



Achieving Equity and Fairness in Foster Care

RIGHT FROM THE START:
**The CCC Preliminary Protective Hearing
Benchmark Study Report**

TESTING A TOOL FOR JUDICIAL DECISION-MAKING

National Council of Juvenile and Family Court Judges
Permanency Planning for Children Department



The National Council of Juvenile and Family Court Judges®, headquartered on the University of Nevada campus in Reno since 1969, provides cutting-edge training, wide-ranging technical assistance, and research to help the nation's juvenile and family courts, judges, and staff in their important work. Since its founding in 1937 by a group of judges dedicated to improving the effectiveness of the nation's juvenile courts, the National Council of Juvenile and Family Court Judges has pursued a mission to improve courts and system practice and to raise awareness of the core issues that touch the lives of many of our nation's children and families.

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COURTS CATALYZING CHANGE PRELIMINARY PROTECTIVE HEARING BENCHCARD STUDY: EXECUTIVE SUMMARY

This report presents findings from the Courts Catalyzing Change: Achieving Equity and Fairness in Foster Care (CCC) Preliminary Protective Hearing (PPH) Benchcard Study. The CCC initiative, supported by Casey Family Programs and the Office of Juvenile Justice and Delinquency Prevention, was created and launched through the National Council of Juvenile and Family Court Judges (NCJFCJ) Model Courts project.

In the fall of 2009, the Permanency Planning for Children Department (PPCD) of NCJFCJ began a study to examine the effects associated with judges' use of the PPH Benchcard, which had been developed as part of the CCC agenda. Three sites agreed to participate in a pilot and assessment of the Benchcard. For the assessment study, data were collected on more than 500 children in Los Angeles, California; Omaha, Nebraska; and Portland, Oregon. Data were gathered from case file information (both court and agency files) and from courtroom observations. Researchers collected data at several junctures, from placement to establishment of jurisdiction and disposition.

To explore Benchcard implementation effects, the study was designed to allow for several different comparisons. Researchers collected information on numerous data points, including demographic details, information about the families involved, hearing participants, dates of case events, and details on allegations, services, and placement. Data from a baseline sample were collected at each of the three sites, and judicial officers at each site were randomly assigned to either a Benchcard implementation group or a control group.

Judicial officers in the Benchcard group were trained on its use, including receipt of a draft Technical Assistance Bulletin explaining the development of the Benchcard (*Right from the Start: A Judicial Tool for Critical Analysis & Decision-Making at the PPH Hearing*). They began implementation of the Benchcard in their preliminary protective hearings. Each randomly assigned judicial officer heard 10 preliminary protective hearings using the Benchcard, while the control group of judicial officers in each of the sites heard 10 preliminary protective hearings without Benchcard implementation. The Benchcard was not shared with stakeholders during the research project in order to isolate the judicial intervention.

Based upon systematic courtroom observation and a standardized count methodology, the data indicate that those judicial officers who used the Benchcard discussed more key topics during the preliminary protective hearings than did the control group. Benchcard implementation appears to be associated with substantially higher quantities and quality of discussion of key dependency topics identified in both the *RESOURCE GUIDELINES* and the CCC initiative when compared to the control group. Benchcard implementation also corresponds to an increased thoroughness of discussion and judicial inquiry, as demonstrated by the number of topics and how thoroughly they were discussed. Tests indicate that these differences are statistically significant. These process findings indicate that Benchcard implementation is associated with substantial increases in the quantity and quality of discussion in PPH hearings.

Benchcard use also was associated with more family placements—placement with a charged parent, with a non-charged parent, or with a relative—at the initial hearing and even more again at adjudication when comparing the same judges before and after Benchcard implementation. (Reciprocally, Benchcard use was also associated with fewer children placed in non-relative foster care at the initial hearing and even fewer again at adjudication.) Statistical tests show these findings to be significant. Similarly, the percentage of children who were reunified with the charged parent at the initial hearing and at the adjudication hearing increased after Benchcard implementation. Differences did exist across the three sites, but the findings remained significant when the three sites were accounted for in the statistical analysis.

The study found race differences in filing trends. White mothers (in comparison to African American and Hispanic mothers) tended to enter court with a higher number of allegations. White mothers also had more allegations of substance abuse, homelessness, and mental health issues (each of these represent statistically significant differences).

Overall, African American mothers came into court with fewer allegations and were more likely to have their case dismissed by the time of the adjudication hearing.

Allegations of substance abuse show a different pattern. White families in the sample were much more likely than other families to face allegations of failure to supervise or parent adequately due to substance abuse (drugs or alcohol) than were families of other racial groups (statistical tests show these differences to be statistically significant). Differences among racial groups are also apparent in allegations involving poor parenting due, in major part, to poor mental health functioning. As with substance abuse allegations, White families were much more likely to be brought to court with allegations relating to mental health. White families were almost three times as likely to face a mental health allegation as families from other racial groups (again statistically significant).

Looking at placement differences by race in the baseline sample, children with White mothers were the most likely to be placed in foster care at the initial hearing, and children with African American mothers were the least likely to be placed in foster care. However, when allegations are taken into account, race does not appear to be related to placements at all. Statistical tests show that there may be differences in placement by racial group, but children with similar case allegations tend to be equally likely to be placed in foster care regardless of race.

While allegation differences could explain apparent differences by race in placement trends, by the permanency hearing these differences were more substantial. At the permanency hearing, African American children were more likely to be currently placed in foster care than children from White or Hispanic families. Also, African American children were less likely to be currently placed with a parent or with relatives at the permanency hearing than children from Hispanic or White families.

These findings represent an initial analysis of the study data. Additional analysis of these and many other topics is forthcoming. Additional reports will be available in the weeks and months to come relating to:

- A further investigation of placements at each case event, with a focus on identifying how placement trends may vary across racial groups;
- An analysis of the effect of Benchcard use on court processes, especially in terms of the timeliness of case events;
- An exploration of how services are offered and ordered for children and families according to case characteristics, family needs, cultural appropriateness, and race;
- A statistical investigation into the baseline (pre-implementation) data to identify which of the variables (among the hundreds collected for this study) are the best predictors of case outcomes.

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INTRODUCTION

This report presents findings from the Courts Catalyzing Change: Achieving Equity and Fairness in Foster Care preliminary Protective Hearing (PPH) Benchcard Study. The National Council of Juvenile and Family Court Judges (NCJFCJ) is providing this report to assist courts in building the necessary support for successful implementation of both the Benchcard and the CCC National Agenda for Reducing Racial Disproportionality and Disparities in the Dependency Court System as a whole. The goal of the agenda is to reduce disproportionality and disparate treatment, ultimately improving outcomes for all children in care. Included in the report are a description of the study, research informing the development of the Benchcard, and highlighted findings with regard to improved court practices and related outcomes.

The CCC National Agenda for Reducing Racial Disproportionality and Disparities in the Dependency Court System

They key components of the agenda are to:

1. Engage national, state, local, and tribal stakeholders, community partners, and children and families
2. Transform judicial practice from the bench
3. Participate in policy and law advocacy
4. Examine and employ research, data, and promising practices
5. Impact service array and delivery

COURTS CATALYZING CHANGE: ACHIEVING EQUITY AND FAIRNESS IN FOSTER CARE

The CCC initiative, supported by Casey Family Programs and the Office of Juvenile Justice and Delinquency Prevention, was created and launched through the NCJFCJ Model Courts project. CCC is a multidisciplinary collaborative effort to develop and implement a national agenda to reduce the disproportionate representation of children of color and to reduce the disparate treatment they and their families can experience in the child welfare system. The national agenda was developed by a Call to Action Work Group in April 2008. In January 2009, a Preliminary Protective Hearing Benchcard was developed with input from the CCC Steering Committee, the NCJFCJ's Permanency Planning for Children Advisory Committee, and the lead judges of the NCJFCJ's Model Courts project. Benchcard development is also aligned with NCJFCJ's current efforts to update and enhance the *Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases* (NCJFCJ, 1995). Intended for use during the hearing, the PPH Benchcard asks judges to both reflect on the decision-making process in order to protect against institutional bias and to consider some key inquiries, analyses, and decisions relating to removal, placement, and services.

Before implementing the PPH Benchcard, each study site was required to develop or enhance an existing multi-system collaborative group to guide local implementation of CCC. The courts were then required to participate in training about institutional and structural racism and unconscious bias in order to better understand the history and complexity of these important issues. The courts also developed strategic plans for CCC implementation. (See Model Courts National Agenda Implementation Guide at www.ncjfcj.org.)

FROM THE BENCHCARD

Reflections on the Decision-Making Process to Protect against Institutional Bias

Ask yourself as a Judge:

- What is my understanding of this family's unique culture and circumstances?
- How has the court's past contact and involvement with this family influenced my decision-making process and findings?
- How have I integrated the parents, children, and family members into the hearing process in a way that ensures they have had the opportunity to be heard, respected, and valued? Have I offered the family and children the chance to respond to each of the questions from their perspective?

FROM THE BENCHCARD

Examples of Key Inquiries, Analyses, and Decisions

- Reasonable efforts to prevent removal: What actions did the social service agency take to create a safety plan to allow the child to remain at home or in the home of another relative or family friend without court involvement?
- What is preventing the child from returning home TODAY? What type of safety plan could be developed and implemented in order for the child to return home today?
- Appropriateness of placement: How does the placement support the family/child's culture and their involvement in the initial plan?

