Examination of Judicial Practice in Placement Review Hearings for Youth in the Permanent Managing Conservatorship of Texas

JUNE 2012

casey family programs | casey.org

judicial *practice*

acknowledgements

Acknowledgements

Special thanks to our pro bono partner Fulbright & Jaworski, LLP, who donated their time and energy to attend and observe the hearings examined in this study, and also to the courts that participated in this study for their willingness to open their hearings to observation and engage in the study process. We are also grateful to the individuals who contributed to planning the evaluation and reviewing earlier versions of this report, including Sarah Abrahams, Susan Weiss, Peter Pecora, Jane Burstain, Rebecca Lightsey, Tina Amberboy, and other members of Texas Appleseed and the Supreme Court of Texas Permanent Judicial Commission for Children, Youth, and Families.

This report was jointly prepared by

National Council of Juvenile and Family Court Judges
Alicia Summers, Ph.D.
Jesse Russell, Ph.D.

Casey Family Programs
Adam Darnell, Ph.D.
Erin Maher, Ph.D.

judicial *practice*

In 2011, more than 30,000 youth were in the legal custody of the State of Texas, and *more than 40% of them had been in the system for more than a year,* making them long-term wards of the state.

casey family programs | casey.org

Table of Contents

In 2011, more than 30,000 youth were in the legal custody of the State of Texas, and more than 40% of them had been in the system for more than a year, making them long-term wards of the state (Department of Family and Protective Services, 2011). For each of these youth, there was an active court case before a judge, and the judicial system plays a critical role in determining whether these youth will languish in the system or find permanent homes. A recent report from Texas Appleseed (2010), *Improving the Lives of Children in Long-Term Foster Care,* cited a number of shortcomings of court practice in Permanent Managing Conservatorship (PMC) hearings, and it put forth a series of recommendations for the reform of court practice to more rapidly transition youth to permanent homes. These recommendations addressed such court practices as engaging children in the hearing process, ensuring substantive discussion of essential topics, and establishing clear roles for parties involved. The recommendations were based on interviews with court participants, forums with community stakeholders and judicial and child welfare experts, and permanency outcome data for 15 jurisdictions across Texas. Following upon the Appleseed report, the present study was designed to provide a deeper accounting of the nature of hearing practice through structured observation in a sample of jurisdictions from the Appleseed report, as well as to explore the possible relationship between hearing practice and permanency outcomes. Conducted by the National Council of Juvenile and Family Court Judges (NCJFCJ), in collaboration with Casey Family Programs and the Supreme Court of Texas Permanent Judicial Commission for Children, Youth, and Families, this evaluation seeks to answer two questions:

1. What are the similarities and differences in placement review hearing practice across jurisdictions?
2. Are there observable associations between placement review hearing practice and permanency outcomes among jurisdictions?

To address these questions, four court jurisdictions were observed by trained observers for key elements of practice based on the recommendations provided in the Appleseed report, a review of Texas Family Code related to placement review hearings, and recommendations for best practices found in the *Resource Guidelines* (NCJFCJ, 1995) and the *Adoption and Permanency Guidelines* (NCJFCJ, 2000). Using a comparative case study method, we explored similarities and differences in judicial practice between courts based on 78 observed hearings. We then compared indicators of hearing practice between the two courts that performed above average on permanency outcomes and the two courts that performed below average.

Findings

The Texas Family Code mandates that courts consider and make findings regarding several matters affecting a child's permanency plan, their placement and well-being, as well as progress toward goals intended to result in the child exiting the system. Notice to and engagement of relatives and

other persons who have a relationship or care for the child are also important factors that courts are required to consider at each Placement Review.

Hearing practices measured by this project included discussion, judicial inquiry, presence and participation of parties and interested persons, hearing length and delay, and the overall quality and focus of the hearing. Findings from the four jurisdictions include the following:

- On average, courts discussed 49% of topics relevant for the hearings.
- Topics most frequently addressed included:
  - Appropriateness of current placement (88% of hearings)
  - Next steps in case plan (76%)
  - Physical well-being (68%)
  - Review of the permanency plan (64%)
  - Educational needs (63%)
- Over a third of the hearings (36%) did not include review of the permanency plan, nearly two-thirds did not discuss potential for relative placements (63%), and nearly half did not review adoption efforts (44%). The latter two topics, when they were addressed, received greater depth of discussion than other topics (discussion extended beyond a brief statement).
- For each topic of discussion, we also assessed judicial inquiry, which reflects whether a topic was addressed by a direct question from the judge. On average, judicial inquiry occurred for approximately one third of applicable topics (32%).
- Children were present in 27% of the hearings. When present, they usually had an opportunity to speak/participate in the hearing (82%); however, other child engagement strategies by the judge such as explaining to children the hearing process, the judge's role, and legal time constraints of the case were not practiced in any of the hearings observed.
- The average hearing length was 8 minutes, well short of best-practice recommendations of 30 minutes.
- Hearings were frequently delayed, requiring parties to wait an average of 48 minutes past the scheduled start time.
- Attorney's *ad litem* were the most common professional party in attendance (63% of hearings), followed by court appointed special advocates (CASAs; 16%). Presence of an attorney for the child varied considerably between jurisdictions, ranging from a low of 36% of hearings in one jurisdiction to a high of 80% in another. CASAs were not present in any of the hearings of two of the courts observed but were present in 29% and 45% of hearings for the other two courts.

- Overall, 42% of hearings were focused on finding a permanent home. Courts with the highest rankings on this variable also had the highest levels of judicial inquiry and depth of discussion.
- Courts with above average permanency outcomes as reported in the Appleseed study had higher than average judicial inquiry, depth of discussion, and discussion focused on finding a permanent home, in the present study.

Conclusions

This study offers a systematic inquiry into placement review hearing practice, an area that very few studies have examined despite its critical impact on the well-being of youth in foster care. Results indicated that placement review hearing practice in Texas varies substantially between courts and also between judges from the same court. Though it is not a representative sample of hearing practice across Texas, these findings suggest that many best-practice recommendations are not consistently implemented, and Texas courts have considerable room for improvement in hearing practice. The recommendations of Texas Appleseed and the best practices outlined in the *Resource Guidelines* both offer suggestions for improved court practice, which can be expected to promote greater permanency outcomes for PMC youth in Texas. This study establishes an approach and foundation for future research to identify the specific aspects of hearing practice that have the greatest effects on permanency outcomes.

judicial *practice*

The judicial system plays a critical role in determining whether these youth will *languish in the system or find permanent homes*

Introduction

This report presents findings from an observational study of hearing practice in placement review hearings for youth in the Permanent Managing Conservatorship of Texas. This study was conducted by the National Council of Juvenile and Family Court Judges (NCJFCJ), in collaboration with Casey Family Programs and the Supreme Court of Texas Permanent Judicial Commission for Children, Youth, and Families (the Commission). It was designed to build upon findings from the Texas Appleseed report, *Improving the Lives of Children in Long-Term Foster Care,* by providing an in-depth examination of court practices deemed to be important for achieving permanency for youth in long-term foster care (Texas Appleseed, 2010).

The NCFJCJ has been working to improve juvenile and family court practice for decades. Among their many initiatives is the nationally recognized Model Courts project, funded by the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice. More than 70 Model Courts across the nation are engaged in collaborative systems change efforts, working to improve child abuse and neglect case processing. These courts draw on best-practice principles outlined in the *Resource Guidelines* (NCJFCJ, 1995) and *Adoption and Permanency Guidelines* (NCJFCJ, 2000), which provide guiding principles on conducting substantive, efficient, and effective child abuse and neglect hearings. The partnership between NCJFCJ and Casey Family Programs is based on a mutual commitment to understanding and influencing how specific court strategies contribute to safe reductions in unnecessary entries into foster care, timely exits from foster care to permanent families, and improvements in the overall well-being of youth and families involved with the system.

In addition to NCJFCJ's system reform efforts, many states, including Texas, have begun assessing specific court practices. In November 2010, Texas Appleseed—supported by the Commission—released a report titled *Improving the Lives of Children in Long Term Foster Care: The Role of Texas' Courts & Legal System.* Based on 2008 data, the report found that 51% of youth in Texas in out-of-home care are in permanent managing conservatorship (PMC), or long-term foster care. These youth spend an average of 42 months in PMC, and 19% exit by aging out of care. These findings suggest that a substantial opportunity exists for Texas courts to make improvements in achieving permanency for PMC youth.

The findings from the Texas Appleseed study revealed concerns related to judicial practice within the current system. Among these concerns were that placement review hearings were not substantive, did not engage children in the process, did not clearly define roles and responsibilities for all parties involved, and did not maintain a sense of urgency for achieving permanency. In light of these concerns, the present study aimed to use structured observation of hearings to provide a deeper accounting of the nature of placement review hearing practice across several jurisdictions in the Appleseed report and to explore the relationship between hearing practice and permanency outcomes.

Texas Family Code §263

In Texas, when children are first removed from their homes, they are placed in temporary managing conservatorships (TMC). In TMC, the agency works to reunify the family (when possible) or find an alternative form of permanency. If this cannot be achieved within one year, or 18 months if an extension is granted, the child enters permanent managing conservatorship (PMC), which places the child in the permanent care of the department. Once in PMC, the department continues to seek permanency for the child, often through adoption or alternative permanency outcomes (i.e., guardianship).

The current study provides an in-depth look at current practice in a sample of four Texas jurisdictions. Broadly, the evaluation seeks to answer these questions:

1. What are the similarities and differences in placement review hearing practice across the four jurisdictions?
2. Are there observable associations between placement review hearing practice and permanency outcomes among the four jurisdictions?

