

Performance Measures for Courts: The Next Step in Foster Care Reform

Thomas C. Atwood and Virginia C. Ravenel

Executive Summary

Working with the public child welfare system, it is the responsibility of juvenile and family courts to ensure right and timely placements of foster children with loving, permanent families. With more than a half-million children in foster care, this is a daunting task. A system intended to provide temporary care has now evolved into one in which hundreds of thousands of children languish for two, three, and even four or more years. Performance measures for juvenile and family courts can help provide both the understanding and the accountability necessary to promote court improvement.

Performance measures for family and juvenile courts are an idea whose time has come, and they are as important to court improvement as they have been to child welfare system improvements. In its May 2004 report, the Pew Commission on Children in Foster Care identified court performance as a key factor that unnecessarily delays the time that children live in state care. Performance measures enable courts to determine objectively their strengths and weaknesses, and provide the public information with which to ascertain how well their judiciaries are meeting the needs of children in foster care. These measures will also inform policymakers and the judiciary about needed reforms, and provide data that judges and courts can use to demonstrate the effectiveness of system changes.

Model Courts and the Court Improvement Project (CIP) have enabled courts to test reform efforts. There are 25 Model Courts in 21 states, managed by the National Council for Juvenile and

Family Court Judges (NCJFCJ), and every state has at least one Court Improvement Project coordinated by the Children's Bureau. According to studies launched in participating Model Courts and CIPs, effective strategies for court improvement requires strong judicial leadership, effective case management, well designed information systems and data management, and collaboration among the courts and other key stakeholders.

The National Council For Adoption (NCFCA)'s proposed court performance measures would enable judiciaries, policymakers, and the public to evaluate court performance, identify areas needing improvement, and evaluate effectiveness of system changes. These measures will provide useful data for measuring court performance in four crucial areas. All four of these court performance priorities are vital to effective reform, and the truly effective family court should score well on all four types of measures. Each must be addressed for children to be well served:

Timeliness: While timeliness should not be achieved at the expense of the other priorities, it is a necessary condition to ensure that foster children are well served. Excessively long stays, caused by lack of timely court procedures and decisions, are perhaps the biggest problem with foster care today.

Permanence: Placement permanence is an essential measure of the rightness of placement decisions. Courts should strive to find a safe and stable home for each child in their care, in accordance with clear standards for determining the appropriate case goal for each child.

Adoption Advocate

Due process: It is necessary to provide due process for all parties in foster care cases, in order to ensure the meaningful participation of biological parents, legal caretakers, and other interested parties. Without this participation, courts run the risk of making uninformed permanency decisions and cause delays due to unnecessary appeals.

Safety: Courts have the responsibility of protecting the safety of children in care to, the best of their abilities. Timeliness, permanence, and due process are moot if the child is unsafe.

Various institutions and leaders have vital roles to play in ensuring that family and juvenile courts improve the timeliness and rightness of their placement decisions for children in foster care. Courts should self-regulate through the use of performance measures. State legislatures have not only the responsibility to fund court and public agency child welfare services, they also play an important role in improving court performance through the passage of laws that will impose standards for court performance. Child welfare officials at the federal, state, and local levels should intentionally facilitate and encourage healthy relationships with the courts. Child welfare and adoption advocates from non-profit organizations and adoption agencies can use their

educational resources and spheres of influence to inform legislators, executive branch officials, foster care managers and workers, the media, and the public about models for court improvement and the performance of the judiciary. Finally, by publicizing reports on court performance and highlighting both success stories and failures, the media will inform the public and empower citizens to expect improvement from their courts.

Following is NCFCA's list of top-priority performance measures for family and juvenile courts. These measures cover all four priorities – timeliness, permanence, due process, and safety – and avoid creating incentives that prefer one priority at the expense of others.

The time is ripe for concerted, multidisciplinary efforts to improve the performance of juvenile and family courts in fulfilling their responsibility to provide right and timely placements with loving, permanent families for foster children. The National Council For Adoption adds its voice and offers its resources to promote the vital cause of court improvement through performance measures that highlight successful models for reform and provide greater court transparency and accountability, for the sake of America's deserving foster children.

NCFCA's short list of top-priority performance measures for juvenile and family courts:

- Number and percentage of permanency placements, by type
- Length of stay: time between entry into and exit from state care, by type of permanency placement
- Time in foster care, for children currently residing there
- Time between TPR order and conclusion of any appeals
- Number and percentage of children who age out of the foster care system
- Total and average number of continuances
- Number and percentage of cases for which there is not a permanency hearing within 12 months of entry into care
- Number and percentage of exceptions to the 15/22 rule
- Number and percentage of children who have been the subject of another substantiated abuse or neglect petition after exiting the system
- Number and percentage of children who are the subject of another substantiated abuse or neglect petition while in foster care
- Number and percentage of re-entries into the foster care system, after reunification, adoption, and guardianship

◆◆ Nothing written here is to be construed as necessarily reflecting the views of the National Council For Adoption or as an attempt to aid or hinder the passage of any bill before Congress or a state legislature.