

REDEFINING JUDICIAL LEADERSHIP

STORIES OF
TRANSFORMATIVE
PRACTICE



NATIONAL COUNCIL OF
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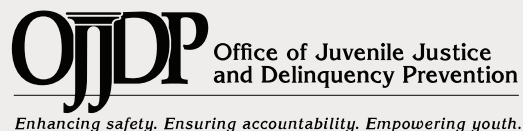
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REDEFINING JUDICIAL LEADERSHIP

INTRODUCTION

Through the Office of Juvenile Justice and Delinquency Prevention (OJJDP) funding, the Implementation Sites Project was developed to replicate the infrastructure pioneered by the National Council of Juvenile and Court Judges (NCJFCJ) Model Courts Project. Designated sites have committed to develop and implement a judicially-led collaborative seeking to implement system reform efforts to improve the child abuse and neglect case process with the goal of improving safety, permanency, and well-being outcomes for children. These sites strive to adhere to, and implement, all aspects of the best practices outlined in the *Enhanced Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases* while adopting the *Key Principles of Permanency Planning for Children*.

Each designated site leads local systems' reform through the selection of short-term improvement goals based on the *Enhanced Resource Guidelines* practices, measures implementation of its goals, partners with statewide court improvement efforts, and informs national dependency court system improvement.

Judicial leadership has been a cornerstone of each Implementation Site team's system reform efforts. Judges are uniquely positioned to facilitate systems' reform in dependency court systems' – they are uniquely positioned to convene stakeholders and promote alternatives to doing business as usual. Judges are essential catalysts for improving their courts' and systems' responses to child abuse and neglect.¹

The NCJFCJ is pleased to feature both past and present lead judges who have made a personal commitment to lend energy, vision, and time to the task of improving court practice. The featured judges in this publication have mobilized and empowered others while demonstrating extraordinary commitment to meeting the needs of children and families in their local communities by creating a courtroom environment of respect and humility.

The NCJFCJ looks forward to our continued partnership with these and other dynamic judicial leaders as they embark on creating meaningful change for children and families.

1 Gatowski, S.I., Dobbin, S.A. & Rubin, S. (2012). *Achieving Excellence in Judicial Leadership: Leading Change for Better Outcomes for Children and Families*. National Council of Juvenile and Family Court Judges & National Resource Center on Legal and Judicial Issues

A CULTURALLY RESPONSIVE COURT:

LESSONS FROM RIO GRANDE, VALLEY WEST, TEXAS



Deep in the southwest corner of Texas in the town of Edinburg, a few miles from the Mexican border, sits the Child Protection Court of Rio Grande Valley West. Associate Judge Carlos Villalon, Jr. presides over the court, one of 24 specialty courts across Texas funded and overseen by the Office of Court Administration to handle child protection cases referred by district and county courts.

Over the last five years, Judge Villalon has established a culturally cognizant approach that supports Hispanic families who enter his court by addressing their cultural challenges with a sensitive, proactive approach. Collaborative problem-solving, fair treatment, a focus on individual strengths, and family empowerment are signatures of his court.

“That’s one of the things that we take from our culture—that we know there is family out there.” - Judge Carlos Villalon

A COURT CLOSE TO THE BORDER

Judge Villalon hears cases from Starr and Hidalgo counties, two of the four counties comprising the Rio Grande Valley. The two counties, separated from Mexico by the Rio Grande River, share a predominantly Hispanic, Spanish-speaking culture. Recent U.S. census data show the Hispanic population is well over 90% in both counties, a conservative estimate. While most of the Hispanic population come from Mexico, some come from Central American countries.

The counties’ location close to the border creates opportunities and challenges. Pockets of wealth and upscale commercial and residential centers driven by commerce from Mexico contrast sharply with areas of extreme poverty and desolation outside the town centers. Poverty is an underlying factor for most families who enter the child protection court. Intertwined closely with poverty are child abuse and neglect, domestic violence, mental health, and substance abuse.

U.S. immigration status is also a common undercurrent in child protection cases. With a checkpoint located 60 miles in from the border to verify U.S. citizen status, sending children and family members north of the Rio Grande Valley for services and resources, such as inpatient drug treatment, mental health services, and residential treatment is

challenging if they lack status. Status issues also challenge family-finding efforts and relatives’ willingness to support their families.

CULTURAL CHALLENGES IN COURT

The Hispanic culture is ingrained in and touches every aspect of the court’s work. “It’s something we live in, so without writing it anywhere it’s the background that most families come from,” said Judge Villalon. While careful not to characterize all Hispanic families broadly, he described some unique cultural dimensions that can arise in cases that he is working to address, including:

Large sibling groups and families. “If you compare our numbers to other courts, we usually have a lot more kids than they do even though we have similar numbers of cases,” explained Judge Villalon. A case typically includes four-to-eight siblings, sometimes more. Parents also tend to come from large sibling groups, creating extensive family networks. “That’s one of the things that we take from our culture—that we know there is family out there,” said Judge Villalon.

What happens under the roof stays under the roof. While Hispanic families are typically close-knit, they tend not to meddle in one another’s problems. “We have families that simply don’t want to get involved or don’t want to be in one another’s business,” said Judge Villalon. “In our culture, when abuse is going on, sometimes the family will step



Machismo, or the idea that the male controls and is the dominant figure in the household, can play into abuse and neglect cases.

away rather than report it. Their idea is to let them sort it out,” he said. This is not always the case, however. Younger generations are moving away from this tradition and are more likely to step in.

Fears related to status may also cause families to lay low. “What we’re encountering is that some folks don’t want to get involved because they don’t have status,” said Judge Villalon. He stressed that status has never been a reason to rule a family out but more and more families don’t want to risk being on the radar screen. Over half of child protection cases in his court result in reunification, with relative placements comprising a significant number of those cases, so keeping relatives involved is critical.

Unique cultural traditions must be considered in child welfare decision making. For example, child protective services may visit the home of a family from Central America to find the kitchen outside. “That’s the way it is back in their home country and they may not see anything wrong with that,” said

Judge Villalon. Yet, here an outdoor kitchen or washroom is outside the norm and may be considered substandard. Considering cultural differences and traditions is key when evaluating the home environment and family practices.

Machismo, or the idea that the male controls and is the dominant figure in the household, can play into abuse and neglect cases. “What stands out is domestic violence,” said Judge Villalon. “With machismo, the male controls and can be abusive. Of course, when we’re dealing with these cases and we’re trying to provide services to these families, when you’ve been brought up in that environment, it’s hard to change.” Sometimes there is change, but often parents must be separated because it does not change.

RESPONDING TO CULTURAL NEEDS

Improving the response to families’ cultural needs is woven into a larger effort to strengthen the child protection court. With support from the National Council of Juvenile

and Family Court Judges and the Texas Children's Commission, Judge Villalon has worked over the last five years to implement systemic changes that respond to cultural challenges.

Collaboration and problem-solving.

Since June 2012, when Judge Villalon was appointed to the bench, he has focused on building a collaborative, problem-solving environment. "The expectation that we've instilled in the courtroom is that everyone is going to work collaboratively to try to find solutions for the family," said Judge Villalon. An important part of this is understanding the family's unique culture and traditions, the need to distinguish between poverty and neglect issues, and including parents and families in decision making. "It really spills over to collaboration for me, just making sure everyone works together and that we don't rule anybody out, and that we don't have any biases," said Judge Villalon.

Recognizing statewide differences.

Because the child welfare agency is a state agency, its policies and stances do not always mesh well with the realities in the Rio Grande Valley. Dramatic differences exist between the Rio Grande Valley and other parts of Texas. "We're very different here from how they are in San Antonio and yet they categorize both of us as south Texas," said Judge Villalon. Dallas, Houston, and El Paso differ even more sharply. Judge Villalon encourages agency caseworkers to step outside the box and think creatively about how to apply agency policies to each family's situation. He also relies on other parties to advocate appropriate solutions for families.

Addressing communication needs. Most of the 40-50 attorneys on the court's appointment list are fluent in Spanish. The attorney application specifically asks if attorneys speak Spanish, so communication between counsel and client is not a challenge. Judge Villalon, his court coordinator, and the court bailiff and deputies also speak Spanish. However, because proceedings must be conducted in English, a greater concern is not having an official courtroom interpreter to translate for the parties' extended families who often fill the courtroom. With a skeletal staff and budget, the court's bailiff will step in and serve that role, but it's not ideal. Because the court relies so much on family, Judge Villalon believes it is essential for them to understand the proceedings. His greatest wish is to hire an official full-time interpreter.

Looking within the person. Most professionals working in the court grew up in Rio Grande Valley and understand and respect Hispanic heritage and traditions. Yet socioeconomic and educational differences can create a divide. A common struggle is setting aside biases related to poverty and personal standards. Many of the families who come to court lack education, money, and basic comforts. Judge Villalon stressed the need to examine a parent's qualities as a parent and their ability to provide a safe home.

Working with and supporting parents.

Related to setting aside biases is avoiding getting upset with parents based on alleged behavior that brought them to court. "It's really easy to do that," said Judge Villalon.

“It’s much harder to work with them and see if we can resolve their issues.” He acknowledged the challenges, particularly accessing services due to limited local resources, status concerns, costs, and the cycle of poverty and intertwined social issues. However, he stressed that most children want to go home with their parents so it is critical to find a way when possible.

Prioritizing family over opportunity. Giving children experiences and opportunities that are lacking in their culture or home countries does not overshadow the importance of maintaining family ties, stressed Judge Villalon. For example, the opportunity to go to college if a child ages out of care or parental rights are terminated should not preclude keeping family together. “We run into that because we think, ‘Wow, if we leave these kids in foster care, they’ll get free college and there are generally better opportunities in the United States’ but is that worth severing ties to their family in Mexico? No, family is very important,” said Judge Villalon.

Providing families fair opportunities. If a child has family members from Mexico who would like placement, they are given an opportunity. A home study is performed by the Mexican child welfare agency and they are considered. Mexico is involved in 25-30% of the court’s cases, either identifying family resources or performing a workup of parents who live in Mexico. The border creates challenges though and cross-border work takes time – contacting the child welfare agency in Mexico, obtaining information and transcribing it into English, and determining if services can be provided in Mexico. “We’re

working in a system where it’s urgent that we get these kids families as soon as possible,” said Judge Villalon.

Similarly, if there are relatives in northern parts of the state past the checkpoint or in other states, efforts are made to consider and involve them. Inquiries about relative and kin resources are made at every hearing, and home studies and other assessments are performed for possible family resources. Interstate child welfare requirements and status concerns for in-state relatives can complicate these efforts but do not rule out considering family members who express interest.

Empowering families to look for solutions.

A new collaboration between the child welfare agency and the local CASA program—Collaborative Family Engagement—is shifting the focus from relying on relatives just to serve as placements for children. Through a team approach, CASA and child protective services work together to identify family members and establish a community of support around children and their families. “When you have large sibling groups, it can be difficult for family to step up and care for all of them; that was scaring some away,” said Judge Villalon. Through the program, family members are asked to identify how they can assist the family, such as driving parents to services, watching children, taking children in, and supervising visits. “When you start approaching them, you start empowering the family to look for solutions,” said Judge Villalon.



IMPACT AND ADVICE

A sensitivity to poverty, tradition, and the role of family in Hispanic culture is at play in child welfare decisions and efforts to respond to a family's needs. Over the last five years, the court's collaborative, problem-solving approach has reduced case numbers, increased the number of children placed in permanent care (particularly those placed with family), and shortened the time to achieve permanency:

- In June 2012, 944 children were in the department's care and within the court's jurisdiction compared to 652 in March 2018.
- From April 2016 to April 2017, 79% of children went home with family.
- From April 2016 to April 2017, 53% of children went home with a parent.

For judges, attorneys, and court professionals who want to improve cultural responsiveness, Judge Villalon recommends not judging a book by its cover. "My advice is to try to understand the folks who are in front of you and where they are coming from," he said. Adopting a collaborative, problem-solving approach that works with families, values their differences, and honors their traditions should be the foundation.

“Pretty much all the science supports kids, from a young age to teenagers, wanting to have their voice heard in court.”

Judge Brian Berger

TWO

IMPLEMENTING A **CHILD-IN-COURT** POLICY

In the southwest corner of Michigan, in the city of St. Joseph in Berrien County, something is missing in the court that hears child welfare matters -- the child. Yes, the guardian ad litem (GAL) is there on behalf of the child. Yes, the attorneys for the parents and child welfare agency, the social worker, the judge and other parties all want what's best for the child. But the person whose life is the focus of the proceeding, who everyone is talking about, is not there.



“Pretty much all the science supports kids, from a young age to teenagers, wanting to have their voice heard in court,” said Judge Brian Berger. “We’re making decisions that directly impact their lives. Even though every child in Berrien County is appointed a GAL, sometimes that’s not enough.” That recognition prompted leadership at the Berrien County Trial Court, Family Division to rethink the court’s practice of keeping children out of court except in isolated cases.

Through a collaboration with the National Council of Juvenile and Family Court Judges (NCJFCJ), the court is developing a child-in-court protocol to guide a shift towards including children in court. As an NCJFCJ Implementation Court since fall 2016, the court is working to improve in several areas, including children’s involvement in court proceedings that affect them. Judge Berger, one of three judges assigned to the family division, serves as the lead judge for the Implementation Court work. He shared how the court is developing a child-in-court protocol, highlights of the protocol, and anticipated benefits.

NOSE TO THE GRINDSTONE

When the court’s presiding judge asked Judge Berger to lead the Implementation Court work, he said sure but questioned if he was the best authority on abuse and neglect cases and the right way to do things. He’d been on the bench for 10 months, coming from a long career in private practice as a divorce and criminal defense lawyer. He put his head down, did his homework, and learned as much as he could. NCJFCJ staff also visited with him and other court staff to discuss best practices in child welfare cases, the latest research, and other courts’ experiences around children coming to court.

SEEKING INPUT

Judge Berger then convened a stakeholder group with wide representation – court staff, prosecutors, attorneys

Shifting this mindset took looking at the evidence, hearing from other states, and talking with other courts that already had a policy in place.

for parents and children, department of health and human services staff, social workers, mental health workers, and other system partners. The group of about 25 was tasked with developing goals for Berrien County following NCJFCJ's lead and guidance in the NCJFCJ *Enhanced Resource Guidelines*. Developing a child-in-court protocol fit within a larger Implementation Court goal to ensure the voices of the people the court serves are heard in the court process. "We decided going forward it's important to give the young people who want to come to court the opportunity to be heard," said Judge Berger.

FIELDING PUSHBACK

Not everyone embraced the decision to bring children to court. "There was major pushback from all sides when the stakeholders first came up with this as a goal," said Judge Berger. Guardians ad litem were especially vocal, arguing that making children come to court would retraumatize them. Judge Berger recalls the looks on the faces of the GALs when the idea was shared. "I remember people looking at me and saying, 'Well, *my* kids aren't coming to court!'" he said. Shifting this mindset took looking at the evidence, hearing from other states, and talking with other courts that already had a policy in place. Judge Berger also invited GALs to serve on the workgroup that developed the

protocol so they would have input and feel a part of the process.