To address these questions, the four jurisdictions were observed for key elements of the recommendations provided in the Appleseed report, a review of Section 263.501 of the Texas Family Code related to placement review hearings, and recommendations for best practices found in the *Resource Guidelines* and the *Adoption and Permanency Guidelines.*

Methods

The study used a comparative case study method to explore differences in judicial practice between courts that have had different levels of success in achieving permanency for PMC youth. Structured observational methods were utilized to provide data on the nature of judicial practices as they occurred in the courtroom. The study also incorporates qualitative data from open-ended comments of observers to provide additional insight into the interpretation of quantitative findings. The study protocol was approved by an Institutional Review Board to ensure ethical treatment of human participants. Detailed information on study methods is presented below.

Site Selection

Four of the 15 courts studied in the Appleseed report were selected for further case study. The aim was to select two courts performing above the statewide average on permanency outcomes, based

on 2008 outcome data in the Appleseed report, and two courts performing below the statewide average[1]. Selection was also intended to achieve diversity within the sample in terms of population (urban/rural) and court type (Child Protection Court/County). In addition, selection was driven by practical considerations such as proximity for observers and hearing scheduling.

It is important to note that the hearings of each Child Protection Court (CPC) are overseen by one or two judges, whereas many County Courts have multiple districts and judges. Resource limitations precluded observation of all district judges in the selected County Courts, so two judges from each of the County Courts were selected for observation. The two judges in Court C represent 100% of the judges overseeing dependency cases in that jurisdiction, while the two judges in Court D represent 8% of the judges overseeing dependency cases in that jurisdiction. Judges were selected based on responsiveness and willingness to participate. Characteristics of the participating courts are shown in Table 1.

Table 1: Permanency Outcomes and Community Characteristics of Participating Courts

	Court A	Court B	Court C	Court D
% PMC youth exiting < 1 year	-	+	+	-
% exiting > 3 years	+	+	+	-
% exiting to adoption	-	+	+	-
% aging out of service	-	+	+	-
Population	Rural	Rural	Urban	Urban
Jurisdiction	CPC	CPC	County	County

Note: (+) = Outperformed state average, (-) = Underperformed state average.

Observation Instrument

With input from study partners, the research team adapted an existing NCJFCJ standardized court observation instrument to address key elements of court practice identified in the Appleseed report, the *Resource Guidelines,* and the *Adoption and Permanency Guidelines*. The instrument assessed multiple aspects of hearing practice, including in-court discussion, judicial inquiry, presence and engagement of children, presence and engagement of caretakers and support parties, hearing length, and hearing delay. Observers also recorded open-ended comments on overall hearing quality and climate. A codebook was developed to accompany the instrument. Specific aspects of hearing practice assessed in the observation instrument are described in detail below.

In-court discussion. Texas Family Code §263.503 requires that PMC placement review hearings include court determinations regarding appropriateness of placement (placements that are least

restrictive and in the best interests of the child), services needed, and efforts to finalize permanency. The *Resource Guidelines* also identify key topics that should be discussed at placement review and permanency review hearings. Additionally, the Appleseed report identified topics that were rarely discussed in hearings and noted more broadly that "hearings are often empty of any meaningful conversation about the needs of the child" (p. 9). From these three sources and relevant federal statutory requirements, 19 topics were identified that should be discussed in hearings, including visitation, services, placement, well-being, permanency plan, next steps in the case, and roles and responsibilities of parties. Discussion of each of the 19 topics by courtroom participants as a group was coded on a 3-point scale (0 = no discussion, 1 = statement only, and 2 = more than a statement), with a 'not-applicable' option as well. This coding scheme provided information on both the number of topics discussed (i.e., breadth of discussion) and the depth of discussion, accounting for whether each topic was applicable to a given hearing.

Judicial inquiry. The Appleseed report noted that strong judicial oversight is necessary for improving the quality of placement review hearings and helping move the case forward. This notion is supported by the *Resource Guidelines,* which encourage strong judicial oversight as a best practice in child abuse and neglect cases. To focus specifically on the judge's role in creating substantive discussion, judicial inquiry was assessed by asking observers to indicate, for each of the 19 discussion topics above, whether the judge directly inquired about the topic, accounting for applicability of the topic to the hearing. Judicial inquiry included both a judge's questions to raise a topic and questions to further the discussion of a topic already raised.

Presence and engagement of children. Texas Family Code §263.501(f) states that "the child shall attend each placement review hearing, unless the court specifically excuses the child's attendance." However, the Appleseed report found that children are rarely present in court, and when they are, they are rarely invited or encouraged to participate. Both the Appleseed report and the *Resource Guidelines* recommend that children should be present in court. Further, the NCJFCJ Board of Trustees recently adopted a policy that encourages the presence and participation of children in court hearings, when appropriate.

The observation instrument included items assessing whether the child was present and whether the child spoke/participated in the hearing. Another group of five items measured the extent to which the judge engaged the child in the hearing process, including whether the judge spoke directly to the child, allowed the child to speak or ask questions, and explained the hearing process; the judge's role as an impartial decision-maker; and legal time constraints (e.g., mandated timeline for termination of parental rights).

Presence and engagement of caretakers and support parties. According to the Appleseed report, one of the challenges for courts is that parties who know the child are rarely present and rarely have a voice in the system. The *Resource Guidelines* recommend that caretakers and advocates for the child should be present in review hearings. Therefore, the instrument also includes an indicator of which parties were present (e.g., CASAs, attorneys *ad litem,* caretakers). The instrument also

included a 5-item engagement section assessing how the judge engaged the caretaker in the hearing process, similar to the child engagement section described above.

Hearing length. The *Resource Guidelines* propose that courts should allow 30 minutes to conduct a substantive review hearing including discussion of all relevant topics. Recent research on workload and hearing practice in one state found that substantive reviews took an average of 22 minutes (Dobbin, Gatowski, Russell, & Summers, 2010). The findings from the Appleseed report suggest that placement review hearings are considerably shorter, lasting an average of 10 to 15 minutes. In this study, hearing start and end times were recorded for the computation of hearing length.

Hearing delay. The *Resource Guidelines* recommend time-certain calendaring, in which hearings are set for specific days and times (e.g., January 31 at 2:15pm). Time-certain calendaring allows for more efficient case processing and reduces wait time for parties, which may increase parties' willingness and ability to attend hearings. Texas Appleseed similarly recommends that "docket schedules must be composed efficiently so that children and stakeholders can attend" (p.21). Hearing start times were compared to scheduled start times from the court docket for computation of delay.

PMC placement review hearings offer an opportunity to address the well-being of the child and ensure all parties are actively working to move the case forward and achieve permanency for the child.

General hearing quality. In addition to examining discussion, hearing length, and the presence and engagement of different parties, two other indicators of hearing quality were examined. PMC placement review hearings offer an opportunity to address the well-being of the child and ensure all parties are actively working to move the case forward and achieve permanency for the child. The Appleseed report indicated that "many judges expressed frustration with the lack of preparedness of participants at the placement review hearing" (p. 66). The Appleseed report also noted a prevailing view that placement review hearings were serving as "status quo" hearings and that parties were not actively working to move the case toward permanency. Therefore, the observation instrument also included two items addressing the preparedness of all parties and whether the hearing discussion focused primarily on finding a permanent home for the child. Responses to these items were coded on a 3-point scale (yes/no/unable to determine).

Qualitative remarks. As a final component of the instrument, observers were asked to respond to three open-ended questions: What were your overall impressions of the hearing, what was the overall quality of the hearing, and did the hearing have a welcoming climate? Observers could also make any notes or explanations of responses in this section as well.

Recruitment & Training of Observers

Fulbright and Jaworski, LLP, an international law firm with offices throughout Texas, provided *pro bono* support for observational data collection on the project. A total of 9 volunteer court

observers were recruited from the law firm's Texas offices. Observers were trained in two sessions. A 1-hour webinar was held to introduce observers to the project and familiarize them with the court observation instrument. They then attended an 8-hour training at a Fulbright office in Texas, which included observing a number of hearings at a local court. Following the training, observers were assigned to hearings at each of the study sites to ensure data collection efforts included the target number of hearings for each site and an adequate number of hearings observed by more than one observer to calculate inter-rater reliability.

Inter-Rater Reliability

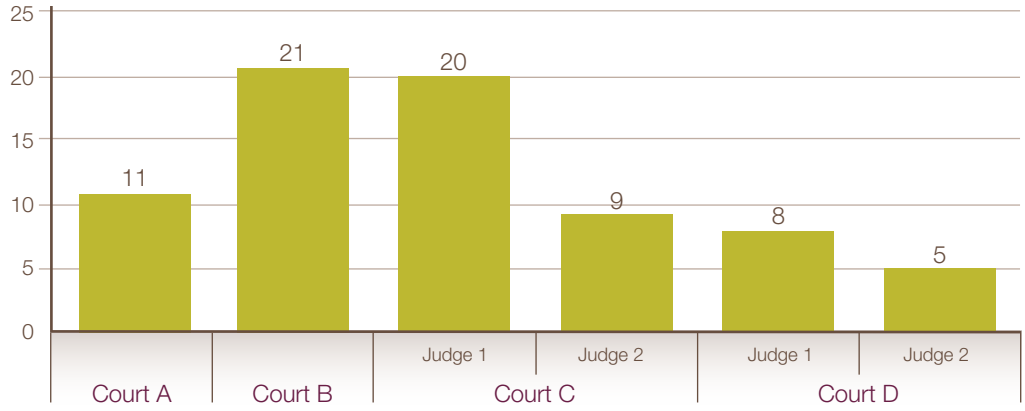
Inter-rater reliability was calculated using Holsti's coefficient to examine agreement between pairs of observers across all variables. A total of 118 pairs of observers across 29 hearings (39% of sample) were examined. Across all 118 pairs, reliability coefficients for all items on the instrument ranged from .63 to 1.0 (perfect agreement), with an average of .82. Reliability for each of the 104 items in the instrument was also examined. For most items, agreement was defined as an exact match between responses of both observers; however, for hearing length, values within two minutes of each other were considered in agreement. The median item-level reliability was .86, with a minimum reliability of .08 and a maximum of 1.0. Two items had low reliability coefficients (*Holsti* ≤ *.50*). One item concerned whether the judge asked for an explanation about missing parties, and the other addressed judicial inquiry on next steps in the case. These two items were dropped from the analyses, leaving only items with moderate to good inter-rater reliability (>.50).

