

Court-Based Child Welfare Reforms: Improved Child/Family Outcomes and Potential Cost Savings



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Most children placed in foster care have contact with the state child welfare court system. These courts play a key role in ensuring children's safety, timely permanency, and well-being. Prompt and thoughtful court decisions have a great impact on children in foster care. The courts serve as a check and balance on the child welfare agency's decisions and can be a problem-solving resource for families.

Court-driven reforms can have a significant impact on child welfare outcomes and costs. This paper describes court-based child welfare reforms that resulted in improved outcomes for children and families, and potential state/local agency cost savings. Additionally, the article discusses promising practices -- reforms that have yet to be formally evaluated with respect to improved outcomes and cost savings, but show promise based on initial data and anecdotal evidence.

The reforms fall into several categories. Some focus on improving family engagement, access to services, and judicial decision-making. Others improve outcomes by operating as a quality-control mechanism for the child welfare system. All successful reforms share common traits: strong judicial leadership and vision about how the child welfare system should serve families, dedicated professionals, and cross-system collaboration.

Well-functioning courts are an essential component of the child welfare system. By implementing meaningful reforms, courts can improve the lives of our nation's most vulnerable children and families, and save public dollars. Advocates can help by sharing these success stories.

Court-based reforms improve family engagement, service access, and decision-making

Some of the most successful and carefully evaluated court-driven child welfare reforms focus on improving family engagement, access to services, and judicial decision-making. This section discusses several such programs: (1) family treatment courts; (2) improved legal representation for parties in child welfare cases; (3) mediation and restorative justice practices; and (4) enhanced attention to judicial decision-making.

Family Treatment Courts

The more than 300 family drug treatment courts nationwide are an important part of court-led child welfare reforms. These courts should comply with 10 guiding principles including regular court hearings and judicial monitoring, timely referral to substance abuse treatment, frequent drug testing, rewards and sanctions for compliance, and a continuum of treatment options.¹

The family treatment courts described below built on the success of the family drug treatment court model to engage families in the child welfare process and provide services to keep their children safe. A third court program, in Wayne County, Michigan, uses many of the family treatment court concepts to develop a special expedited reunification docket.

Family Treatment Court, Jackson County, Oregon: Since 2001, the Family Treatment Court (FTC) in Jackson County, Oregon, has been serving parents with admitted substance abuse allegations whose children are wards of the child welfare court. It incorporates the key drug court components described above. Participants in the Jackson County FTC attend frequent and non-adversarial court hearings with one judge assigned to their case and other team members. The team, which includes child welfare staff, case managers, domestic violence and housing advocates, attorneys, treatment providers, and the judge, meets regularly to discuss each family's progress, including achievements and obstacles. Generally, the team arrives at a unified recommendation for the family and the judge follows the recommendation. FTC participants have positive comments about the team approach.

Since 2007, the FTC has provided families with emergency supervised housing and drug and alcohol treatment. The housing enables families to keep their children while participating in treatment. Later, the family can transition to less intensely supervised housing. FTC has access to two apartment buildings with treatment provider staff and regular 12-step meetings. One judge noted the program is very successful

because families are engaged when they are most motivated to make a change—before their children are removed.²

For families who cannot safely reside with their children, there is supervised housing where parents receive services. Parents can have frequent visits with their children, and are encouraged to form relationships with their children’s foster parents, who can act as mentors and model positive parenting practices.

A 2010 evaluation found FTC participation led to improved treatment, reduced recidivism, better child welfare outcomes, and significant taxpayer savings. FTC participants were significantly more likely to enroll in and complete drug and alcohol treatment. In a two-year period after entry into treatment, 73 percent of FTC parents completed treatment compared to just 44 percent of the comparison group.³ FTC parents were re-arrested significantly less often than comparison parents.⁴ Children in foster care at the time their parents entered FTC spent significantly less time in care than similarly situated children whose parents were not involved in FTC (264 days v. 367).⁵ Parents in FTC were more likely to reunify with their children and do so significantly sooner, while they also experienced lower rates of parental rights terminations.⁶

The evaluation revealed that four years after a participant’s entry into FTC, taxpayers saved an average of \$5,593 per participant, mostly due to fewer re-arrests and shorter stays in foster care.⁷ Researchers noted the savings will grow as new participants enter FTC. If fifty new participants enrolled each year, researchers concluded the program would save more than \$1 million after five years.⁸ The housing component is likely to save even more. By keeping children out of foster care, the program is estimated to save from \$1.5 to \$2 million dollars in foster care costs annually over a three-year period.⁹

Based on FTC’s success, the Oregon legislature created in 2011 the Strengthening, Preserving and Reunifying Families Program Fund, which offers supplemental child welfare funding to provide many of the services offered to families through the FTC.¹⁰

Family Treatment Court, Jackson County, Oregon
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Family Wellness Court, Santa Clara County, California: The child welfare court in Santa Clara County, California, received in 2007 a federal grant to begin a Family Wellness Court (FWC) focused on serving families with children born with a positive drug screen. To participate in FWC, families must meet the following criteria: (1) the parent gave birth to an infant exposed to methamphetamine or other substance abuse during pregnancy, or the parent has a child under three who was either born drug exposed or raised in an environment where substance abuse is prevalent; (2) the parent does not have intractable mental health issues; and (3) the parent is not likely to face long-term incarceration.¹¹

Santa Clara County's FWC follows a traditional, non-adversarial drug court model. A team of child welfare case managers, attorneys, community partners, parent mentors, and the judge work with the family and participate in regular team meetings.¹² Santa Clara County's FWC adds to the family drug court in two ways. First, it has an intense focus on the child. A family specialist regularly shares information and insights with the team about the child's development and service needs. The family receives support from home visitors and public health nurses, and the focus is not just parents' recovery but the child's needs and development.