FINDING MENTORS

While the court wanted to make the protocol its own and deliberately avoided modeling it on other states' protocols, it did seek mentoring and advice from other courts and experts. Judge Darlene Byrne, presiding judge of the 26th District Court, in Austin, TX and her staff were especially helpful in this role, making themselves available by Skype to answer questions and explain practical aspects of including and engaging children in court. Judge Berger said they also turned to New Jersey and the substantial work done there to include children in court proceedings for grounding in the issues. NCJFCJ staff and judicial consultant - served as valuable partners, sharing the latest science and best practices, and making connections with other courts for guidance.

STEPPING AWAY, EMPOWERING OTHERS

A workgroup drawn from the larger stakeholder group formed to focus on the child-in-court protocol. Judge Berger stepped back at this point to let the group develop the policy and make it Berrien County's own. "That's the most important thing I did here," he said. "I was involved and would take reports and discuss progress at monthly

stakeholder meetings but stepping back and listening and trusting other people to do the work properly is the best advice I could offer.”

That freedom gave the workgroup a sense of ownership and a level of trust to craft a protocol from the ground up. The collaborative approach was also essential to establish buy-in from all group members. The group worked for a year to develop the Berrien County Trial Court Children/Youth in Court Protocol. Regular meetings during that period fleshed out the protocol and addressed many practical concerns – *How will children be notified? How will they get to court? Where will they wait once they get to court? When should the judge engage them during hearings?* “A lot of practical concerns had to be ironed out,” said Judge Berger. “It wasn’t just a matter of saying, ‘Ok, on March 1, we’re going to do this.’ It’s been a process.”

SHAPING THE PROTOCOL

The protocol developed by the workgroup is not mandatory and is designed to give judges discretion. “Our policy is fairly loosely written and gives judges some flexibility,” said Judge Berger. It applies to children of all ages and emphasizes safeguarding children from trauma. “The last thing we want to do is put children in harm’s way or in situations that cause trauma,” he said. Bifurcating hearings, allowing phone/video testimony, and permitting a written statement from the child are examples of accommodations the protocol makes available to protect the child if trauma is a concern.

KEY ELEMENTS OF THE PROTOCOL INCLUDE:

Mission: “To engage children/youth in the court process for the purpose of, and in a manner consistent with, reducing trauma for children/youth.”

Goals: Three goals focus on (1) making the court process more engaging and collaborative with the objectives of familiarizing the child and judge with one another and making the court process more transparent and understandable to children; (2) giving children a voice in the process; and (3) ensuring the court hearing focuses on the child.

Including children in court: General guidelines cover common reasons children should come to court. Examples include: upon a therapist’s recommendation, at 6-month review hearings, at hearings to return a child home, at case closure hearings, when the youth is age 14 or over and wants to be present, at juvenile guardianship hearings, when the judge wants to see or has questions for the child.

Excusing children from court: Guidance for excusing children from court centers on protecting the child from serious trauma as determined by a judge, therapist, or the case circumstances. School conflicts and the child’s wishes regarding court attendance are also relevant factors.

Implementation procedures: Practical aspects of implementing the policy are outlined, including training staff on the protocol; preparing children for court;

transporting children to court; providing courtroom accommodations and alternatives to in-court participation; child-sensitive scheduling of hearings; sending child-friendly invitations to come to court; and protocols for engaging children at hearings.

Recommended changes: The protocol recommends changes and procedures needed to accommodate bringing children to court. These include physical and logistical changes, such as establishing a child-friendly waiting area with supervision; training foster parents on the protocol; developing a template for a child to provide a written statement in lieu of coming to court; developing surveys to measure performance and impact of the protocol; and finetuning the protocol based on surveys and feedback.

TRAINING STAFF

Training for judges and referees focuses on how to engage children in an age-appropriate manner. “Many of us are parents and grandparents and think we know how to talk with kids, but we want to be sure we do it the right way and don’t cause further trauma,” said Judge Berger. The protocol specifies mandatory trainings for all court staff on age-appropriate and trauma-sensitive child engagement, as well as implementing NCJFCJ best practices.

ROLLING OUT THE PROTOCOL

The court has adopted the protocol and is slowly having kids come to court in limited cases as a test run. “Our hope is that in 60-90 days it will become much more consistent,” said Judge Berger. A waiting room for children is still under construction and some other practical considerations are



being worked out to ensure the protocol can be implemented in a safe and nontraumatic manner for children.

At an initial rollout event in February 2019, Judge Byrne from Austin, TX, opened with an overview of the benefits of having children come to court. The audience of 60-70 people included lawyers, prosecutors, social workers, staff from the department of health and the department of health and human services, and foster parents. The protocol has also been presented to court staff at lunch-and-learn events, so they know what to expect.

EVALUATING AND REFINING

Once the protocol is fully operational, the kids-in-court workgroup will continue to meet quarterly to ensure it is implemented well and make refinements. They will use data to track cases when children come to court to evaluate outcomes and see if it makes a difference. The court is also planning some age-appropriate follow-up with children to learn about their court experience, what they thought, what went well, and how the court can improve.

HEARING CHILDREN FIRSTHAND

While the impact of having children come to court remains to be seen, Judge Berger believes one benefit will be knowing the voices of young people will be heard. “It will have a positive impact on the lives of the children we serve, knowing that we’ve taken what they want into consideration in the decisions we make,” he said. Although a GAL is charged with looking out for the child, that

doesn’t always mean the GAL and the child agree on what should happen. He gave the example of a child who wants to return home even though his parents are using drugs. Giving the child the chance to share that desire and discussing what needs to happen before he can safely return to his parents (e.g., substance abuse program, period of sobriety) helps the child participate in the decision making. “I’m confident that children will feel the court handled their cases more appropriately because their position and point of view was considered by the court,” he said. The benefits extend to very young children who, while unable to express their wishes, can provide valuable nonverbal communication such as running towards a parent.


Soon, thanks to the new protocol, children in Berrien County will have an open invitation to attend child welfare legal proceedings that affect them. Judge Berger hopes that by extending that invitation early in the court process, many children will have a better sense of what is happening in their cases, will have met the person who is making decisions (the judge), and will feel welcome to come talk to the judge and participate in the court process.



THREE

IMPROVING COURT PRACTICE UNDER NEW COURT LEADERSHIP

In just three years, the Saginaw County Circuit Court Family Division in Saginaw, MI, has raised its profile as one of the highest functioning juvenile courts in the state. Meeting statutory guidelines for timeliness, streamlining docketing practices, balancing the court's budget and a host of other reforms have contributed to the court's rise. It's a proud achievement for a court led by a new judge. Judge Barbara Meter, elected to the court in November 2014, came to the position as a former prosecuting attorney, stepping into the shoes of a highly regarded judge who'd served and shaped the court for 30 years. Judge Meter quickly immersed herself in the court's operations, seeing firsthand



what worked and what could be improved. While the court had many strengths, she found some systems and practices were antiquated, and its budget was overstretched.

Judge Meter wanted to make changes but needed direction and support to ensure the court's staff and system partners would embrace them. An alliance with the National Council of Juvenile and Family Court Judges (NCJFCJ) helped her do that. The court's administrator, Todd Borders, was also instrumental. Borders joined the court around the time Judge Meter took the bench, bringing with him frontline casework and child welfare systems reform experience. Judge Meter and Borders shared their experiences improving the court as a new judge and court administrator.

BECOMING AN NCJFCJ IMPLEMENTATION COURT

Early in Judge Meter's time on the bench, a talk by NCJFCJ consultant Judge Stephen Rubin about national best practices for juvenile courts left a lasting impression. "I walked away from that thinking I'd died and went to heaven," said Judge Meter. "Being a new judge who didn't have any preconceived notions I was open to adopting national practices." Judge Rubin's talk planted a seed. He spoke of systemic court changes and court innovations that were raising the caliber and quality of juvenile courts across the country.

When the Michigan State Court Administrative Office later told Judge Meter of an opportunity to become an "NCJFCJ Implementation Court," she didn't hesitate. "I felt it would be a wonderful opportunity for me as a very new judge to have the assistance of the NCJFCJ," she said. She applied and her court was selected in fall 2016, opening the door to technical assistance and backing from NCJFCJ to strengthen

her court's systems and practices.

LEVERAGING NCJFCJ BACKING AND TECHNICAL ASSISTANCE

“NCJFCJ gave me the backing for what I needed to do to become current,” said Judge Meter. That backing was critical for a new judge seeking acceptance of changes by long-serving court staff and attorneys who were comfortable with the court's practices and systems and not always open to change. Borders said the average court employee's years of service was 17.4 years. “Here were a couple of newbies walking in with all kinds of ideas,” said Judge Meter. “I really had to change a culture of thinking and the National Council gave me that piece I needed to bolster my position,” she said.

NCJFCJ also provided valuable technical assistance, bringing Judge Rubin and the NCJFCJ Site Manager onsite to meet with the court's staff, attorneys, and child welfare agency staff to introduce national best practices outlined in the NCJFCJ's *Enhanced Resource Guidelines*. They met individually with each stakeholder group and opened up discussions that were critical to gaining staff buy-in and support for the reforms.

FORMING A COURT TEAM COLLABORATIVE

The court formed a team collaborative—an essential element of all NCJFCJ Implementation Courts—that included Judge Meter, the court's two referees, the court administrator, attorneys for parents, children and the department, department of health and human services (DHHS) staff, community

mental health (CMH) staff, and other community partners. The collaborative meets monthly to discuss reforms and progress and allows everyone at the table to have input. It engages court stakeholders in the reforms and provides a forum to address concerns and reach consensus on issues.

Another benefit of the collaborative is that once-siloed systems that worked in isolation are now on the same page and work in unison to find solutions and promote better outcomes for families. As an example, Border described an 11-year old boy with severe medical challenges who came into the court system because his mother couldn't care for him. “CMH, DHHS, and the court are wrapping themselves into this process, trying to figure out what is the best case for this child,” said Borders. Judge Meter noted that in the past, no one would have known what the agency was thinking. “We're working so much better together now,” she said. “We talk about how we can move forward to be more effective and we implement best practices with regard to timeliness and proper services.”

The collaborative also helps educate staff about the reforms and best practices, an especially important role when new staff come on board to keep the reforms moving forward.

CREATING AN ENVIRONMENT OF OPENNESS

Judge Meter started an open-door policy, encouraging staff to stop by anytime. Since the reforms shifted and created new responsibilities for staff and asked them to adopt new approaches, opportunities for



dialogue and discussion were needed. “We created an environment of openness and encouraged employees to start discussing issues,” said Borders. Like any new practice, it took time for staff to feel comfortable approaching the judge, but Borders now reports that “People are in and out of Judge Meter’s office all the time.”

Borders also meets with Judge Meter each morning to discuss priorities and pressing court matters. After that meeting, he personally meets with every court staff member to check-in and see how they

are doing, learn what’s on their plate, and discuss issues or concerns. The regular communication ensures everyone is on the same page, promotes dialogue, and helps identify issues before they become problems.

Judge Meter also meets weekly with the court’s two referees, who each have their own court rooms handling dependency and delinquency cases. She will share any new information from the collaborative, and issues raised by DHHS or service providers, so the three courts operate in unison and everyone knows what to expect.

Creating the court team collaborative and maintaining open staff communication has strengthened relationships and fostered trust. “Before you have relationships you don’t necessarily have people who are willing to help out and get things done,” said Borders. “Now we have such open communication that many of our partners get things done beforehand,” he said.

REFORMING COURT PRACTICE AND SYSTEMS

Through the project, with NCJFCJ’s guidance, the court team collaborative has introduced several court reforms, some involving minor shifts and others large overhauls.

Meeting statutory time guidelines. The court improved its track record meeting statutory guidelines for conducting timely court hearings. “We were at the bottom of the barrel compared to like-sized counties in our state as far as timeliness with regard to hearings,” said Judge Meter. She cited frequent attorney stipulations to court



adjournments and an expectation for the court to grant them. “There were a million reasons why a case couldn’t go at all levels,” she said. “We put a stop to that and knitted ourselves closely to the statutory guidelines.” A no-adjournment policy is now in effect at the court to keep cases on track and moving forward. It benefits families by creating permanency for children and addressing their needs timely.

Instituting timely court reports with pertinent information. Court reports submitted by the DHHS caseworkers were often missing, late, or delivered at hearings, and often lacked key case information. With Borders’ leadership, a new report format ensured information needed to conduct an effective hearing was included in reports and submitted 5-7 days before hearings. Examples of information now included in the report are:

- a running list of significant dates surrounding the case for quick reference,
- child placement and adjustment to placement(s),
- reason for sibling splits,
- children’s behavior and emotional functioning (school, therapy/medical),
- parent progress including reason(s) for removal,
- psychological recommendations,
- treatment concerns/associated issues to address,
- parents’ progress including attendance, engagement and benefit of services offered,
- parenting time, significant incidents, and worker recommendations.

“The court switched from getting no report at all to getting timely reports with pertinent information that helped us cut down on the time to conduct effective hearings,” said Judge Meter. Before this change, review hearings were taking upwards of an hour. The new report format and its timely submission to the court and parties before hearings has helped make review hearings more efficient and focus on the substantive issues outlined in the NCJFCJ *Enhanced Resource Guidelines*.

Improving access to information about services. A challenge the court faced was getting information about services and clients’ progress in services. Court reports would include limited information, such as “*The therapist says everything is fine.*” Such minimal information prevented the court from evaluating case progress at review hearings. “The court needs to know where you are before we can move you forward,” said Judge Meter. The collaborative worked to turn this practice around. “We have worked diligently with DHHS and service providers to tell them what we need as a court to evaluate progress according to best practice,” said Judge Meter. A concise summary of service providers’ findings is now included in the court report, including parent(s) attendance, engagement, and benefit for each service offered. Confidentiality concerns have been addressed by developing a referral form for families in abuse and neglect cases; it includes a consent form signed by the parents that the service provider keeps on file. Borders said the court handles the referral to the service providers, letting them

know when a case involves a family involved in the child welfare system so the judge and referees get the information they need.

The court report now also better captures a family's service needs. Before the change, caseworkers would come to court unprepared to discuss what services were needed or would propose services that made little sense. Now the court report includes a section on the reason for removal and service needs. The revision focuses caseworkers and ensures they align services with a family's needs.

Along with the new court report, the court is working to better train caseworkers so they understand what information the court needs. An upcoming caseworker training will involve a mock hearing where a defense attorney will question a caseworker in court with all DHHS caseworkers in the room to demonstrate how to provide effective testimony on direct exam and how to appropriately respond during cross-examination. Similar trainings for caseworkers have focused on caseworker referrals for services, court reporting, and petition writing.

Developing clear, concise parent-treatment plans. A new one-page parent-treatment plan helps parents know exactly what they need to do to improve. It replaces a prior practice of handing parents copies of the Statewide Automated Child Welfare Information System (SACWIS) report and expecting them to sift through the lengthy, overly detailed document to learn what they need to do to comply with treatment. “We

boiled that down to a one-page, bullet point short-form parent-agency treatment plan,” said Judge Meter. “We tell them: *You can put that in your purse, make a copy, stick it on your refrigerator door. That tells you what you need to do.*” It's much clearer for parents and helps them know exactly what is expected.

Reforming court docketing practices.

