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Measuring Child Welfare Court Performance: Review of Resources

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Executive Summary

This report summarizes information about the types and range of measures developed to assess court, judicial, and attorney performance in child welfare cases and used to study child welfare court processes and judicial and attorney practices' impact on child welfare case outcomes. The report will inform the development of performance measures for the Judicial, Court, and Attorney Measures of Performance (JCAMP) project.

In October 2021, the Literature Review Team of the JCAMP project formed and began a structured process to identify and review the following materials:

- **Toolkits** and documents describing recommended court performance measures (e.g., Office of Juvenile Justice and Delinquency Prevention's (OJJDP) 2008 *Court Performance Measures in Child Abuse and Neglect Cases: Technical Guide*)
- **Performance standards** and recommendations from nationally recognized groups that describe how child welfare courts should operate and the responsibilities and tasks of judges and attorneys (e.g., American Bar Association's [ABA] 2006 *Standards of Practice for Lawyers Representing Parents in Abuse and Neglect Cases*)
- **Federal laws and government guidance** regarding child welfare court operation
- **Empirical evidence** from peer-reviewed research articles and "gray" literature (non-peer-reviewed reports and evaluation findings)

A Model of Court Measurement

The Literature Review Team developed a model of court performance measurement to organize different types of measures and measurement levels across the child welfare court process (see exhibit 1). Six main categories of measurement, each with subcategories were identified:

1. Legal and judicial context
2. Practices
3. Short-term outcomes that happen during hearings
4. Intermediate outcomes that happen during the case
5. Long-term outcomes that happen after case closure
6. Cross-cutting themes

The coding team reviewed each document and extracted information about each measurement category and subcategory. Summary tables and profiles detailing information about each measurement subcategory are presented in this report.

Findings

Despite many years and resources devoted to improving child welfare courts, much is still unknown about what specific structures and practices make a difference for child and family outcomes. Although best practices and standards have been described for nearly all aspects of the court process and court professionals, few have been rigorously studied. Information about practice standards and any supporting research evidence is provided in this report. Key themes by measurement category are described below.

Legal and Judicial Context

Legal and judicial context represents the system-level processes that support court function including (1) court judicial processes, (2) court attorney processes, (3) court structures, and (4) court collaboration with child welfare system partners. Standards and recommendations for practice are clearly outlined for system-level processes to support court, judicial, and attorney functioning. However, the only performance measures that exist at this measurement level relate to court structures (e.g., court docketing). Most research studies of legal and judicial context have been descriptive (i.e., research that describes a program or perceptions of a program and summarizes characteristics of a dataset with statistics such as frequencies or averages), which aids in understanding operation but cannot make conclusions about outcomes. There are some examples of more rigorous studies that provide evidence for certain practices (e.g., Gerber, Pang, Ross, et al., 2019 quasi-experimental study of an interdisciplinary parent representation model), but overall more research is needed to fully understand whether and how elements of legal and judicial context are related to outcomes for children and families.

Practices

Practices include the activities judges and attorneys conduct outside of hearings. For organization purposes for this report, the practices category includes judicial and attorney practices that happen outside of hearings. Practices that happen during hearings are described in the Short-Term/Hearing Quality Outcomes section. No performance measures of judicial practice outside the hearing were found. Several performance measures of attorney practice outside the hearing were found, but they did not cover the full range of best practices outlined in national standards documents. Most studies were strictly descriptive, although one study using a quasi-experimental (pre-post) research design found significant initial hearing quality improvements (e.g., increased engagement of parents who are present, increased discussion of key topics, an increase in required findings) after judges had attended a judicial training program (Summers, Gatowski, & Devault, 2016).

Short-Term/Hearing Quality Outcomes

Short-term/hearing quality outcomes include things that happen during hearings including activities of judges and attorneys, due process, discussion of key issues, and families' experiences. These subcategories have been extensively described in practice standards and have many associated performance measures. However, like other categories, the research evidence supporting specific practices and linking them to case processing and outcomes is limited in scope and methodology. Findings have been mixed, and more research is needed to produce a conclusive picture of high-quality hearing practices.

Intermediate Outcomes: During the Case

Intermediate outcomes are those that happen during a child welfare case and include due process during the case, timeliness of hearings, judicial and attorney continuity, visitation/family time, child placement, family engagement in services and the case process, and child safety and well-being during the case. As with short-term outcomes, many practice standards and performance measures have concentrated on these topics. However, evidence linking specific activities with case processing and long-term outcomes is mixed and often limited to correlational studies.

Child and Family Outcomes: Closed Case and Beyond

Long-term child and family outcomes include child safety, permanency, well-being, and prevention/family preservation. As the ultimate outcomes of child welfare cases, these subcategories are represented in descriptions of practice standards and commonly examined by performance measures. There is a growing body of research linking court practices, hearing quality factors, and representation practice models with outcomes, but more research is still required to better understand how court, judicial, and attorney practices impact these long-term outcomes.

Cross-Cutting Themes

Themes that cut across the entire child welfare court process include child and family experiences, equity, and system legitimacy. Practice standards do address child and family experiences and equity, but none were found related to system legitimacy. There is also a lack of performance measures on these topics and research evidence about specific practices related to these topics.

Introduction

The purpose of this report is to summarize information about the types and range of measures used to study child welfare court processes, judges, attorneys, and outcomes. It is designed to inform the development of performance measures for the Judicial, Court, and Attorney Measures of Performance (JCAMP) project. Researchers, child welfare court practitioners, and other stakeholders can also benefit by learning about different categories of measurement, what is currently known, and where questions remain.

Intended as a comprehensive resource or reference guide, the report highlights what is presently known and current gaps in the field. It includes three main sections presented after the description of the methods:

- 1. A model of court measurement categories.** As part of the resource review process, the Literature Review Team developed a model to identify categories and subcategories of measurement (exhibit 1). This model is a visual representation of how the categories fit in the overall structure of child welfare courts.
- 2. Summary tables.** A series of tables summarizes key information found by category, including—
 - Categories described in standards of practice documents (exhibit 2)
 - Categories with existing court performance measures (exhibit 3)
 - Categories with existing judge and attorney practice performance measures (exhibit 4)
 - Categories with existing well-being performance measures (exhibit 5)
 - Categories associated with child and family outcomes (exhibit 6)
- 3. Court measurement category profiles.** The profiles fully describe each measurement category and subcategory, including examples of existing performance measures, inclusion in national recommendations and standards, a discussion of how subcategories are measured in research and any supporting research evidence, and a discussion of gaps in understanding. Throughout the report, category and subcategory names are linked. Clicking on the title will take you to the profile for more information.

How to Navigate the Report

Use the **model of court measurement categories** to identify topics of interest.

Review information about those topics in the **summary tables**.

Go to the **topic-specific profile** for detailed information.

Use the links embedded in the document to guide your navigation.

As outlined in the sidebar, we suggest that you first consider using the model of court measurement categories to identify topics of interest, then review information about those topics

in the summary tables, and then navigate to topic-specific profiles for detailed information. The report provides links to relevant sections of the document to facilitate navigation.

Those seeking to improve local court performance and outcomes might consider focusing on particular topics that might serve immediate needs, but also be mindful that many important aspects of court functioning have been understudied and lack reliable research to guide action. Where research provides evidence-based support for changes, local policymakers and practitioners will still need to adapt these tools to local contexts and cultures.

Methods

A scoping review of the literature was conducted to inform the development of a set of child welfare court performance measures. The team reviewed peer-reviewed articles, agency reports, and research briefs generated by Court Improvement Projects across the country. Scoping reviews are recommended to examine the scope and nature of studies and materials, to summarize research findings, and to identify gaps in existing literature (Arksey & O'Malley, 2005). The review was guided by three research questions:

- What court processes and legal professional activities do national organizations (e.g., ABA) suggest are related to court performance?
- What research examines outcomes of these court processes and legal professional activities, and what findings are reported?
- What measures and data sources are used to assess court processes, legal professional activities, and desired outcomes?

