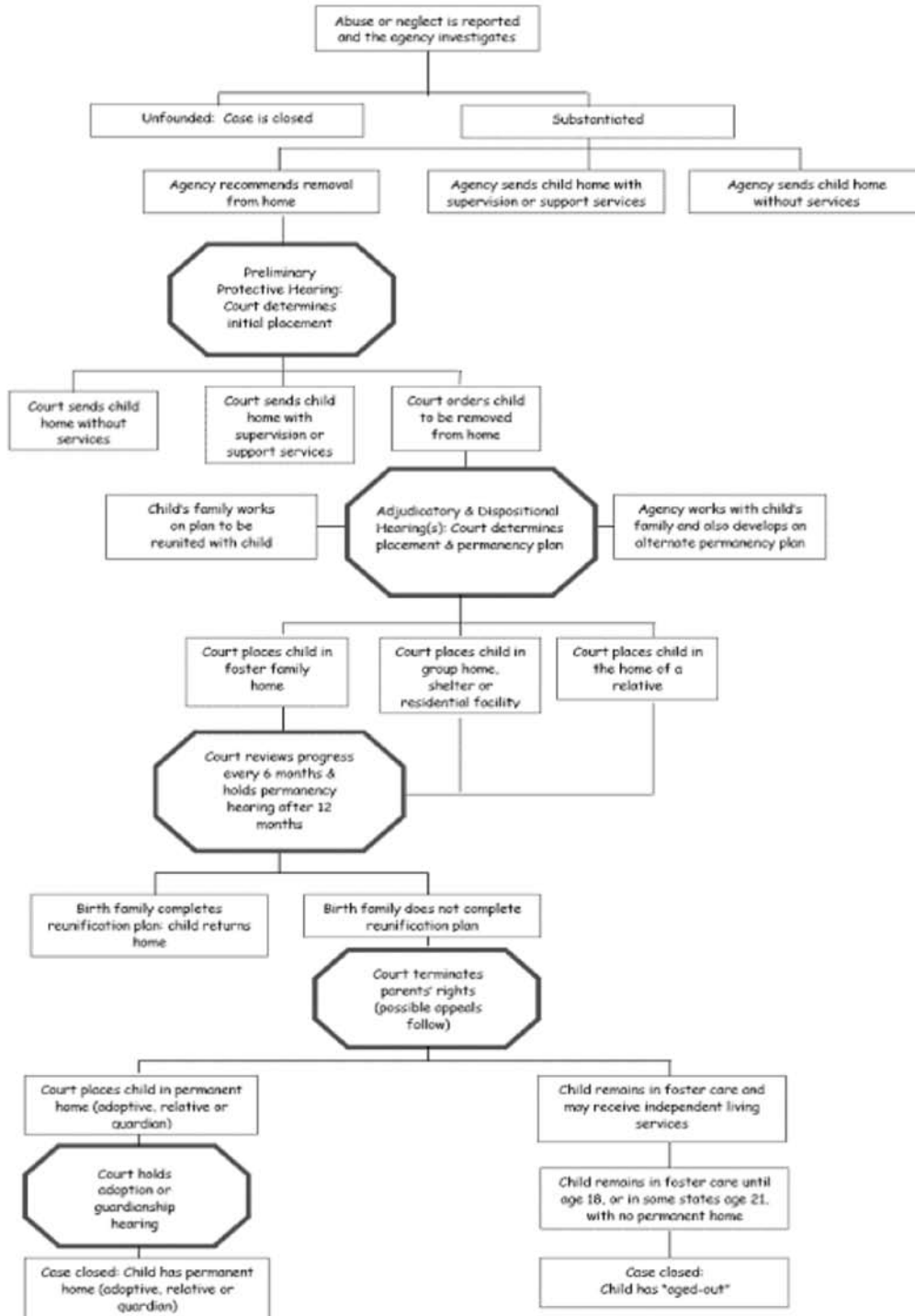
Lawmakers have long developed policies promoting child protection and permanency that involve the courts. They routinely review child welfare agencies' actions. Legislatures now can support and provide oversight for critical improvements in court performance and for child welfare collaboration. As courts and agencies develop systems for measuring state child welfare performance, they are providing useful tools for legislators and the public. Used effectively, emerging performance monitoring systems can boost public confidence, legislative oversight and government accountability.

Of the steps that legislators can take, perhaps the most important are those that demonstrate the legislature's ongoing commitment. Courts and other child welfare stakeholders face serious challenges that require ongoing support. A framework for improvement now is in place that is founded on state and federal results for children, standard court and child welfare performance measures, and new resources for state court improvement. Federal requirements for collaboration as a condition of core child welfare funding adds urgency to planning activities of courts, agencies, tribes and their partners.

To ensure the necessary and ongoing oversight, resources and policy support, legislators may need to craft new ways of working together. By jointly developing strategies for ongoing oversight and deliberation, members of child welfare, judicial and appropriations committees can leverage the current opportunities into continuous improvement systems for vulnerable children. Legislative mechanisms to consider include routine court-child welfare oversight hearings, ongoing monitoring of performance measures, and consistent examination of the effects of proposed policies and appropriations on court performance. As local and state leaders, legislators can use their voices to bring public attention to the issues and progress of courts and their partners. The ultimate goal is better lives for abused and neglected children.

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APPENDIX A. A CHILD'S JOURNEY THROUGH THE CHILD WELFARE SYSTEM



Source: Sue Badeau and Sarah Gesiriech, *A Child's Journey Through the Child Welfare System* (Washington, D.C.: The Pew Commission on Children in Foster Care, n.d.).

APPENDIX B. STRUCTURE OF STATE COURTS WITH CHILD ABUSE, NEGLECT AND DEPENDENCY JURISDICTION⁷⁶

General Jurisdiction State Trial Courts		Family or Juvenile Division (9 states)	Family or Juvenile Division in Some Jurisdictions (12)	General Jurisdiction County Courts (4 states)	Separate Family Courts (8 states)	Separate Juvenile Courts (7 states)	Other
(33 states)							
Alabama	Montana	District of Columbia Hawaii Maine Massachusetts Michigan Minnesota Missouri New Jersey Tennessee	California Connecticut Florida Indiana Kentucky Louisiana Nevada Ohio Pennsylvania Texas Virginia Wisconsin	Mississippi (Youth Division) Nebraska (90 counties) Oregon (in 7 counties) Texas (98 concurrent with state court)	Delaware Louisiana (1 court) New York (62 county courts) North Carolina (11 courts) Rhode Island South Carolina Vermont West Virginia	Colorado (Denver only) Georgia Louisiana (4 parishes) Nebraska (3 county courts) Oregon (4 county courts) Tennessee (17 courts) Utah	Cook County, Illinois Child Protection Division Probate Court in St Joseph County, Indiana Connecticut Childrens Probate Court Pilot Program
Alaska	Nevada						
Arizona	New Hampshire						
Arkansas	New Mexico						
California	North Carolina						
Colorado	North Dakota						
Connecticut	Ohio						
Florida	Oklahoma						
Idaho	Oregon						
Illinois	Pennsylvania						
Indiana	South Dakota						
Iowa	Texas						
Kansas	Virginia						
Kentucky	Washington						
Louisiana	Wisconsin						
Maryland	Wyoming						
Mississippi (If no County Court)							

Source: National Center for State Courts, Court Web Sites, http://www.ncsconline.org/D_KIS/info_court_web_sites.html#State, 2006.

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