Case docketing changes are now in place that reduce conflicts between courts, make better use of attorneys' and parties' time, free up time for the judge and referees for out-of-court work, and improve court hearing timeliness. “We changed the entire way we docketed the court's three courtrooms,” said Borders. “By redesigning the effectiveness of our docket, we took care of many issues,” he said.

A teaming model is now used that allows scheduling time blocks that give the judge and referees time to prep for cases and narrow down case hearings to set time frames. The court calendar now allows scheduling out-of-office time so Judge Meter can participate in her many collaborative commitments. Conflicts between courts and unclear courtroom assignments are now much less. Court hearing timeliness has also improved, addressing a frequent complaint that court hearings were never on time. The more efficient, time-certain hearings benefit dependency and delinquency cases.

Creating a safe, trauma-sensitive family-friendly court environment. Several changes focused on improving court safety and making the court more sensitive to the trauma families have experienced:

- A wide-open judicial corridor was sealed.
- Courthouse walls were painted in friendlier, more soothing colors.
- Family and youth-friendly artwork went up in the judicial corridor.
- A play area now exists in the waiting area.
- An adoption tree was created for families to explore family connections.
- A courthouse community resource room is being created for families in need of children's clothing, household supplies, and toys.

In the future, the court would like to secure funds to conduct trauma assessments for families to better inform services. "We're still working on the issue of trauma, that's a piece that has a way to go," said Judge Meter. Through collaborative meetings, the court has been able to communicate the importance of addressing family trauma. All partners are sensitive to the issue. DHHS is currently screening all children and, based on the initial screen, DHHS considers further assessment before trauma therapy can begin.

Reducing residential placements.

When Judge Meter started at the court, residential treatment costs far exceeded the court's budget. Residential placements were overused and not closely monitored, causing children to remain in placement for extended periods. The court team collaborative worked with DHHS staff to reign in residential placements, limiting use to extreme situations only. "We're much more circumspect before placing children in an institutional setting," said Judge Meter. Now that the court and DHHS are on

the same page, many children who were once placed in residential placement are now in open settings, guardianships, and family placements. As a result, residential placements have dropped from 137 in 2010 to 14 currently. Borders described a philosophical shift away from only placing older youth in residential treatment to also using it with younger children who may be positively impacted by the intensive services provided.

Addressing financial problems.

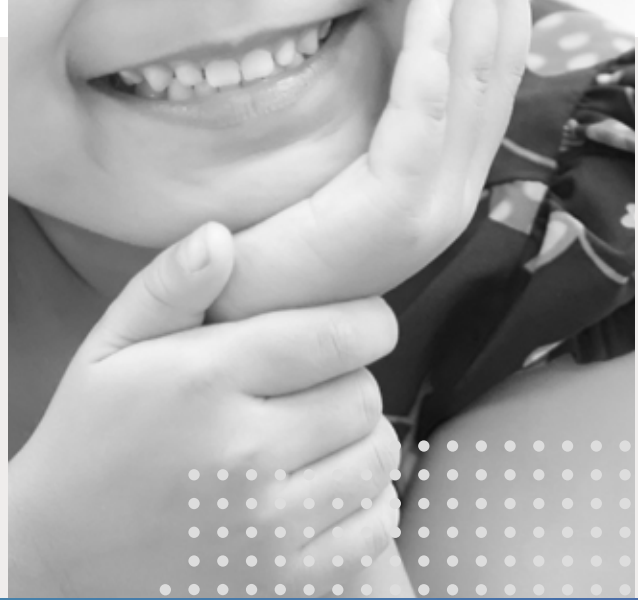
An overhaul of the court's financial system brought spending in line with the court's budget. "Financially the court was in disarray and was tanking," said Borders. Reducing use of residential placements and associated costs was one major change. In addition, the court worked with DHHS to ensure it paid its bills on time and put an end to paying its previous year's bills from current year's funds. In Saginaw County, the court manages the Child Care Funds that require a 50% county contribution. The court and DHHS work collaboratively to insure those funds are spent appropriately and that the books are balanced.

The court reforms in Saginaw County have created a fully functioning, efficient court system that is able to absorb bumps and keep moving forward when challenges arise. Borders credited the close working relationship that he and Judge Meter and the court team collaborative have formed and how they are having regular and meaningful dialogue, which leads to all moving in the same direction. "You can't have basic effectiveness without having systems that

are run well,” he said. “We’re fortunate that not only were we able to build systems but we have individuals who are leading the court who are all on the same page.”

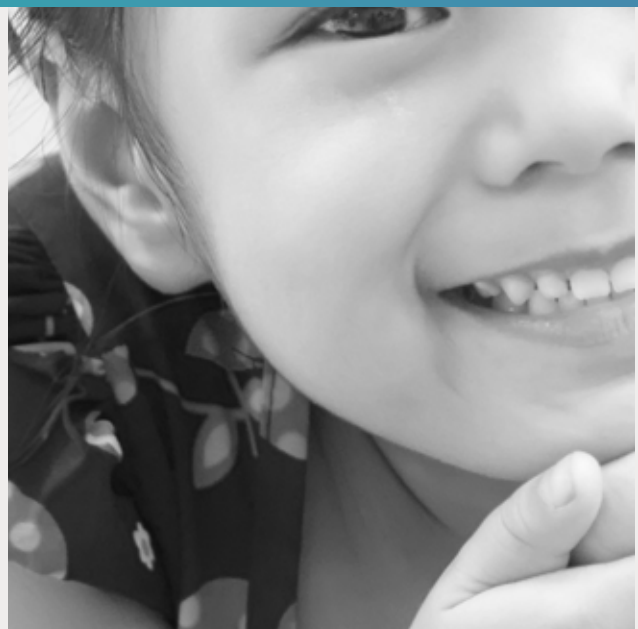
For other new judges who find themselves wanting to change systems and practice in their courts, Judge Meter said a good starting point is to get a copy of the NCJFCJ *Enhanced Resource Guidelines* to learn about best practices. “Have them on your bench, read them, digest them, follow them,” she said. She also recommended getting involved with NCJFCJ, hiring a good court administrator, and building a team that works well together.





FOUR

BEING A TRAUMA-RESPONSIVE COURT





In downtown Memphis, three blocks from the Mississippi River, the Memphis and Shelby County Juvenile Court welcomes children and families who enter its doors with a warm embrace. Classical music plays on the piano in the lobby, doors are painted the colors of the rainbow, and a Dr. Seuss mural consumes a wall on the way to the child abuse department. Staff smile and show families where to wait. Signs indicate when and where cases will be heard. Attorneys quietly escort clients to assigned courtrooms when cases are called.

It wasn't always that way. When Judge Dan Michael became presiding judge of the court in 2014, he walked into a courthouse with dark, paneled courtrooms, staid corridors lined with headshots of past judges, and closed windows with shades drawn. Families waited in an overcrowded, chaotic main hall, craning to hear each time the bailiff appeared and shouted the case name at the top of his lungs. For a court whose job was to rehabilitate and strengthen children and families, the environment was hardly conducive.

A **trauma assessment** conducted in 2015 by the National Council of Juvenile and Family Court Judges (NCJFCJ) agreed. "That assessment turned over every leaf, and opened every door," recalled Judge Michael. The six-person team of psychologists and social workers who performed the assessment studied everything – noise, smells, sounds, light, signage, staff training, and court practices. A written report outlined actions the court needed to take to create a more trauma-informed, trauma responsive court.

Judge Michael and his staff wasted little time. As of late 2018, three-fourths of the recommendations are complete. Short of building a new court building, they dramatically transformed the court culture and physical environment and adopted practices that were sensitive to child and family trauma.

CHANGING THE COURT CULTURE

Before making changes to reduce and respond to trauma experienced by children and families entering the court, Judge Michael knew he had to get his own house in order first. When

he became judge, he found the culture very top-down, decisions were made in the corner office, management took care of friends, and the staff walked with their heads down.

“I don’t function that way,” said Judge Michael. Drawing on his business background, he introduced a new management philosophy, one focused on valuing and empowering staff, collaborating and building consensus, hiring and promoting from within, and helping staff tap their strengths and shine. He gave staff authority and let them make decisions, made sure they had the tools to do their jobs, then stepped out of the way. With his management team, he pushed this philosophy throughout the organization of 250 people.

Judge Michael also instituted several new approaches to make work fun for staff, address work-life balance, and emphasize self-care. For example:

- Each spring, staff gather for “Lunch on the Lawn,” an afternoon cookout with food provided by a sponsor.
- Staff dress up on Halloween and pass out candy to children and families who come to court.
- A new inclement weather policy closes the court anytime county schools close due to weather, recognizing the danger of requiring staff to come to work and the difficulty parents have finding last-minute child care.
- A reduced holiday docket the last 2.5

weeks of the calendar year gives staff downtime during a hectic time and lets them refresh before the new year.

- Staff are encouraged to pay attention to their own and colleagues’ self-care. If they notice a coworker seems down or their work is sinking, they are encouraged to reach out and support that person directly and through referrals to the Employee Assistance Program.
- Through a partnership with the Department of Psychiatry at the University of Tennessee School of Medicine, all staff are trained on trauma and secondary traumatic stress or vicarious trauma, so they learn to recognize when the nature of the work may be affecting them and constructive ways to address it.

These changes have created a setting where people want to come to work. Staff productivity and work satisfaction have risen throughout all levels. “By changing the culture and making this place a little bit better, we get more done, and we do a better job for our clients,” said Judge Michael.

Shifting the court culture set the foundation to start making changes to respond to the trauma experiences of children and families served by the court.

IMPROVING THE COURT ATMOSPHERE

Bringing art into the building. Two artists were given creative control of the second and third floors of the courthouse. They

“By changing the culture and making this place a little bit better, we get more done, and we do a better job for our clients.” - Judge Dan Michael



asked staff their favorite colors, then handed each one a paintbrush and can of paint and assigned a door. Walking down the hall today, the doors reflect the colors of a rainbow. The artists transformed drab walls with colorful murals of Dr. Seuss characters, undersea pictures, and beach scenes. “The theory is if I can attract a mother’s, father’s or child’s attention with a piece of art that grabs them, it’s going to lower their anxiety to some extent,” said Judge Michael.

Bringing the outside in. Windows that had been shut for years with blinds drawn tight were opened to allow natural light and fresh air to enter the building. Plants were also brought in to create a connection to the outdoors and bring life into the court building.

REDUCING THE TRAUMA OF COMING TO COURT

Several efforts are in place or underway to

welcome children and families and make navigating court less stressful.

Assisting children and families who come to court. Court staff greet children and families when they arrive, tell them where to sit, and ask them to watch white boards and an electronic case board for case information and court assignments. When a case is called, attorneys meet their clients in the waiting area and escort them to the courtroom. These efforts replace an age-old practice of having the courtroom bailiff yell case names as they are called, a practice that created chaos and confusion and left the safety of the courtroom unattended.

A court ambassador program is in the works that will assign volunteers to each courtroom to meet and check off children and families as they arrive at court, answer questions, and orient and provide direction. They will keep parties informed of the case status and

accompany them to the assigned courtroom when their case is called.

The court is also leveraging technology to inform clients about their cases. A software program, expected to be in place at the end of 2018, will allow the court to enter cell phone numbers of case parties. The program will then automatically send a text message reminder to parties the day before their case hearing with the hearing date, court address, and assigned courtroom number. On the day of the case, the parties, witnesses, and attorneys will receive a text informing them when their case is ready and the courtroom number.

Respecting clients and helping them understand the court process. Court staff are trained on how to talk to and engage children and families who come to court. Following guidance in the NCJFCJ *Enhanced Resource Guidelines*, judges control the courtroom in a way that is respectful and nonthreatening and engages the parties. For example, Judge Michael says he'll ask a child's name, then ask if the child prefers to be called *Sam* or *Mr. Smith*? He also asks the child a direct question, such as how the child is doing in school, if the child got a good night sleep, etc. Similarly, he will put the child's family at ease by asking the parents' names and engaging them directly and respectfully.

Judge Michael explains the proceedings to parties and encourages questions. "I tell litigants all the time: Consider yourself in a foreign country. We speak a foreign language called legalese so if I say anything you don't

understand, raise your hand and I will explain it to you." The court is also working toward providing parties a copy of the court order before they leave the courtroom, so they will know specifically what is required of them. "All of these things tend to ratchet down the anxiety and make folks feel welcomed, not threatened" said Judge Michael. He contrasted that with a judge who immediately starts a trial by asking the prosecutor to call the first witness. "When you just launch into trial without explaining the process to litigants they walk out in a daze," he said.

Providing therapy dogs. A collaboration with Western Tennessee Therapy Dog Services brings therapy dogs into the court to sit with children during trials and hearings. For many children, a dog at the child's feet or side calms and helps the child feel safe and protected. "We know the benefits of having animals around children," said Judge Michael. "It relaxes them."



Offering parent orientation and education programs. Judge Michael's staff provide parent orientation programs in the community to help parents understand the legal process and expectations. Parent education programs were first started to teach parents whose children were detained by law enforcement about the legal process and requirements around attending probation meetings. The program had a positive impact by reducing the number of warrants the judge had to issue and giving parents a roadmap of how the system worked. Parent education programs were then broadened to all legal matters the court handles – child abuse and neglect, custody and visitation, delinquency, and child support. Increasing understanding of how the system works decreases stress and anxiety of participating in the legal system and in many cases prevents court involvement.

ASSESSING AND RESPONDING TO FAMILY TRAUMA

Assessing clients' trauma. Court staff are trained on trauma-responsive approaches and validated tools to assess family trauma. Voluntary trauma assessments are conducted on each family that comes to court. Judge Michael and the court magistrates only see the assessment findings after adjudication and use them to make informed decisions about how to treat children and families and provide rehabilitative services. The court has relationships with community service providers who provide trauma-informed services (e.g., psychologists, group homes, religious institutions), so if a family or child presents with serious trauma in their

background, the court will refer them to one of those providers.

Introducing trauma-responsive programs. Several court-based programs reduce trauma by diverting children and families from the court system. A juvenile detention diversion program is reducing the number of children who come to court by working with law enforcement to develop a detention assessment tool. Youth who do not need to be detained are sent home, given a summons, and asked to participate in a 45-minute educational program. They don't get juvenile court records. Judge Michael says this program has reduced the number of youth who come to court by over 85%. Similar programs designed to divert youth who carry guns and juvenile sex offenders from the juvenile system are also keeping youth out of the legal system.

Four years into the court's efforts to become more trauma responsive, Judge Michael cites his involvement with NCJFCJ as the strongest influence. Not only did the trauma assessment uncover areas to reform, but trainings and guidance provided by NCJFCJ and connections with other juvenile court judges and staff in the organization meant he didn't have to go at it alone. They gave him and his staff the knowledge and tools to lay the groundwork, start changing the court's culture and physical environment, connect with community partners who could support the court's efforts, and reimagine a court that places the child and family's experience at the center and promises to do no further harm.



IMPROVING HOW FAMILIES EXPERIENCE COURT BY REFORMING DOCKETING PRACTICES

It's Friday— “dependency day” at the Thurston County Family Juvenile Court in Olympia, Washington. Dependency court hearings are set in one of four courtrooms throughout the day, competing with other busy court calendars. The courthouse is packed, chaotic, and noisy. Scared families sit and wait in crowded hallways, waiting rooms, and courtrooms for their cases to be heard, often for hours. Attorneys, CASAs, and social workers scramble to adjust the case lineup to accommodate specific needs of families and connect with clients. Judges balance prioritizing which cases to hear first with ensuring more complex cases receive the time they need.