A search for materials was conducted to answer these research questions. The search sought—

- **Toolkits** and documents describing recommended court performance measures (e.g., OJJDP's 2008 *Court Performance Measures in Child Abuse and Neglect Cases: Technical Guide*)
- **Performance standards** and recommendations from nationally recognized groups that describe how child welfare courts should operate and the responsibilities and tasks of judges and attorneys (e.g., ABA's 2006 *Standards of Practice for Lawyers Representing Parents in Abuse and Neglect Cases*)
- **Federal laws and government guidance** regarding child welfare court operation
- **Empirical evidence** from peer-reviewed research articles and "gray" literature (non-peer-reviewed reports and evaluation findings)

Search Methods and Inclusion Criteria

There were several types of search methods used to identify materials. These included—

- Referrals of materials by the Literature Review Team, the Children’s Bureau, the Capacity Building Center for Courts, and Court Improvement Programs
- Structured library searches of social science and legal journal databases, using Boolean strings of key words
- Reviews of citations of key articles, including “forward” searches to locate materials that cited key articles
- Searches of websites with content related to child welfare court processes

Materials were eligible for inclusion if they addressed child welfare court activities commonly conducted in state and tribal courts in the United States. Specialty court materials, such as family treatment drug court evaluations, were screened in if they included content and/or measures applicable to typical child welfare court practices. Materials in peer-reviewed journals, and non-peer-reviewed “gray” literature were both eligible for inclusion.

Because the purpose of the review was to identify measures, and to understand the current evidence base related to court performance, the search prioritized studies using quantitative methods; qualitative studies were included in areas where little information otherwise exists.

The search methods and screening processes yielded 129 items. These included 12 performance standards, 31 toolkit/performance measures, and 86 research articles (47 peer-reviewed studies and 39 gray literature documents describing studies or program evaluations). [Appendix A](#) provides a bibliography of all materials organized by document type.

Review and Coding of Materials

Materials were reviewed to understand—

- Standards and best-practice recommendations for legal professionals
- The types of activities and outcomes studied in existing research and evaluations
- Measures and data sources used in studies and evaluations, and in existing toolkits/sets of measures

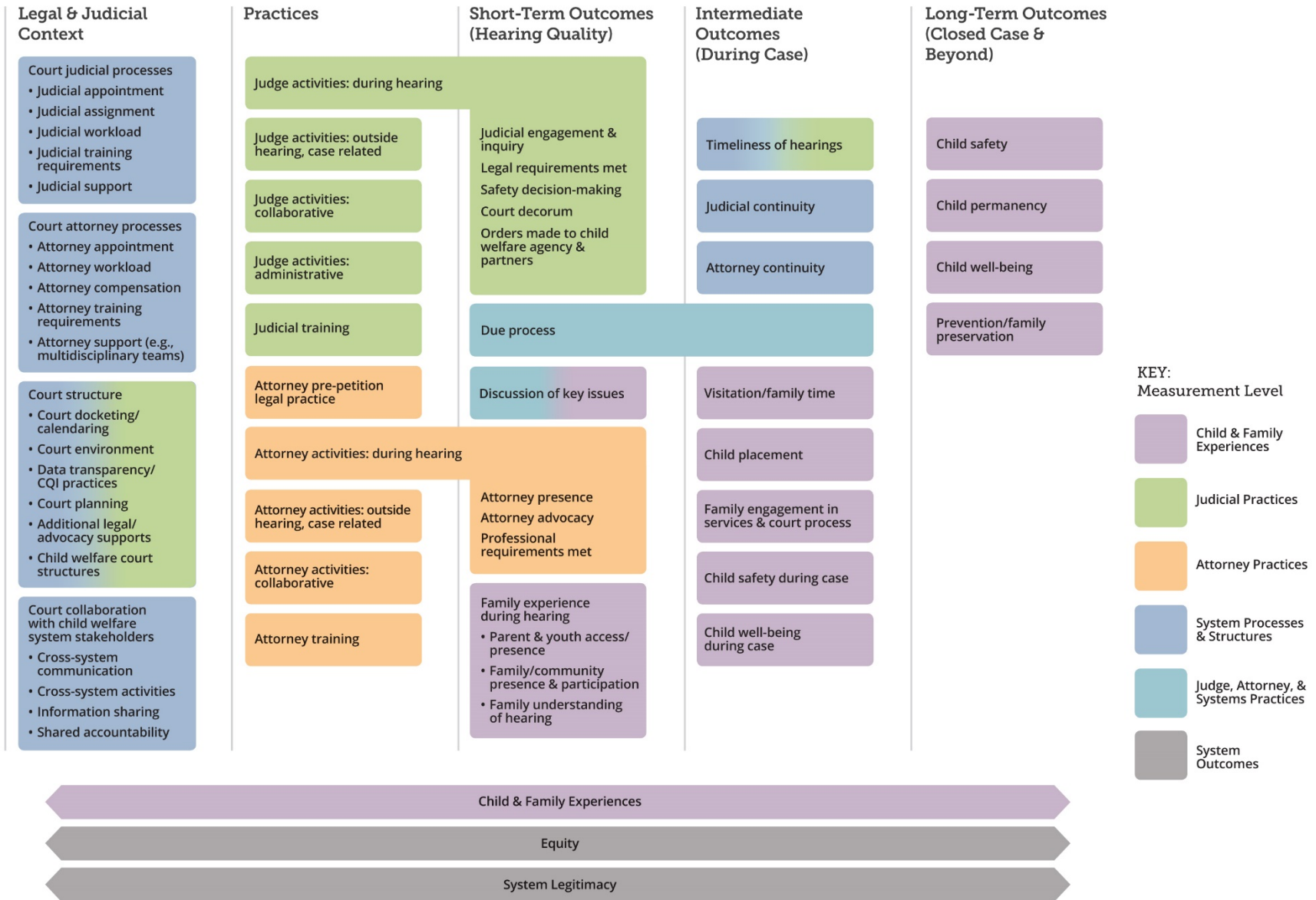
An initial review of performance standards was conducted by the Literature Review Team. This review was intended to identify categories of activities associated with court systems and legal professionals, and short-, intermediate-, and long-term outcomes associated with these activities. These were grouped into categories reflecting system-level activities, legal

professional activities, and outcomes. Exhibit 1 provides a graphic model of the categories, into which a team of researchers coded all relevant content. The team maintained coding consistency through ongoing team meetings, a “live” document where questions were posed by team members, and feedback by literature review leads.

Court Measurement Categories

Exhibit 1 displays a visual model of child welfare court measurement categories. The model was created to help organize types of measures and understand how they fit in the overall child welfare court process. There are six main categories of measurement, each with subcategories: (1) legal and judicial context, (2) practices, (3) short-term outcomes that happen during hearings, (4) intermediate outcomes that happen during the case, (5) long-term outcomes that happen after case closure, and (6) cross-cutting themes that are present in all parts of the process. Subcategories are color coded to represent the level of measurement commonly used to study each topic. Multicolored rectangles are used to represent multiple measurement levels. A list of definitions for each subcategory is provided in [appendix B](#).

Exhibit 1. Model of Court Measurement Categories



Summary Tables

The following tables summarize key information found about each measurement category and subcategory. Click the links about each subcategory to learn more in each subcategory's profile.

Exhibit 2 displays the subcategories that are addressed by documents describing standards of practice or best practices and subcategories where performance measures exist. Light blue cells indicate that one document discussed the subcategory and dark blue cells indicate two or more documents discussed the subcategory.