For hearings observed by more than one observer, in subsequent analyses we used only one observation per hearing. To choose among multiple observations of a single hearing, we selected the observation with the least missing data. If both observations of the hearing had the same amount of missing data, we randomly selected which observation to include in the analysis.

Hearings Observed

Nine observers assessed hearings in the four courts, resulting in 74 non-duplicate hearings observed. Hearing observations occurred between December 2011 and early January 2012. Most observers completed their observations on multiple occasions within a two- to four-week period. All observers coded hearings in multiple courts. All judges were observed by multiple observers except Judge 1 in Court D, who was observed by only one observer. Nearly 56% of hearings in the sample were observed by multiple observers, ranging from 25% of the hearings in Court C, Judge 1, to 100% of hearings in Court D, Judge 2. The number of hearings observed for each court and judge is presented in Figure 1.

Figure 1: Number of Hearings Observed, by Court



Analyses

Quantitative and qualitative analysis of courtroom observation data was conducted. Frequency distributions and descriptive statistics were produced on all items from the coding instrument addressing the following topics:

- In-Court Discussion
- Judicial inquiry
- Presence and Engagement of Children
- Presence and Engagement of Caretakers and Support Parties
- Hearing Length
- Hearing Delay
- General Hearing Quality

Additionally, qualitative analyses identified trends in observations related to the main topic areas above. Observers' qualitative remarks were incorporated to add context to the findings. Findings are reported here in two sections. The first section addresses the research question: *What are the similarities and differences in placement review hearing practice across the four jurisdictions?* In the second section, similarities and differences in hearing practice are explored in relation to differences in 2008 permanency outcomes, addressing the question: *Are there observable associations between placement review hearing practice and permanency outcomes among the four jurisdictions?*

Findings: Similarities and Differences in Placement Review Hearing Practice

Findings describing similarities and differences in placement review hearing practice across the four sites are reported below. For each aspect of hearing practice, findings are reported for all courts combined and broken down by specific courts.

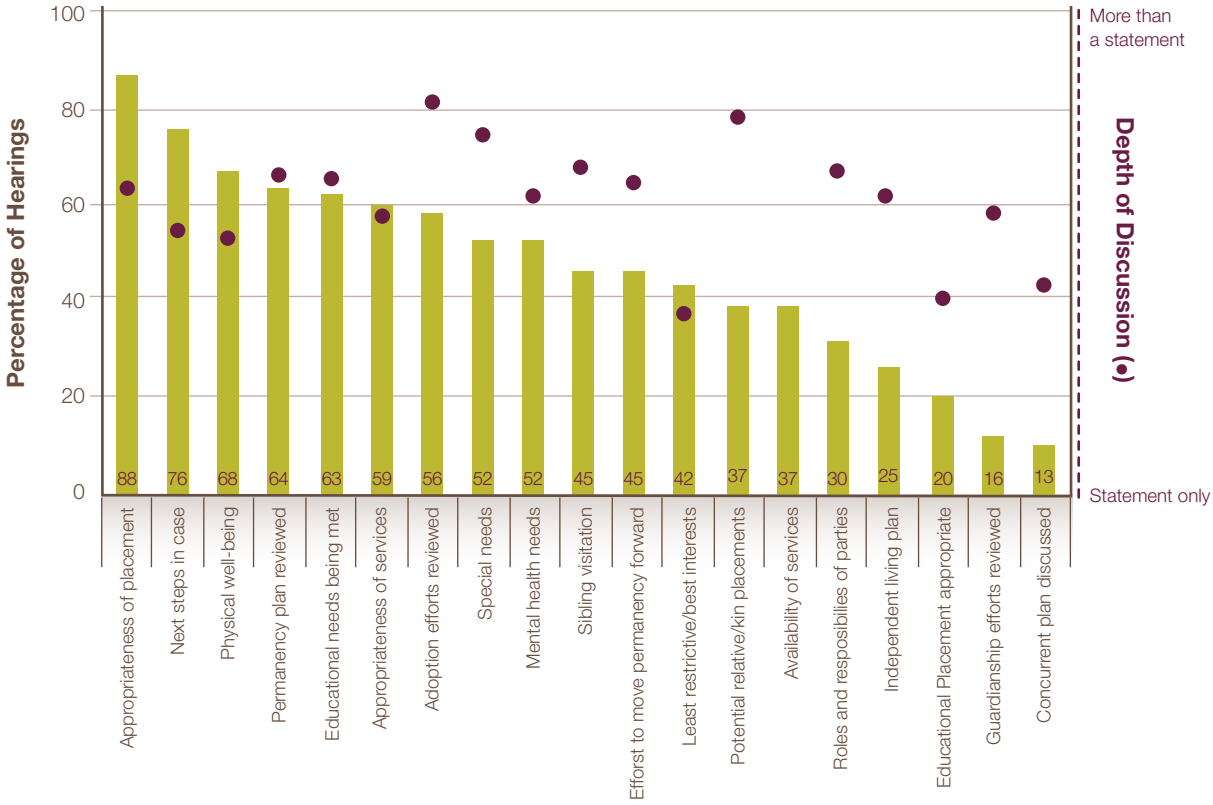
In-Court Discussion – All Courts Combined

Hearing discussion of each of 19 key topics was examined. For each topic, we calculated 1) the percentage of hearings in which the topic was discussed, and 2) the depth of discussion received when it was discussed. We also calculated two discussion quality indicators for the hearing as a whole: the total number of topics discussed (i.e., discussion breadth) and the average depth of discussion across all topics discussed. Topics that were not applicable to a given hearing were excluded from analyses.

Overall, few topics were discussed consistently across hearings, and most were not. *Appropriateness of placement* was the most frequently discussed topic, addressed in 88% of hearings. This was followed by *next steps in case plan* (76%), *physical well-being* (68%), *review of the permanency plan* (64%), and *educational needs* (63%). Topics less likely to be addressed included *concurrent plan* (13%), *guardianship efforts* (16%), *appropriateness of educational placement* (20%), and an *independent living plan* (25%). Note that observers accounted for whether the topic was applicable to a given hearing. The percentage of hearings addressing each topic is displayed in Figure 2.

When a topic was addressed, observers also measured the depth of discussion as 1 = statement only or 2 = more than a statement. The average depth of discussion for each topic is also displayed in Figure 2.

Figure 2: Percentage of Hearings Addressing Each Topic and Average Depth of Discussion



Discussion depth by topic ranged from a mean of 1.3 (*least restrictive/best interests*) to 1.8 (*adoption efforts reviewed*). Beyond adoption efforts, other topics receiving deeper discussion were *potential relative/kin placements* (1.8), *special needs* (1.7), *roles and responsibilities of parents* (1.7), *sibling visitation* (1.7), *permanency plan reviewed* (1.7), and *educational needs being met* (1.7). Aside from *least restrictive/best interests*, other topics receiving the least depth of discussion were *educational placement appropriate* (mean=1.4), *concurrent plan* (1.4), *physical well-being* (1.5), and *availability of services* (1.5).

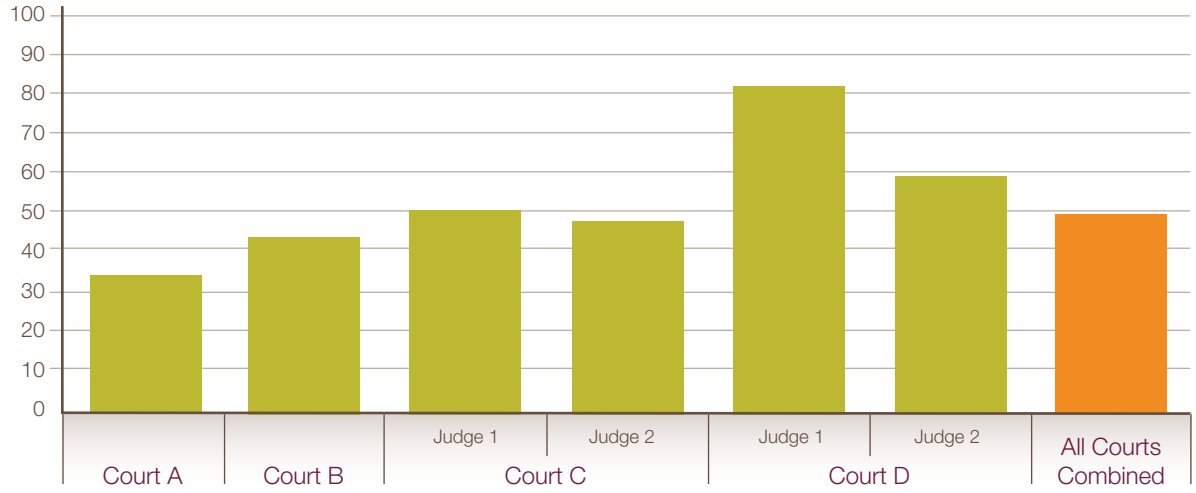
Considering the quality of overall discussion in hearings, discussion breadth, as indicated by the number of topics discussed as a percentage of total applicable topics, was 49% on average. The average depth of discussion in hearings, across all topics discussed, was 1.6. In other words, when a topic was discussed, discussion extended beyond the statement level approximately 60% of the time.