THE BENCHCARD STUDY

In the fall of 2009, the Permanency Planning for Children Department (PPCD) of NCJFCJ began a study to examine the effects associated with judges' use of the PPH Benchcard. Three sites that had already begun to engage in the initial CCC implementation process described above agreed to participate in the study.

The first phase of the study included data collection on more than 500 children in Los Angeles, California; Omaha, Nebraska; and Portland, Oregon. Data were gathered from case file information (both court and agency files) and from courtroom observations. A longitudinal study was designed to follow these children throughout the course of their involvement in the juvenile dependency system. Researchers collected data at several junctures, from placement to establishment of jurisdiction and disposition, completing the bulk of data entry in March 2010. To explore Benchcard implementation effects, the study was designed to allow for several different comparisons. Researchers collected information on numerous data points, including demographic details (including race), information about the families involved, hearing participants, dates of case events, as well as details on allegations, services, and placement. Data from a baseline sample were collected at each of the three sites, and judicial officers at each site were randomly assigned to either a Benchcard group or a control group.

For data collected by courtroom observation, a standardized court observation instrument was constructed for the study. The instrument included items related to the content and level of discussion in the hearing, the length of the hearing, parties present, and parent engagement. Researchers were trained on the instrument during a 2-day training session (which also included training on the case file review instrument). During the training, all researchers discussed the instrument and considered any potential for coding discrepancies. Researchers visited each of the three study sites during the first week of Benchcard implementation. In Portland and Omaha, researchers attended every Preliminary Protective Hearing that was held during a four-day site visit. Due to differences in caseload volume, in Los Angeles each researcher was assigned to a block of courtrooms for one day. Researchers then coded the first three hearings they observed in pairs. Coding was then compared to check-code and to generate inter-rater reliability scores (which indicated no significant or substantive differences). Afterwards, researchers attended hearings individually for the remainder of the day.

Pilot Jurisdiction Profiles

Los Angeles: The Los Angeles Superior Court, Juvenile Division serves a general population of approximately 10 million across Los Angeles County. The majority of dependency cases are heard at the Edmund D. Edelman Children's Court, the nation's first dependency courthouse designed as a child-sensitive facility. Judge Michael Nash has served as the lead judge of the Los Angeles Model Court since its inception in September 1999, and he is currently the presiding judge of the Los Angeles Juvenile Court. He has presided over a steady decrease in the number of children under the Court's jurisdiction as a result of continued best-practice implementation and successful reform initiatives. Currently, 21 judicial officers serve on the juvenile bench, with approximately 24,700 children under the Court's jurisdiction.

Omaha: The Separate Juvenile Court of Douglas County is the largest of three Separate Juvenile Courts in the state of Nebraska. Under the leadership of Judge Douglas Johnson, Omaha joined the Model Courts project in December 2002. Five juvenile court judges preside over juvenile dependency and delinquency, as well as domestic relations cases. There are approximately 1,800 children in foster care in Douglas County. Former Model Court Lead Judge Wadie Thomas, Jr. has taken a leadership role in implementing CCC in Omaha.

Portland: In October 1998, with the Honorable Stephen Herrell presiding as the lead judge, the Multnomah County Juvenile Court joined the Model Court project. Judge Paula Kurshner is presently the lead judge of the Portland Model Court, and Judge Nan Waller is the chief family court judge on the Multnomah County Circuit Court. Together, they work collaboratively with nine other juvenile court judges and four referees to serve the more than 710,000 residents of Multnomah County. Currently, Portland has 2,758 children under the court's jurisdiction, of whom 1,633 are in out-of-home care. The Portland Model Court continues to develop and implement innovative court practices to reduce safely the number of children in care.

Judicial officers in the Benchcard group were trained on its use, including receipt of a draft Technical Assistance Bulletin explaining the development of the Benchcard (*Right from the Start: A Judicial Tool for Critical Analysis & Decision-Making at the PPH Hearing*). They began implementing the Benchcard in their preliminary protective hearings.¹ Each randomly assigned judicial officer heard 10 preliminary protective hearings using the Benchcard, while the control group of judicial officers in each of the sites heard 10 preliminary protective hearings without Benchcard implementation. The Benchcard was not shared with stakeholders during the research project in order to isolate the judicial intervention. Had the Benchcard been shared with others, it would have been difficult to measure whether judges or others were raising key issues associated with Benchcard use. For more on this issue, see the Study Method on page 10.

Research Background

About 3.3 million referrals for alleged maltreatment, involving approximately 6 million children, were reported to U.S. child protection agencies in 2009. Over 2 million children are investigated for child abuse and neglect each year in the United States, and nearly 600,000 removals (with some children removed more than once) (U.S. Department of Health & Human Services, 2010). Every year in the United States, about 772,000 children are confirmed as victims of child maltreatment.²

Within this context, prior research has demonstrated that racial disparities exist within the juvenile dependency system concerning the reported allegations, specifically against African Americans (Hill, 2004; U.S. Government Accountability Office, 2007). Before a case reaches court, African American children are more likely than other children to be referred to protective services (Gryzlak, Wells, & Johnson, 2005; Magruder & Shaw, 2008; Sabol, Coulton, & Polousky, 2004) and to have allegations of abuse and neglect substantiated (Ards, Myers, Malkis, Sugrue, & Zhou, 2003; Fluke, Yuan, Hedderson, & Curtis, 2003). Further, African American children are more likely to be removed from their homes than children of other racial or ethnic backgrounds (Lu et al., 2004; Magruder & Shaw, 2008; Rivaux et al., 2008).

While children are in the juvenile dependency court system, these disparities continue to occur. Specifically, African American children are more likely to be placed in foster care than other children are (Lu et al., 2004; Needell, Brookhart, & Lee, 2003). African American children also are more likely to stay longer in foster care (Courtney et al, 1996; Denby, Curtis, & Alford, 1998; Garland et al., 2000; Noonan & Burke, 2005); receive fewer services while in care (Courtney et al, 1996; Garland et al., 2000; Rivaux et al., 2008); and are less likely to be reunified with their family than children from other racial and ethnic groups (Barth, 1997; Harris & Courtney, 2003).

Based on interpretation of findings from the National Incidence Studies (NIS) II and III, child welfare advocates and researchers assumed that children's representation at each child welfare decision point should mirror their proportionate composition of the child population. The NIS IV challenged this assumption by concluding that African American children were at greater risk of maltreatment. Due to higher odds of poverty and other related stresses, higher rates of foster care placements for different groups may reflect family and community need. Thus, child welfare and other stakeholders should be concerned about the youth placed who should not have been, as well as youth not served who should have been served (Barth, 2011; Drake & Jonson-Reid, 2011).

In addition, community characteristics matter. Wulczyn (2011) and his colleagues have found that there are substantial ethnic group differences across multiple states, all of which are part of the Chapin Hall Multistate Data Archive. For example, at least one-third of African American children in the Chapin Hall study actually reunified or adopted more quickly than their White counterparts. Data need to be analyzed at the county and state level, not at the level of national aggregation.

¹ For this study, the Benchcard implementation intervention included participating in the Benchcard training, receiving the Technical Assistance Bulletin, and using the Benchcard in practice. Both the Benchcard group and the control group participated in the CCC racial equity and implicit bias training, which is a required component of Benchcard implementation.

² A national estimate of 772,000 child victims in 2008 was calculated by multiplying the victimization rate (10.3) by the national population (74,924,121), dividing by 1,000, and rounding to the nearest 1,000.

Possible Reasons for Racial Disparities³

Empirical evidence suggests that racial differences can exist for at least three reasons:

1. **Greater need for services:** Children of color may have greater service needs due to higher poverty and other risk factors (Drake & Jonson-Reid, 2011; Putnam-Hornstein & Needell, 2011; Wulczyn, Barth, Yuen, Jones Harden, & Landsverk, 1995). Families of color as a whole are more likely to come to the attention of the child welfare system because they are impacted more profoundly by outside factors that can increase the risk of child neglect, such as poverty, joblessness, substance abuse, and mental illness. For example, families of color are more likely to live in communities that are more impacted by poverty, homelessness, crime, and violence, which are less than ideal conditions in which to safely raise a child.
2. **Structural and institutional racism:** There may be racial bias in the child welfare systems or other ecologies (Hill, 2004; Johnson, 2007; McCrory, Ayers-Lopez, & Green, 2006). Some child welfare systems have biased or culturally insensitive practices and policies that can lead to inequitable decision-making processes (Bent-Goodley, 2003; McRoy, 2004; Morton, 1999; Roberts, 2007). These biases and insensitivities may be systemic or individual by worker, and they may be intentional or unintentional.
3. **Community conditions and supports may be inadequate:** Geographic contexts and variability may therefore have a disparate impact on communities and families of color in terms of service availability and access (Roberts, 2007; Wulczyn, 2011). Child welfare systems and processes may disparately involve families of color (Courtney, Barth, Berrick, Brooks, Needell, & Park, 1996; Fluke, Jones-Harden, Jenkins, & Ruehrdanz, 2010; Texas Health and Human Services Commission and Department of Family and Protective Services, 2006).