Exhibit 2. Standards of Practice/Best Practices and Performance Measures by Category

Category	Subcategory	Attorney standards (n = 5)	Judge standards (n = 3)	Court standards (n = 5)	Performance measures (n = 19)
Legal and judicial context	Court judicial processes				
	Court attorney processes				
	Court structure				
	Court collaboration				
Practices	Judge activities (outside hearings)				
	Attorney activities (outside hearings)				
	Attorney pre-petition legal practice				
Short-term outcomes/hearing quality	Judge activities (during hearing)				
	Attorney activities (during hearing)				
	Discussion of key issues				
	Due process (during hearing)				
	Parent and youth access/presence				
	Family/community presence				
	Family understanding of hearings				
Intermediate outcomes	Due process during case				
	Timeliness of hearings				
	Judicial continuity				
	Attorney continuity				
	Visitation/family time				
	Child placement during the case				
	Family engagement in services and court process				

Category	Subcategory	Attorney standards (n = 5)	Judge standards (n = 3)	Court standards (n = 5)	Performance measures (n = 19)
	Child safety during case				
	Child well-being during case				
Child and family outcomes	Child safety				
	Child permanency				
	Child well-being				
	Prevention/family preservation				
Cross-cutting measures	Child and family experiences				
	Equity				
	System legitimacy				

 Two or more items
  One item only
  No item found

Exhibits 3 to 5 display which documents include performance measures for courts, judge and attorney practice, and well-being. Additionally, a crosswalk comparing OJJDP’s 2008 *Court Performance Measures in Child Abuse and Neglect Cases: Technical Guide* (the “Toolkit”) performance measures with the Child and Family Services Review (CFSR) measures is provided in [appendix C](#).

Exhibit 3. Existing Court Performance Measures

Category	Subcategory	National					State specific		
		The Toolkit	NCJFCJ Crisis Planning Toolkit	ICWA Toolkit	ICWA Baseline Measures	NCSC CourTools	NY Hearing Quality Toolkit	WV CAN Measures	CA CPM
Legal and judicial context	Court judicial processes								
	Court attorney processes								
	Court structure					✓			
	Court collaboration								
Practices	Judge activities (outside hearings)								
	Attorney activities (outside hearings)								✓
Short-term outcomes/ hearing quality	Judge activities (during hearing)			✓	✓		✓		✓
	Attorney activities (during hearing)						✓		
	Due process (during hearing)			✓	✓			✓	
	Discussion of key issues			✓			✓		
	Parent and youth access/presence						✓		✓
	Family/community presence			✓	✓		✓		
	Family understanding of hearings						✓		
Intermediate outcomes	Due process during case					✓			✓
	Timeliness of hearings	✓				✓		✓	✓
	Judicial continuity	✓					✓		✓
	Attorney continuity	✓		✓				✓	✓
	Visitation/family time								✓
	Child placement during the case	✓		✓				✓	✓
	Family engagement in services and court process				✓			✓	✓
	Child safety during case	✓			✓			✓	✓
Child and family outcomes	Child well-being during case				✓				✓
	Child safety	✓						✓	✓
	Child permanency	✓			✓		✓	✓	✓
	Child well-being								✓
Cross-cutting measures	Prevention/family preservation				✓				
	Child and family experiences		✓		✓	✓	✓		
	Equity		✓		✓				
	System legitimacy								

Exhibit 4. Existing Judicial and Attorney Practice Measures

Category	Subcategory/topic	National					State specific	
		Parent Rep Indicators	FJI Indicators	Children's Counsel	Protocol Parent Rep	NCJFCJ Judicial Workload	NV QLR Measures	CA Attorney Caseload Standards
Legal and judicial context	Court judicial processes	✓		No measures included		✓		
	Court attorney processes	✓	✓					✓
	Court structure						✓	
	Court collaboration							
Practices	Judge activities (outside hearings)					✓		
	Attorney activities (outside hearings)	✓	✓					
Short-term outcomes/hearing quality	Judge activities (during hearing)							
	Attorney activities (during hearing)	✓	✓			✓		
	Due process (during hearing)		✓				✓	
	Discussion of key issues							
	Parent and youth access/presence							
	Family/community presence							
Intermediate outcomes	Family understanding of hearings	✓						
	Due process during case	✓						
	Timeliness of hearings		✓					
	Judicial continuity							
	Attorney continuity	✓	✓				✓	
	Visitation/family time	✓						
	Child placement during the case		✓					
	Family engagement in services and court process	✓	✓					
Child and family outcomes	Child safety during case	✓	✓					
	Child well-being during case							
	Child safety							
	Child permanency	✓	✓				✓	
Cross-cutting measures	Child well-being							
	Prevention/family preservation							
	Child and family experiences						✓	
	Equity							
	System legitimacy							

Exhibit 5. Existing Measures of Well-Being

Category	Subcategory	National			State Specific	
		NCSC Educational Well-Being	NCSC Physical/Emotional Well-Being	National Youth in Transition Database	SC Caregiver Measures	OR Well-Being
Legal and judicial context	Court judicial processes					
	Court attorney processes					
	Court structure					
	Court collaboration				✓	
Practices	Judge activities (outside hearings)					
	Attorney activities (outside hearings)					
Short-term outcomes/hearing quality	Judge activities (during hearing)					
	Attorney activities (during hearing)					
	Due process (during hearing)					
	Discussion of key issues					
	Parent and youth access/presence					
	Family/community presence					
Intermediate outcomes	Family understanding of hearings					
	Due process during case					
	Timeliness of hearings					
	Judicial continuity					
	Attorney continuity					
	Visitation/family time		✓			
	Child placement during the case		✓			
	Family engagement in services and court process		✓		✓	
Child safety during case					✓	
Child and family outcomes	Child well-being during case	✓	✓		✓	✓
	Child safety					
	Child permanency				✓	
	Child well-being			✓	✓	
Cross-cutting measures	Prevention/family preservation					
	Child and family experiences					
	Equity					
	System legitimacy					

Connections to Outcomes

As part of the comprehensive literature review process, coders noted research and evaluation articles where specific performance measures were related to outcomes of interest.

Defining “Evidence”¹

Evidence is not a dichotomous construct but rather, a continuum with a range of nuances regarding the strength of a relationship. The type of research design used in a study can affect the level of evidence produced for the strength of a relationship or outcomes, with more robust research designs able to produce stronger evidence than less robust designs.

While there is a growing body of research measuring child welfare court performance and outcomes of interest, most of the studies are limited by small sizes or robustness of their designs—that is, most can demonstrate only a correlation (relationship) between two items (e.g., discussion at hearings and time to permanency). They cannot show that a specific performance measure *caused* an outcome to occur. One robust study with a design that allows for causal inferences can be as useful as a series of studies that illustrate a correlation.

Exhibit 6 summarizes the level of evidence we have seen in the field findings from this review by the quality and quantity of the research evidence. It is an oversimplification of evidence and what is known. See [appendix D](#) for a table of subcategories found in research articles and evaluation reports.

Study Design Terminology

Weak – no relationship between variables, not capable of exploring statistical differences, small samples

Moderate – examines relationships between variables, sufficient sample for statistical analysis, representative of population

Robust – can show causal connections (or close proximity) between two variables, representative sample

¹ This is an oversimplification describing levels of evidence. For more information on classification of evidence, see Capacity Building Center for Court's *Evidence of Effectiveness* series.

Exhibit 6. Measurement Subcategories With Outcome Evidence

Category/subcategory	Hearing quality	During case child/family outcomes							Case closure child/family outcomes			
		Due process	Timeliness of hearings	Visitation/family time	Child placement	Family engagement	Safety	Well-being	Safety	Permanency	Well-being	Family preservation
Legal and Judicial Context												
Court judicial processes			Green									
Court attorney processes	Green			Yellow	Yellow				Yellow	Green		Yellow
Court structures	Blue		Light Blue	Blue	Blue	Green			Yellow	Green		
Court collaboration										Yellow		
Practices												
Judge activities outside of hearings												
Judicial training	Light Blue				Blue							
Attorney pre-petition legal practice												
Attorney activities outside of hearings												
Attorney training												
Short-Term Outcomes/Hearing Quality												
Judicial practice in hearings					Green	Yellow			Yellow	Green		
Attorney practice in hearings			Light Blue			Light Blue				Blue		
Discussion					Yellow	Light Blue			Yellow	Blue		
Due process during hearing												

Category/subcategory	Hearing quality	During case child/family outcomes							Case closure child/family outcomes			
		Due process	Timeliness of hearings	Visitation/family time	Child placement	Family engagement	Safety	Well-being	Safety	Permanency	Well-being	Family preservation
Parent and youth access and presence												
Family/community presence												
Family understanding of hearing												
Cross-Cutting Themes												
Parent and youth experience												
Equity												
System legitimacy												

Color Scheme

Evidence Rating

White means there is **no** evidence found linking the performance measure to an outcome.

