

# Improving Child Protection Outcomes

## *A Framework for Judicial Leaders*



## National Impact on Outcomes Committee

In 2012 the National Center for State Courts, in partnership with Casey Family Programs, assembled this national judicial advisory committee to learn and document how courts increasingly partner to improve outcomes for children and families. We would like to thank the following committee members for their thoughtful insight on deepening judicial focus on outcomes.

- Sue Hoag Badeau, Casey Family Programs
- Michelle Barclay, Georgia Administrative Office of the Courts/CIP Staff
- Justice Patricia Breckenridge, Missouri Supreme Court
- Carrie Lee Carroll, Casey Family Programs
- Christopher Church, Georgia Administrative Office of the Courts/CIP Staff
- Judge Amy Davenport, Vermont
- Dr. Gene Flango, NCSC
- Chief Justice Michael Heavican, Nebraska Supreme Court
- Jeannie Kee, Washington State Commission for Children in Foster Care
- David P. Kelly, Children's Bureau
- Judge Patricia Macias, Member, Supreme Court of Texas Permanent Judicial Commission for Children, Youth and Families
- Chief Judge Raquel Montoya Lewis, Nooksack Indian Tribe
- Dr. Barbara Needell, UC Berkeley
- Justice Paula Nakayama, Hawaii Supreme Court
- Joan Ohl, Casey Family Programs
- Jennifer Renne, National Resource Center on Legal and Judicial Issues
- Susan Smith, Casey Family Programs
- Connie Tanner, Arkansas Supreme Court
- Elizabeth Whitney Barnes, National Council of Juvenile and Family Court Judges
- Don Will, California Administrative Office of the Courts
- Joan Smith, Casey Family Programs
- Vicky Weisz, Nebraska Supreme Court
- Susan A. Weiss, Casey Family Programs

### **FOR MORE INFORMATION, PLEASE CONTACT:**

Alicia Davis, J.D., National Center for State Courts, [adavis@ncsc.org](mailto:adavis@ncsc.org)

Sophia Gatowski, Ph.D., National Center for State Courts, [sgatowski@ncsc.org](mailto:sgatowski@ncsc.org)

## We Are As Good As Our Child and Family Outcomes

Judges and attorneys practicing in child protection enter the field to make a difference. No work is more challenging or more important for the future of children and families.

Judicial leadership has led to dramatic improvements in the way that courts address child protection matters. Judicial leadership has contributed to a child protection environment where collaboration with social services, attorneys, service providers and others has resulted in better service to families and a safe reduction in the number of children and youth in care.

Yet any judge presiding over a child protection docket today can attest to pervasive challenges such as limited child and family service dollars, disparate outcomes for children of color, and limited availability of expert attorneys practicing in child protection cases. As judicial leaders, this requires us to ask: ***Are children and families better off as a result of coming before the court? What is the impact of judicial leadership on child outcomes? How can we determine if we are making a positive impact?*** Answers to these questions emerge by critical analysis of the outcome data and performance data collected and maintained by courts and child welfare agencies. If the data show that timely permanency and other outcomes are not improving, judicial leaders convene stakeholders to learn from the data and revise solutions.<sup>1</sup>

*“Focusing on outcomes for children and families enables court and agency partners to meet public needs in the face of scarce public dollars.”*

Chief Justice Michael G. Heavican, Supreme Court of Nebraska and Vice President, Conference of Chief Justices

## National Movement to Date

In 2004 the Pew Commission on Children in Foster Care published a set of pivotal recommendations for improving child protection. The report stated that *“Courts [lacking] the tools, information and accountability to ensure that children are moving expeditiously from foster care to safe, permanent homes”* contributed to less than optimal outcomes for children in foster care. As a result of the report, national organizations and state and local courts have taken these significant steps towards improving child and family outcomes:

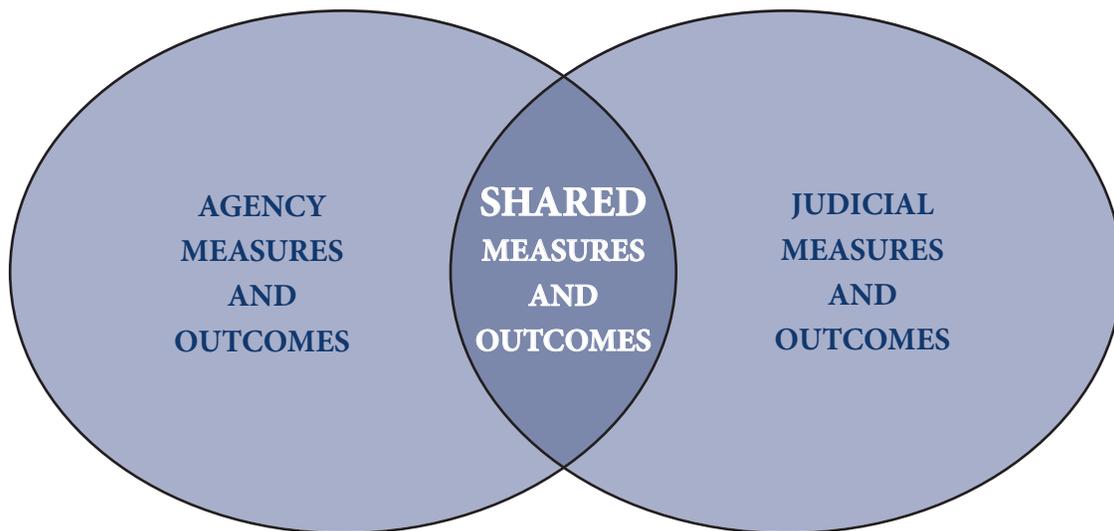
- 1. Publication of the *Court Performance Measures in Child Abuse and Neglect Cases Toolkit*.** The *Toolkit* was piloted by a number of courts seeking to improve data gathering and outcomes tracking. The *Toolkit* establishes thirty measures related to safety, permanency, well-being and due process. It was developed by the U.S. Department of Justice, Office of Justice Programs, in partnership with the National Center for State Courts, the American Bar Association, and the National Council of Juvenile and Family Court Judges.
- 2. Cross-systems State Team Planning at the *Judicial Child Protection Summits (2005, 2007, and 2009)*.** Judicial leaders convened multidisciplinary teams from the majority of states and established collaborative action plans intended to enhance collaboration, to elevate the level of practice in child protection proceedings, to create state judicial commissions, and to engage children and parents fully in court proceedings. The summits were convened by the National Center for State Courts with support from national foundations, including Casey Family Programs.

- 3. Expansion by Congress of State Court Improvement Programs.** Every state now receives a grant from the Children’s Bureau to enhance the court’s role in achieving stable, permanent homes for children in foster care, through the use of data and application of “Continuous Quality Improvement.” Resources for data gathering and training improvement were substantially increased in 2006.

The **National Impact on Outcomes Committee** asks judicial leaders to take child protection improvement efforts to the next level by fostering outcome-driven courts. This Framework is intended as a plan for change management; one that relies on critical reflection on data and current practices to achieve measurable improvements on child and family outcomes.

## Judicial Leadership Is Critical for Improving Outcomes

A “successful [judicial] leader analyzes and interprets the present, creates a shared horizon of possibilities for the future, creates an environment for change, and expands the systems’ capacity for action.”<sup>2</sup> Judicial leaders go beyond collaboration over processes: they share responsibility for child and family outcomes.



It is true that states report on child welfare outcomes through the child welfare agency. However, if states are to make measurable improvements in achieving improved permanency and other outcomes for children in foster care and create the systemic changes in their programs needed to improve overall outcomes, agencies and courts alike must embrace performance measures.<sup>3</sup> Just as the child welfare agency establishes measures such as the timeliness and responsiveness of investigations and services offered, judicial leaders establish measures that answer questions about the success the court is having in overseeing child protection cases.<sup>4</sup> These measures can range from the process-oriented, such as timeliness of court events and continuity of representation, to broader ranging measures such as meaningful youth participation, quality of attorney representation and disproportionate minority representation.