Foster Care Outcomes

The discussion of disparities in the juvenile dependency system concerns a deeper understanding of the critical issues facing children who are removed from their homes and placed in foster care. Over the past decade, there have consistently been more than 500,000 children in foster care in the United States at any given time (Child Welfare Information Gateway, 2009). Only recently has the number of children in care dropped to 423,773 at the end of the 2009 Federal fiscal year, with 48 percent of these children in non-relative foster care homes (U.S. Department of Health and Human Services, 2010).

Recent research has highlighted a number of troubles facing children in foster care. These include greater incidence of drug and alcohol use (Thompson & Auslander, 2007); significantly higher levels of unemployment (Macomber et al., 2008); higher likelihoods of homelessness (Yen, Hammond & Kushel, 2009; Zlotnick, 2009); higher incidences of teen pregnancy (Dworsky & DeCoursey, 2009); worse educational outcomes (Trout et al., 2008); and more experiences with depression (Blome, Shields, & Verdick, 2009).

Further studies have investigated the experiences of foster care alumni later in life. These findings suggest that youth who were placed in foster care as children are significantly more likely to commit crimes, drop out of school, receive welfare benefits, have substance abuse problems, and be homeless than children who were not placed in foster care (Clausen, Landsverk, Ganger, Chadwick, & Litrownik, 1998; Courtney, Dworsky, Lee, & Raap, 2010; Courtney & Piliavin, Grogan Kaylor & Nesmith, 2001; Pecora et al., 2010; Vinnerljung et al., 2006). In addition, nearly 20 percent of young prison inmates and 28 percent of people who are homeless had spent some time in foster care as a youth (Burt et al., 1999).

Additionally, evidence shows that children in out-of-home care are clearly at greater risk for short- and long-term school failure than are other children (Pecora et al., 2006). Research has shown that disruptions relating to foster care can lead to a lack of continuity in schooling (Courtney, Roderick, Smithgall, Gladden, & Nagaok, 2004; Malmgren &

³ Abstracted with permission from Casey Family Programs (2011).

Meisel, 2002) such as truancy, grade retentions, and multiple placements (Trout et al., 2008). Further, disruptions relating to foster care are related to slow academic achievement (Courtney et al., 2004), negative educational outcomes, and elevated rates of disability (Trout et al., 2008).

Aside from the aforementioned outcomes, children in the juvenile dependency system are also at risk for serious physical injury. Being in the juvenile dependency system does not always offer immediate protection, as children who had been previously reported to a child abuse registry were found to be three times more likely than other children to die in childhood (Sabotta & Davis, 1992).

Finally, research has demonstrated that foster care itself can have negative effects for some children. The evidence suggests that children on the margin of placement—when stakeholders disagree if the child should be placed in out-of-home care—tend to have better outcomes when they remain at home, especially older children (Doyle, 2007). This research concludes that though abusive and neglectful family environments are undoubtedly harmful to children, removing a child from home may be traumatic as well (see also Lawrence, Carlson, and Egeland, 2006).

Given the myriad of potential problems outlined above, coupled with the racial disparities observed throughout the juvenile dependency continuum in many communities, the purpose of this study is to assess the Benchcard as a tool to ameliorating the potential for disparities and negative outcomes at one step in the case. This intervention does not purport to address every potential source of disparity; rather it focuses on the role of judicial decision-making in lessening, heightening, or maintaining any disparities that have occurred earlier in the process. The findings presented below show that the Benchcard appears to have a clear positive effect on overall placement rates, but its effect on disparities is more complex.

Judicial Feedback on the PPH Benchcard

Judge Katherine Tennyson

Multnomah County Family Court, Portland, Oregon

“...[I]t is the strong feeling in our jurisdiction, among judges, lawyers and child welfare workers alike, that consistent use of the Benchcard is raising the standard of practice for everyone. Everyone is now looking at the Benchcard to see how to develop court practice training for their particular disciplines so that lawyers, child welfare workers, service providers and others, can be prepared to answer the court’s questions the moment they walk in for the first appearance, and to know that a second shelter hearing will follow closely if the court needs more. We believe that use of the Benchcard is strongly encouraging serious consideration of all the placement alternatives before the court hears the recommendation.”

Judge Wadie Thomas, Jr.

Separate Juvenile Court of Douglas County, Omaha, Nebraska

Since the start of the Benchcard, I have found that considerable discussion is being had at the initial hearing in regards to services that enable the children to return home. More relatives are being explored, even when the first relative option turns out not to be viable.

The parties seem to have more discussions in regards to the children going home sooner and/or visits being liberalized sooner. It also appears that these concepts work well for all children in our child welfare system, including Caucasian children.

As an aside, I actually enjoy following the Benchcard.

Judge D. Zeke Zeidler

Los Angeles Juvenile Court, Los Angeles, California

The CCC Benchcard served as a concrete reminder to consider and verbalize required findings, such as the services available to leave the child in the home without risk and efforts made to place the child with relatives. It also provided valuable prompts to solicit the input of those family members present in court and to ascertain at the end of the hearing that the parents understood what happened in the hearing. It has the potential to equalize treatment of parties of diverse backgrounds by ensuring that the same considerations are made in every case and by making sure that all participants have an understanding of the court process.

STUDY METHOD

Experimental Design and Comparison Group

The design of the CCC Benchcard research included both a quasi-experimental and an experimental design. The quasi-experimental design consisted of a pre/post test comparing the decisions of Benchcard users prior to and after implementing the CCC Benchcard. In the experimental design, judges from each site were randomly assigned to implement the Benchcard or not (as a control group). Since all participants were aware of the study, any observer effects would have been equal for both groups, thus mitigating any effects on comparative findings.

Study Limitations

The major limitation of this analysis was that there were “spillover” effects. Once judges began asking questions of social workers and attorneys, attorneys and social workers began preparing these answers for court, regardless of the judge. That means that many of the Benchcard question responses were being given to control group judges. Some jurisdictions use teams per courtroom or per judge, which may reduce this effect. To reduce the potential for spillover effects further, the research team used only the first 10 new cases from each judge, thus reducing the amount of spillover due to the decreased time for the spillover to occur. In addition, there was a decrease in sample size for the post-implementation cases, thereby reducing the likelihood of finding statistically significant differences. (See the next section.)

STUDY PARTICIPANTS

Overall, this study relied on a review of over 500 cases (n=555), and the number of observations varied by point of comparison. Of the 555 cases, 336 were from the pre-implementation baseline, and 219 were from post-implementation. Also, of the 555 cases, 277 were from Benchcard users (both pre- and post-implementation) and 278 were from the control group (both pre- and post-implementation). Of the 219 post-implementation cases, 119 were Benchcard users and 100 were in the control group.

Table 1: Study Participants

Phase	Treatment Group	Control Group	Total
Pre-Implementation	158	178	336
Post-Implementation	119	100	219
Total	277	278	555

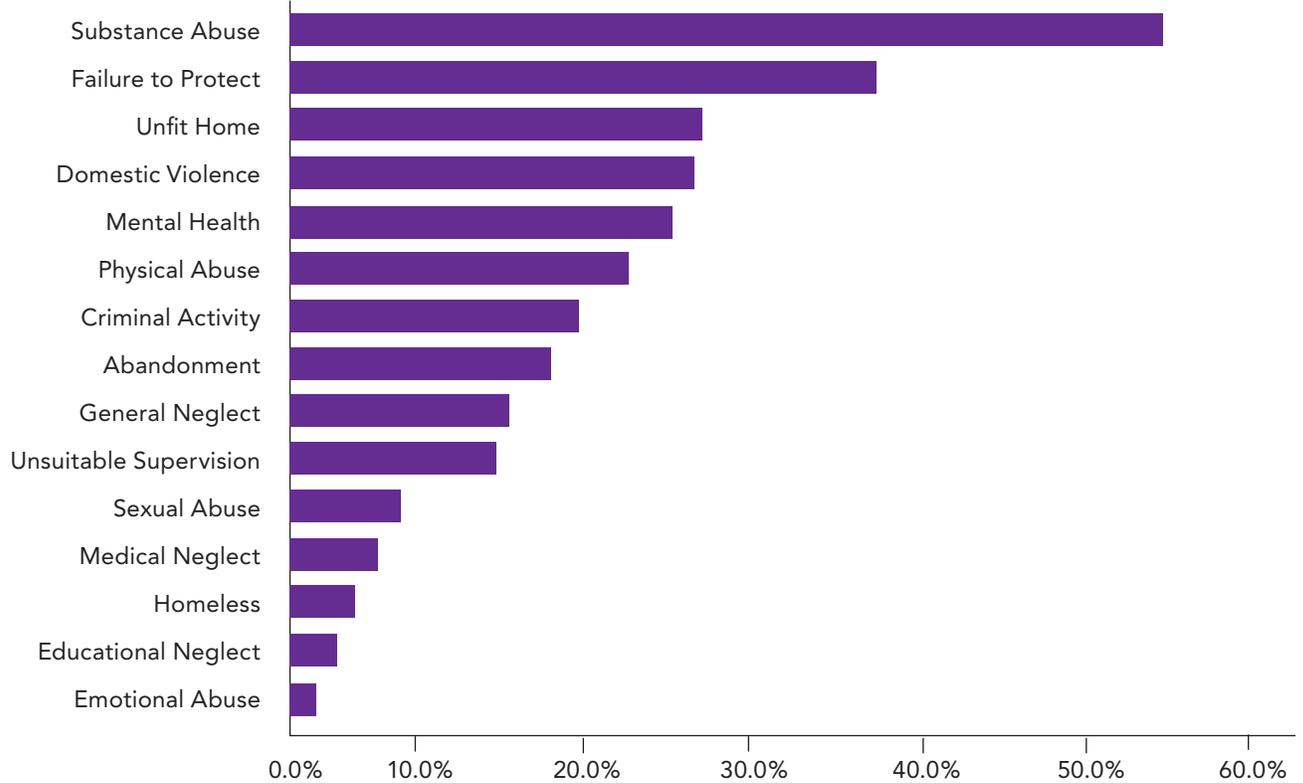
Table 2: Characteristics of the Sample (Total number of observations = 555)