Second, Santa Clara County's FWC is a trauma-informed court. To avoid harming families who have already experienced trauma, a trauma expert helped create a less damaging court process. The FWC courtroom is intentionally uncluttered. Families are not rushed through the hearing process. A conscious effort is made to reduce any noise or extraneous activities during the hearing. The FWC team focuses on being strength-based and honoring families through praise, support, and fair and timely sanctions, if appropriate.

Like traditional family drug courts, FWC facilitates and coordinates a broad range of services for families including early drug and alcohol assessments, residential inpatient treatment and transitional housing units where parents can live with their children, connection to 12-step meetings, assistance with government benefits, and mentor parent support.

Initial program results are promising. From March 2008 to April 2011, FWC served 276 parents and 311 children.¹³ The general rate of reunification for families in Santa Clara County was 48 percent in 2009 and 53 percent in 2010.¹⁴ By comparison, the reunification rate for FWC families involved with FWC from 2008

through 2011 was 75 percent.¹⁵ Initial analysis shows that the reentry rate for FWC families compared favorably to California's average reentry rate. Increased reunification rates can translate into significant reductions in foster care costs. In addition, only one family that participated in FWC from 2008 to 2011 gave birth to another child who tested positive for exposure to drugs.

Family Wellness Court, Santa Clara County, California
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Expedited Reunification Docket, Wayne County, Michigan: Concerned with how long it took for families to reunify, judges in Wayne County, Michigan began in 2009 to brainstorm how to expedite reunification. Judges noted that too often all child welfare cases were treated the same, with visitation and reunification progressing at the same rate, regardless of allegations. To respond, the court created the Expedited Reunification Docket (ER Docket) in October 2010.¹⁶ The ER Docket employs many family treatment court principles, including regular hearings, intensive judicial monitoring, and referral to services.

A permanency specialist reviews all court petitions and refers cases to the ER Docket if it looks like the family can reunify within six to nine months and the parents are cooperative. Cases with allegations of serious abuse, sexual abuse, chronic substance abuse, or mental illness are not referred. A pretrial officer then decides whether to assign the case to the ER Docket. Once a case is assigned to the Docket, the family has monthly review hearings in front of a single judge who presides over the case for its duration. Service plans are tailored to the family's needs and families have access to needs assessments, in-home services, family mediation, and parent partners. There is an emphasis on getting children home as soon as they can be safe.

In Wayne County, the median time to reunification in the first half of 2011 was 10 months. For ER Docket cases, the median time to reunification is 69 days, or 2.3 months. No children who reunified from the ER Docket have reentered foster care to date. While there has not been a formal evaluation comparing time in care for similar types of cases, initial data shows potential for cost-savings given that children may be spending less time in foster care without risking increased reentry.

One judge who hears cases on the ER Docket has noted that she sees improved practice in how the court approaches all child welfare cases, not just those on the ER Docket. There is now increased emphasis on tailoring services to the individual family, ensuring frequent and meaningful visitation is taking place, and reunifying families as soon as safely possible.

Expedited Reunification Docket, Wayne County, Michigan
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Improved Legal Representation for Parties in Child Welfare Cases¹⁷

Quality legal representation for parties in child welfare cases leads to better judicial decision-making, more engaged families, and greater access to services. Attorneys present information to the judge, provide advice, and help identify supports for their clients. Most importantly, they work with clients to help them achieve success. Below are several programs and practices focused on providing families with high-quality legal representation.

Washington State Office of Public Defense, Parent Representation Program: An independent agency of Washington's judicial branch, the Washington State Office of Public Defense (OPD) offers a parent representation program that provides state-funded attorney representation to indigent parents in dependency and termination cases. Key program elements include caseload limits (maximum of 80 open cases per attorney), attorney standards, access to expert services and social workers, OPD oversight of attorneys, and training and support.

OPD began as a pilot program in one urban county and two rural counties after an investigation revealed the state spent three times as much per case to initiate and process child welfare cases than counties that provided for legal representation of poor parents.¹⁸ The legislature appropriated \$500,000 to fund the pilot program, which also relied upon existing county funding. The program has since expanded to 25 counties, or two-thirds of the state's counties.

In the rural pilot counties, OPD entered into part-time contracts with private attorneys under supervision of OPD. In the urban pilot county, OPD contracted with the public defender's office, which provided full-time

attorneys. The public defender's office hired additional attorneys to reduce caseloads and added support staff, including social workers. All attorneys had access to expert evaluators for their cases.