Change is coming. On June 1, 2019, pending approval, a new calendaring system is anticipated to roll out at the court. The new calendaring system is the result of a three-year collaboration with the National Council of Juvenile and Family Court Judges (NCJFCJ) to reform the court's docketing practices in dependency cases as part of broader court reforms. “We've known for a long time





that it's difficult for families to come to court and it's difficult for attorneys and social workers to be in court all day," said Chief Judge Anne Hirsch. "Sometimes just shifting the way we do things can make a big change for the better for these families."

Located in the state capital, the Thurston County Family Juvenile Court (FJC) has experienced increasing pressure on the court system as the number of active dependency cases has climbed in the last seven years. The child population in Thurston County has also steadily climbed over the last five years. Revamping the court's dependency court hearing calendar is critical to manage the increasing pressure, make the court experience more efficient and meaningful for families, and allow court staff and advocates to make the most of limited time.

Judge Hirsch shared the steps the court is taking to improve the court's calendaring practices, lessons learned, and anticipated benefits.



“Sometimes just shifting the way we do things can make a big change for the better for these families.”

- Judge Anne Hirsch

LEVERAGE TECHNICAL ASSISTANCE

A critical first step was applying to become a NCJFCJ Implementation Site. Judge Christine Schaller, who heard dependency hearings at the FJC until 2017 when she became presiding judge of the court, requested that the FJC apply for the NCJFCJ Implementation Site project and was instrumental in writing the application. She continues to be involved and plays an active role in implementing the reforms.

“We know the National Council has a lot of best practices identified,” said Judge Hirsch. “They’re the best resources on child abuse and neglect cases so we wanted to work with them.” Becoming part of the project in late 2016, put in motion for a range of technical assistance and support:

- **Assessment of calendaring practices.** NCJFCJ surveyed key system players about their concerns, system strengths and challenges, and information about the court’s calendaring practices. Surveys went to attorneys representing parents, children and child welfare agencies, court appointed special advocates, court staff, social workers, child welfare agency professionals, and service providers.
- **Site visit/court observation.** After the surveys were

conducted, NCJFCJ staff visited the court and met with each stakeholder group to discuss the survey responses and ask additional questions. They also observed dependency court cases for one day to see how cases were calendared firsthand.

- **Report and recommendations.** NCJFCJ staff prepared a report with recommendations based on the survey responses, site visits, and court observation.
- **All-sites meeting.** A meeting with other NCJFCJ Implementation Sites joined courts and judges from across the country to learn and share best practices.

FORM A LEADERSHIP TEAM, ADVISORY TEAM, AND WORKGROUPS

A leadership team formed to lead the docketing reforms. The team included the court's administrator, the senior assistant attorney general, and Judge Hirsch. The court also formed an advisory team that included policy representatives and upper level management for each stakeholder group. Under the advisory team, three workgroups were set up to focus on case calendaring, trauma-informed practices, and data. The calendaring workgroup was charged with reviewing and seeking input on calendaring proposals developed by the FJC's leadership team.

CONNECT WITH OTHER COURTS

NCJFCJ sent the court's leadership team to Austin, TX to observe a dependency court with a strong case calendaring system.

"We got to observe what they do and how they set up their hearings, met with their stakeholders, and observed how they did things in court," said Judge Hirsch. "It was really helpful, even though it was a very different court than ours," she said. She cited the court's staffing, particularly the number of administrative staff available to manage case calendaring, as a key difference. Observing the Austin court, along with interacting with staff from other courts at the NCJFCJ all-sites meetings, helped shape the court's calendaring proposals. It also forged communication and relationships with other courts that offered valuable guidance.

PLAN CALENDARING CHANGES

With the NCJFCJ's recommendations and guidance from other courts, the court's leadership team and calendaring workgroup began developing proposed calendar changes:

Time-specific calendaring. The court plans to shift to time-specific hearings. Current practice is to set dependency hearings during three-hour blocks starting at either 9 am or 1:30 pm. With time-specific calendaring, hearings will be set for one-hour time slots with smaller numbers of cases in each slot. "People should only be here between 9-10 am if that's when their hearing is set," said Judge Hirsch.

Workload reallocation. The court currently handles around 300 active dependency cases annually with Judge Hirsch and Judge Wilson splitting the caseload in half. One day per week, the court hears dependency review and permanency planning hearings.

Each judge has this schedule once every two weeks. In addition, the court handles contested fact-finding trials, which can take one day up to a week or more; these trials are set along with other family and juvenile trials, although they are priority cases. Termination of parental rights trials are handled by other judges in a separate court building. Post-termination reviews are part of the court's one-day dependency calendar. The court's Family Recovery Court handles some dependency cases involving parental substance use one-half day per week.

The court's three commissioners will serve as backup to the judges in dependency matters as part of the calendaring reforms. One commissioner currently handles some dependency and termination settlement conferences, and this will continue.

Added time for dependency hearings. An additional half-day will be added to hear dependency cases. Judge Hirsch explained that this will give attorneys an opportunity to schedule issues they want heard more frequently or request emergency reviews. It will also offer space to accommodate lengthy, complex review hearings that need more time than possible on the regular review calendars.

New dependency hearing day. Dependency court hearings are currently heard on Fridays, a very busy day for all of the court's judicial officers as they juggle many family and juvenile court calendars. Dependency hearings will move to Wednesdays, removing some of the tension build-up and Friday commotion to provide a better experience for

children and families and court professionals. The shift will mean fewer people in the building on Fridays, significantly decreasing security concerns, noise, and stress, and will break up the court week for the judicial officers and attorneys. The current Friday hearing day results in many late Thursday work nights for judges and other court staff and while changing the day will not necessarily reduce time spent preparing, the different day—coupled with other new practices—should reduce time working on issues that are not the primary focus of court reviews.

Administrative handling of pretrial hearings. The calendaring workgroup is developing forms to allow pretrial hearings to be handled administratively. The plan is to do away with a requirement for in-court pretrial hearings for attorneys, instead handling them administratively. This will free attorneys from a practice that created hardships and did not always benefit parties or the court. The practice will allow the court to continue to manage cases actively while accommodating attorneys' busy schedules. Pretrial hearings will still be available if counsel requests them or the court deems them necessary.

Shelter care hearing protocol. To streamline lengthy shelter care hearings, a protocol is being developed to guide what shelter hearings cover and how the court will conduct the hearings to better prepare participants and to focus the hearings.

Family-sensitive calendaring. "For many years now our shelter care hearings have been held at 9 am and parents have to

be here at 8:30,” said Judge Hirsch. “That doesn’t work well for a lot of our families.” She explained that school and work can create conflicts and many parents aren’t at their best when their cases are first filed; they’re often actively using drugs and struggle to get transportation to court. By calendaring these hearings later in the day, the court will have a better chance of reaching parents and families.

Written court record protocol. A protocol will be developed to require parties to provide a complete written record before their dependency hearings. The plan is for attorneys for children, parents, and the child welfare agency to draft or update model forms to gather information that conforms to NCJFCJ best practices and ensures

consistency over time. This will allow the judge to focus the hearing on what the parties are doing and what they need to be successful, rather than restating what is in the written report and the parties repeating the same information. “We’re working on having the hearing be one where the judge really gets to engage with the parents and focus on what needs to be done to move the case forward,” said Judge Hirsch. More meaningful, quality hearings targeted to issues the family is working on is the goal.

HIRE AN ADMINISTRATOR

Having someone on staff to oversee the reforms and keep them on track is critical, yet adding new responsibilities to existing staff created a challenge. “We had



visited the Austin court and saw that they have a lot of administrative staff who can help with scheduling,” said Judge Hirsch. “We’re very thinly staffed and don’t have time to do more.” The court’s board of judges approved using state Trial Court Improvement Funds – state funds designated for courts to make improvements -- to hire an administrator for six months to manage the calendaring reforms. The administrator came from a company the court had previously used to manage a similar reform effort in its criminal court. During the six-month contract, the administrator has played a valuable role managing the various people involved in the reforms, reminding people of deadlines, and getting the new calendaring structure in place.

BE TRANSPARENT ABOUT CHANGES

Changing courtroom practice can create a culture shift for attorneys and court staff who are used to the way things have always been done. “We try to be open about why we’re doing what we’re doing and that we’re making changes to make it better for the families we serve,” said Judge Hirsch. She emphasized the importance of transparency and constant communication to improve understanding and acceptance of the calendaring changes. With attorneys, she stresses how the calendaring changes should result in them spending less time in court and streamline case hearings so they focus on quality and efficiency. She also has good working relationships with the attorneys’ managers and talks regularly with them about the calendaring efforts. “No one is




going to be 100% happy so we’re trying to be as transparent about what we’re doing and why we’re doing it,” she said.

MEASURE IMPACT

A court data workgroup will measure the impact of the calendaring reforms and trends over time. Input is being sought from system stakeholders about what information would be valuable to measure, such as the length of time families are in court. The intent is to measure data points that will help show how the calendaring changes are impacting the court process and experience for participants. Client satisfaction surveys are also being considered to gauge the impact on children and parents.

REASSESS AND REVISE

Once the calendaring changes go into effect, Judge Hirsch anticipates having to evaluate the changes to determine if they are having



the desired impact. That evaluation will drive the revision process to ensure the changes are running smoothly. “We have to be committed to taking a look about six months after we implement things to see if there are things we should think about changing,” she said.

INSTITUTIONALIZE REFORMS

Once the new calendar changes are evaluated, finalized, and approved, local court rules and court forms will be developed to institutionalize them so they are not lost over time as people rotate in and out of the court. The plan is to preserve and document the process as much as possible so the new structure is maintained over time.

Planning is nearly complete and implementation of the calendaring changes will soon to begin. Reflecting on what it took to get to this point and how other judges interested in reforming docketing practices can get started, Judge Hirsch said, “It’s important to have a vision, yet also be open to learning from other high-functioning courts.” Patience, inclusiveness, sensitivity to deadlines, and hard work are also key. She believes the end result will be an improved experience for children and families. “By having us slow down and not have so much going on at the time their cases are heard, I think their experiences in court will be less traumatizing, so they can get actively engaged to hopefully get their kids back,” she said.

Improving Court Practice

in Douglas County, Georgia



Better opportunities for education and career brought Judge Peggy Walker to Douglas County, GA in the 1980s. She'd moved from McDowell County, WV, one of the poorest, economically depressed counties in the United States. After obtaining a master's degree in education, she began a career in early childhood education. Seeking to do more, she earned a law degree and became a private attorney. Without a client base or community connections, she began volunteering at the Juvenile Court of Douglas County. The experience, combined with

her early childhood teaching experience, solidified her interest in juvenile court and serving children and families in her community.

Now a judge in the court since 1990, Judge Walker has brought her enterprising spirit and resourcefulness to the court. She started part time as Associate Judge and Judge Pro Tempore and has served as the court's lead Juvenile Court Judge since 1998. Over that time, she has sought to improve the court's handling of child abuse and neglect cases and introduce best practices.

To align the court's work with national best practices, Judge Walker turned to the National Council of Juvenile and Family Court Judges' (NCJFCJ) *Resource Guidelines in Child Abuse and Neglect Cases*. "I came to find the *Resource Guidelines* and they became the guide for me on the how to," she said. For juvenile court judges throughout the country, the *Resource Guidelines* have served as a roadmap since their release in 1995, providing guidance to judges on effective dependency court hearing practices and improving handling of child abuse and neglect cases. Courts that committed to using the *Resource Guidelines* became part of NCJFCJ's expansive Model Court program, with over 80 jurisdictions participating and receiving training on its best practices. "I went to many sessions where they were teaching judges how to use the *Resource Guidelines* in their courts," said Judge Walker.

TIME FOR A REFRESH: NEW GUIDELINES

As the child welfare field evolved, new laws and research emerged, and the Model Courts learned from their experiences, the time came to revamp the *Resource Guidelines*. The *Enhanced Resource Guidelines*, released May 2016, updated and expanded the original version, becoming the new

framework for juvenile court judges and related professionals at every stage of a child dependency court proceeding. The *Enhanced Resource Guidelines* incorporated over 20 years of changes to the law and adopted new principles. NCJFCJ is using the *Enhanced Resource Guidelines* as a foundation for training new and experienced dependency court judges and related professionals.

SPRINGBOARD FOR CHANGE

Judge Walker's court is implementing the *Enhanced Resource Guidelines*, serving as an implementation site in the same way the Model Courts did for the original *Resource Guidelines*. She is using the *Enhanced Resource Guidelines* to align court practices, try new approaches, and create a shared understanding of expectations among professionals who enter her court. "This is the opinion of people across the United States who've got lots of experience on the best way to do the work," said Judge Walker. "I use the *Enhanced Resource Guidelines* to organize my court and to train the stakeholders on my expectations for them."

Judge Walker has found her knowledge of the original *Resource Guidelines* and experience working with them for 15 years before release of the *Enhanced Resource Guidelines* to be an advantage.

"I use the *Enhanced Resource Guidelines* to organize my court and to train the stakeholders on my expectations for them."

- Judge Peggy Walker



“I’ve had the opportunity to be able to understand the original *Resource Guidelines* and to know what the differences are, then to begin the work to make changes,” she said. With the new guidelines in hand, Judge Walker convened the court’s stakeholders to review them against the court’s existing practices, identify where they aligned and gaps, and select areas to work on to better serve their community.

HIGHLIGHTS OF THIS WORK INCLUDE:

Engaging Parents Early

Engaging parents as early as possible in court and having them more fully participate in decisions that impact them and their children is one change Judge Peggy Walker is making. The *Enhanced Resource Guidelines* stress the importance of engaging parents early and giving them meaningful opportunities to participate and have input in all stages of the court process. “One of the things we’re working on is the engagement piece to give parents some sense of participation,” she said. She

regularly asks parents, “What do you think? What would work for you? What would be a good way to approach this from your perspective?” This gives them a sense of involvement and that they are helping make decisions. “The one thing I’ve learned from doing this day in and day out is that the sooner you can get that engagement piece, that recognition of what the problems are and that desire to change, the more successful you’re going to be,” she said.

Child-Centered Practice

The child is now at the center of all court practices in Judge Walker’s court. “Probably the best thing we’ve done is put the child in the center of our practices and make the court child focused,” said Judge Walker. She says that when people come observe the juvenile court, they are struck by how everything is driven by what the child needs. As an example, prior practice in cases involving parents who tested positive for drugs was to present an ex parte order suspending parent-child visitation. Now, Judge Walker will say: Wait a minute, let’s



talk about the child. How's that going to impact the child? What's an alternative to doing that? How can we support the child despite the parent's addiction? "That's certainly changed our practices," she said.

Trauma-Sensitive Court Practices

In Georgia, children are parties, so they are present in court. The *Enhanced Resource Guidelines* emphasize a new focus on trauma for juvenile courts and stress creating an environment that reduces a child's stress, incorporates practices that are sensitive to trauma triggers, and promotes healing. Judge Walker said they now pay more attention to what is said and done in court in the presence of children. She routinely asks, "Are there things we're going to address that perhaps the child should be excused, and do we have a child-friendly place?"