The average depth of discussion was slightly higher when children were present in court (mean=1.7 vs 1.6). Discussion breadth was slightly lower with children present (8.3 vs. 8.7 topics discussed).

In Court Discussion – Court-Specific

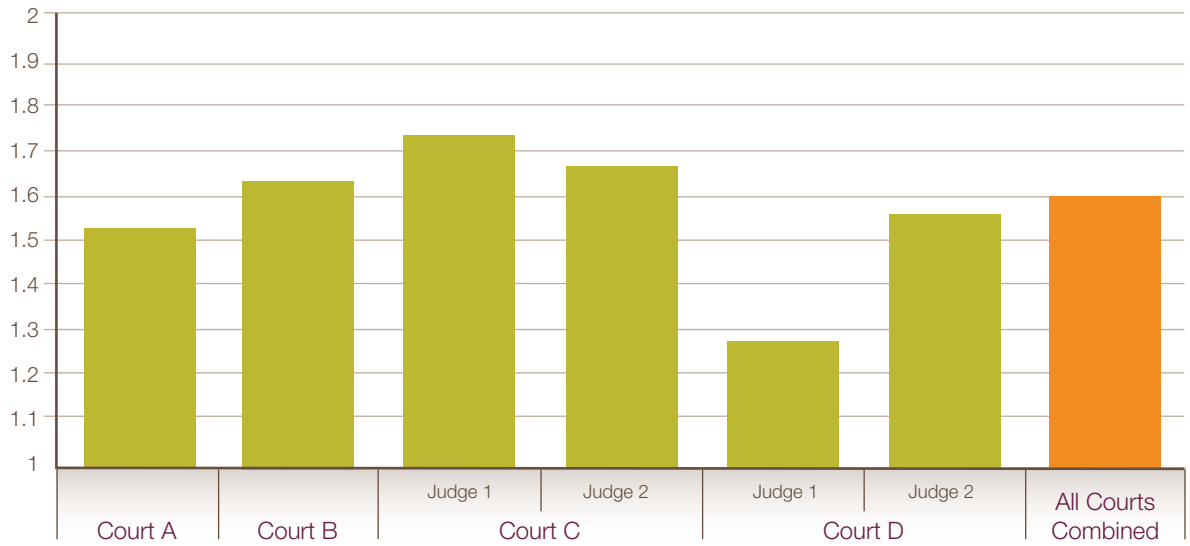
As shown in Figures 3 and 4 below, the number of topics discussed as a percentage of total applicable topics (breadth) and the depth of discussion varied substantially between courts.

Figure 3: Average Percentage of Total Applicable Topics Discussed, by Court



Courts A, B, and C fell in ascending order in terms of both discussion breadth and depth. That this pattern holds for both breadth and depth of discussion suggests that these courts may have a certain level of commitment to thorough discussion that is reflected in that breadth and depth. This pattern was not found for Court D, which had the highest percentage of applicable topics discussed but lowest discussion depth suggesting a possible trade-off between breadth and depth in hearings in this court.

Figure 4: Average Depth of Discussion, by Court



It is also important to note that considerable differences were found between judges of the same court. This is an important limitation to keep in mind in interpreting the findings for the two county courts in our sample because it suggests that a larger sample of judges might yield different estimates of hearing practice than we found here. It also points to the determining role that individual judges have in establishing high-quality hearing practice.

Qualitative analyses provided additional insight into these differences in court discussion practices. Observers at Court A noted that the hearings were "very quick" and there was "not much discussion." In Court B, observers often commented on specific topic areas that were being addressed and noted several hearings that had in-depth well-being discussions. For Court D, observers noted that there was often a series of questions and answers to move the hearing along, which increased the number of items discussed.

Judicial Inquiry – All Courts Combined

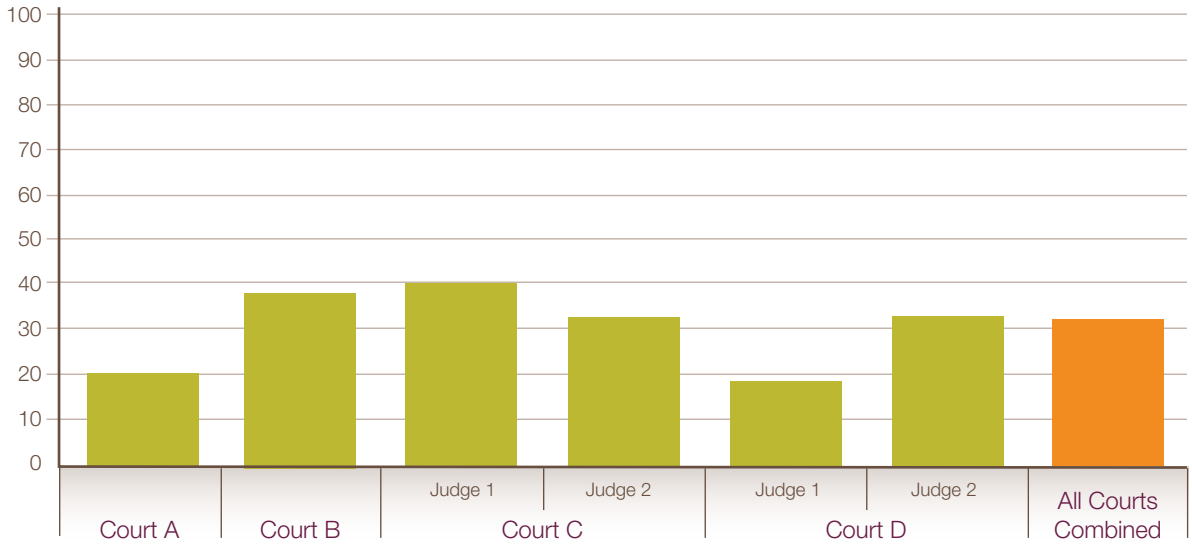
The judicial inquiry items in this section emphasize the importance of judicial leadership in making discussions substantive. In contrast to the discussion findings in the previous section, the judicial inquiry variables reflect the extent to which a particular topical discussion was influenced by judicial inquiry. Judicial inquiry into each of the 19 discussion topics was assessed using a no/yes response scale, excluding topics not applicable to the case. Due to low inter-rater reliability, judicial inquiry for

the item addressing next steps for permanency was omitted from the analysis. Judicial inquiry was scored "yes" if the judge directly questioned a party about the topic, asked follow-up questions, or otherwise added to the discussion of the topic in some way. The sum of topics receiving judicial inquiry as a percentage of total applicable topics is reported below. Across all 74 hearings, judicial inquiry ranged from 0 to 77%, with an average of 32%.

Judicial Inquiry – Court-Specific

Figure 5 presents the level of judicial inquiry by court and judge. Courts B and C had the highest levels of judicial inquiry. Interestingly, these same courts also had the greatest depth of discussion in the previous section. Similarly, Court D had the lowest level of judicial inquiry and the lowest depth of discussion as well, and Court A was next lowest on both indicators. This pattern of findings confirms the intuitive expectation that judges' questions prompt more extensive discussion.

Figure 5: Level of Judicial Inquiry, by Court



Qualitative responses provided some context for these judicial inquiry findings, particularly as they relate to earlier discussion findings from the previous section. As shown in Figure 5, Court D had lower levels of judicial inquiry but the greatest breadth of discussion (Figure 3). This seemingly contradictory pattern of findings can be partially explained by qualitative comments from observers of Court D that indicated that the State's Attorney provides an update to the court on the status of the case and addresses numerous topics in the process. Such an arrangement would explain why judicial inquiry would be low at the same time that discussion breadth was high. However, the low level of judicial inquiry is reflected in the lower depth of discussion for this court.