Several evaluations conducted over time consistently found the program achieves better outcomes for children, including increased family reunifications, fewer reunification failures and case re-filings, reduced time to all permanency outcomes, continuance reductions, improved parent participation, and better access to services.¹⁹ A 2010 program case audit found a 39 percent increase in the rate of reunification.²⁰

The most recent and comprehensive evaluation examined the program's impact for more than 12,000 children in foster care from 2004 to 2007. This evaluation shows children whose parents were represented by OPD attorneys were more likely to achieve permanency and were likely to achieve permanency faster than children whose parents were not represented by OPD attorneys.²¹ OPD counties had an 11 percent higher reunification rate than counties without OPD. OPD counties also had 104 percent higher adoption rates and 83 percent higher guardianship rates. When researchers converted these rates into real time, the 11 percent higher rate of reunification translated into 27 days a child does not spend in foster care. For those children who could not achieve reunification, adoptions and guardianships in OPD counties were accelerated by approximately one year.

Court administrators, attorneys, and agency caseworkers in Washington observe these improved outcomes are a result of OPD standards that contribute to more efficient and effective case processing.²² Reduced caseloads enable attorneys to meet with clients and prepare cases in advance. Attorneys establish rapport early and communicate regularly with clients throughout the case. Parents are more willing to engage in services, so there are fewer parental rights terminations. When families cannot reunify, OPD attorneys advise clients about adoption and guardianship options that allow continued contact, and work to negotiate those outcomes.

Shortening the time it takes for children to achieve permanency can potentially save millions in public dollars. The reduction of time in foster care of approximately one month (27 days) for children who reunified means the state saves a minimum of about \$374 per child (the minimum monthly foster care maintenance payment).²³ If all 8,231 children in the study cohort who reunified had reunified a month sooner, the state

would have saved \$3 million in maintenance payments alone.²⁴ In addition, increased reunification and faster permanency save significant social work, court, and administrative foster care costs.

Washington State Office of Public Defense, Parent Representation Program
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California Dependency Representation, Administration, Funding and Training Program: The Center for Families, Children & the Courts (CFCC), a division of the State Judicial Council's Administrative Office of the Courts, established in 2004 Dependency Representation, Administration, Funding and Training (DRAFT) as a 10-county pilot program. The program's goals were to test caseload standards for attorneys representing parents and children in juvenile dependency cases, identify uniform attorney compensation structures, and determine the costs of implementation and practice improvements associated with caseload standards and uniform compensation structures.

Depending on the county, representatives can come from private firms, government agencies, solo practices, and non-profit organizations. Although models vary by county, the DRAFT program is characterized by:

- attorney caseload standards of 188-200²⁵ clients per attorney (assuming a half-time social worker/investigator per full-time attorney);
- regional compensation standards;
- attorney performance standards;
- attorney caseload and workload reporting requirements regarding time spent on in-court and out-of-court activities;
- training and technical assistance for attorneys; and
- outcome evaluations, including attorney performance evaluations and child welfare permanency outcomes.²⁶

In October 2008, evaluation results showed improvements in DRAFT counties in several areas: increased rate of reunification within 12 and 24 months of entry, increased rate of siblings being placed together, and increased rate of children being placed with relatives, rather than foster care. Although budget restrictions

have prohibited both lower attorney caseload standards and the implementation of the caseload standards in all DRAFT counties, the overall success resulted in expansion to 20 counties in 2008.

The DRAFT program seems to have improved reunification rates. Between 2003 and 2009, the rate of reunification within 12 months of entry into care increased 10.4 percent in DRAFT counties, compared to only 2 percent in non-DRAFT counties. DRAFT counties showed an increase of 13.8 percent for reunification within 24 months, while non-DRAFT counties' increased only 4.6 percent. Before DRAFT implementation, these counties were comparable.

Increased reunification translates to lower costs. For youth 11 to 18, the annual cost of foster care placement per child is \$19,721. The average county share is \$7,395 and the state share is \$4,930. In Los Angeles County, a DRAFT county, about 15,497 children were in foster care between March 2010 and February 2011.²⁷ That translates to a cost of about \$115 million dollars per year in county foster care costs.²⁸ A 10 percent increase in reunification rate could save the county an estimated \$12 million dollars per year, which does not include state savings.

Between 2002 and 2008, the DRAFT program also improved the adoption rate (within 24 months of entry) by about 1 percent. This rate change is five times better than for non-DRAFT counties in the same period.²⁹ Advocates found the government can save about \$7,625 per year for every California child that leaves foster care to adoption.³⁰ A 1 percent improvement in the adoption rate could potentially translate to Los Angeles saving close to \$900,000 per year.³¹

The DRAFT program's improved permanency outcomes also result in reduced administrative and court cost savings.

California Dependency Representation, Administration, Funding and Training
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New York City's Center for Family Representation: The Center for Family Representation (CFR) is a New York City nonprofit, founded in 2002, whose mission is to provide families in crisis with free legal assistance and social work services that enable children to stay with their parents safely whenever possible. Historically, attorneys who represented parents in child welfare proceedings in New York City were attorneys on an assigned counsel panel working without the benefit of social work assistance. Attorneys were leaving the practice because of inadequate compensation.