	Control Group	Benchcard Group
Primary Race or Ethnicity of Child		
White/Caucasian	35%	35%
Black/African American	22%	24%
Latino/Hispanic	29%	29%
Native American/Indian	0%	2%
Asian/Pacific Islander	3%	1%
Other race or ethnicity	4%	4%
Unable to determine	7%	7%
Jurisdiction		
Omaha	24%	30%
Los Angeles	45%	39%
Portland	30%	31%
Gender		
Male	41%	39%
Female	54%	54%
Unable to Determine	5%	7%
Age		
3 or under	36%	38%
3.1 thru 9	28%	23%
9.1 thru 13	11%	9%
13.1 thru 18	18%	18%
Unable to Determine	8%	12%
Parent Status		
Mother is single	50%	54%
Mother is not single	32%	29%
Father is single	1%	0%
Unable to determine	17%	17%

T-tests were run for differences in each of the above factors between the control group and the Benchcard group. The tests showed these differences to be statistically insignificant at the 0.05 level for each of the above factors with the exception of Asian/Pacific Islander. However, the scale of the difference between the control group and Benchcard group on this factor is too small to be substantive.

Figure 1: Frequencies of Allegations by Type of Child Maltreatment

(Total = 265.5% due to multiple allegations for some cases)



Site Differences

Because of the complex nature of child abuse and neglect hearings, differences in practice, policy, and statutes may occur across jurisdictions. The three project sites were selected in part because they do exhibit some diversity in their approaches. While they are similar in many regards, there were some notable differences among the three jurisdictions. Some of these differences are explained below.

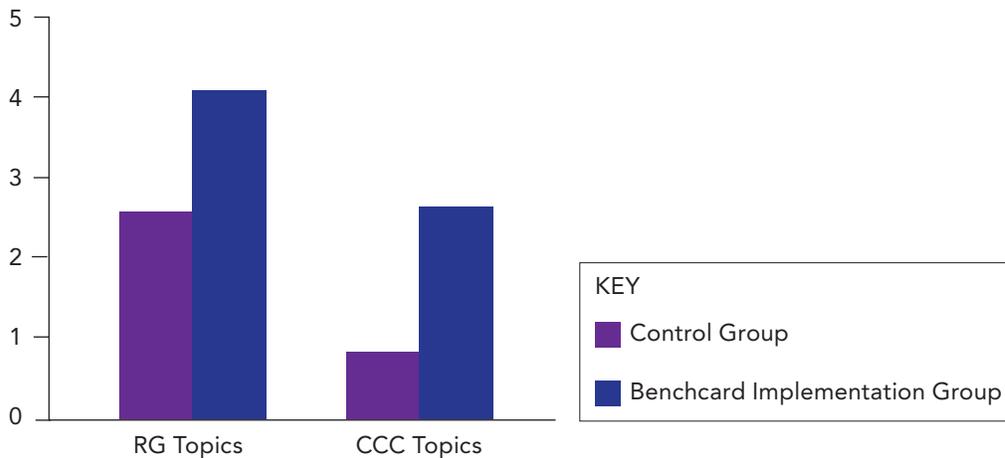
- In Omaha, all new cases come to a pre-hearing conference. The focus is on alternative dispute resolution, during which all parties (except the judge) meet and discuss issues that are pertinent to the preliminary protective hearing. Following this pre-hearing conference, the judge holds a preliminary protective hearing. Further, in Omaha, the permanency planning hearings often occur in conjunction with review hearings.
- In Los Angeles, judges routinely have higher caseloads than judges do in the other two sites. California also routinely appoints counsel for all parties at the first hearing and has an expedited review process for special cases (e.g., children under the age of 3 years).
- In Portland, an initial hearing is held immediately following the petition filing, and a second expanded preliminary hearing is held within 30 days. Also in Portland, counsel is appointed to parents at the first hearing if they are present in court.

Despite these differences, these sites are similar in the way that they handle child abuse and neglect cases. The sites not only follow the federal mandates for child abuse and neglect case processing (e.g., ASFA), but they also are all Victims Act Model Court sites, dedicated to systems change and implementation of best or promising practices. Therefore, we expect that the above differences had a nominal effect on study findings.

FINDINGS: IMPROVED PROCESS

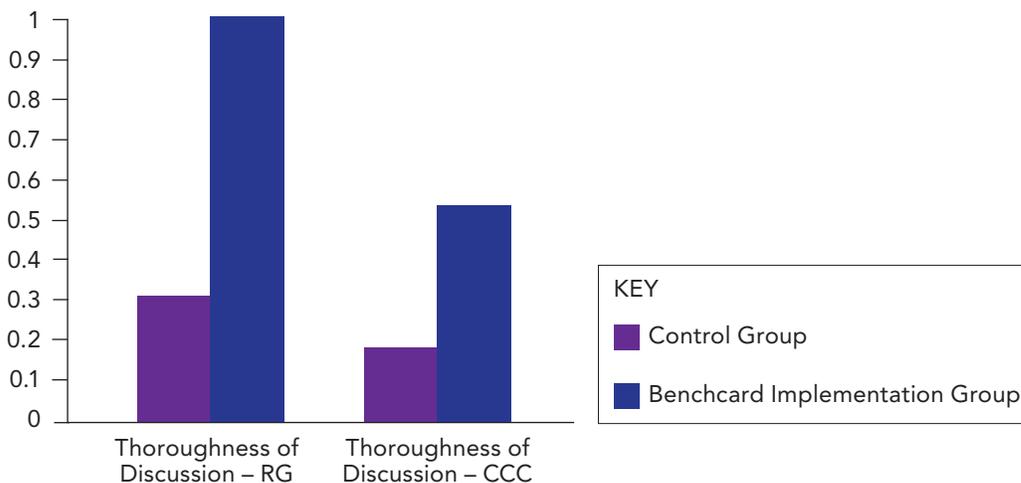
Based upon systematic courtroom observations and a standardized count methodology, the data indicate that those judicial officers who used the Benchcard discussed more key topics during the preliminary protective hearings than did the control group. As depicted in Figures 2 and 3, Benchcard implementation appears to be associated with substantially higher quantities and quality of discussion of key dependency topics identified in both the *RESOURCE GUIDELINES* and the CCC initiative when compared to the control group. In addition, t-tests indicate that these differences are statistically significant at 0.05 (n=29). The following figure illustrates the average number of items discussed or raised by judges for both *RESOURCE GUIDELINES* and CCC topics.

Figure 2: Number of Topics Discussed in Hearings



Benchcard implementation also corresponds to an increased thoroughness of discussion and judicial inquiry. While Figure 2 represents *how many* topics parties discussed, Figure 3 shows how thorough that discussion was. Figure 3 shows discussion thoroughness (based on number of topics covered and thoroughness of discussion into each of those topics) in terms of *RESOURCE GUIDELINES* and CCC topics.⁴ *Thoroughness* was rated on a metric of the amount and breadth of discussion on each topic (ranging from not discussed at all, mentioned but not discussed, discussed briefly, to substantively discussed).

Figure 3: Thoroughness of Hearing Discussion

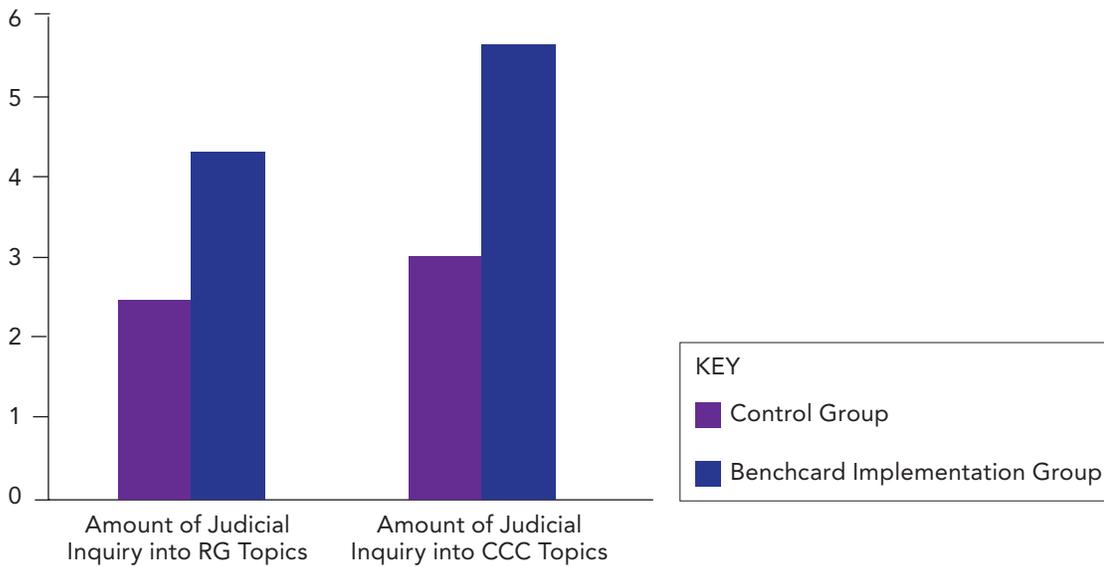


Rating scale: These ratings are presented on a scale of 0 (not discussed) to 1 (substantively discussed).