Light blue means **one** study was found that made a correlation between performance measures and outcomes of interest.

Light-medium blue means **two to three** studies were found that made a correlation between performance measures and outcomes of interest.

Medium-dark blue means that **four or more** studies were found that showed a correlation **and/or one robust study** was found with advanced methodology that showed a causal (or near causal) connection between performance measures and outcomes of interest.

Dark blue means two or more studies were found with robust methodology that illustrated a connection between performance measure and outcomes of interest.

Yellow means findings indicate **no** relationship between variables of interest.

Green means findings are mixed. There are multiple studies; some show a relationship between performance measures and outcomes of interest, and some do not.

Court Measurement Category Profiles

The court measurement category profiles summarize the following information for each subcategory:

- Definition and description of any topics within the subcategory
- Performance measures that exist to measure the subcategory
- How the subcategory has been included in national recommendations and practice standards
- How the subcategory has been measured in research studies
- Summary of research findings including any research evidence related to outcomes for children and families
- Discussion of gaps in understanding

Legal and Judicial Context

The legal and judicial context category contains four subcategories:

- **Court judicial processes**
 - Judicial appointment
 - Judicial assignment
 - Judicial workload
 - Judicial training
 - Judicial support
- **Court attorney processes**
 - Attorney appointment
 - Attorney workload
 - Attorney compensation
 - Attorney training
 - Attorney support
- **Court structure**
 - Court docketing/calendaring
 - Court environment
 - Data transparency/continuous quality improvement (CQI) processes
 - Court planning
 - Additional legal/advocacy supports
- **Court collaboration with child welfare system stakeholders**
 - Cross-system communication
 - Cross-system activities
 - Information sharing
 - Shared accountability

Each subcategory, as well as the items within each, is described below.

Court Judicial Processes

Court judicial processes are structures, processes, and resources in place to ensure an effective judiciary, one that fairly administers timely justice to children and families. No existing performance measures of the court judicial processes subcategories were found (exhibit 7). Studies in this area have focused on judicial assignment and judicial workload (exhibit 8).

Court Judicial Processes contains five topics:

- **Judicial appointment:** Structures used to appoint judges who will hear child welfare cases
- **Judicial assignment:** Following appointment, processes used to assign a judge to hear child welfare cases
- **Judicial workload:** Judicial resources directed toward hearing child welfare cases
- **Judicial training requirements:** Training or knowledge prerequisites and support of judicial skill development
- **Judicial support:** Resources to help judges complete case-related activities

Exhibit 7. Existing Performance Measures of Court Judicial Processes

Topics	Measure	Source
Judicial appointment	None found	
Judicial assignment	None found	
Judicial workload	None found	
Judicial training requirements	None found	
Judicial support	None found	

Inclusion in National Recommendations and Standards

The ABA's *Judicial Excellence in Child Abuse and Neglect Proceedings: Principles and Standards for Court Organization, Judicial Selection and Assignment, Judicial Administration and Judicial Education* (2010) describes standards and recommendations for judicial processes:

- Judicial appointment:
 - The child welfare court and judges should have an equivalent level of the judicial hierarchy as the highest-level state trial courts and trial court judges (Standard A.5).
 - Use an appointment process that considers interest, specialized knowledge, experience, and ability of potential judges (Standard B.1).
 - Use merit-based selection of judges. In states with judicial elections, use merit-based selection for interim judicial appointments (Standard B.2).

- Evaluate judicial suitability for child protection proceedings and, where applicable, other juvenile or family proceedings (Standard B.3).
- Recruit potential judges with outstanding qualifications (Standard B.4).
- In states with judicial elections, inform the public of positions specifically involving child abuse and neglect, juvenile and family proceedings (Standard B.5), and inform the electorate of key qualifications for these positions (Standard B.6).
- Judicial assignment:
 - Every state should have a separate specialized court or a specialized division of a court to hear and administer child abuse and neglect proceedings (Standard A.1) that controls their own administration and operation (Standard A.2).
 - The same judge should hear all matters related to one family (Standard A.8).
 - Consider judges' interest, specialized knowledge, experience, and ability and assign only highly qualified and competent judges (Standard B.7).
 - Assignments should be at least 3 years and preferably more (Standard B.8) and it should be possible to extend assignments (Standard B.9).
 - After a judge is assigned to hear a child abuse and neglect case, that same judge should hear all stages of the case until the case is dismissed (Standard B.10).
 - When jurisdictions use subordinate judicial officers to hear child abuse and neglect cases, the same judicial officer should hear all stages of a case until the case is dismissed (Standard B.11).
 - Court leaders should encourage and support competent judges to continue in their assignments (Standard B.12).
- Judicial workload:
 - Court leaders should determine what judicial workloads are needed to enable judges hearing child abuse and neglect proceedings to comply fully with the law and to fulfill judicial standards of best practice. Based on such analysis, state courts should plan for the appropriate number of judges (Standard C.5).
- Judicial training requirements:
 - State law and court rules should require judges to participate in annual judicial education (Standard D.1) that fully addresses judges' special roles in child abuse and neglect cases (Standard D.2).
 - Judicial education curricula should be carefully designed to improve current judicial practice, improve compliance with the law, and help judges fulfill national or state judicial best-practice standards (Standard D.3).

- A special and comprehensive combination of judicial education and mentoring for judges newly presiding over child abuse and neglect cases should be established (Standard D.4). All newly assigned judges should receive intensive judicial education and mentoring designed specifically for them with a least 80 hours of instruction prior to taking the bench. Newly appointed general jurisdiction judges who hear child abuse and neglect cases should receive at least 20 hours of instruction specifically about child abuse and neglect related issues prior to taking the bench and 60 hours of additional training within 2 years of taking the bench (Standard D.5).
- Continuing education programs with at least 16 hours of instructions per year should be provided each year for all judges hearing child abuse and neglect cases (Standard D.6).
- Court leaders should establish a resource center in which information about abuse and neglect, juvenile, and family court practice is collected and made available to judges (Standard D.7).
- Court leaders should permit judges to participate in nationally recognized education programs promoting best practices in child abuse and neglect cases, even if programs involve out-of-state travel (Standard D.8).
- Judicial support:
 - Persons performing judicial functions such as court filing, recording of documents, scheduling, entering data, and operating data systems should report to presiding judges and court administrators rather than to independently elected or appointed officials (Standard A.3).
 - Court leaders should ensure that the judicial branch will devote sufficient attention and resources to the quality of child abuse and neglect proceedings (Standard A.6).
 - Court leaders should provide compensation and working conditions for judges hearing child abuse and neglect cases that are comparable to those that apply to judges working in the highest level of state trial courts (Standard C.6).
 - Court leaders should ensure that judges are supported by administrative and support staff and, where necessary, clinical support staff or contractors who are fully qualified and sufficiently compensated to fulfill the special requirements of child abuse and neglect cases (Standard C.7). Appropriate workloads for judicial employees should be determined and planned for (Standard C.8).

- Judges should have access to state-of-the-art technology, including computer support specifically designed for child abuse and neglect proceedings (Standard C.10).

Several other documents addressed standards for judicial processes, including the recruitment and retention of racially and ethnically diverse judges (ABA, 2008), using a one family, one judge assignment process (Gatowski et al., 2016), and supporting pre-petition legal advocacy (ABA & NCJFCJ, 2021). Regarding federal requirements and guidance, several laws and information memoranda have discussed judicial training requirements on the topics of (1) ICWA (ICWA, 1978), (2) placement settings (The Family First Prevention Services Act of 2018), and (3) trauma and family time (ACF, 2020 ACYF-CB-IM-20-02).