Initially, CFR primarily provided technical assistance and training for parents' attorneys and developed an interdisciplinary model of representation to better serve families. After CFR demonstrated the benefits of smaller attorney caseloads and the representation model, the city created a competitive grant program based on CFR's model. CFR now represents over 80 percent of parents in child welfare proceedings in Manhattan and about 50 percent of parents in Queens.

Every parent is represented by a CFR Community Advocacy Team, which includes a social worker, attorney, and parent advocate who has successfully reunified with her children. CFR staff work aggressively through the Cornerstone Advocacy Model to achieve quick, safe reunification.³² In addition to ensuring parents have supports at case conferences, the approach also seeks placement options that support a child's connection to family and community, advocates during conferences to keep the case moving, supports frequent and comfortable visitation, and creates service plans tailored to parents' strengths and needs.

Although not formally evaluated, CFR's model has resulted in fewer children entering care, and increased reunification and improved case resolutions for children who do enter care. In 2011, CFR kept 73 percent of its clients' children out of foster care entirely. In 2011, for children who entered and left care, their median stay was just 2.2 months, significantly shorter than the New York state median of 19.9 months and the New York City median of 6.4 months.³³ Preliminary CFR data indicates a re-entry rate that very favorably compares with the statewide rate of 15 percent.³⁴ In one year, over a third of CFR's cases were dismissed, usually because the family no longer needed services. This is three times as many cases as were typically dismissed in Manhattan prior to CFR.³⁵

CFR's services cost approximately \$6,000 per family, while a single year of foster care ranged from \$29,000 to \$66,000 per child in 2010.³⁶ Furthermore, CFR's model likely reduces court expenses. CFR's attorneys have reported they have fewer continuances resulting from attorneys being unprepared.³⁷ The dismissal rates discussed above suggest cases that don't require litigation are dismissed at a significantly better rate. Judges in Manhattan state that because CFR's attorneys know their cases better and propose useful solutions, court orders are much better tailored to families' needs.

Center for Family Representation, New York, New York
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Mediation and Restorative Justice Practices

Case mediation and restorative justice programs offer families an opportunity to meaningfully participate in their child welfare cases. Below are a formally evaluated mediation program and a promising practice linked to reductions in foster care.

New York City's Child Permanency Mediation Program: New York City's Permanency Mediation Program (Mediation Program) started in 2002 after a federal Child and Family Service Review (CFSR) indicated New York needed to make greater efforts to make sure permanency was established for children in a timely manner.³⁸ The CFSR also noted improvement was needed to support family visitation and ongoing relationships for parents and children in foster care, create individualized service plans, and facilitate court and child welfare agency cooperation.³⁹

New York City's Mediation Program was co-led by the child welfare court and the non-profit New York Society for the Prevention of Cruelty to Children (NYSPC). Mediators were court or NYSPC employees with either law or social work degrees. Typically, judges and other hearing officers referred a family to mediation and indicated what issues were being mediated. The mediators contacted the parties and attorneys before mediation to discuss the issues, help focus the parties, and explain the process. Mediation resulted in an agreement between the parties, which may or may not have needed to go to court for related orders, or no agreement with re-referral to court.

New York City's Mediation Program had a formal evaluation that showed mediation is an effective alternative to court hearings. Comparing cases that went to mediation between 2008 and 2010 with active court cases during the same period, evaluators found mediated cases had: (1) fewer court hearings than the comparison group, (2) three times as many foster children spending a year or less in care than those in the comparison group, and (3) families more likely to comply with their case plans.⁴⁰ A small reduction in the time children spend in foster care can lead to large cost savings. In addition, there are likely savings associated with less court time and resources and shorter stays in foster care. Unfortunately, due to severe court budget cuts, the New York City's mediation program was suspended in September 2011.

Child Permanency Mediation, New York, New York
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Yellow Medicine County Circle Programs: A promising practice that originated as a juvenile justice reform was so successful that its principles were adapted and applied to child welfare cases. Based on the native justice model, the Circle Sentencing Model is a restorative justice program created in 2002 for youth offenders that seeks to repair harm. The Circle includes the victim, community members, the youth, the youth's parents, and community service providers. A facilitator ensures each member of the Circle has an opportunity to participate. After regular meetings, the Circle formulates a social compact with the youth that includes attainable goals to repair harm to the victim and community. While involved in the Circle, the youth's court case is on hold, and when the youth completes the social compact, the case is dismissed.

Based on the Circle Sentencing Model's success in delinquency cases, Yellow Medicine County began in 2008 to refer families to a Family and Community Circle. The Family and Community Circle serves families at risk of having their child removed, or who have been referred due to possible abuse and neglect. Circle participants include a facilitator, family and their supports, volunteer community members, child welfare agency caseworkers, and, if desired, agency, parent and children's attorneys.⁴¹ The Circle meets regularly to establish a safety plan for the child, work with the family to implement the safety plan, and track progress.