Judge Walker takes precautions with children who have been removed from their parents and are dealing with separation. She prepares children before court hearings, telling them they will see their parents again and a plan will be made to help them reunify.

She also pays attention to how she engages parents in the presence of their children, avoiding statements that are harsh or hold parents accountable. "We really want to understand the trauma they've experienced as part of that abuse and neglect and make sure our system isn't retraumatizing them by the way that we conduct court," she said.

The court created a reading room where children and parents can go and read books. Besides being an inviting, safe space for children, it promotes education and literacy, said Judge Walker. Children are allowed to take books home – a small gesture that can brighten their court experience. "A lot of our families don't have access to books, so we're helping make sure children leave with books," said Judge Walker. "These are small things you can do, not necessarily expensive, but that can make difference."

The court also began a therapy dog program. Judge Walker shared that therapy dogs can be present in court and serve as a comfort source for a child when difficult decisions are being made, such as post-removal hearings

when a child will see their parent in court.

Recognizing Vicarious Trauma

Judge Walker is also sensitive to the vicarious trauma experienced by child welfare professionals who work day in and day out with children and families. “In a lot of ways, they’re as fragile as the parents we are dealing with because they’re the ones on the front lines,” she said. Caseworkers have visited the family’s home and have seen the children cry when separated from their parents. “The *Enhanced Resource Guidelines* suggest that we are thoughtful about how we’re approaching things from the perspective of every person. They help us focus broadly, not just on children and not just on parents but on the system as a whole,” she said.

Early Childhood

Growing research on the needs of infants and toddlers in the child welfare system and the impact of removal and separation on their development is shifting courts’ responses to removal, placement, and other decisions. The *Enhanced Resource Guidelines* encourage judges to view decisions through the lens of the child. A companion bench card, *Questions Every Judge and Lawyer Should Ask About Infants and Children in the Child Welfare System*, offers specific questions for judges in cases involving very young children.

“It’s very important for us to think through what we’re doing and make sure we’re meeting the needs of infants and toddlers because those first three years really determine the trajectory of that person’s life forever,” said Judge Peggy Walker. In her court, she recognizes the important role of a young child’s attachment to his or her primary caregiver and the impact of removal on that attachment. “Every time you remove a child, even if you’re removing them to a better situation, you are impacting that child in a negative way because that primary attachment is the most important thing to that child,” she said.

“...the best thing we’ve done is put the child in the center of our practices and make the court child focused.”

Judge Walker avoids unnecessary removals and placements when it is safe for the child. She also orders supports and services to foster healthy attachments. She is careful to identify and address a parents’ underlying issues that may prevent a positive attachment with

the child. “It’s very important for us to think about learning,” she said. “Children learn in that primary relationship. If [the person] is depressed and they’re not interacting with that child, it’s going to negatively impact that child’s learning. So, you’ve got to make sure you’re dealing with issues of depression.”

Similarly, she finds trust is also critical for a young child’s healthy development and ability to form relationships. “If you can’t trust that your needs are going to be met because you cry and nothing happens, or you’re hungry

and nothing happens, your diaper is soiled and nothing happens, then you don't have the ability to establish relationships later in life based on trust because you've learned you can't count on adults to do what needs to be done for you," she said. She looks for ways to foster that trust, ideally with the child's primary caregiver, through positive caregiver-child relationships that meet the child's needs consistently.

PROMOTING ATTORNEY BEST PRACTICES AND COLLABORATION

Although the *Enhanced Resource Guidelines* are written for judges, Judge Walker says they are equally valuable for guiding attorney practice. "It's very important for attorneys to understand how judges are trained.

If they understand how judges are trained, then they know what the expectation are as to their representation." She said it also helps them better understand how to balance their adversarial role in a child welfare case with the need to collaborate. The *Enhanced Resource Guidelines* help them understand how to strike that balance between vigorously representing a client's interests and understanding the ultimate goal is to get the child back home. "Winning in juvenile court is very different from winning in other types of cases because a win for us is a




family that is reunified, strong, and safe," she said. "The *Enhanced Resource Guidelines* help attorneys understand how we work collaboratively to get there."

ALIGNING STATE STATUTES WITH BEST PRACTICES

Georgia has aligned the state's statutes with many of the best practices outlined in the *Enhanced Resource Guidelines*. "Many of the things that came out of the original *Resource Guidelines* and now the *Enhanced Resource Guidelines* are in our state statutes

because we are that committed to best practices in our state that we have aligned our statutes with the guidelines," said Judge Walker. The extra step solidifies the court's commitment to the best practices and assures they are followed by making them part of their laws.

Judge Walker believes "the greatest service that we can do for children and families is to educate ourselves." The *Enhanced Resource Guidelines*, and before them the original *Resource Guidelines*, have provided the framework for that education in her court. The children and families it serves are the beneficiaries as the court works to engage and support them in new ways, ensure their court experiences are positive and sensitive to trauma, promote healthy early childhood development, and keep children at the center of decision making.



In a 2017 survey by Child Focus, **80% of attorneys** and **76% of judges** agreed with the following statement: “Children in foster care should only be placed in non-family settings (shelters, group care, residential treatment) when such placements are therapeutically or medically necessary.”¹ So what role can attorneys and judges play to make this vision a reality?

In the following article, Judge Kim Berkeley Clark shares actions she has taken to reduce congregate care placements by 60% in five years in her community.

REDUCING CONGREGATE CARE PLACEMENTS

SEVEN

STRATEGIES FOR JUDGES AND ATTORNEYS

A teen girl with severe mental health needs enters Judge Kim Berkeley Clark’s court in Pittsburgh, PA for a review hearing. She had previously been adjudicated dependent and placed for three months in a residential treatment facility, where she gradually progressed. In the past, the placement recommendation would have been continued congregate care. Not today. After extensive efforts to identify the girl’s family and supportive connections, her caseworker found an aunt able to help.



Judge Clark orders preplacement visitation with the aunt, starting at the residential treatment facility and gradually moving to offsite day visits then overnight visits. She also asks the child welfare agency to arrange meetings with the residential treatment facility to help the aunt understand the girl's needs and what services and supports she will need. As a kinship caregiver, the aunt will become licensed through the agency and eligible for subsidies in line with foster caregivers.

With regular court oversight to monitor progress at the residential treatment facility, the girl continues improving while establishing a closer relationship with her aunt. The caseworker and a counselor at the residential treatment facility have taught the aunt about the girl's medication regimen, how to keep her on track through regular psychiatric appointments with a local provider contracted by the agency, and strategies and supports to help her assimilate into school and the community.

After three months, Judge Clark orders the girl's transition to placement with her aunt. The girl responds well to the home environment with a family member, in-home supports, regular counseling, medication management, and integration into a public school and community activities. However, she has some behavioral issues in the aunt's home. After running away and engaging in some negative activity, a decision is made to return her to residential placement through juvenile probation with a goal to reunify her with her aunt. Another potential foster home with a family friend has been identified if it doesn't work out with the aunt.

In Allegheny County, Pennsylvania, where Judge Clark has presided over the Family Division of the Fifth Judicial District of Pennsylvania for 21 years, the Office of Children, Youth and Families (OCYF) has a goal of no children in congregate care. With a current 5% congregate care placement rate, the goal is in sight yet there's still work to do. "[W]e still think that congregate care number is too high," said Judge Clark, "but we're working on it." (State congregate care placement



rates vary significantly. In federal fiscal year 2014 the national average was 14%, ranging from a low of 5% to a high of 31%.²⁾

Reducing reliance on congregate care for children in Allegheny County is rooted in the growing awareness that placements in group homes and residential treatment facilities lead to poor outcomes for children. Allegheny County has set out to change these outcomes by ensuring congregate care is only used for children with severe mental health or substance abuse treatment needs. From 2012 to 2017, the number of children in congregate care settings declined by 60%.³ Judge Clark shared steps she and Allegheny County have taken and strategies for judges and attorneys to reduce reliance on congregate care.

Clearly define when congregate care is appropriate. A narrow population of children and youth are placed in congregate care in Allegheny County. “The only kids where I think there’s a legitimate reason to send them to congregate care are those with such extreme mental health needs requiring a hospital bed or those with high addiction issues who need residential drug treatment,” said Judge Clark. An example is a youth IV-heroin user who would benefit from longer-term residential treatment to recover. A child with severe mental health issues/concerns who is engaging in harmful behaviors, such as suicidal ideation or aggression towards their family, would also require a hospital setting to provide mental health treatment and regulate medication.

“We do a lot of family finding and are constantly updating connections and supportive adults for a young person.”

- Judge Kim Berkeley Clark

Engage family when a child is placed in congregate care. Involving the child’s parent and extended family helps support the child and strengthens permanency planning. For dependent children placed directly in congregate care, the court and agency actively look for the child’s family supports. “We do a lot of family finding and are constantly updating connections and supportive adults for a young person,” said Judge Clark. This is critical to identify potential placements and supports for children who will transition from congregate care to a kinship or foster placement, and for youth old enough to transition from foster care to independent living.

Sometimes a child living at home or in foster or kinship care may end up in congregate care because of serious behavioral issues requiring a high level of care. “The goal is clearly to go back home or to be placed in kinship or foster care,” said Judge Clark. “The idea is for the family to visit them in placement, engage with the treatment teams at the facility, and engage with family therapy when recommended,” she said. Home visits with the parent or kin caregiver and services to help the child return home or to a kinship or foster placement are essential. Sibling visitation is also arranged to help maintain sibling ties.

Efforts address barriers to family involvement. For example, the agency provides parents and family members transportation to facilities for visits and some congregate care providers arrange transportation for parents as part of their contracts to allow them to visit the child and join family therapy and other services. If a parent’s own issues prevent the parent from visiting the child, the court and agency work to try to limit any negative impact on the child. Congregate care facilities are also discouraged from making visits with family a reward or punishment for a child’s good or bad behavior.

Increase kinship placements. A focus on increasing kinship care placements is key to Allegheny County’s success. Currently 70% of dependent children who have been removed from their families are in kinship care (well above the national average of 14% in federal fiscal year 2014⁴). Many children placed with kin can avoid congregate care when services and supports are in place that allow the child to work on challenges and make progress while in kinship care. “Wherever possible that you can put services in the home to prevent [congregate care] placement, that’s the best-case scenario,” said Judge Clark.

Kin caregivers in Allegheny County are licensed and paid in line with foster

caregivers. Judge Clark explained that in the past it was assumed relatives had a duty to care for kin. The reality was a single parent with limited financial resources, or a married couple with three kids of their own, could not take in nieces and nephews without financial and other supports. The OCYF director recognized this and committed to supporting kinship care by paying and training kin caregivers. A separate agency was created to provide counseling and emotional support for kin caregivers, and arrange respite care. These supports attract and retain kin providers and ensure children benefit while in kinship care.

Visit congregate care facilities to evaluate them firsthand. Judge Clark visits congregate care facilities where children are placed to see and learn how they operate. She asks: *Would I want my child to be here?* and *If I were a kid, would I want to be here?* “If the answer to that is no, then that’s a big issue,” she said.

Staff quality is also important when evaluating facilities. Staff quality indicators include training, longevity, and ability to build relationships with children and provide them opportunities and experiences they may not have gotten at home.

Studying child outcome data helps identify programs that are working well, not just making a good appearance. Judge Clark recalls visiting congregate care facilities when she was a new judge that were beautiful and looked like college campuses with a lot going on,” she said. “But when you looked at outcomes, they weren’t

good and you had to ask why?” In contrast, other facilities that appeared stark had data showing successful outcomes, such as helping youth stabilize and address their mental health or drug issues, transition from congregate care to a more family-like placement or independent living, and join community activities. “Don’t be afraid to look at the data,” said Judge Clark.

Talk to children in congregate care to learn what works. Judge Clark makes a point to hear from children in congregate care about their needs and experiences. For kids who are doing well, she wants to know what worked for them. For children who have been in more than one facility and done poorly in one but great in another, she finds out why. Was it the staff, physical aspects of the facility, quality of services received, ability to make children feel safe and respected, ability to provide experiences that kids might not otherwise receive, ability to help kids develop achievable goals? “Listening to what the kids have to say and seeing with your own eyes where you’re sending them is hugely important,” said Judge Clark.

Set high quality standards for congregate care providers. When OCYF set a goal of no children in congregate care, a shift occurred in the quality and types of services congregate care providers were expected to offer. “We met with providers and said we want you to do something different,” said Judge Clark. For the court and agency to continue sending children to them, they were asked to increase supervision, improve facility quality and safety, provide community-based services, and give children

normal experiences, such as attending public school, joining extracurricular activities, getting jobs, dating and engaging in social activities, and learning to drive.

Some providers stepped up to the plate, while others closed. Outcomes improved for those facilities that changed. Children received tailored services and supports that helped them stabilize their mental health or addiction issues so they could transition to family-based placements. They also received services to address trauma histories, gain life skills, build self-esteem and self-worth, integrate into the community, and experience normal activities.

Judge Clark cited a residential provider for girls in downtown Pittsburgh that started incorporating empowerment strategies for

girls, trauma therapy, and community-based services. Girls get bus passes to attend public school like other children. There is a mother-baby program for teen parents that provides a safe environment to raise a child and learn how to parent. Its convenient location in the city also makes it easy to access some of the best services available in the county. Another provider in a more remote location serving a highly impoverished population started providing opportunities for vocational and employment training.

Routinely monitor congregate care placements. Regular court oversight when a child is in congregate care helps ensure the child's needs are being met, the child is progressing, and a transition plan is in place. Questions Judge Clark asks at review





hearings include:

- *What are you doing to get this child out of this group home to go home or into foster or kinship care?*
- *What are you doing to meet the needs of this child in congregate care and make life more normal?*
- *Is there anything the child wants?*

“We want to make sure with this population that they’re moving toward being discharged from congregate care to a foster care home or kinship care,” said Judge Clark. While dependency cases in Allegheny County are reviewed every three months, congregate care placements often receive more frequent attention. “We might be reviewing every 30 days or so to make sure we have our eyes on it,” she said. This keeps people on their toes

and ensures expectations are being met.

Judicial oversight of congregate care placements is especially critical now because Sections of the Family First Prevention Services Act (FFPSA), which become effective in October 2019, will limit federal financial support for congregate care placements. The provisions call on judges to play a critical role determining the need for residential placement and monitoring such placements regularly during the case. For example, a qualified individual must assess the child’s placement in a residential facility within 30 days and a judge must review that assessment within 60 days to ensure residential placement is appropriate and meets the child’s needs in a way that a family foster home cannot. A shortage or lack of foster family homes will not be considered an acceptable reason for residential placement. Judge Clark said Pennsylvania is starting to discuss the provisions, how they mesh with existing practice, and implementation issues at their state judges’ roundtables.

Don’t give permission for congregate care. An ah-ha moment came for Judge Clark when the OCYF director told her: *If you don’t want us to put kids in congregate care then don’t give us permission. The caseworkers can only do what you give them permission to do.* Judge Clark said she realized congregate care was sometimes the easiest out for them. “When I stopped giving them permission, guess what, they were able to find other placements for kids,” she said. She started giving permission just for kinship or foster care. Aside from cases where the child’s needs clearly warranted congregate

care, she only changed her position when thorough efforts to identify a kin or foster placement were unsuccessful.