Research Evidence

Few studies were found on any of the judicial process subcategories. One study of judicial assignment found that use of a one family, one judge model led to more case dismissals and timelier reunification (Shdaimah & Summers, 2013).

Judicial workload has been studied by asking judges to estimate (Dobbin & Gatowski, 2001) or track time spent on and off the bench during a specific period of time using time logs (Bickett, 2012; Dobbin, Gatowski & Summers, 2010; Dobbin, Gatowski & Summers, 2010). Time judges spend conducting hearings on the bench and time spent off the bench on case-related activities (e.g., preparing for hearings) and time spent off the bench on administrative duties (e.g., collaborative meetings with partners) are commonly tracked. Summers, Macgill, Gatowski, et al., (2013) and Wood, Russell, Macgill et al. (2014) also considered the amount of judicial staff time (as calculated by full time equivalency, FTE) available per hearing type conducted. It was found that more judicial staff time may be associated with a greater likelihood of meeting state and federal requirements for timeliness of child welfare hearings and reduced time to adoption (Wood, Russell, Macgill et al., 2014). However, a connection was not found between judicial personnel and percentage of permanent placements within timeliness goals (Wood, Russell, Macgill et al., 2014).

Exhibit 8. Existing Research Measures of Court Judicial Processes

Topics	Data source	Measures	Reference
Judicial appointment	None found		
Judicial assignment	Telephone survey	Judicial report of court case assignment practices	Dobbin & Gatowski, 2001
	Administrative data	Existence of one family, one judge model	Shdaimah & Summers, 2013; Summers & Shdaimah, 2013
Judicial workload	Hearing logs	Hearing start and end time; parties present; whether hearing is contested; number of continuances; level of discussion	Bickett, 2012; Dobbin, Gatowski & Summers, 2010
	Off-the-bench logs	Minutes spent conducting case-related and non-case-related activities	Bickett, 2012; Dobbin, Gatowski & Summers, 2010; Summers, Macgill, Gatowski, et al., 2013
	Administrative data	Type and number of dependency hearings; number of FTE judicial officers	Bickett, 2012; Wood, Russell, Macgill et al., 2014
	Telephone survey	Judicial report of typical workday activities and estimation of amount of time associated with those activities; discussion of challenges associated with completing on-the-bench tasks and off-the-bench activities	Dobbin & Gatowski, 2001; DiPietro, 2008
Judicial training requirements	None found		
Judicial support	None found		

Gaps in Understanding

No studies of judicial appointment, judicial training requirements, or judicial support were found. Initial studies of judicial assignment practices like the one family, one judge model have promising results, however, they were conducted with small sample sizes, so a larger study would add to understanding.

Court Attorney Processes

Court attorney processes are structures, processes, and resources in place to ensure effective practice for child, parent, and child welfare agency attorneys. While performance measures (exhibit 9) and standards have been described for court attorney processes, research is mostly limited to descriptive studies (i.e., research that describes a program or perceptions of a program and summarizes characteristics of a dataset with statistics such as frequencies or averages) and lacks evidence of outcomes.

Court Attorney Processes contains five topics:

- **Attorney appointment:** Attorney appointment processes
- **Attorney workload:** Attorney resources directed toward child welfare cases
- **Attorney compensation:** Amount an attorney is paid
- **Attorney training requirements:** Training or knowledge prerequisites; and support of attorney skill development such as training, mentoring, coaching, and evaluation processes/monitoring
- **Attorney support:** Resources supporting attorney case practices

Exhibit 9. Existing Performance Measures of Court Attorney Processes

Topic	Measure	Source
Attorney appointment	<ul style="list-style-type: none"> • The percentage of court-involved cases in which attorneys are appointed for one or more parents • The percentage of court-involved cases in which each parent has a separate assigned attorney • The jurisdiction made efforts to recruit attorneys who are from diverse backgrounds and have a range of skills. • There is transparency to parents about how appointments are made. • Do parents have access to attorneys at the time the agency becomes involved with the family? • There is a mechanism in place for a parent to obtain a new attorney when he or she is dissatisfied with the original court-appointed attorney. • Parents are aware of the system to obtain new counsel. • There is a process in place to determine if parents' complaints have merit. • There is a process to ensure against negative consequences for the parent if they try to get new counsel. • There is a mechanism for other stakeholders to alert the court if there is concern that a parent's attorney is not appropriately engaging with clients. • There is a procedure for attorneys to ask to be relieved of 	Parent Representation Indicators

Topic	Measure	Source
	an assignment when the representation can no longer continue.	
Attorney workload	<ul style="list-style-type: none"> There is a caseload cap in place or there is another system to keep manageable case limits for parents' attorneys. The caseload cap gives consideration to an attorney's entire practice. The caseload cap ensures attorneys have capacity to handle cases through appeal when appropriate. 	Parent Representation Indicators
	<ul style="list-style-type: none"> Average attorney caseload 	Family Justice Initiative (FJI) Indicators
Attorney compensation	<ul style="list-style-type: none"> The rates paid are sufficient to support an attorney's practice so that the attorney can adhere to the cap. 	Parent Representation Indicators
	<ul style="list-style-type: none"> The percentage of attorneys compensated is at least equal to county or child welfare agency attorneys. 	FJI Indicators
Attorney training requirements	<ul style="list-style-type: none"> High-quality parent attorney-specific training is available. Is this training accessible to all attorneys? How often is it provided? Who provides it and how? How is attendance tracked? High-quality parent attorney-specific training is mandatory. Is this training accessible to all attorneys? How often is it provided? Who provides it and how? How is attendance tracked? Percentage of parents' attorneys who participate in training Training coordinators evaluate the usefulness of the programs. Training opportunities include those that are interdisciplinary. Parents' attorneys have the opportunity to attend national conferences. Can they obtain scholarships for those programs? There is a state/tribe/local listserv for parents' attorneys. Percentage of attorneys who are members of that listserv 	Parent Representation Indicators
	<ul style="list-style-type: none"> Percentage of active attorneys who have received training on bias and cultural humility Number of training and education opportunities offered to attorneys 	FJI Indicators
Attorney support	<ul style="list-style-type: none"> Percentage of parents' attorneys who have access to social workers as part of the legal team and percentage of attorneys who use the social workers; percentage of parents' attorneys working in teams with social workers Percentage of parents' attorneys who have access to parent partners/parent mentors as part of the legal team and percentage of attorneys who use the parent 	Parent Representation Indicators

Topic	Measure	Source
	partners/mentors <ul style="list-style-type: none"> • Percentage of parents' attorneys who have access to investigators and percentage of attorneys who use the investigators • Percentage of parents' attorneys who have access to paralegals and percentage of attorneys who use the paralegals • Percentage of parents' attorneys who have access to expert witnesses and percentage of attorneys who use the expert witnesses 	
	<ul style="list-style-type: none"> • Percentage of active attorneys for whom a performance evaluation was conducted within the last year 	FJI Indicators

Inclusion in National Recommendations and Standards

Multiple documents describe standards and recommendations for parent, child, and child welfare agency attorneys. Themes include the following:

- Attorney appointment:
 - Recruit and hire highly qualified (ABA, 2006) and racially and ethnically diverse candidates (ABA, 2008).
 - Develop a fair, systematic, and independent process of appointment (ABA, 1996, 2006).
 - Develop a system for attorney continuity (ABA, 2004, 2006; NACC, 2021).
 - Appoint attorneys for the child and parents as soon as possible including the initial hearing (ABA, 2006, 2021; NACC, 2021; Gatowski, Miller, Rubin et al., 2016).
 - Mandate that independent attorneys be appointed to represent the interests of children (NACC, 2021; Katner, McCarthy, Rollin et al., 2001).
 - Understand attorney roles and responsibilities (ABA, 2004); NACC, 2021.
 - Permit tribal representatives to present in Indian Child Welfare Act (ICWA) proceedings regardless of whether they are licensed in that state (Indian Affairs Bureau of Indian Affairs, 2016).
- Attorney workload:
 - Determine and set reasonable caseloads for parent, child, and child welfare agency attorneys (ABA, 2004, 2006, 1996; NACC, 2021).
 - A full-time children's attorney should represent no more than 40–60 individual clients (assuming one case = one client and not an entire sibling set) at a time (NACC, 2021).