No formal evaluation of the Circle programs has been completed, but county stakeholders have tracked costs related to placement of children in care. In 2002, the year the county started Circle Sentencing, Yellow Medicine County spent \$636,697 annually on out-of-home care.⁴² By 2003, that amount was only \$562,051. In 2009, when the Family and Community Circle was created, the annual cost for children in care was \$72,489. In 2010, the annual cost for children in care was \$55,143. As a point of comparison, the county adjacent to Yellow Medicine County has had a steady increase in foster care placements and consistently goes over budget for placements.⁴³

County stakeholders have expressed the Circle programs have been key in reducing the need to place children out of their homes and increasing the emphasis on engaging and working with families to support youth.

Circle Programs, Yellow Medicine County, Minnesota
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Tools to Improve Judicial Decision-Making – Courts Catalyzing Change

The Model Courts Project of the National Council of Juvenile and Family Court Judges (NCJFCJ) partners with state child welfare courts across the country to improve outcomes for children and families. Through the Project, in partnership with Casey Family Programs and the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, NCJFCJ began the Courts Catalyzing Change (CCC) Initiative, which focuses on reducing the disproportionate number and disparate treatment of children of color in child welfare.⁴⁴

The CCC initiative developed the Preliminary Protective Hearing Benchcard (PPH Benchcard) as a tool for judges to use when a family and child first appear before them. The Benchcard includes an internal inquiry that helps the judge examine potential biases that may affect decisions, and a series of external questions that examine due process and questions of safety, reasonable efforts, placement, and visitation.⁴⁵

Judicial officers in Los Angeles, Omaha, and Portland, Oregon were randomly assigned in 2009 to either use the Benchcard or be part of a control group. Judges who used the Benchcard received a one-day training focused on PPH Benchcard use and a draft of the *Technical Assistance Bulletin, Right from the Start: A Judicial Tool for Critical Analysis and Decision-Making at the PPH Hearing*.⁴⁶

Looking at cases involving 500 children, the evaluation found judges who used the Benchcard discussed more topics with the parties at the first calling of the case and that discussions were more thorough and parents were more engaged. In Portland's Benchcard cases, there was a statistically significant higher rate of children returned home at the initial hearing.⁴⁷ The other two sites did not have statistically significant differences. Before Benchcard use, about 12 percent of Portland children went home at the first child welfare hearing. With Benchcard use, almost 30 percent of children went home at the first hearing.⁴⁸ Notably, Portland was found to have the highest level of process compliance with Benchcard implementation.

In all three counties, Benchcard use was associated with a greater likelihood of relative placement and a greater chance of reunification at the initial hearing and at the adjudication hearing.⁴⁹ Before Benchcard implementation, roughly 50 percent of children reunified. After Benchcard implementation, over 60 percent of children reunified.⁵⁰

There appears to be significant implications for cost savings. The cost to implement the Benchcard is fairly low--a one-day training for judges and distribution of the training bulletin and Benchcard.⁵¹ Further analysis is needed to look at rates of re-entry and to facilitate effective Benchcard implementation in all sites.

Courts Catalyzing Change, Preliminary Protective Hearing Benchcard
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Court-based programs operating as a quality-control mechanism for their state child welfare systems and local child welfare courts

Below are other successful court-driven child welfare reforms that focused on improving outcomes for children and families by acting as a quality control mechanism.

Georgia's Cold Case Project

The Supreme Court of Georgia, Committee on Justice for Children began in April 2009 the Cold Case Project, an intense attorney-led case review for children likely to age out of foster care without a family.⁵² The Project identified children who had been in care for 24 months and who were most likely to stay in care (or “go cold”), and then assigned half of the coldest 400 cases to the Cold Case Project.

Using Court Improvement Program funds, the Supreme Court of Georgia hired 11 child welfare attorneys as Cold Case Fellows who conduct in-depth review of the selected children's files. After file review, the Cold Case Fellow interviews the child welfare agency case manager and completes a case review narrative that addresses 10 key points, including diligent searches, permanency hearings, efforts to achieve permanency, evidence of connection to an adult, and evidence of a plan for education, health, and housing.⁵³ The case narratives are presented at weekly Project meetings with the goal of brainstorming and crafting recommendations for action. Then Cold Case Fellows follow up with the child welfare agency regarding recommendations for the child related to permanency and well-being.

Early efforts to compare permanency outcomes for children in the initial 2009 Cold Case Project and children in the control group found little difference in the permanency rate. It is possible the project had no measurable impact on outcomes or that the project positively influenced case practices for the control group.⁵⁴

To explore these explanations, the Supreme Court of Georgia looked at a group of children in state custody in 2008 (before Project implementation) that were matched to children in the original Project study group. A comparison of these two groups found the Cold Case Project appears to have shortened the time to permanency and increased legal permanency for Project children. After a year in the Project, 20 percent of

children exited to legal permanency.⁵⁵ In the comparison group, less than 10 percent achieved permanency.⁵⁶ The Project appears to have had the greatest impact on children age 6 to 12 years. After one year, 26.7 percent of children age 6 to 12 exited to permanency, compared to 8.1 percent in the comparison group.⁵⁷

There are a number of ways the Cold Case Project can potentially save money. Since Cold Case Project implementation, Georgia has improved its CFSR performance related to achieving permanency for children in long-term care. By 2010, Georgia was exceeding the national standard for permanency, saving millions in potential fines. In addition, one-in-three project children has been placed in expensive residential or mental health treatment settings. By increasing permanency for these children, the Project has the potential to significantly reduce foster care costs. By targeting children most likely to stay in care for more than two years for increased effort, the project has improved practice statewide. The Cold Case Project team identifies this as the project's biggest return on investment.