Engagement of Children – All Courts Combined

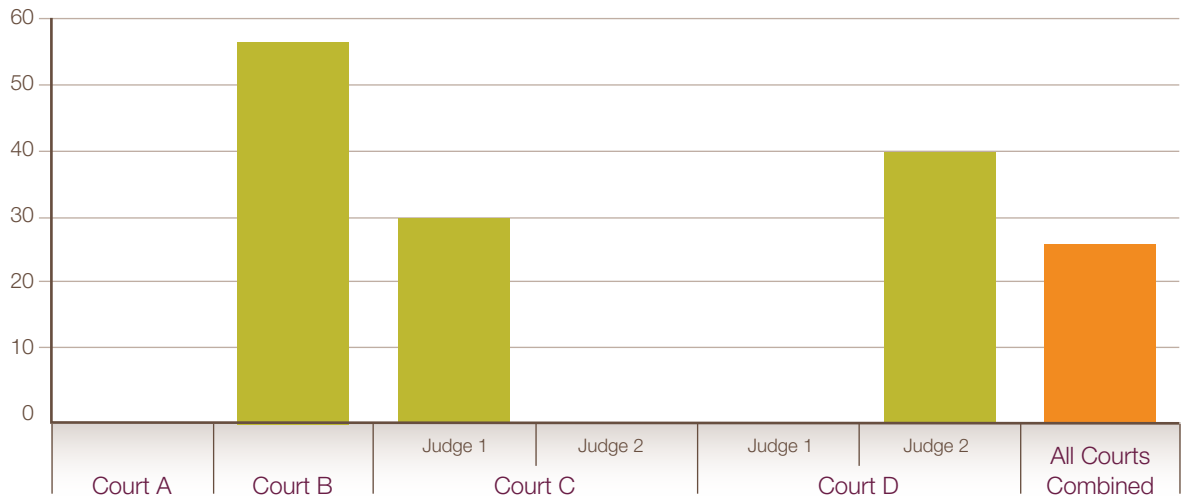
The level of engagement of children was measured in three ways. The child's presence and participation were coded, as well as the degree to which the judge directly engaged the child. Children were present in 27% of the observed hearings and they spoke in 55% of those hearings. The third measure of child engagement reflected judicial behaviors to encourage engagement. Observers identified whether the judge: (1) explained the hearing process to children, (2) explained the court's role as an impartial decision maker, (3) explained the legal time constraints on the case, (4) directly questioned the child, and (5) provided the child an opportunity to speak/ask questions.

Findings for these five variables indicated that the latter two judicial practices were fairly common. In the majority of hearings in which children were present, judges directly questioned the child (77%) and provided the child an opportunity to speak/be heard (82%). However, the other three child engagement practices were not employed at all. Judges did not explain to children the hearing process, the court's role as an impartial decision-maker, or the legal time constraints on the case.

Engagement of Children – Court-Specific

Child engagement findings for each court and judge are shown in Figure 6. Three of the six judges (50%) never had a child present at any observed hearing. The other judges had children present in varying degrees, ranging from 30% to 57% of the hearings.

Figure 6: Percentage of Hearings with Children Present, by Court



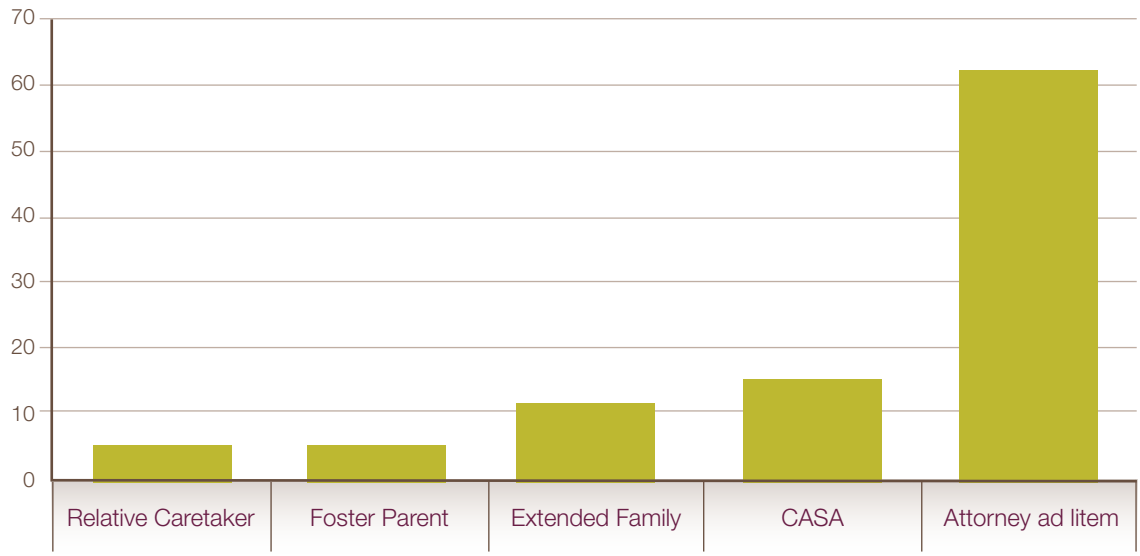
Because children were present in a small percentage of hearings, we did not have sufficient data to examine the other aspects of child engagement for individual courtrooms.

Qualitative responses suggested that the lack of child engagement might be due in part to the age of the child. In several hearings, the observers noted that the child was too young to participate. Another observer noted that the child "was given a chance to speak but did not want to."

Support Parties Present – All Courts Combined

The presence of caretakers at hearings and judges' engagement of caretakers were also examined. A caretaker (e.g., birth or foster parent, relative caretaker) was present in 23% of hearings. When caretakers were present, the judge directly questioned them and allowed them an opportunity to be heard in 88% of cases. The presence of other support parties (e.g., CASA, attorney *ad litem,* relatives) is shown in Figure 7. Attorneys *ad litem* were the most common parties present, attending 63% of hearings observed. Other parties appeared infrequently.

Figure 7: Percentage of Hearings with Parties Present



Support Parties Present – Court-Specific

Local court rules and the culture of the court may require or encourage specific parties to be present (e.g., relative caretakers, foster parents, extended family, CASAs, and attorneys *ad litem*). As noted in the Table 3 below, Court B had a diverse selection of parties present at the hearings, much more so than other courts. Court C had the highest percentage of hearings with an attorney *ad litem* present, although all courts had attorneys *ad litem* present in at least some of the hearings. Court A had the highest percentage of CASAs present. Courts C and D did not have CASAs present in any of the hearings observed.

Table 2: Percentage of Hearings with Specific Support Parties Present, by Court

	Court A	Court B	Court C		Court D	
			Judge 1	Judge 2	Judge 1	Judge 2
Relative Caretaker	0%	5%	5%	0%	12%	0%
Foster Parent	0%	9%	5%	0%	0%	0%
Extended Family	0%	33%	0%	0%	12%	0%
CASA	45%	29%	0%	0%	0%	0%
Attorney ad litem	36%	62%	80%	78%	62%	60%

Hearing Length – All Courts Combined

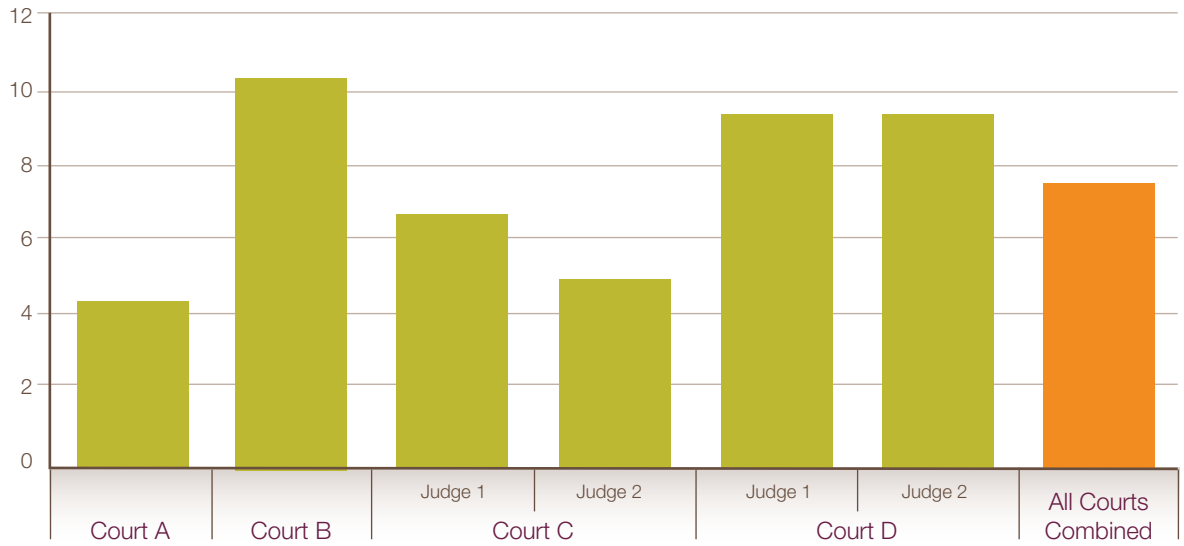
Findings confirm that placement review hearings are often short, which raises concerns about sufficient time for substantive discussions. Overall, hearing length ranged from 1 to 60 minutes, with an average hearing length of 8 minutes (median=6 minutes), well short of the best-practice recommendation of 30 minutes.

> There was an increase in hearing length related to children's presence. When children were present in court, the average hearing length was 9.5 minutes compared to 6.7 minutes when children were not present.

Hearing Length – Court-Specific

Hearing times varied considerably between courts, ranging from a low of four minutes in one court (Court A), to 10 minutes for another (Court B). Average hearing length for each court and judge is shown in Figure 8.

Figure 8: Average Hearing Length (in Minutes), by Court



As would be expected, court differences in hearing length closely resemble court differences in discussion breadth, with the exception of Court B. Court D judges addressed the most topics and had the longest hearings (though they had low discussion depth). Court A addressed the smallest number of topics and also had the shortest hearings. Courts B and C had the greatest depth of discussion and the largest number of topics discussed, behind only Court D, though Court C's hearing lengths were among the shortest overall. This latter finding does not conform to expectations, but overall these findings confirm the intuitive expectation that substantive discussion takes time.