- A full-time parent’s attorney should represent no more than 50–100 cases at a time (ABA, 2006).
- Attorney compensation:
 - Parent, child, and child welfare agency attorneys should have fair and competitive compensation (ABA, 1996, 2004, 2006; NACC, 2021; Katner, McCarthy, Rollin et al., 2001). Children’s attorney compensation should equally incentivize in- and out-of-court activities (NACC, 2021).
- Attorney training requirements:
 - Ensure sufficient initial and ongoing training for attorneys (ABA, 1996, 2004, 2006; NACC, 2021), including pairing with an experienced attorney mentor (ABA, 1996, 2004, 2006).
- Attorney support:
 - Create a brief and forms bank (ABA, 2004, 2006).
 - Provide sufficient technical and support staff, including peer partners, investigators, social workers, and other multidisciplinary team supports (ABA, 2004, 2006; NACC, 2021).

Research Evidence

Court attorney processes have primarily been studied using qualitative methods to understand the process of appointment (exhibit 10).

Attorney Appointment

Attorney appointment has been primarily measured using descriptive studies (i.e., research that describes a program or perceptions of a program and summarizes characteristics of a dataset with statistics such as frequencies or averages) of appointment processes and stakeholders’ (e.g., judges, attorneys, parents) perceptions and satisfaction with attorney practice (Hess, Swanke, & Batson, 2007; Lukowski & Davies, 2002; McNaughton, 2014; Pitchal, Freundlich, & Kendrick, 2009; Sankaran & Pollack, 2016; Zinn, Orlebeke, Duquette, et al., 2016). In a model court project, procedural changes resulted in faster appointment times for child and parent attorneys (Halemba, Siegal, Gunn, et al., 2002).

Three studies have examined how parents’ attorney appointment affects outcomes. When comparing interdisciplinary law office representation with a standard panel attorney using a quasi-experimental design, Gerber, Pang, Ross, et al. (2019) found that children of parents who received interdisciplinary representation spent fewer days in foster care. They also achieved overall permanency, reunification, and guardianship more quickly. However, interdisciplinary law office representation did not have an effect on entry into foster care. In a study of a parents’

attorney pilot program, Sicafuse, Wood, & Summers (2014) found that mothers represented by pilot project attorneys received significantly more services than mothers represented by private attorneys and mothers who had no representation, and that they received more hours of visitation per week. Parents with representation had fewer days from petition filing to adjudication and from petition filing to case closure, were more likely to result in case dismissals, had more contested hearings, and had slightly fewer placement moves. There were no differences in parents' hearing attendance, number of continuances, or case outcomes (e.g., reunification, guardianship, termination of parental rights (TPR)/adoption). Although this study had promising results, it had a limited sample and dealt with missing data. In another study of a pilot parent representation program, Wood, Summers, Soderman Duarte (2016) found that cases participating in a pilot program moved from the initial hearing to full attorney appointment faster than cases not in the pilot.

Regarding child representation, findings have been mixed and limited to only a few studies. One study found that independent child attorney appointment (e.g., private firm, panel of court-appointed attorneys) was associated with fewer foster care placements (Goodman, Edelstein, Mitchell et al., 2008). Others found that assignment of a Guardian ad Litem (GAL) to the case had no impact on outcomes (Zinn & Slowriver, 2008) and attorneys representing expressed interest of the child had higher rates of adoption with no effect on rates of reunification (Zinn & Peters, 2015).

Attorney Workload and Compensation

All studies of attorney workload and compensation were descriptive and examined caseload, amount of time spent on various tasks, and satisfaction with compensation (Harper, Brennan, & Szolnoki, 2005; Orlebeke, Zinn, Duquette, et al., 2015; Pitchal, Freundlich, & Kendrick, 2009; Zinn, Orlebeke, Duquette, et al., 2016; Hall, Rubio, Durkin & Van Duizend, 2007).

Attorney Training Requirements

Several studies described attorney training as part of their intervention; however, generalizable conclusions cannot be made because the trainings were not separated from other intervention elements and because samples were limited (Courtney & Hook, 2012; Duquette & Ramsey, 1986; Herring, 1993; Lukowski & Davies, 2002; Oetjen, 2003; Pitchal, Freundlich, & Kendrick, 2009; Zinn, Orlebeke, Duquette, et al., 2016).

Attorney Support

Two studies supported the use of interdisciplinary team approaches, finding they led to fewer days in foster care and faster permanency, re-unification, and guardianship (Gerber, Pang,

Ross, et al., 2019) and fewer petition filings (Detroit Center for Family Advocacy, 2013). Other resources for attorneys (e.g., legal research databases, individuals with whom to discuss cases, paralegals and administrative support, psychologists or psychiatrists) have been described in two studies but not in relation to outcomes (Orlebeke, Zinn, Duquette, et al., 2015; Zinn, Orlebeke, Duquette, et al., 2016).

Exhibit 10. Existing Research Measures of Court Attorney Processes

Topics	Data source	Measures	Reference
Attorney appointment	Case file review	Comparison of cases with and without parent representation	Sicafuse, Wood, & Summers, 2014
	Case file review	Timing of attorney appointment	Halemba, Siegal, Gunn et al., 2002; Wood, Summers, Soderman Duarte, 2016
	Survey	Primary type of child legal representation: (1) county affiliated (e.g., public defender, district attorney, county counsel) or (2) independent (e.g., private firm, panel of court-appointed attorneys)	Goodman, Edelstein, Mitchell et al., 2008
	Survey	How attorneys are appointed	Lukowski & Davies, 2002
	Survey	Satisfaction and perceived impact of having attorneys represent noncustodial parents	McNaughton, 2014
	Survey	Process of GAL appointment and GAL role	Pitchal, Freundlich, & Kendrick, 2009
	Survey	Type of children's attorney office (e.g., staff attorney, private law firms, sole practitioners) and appointment process	Zinn, Orlebeke, Duquette et al., 2016
	Interviews	Process of GAL appointment and GAL role	Pitchal, Freundlich, & Kendrick, 2009
	Statute and document review	Process of GAL appointment	Pitchal, Freundlich, & Kendrick, 2009
	Statute review	Process of parent attorney appointment	Sankaran & Pollock, 2016
Attorney workload	Administrative data	Number of dependency cases	Harper, Brennan, & Szolnoki, 2005
	Interviews	Number of dependency cases	Harper, Brennan, & Szolnoki, 2005
	Survey	Number and percentage of dependency cases	Orlebeke, Zinn, Duquette et al., 2015; Pitchal, Freundlich, & Kendrick, 2009; Zinn, Orlebeke, Duquette et al., 2016
	Administrative data	Number (and increase) of filings per year, average number of law guardian	Hall, Rubio, Durkin & Van Duizend, 2007

Topics	Data source	Measures	Reference
	surveys, interviews and focus group	appearances per child welfare case, number of post-dispositional law guardian appearances per child welfare case	
Attorney compensation	Survey	Amount of compensation, satisfaction with compensation, compensation arrangements	Lukowski & Davies, 2002; Orlebeke, Zinn, Duquette et al., 2015; Pitchal, Freundlich, & Kendrick, 2009; Zinn, Orlebeke, Duquette et al., 2016
Attorney support	Survey	Availability and access to resources	Orlebeke, Zinn, Duquette, et al., 2015; Zinn, Orlebeke, Duquette et al., 2016
Attorney training requirements	Survey and interview	Opportunities for training	Lukowski & Davies, 2002
	Survey	Quality and sufficiency of training	Pitchal, Freundlich, & Kendrick, 2009
	Survey	Years of experience	Zinn, Orlebeke, Duquette et al., 2016

Gaps in Understanding

While many best-practice standards exist for attorney processes, studies of court attorney processes are limited. Studies of interdisciplinary team approaches have shown promising results, but study replication would clarify effects. Most studies that have examined attorney processes have been descriptive (i.e., research that describes a program or perceptions of a program and summarizes characteristics of a dataset with statistics such as frequencies or averages) and limited in scope. No studies were found that examined the effects of attorney workload, compensation, training, or supports on child and family outcomes.