Cold Case Project, Georgia
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Title IV-E Compliance Reviews

Title IV-E represents the largest source of federal funding to states for foster care maintenance, administrative costs, training of staff and foster care providers, and recruitment of foster parents. The federal government reimburses states for a portion (50 percent to 83 percent) of foster care maintenance costs for eligible foster children. For a child's placement to be IV-E eligible, certain requirements must be met, including court findings related to removal, reasonable efforts to prevent removal, and reasonable efforts to finalize the child's permanency plan.

The federal government conducts periodic reviews to determine if states are meeting eligibility requirements for children receiving Title IV-E foster care funding. States that are noncompliant must reimburse the federal government for overpayments. California and Georgia have implemented reviews to ensure improper or incomplete court findings are not preventing children from being IV-E eligible.

California Judicial Review and Technical Assistance Project—Title IV-E Site Visits: Program Description

and Potential Cost-Savings: Since the mid-1990s, the California Administrative Office of the Courts has received funding through an interagency agreement with its state child welfare agency to train judicial officers and court staff related to Title IV-E compliance, do on-site court visits and file reviews related to Title IV-E compliance, and draft reports and recommendations to the presiding judge of each county’s court related to the findings of the court observation and file reviews. Before this project was implemented, a IV-E review found 39 percent of reviewed cases were not IV-E eligible, and as a result California faced a potential loss of \$51.7 million in federal funds.⁵⁸ California was in substantial compliance with the IV-E foster care eligibility requirements by June 2003, and an IV-E report cited the work of the Judicial Review and Technical Assistance Project as a strength contributing to California’s IV-E compliance. California also was in substantial compliance for the 2006 and 2009 federal reviews.

California Judicial Review and Technical Assistance Project

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Georgia Title IV-E Reimbursement Project: To improve the IV-E penetration rate in Georgia, the Administrative Office of the Courts (Georgia AOC) began the Title IV-E Reimbursement Project in 2007. The Georgia AOC set up a feedback loop with the child welfare agency to ensure all Georgia’s judges understand court order requirements. In the first year, 30 orders were found to be non-compliant with Title IV-E requirements and were sent back to the lead judge and the state child welfare agency.⁵⁹ By 2009, only one order was found to be non-compliant. The project is efficient in correcting potential IV-E reimbursement problems linked to the courts.

Georgia Title IV-E Reimbursement Project

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Court/Agency partnership reforms: building collaboration, implementing best practices, and innovative programming

This paper has described a number of individual court-based programs that improve child welfare outcomes. At the same time, a national advocacy effort is working across the country to improve outcomes for children and family involved in child welfare.

The ABA Center on Children and the Law's Permanency Project

The ABA's Permanency Project is working nationally with state child welfare courts and agencies to identify barriers to timely permanence, facilitate systems change, and track reform implementation. The project is supported through Title IV-E funds, Court Improvement Program funds, and public-private partnerships.

Project staff visit participating counties to do an initial file review that helps identify systemic issues leading to extended foster care stays and provides a baseline for the time to permanency. Project counties set up an advisory board of child welfare stakeholders to guide the project and any reforms. Project staff visit monthly and work with committees of child welfare agency staff and leaders and court stakeholders, including hearing officers and attorneys, to implement research-based reforms. After two years, project staff completes a final review to determine if the project has helped children achieve permanence and to identify barriers.

The project has helped counties safely reduce the time children spend in care, often by implementing reforms like those above. For example, in a recent project county the court focused on improving legal representation by streamlining the appointment process for parents' attorneys. Project staff also worked to implement a family treatment court and to have more regular permanency review hearings. By the end of two years, the county reduced time to permanency by 13 months, conservatively saving the county \$655,200 per year in foster care costs.

The project has worked in small, medium, and large locations, urban and rural, throughout the country. By reducing the time children spend in foster care, the project has resulted in substantial savings. For example, in New York the project was implemented in 20 counties and reduced foster care stays an average of 15 months,

saving the state approximately \$15,000,000. In Pennsylvania, 20 counties have reduced the time children spent in foster care by an average of nine months, saving approximately \$9,459,640.⁶⁰

ABA Permanency Barriers Project

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Conclusion

State child welfare courts have a tremendously important role in determining outcomes for our nation's most vulnerable children and families. Child welfare agencies cannot successfully serve families without a well-functioning court system that protects the rights of all parties and has the tools to make sound decisions about children's safety, permanency, and well-being.

All of the programs discussed above share important characteristics-- primarily judicial leadership and collaboration among many child welfare stakeholders. They have seen impressive results in terms of safely reducing the need for foster care placement and helping children achieve timely permanence. Many of these reforms have been inspired by national projects focused on working with judicial leaders to build stakeholder collaboration and implement systemic reform. These programs provide some examples of how courts can lead reform efforts and improve the lives of the families they touch. Reforming the court is possible. Advocates can help by spreading the stories of these successes and reaching out to those leaders who have implemented successful programs to learn more.