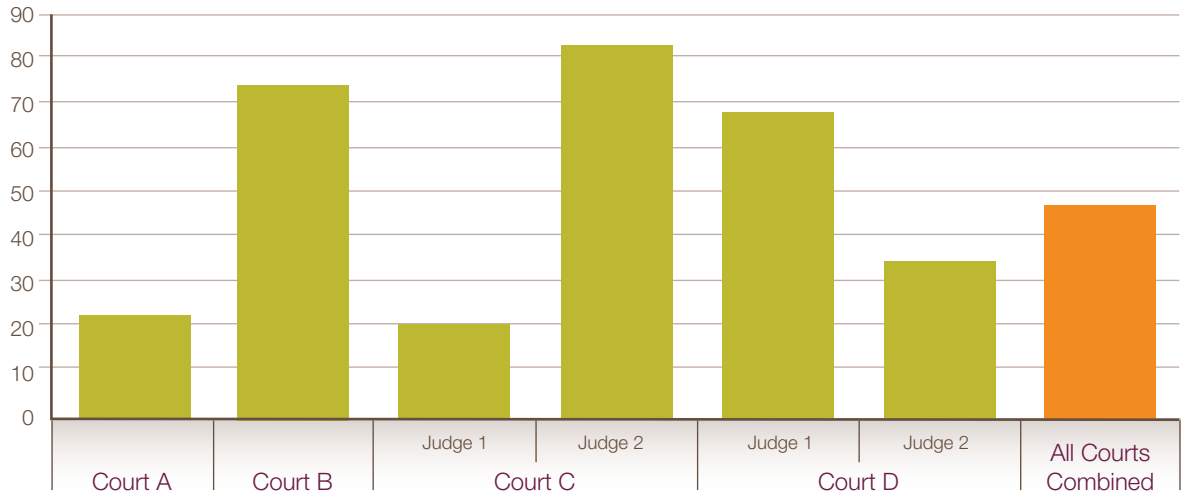
Delay Time – All Courts Combined

Delay time was computed by subtracting the hearing start scheduled time from the hearing time[2]. Hearings tended to begin late, by an average of 48 minutes with delays ranging up to 160 minutes. In other words, parties had an average wait time of 48 minutes when attending hearings, with some parties waiting for more than two hours for the hearing to begin.

Delay Time – Court-Specific

As shown in Figure 9, delay time varied substantially between courts. Court A and Judge 1 of Court C had much lower delay time than other judges.

Figure 9: Average Delay Time (in Minutes), by Court



Two other indicators of hearing quality were included in the observation instrument. These included whether all parties were prepared for court and whether the discussion focused on finding a permanent home for the child. Responses to these items were made on a yes/no scale with an *unable to determine* option.

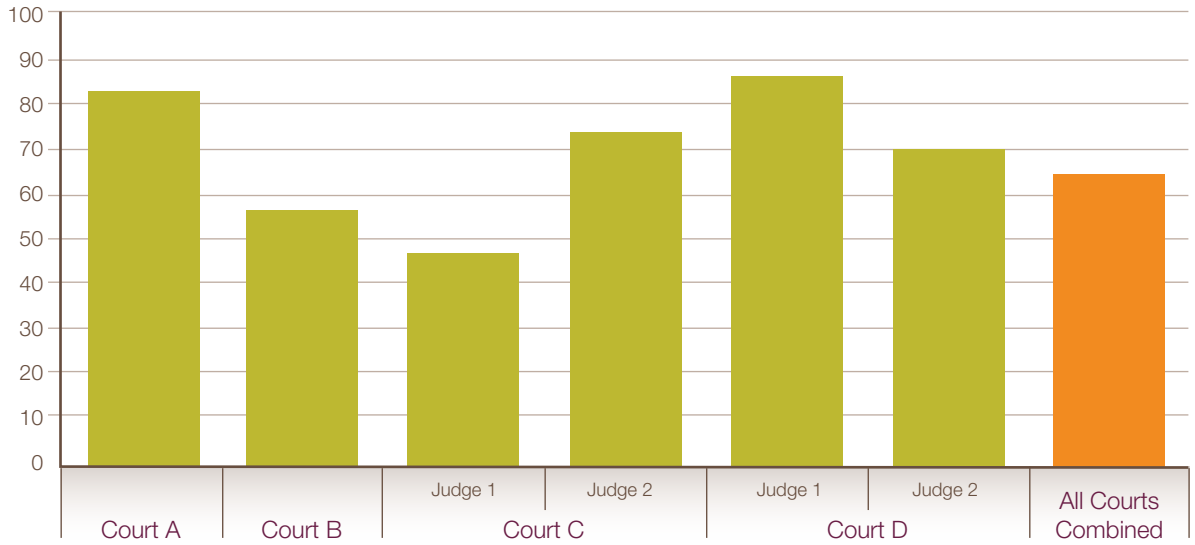
Parties Prepared for Court – All Courts Combined

Observers indicated that all parties were adequately prepared for court in 68% of the observed hearings. In 19% of cases, the observers believed that at least one party was unprepared for court, and in 13% of cases, the observer was unable to determine how prepared parties were.

Parties Prepared for Court – Court-Specific

Findings for separate courts and judges are shown in Figure 10. Note that totals may not equal 100% because observers could also choose *unable to determine*. Interestingly, Courts B & C had the lowest levels of party preparedness, but also the highest levels of discussion depth and judicial inquiry. This combination of findings suggests that judicial inquiry and substantive discussion expose the level of preparation of parties.

Figure 10: Percentage of Hearings in Which all Parties Were Prepared, by Court



Qualitative analysis of observer comments revealed several reasons for lack of preparedness. In Court C (Judge 1), observer notes indicated that the "caseworker seemed new" in one hearing. For Court C (Judge 2), there were concerns about the attorneys. One observer noted that the attorney ad litem was "covering for someone else" and "wasn't prepared." In another hearing, the observer remarked that the child's attorney was a no-show, causing the judge to remove him from the case. In Court D (Judge 2), the reasons for unpreparedness were mixed. In one hearing, observers noted that the attorney was new and had yet to visit the child. Another observer noted that a caseworker [provided] conflicting information and answered questions poorly.

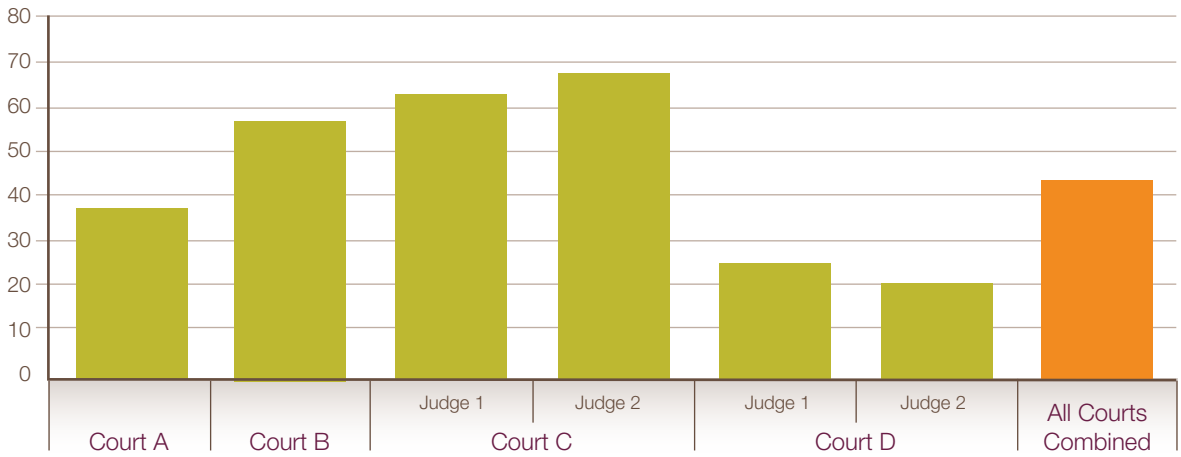
Discussion Focused on Finding Permanent Home – All Courts Combined

The Appleseed report indicated that many placement review hearings did not include a focus on finding a permanent home for the child but instead provided only status updates. Observers indicated whether the hearing discussion was focused on finding a permanent home for the child. Only 42% of hearings were focused on finding a permanent home for the child. This finding raises the concern that many hearings are status quo hearings rather than hearings to ensure urgency, accountability, and exhaustive efforts to move children towards permanency.

Discussion Focused on Finding Permanent Home – Court-Specific

The pattern of discussion that focused on finding a permanent home is similar to the pattern found for discussion depth. Hearings in Courts C were observed to focus on permanency most frequently, followed by Court B (Figure 11). In contrast, hearings of both Court D judges were not commonly focused on finding a permanent home.

Figure 11: Percentage of Hearings in Which Discussion Focused on Finding a Permanent Home, by Court



Exploring the Relationship Between Placement Review Hearing Practice and Permanency Outcomes

Overview

In this section, we examine the question, *Are there observable associations between placement review hearing practice and permanency outcomes among the four jurisdictions?* As noted in Table 1, sites were selected based in part on differences in 2008 permanency outcomes. Two sites performed above the statewide average on selected permanency outcomes from the Appleseed report (Courts B & C), and two sites performed below the statewide average (Courts A & D). Specifically, Courts B and C were above the state average on the percentage of PMC youth exiting care in less than one year and the percentage of PMC youth exiting to adoption. Additionally, these courts were below the state average on the percentage of youth exiting care after three years and the percentage of youth aging out of services. In contrast, Courts A and D trailed the state average in performance on these four outcomes. The one exception to this pattern was that Court A exceeded the state average on youth exiting in less than three years, but it underperformed on the other three outcomes.