Plan to transition children from congregate care. Transitioning to a family-based placement is the goal for most children in congregate care. “We really don’t want kids to languish in a group home,” said Judge Clark. “If they have to go, it should be for a clearly defined purpose and for a short period of time until we can move them home, to foster or kinship care, or living on their own.”

Judge Clark helps transition children to kinship or foster care by arranging preplacement visitation with the prospective caregiver. This approach allows the child and caregiver to build a relationship gradually. It starts with the caregiver going to the facility to meet the child and facility staff to get a full picture of the child’s needs. Visits progress by allowing the caregiver to take the child off-grounds for day visits, followed by overnight visits. Once a bonded relationship forms, the child and family are ready for placement. This process takes two-to-three months for some children, longer for others. “The benefit is it usually lasts,” said Judge Clark. “It is a slow process on the front end but it can create a better chance of permanence.”

For older youth, age 17 or 18, who don’t want to go to a foster or kinship home, Judge Clark honors their wishes and moves them toward

independent living. Family supports and positive adult connections are critical in this process. By law in Pennsylvania judges must get the first and last name of at least one supportive person during transition planning for older youth. Judge Clark tries to get three names and ensures youth have strong, positive relationships with these adults.

Innovative efforts in Allegheny County and Judge Clark’s court ensure congregate care is reserved for children who truly need it. An emphasis on safe, high-quality congregate care facilities that meet children’s needs and help them progress and move toward less-restrictive, family-based placements ensure it is a short-term solution.

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 - 2 National Center for State Courts. “Non-Family Placements: What We Know.” *Reducing Reliance on Non-Family Placements: A Judicial Toolkit*. <https://www.ncsc.org/Microsites/EveryKid/Home/Non-Family-Placements.aspx#_ftn7>
 - 3 “Allegheny County Out-of-Home Placement Care Types, 2012-2017.” (PowerPoint slide). Citing KIDS Report Portal data; point-in-time counts on 12/31 of each year. Extracted on 5/17/2018 by ACDHS-DARE
 - 4 Child Trends. *State Child Welfare Policy Database: Foster Care Facts FFY 2014, United States*. <https://www.childtrends.org/wp-content/uploads/2016/12/National-Foster-Care-Factsheet_2014.pdf>

“Listening to what the kids have to say and seeing with your own eyes where you’re sending them is hugely important.”

- Judge Kim Berkeley Clark



EIGHT

SAFEGUARDING BABIES AND STRENGTHENING FAMILIES IN COURT

When a baby enters the child welfare system, time is precious. A window exists to shape that child's developmental path – a path that optimally is filled with nurturing, love, secure attachments, attention to physical and emotional needs, and daily stimulation. Every decision matters and has the potential to shape the baby's future.

When Judge Joyce Williams Warren was asked to pilot a Safe Babies Court at her juvenile court in Little Rock, AR, she didn't hesitate. "I'm a petri dish for innovation and pilot programs," she said, recalling the decision. The conditions were right:

- Her court had been working to improve handling of child abuse and neglect cases.
- Early childhood issues were a focus at the child welfare agency in Little Rock.



- Growing research on babies' cognitive and emotional development and the impact of trauma was changing age-old ideas on how to protect them.
- Evidence-based services were emerging to meet infants' mental and physical health needs.

“It was kind of a perfect storm,” said Judge Warren. The decision opened the door to a new court-based approach to serving maltreated babies and their families.

Since 2009, the Safe Babies Court has operated in Pulaski County, one of two counties served by the Sixth Judicial Circuit Court of Arkansas where Judge Warren presides. It is one of 76 Safe Babies Courts throughout the country developed under the guidance of ZERO TO THREE. It provides a developmentally sensitive, collaborative approach that surrounds babies and their families involved with the child welfare system. The services address the child's developmental, physical, and mental health needs and promotes permanency.

Court evaluations reveal promising outcomes for the babies and families the court serves. Judge Warren cites less frequent moves, improved parent-child bonding and healing, and faster reunification and other permanency outcomes. According to the *Arkansas Safe Babies Court Teams Annual Progress Report: July 1, 2017 – June 30, 2018*, the Pulaski County Safe Babies Court served families with 14 children under age three. Data for these children during the Fiscal Year 2018 reporting period showed:

- 100% received developmental screenings and assessments;
- 90% had not more than two placement changes;



- 90% were placed in a concurrent planning home (fit and willing relative or foster/adopt placement);
- 69% visited with parents at least two times per week;
- and 100% who had siblings visited siblings at least two times per week.

In this article, Judge Warren shares key components and aspects of the Safe Babies Court that have led its success.

HIRE A COMMUNITY COORDINATOR

A community coordinator works with the judge and keeps the Safe Babies Court running smoothly. “You have to have one or it won’t work,” said Judge Warren. She worked with ZERO TO THREE to hire a full-time community coordinator with child development expertise who assisted the Court in identifying Safe Babies Court Team members. The community coordinator

was responsible for leading monthly team meetings, meeting with families, and identifying and developing services and community resources to meet the needs of babies and families served by the court. ZERO TO THREE also provided a community coordinator mentor to assist the community coordinator, especially in the court’s development phases.

SEEK COMMUNITY INPUT AND SUPPORT

The purpose of a kickoff meeting was to seek input and obtain buy-in of professionals and community members who touch the lives of babies and their families. At the table were children’s attorneys, child welfare agency attorneys, attorneys who represent parents/guardians/custodians, court appointed special advocates, child welfare staff, mental health professionals, foster parents, service providers, and others. They brainstormed

“We just built a community of services designed to meet the needs of children and families in the court.”

- Judge Joyce Williams Warren

services and resources for families with young babies involved in the court system. They also identified community strengths and gaps in meeting those needs. The Safe Babies Court model was shared, and roles discussed.

FORM A SAFE BABIES COURT TEAM

Kickoff meeting participants were invited to join the Safe Babies Court Team. Team members meet monthly to guide the court’s implementation. They set the court protocol and criteria for Safe Babies Court cases with guidance from ZERO TO THREE. Criteria established for cases included:

- The child, or one child in a family of siblings, must be under age three at the time the petition is filed alleging abuse or neglect.
- The adjudication of abuse or neglect must result in the child being in an out-of-home placement.
- The family must live in Pulaski County.
- Parents must want to be involved, as participation is voluntary.

Team members also received training on child development, the importance of child-parent visitation and frequent contact, trauma, system accountability, and services and supports tailored to infants and young children who enter foster care.

BUILD A COMMUNITY OF SERVICES TAILORED TO BABIES AND FAMILIES

“Having families enveloped in a cocoon of services that are tailored to them” is at the heart of Safe Babies Court cases, said Judge Warren. Evidence-based and intensive services provided early in the case help place the child on a positive developmental path and restores the parent-child relationship. Each child age 0-3 and their siblings receive comprehensive mental health and developmental assessments and services tailored to their needs, including medical and mental health services. Assessments and services also address parents’ needs and strengthen the child-parent relationship.

“Every community doesn’t have every service for every child, and most communities lack the resources and people don’t know what’s necessary,” said Judge Warren. The community coordinator bridges those gaps. For example, to provide screenings for Fetal Alcohol Spectrum Disorders, the community coordinator worked with the University of Arkansas for Medical Sciences Department to bring in people to meet that need. When Child-Parent Psychotherapy (CPP), a core component of the Safe Babies Courts, was lacking, ZERO TO THREE brought a renowned mental health

expert to train Arkansas therapists on the CPP protocol. Comprehensive mental and physical assessments for kids were already being provided and were easily integrated into the Safe Babies Court. “We just built a community of services designed to meet the needs of children and families in the court,” said Judge Warren.

PROVIDE FREQUENT PARENT CHILD CONTACT AND FAMILY TIME

To protect and foster the infant-parent bond, Judge Warren orders visits three times a week for two hours each visit. Trained visit coaches observe visits and share with parents what they did well and where they can improve. Visits may occur at the child welfare agency, churches, community partner facilities, the foster home, and sometimes the parent’s home.

PROVIDE JUDICIAL LEADERSHIP

Judge Warren shepherds the case through the process and ensures things are done legally. She approves the case plan and case goals, determines the family’s progress in meeting case goals, ensures accountability, determines if the agency has made reasonable efforts, and issues required timely rulings. “My role as the judge is to make sure we keep the child’s best interest at the forefront and that every person involved in the court has the right and opportunity to be heard,” said Judge Warren. She also sets the tone for being respectful, obeying the law, and appreciating the time-sensitive nature of the proceedings involving babies.

LIMIT CASELOADS

Court caseloads are limited to 20 cases at one time. In Pulaski County, 10 to 12 cases are the normal caseload. “You don’t want to have a lot of cases because it weakens the ability of the community coordinator to do her job,” said Judge Warren. She cited monthly team meetings, gathering community members, searching for Safe Babies Court Team members, educating groups about the program and their roles, meeting with families, identifying services, and providing case direction among these activities. Limiting cases is also important to dedicate enough time to have quality hearings.

REVIEW SAFE BABIES CASES FREQUENTLY

“One of the polestars of ZERO TO THREE is to have frequent court hearings,” said Judge Warren. This keeps close eyes on the child, family, and the case. Unlike traditional dependency court cases where reviews typically occur every six months, ZERO TO THREE recommends review hearings occur monthly in Safe Babies Court cases. Judge Warren reviews cases every six weeks— a more realistic timeframe for her court to allow enough time to conduct quality hearings and complete and distribute mandatory court reports between hearings. Starting next year, she will hold reviews every eight weeks but will increase the caseload from the current 10-12 cases to 20. “The key is for the judge to review cases frequently and still allow time for thorough hearings,” she said.

USE FAMILY TEAM MEETINGS TO IDENTIFY AND RESOLVE ISSUES OUTSIDE COURT

Family team meetings, facilitated by a trained attorney mediator, bring parties together in a non-adversarial environment where everyone has an equal say and things are said respectfully. The meetings help families identify and work through issues outside court. They are important to keep eyes on the baby and family between hearings, keep the case on track, and ensure progress is being made to meet requirements of the case plan. They also help troubleshoot issues as they arise rather than waiting for court hearings. In one case, a family team meeting resulted in coordination of day care services and transportation so the child and parent could begin a trial home placement to further the case plan goal of reunification.

ALLOW ENOUGH TIME FOR REVIEW HEARINGS

Judge Warren hears dependency and neglect cases twice a week. She sets review hearings in her Safe Babies Court cases every six weeks for 45 minutes per case. If she knows a particular case will take longer, she'll set it for a longer period of time on the docket. If done correctly, a family team meeting held before the review hearing will have identified issues and placed parties on a path to correcting them. "You know the issue. You've got the meat of the court report and don't spend time repeating everything in it," she said. "You have more time for other things, like identifying whether the child can go home."

BRING BABIES TO COURT

Arkansas law requires children to come to court in dependency proceedings. They can be excused for good reason (e.g., school, illness), but in most cases, they are present.



Judge Warren makes a point to have babies come to court because it reminds the parties why they're there and offers information that a picture or description cannot. "I like to hold the babies," she said. "I want to see how they respond to their parents. We can compare the child's behavior between court appearances – see if they're colicky, fearful, and so forth." Physical changes, such as if a baby is having trouble holding her head up or is a little wobbly, can also be observed if the child comes to court.

Judge Warren ensures the court environment is welcoming to babies. She keeps a ready supply of apple sauce and animal crackers and makes toys available. She also encourages caregivers to get up and walk a fussy or crying baby around the courtroom. If it is difficult to hear over the child, she excuses the baby to the waiting room with a caregiver.

STRESS THAT THE CLOCK IS TICKING

Safe Babies Courts emphasize time is essential in the life of a baby. "A month in the life of a two-month-old is half that child's life," said Judge Warren. She tells parents about legal timeframes for court



decision-making. She informs the parties that a permanency planning hearing must be held at the one-year mark from the time the child is removed from his or her home to decide if the parent is ready to resume care of the child, and it is in the child's best interest to return home. "I put 'the clock is ticking speech' in my orders,

and I tell them from the bench too," so parents leave court knowing what to expect and do not feel blindsided.

STRESS THE TEAM APPROACH AND BE HONEST AND OPEN WITH PARENTS

Supporting parents and helping them feel they are part of a team is key in Safe Babies Court cases. "Parents need to know they're not alone out there," said Judge Warren. "It's traumatic to come to court. When eyes are watching when you're talking to your child and when you have problems, you're going to feel like the world is against you." She makes sure the parent understands that her role as the judge is to ensure all parties are treated fairly. She explains that the roles of the attorneys and CASA are to protect the interests of the child. She also explains the roles of other system professionals and how they all work together as a team. "You have to have an atmosphere of caring and

compassion,” she said.

While Judge Warren always pulls for the parent and child, she is honest with parents about the decisions she must make and the need for a backup plan. “I always tell parents, I want this child to come home to you, but the clock is ticking, and we can’t wait forever for you to do what you need to do to get this child back home.” she said.

BE FLEXIBLE AND OPEN TO CHANGE AND CONTINUALLY LEARN AND APPLY THE LATEST INFORMATION

The science of child development is rapidly evolving and reshaping how the child welfare system and courts intervene with babies and very young children. “Years ago, we didn’t have brain development science to say why babies grieve,” said Judge Warren. “Now we know why babies grieve. They need that connection. Their brains need that connection and bonding. When something is taken away who is dear to that baby, that baby grieves,” she said. She recalled how standard practice was once to move a child from one foster home to another to avoid having the child get too attached to

the foster parent. “Now it’s the opposite. We learn things because of the science and developments that have taken place, and we can act on those things in our best practices, policies, and laws.”

The Pulaski County Safe Babies Court surrounds babies and their families with a network of support--a team--that understands babies’ unique developmental needs and quickly puts in motion critical, evidence-driven interventions. It strives to reunify parents with their children--whenever possible--through efforts to restore and maintain the parent-child bond. Frequent attention by the court, advocates, and community providers, both in and out of court, give a level of attention that keeps cases from falling through the cracks and gives every opportunity for babies and their families to stay together and thrive.

“My role as the judge is to make sure we keep the child’s best interest at the forefront and that every person involved in the court has the right and opportunity to be heard.”

- Judge Joyce Williams Warren

NINE

CREATING YOUTH SUCCESS STORIES, **NOT CRIMINALS**

A Look at Juvenile Diversion in
Garland County, Arkansas



“We know that 90-95% of kids engaging in this kind of conduct will stop as a natural progression of growing older, maturing...”

A child runs away from home, skips school, commits a nonviolent offense, gets in a fight... Behaviors that once triggered juvenile court system involvement in Garland County, Arkansas are leading many youth down a different path. Juvenile court diversion for status offenders and juvenile delinquents is successfully rehabilitating many youth in the community without the need to come to court.

Introducing juvenile court alternatives at the Eighteenth East Judicial Circuit Court in Hot Springs, AR began in 2015. Presiding Judge Wade Naramore saw an opportunity to minimize how many youth's cases are heard in court and promote their rehabilitation through collaborative, community-based approaches. “One of the primary things I've worked on is diversion away from normal, formal court,” said Judge Naramore. “We know that 90-95% of kids engaging in this kind of conduct will stop as a natural progression of growing older, maturing. We don't want to bring them into the system and inadvertently create criminals,” he said.