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Notes

¹ NPC Research, Jackson County Community Family Court Process, Outcome, and Cost Evaluation (2010), available at http://www.oregon.gov/CJC/docs/jackson_byrne_final_report_june_2010.pdf?ga=T

² Telephone Interview with Judge Patricia Crain (May 7, 2012).

³ NPC Research, *supra* note 1 at 40.

⁴Id. at 45.

⁵Id. at 43.

⁶ Id.

⁷ Id. at 59

⁸Id. at 62.

⁹ A network of family supports keeps kids out of foster care, available at <http://www.oregon.gov/DHS/children/beyondfc/features/fc-network.shtml> (last visited Jul. 23, 2012).

¹⁰76th Oregon Legislative Assembly, Senate Bill 964, available at <http://www.leg.state.or.us/11reg/measpdf/sb0900.dir/sb0964.en.pdf>, amending Oregon Revised Statute chapters 418.480, 418.485, and 418.495.

¹¹ Santa Clara County Department of Family and Children Services, Handbook 1: Court Related Issues, available at: http://www.sccgov.org/ssa/opp2/09_courtrelated/9-3.3.html.

¹²Judge Erica Yew, Court-Based Interventions for Pos-Tox and Drug Exposed Infants and Toddlers (2011), available from the author at EYew@scscourt.org.

¹³Shari Golan, Kristen Rouspil, Tracy Huang & Cyndi Williamson, Evaluation of Family Wellness Court for Infants and Toddlers, at 7 (2011) available at http://nc.casaforchildren.org/files/public/community/judges/March_2012/Nishigaya_report.pdf.

¹⁴ Yew, *supra* note 12 at 4.

¹⁵ Golan, *supra* note 13 at 15.

¹⁶ Telephone Interview with Judge Leslie Kim Smith (June 14, 2012).

¹⁷ This discussion of representation programs is excerpted from a draft of the article by Elizabeth Thornton & Betsy Gwin, High-Quality Legal Representation for Parents in Child Welfare Cases Results in Improved Outcomes for Families and Potential Cost-Savings, 46 FAM.L.Q. 1 (Spring 2012).

¹⁸Bobbe J. Bridge & Joanne I. Moore, Implementing Equal Justice for Parents in Washington: A Dual Approach, JUV. & FAM. CT. J. 31, 32 (2002), available at <http://www.ncjfcj.org/images/stories/dept/ppcd/pdf/JOURNALPPIssueII/fall02-impleequaljust-bridgemeore.pdf>.

¹⁹ See e.g., Jason Oetjen, Improving Parents' Representation in Dependency Cases: A Washington State Pilot Program Evaluation (2003), available at [http://www.opd.wa.gov/Reports/Dependency%20&%20Termination%20Reports/watabriefcolorfinal\[1\].pdf](http://www.opd.wa.gov/Reports/Dependency%20&%20Termination%20Reports/watabriefcolorfinal[1].pdf); Carol J. Harper, Kathy Brennan & Jennifer Szolonki, Dependency and Termination Parents' Representation Program Evaluation Report (2005), available at <http://www.opd.wa.gov/Reports/Dependency%20&%20Termination%20Reports/2005%20Evaluation%20Report.pdf>.

²⁰ OPD Report, audited by the Washington Center for Court Research, Reunification and Case Resolution Improvements in Office of Public Defense Parents Representation Program (2010), available at http://www.opd.wa.gov/Reports/Dependency%20&%20Termination%20Reports/100325_ReunificationOutcomes.pdf.

²¹ Mark Courtney & Jennifer Hook, Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing of Permanency Outcomes for Children in Foster Care, CHILDREN AND YOUTH SERVICES REVIEW, 34(7), 1337-1343 (2012).

²² Joanne Moore, Washington State Office of Public Defense Comments on the Parent Representation Program and Earlier Permanency (2011), available at http://www.opd.wa.gov/Reports/Dependency%20&%20Termination%20Reports/110311_OPDCmmntsonPRPandEarlyPermanency.pdf.

²³ Current as of 5/07, Source: National Resource Center for Family Centered Practice and Permanency Planning, Foster care maintenance payments, <http://www.hunter.cuny.edu/socwork/nrcfcpp/downloads/foster-care-maintenance-payments.pdf>.

²⁴ Calculation: \$374 (minimum foster care maintenance payment savings per child) x 8,231 (number of reunified children) = \$3,078,394.

²⁵ This standard is well outside the ABA Practice Standards for Attorneys Representing Parents in Child Abuse and Neglect Cases, which recommend no more than 50-100 cases per full-time attorney.

²⁶ Administrative Office of the Courts, Judicial Council of California, Fact Sheet: Dependency Representation, Administration, Funding, and Training (DRAFT) Program (2008), available at http://www.courts.ca.gov/xbcr/SID-9270A443-39A005C5/cc/DRAFT_Fact_Sheet.pdf.

²⁷ County of Los Angeles, Department of Children & Family Services, Fact Sheet: Children in Out-of-Home Placement (February 2011), http://www.lacdfcs.org/aboutus/fact_sheet/DRS/February2011/OHC.htm.