Court Structure

The court structure subcategory describes organizational infrastructure and processes that are hypothesized to improve hearing quality and child and family outcomes. This subcategory has been measured by assessing case backlogs; obtaining family perception of the court's physical facilities; assessing completeness of case files; and examining access to child welfare specialty courts serving specific populations, such as families with very young children and families with parental substance use disorders (exhibits 11 and 12). Studies of court structures also assess implementation and results of system practices such as time-certain calendaring, legal/advocacy supports for families, options for alternative dispute resolution (e.g., mediation,

pre-trial settlement conferences), and court models that specialize in overseeing child welfare cases with specific populations of families involved in child welfare court proceedings.

Court Structure contains six topics:

- **Court docketing/calendaring:** Processes used to schedule court hearings
- **Court environment:** Facilities, conditions, and access to the court hearings
- **Data transparency/CQI processes:** Activities by the court to collect and analyze operational data to assess and improve their own performance
- **Court planning for continuity:** Preparation and activities to ensure court functioning during emergencies
- **Additional legal/advocacy supports:** Appointment of supports outside judge and attorney framework
- **Child welfare court structures:** Court structures and models used in child abuse and neglect proceedings

Exhibit 11. Existing Performance Measures of Court Structures

Topics	Measure	Source
Court docketing/calendaring	Clearance Rates: The number of outgoing cases as a percentage of the number of incoming cases; Trial Date Certainty: The number of times cases disposed by trial are scheduled for trial	National Center for State Courts (NCSC) CourTools
Court environment	Access and Fairness Survey: 1. Finding the courthouse was easy, 3. I felt safe in the courthouse, 8. I easily found the courtroom or office I needed, 9. The court’s website was useful, 10. The court’s hours of operation made it easy for me to do my business.	NCSC CourTools
Data transparency/CQI processes	Measure 6. Reliability and Integrity of Case Files: Court maintains case files completely and correctly in recordkeeping systems	NCSC CourTools
Court planning for continuity	None found	
Additional legal/advocacy supports	None found	
Child welfare court structures	Prevalence of Problem-Solving Dependency Courts: Percentage of child protection cases where at least one parent has participated in a family drug court or a zero-to-three/infant-toddler court	Regional Judicial Opioid Initiative (RJOI) Child Welfare Measures for the Judiciary

Inclusion in National Recommendations and Standards

Standards in this subcategory are described in materials by the American Bar Association (ABA, 1996, 2008, 2010, 2021); Aleut Community of St. Paul (n.d.); the National Council of Juvenile and Family Court Judges (Gatowski, Miller, Rubin, et al., 2016); the National Center for State Courts (Ostrom & Hanson, 2010); the National Association for Court Management (2000); and the U.S. Department of the Interior (Bureau of Indian Affairs, 2016).

- Court docketing/calendaring:
 - Time-certain hearings scheduling practices should be used, which designate a specific time on the court docket to hear a case (ABA, 2010; Gatowski, Miller, Rubin, et al., 2016).
 - Waiting time for time-certain hearings should be less than 20 minutes (Gatowski, Miller, Rubin, et al., 2016).
- Court environment:
 - The court environment should be safe and welcoming, reflect the community's culture, and reduce the stress of families who are navigating the system (Aleut Community of St. Paul, n.d.). Accessibility should be ensured by placing courts in central locations near public transit, and the court should be open to the public (Gatowski, Miller, Rubin, et al., 2016). Information on the location of court buildings, and the time and location of hearings, should be easily found, and accessibility should be promoted by addressing potential barriers such as language and disabilities (Ostrom & Hanson, 2010).
 - The court environment should include rooms with adequate space (ABA, 2010; Gatowski, Miller, Rubin, et al., 2016), with areas for private meetings and comfortable and child-friendly waiting spaces (ABA, 2010). Child welfare court hearings should be separate from other types of hearings, such as adult criminal court cases, and include security features (Gatowski, Miller, Rubin, et al., 2016).
 - Telephone, recording equipment, computers, and internet should be available (Gatowski, Miller, Rubin, et al., 2016).
- Data transparency/CQI processes:
 - Court staff should use computerized data systems to capture information on case flow processes and key court performance measures (Gatowski, Miller, Rubin, et al., 2016; Ostrom & Hanson, 2010).
 - Data captured should include case demographic features of parents and children, and the court should use these data to assess whether services and

outcomes are equitable for families of different races/ethnicities (ABA, 2008, 2020).

- Courts should evaluate their performance by establishing goals, selecting benchmarks and standards of performance (Ostrom & Hanson, 2010), and regularly monitoring data on case flow and court performance measures (ABA, 2010; Gatowski, Miller, Rubin, et al., 2016; Ostrom & Hanson, 2010).
- Court and agency information systems should be linked and able to share information (Gatowski, Miller, Rubin, et al., 2016).
- Information in case file records should be complete and accurate, and files should be easily located (Bureau of Indian Affairs, 2016; Ostrom & Hanson, 2010).
- Court planning for continuity:
 - The National Association for Court Management (2000) recommends creating a disaster plan to ensure that the court's essential functions can be delivered in emergency situations. The disaster plan should be created by an inclusive team with members from departments within the court and entities that frequently interact with the court. The plan should designate staff to determine which functions of the court will be maintained, and staff responsibilities. The plan should address alternative sites for court functions, and plan for manual record keeping in the event that electronic processes are not available. Communication processes, including alternative routes of communication, should be planned to enable information sharing within the court, to key external stakeholders, and to the public.
- Additional legal/advocacy supports:
 - Courts that use a court-appointed special advocate (CASA) and courts that administer nonjudicial foster care review bodies should ensure individuals understand their roles, and the child's attorney's role (ABA, 1996).
 - Both pre-service and continuing training should be provided to CASAs, which should include content addressing their role, court proceedings and associated laws, confidentiality, child development, parent-child attachment, and the dynamics of child maltreatment, community resources, cultural awareness, interview techniques, and court report writing (Gatowski, Miller, Rubin, et al., 2016).
- Child welfare court structures:

- Separate, specialized courts, or divisions of courts that control their own administration and operations, should be used by states to administer child abuse and neglect proceedings (ABA, 2010).
- Courts should use front-loading procedures, designating resources early in the case (Gatowski, Miller, Rubin, et al., 2016).
- Courts should use dispute resolution practices such as settlement or pretrial conferences, and mediation (Gatowski, Miller, Rubin, et al., 2016).
- Specialty courts to address specific child welfare populations, such as family treatment drug courts that address parental substance use, feature a problem-solving, therapeutic approach to engage and motivate parents; however, these practices should also be incorporated into practices for all dependency court hearings (Gatowski, Miller, Rubin, et al., 2016).

Laws and information memoranda center on structures related to data/CQI processes. These government requirements address development of data collection systems to meet case review system requirements (Fostering Connections to Success and Increasing Adoptions Act of 2008), include directives to states to accurately record placement data on tribal children and share this information in a timely manner with the tribe (ICWA, 1978), and promote using data to examine family time (ACF, 2020 ACYF-CB-IM-20-02).

Research Evidence

Research has sought to understand whether courts that specialize in overseeing child welfare cases perform differently from courts that hear child welfare and other types of cases. Boes, Collins-Camargo, & Thomas (2015) found that family courts performed better than district courts in notice to parties; however, the time from case opening to disposition was significantly longer in family courts. The Supreme Court of Texas (2014) reported due process indicators were observed in a higher percentage of hearings in Child Protective Courts (CPC) versus non-CPC courts. Children in counties with unified family courts had shorter stays in foster care and higher rates of reunification with parents or primary caregivers (Sloan, Gifford, Eldred, et al., 2013).