Judges and court administrators exercise leadership in establishing a shared vision for improved child welfare outcomes. They meet with social services directors and other partners to prioritize meaningful outcome and performance measures. Analysis of the measures can then drive changes in practice, policy and even funding.<sup>5</sup>

# Seven Strategies for Creating an Outcome-Oriented Court

Data dashboards, tools for outcome and impact measurement, and case studies of outcome-driven courts are all available at NCSC.org. The **National Impact on Outcomes Committee** draws from proven judicial administration practices and Continuous Quality Improvement<sup>6</sup> principles to offer these strategies for discussion:

- 1. See the big picture.** Review permanency, safety, and well-being outcomes for the jurisdiction. Establish a vision for improved outcomes that relies upon a holistic approach to improving the legal and social service delivery system. For example, a number of states have established judicial commissions intended to create a new normal for child protection. Arkansas, California, Delaware, Georgia, Iowa, Minnesota, Mississippi, Nebraska, New York, Oregon, Pennsylvania, Texas, Vermont, Washington, West Virginia and Wisconsin are among them.
  - ? What would it take to achieve qualitatively improved outcomes for children and families coming before the courts?
  - ? How will we know when we are improving? What are our performance metrics?
- 2. Focus on the children and families coming before the courts.** Viewing improvement efforts through the eyes of a child or the family can refine the quality of existing processes and service delivery. Consider:
  - ? How do we engage children and families coming before the court? Is the involvement meaningful? How do we measure meaningful involvement?
  - ? Do children and families have access to quality representation? How do we measure quality representation?
  - ? Is there disproportionate representation of any particular group? How do we know?
- 3. Emphasize collegial discussion.** Working with tribes, child welfare agencies, attorneys and other partners, outcomes-driven courts see data as a valuable tool. They seek common understanding of the data and shared solutions.
  - ? How can data support our collaborative discussions?
  - ? What is our current working relationship with the agency? How can we make it stronger?
  - ? How do we resolve differences of opinion in the interpretation of the data? In the solutions?

## **Georgia's Cold Case Project**

exemplifies what is possible when child protection leaders unify in their vision for impacting child permanency.

The Supreme Court of Georgia Committee on Justice for Children embarked upon the Cold Case Project in April 2009 with the purpose of improving outcomes for children in long term foster care, and to specifically address Child Permanency (CFSR Composite 3A). Working collaboratively, the courts and social services agency reviewed case files to identify legal barriers to permanency for children in foster care for two or more years. The results are promising: within calendar year 2010, of the 214 cases reviewed, over 20% of the Cold Case subjects had exited to legal permanency compared to the 2008 comparison group which after that length of time had flattened at less than 10% of those children exiting to legal permanency.

**4. Acknowledge judicial discretion.** Collaboration and even solidarity with the child welfare agency is conducive to improved outcomes. However, the child welfare agency and the Judiciary have distinct roles and responsibilities. While social services agencies are responsible for charting the course for system improvement, judicial leaders ensure that all parties follow the course of action.

? How can each partner (agency, courts, attorneys, providers) contribute towards shared outcomes?

? What goals, metrics and tasks do we share? What goals, metrics and tasks are unique to the courts?

**5. Own the data, own the outcomes.** Outcome-driven courts routinely review performance metrics. A number of courts such as Colorado, Illinois, Nevada, New Mexico, Minnesota, and New York lead jurisdiction-specific caseload workshops for child welfare stakeholders to talk about child welfare cases from a data-driven perspective. These courts then consider other measures such as representation, meaningful engagement and quality hearings.<sup>7</sup> Considering other measures related to due process, permanency and well-being achieves a well-rounded view of performance.

? How do we achieve a balanced scorecard<sup>8</sup> in child protection?

? What organization is in the best position to capture data for the various measures?

? How do we establish agreed-upon objectives and outcomes with the agency?

**6. Share results.** Data is a tool to analyze impact, not a source of judgment. It is time that the public understands what courts and agencies are doing well, how outcomes are improving and what the challenges are. A number of courts have developed mechanisms for sharing data with partners as well as for engaging community support at the local, state, and national level. For example, the courts and social services agency in Washington jointly analyze how their respective practices impact youth outcomes in the “Process to Outcomes” Project. California, Nebraska, Rhode Island and others have developed child protection “dashboards” to manage performance and/or communicate with the public.