²⁸ \$7,395 (county cost per child) x 15,497 (number of children) = \$114,600,315. This may be an underestimate since many children are in group homes, which have a much higher cost per child.

²⁹ Adoption rate within 24 months of entry increased from 5.7% to 6.7% in DRAFT counties and from 9.3% to 9.5% in non-DRAFT counties.

³⁰ Methodology for Fundamental Budget Reform: Understanding Strategic Leveraged Pre-investment of Savings Achieved in California Through Specialized Youth Permanency Services, Mar. 14, 2011, at 9. The costs saved through adoption (\$12096) from foster care (\$19721) = \$7625/child/year.

³¹ Calculation: 1% of 15,497 = 154 x \$5,732 (cost savings) = \$882,728.

³² Jilian Cohen & Michelle Cortese, Cornerstone Advocacy in the First 60 Days, 28(3) CHILD L. PRAC. 1 (2009).

³³ Center for Family Representation, Our Results, <http://www.cfrny.org/about-us/our-results/> (last visited Jul. 24, 2012).

³⁴ See Office of Children & Family Services, Statewide Re-entry Rate (2010), available at http://www.ocfs.state.ny.us/main/cfsr/cfsrdata/Statewide/P7_Reentry_within_1yr_of_exit.pdf.

³⁵ Center for Family Representation, Our Results, http://www.cfrny.org/new_legal.asp (last visited Feb. 9, 2012).

³⁶ See NYS Office of Family and Children's Services, Ten for 2010 (2010), available at http://www.ocfs.state.ny.us/main/reports/vera_tenfor2010.pdf. This states that the foster boarding rate is \$29,000/year/child, which is the least expensive form of foster care; congregate (residential) foster care can cost \$66,000/year/child. A recent report by the New York City Independent Budget Office found that the average annual spending per child in foster care is \$49,188. New York City Independent Budget Office, A Changed Emphasis in City's Child Welfare System: How Has a Shift Away from Foster Care Affected Funding, Spending, Caseloads?, (2011), <http://www.ibo.nyc.ny.us/iboreports/childwelfare101211.pdf>.

³⁷ Telephone Interview with Susan Jacobs, Executive Director, Center for Family Representation (Apr. 8, 2011).

³⁸ Nancy Thoennes and Rasa Kaunelis, New York City Child Permanency Mediation Program Evaluation (2011), available at <http://www.courts.state.ny.us/ip/cwvip/Publications/permMediation.pdf>.

³⁹ Id. at 1.

⁴⁰ Id. at ii – iii.

⁴¹ Family and Community Circle Handbook, available from Jessica Grabow at Jessica.Grabow@co.ym.mn.gov.

⁴² Out of Home Placement Expenditures, available from Jessica Grabow at Jessica.Grabow@co.ym.mn.gov.

⁴³ Email from Sharon Hendrichs, Yellow Medicine County Restorative Justice Coordinator (Jul. 24, 2012).

⁴⁴ Nancy Miller & Candice Maze, Right from the Start: The CCC Preliminary Protective Hearing Benchcard A Tool for Judicial Decision Making (2010), available at <http://www.ncjfcj.org/sites/default/files/Right%20from%20the%20Start.pdf>.

⁴⁵ Id. at 8.

⁴⁶ National Council of Juvenile and Family Court Judges Permanency Planning for Children Department, Right From the Start: The CCC Preliminary Protective Hearing Benchcard Study Report, Testing a Tool for Judicial Decision-Making (2011), available at <http://www.ncjfcj.org/sites/default/files/CCC%20Benchcard%20Study%20Report.pdf>.

⁴⁷ Id. at 22.

⁴⁸ Id. at 22 and 23.

⁴⁹ Id.

⁵⁰ Id. at 23.

⁵¹ Telephone interview with Nancy Miller, Government Affairs and Policy Director, National Council of Juvenile and Family Court Judges (Apr. 30, 2012).

⁵²Administrative Office of the Courts Court Services Division, Cold Case Project Annual Report (2012), available at <http://w2.georgiacourts.org/cj4c/files/2012%20Cold%20Case%20Project%20Report.pdf>.

⁵³ Applied Research Services, Inc., The Georgia Cold Case Project (2010), available at [http://w2.georgiacourts.org/cj4c/files/The%20Georgia%20Cold%20Case%20Project_2010\(1\).pdf](http://w2.georgiacourts.org/cj4c/files/The%20Georgia%20Cold%20Case%20Project_2010(1).pdf).

⁵⁴ Cold Case Project Annual Report, *supra* note 52 at 6.

⁵⁵*Id.* at 7.

⁵⁶ *Id.*

⁵⁷*Id.* at 8.

⁵⁸Fact Sheet, Judicial Review and Technical Assistance (JRTA) Project – Title IV-E Site Visits, available at <http://www.courts.ca.gov/documents/jrta.pdf>.

⁵⁹ Supreme Court of Georgia, Committee on Justice for Children.

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⁶⁰ABA Permanency Project, Results, http://www.americanbar.org/groups/child_law/what_we_do/projects/permanency_project/results.html (last visited Jul. 24, 2012).