How Hearing Practices Differed Between the Two Groups of Courts

To explore the relationship between practice and outcomes, we examined how hearing practices differed between the two groups of courts. Using the sample average for each aspect of hearing practice[3], we identified which courts were above the sample average for each indicator of hearing

practice and which were below. We then examined the pattern of practice findings for possible relationship with the courts' 2008 standing on permanency outcomes. This analysis rests on the assumption that the differences in 2008 permanency outcomes between these courts still held at the time hearing practices were observed; in other words, that the two courts with above average outcomes in 2008 were still above the state average, and vice versa. For this reason and others discussed below, this analysis is not intended to identify what court practices *cause* better permanency outcomes. Rather it provides a preliminary exploration of how court practice may be related to permanency outcomes. Findings are summarized in Table 3 below.

Table 3: Summary of Hearing Practices, by Court

Hearing Practice Indicators	Court A	Court B	Court C		Court D	
			Judge 1	Judge 2	Judge 1	Judge 2
Discussion breadth	-	-	+	-	+	+
Discussion depth	-	+	+	+	-	-
Judicial inquiry	-	+	+	+	-	-
Children present	-	+	+	-	-	+
Caretaker present	-	+	-	-	-	-
Hearing length	-	+	-	-	+	+
Hearing delay	+	-	+	-	-	+
Parties prepared for court	+	-	-	+	+	+
Focus on finding permanent home	-	+	+	+	-	-
Total above sample average	**2**	**6**	**6**	**4**	**3**	**5**

Note: (+) = Outperformed sample average, (-) = Underperformed sample average

As shown in Table 3, there was a slight trend for courts with higher permanency outcomes to have higher quality hearing practice. Court B and Judge 1 of Court C had above average hearing practice on 6 of 9 indicators, and Court A and Judge 1 of Court D had above average hearing practice on a markedly smaller number of indicators (2 and 3, respectively). Exceptions to this trend were that Judge 2 from Court C had above average practice on fewer indicators than the other courtrooms in that group, and Judge 2 from Court D had above average hearing practice on more indicators than the other courtrooms in that group. The three indicators that reflected the anticipated relationship between practice and outcomes were discussion depth, judicial inquiry, and focus on finding a permanent home. The other indicators of hearing practice held exceptions for one court or another, usually Judge 2 from Courts C and D.

Discussion and Conclusion

Texas Appleseed's 2011 report, *Improving the Lives of Children in Long-Term Foster Care,* provided a number of recommendations for the reform of court practice in placement review hearings. The purpose of the present study was to provide an in-depth examination of placement review hearing practice using direct observation, to build upon the insights provided by stakeholder interviews in the earlier report. Few studies have examined the quality of court practice for youth in foster care; thus, the findings summarized below offer valuable insight into the current status of hearing practice and areas for improvement.

Hearing practice across all four jurisdictions and between judges from the same jurisdiction varied

Court Practice Is Diverse

Hearing practice across all four jurisdictions and between judges from the same jurisdiction varied substantially. While some core best practices might have been anticipated to be present across jurisdictions, no single practice was found to occur consistently across the sites. This variation both allows for the strengths and weaknesses of the courts to emerge, and it illustrates some cause for concern in Texas dependency court practice as a whole. Many best practices are not implemented consistently or at all. Although each of the best-practice recommendations will not apply equally to every case, the levels of implementation found in this study are low enough to indicate there is considerable room for improvement in placement review hearing practice in Texas.

Quality of Hearing Discussion

Texas Family Code §263.503 requires that PMC placement review hearings include court determinations regarding appropriateness of placement (including determining least restrictive/best interests), services needed, and efforts to finalize permanency. The Appleseed report and *Resource Guidelines* also identify key topics that should be discussed in hearings. Of 19 topics examined in the present study, the topics most commonly addressed included *appropriateness of current placement* (88% of hearings), *next steps in case planning* (76%), and *physical well-being* (68%). Topics least commonly addressed were *appropriateness of educational placement* (20%), *guardianship efforts* (16%), and *concurrent plan* (13%). Note that observers accounted for whether each topic was applicable to a given hearing.

The Appleseed report noted that "the six-month hearings are often empty of any meaningful conversation about the needs of the child" (p. 9). Our findings indicated that educational needs were discussed in 63% of hearings, mental health needs were discussed in 52% of hearings, and other special needs of the child were discussed in 52% of hearings. Special needs were also among the topics receiving the greatest depth of discussion.

The Appleseed report also noted a prevailing view that placement review hearings often serve as "status quo" hearings. According to Texas Family Code § 263.503, the court is required to determine whether "the department or authorized agency has made reasonable efforts to finalize the permanency plan that is in effect for the child." Our findings indicate that topics related to achieving permanency are often not discussed: permanency plans were not reviewed in 36% of hearings, adoption efforts not discussed in 44% of hearings, efforts to move permanency forward not discussed in 55% of cases, and relative placements not discussed in 63% of hearings. Observers also indicated whether the hearing discussion overall was focused on finding a permanent home and found that less than half of hearings were so focused (42%). These findings illustrate a lack of consistency in a practice that is applicable to all placement review hearings and that should be demonstrated at a minimum for statutory requirements. If the child has not achieved permanency, this should be the primary focus of the hearings. *All potentially appropriate permanency plans should be explored at every hearing.*

The Appleseed report also found a lack of communication and collaboration among key stakeholders, due in part to the lack of clearly defined roles and responsibilities once the case enters PMC. Roles and responsibilities of parties were discussed in only 30% of hearings, although when they were discussed, they tended to receive deeper discussion. Clear roles and responsibilities are essential in moving the case forward between hearings. Within placement review hearings, judges have the opportunity to enhance oversight of the case and to talk very specifically about what needs to be done, who needs to do it, and timelines for completion to ensure accountability for progress toward permanency.

Judges are clearly challenged to ensure a discussion that covers the breadth of relevant topics with sufficient depth of discussion, within the constraints of a full docket. Observers often noted hearings that gave extensive discussion to one or a few topics but omitted other important topics. Although children's needs were often discussed and tended to receive deeper discussion, one observer remarked that hearings focused too much on the current needs of the child and not enough on achieving permanency for the child. Another observer noted that upon hearing that the child was having some problems at school, the judge had a singular focus on the child's school situation and career path.

Examining the overall breadth of discussion alongside overall depth of discussion, we found that Court A was lowest in number of topics discussed and second lowest in depth of discussion. In contrast, Courts B and C were highest in depth and behind only Court D in breadth. Court D had a different pattern – the highest number of topics addressed but the lowest depth of discussion. Although Court D reflects a trade-off between breadth and depth, findings from Courts B and C suggest that it is feasible to have hearing discussions high in both breadth and depth. Given that hearing length averaged 8 minutes, which was well below the best-practice recommendation of 30 minutes, there is considerable room for improvement in both the breadth and depth of discussion.

Hearings should both be substantive and cover the breadth of topics related to the needs of the child. *Hearing discussion should provide a balance of current needs of the child (well-being and placement focus) and future needs of the child (achieving permanency).*

Judicial Oversight

Texas Appleseed recommended that judges take "an active oversight role" in the hearing process (p. 16), noting that strong judicial oversight is necessary for improving the quality of placement review hearings and helping move the case forward. The *Resource Guidelines* also encourage active judicial oversight in child abuse and neglect cases. Judges have the ability to ask probing questions to ensure that the child's needs are being met and efforts to achieve permanency for the child are maximized. To focus specifically on the judge's role in creating substantive discussion, we assessed whether each key discussion topic was addressed specifically by the judge's inquiry. On average, observers indicated direct judicial inquiry into 6 of 18 key topics. This suggests that judges are not taking full advantage of the opportunity to spur progress toward permanency through active judicial oversight. Judges from Courts B and C had the highest levels of judicial inquiry. The three judges with the highest judicial inquiry also had hearings with the greatest depth of discussion and the highest percentage of hearings with discussion focused on finding a permanent home.

Observers indicated that children were present in 27% of hearings, and three of six judges did not have children present at any hearings.

Presence and Engagement of Children

Texas Family Code §263.501(f) states that "the child shall attend each placement review hearing, unless the court specifically excuses the child's attendance." However, the Appleseed report found that children are rarely present in court, and when they are, they are rarely invited or encouraged to participate. Both the Appleseed report and the *Resource Guidelines* recommend that children should be present in court. Further, the NCJFCJ Board of Trustees recently adopted a policy that encourages the presence and participation of children in court hearings, when appropriate. Children were rarely present in the hearings observed here. Observers indicated that children were present in 27% of hearings, and three of six judges did not have children present at any hearings. There were also notable differences between judges of the same court. Judges from Court C differed markedly in the percentage of hearings with children present, as did Judges from Court D, pointing again to the importance of judicial leadership in establishing quality hearing practice. When present, children spoke in just over half of hearings (55%). Other indicators that reflect a stronger commitment to the engagement of children were not observed in any hearings. Judges did not explain the hearing process, the court's role as an impartial decision-maker, or the legal time constraints on the case to children in any of the hearings.

Presence and Engagement of Caretakers and Support Parties

According to the Appleseed report, parties who know the child are rarely present and rarely have a voice in the system. The *Resource Guidelines* recommend that caretakers and advocates for

the child should be present in review hearings. Observers indicated that a caretaker for the child (e.g., birth parent, foster parent, relative caretaker) was present in less than a quarter of hearings (23%). When present, caretakers were given an opportunity to speak the large majority of the time (88%). Beyond caretakers, attorneys *ad litem* were the most common support parties present. The Appleseed report recommended that all PMC youth have a CASA, because for these youth CASAs are often the individual most familiar with the case. CASAs were present in only 16% of hearings in the present study, and courts varied widely on this indicator. Court A had a CASA present in 45% of hearings, whereas four of the other judges observed did not have a CASA present at any hearings.