? What data can we share with one another to improve our understanding of each partner’s practices? What data can we share related to overall system functioning?

? What data can engage the community in understanding child protection processes, outcomes, and the need for support?

**7. Use the quality cycle.** By using these tools, judicial leaders establish an environment of continuous quality improvement. A continuous cycle of quality improvement involves identifying, describing, and analyzing system strengths and problems and then testing, implementing, and revising solutions.

? What practices lead to what outcomes?

? What achievements and milestones can you celebrate as a court?

? What refinements can be made to your practices?

? In what area(s) can you improve next?

***“As a result of these and many other efforts, courts are better positioned today to use data in targeted ways to design improvements and to demonstrate an impact on child welfare outcomes. Courts can achieve this by working together with child welfare agencies and other community partners to establish a shared vision of improved outcomes, and complementary strategies for achieving those impacts.”***

The Honorable Patricia A. Macias, Presiding Judge of the 388th District Court of El Paso County; former President, National Council of Juvenile and Family Court Judges; member of the Permanent Judicial Commission for Children of the Supreme Court of Texas; member of the Pew Commission on Children in Foster Care.

***Data dashboards, tools for outcome and impact measurement, and case studies of outcome-driven courts are all available at NCSC.org***



#### NOTES

1. See Ostrom, B. & Hanson, R. (2010). "Achieving High Performance: A Framework for Courts." National Center for State Courts, Williamsburg, VA. The *High Performance Court Framework* suggests a series of flexible steps courts can take to enhance the quality of the administration of justice broadly, and specifically for child protection cases. The steps include developing the capacity to measure performance, learning to use the results for procedural refinements and communication with a variety of stakeholders
2. Dobbin, S.A. Gatowski, S.I., & Maxwell, D.M. (2004). "Building a Better Collaboration: Facilitating Change in the Court and Child Welfare System," Technical Assistance Bulletin, Vol. 8(2). National Council of Juvenile and Family Court Judges, Reno, NV.
3. For more information on the court's role in the Child and Family Services Review, please see Information Memorandum 05-05 <http://www.acf.hhs.gov/sites/default/files/cb/im0505.pdf> (accessed November 26, 2012); or the CFSR Fact Sheet for Courts: [http://www.acf.hhs.gov/sites/default/files/cb/cfsr\\_factsheet\\_for\\_courts.pdf](http://www.acf.hhs.gov/sites/default/files/cb/cfsr_factsheet_for_courts.pdf) (accessed November 26, 2012).
4. The *High Performance Court Framework*, supra at 41.
5. The Child and Family Services Improvement and Innovation Act ( P.L. 112-34)(2011) allows for more flexible use of federal Title IV-E funds to test new service delivery and financing approaches to improve outcomes for children and families involved in the child welfare system. For more information, please see ACYF-CB-IM—12-05 (Accessed November 28, 2012). Also see: *Courts Fact Sheet on Child Welfare Title IV-E Waivers* (Accessed December 4, 2012).
6. Continuous quality improvement (CQI) is the "complete process of identifying, describing, and analyzing strengths and problems and then testing, implementing, learning from, and revising solutions." CQI is firmly grounded in the overall mission, vision, and values of the collaborative. ACYF-CB-IM-12-07. ACYF-CB-IM-12-07 (Accessed November 26, 2012).
7. <http://www.acf.hhs.gov/programs/cb/resource/pi1202> (Accessed November 27, 2012).
8. See the *High Performance Court Framework* supra note 1 at page 46.



## **NATIONAL CENTER FOR STATE COURTS**

300 Newport Avenue  
Williamsburg, Virginia 23185  
[www.ncsc.org](http://www.ncsc.org)

707 Seventeenth Street  
Suite 2900  
Denver, Colorado 80202

2425 Wilson Boulevard  
Suite 350  
Arlington, Virginia 22201

111 Second Street Northeast  
Washington, D.C. 20002