⁴ The *RESOURCE GUIDELINES* topics include discussion of the petition, parties who should be present, services offered and their appropriateness, placement of the child, whether the child can go home today, and reasonable efforts. The CCC topics include discussion of the allegations and parties, any paternity issues, probable cause for removal, cultural and linguistic issues relating to removal and placement, offering services that might allow the child to go home, safety planning, engaging parents in developing services, and focusing on strengths

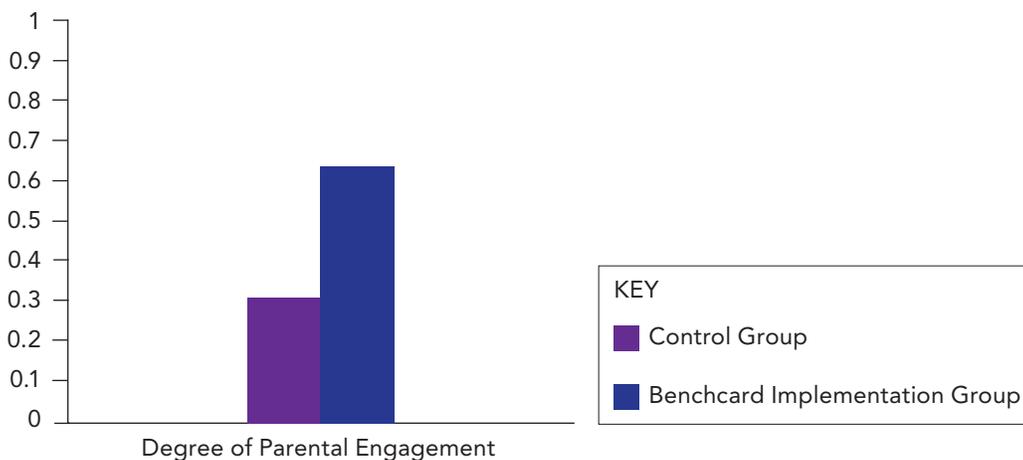
Similarly, Figures 4 and 5 demonstrate how much the judicial officer inquired into the topics and how directly the judicial officer engaged the parents in the discussion. Judicial inquiry was coded on a scale from 0 to 1 (with gradations in between) for each topic. Figure 4 shows the sum of the weighted amounts of each topic that was discussed. Figure 5 shows parental engagement for each group coded on a scale from 0 (representing no engagement) to 1 (equaling substantial engagement), with all gradations in between (based on a direct judicial inquiry, opportunities to speak, to ask questions, or to indicate understanding). Weighted scores were created by multiplying the number of items discussed with the thoroughness of the discussion. Again, t-tests indicated that these differences between the Benchcard implementation group and the control groups were statistically significant at the 0.05 level.

Figure 4: Amount of Judicial Inquiry



Rating scale: These ratings represent the thoroughness ratings (on a scale of 0 to 1) times the number of topics discussed.

Figure 5: Parental Engagement



Rating scale: These ratings are presented on a scale of 0 (no engagement) to 1 (substantively engaged).

These process findings indicate that Benchcard implementation is associated with substantial increases in the quantity and quality of discussion in PPH hearings in comparison to the control group. A t-test indicated that these

differences were statistically significant at the 0.05 level. However, there is room for improvement. As an example, the percentage of *RESOURCE GUIDELINES* topics discussed by Benchcard users in all three sites is 90 percent compared to 32 percent for non-Benchcard users. The percentage of CCC topics discussed by Benchcard users in all was 69 percent, while non-Benchcard users discussed only 37 percent of the CCC topics.

These results were similarly true when looking only at judges in the Benchcard group before and after implementation. Across the three sites, the percentage of *RESOURCE GUIDELINES* topics discussed by Benchcard users pre-implementation was 37 percent compared to 76 percent post-implementation. Also, the percentage of CCC topics discussed by Benchcard users pre-implementation was 32 percent, compared to 56 percent post-implementation. A t-test indicates that these pre/post differences are statistically significant at the 0.05 level.

The process findings vary substantially across the three study sites. As can be seen in Figures 6 through 8, control group levels and Benchcard implementation levels varied greatly across the sites. In terms of the percentage of *RESOURCE GUIDELINES* topics discussed at the initial hearing, Portland was the lowest of the three sites in the control group, but it reached 100 percent of topics discussed in the Benchcard implementation group. Omaha was higher in the control group, and the Benchcard implementation group was not much higher. For the percentage of CCC topics discussed, Portland was at the highest level of the three sites in the control group, and it was also at the highest level of the three sites in the Benchcard implementation group. Los Angeles' control group was at the lowest level of the three, and though it was increased in the Benchcard implementation group, it was at the lowest of the three in terms of CCC topics discussed during the initial hearing. With parental engagement, Portland's control group was at the lowest level of the three, and it was also at the lowest level of the three in the Benchcard implementation group, but the difference there was markedly greater than in the other two sites. Parental engagement in Omaha was at a high level in the control group, and it actually was found to be lower in the Benchcard implementation group (though the difference was minor and may be due to sample differences).

Overall, these figures show that experiences with Benchcard implementation can vary greatly. Baseline levels of *RESOURCE GUIDELINES* and CCC practice can be widely different. Moreover, fidelity to Benchcard implementation can differ notably across sites.