Hearing Length

The *Resource Guidelines* propose that courts should allow 30 minutes to conduct a substantive review hearing including discussion of all relevant topics. Recent research on workload and hearing practice in one state found that substantive reviews took an average of 22 minutes (Dobbin et al, 2010). In the present study, the average hearing length was 8 minutes, well short of best-practice guidelines.

judges with the highest judicial inquiry also had hearings with the greatest depth of discussion and the highest percentage of hearings with discussion focused on finding a permanent home.

Hearing Delay

The *Resource Guidelines* recommend time-certain calendaring, in which hearings are set for specific days and times (e.g., January 31 at 2:15pm). Time-certain calendaring allows for more efficient case processing and reduces wait time for parties, which may increase parties' willingness and ability to attend hearings. Texas Appleseed similarly recommended that "docket schedules must be composed efficiently so that children and stakeholders can attend" (p.21). Findings indicated the average delay time was 48 minutes, ranging to a high of 160 minutes.

Parties Prepared for Court

The Appleseed report indicated that "many judges expressed frustration with the lack of preparedness of participants at the placement review hearing" (p. 66). The Appleseed report also noted a prevailing view that placement review hearings were serving as "status quo" hearings and that parties were not actively working to move the case toward permanency. In the present study, observers indicated that all parties were prepared for court in approximately 2 out of 3 hearings (68%).

Certain Indicators of Hearing Practice Appear to Be Related to Permanency Outcomes

This study also explored the relationship between hearing practice and outcomes by examining differences in practice between courts with above-average permanency outcomes in 2008 and

a pattern of relationship between certain indicators of court practice and permanency outcomes did emerge

those with below-average permanency outcomes. While the design of the study does not enable us to make causal assertions, a pattern of relationship between certain indicators of court practice and permanency outcomes did emerge. Courts B and C had permanency outcomes in 2008 that were higher than the state average, and they also had levels of discussion depth, focus on finding a permanent home, and judicial inquiry that were higher than the other courts in this study. This is an important set of findings that suggests aspects of hearing practice that distinguish courts with better success in achieving permanency for youth.

Most of the indicators of hearing practice did not conform to the trend, however. For example, hearing length and the percentage of hearings with a caretaker present were below average in Court C, and discussion breadth was below average in Court B. In addition, Court A, which had lower permanency outcomes, had lower hearing delays (and the highest percentage of hearings with a CASA present as well). Similarly, both Court D judges had above average discussion breadth, despite having 2008 permanency outcomes that were below the state average. There are a number of possible interpretations for these findings: permanency outcomes for these courts may have improved since 2008, the hearings observed here may not represent the quality of hearing practice in the court overall, or these indicators of hearing practice may have less influence on permanency outcomes.

Although a number of methodological limitations (discussed next) preclude the assertion of a causal relationship between hearing practice and permanency outcomes, the three indicators of hearing practice that were associated with permanency outcomes in this exploratory analysis – *discussion depth, focus on finding a permanent home,* and *judicial inquiry* – comprise a coherent set of practices reflecting the extent to which hearing discussions are substantive. It is quite reasonable to expect that hearings with more substantive discussion as reflected in these three indicators would be more effective in identifying permanent placements for youth, though identifying a cause/effect relationship between these practices and outcomes remains a task for future research.

Strengths and Limitations

The major strength of this study was the opportunity to observe judicial practice as it occurs in actual hearings. Structured observations provide a view of court practice that is relatively unbiased for several reasons. First, observers were not aware of the courts' status on permanency outcomes. Second, although observers were visible in the courtroom, placement review hearings are open to the public and observers were not identified to courtroom participants, therefore the likelihood that courtroom participants changed their behavior because they knew they were being observed is low.

Several limitations should be noted. Although observational data offer a unique insight into the nature of hearing practice, the use of that approach prevented observations in a larger number of courts. In most courts we exceeded our aim of observing 10 hearings per judge, though our small sample

size seriously limits the generalizability of these findings. The ability to sample hearings over a larger span of time for each judge, a larger number of judges within county courts, and a larger number of courts across the state would have provided greater confidence that these results are reflective of the nature of placement review hearing practice in the jurisdictions studied and in the state. It should also be noted that our sample included only judges who were responsive to our initial invitation so there is a possibility that judges unwilling to participate have hearing practices different from those observed here. However, the sample included both county and cluster jurisdiction types, in urban and rural settings, providing some assurance that these results do not pertain to only one type of court.

Other important limitations relate to the exploration of the relationship between hearing practice and outcomes. This study was not designed to provide evidence of a causal relationship between practice and outcomes. Rather, our purpose was to explore the possibility of that relationship within the practical limitations of this project. The permanency outcomes examined here were from state fiscal year 2008 and were measured at the court level. It is possible that hearing practice has changed since those permanency outcomes were measured or that court-level permanency outcomes (in the case of county courts, which have multiple judges) are not reflective of outcomes for the specific judges studied.

Finally, our ability to attribute a causal relationship between practice and outcomes is also limited by the ability to control for all of the other contextual factors in the jurisdiction that may relate to both the quality of practice and permanency outcomes. For example, our results provide no information on the frequency of hearings held in a jurisdiction, policies regarding relative placements, and the availability of adoptive homes in a community, all of which likely relate to hearing practice and permanency outcomes in a community.

> The major strength of this study was the opportunity to observe judicial practice as it occurs in actual hearings.

For reasons such as these, the present study stands as a preliminary exploration of the relationship between hearing practice and outcomes. It provides a foundation for future research examining (1) whether implementation of certain high-quality hearing practices results in better permanency outcomes and (2) which practices have the strongest effect on permanency outcomes. Suitable answers to these questions will require a larger sample of courtrooms and hearings, and primary data collection for outcomes at the youth level. Such a study would require significant resources, but the potential value of the findings is immense.

Conclusions

In light of these strengths and limitations, our results indicate several outstanding themes that provide direction for continued improvements in placement review hearing practice in Texas. First, there is widespread inconsistency in the quality of placement review hearing practice. We found

marked variation in hearing practice between courts and between judges within the same court, and best-practice recommendations are often not implemented. Most notably, hearings are often short and fail to substantively address the range of topics essential to achieving permanency. Children, caretakers, and CASAs were most often not present in hearings, and judges never employed child engagement strategies such as explaining the judicial process, the court's role, and legal time constraints to children. However, courts with higher levels of judicial inquiry also had higher levels of discussion depth and greater focus on finding a permanent home for the youth. Finally, courts with the highest levels of judicial inquiry, discussion depth, and focus on finding a permanent home were the same courts with higher permanency outcomes in 2008. Taken together, these findings indicate large room for improvement in placement review hearing practice in Texas and indicate the need for strong judicial leadership in further implementing best-practice recommendations.

References

Department of Family and Protective Services. (2011) *DFPS Data Book,* p.63. Retrieved from http://www.dfps.state.tx.us/documents/about/Data_Books_and_Annual_Reports/2011/DataBook11.pdf

Dobbin, S., Gatowski, S., Russell, J., & Summers, A. (2010). *Judicial Workload in Washington State Dependency Cases.* Retrieved from http://www.ncjfcj.org/sites/default/files/Judicial%20Workload%20in%20Washington%20State%20Dependency%20Cases.pdf

National Council of Juvenile and Family Court Judges. (1995). *RESOURCE GUIDELINES: Improving Court Practice in Child Abuse and Neglect Cases.* NCJFCJ: Reno, NV. Retrieved from https://www.ncjrs.gov/pdffiles/resguid.pdf

National Council of Juvenile and Family Court Judges. (2000). *ADOPTION AND PERMANENCY GUIDELINES: Improving Court Practice in Child Abuse and Neglect Cases.* NCJFCJ: Reno, NV. Retrieved from http://www.ncjfcj.org/sites/default/files/Adoption%20and%20Permanency%20Guidelines.pdf

Texas Appleseed. (2010). *Improving the Lives of Children in Long-Term Foster Care: The Role of Texas' Courts & Legal System.* Retrieved from http://www.texasappleseed.net/images/stories/reports/FosterCare-rev_press.pdf

Endnotes

1. When children in state care do not achieve permanency within one year, Texas Family Code §263 requires that those children enter into PMC until permanency can be achieved.
2. Court A underperformed the state average on all but one outcome.
3. Agreement between a pair of observers was labeled a 1, and non-agreement was labeled a 0. The level of agreement (i.e., reliability) between a pair of observers is represented by a ratio of the number of observer agreements to the total number of possible agreements—referred to as Holsti's coefficient. Conventionally, Holsti's coefficients above .80 are considered good. Holsti's coefficients between .60 and .79 are considered acceptable. Items with missing data for one or both observers were excluded from the analysis.
4. Negative values of delay were possible for hearings beginning prior to the scheduled start time.
5. Variables with insufficient data for court comparisons, such as engagement of children and caretakers, were not included.

judicial *practice*

Casey Family Programs is the nation's largest operating foundation whose work is focused on safely reducing the need for foster care and building communities of hope for all of America's children and families. We work in partnership with child welfare systems, families and communities across the nation to prevent child abuse and neglect and to find safe, permanent and loving families for all children. We believe every child deserves a family of their own and a community of hope.

P 800.228.3559
P 206.282.7300
F 206.282.3555

www.casey.org | contactus@casey.org