Diversion has reduced an overloaded juvenile court docket, minimized many youth's exposure to the court system, improved youth's chances of successful rehabilitation,

and allowed the court to devote time to higher-risk, higher needs youth. Judge Naramore shared highlights of his court's diversion efforts, keys to their success, and their impact.

DIVERTING STATUS OFFENDERS

As a one-county judicial district with seven school districts and a population of 105,000, Judge Naramore's court handled many status offense petitions. School truancy, runaway behavior, mental health-related behaviors, fights, and noncriminal behaviors bogged down the court's docket and brought youth to court for minor offenses. Parties waited for hours for cases to be heard. School staff often had to come to court, interrupting valuable school time. Something had to change.

A small criminal diversion program already operating at the court gave Judge Naramore the idea to try diversion in status offense cases. “We have a strong juvenile code in Arkansas that allows for alternatives besides having to appear before me,” said Judge Naramore. That law and information from the National Council on Juvenile and Family Court Judges (NCJFCJ) showing juvenile

...We don't want to bring them into the system and inadvertently create criminals.”

- Judge Wade Naramore

diversion is successful and is evidence-based also supported the decision.

The court's staff attorneys, probation officers, and intake officers were trained in restorative justice and conflict conferencing. Instead of sending youth to court for many status offenses, trained juvenile probation officers serve as facilitators and meet youth and related parties – parents or guardian, school administrator, teachers – at the youth's school. Together they would discuss the offense and underlying issues and set up a diversion plan. The diversion plan might involve counseling, a family dynamics and interrelationships class, or other services tailored to the youth's issues. “They had access to about 90% of what I could order from the bench in diversion,” said Judge Naramore.

Court staff also met with each of the seven school districts individually to explain the diversion program and identify eligible cases. While as many types of status offenses were included as possible, repeat offenders and youth whose behaviors involved severe criminal behavior, cutting, or attempted suicide were excluded, said Judge Naramore.

Diversion is considered successful when a youth follows the plan and resolves the

underlying issue in the status offense petition, such as not missing school for a truant youth. Another aspect of a successful diversion is support from involved parties – school staff, parent/guardian, and court staff. “When everyone reports back and if everyone is happy, the case is dismissed,” said Judge Naramore.

In its first year of implementation, 217 youth were diverted in status offense cases and 89% of those youth successfully completed their diversion plans. “Nine out of 10 youth successfully completed their diversion plans, never had to come to court, and had their cases dismissed,” said Judge Naramore. “That's absolutely fantastic.” Youth who did not complete their diversion plans were considered high-risk and sent to court to determine why the diversion plan failed and get back on track.

DIVERTING DELINQUENT YOUTH

Success with status offenders led Judge Naramore to focus on the delinquency side. A small diversion program was already in place for delinquent youth but it lacked structure and clear guidance. Judge Naramore and his staff implemented a series of quick, evidence-based assessments to determine

which youth were eligible for diversion based on risk level and offense type. Youth whose offenses were assessed as low-risk or low-to-moderate risk and who were first-time, nonviolent offenders were diverted.

Diversion meetings involve a trained facilitator, the youth, youth's parents/guardian, school resource officers and law enforcement. The victim and the victim's parents (if the victim is a minor) also have opportunities to give input. Once the youth's issues are identified and the parties' input is gathered, a diversion plan is set that gives the youth a chance to address the issues underlying the offense. A youth charged with shoplifting, for example, might have to reimburse the store for the stolen item and perform community service, said Judge Naramore.

After the first year of implementation, the number of diversions in delinquency cases rose to 100 compared to 20-30 annually before the revamped program. High diversion plan completion rates and very low recidivism are indicators of the program's success. In its first year, Judge Naramore said 92% of diverted delinquent youth completed their diversion plan timely and did not commit a new offense. That number rose to 95% in the second year.

Commitments to the state juvenile detention facility also dropped considerably, from 34 in 2014 to 7 in 2018. Judge Naramore explained that while that may not seem like much, it costs state taxpayers about \$80,000 per lockup. "That is an annual saving to the state of over \$2 million from our county alone,"

he said. That savings can be reinvested into community-based programs to help children and families.

CONDUCTING RISK AND NEEDS ASSESSMENTS PREDISPOSITION

Cases involving youth that come to court now undergo a comprehensive structured risk and needs assessment before disposition. Two-to-four hour assessments evaluate the child individually, the parents individually, and the family together. They look at a variety of information – educational, emotional/social, criminal history, mental health history. The information is used to prepare a comprehensive report and assign the youth's risk level (low, moderate, or high). It allows decisions to be made based on more information than the youth's offense alone. Judge Naramore explained that a youth who commits a disorderly conduct misdemeanor may be scored as high risk/high needs because the case involves many issues - educational, mental health, criminal, poverty. He contrasted that with a youth who commits a felony offense and is scored low risk because the youth just made a bad decision. Many crimes that are scored low risk are handled through a semi-court ordered diversion, he said.

For those cases that don't go to diversion due to the nature of the crime and risk or needs level, the report gives everyone in court a much better understanding of the youth, family, and social dynamics. Judge Naramore says he'll review the report and scores when deciding what needs to happen.



A YOUTH WHO IS SCORED LOW RISK MAY GET ONE SERVICE, SUCH AS A FINE OR COUNSELING, AND NO PROBATION. IN CONTRAST, A YOUTH WHO IS SCORED HIGH RISK WOULD GET THREE-TO-FOUR SERVICES AND WEEKLY OR SEMI-WEEKLY PROBATION.

The upfront assessments have cut court probation officers' caseloads dramatically. According to Judge Naramore, caseloads went from an average of 45 per probation officer to 15. He shared that his staff was worried about spending so much time with youth and families upfront. However, "they learned when you spend two-to-four hours on the front end it saves 20-40 hours on the backend," said Judge Naramore. Additionally, court staff can devote more time and resources to the moderate-to-high risk youth who have greater needs and are more likely to return to the system.

TRAINING SCHOOL STAFF TO HANDLE YOUTH ISSUES WITHOUT COURT INVOLVEMENT

In status offender and delinquency cases, a surprising trend emerged: the number of status offender and delinquency petitions started dropping over time. Judge Naramore credited training school staff in restorative justice and conflict conferencing as part of the court's outreach around juvenile diversion for this trend.

As a result of training, he said school resource officers began working through youth's issues on their own. For example, a fight would break out in school and instead of issuing a citation and involving the court, school resource officers would sit down with the youth, their parents, and school counselors to hash things out. They'd ask: *What's going on? Why did you get in a fight? What can we do to make it right? What will it take for you to get along?*

The resource officers' upfront work resulted in frontloading services and supports without court involvement. "The officers realized they don't have to issue citations for every fight in school," said Judge Naramore. "There are alternatives when a kid cusses at a teacher that are more effective." Their training and involvement with the diversion program has helped prepare them to do it themselves, he said.

PROVIDING INTAKE AND CRISIS OFFICERS 24/7 TO TROUBLESHOOT YOUTH ISSUES

Another new approach that has reduced the number of status offense and delinquency petitions is training intake and crisis officers in restorative justice and conflict conferencing and making them available to law enforcement around the clock. Police officers can call on intake and crisis officers on issues involving youth. "They respond within 15 minutes on the scene and try to diffuse the situation," said Judge Naramore. The crisis and intake officers will calm the situation down so law enforcement can return to their patrol to handle more dangerous situations. "My staff stay and work with the youth to come up with a solution – Do they need to spend the night at an emergency shelter? Is there an aunt or uncle who can come get them?" The approach frees up law enforcement and diffuses many situations that would otherwise end up in arrests and court involvement.

SHIFTING COURT RESPONSIBILITIES AND DEVOTING COURT TIME TO HIGHER-RISK YOUTH

The shift to using diversion and other court alternatives to handle more status offense and delinquency cases has also shifted the court staff's responsibilities and priorities. "Just because we have fewer cases doesn't mean we're not working hard," said Judge Naramore. "Our staff is out at all the schools, in the community, going to shelters, homes, trying to keep kids out of the system," he said.

The cases that do come to court involve higher-risk, higher needs youth with more complex issues. “The cases we’re dealing with are much more dynamic, difficult and time-consuming,” said Judge Naramore. Now, instead of having 20-30 cases and only being able to spend five minutes on each one, Judge Naramore will have 8-10 cases and he can spend 15-20 minutes on each one. “I can spend more time on the higher-risk youth to visit with them and their families, come up with better resources to rehabilitate them and get them back on track,” he said.

SAVING LIVES AND PROMOTING HEALING

Judge Naramore believes juvenile diversion ultimately save lives. Each youth who is not arrested and locked up by law enforcement and doesn’t have to step foot in court avoids becoming indoctrinated into the criminal justice system. “We don’t want them there learning, watching what a real criminal is because the more they’re there, the more they become indoctrinated into the system,” he said.

He also believes diversion gives youth a better chance to identify and address their issues and heal. “We found out that going to see the guy or gal in the big black robe is not always successful,” said Judge Naramore. In fact, it often inadvertently set them up for failure by overloading them with services they didn’t need. Diversion takes a different approach. “The idea behind diversion is ‘let’s not overload them, let’s sit down with them and really figure out what’s going on and see if they can get back on track,’” he said.

“I can spend more time on the higher-risk youth to visit with them and their families, come up with better resources to rehabilitate them and get them back on track.”

- Judge Wade Naramore

KEYS TO SUCCESS

Integrating diversion and juvenile court alternatives requires a shift in the court's approach and staff responsibilities. Judge Naramore believes the keys to success are:

COMMUNITY ENGAGEMENT AND SUPPORT - strong resources, good partnerships, and sound relationships with school districts and community leaders.

STAFF BUY-IN AND SUPPORT – staff who believe in and enjoy helping rehabilitate children and are willing to shift responsibilities to greater community involvement.

KEEPING AN OPEN MIND – being willing to accept new ideas to help as many people as possible.

NCJFCJ RESOURCES AND SUPPORT – tapping the research, knowledge and expertise that the NCJFCJ has readily available on diversion and alternative juvenile court approaches.

ABILITY TO REASSESS, READJUST AND RETOOL
– constantly examining what the court is doing, evaluating what is working well and what is not, using data to support decisions about programs, being willing to adapt and change, and ensuring efforts are helping - not inadvertently hurting - clients.



TEN

MEDIATING TERMINATION OF PARENTAL RIGHTS CASES

A KEY TO REDUCING CLIENT TRAUMA AND COURT CASELOADS

In Tulsa, Oklahoma mediation is used to finalize many child welfare cases in which the decision has been made to terminate parental rights.

The approach offers parents and children a supportive environment to come to terms with the decision to terminate parental rights, share views and express feelings, work through fears and concerns, and be part of a collaborative – not combative – process.



A parent struggling with chronic substance abuse fears if she gives up her parental rights and allows the foster parents to adopt she'll be completely erased from her child's life.

An incarcerated parent facing 30-40 years in prison, with no available kin supports, resists relinquishing his rights to his baby.

In both cases, after significant efforts to pursue alternative permanency options – reunification for the mother, and kinship care for the father – a decision has been made to terminate the parent's rights. Both have the potential do so with dignity and sensitivity if they go to mediation instead of a jury trial.

At the Juvenile Division of the Tulsa County District Court in Tulsa, OK, mediation is a tool of choice to resolve termination of parental rights cases that have been set for trial.

Judge Doris Fransein, who presided as chief judge of the court until her recent retirement in December 2018, used mediation to resolve 70% of termination of parental rights cases in her court each year starting in 2016. The practice frees up a backlogged court docket. More importantly, it helps parties express themselves and allays their fears; creates a less formal, comfortable environment that is sensitive to the trauma children and families experience; and fosters consensus-building and client-driven decisions.

Deciding to use mediation came at a time when the court could barely come up for air because pending termination of parental rights trials were so high. According to Judge Fransein, Oklahoma is one of a few

states that require jury trials in termination proceedings. "Jury trials are tedious and take the entirety of a week to resolve," she said. A partnership with the National Council of Juvenile and Family Court Judges (NCJFCJ) to align the court's practices with the NCJFCJ *Enhanced Resource Guidelines* provided the spark to try mediation. The guidelines stressed courtroom alternatives like mediation to streamline trials and reduce the trauma experienced by children and families involved in the child welfare system. Three years into the court's efforts to use mediation, jury trials have dropped dramatically in termination cases; rarely exceeding four jury trials in 2016 and 2017, and six in 2018.

Judge Fransein shared how mediation has evolved into an innovative practice to resolve termination of parental rights cases in her court and strategies to ensure its effectiveness.

Learn from the past. Judge Fransein benefited from the hindsight of previous attempts to introduce mediation that never took off. The Administrative Office of the Courts for the Oklahoma Supreme Court many years ago initiated a successful statewide voluntary mediation services program for small claims and family law cases. However, the program did not fit well with Tulsa's court culture. Additionally, through the court's involvement in the federal Court Improvement Program in the mid-to-late 2000s, voluntary mediation was used to mediate permanency cases. The

“The mediation environment is such that everyone is sitting at the same level, no one is sitting in a black robe – they have the ability to speak honestly.

The courtroom doesn’t lend itself to that.”

- Judge Doris Fransein

experience was not optimal, recalled Judge Fransein. “Mediation services were difficult to schedule and many volunteer mediators in Tulsa were unfamiliar with the dependency process and the intensity of the issues,” she said. Families did not understand mediation or its benefits. Agency staff and attorneys were not confident with the volunteer mediators and had little faith in the process. These experiences highlighted key aspects that would need to change for mediation to succeed.

Pick the right mediation facilitator. The person chosen to facilitate mediation is key to its success. “My selection of who was going to do this was carefully made,” said Judge Fransein. Her choice, Shanny Weaver, a well-regarded social worker known for her outstanding social work, had the trust of the legal court teams, attorneys, and local Indian tribes. “Mediating a permanency case where you have so many parties and participants and are dealing with deep family issues takes a special kind of person,” said Judge Fransein. She noted Shanny’s ability to herd all the participants and ensure each person has a voice. She also cited her knowledge of child welfare issues. “It’s critical that the person doing these types of

mediations understand so much – mental health, domestic violence, childhood trauma, developmental delays, cognitive approaches, among other issues,” said Judge Fransein. Another strength was Shanny’s ability to ensure mediation participants understood what was said in mediation and help them work through the mediation process. “She is a huge driving force in ensuring our program is successful,” said Judge Fransein.

Create a comfortable meeting space. A separate meeting space at the court is set up for mediation. Shanny outfitted the space, making it comfortable and warm and distinct from a courtroom environment. Curtains soften the windows, pictures hang on the walls, and flowers brighten the space and bring in an element of the outdoors. Drinks and snacks are also on hand. Mediation participants sit at the same level, so they feel like equals. “The mediation environment is such that everyone is sitting at the same level, no one is sitting in a black robe – they have the ability to speak honestly,” said Judge Fransein. “The courtroom doesn’t lend itself to that.”

A new courthouse currently under construction will include an expanded space for mediation. In addition to two conference

rooms, adjoining rooms will allow mediation participants to have private conversations. Judge Fransein said she knows Shanny will fix up the new space in a way that doesn't feel like a sterile office space so clients feel comfortable and at ease, an essential aspect of mediation.