Figure 6: Percentage of Resource Guidelines Topics Discussed

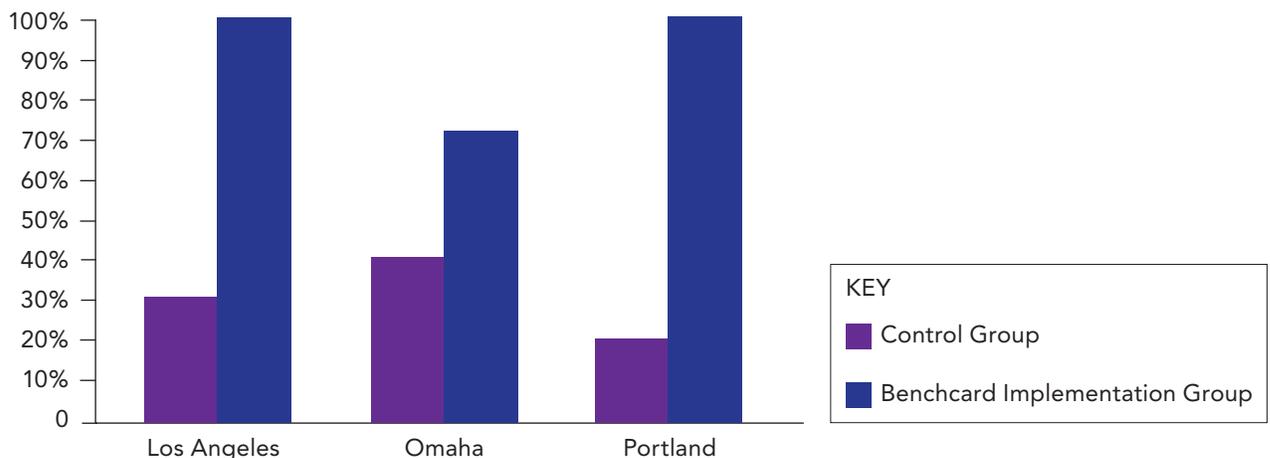


Figure 7: Percentage of CCC Topics Discussed

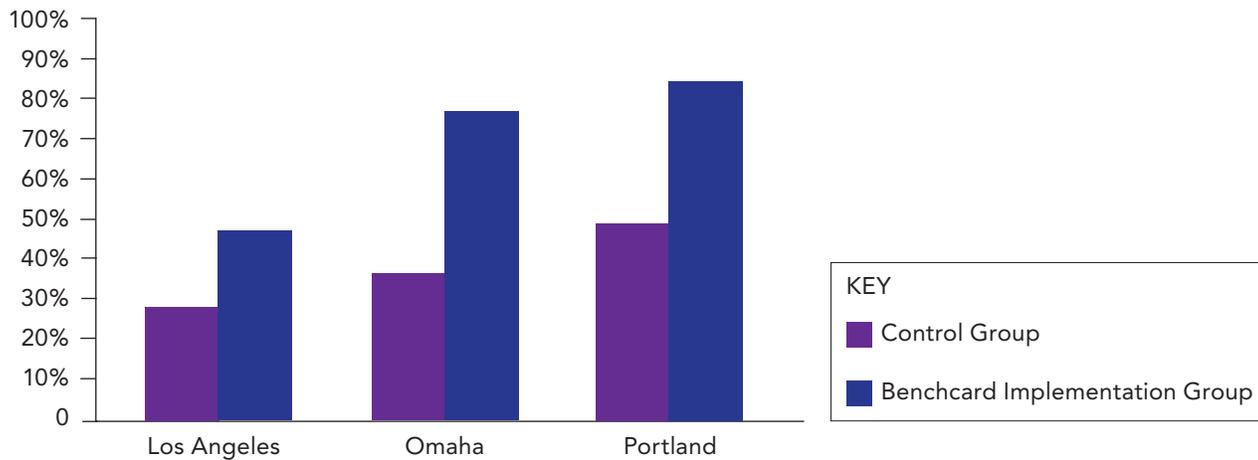
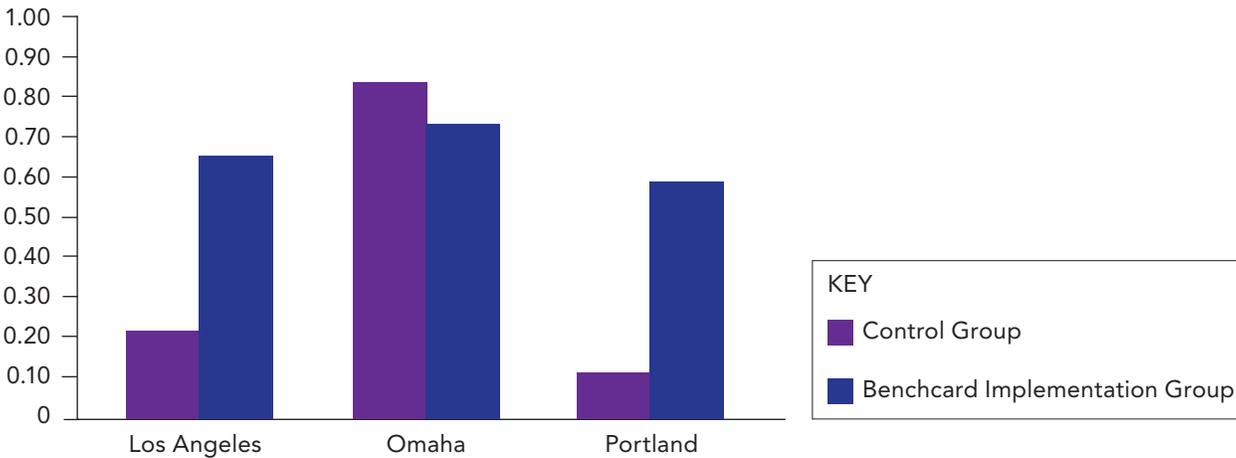


Figure 8: Parental Engagement Ratings



Rating scale: These ratings are presented on a scale of 0 (no engagement) to 1 (substantively engaged).

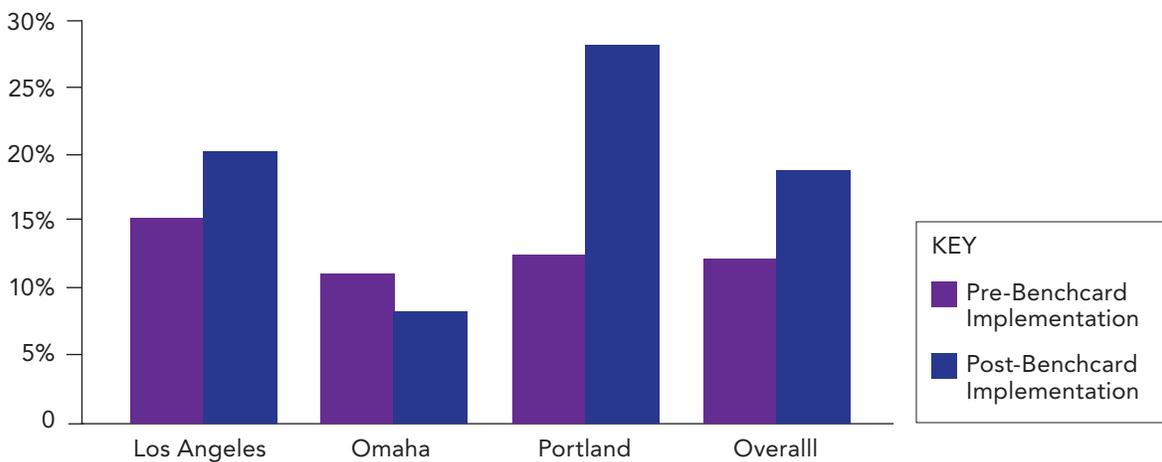
The effects on the length of a hearing are somewhat ambiguous. The study found that for individual judges, hearings did tend to be longer when there was more discussion of *RESOURCE GUIDELINES* topics and CCC topics. Across the three study sites, judges who implemented the Benchmark did tend to have longer hearings. However, there was no statistically significant effect on hearing lengths among the three sites on average: of the three sites, one had shorter hearings on average, one had longer hearings, and one had roughly the same hearing lengths. There may be some shortening effect if the Benchmark helps focus the discussion on key items. This variance across sites may also be due to differences in pre-implementation practice across the sites and differences in the thoroughness of Benchmark implementation.

FINDINGS: CHILD AND FAMILY OUTCOMES

If we compare the same judges before and after their Benchcard implementation, a higher percentage of children were returned home after the initial hearing with Benchcard implementation. As illustrated in Figure 9, prior to Benchcard implementation, Los Angeles hearings were associated with more children returning home after the initial hearing than were hearings in Portland and Omaha. With Benchcard implementation, Portland and Los Angeles increased the number of children returned home after the initial hearing, with Portland increasing more. In Omaha, on the other hand, the number of children returning home decreased. The differences for each site reflect these trends. For Los Angeles and Omaha, the differences between the likelihood of a child returning home before and after Benchcard implementation do not appear to be statistically significant (based on a logistic regression).

For Portland, the effect was much greater and was statistically significant at the 0.05 level (again based on a logistic regression). This relates directly to both the level of baseline *RESOURCE GUIDELINES* discussion and the thoroughness of Benchcard implementation at each site. As can be seen in Figures 6, 7, and 8 above, Portland had the largest increases in hearing thoroughness and had the highest level of thoroughness with Benchcard implementation.⁵

Figure 9: Percentage of Children Returned Home after Initial Hearing



Benchcard use was related to more family placements—placement with a charged parent, a non-charged parent, or with a relative—at the initial hearing and even more placements again at adjudication when comparing the same judges before and after Benchcard implementation. (Reciprocally, Benchcard use was also associated with fewer children placed in non-relative foster care at the initial hearing and even fewer again at adjudication.) This finding is displayed in Figure 10. A logistic regression comparing the likelihood of a family placement versus non-family placement before and after Benchcard implementation shows these findings to be statistically significant at the 0.05 level. Substantial differences did exist across the three sites, but the finding remained significant when the three sites were accounted for in the statistical model.

Similarly, Figure 11 shows that the percentage of children who were reunified with the charged parent at the initial hearing and at the adjudication hearing increased after Benchcard implementation. A logistic regression shows the likelihood of reunification to be different at a statistically significant (0.05) level between before and after Benchcard implementation. Again, substantial differences did exist across the three sites, but the results were significant when sites were accounted for in the statistical model. Many factors could have influenced these findings (such as changes in

⁵ A logistic regression was used to analyze how Benchcard implementation related to the dichotomous outcome of the child returning home after the initial hearing versus the child not returning home after the initial hearing for each case.

agency practice), but the consistency of the findings across the three sites and across issue areas suggests that adequacy of Benchcard implementation is a major factor affecting the findings.

Figure 10: Percentage of Children in Non-Relative Foster Care

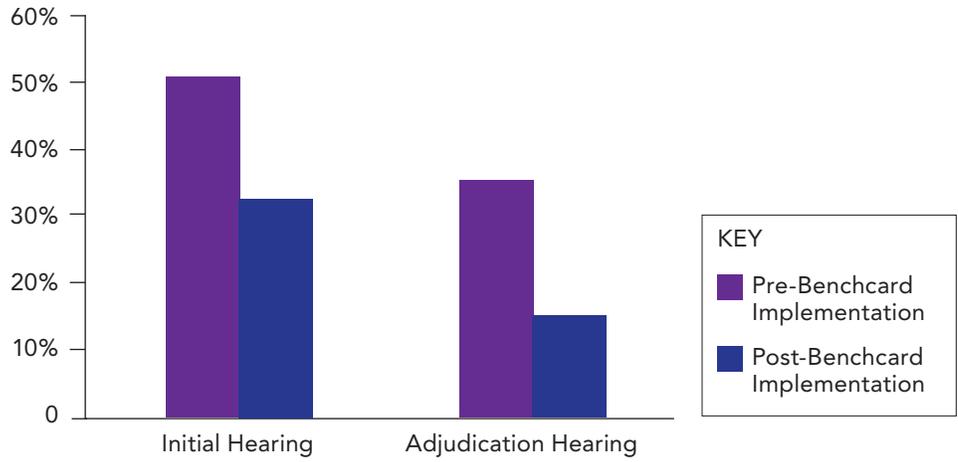
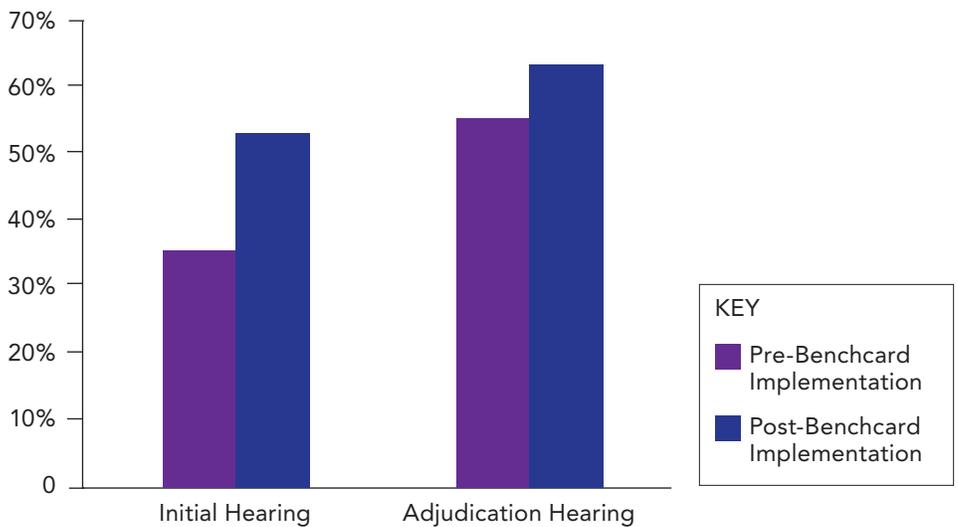


Figure 11: Percentage of Children Reunified with the Charged Parent



FINDINGS: SERVICES

The study also examined how well services related to allegations in terms of adequacy of number of services and the relationship of those services to the allegations before the court. Overall, the study found that approximately 90 percent of services ordered were directly related to an initial petition allegation after the Benchcard was implemented. This matching was slightly decreased when examining only founded allegations: 16 percent of services did not appear to be related to any founded allegation. There were no statistically significant differences in the trends between the Benchcard and control groups, or in the Benchcard group pre- and post-implementation for initial and founded allegations.

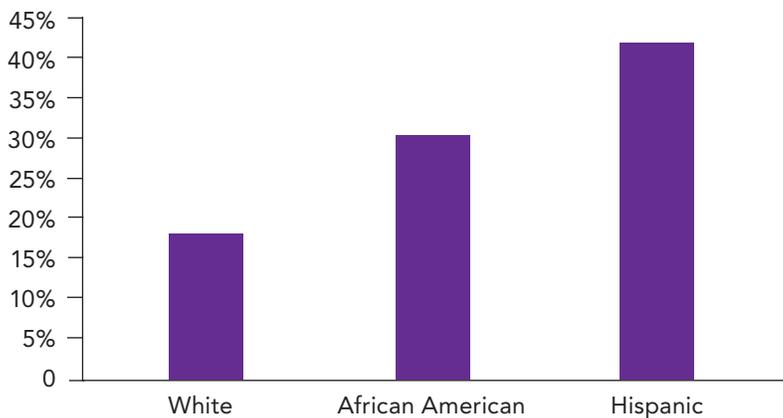
The study explored whether there was a service ordered for each allegation made and for each founded allegation, and 92 percent of all allegations did have at least one corresponding service ordered. Again, there were no statistically significant differences between the Benchcard and control groups, or in the Benchcard group pre- and post-implementation on this measure.

FINDINGS: RACIAL DIFFERENCES IN THE CASES BROUGHT TO COURT

The study found clear race differences in filing trends. White mothers (in comparison to African American and Hispanic mothers) entered court with a higher number of allegations, averaging 3.3 allegations compared to 2.4 for others (ANOVA analysis shows this difference to be statistically significant at the 0.05 level). White mothers also had more allegations of substance abuse, homelessness, and mental health issues (each of these represent statistically significant differences at the 0.05 level). Overall, African American mothers came into court with fewer allegations and were more likely to have their case dismissed. African American mothers tended to be brought to court with less serious allegations. Hispanic mothers were brought to court with the fewest number of allegations on average, and they had the least serious allegations. Judges may be reversing this trend to some degree by dismissing many of these less serious cases for African American and Hispanic mothers. Significant research has been done on differences in reporting rates across racial groups (cf. Drake, Lee, & Johnson-Reid, 2009), and it is not the purpose of this report to explain these difference. Rather, for this report it is important to note that there are substantial differences across racial groups in the types of cases that come into court.

Below, Figure 12 shows differences by racial group in “failure to protect” allegations, which can mean that no maltreatment has yet occurred but the risk of maltreatment was present. This type of allegation is often seen in conjunction with other allegations of neglect or abuse or in domestic violence cases in which the mother is the victim of the violence. As shown in Figure 12, White families were substantially less likely to face this allegation than families of other racial groups. Conversely, Hispanic families were substantially more likely to face an allegation of failure to protect.

Figure 12: Differences by Race: Commonness of Failure to Protect Allegations



Allegations of substance abuse show a different pattern. White families in the sample were much more likely to face allegations of failure to supervise or parent adequately due to substance abuse (drugs or alcohol) than were families of other racial groups (again an ANOVA shows these differences to be statistically significant at the 0.05 level). Allegations of substance abuse for African American and Hispanic families were somewhat less common. This comparison is shown in Figure 13.

Differences among racial groups are also apparent in allegations involving poor parenting due, in major part, to poor mental health functioning. As with substance abuse allegations, White families were much more likely to be brought to court with allegations relating to mental health. White families were almost three times as likely to face a mental health allegation as families from other racial groups (again statistically significant at the 0.05 level). This is shown in Figure 14.

Figure 13: Differences by Race: Percentage of Cases with Allegations of Child Maltreatment with Parental Involvement in Substance Abuse

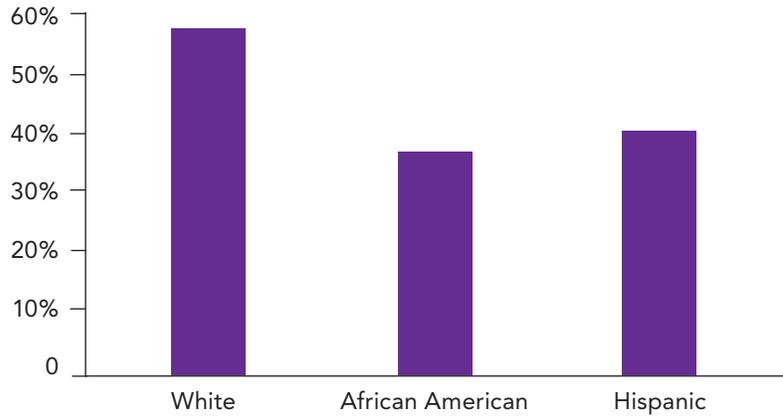
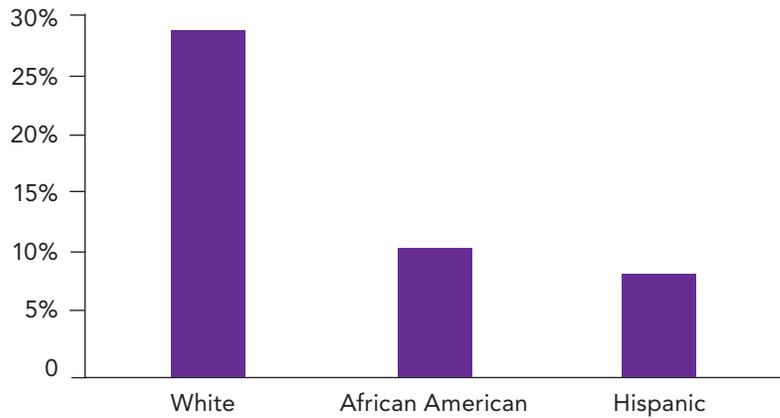


Figure 14: Differences by Race: Percentage of Cases with Allegations of Child Maltreatment with Poor Parental Mental Health Functioning



After entering the court system, more total services were ordered for White mothers than for others (approximately four services ordered for White mothers compared to two or three for other mothers).

These findings represent a first look at an extensive set of study data. Most of what is presented in this report are simple descriptions of a few factors, without exhaustive analysis of causality or consequence. As we begin to address the research questions below, we expect our understanding of the issues surrounding disparities to grow, improve, and gain nuance.

- Can we identify any judicial decision points across the three study sites where outcomes are different across racial groups?
- If so, to what do these differences relate—case factors, family characteristics, judicial processes?
- Are there significant differences among the three study sites in judicial decision making? What would account for these differences?

FINDINGS: RACIAL DISPARITIES IN PLACEMENTS

A primary goal of the CCC implementation in the Model Courts and the development of the Benchcard was to identify implicit and systemic biases that might influence judicial decision making. Some differences did appear in the sample. In the baseline sample, children with White mothers were the most likely to be placed in foster care at the initial hearing, and children with African American mothers were the least likely to be placed in foster care. These trends can be seen below in Figure 15. It may appear that there was disparate treatment toward White families or there may be valid differences in the type or amount of family needs. In fact, when differences in allegations are taken into account, race does not appear to be related to placements at all. When using a set of logistic regressions to estimate the relationships that includes numbers of allegations, race is not found to be a statistically significant predictor of foster care placements at the initial hearing. That is, there may be differences in placement by racial group, but children with similar case allegations tend to be equally likely to be placed in foster care regardless of race. As White mothers face greater allegations on average, their children tended to be in foster care more. This is an important area for further analysis as many other factors may be related to placements at the initial hearing.