Gain attorney buy-in and overcome biases.

Getting attorneys to support mediation in termination of parental rights cases took some effort. Many attorneys had prior experiences with voluntary mediation that hadn't gone well. "Attorneys were rolling their eyes and saying: This is a waste of time. We're not going to sit around and hold hands and say 'we're all here for the child,'" recalled Judge Fransein.

Selecting Shanny as the mediation facilitator overcame many reservations by the attorneys since they knew and respected her. "I knew I had to find someone who could first of all do a very good job based on my knowledge

of her, and second who the attorneys would say, "Ok, maybe I'll work with her." Judge Fransein said by the end of the first year of using mediation, 70% of termination cases had been resolved. "I attribute a great deal of the success to the person I selected who held a lot of credibility with my attorneys," she said.

The attorneys also saw the value of mediating termination of parental rights cases as they began to see it through a trauma lens. Trauma training provided by the NCJFCJ and other organizations sensitized them to the trauma children and families who enter the child welfare system experience and the need to ensure the court experience does not further that trauma. The training made them more open to mediation and other courtroom alternatives.

Put fires out promptly. Attorneys who did not support mediation and compromised the process were addressed quickly -- the





attorney who dominated the conversation and became verbally hostile, the bored attorney who fiddled with his phone and checked his watch repeatedly, the state's supervising attorney who backed off every mediation agreement his attorneys supported. Those involved in the process who behaved inappropriately or created roadblocks to successful mediation were asked to meet privately with Shanny, or Judge Fransein when necessary. The state's supervising attorney who prevented mediation agreements from moving forward was eventually replaced by a more supportive supervising attorney.

Educate families about mediation. Families need to understand what mediation is, how it differs from litigation, and what it offers them. Judge Fransein and her staff constantly educate parties about mediation. They help them understand the benefits of mediation over jury trials, principally the collaborative environment that offers opportunities for parties to share their views and concerns and gives them input in final decisions. They drew up a mediation brochure to hand out to parties that walks them through the process. They give it to parents and ask them to read it and ensure they understand that mediation won't be used to force them to make decisions but allows them to talk through case issues in a supportive environment. They also encourage children's attorneys to review the brochure with child clients; many children want to attend, especially older youth.

Know what cases to send to mediation.

The paths to mediation vary. Judge Fransein says often parties will ask to be part of mediation. Sometimes the attorney for the parent, child, or agency will request it. “I order it in about 80% of termination cases headed to trial,” she said. The other 20% are not sent for various reasons – a parent who is very entrenched in her position, or a parent who is detained in the local county jail with no one available to guard him, for example.

Judge Fransein says she can usually assess which cases will benefit from mediation. Many parents fear if they consent to termination of parental rights they will be shut out from their child’s life. Mediation lets them have open conversations with foster parents, share their fears, and express their desire to be part of their child’s life if the child is adopted. Because open adoption is widely supported in Tulsa and foster parents are used to working with biological parents to parent their children, parents’ concerns are met with support and understanding in mediation and an assurance that they will remain a part of the child’s life when possible. This can be the catalyst to help parents feel comfortable relinquishing their rights when reunification is not an option. Similarly, incarcerated parents facing life sentences can accept a decision to voluntarily relinquish parental rights after having the chance to share concerns during mediation.

In cases where the quality of social work has not been high, Judge Fransein said mediation allows parents and their attorneys to express what barriers were not addressed. Sometimes a fuller picture is obtained

through information provided by participants in mediation. For example, therapists can present their reflections on therapy offered to the child or to the parent and child. Judge Fransein said she has stricken jury trials because therapists’ expressions in mediation do not align with what the child welfare agency outlined in their reports, which changes the direction of the case.

Recognize the role of trauma and respect in mediation. A court-wide focus on reducing trauma to children and families involved in the child welfare system underlies mediation and how it operates. Judge Fransein says mediation works well when there is a recognition of trauma and respect—

- Attorneys call parties by their names.
- Every participant sits quietly and listens to what each person has to say, no matter how impatient someone might be.
- Any comments an attorney makes on behalf of a client are stated directly and in a nonoffensive manner.
- Name calling, judgmental statements, and broad, sweeping generalizations are not allowed.

Judge Fransein cited a child’s attorney with a knack for articulating his clients’ wishes without being negative or disrespectful to the parent. She credited trauma training provided to all attorneys for helping the attorneys recognize the trauma children and parents experience and knowing how to allay their fears and prevent further trauma through their conduct and interactions.

Engage the family. A benefit of mediation is the ability to engage the family. “It’s critical in these cases because family engagement is everything,” said Judge Fransein. “Your odds of reunification goes up tremendously if you can engage everyone with transparency,” she said. She explained that if a mediation agreement is to extend reunification time, parents become more engaged. “They know the direction they’re going in and also understand if the agreement is not complied with by the next court hearing, there’s an ability to accept it,” she said.

“The ability of each person to take the time to speak freely is a big factor in mediation,” said Judge Fransein. A parent will have the opportunity to say: This is how I was treated unfairly. This is how I felt. Now I don’t agree with this. “They get it out of their system,” she said. Giving them the time to speak and share concerns helps them be more open minded about case decisions. The other parties also hear where the parent is coming from and are better able to address concerns.

Family engagement in mediation can also lead to a smoother experience if a family later returns to the court system. Judge Fransein gave the example of young parents who went through mediation and consented to termination of their parental rights and adoption in one case. Upon later returning to the court system on a different matter, their prior experience with mediation helped prepare them to work with the court and child welfare system.

“ENGAGEMENT IS VERY IMPORTANT - ANYTHING WE CAN DO TO REDUCE SUSPICIONS AND LACK OF TRUST - MEDIATION REALLY HELPS PARENTS WITH THAT.”

Address challenges and keep improving.

One challenge with mediation is timing. Cases are not sent to mediation until close to their scheduled trial dates. “It’s kind of a last-minute strike off the trial docket,” said Judge Fransein. “It needs to be moved forward so what we put on the trial docket really has to go to trial.” She hopes this practice will change in the future so cases that can be mediated are handled up front, freeing the court to handle more serious cases.

Another challenge arises when parents have parallel issues in criminal and dependency courts. Judge Fransein said it is common to reunify children with parents without knowing the parent has a parallel criminal case. Complications arise when prison time is being sought for the parent in the criminal case, or when charges are approved sometime after the criminal offense and the children are already pursuing reunification with the parent. Judge Fransein would like to see the two district attorneys’ offices involved in these cases working together more and for mediation to be used to reach a joint resolution to avoid further harming children and families. “I can’t help but think mediation



can play a role in those cases,” she said.

Judge Fransein would also like to see mediation used to narrow the issues and set the direction in a case preadjudication. The court previously used case staffings for this purpose but abandoned them when caseloads skyrocketed. With caseloads going down again, she believes mediation can play a role, particularly in cases involving aggravated circumstances with a request for termination of parental rights. She would like to see enough resources in place and attorneys available to use mediation to determine if reasonable efforts are going to be made with the parent and set the direction of the case.

Mediation is proving effective to streamline a burgeoning termination of parental rights docket in Judge Fransein’s court and give families a more supportive environment to make tough decisions in their cases. A mediator with the trust of the legal and child welfare communities and a strong command of child welfare issues and family dynamics is central to the program’s success. Engaging families – through open dialogue, active listening, reflective feedback, and collaboration – builds trust and a sense of support that helps clients work through decisions and move cases toward resolution.

ELEVEN

IMPLEMENTING A ONE FAMILY ONE JUDGE APPROACH

In Montgomery, AL, children and families have always entered and exited the 15th Judicial Circuit Court, Family Division through the same door. But it's never felt that way for families with more than one legal matter as they bounce from one court division to another and stand before different judges. That is changing since the court's recent adoption of a one family-one judge approach, which assigns one judge to handle all of a family's legal matters.

Judge Calvin Williams, who has been instrumental in leading the court's implementation of the one family-one judge approach said it was always curious to him that children and families were going to different judges in the same jurisdiction. "Why can't we just have one judge over one

family and one door rather than multiple doors?" he asked. The change is part of a larger effort through the court's partnership with the National Council of Juvenile Family Court Judges (NCJFCJ) to align the court's practices with national best practices to improve handling of child welfare cases.¹

Williams shared the steps that led to adopting the one family-one judge approach, practical aspects and how it works, its benefits, and lessons learned.

EXPLORING THE ISSUE

When Judge Williams took the bench in 2011 as one of three of the family division's judges, the court's practice of assigning cases stood out to him. If a family came into court on a child support matter and later an abuse and



neglect issue, two different judges handled their cases. Or, a family might come in on a dependency matter involving a child and be assigned one judge; later if that family returned for a delinquency matter involving the child, another judge was assigned. “It was kind of a merry go round,” said Judge Williams. To further complicate things, families were assigned to judges based on what zip code they lived in for two-year rotations. “It occurred to me at the time that something needed to happen,” he said. After discussions with the court’s presiding judge, he was asked to study the issue and assess how practical it would be to move to a one family-one judge approach. He formed a committee of lawyers, the court clerk, probation officer, and others to weigh the

pros and cons of the one family-one judge approach compared to the court’s current approach. The consensus of the committee was to move towards adopting the one family-one judge approach.

PARTNERING WITH NCJFCJ

Through a partnership with the NCJFCJ as an NCJFCJ Implementation Court starting in late 2014, the court identified the one family-one judge approach as a best practice that would further a goal of reducing case backlogs that were delaying permanency for children in the child welfare system. They discussed the approach with their executive committee and gathered information to support it. NCJFCJ provided literature, information about one family-one judge as a

best practice, how other jurisdictions were using it, and its viability in other courts. “As an Implementation Court site, we had more leverage to formally adopt it as a program of the court,” said Judge Williams. “Now I had research and literature on my side to support it even more.” He also had access to other NCJFCJ Implementation Courts, many of whom had already adopted the one family-one judge approach. “I was very happy to see that we were not the lone wolf in that regard,” he said. “I’ve had the opportunity to hear about it, how it’s being used as a best practice in other jurisdictions, and how it’s working for them.”

ADOPTING ONE FAMILY-ONE JUDGE

The court’s presiding judge issued an administrative order in 2017 formally adopting the one family-one judge approach. Judge Williams explained that the order established in writing that a family, defined as a mother and her children, will be assigned to the initial judge who heard any matters previously before the court in which a substantive provision or ruling was made. When an action is filed, the court clerk researches prior case filings to determine if the party has been in court previously and identifies the assigned judge. Any new cases are linked back to the previous judge to handle. If a judge leaves or rotates out of the court, any cases that judge handled are passed on to the judge who fills his or her position on the bench.

Electronic court records are used in the court’s domestic relations division, and

efforts are nearly complete to move to a paperless system on the juvenile delinquency and dependency side. Electronic access to court records will make it easier for judges in both divisions to access the predecessor judge’s records relating to prior cases involving different legal matters, said Judge Williams.

STREAMLINING JUDICIAL ASSIGNMENTS

Judge Williams explained that if a family enters the family division on a child support matter, the family is assigned to a judge and the family is linked to that judge the next time they come to court, whether it is to modify the child support order on the domestic relations side or on a child neglect and abuse action on the juvenile dependency side or some other legal matter. The court’s three judges handle “everything family,” splitting their time between domestic relations work, such as child support, divorces, custody, and visitation, and juvenile matters such as dependency and delinquency cases. “In that way we can link the family back to that judge whichever division or action they come into court on,” he said.

The clerk tracks families when they enter the court to determine if they have had prior court involvement and identifies the assigned judge. Judge Williams says he will also perform his own check as a backup in some cases. “I’m a bit more detail oriented and curious and want to make sure we get it right,” he said. “We don’t want to have families going before different judges.” Mothers who have changed their last names

are easily missed and require some extra checks, for example.

REALIZING THE BENEFITS

Although the approach is still in the early implementation phase, its benefits are emerging:

- **Knowing the family/case.** “The main benefit is the judge knows the family and is familiar with the circumstances of the family,” said Judge Williams. That knowledge avoids having the family start over with each new judge, provides case continuity, and allows the judge to better manage cases involving multiple legal matters within the same family.
- **Prioritizing child welfare cases and reducing permanency delays.** With the goal of reducing delays to permanency for children in the child welfare system, cases filed by children’s services involving children in care receive priority over private petitions or relative petitions. Similarly, when multiple legal issues are raised involving a family, child welfare issues raised on the juvenile dependency side of the court are resolved before custody, child support, visitation or other matters on the domestic relations side of the court.
- **Avoiding case conflicts.** When the same judge presides over all legal matters involving a family, it helps prevent



“Why can’t we just have one judge over one family and one door rather than multiple doors?”

- Judge Calvin Williams

conflicts between cases. Judge Williams described a scenario involving a father filing for custody in the domestic relations division following a mother’s death and a simultaneous dependency action filed by a grandparent in the court’s juvenile division. He said his approach in such cases is to stay the custody matter until the dependency matter is resolved to avoid conflicts. “It’s good for the judge to know the family so he can hold off on making any decisions that are going to conflict with the dependency case,” he said.

- ***Meeting families’ needs for stability.*** Many families who come to court are broken and dealing with issues of instability, said Judge Williams. Providing families some stability and continuity in their judges ensures the court does not add instability and uncertainty to their court experience by having a consistent person manage their legal issues.

ADDRESSING RESISTANCE TO CHANGE

The main barrier the court faced when introducing the one family-one judge approach was overcoming resistance to change. “Sometimes folks are resistant to change because it’s change, not something they know,” said Judge Williams. “They’d

rather stick with something they do know, even if it doesn’t make sense.” He has worked to overcome this resistance by stressing that while the court’s previous practice was convenient for court professionals it was not convenient for the families they serve. He has also shared experiences and data from other courts who have implemented the one family-one judge approach successfully to highlight its effectiveness, as well as literature provided by NCJFCJ documenting it as a best practice. Once the one family-one judge approach has been in place for longer, Judge Williams expects his court will have its own supportive data to share.

ENSURING FLEXIBILITY

While the goal is to ensure consistency in judges for families involved in multiple legal matters, the approach allows for flexibility. “We do leave flexibility for the judge to say, I think this family needs a new set of eyes, a fresh approach, a new judge,” said Judge Williams. Sometimes a judge may sense that he or she is not seeing everything in a case, for example, and wants another judge to take a look. It is not always a one-size fits-all approach and there is room to improvise and call in a different judge as needed.

THE ONE FAMILY-ONE JUDGE APPROACH PUTS THE FAMILY AND ITS EXPERIENCE IN THE LEGAL SYSTEM AT THE CENTER.

It sets them up for success by prioritizing and streamlining their cases, reducing conflicts and delays, and providing consistency and stability. It supports the 15th Judicial Circuit Court, Family Division’s efforts to incorporate best practices to improve its handling of child welfare cases and speed permanency for children in care. “At the end of the day, I think families being able to go through one door rather than multiple revolving doors affects stability and continuity for that family and promotes permanency,” said Judge Williams.

1 The one family-one judge approach is detailed as a national best practice in the NCJFCJ’s *Enhanced Resource Guidelines*, II. General Issues, B, p. 34.





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