While differences by race in placement trends at the preliminary protective hearing could be explained by allegation differences, by the time of the permanency hearing these differences were more substantial. This change can be seen by comparing Figures 15 and 16. As Figure 15 shows, the differences in foster care placement among racial groups at the initial hearing are not large and are not statistically significant (based on logistic regression analysis). Similarly, relative and group home differences are not statistically significant. In the placement with a parent category, it is clear that Hispanic children are placed with a parent more often than White or African American families. But by the time of the permanency hearing, trends have clearly shifted.

As is shown in Figure 16, at the permanency hearing, African American children were more likely to be currently placed in foster care than children from White or Hispanic families. Using a logistic regression to compare foster care placements with other placements, this finding was statistically significant at the 0.05 level. Also, African American children were less likely to be currently placed with a parent at the permanency hearing than children from Hispanic or White families. This is similarly true for relative placements. Note that not all children who had an initial hearing (and are represented in Figure 15) also had a permanency hearing (and are represented in Figure 16). Because some cases do not ever have permanency hearings, the populations of these two figures are not the same.

Overall, the differences in the distributions shown in Figures 15 and 16 may suggest that placement differences may not always be found at the initial hearing but instead may develop over the course of the case. Further analysis in this area will be forthcoming in a more specialized report on how race might relate to long-term outcomes and well-being.

Figure 15: Distribution of Placement Status at Time of Initial Hearing by Race, Pre-Benchcard Implementation

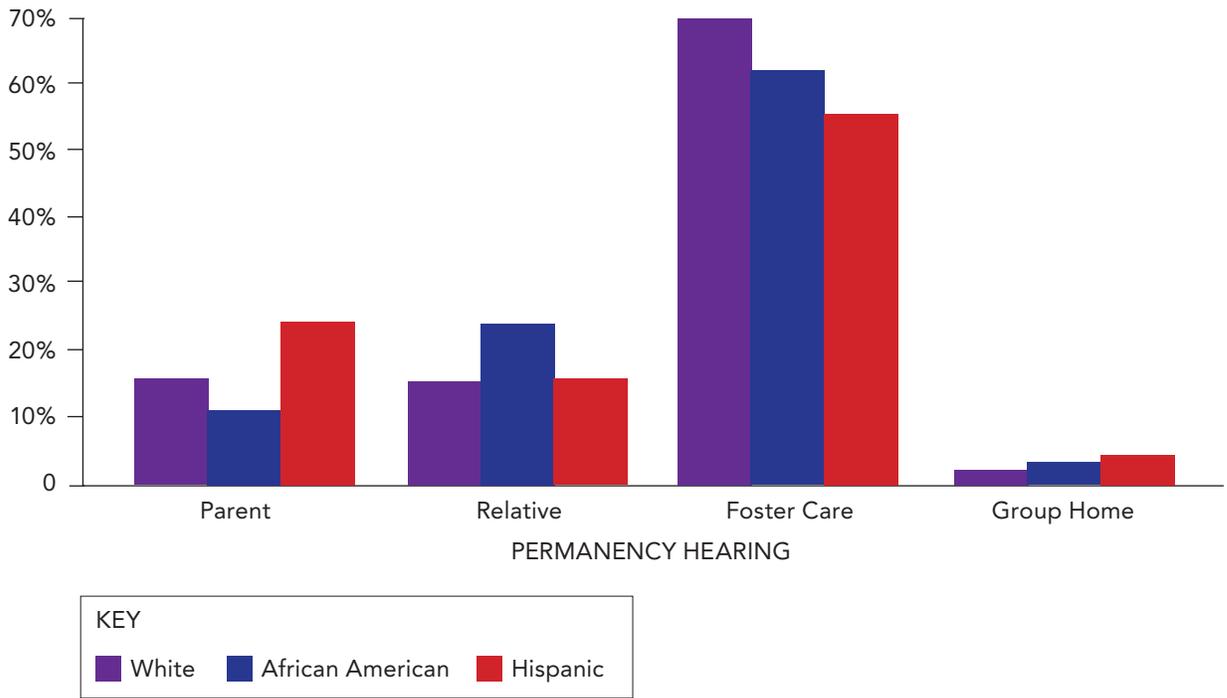
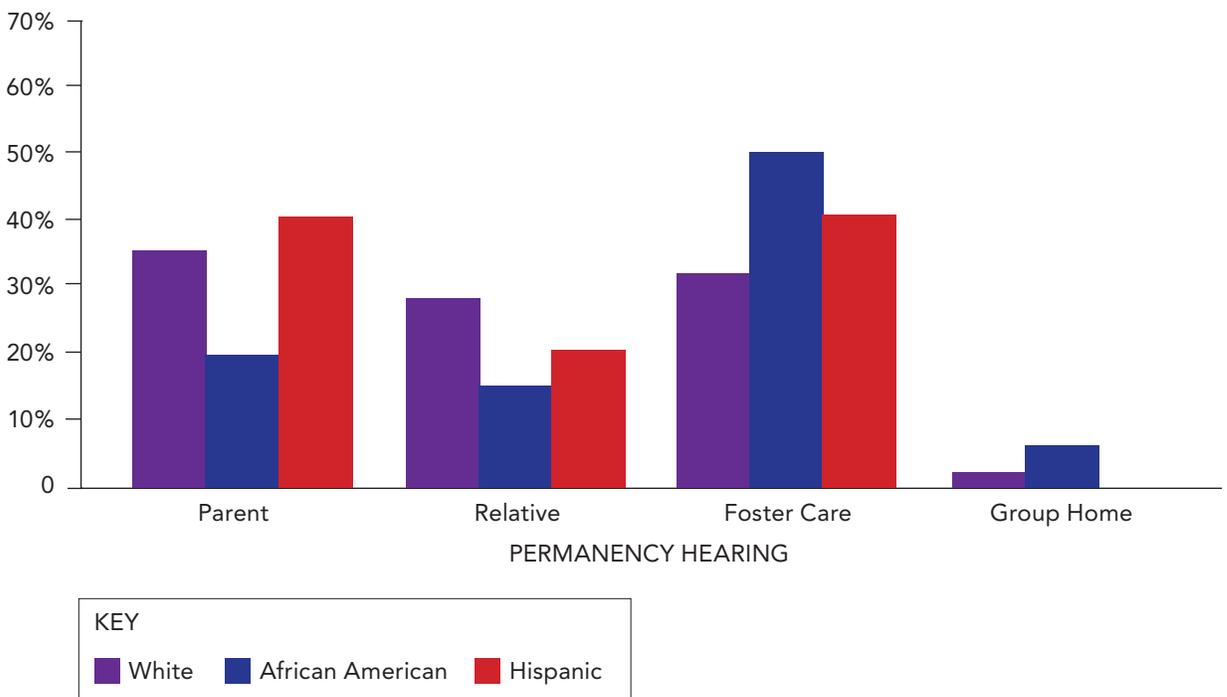


Figure 16: Distribution of Placement Status at Time of Permanency Hearing by Race, Pre-Benchcard Implementation



DISCUSSION

As with all experimental research, the present study is limited. All three study sites were Model Courts as part of NCJFCJ's Model Court Project, and thus it may be inappropriate to generalize beyond that. Further testing of the Benchcard is expected to include other court jurisdictions. Also, given the design of this study, we could assess only what occurred once a case was brought to court, not what occurred prior. For example, the study did not collect information on decisions around which cases were reported to child protective services, were investigated, or were substantiated.

The fact there may have been observational effects should also be considered. The judges were informed when the research began and may have modified their behavior because they were being watched. However, we believe any observational effects have been mitigated. First, all three sites are Model Court sites, which are regularly observed by NCJFCJ staff. Second, though some of the participating judges were observed in court, many were not. Also participating judges were not reminded of the study and, as is often the case with observation, may have quickly returned to "typical" practice.

Some of the empirical findings presented in this report do not have obvious causal explanations. The finding that White mothers face more allegations and more serious allegations than African American mothers, for example, may be because White mothers have a higher threshold to cross in terms of case allegations before being brought to court. This hypothesis, however, is not testable with the data from this study. Similarly, the finding that more services are ordered for White mothers than for other mothers may simply represent a greater tendency to offer services to White mothers but may also be indicative of the differences in the seriousness or number of allegations by the time White mothers' cases are brought to court. Again, further research would be needed to explore these ideas.

Additional analysis of these and many other topics is forthcoming. Additional findings will be available in the weeks and months to come relating to:

- Multivariate statistical analysis to understand how case factors might interact;
- A further investigation of placements at each case event, with a focus on identifying how placement trends may vary across racial groups;
- An analysis of the effect of Benchcard use on court processes, especially in terms of the timeliness of case events
- An exploration of how services are offered and ordered for children and families according to case characteristics, family needs, cultural appropriateness, and race;
- A statistical investigation into the baseline (pre-implementation) data to identify which of the variables (among the hundreds collected for this study) are the best predictors of case outcomes.

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