Some courts use “front-loading,” which directs attention and resources early in the case process. These practices may lead to earlier appointments of legal representation and CASAs, increase the specificity of court orders in early hearings, and reduce the time a child is in foster care (Halemba, Siegal, Gunn, et al., 2002). They may also locate fathers more quickly, involve relatives earlier in the case process, increase presence of parents during the case, and increase placement of children with relatives (Gatowski, Dobbin, & Litchfield, 2002).

Studies hypothesize that the physical environment of the court, and the length of time parents must wait prior to hearings, can impact the experience and engagement of families in the court case process. A study of time-certain calendaring implementation found statistically significant positive correlations between family participants who reported satisfaction with their wait time and their satisfaction with the judge's decision, their attorney, and feeling respected by the judge, and overall satisfaction with their court experience (Gonzalez, Bohannon, & Summers, 2015). An evaluation of GAL representation by Pitchal, Freundlich, & Kendrick (2009) reported that the physical environment of the court was a barrier for GALs to meet privately with their client, and that the court environment was not comfortable for children and youth. Interviews with ICWA court stakeholders reported by Haight, Waubanasum, Glesener, et al. (2020) described setting up the hearing room to improve engagement of participants by having the judge sit at the same level as all parties and setting tribal medicine on tables for participants to take with them at the end of the hearing.

Providing additional legal support and advocacy to families has been studied to determine whether these efforts may increase family engagement throughout the case. Parent for Parents (P4P) offers informational sessions and peer support to help parents understand and navigate the court process, which can enhance parents' understanding of the roles of professionals, increase trust in the child welfare agency, and improve parent awareness of issues within their family that may need to be addressed (Summers, Wood, Russell, et al., 2012). Participation in P4P has also been found to increase the likelihood that parents attend court hearings, improve parent compliance with case plans, and increase parent attendance for visits with their children (Bohannon, Gonzalez, & Summers, 2016; Summers, Wood, Russell, et al., 2012). Studies also report participation in P4P may improve child and family outcomes, through decreased TPR rates (Trescher & Summers, 2020) and increased reunification rates (Bohannon, Gonzalez, & Summers, 2016; Trescher & Summers, 2020).

Additional advocacy for children may be available through CASAs, who are volunteers who may be appointed by the judge in a case to be an independent party who gathers information and provides recommendations to the court to promote the best interests of the child. CASA appointment may increase services for children (Litzelfelner, 2000). CASA service recommendations may be associated with community characteristics; for example, families in urban counties with more poverty received more service recommendations, and families residing in counties with a greater percentage of minorities received fewer service recommendations (Jaggers, Beerbower, Kondrat, et al., 2018).

Mediation is used to increase family involvement and decrease adversarial interactions. Kierkus & Johnson (2019) evaluated mediation implementation and outcomes at several sites, finding

that participation reduced time to permanency, and that the most common permanency case outcome was reunification with parents. In contrast, Madden & Aguiniga (2014) used Propensity Score Matching to match 315 mediated cases with 315 non-mediated cases, reporting that participation in mediation had no effect on whether permanency was achieved.

Team approaches, such as family team decision-making (FTDM), have been used by courts to increase coordination among professionals and involve families in problem solving. A study of FTDM involving a team of court commissioners, social workers, assistant attorneys general, parent attorneys, and GALs who participate in all court hearings reported more relative or parent placements compared with foster care placements, timelier case processing, and increased parent attendance at hearings compared with the cases with no FTDM (Summers, Wood, McLellan, et al., 2011).

Specialty courts such as Family Treatment Drug Courts (FTDCs) also use teams of professionals, and more frequent interactions with families with substance use issues. Parents who participated in an FTDC were reported to have higher perceptions of procedural justice and beliefs that the court process is fair; this perception was associated with more consistent participation in court-ordered services, and in turn higher rates of reunification (Fessinger, Hazen, Bahm, et al., 2020). Specialty courts may facilitate service referrals for families and increase services to families. Children in courts serving infants and toddlers may be more likely to receive developmental assessments and early intervention services (Casanueva, Goldman Fraser, Gilbert, et al., 2013; Casanueva, Harris, Carr, et al., 2019).

Exhibit 12. Existing Research Measures of Court Structures

Topics	Data source	Measures	Reference
Court docketing/ calendaring	Court stakeholder survey	Survey statements related to the stakeholders' court experience: The wait time for hearings is frustrating to me; The wait time is frustrating to my clients; I believe the calendaring system utilized in my jurisdiction is effective in minimizing the wait time for all parties; I believe the calendaring system utilized in my jurisdiction is effective in minimizing the time parties spend in hearings; I believe the calendaring system utilized in my jurisdiction is effective in decreasing the number of case continuances; The calendaring system utilized in my jurisdiction is efficient; I am satisfied with the calendaring system utilized by my jurisdiction; Overall, I am satisfied with my	Gonzalez, Bohannon, & Summers, 2015

Topics	Data source	Measures	Reference
		court experience	
	Court observation instrument	Hearing start times compared to scheduled start times from the court docket for computation of delay	Summers & Darnell, 2015
	Court observation instrument	Hearing start times compared to scheduled start times from the court docket for computation of delay; calculations of percentage of delayed hearings and average number of minutes of the delay	Summers, Russell, Darnell, et al., 2012
Court environment	Tribal court system stakeholders	Interview questions/responses referred to ICWA courtroom setup	Haight, Waubanasum, Glesener, et al., 2020
	Stakeholder survey	Responses to the statement: The court environment is a comfortable place for children and youth to be	Pitchal, Freundlich, & Kendrick, 2009
	GAL survey	Responses to statements: I can easily find a quiet, private place to talk with my client before court hearings; The court environment is a comfortable place for children and youth to be	Pitchal, Freundlich, & Kendrick, 2009
	GAL and judge interviews	Interview questions about waiting time/physical environment/child and family friendliness of environment	Pitchal, Freundlich, & Kendrick, 2009
	Parent survey	Parent level of agreement with statements: It was easy to find where I was supposed to be at court today; I had to wait a long time on my hearing	Wood & Gonda, 2014
Data transparency/ CQI processes	None found		
Court planning for continuity	None found		
Additional legal advocacy/ supports	Court observation	Presence of CASA	Gonzalez, Bohannon, & Summers, 2015
	Stakeholder survey	Items on activities and role of CASAs in relation to GALs	Pitchal, Freundlich, & Kendrick, 2009
	Case file review	Participation in 2-hour informational session that educates parents about the dependency system (yes/no)	Bohannon, Gonzalez, & Summers, 2016

Topics	Data source	Measures	Reference
	Case file review	Participation in 2-hour informational session that educates parents about the dependency system (yes/no)	Summers, Wood, Russell, et al., 2012
	Attendance records matched to case files	Participation in 2-hour informational session that educates parents about the dependency system (yes/no); participation in additional mentoring support (types of support, frequency accessed)	Trescher & Summers, 2020
Child welfare court structures	Court case files	Date of petitions filed: Pre- and post-implementation of model court practices	Halemba, Siegal, Gunn, et al., 2002
	Case file review	Case opening date: Pre- and post-implementation of second shelter hearing	Gatowski, Dobbin, & Litchfield, 2002
	Case file review	Case location: Presence of specialty court in county (unified family court, adult drug treatment court, family drug treatment court, juvenile drug treatment court, no specialty courts)	Sloan, Gifford, Eldred, et al., 2013
	Case file review	Case location: In counties with family courts, in counties without family courts	Boes, Collins-Camargo, & Thomas, 2015
	Docket	Cases assigned to FTDC docket, cases assigned to same judge but not on docket	Fessinger, Hazen, Bahm, et al., 2020
	Court staff survey	Survey questions to identify new policies and organizational practices in courts implementing a domestic violence court collaboration initiative	Malik, Silverman, Wang, et al., 2008
	Case file review instrument	Case indicates participation in FTDM (yes/no)	Supreme Court Children's Commission, 2014
	Administrative case file data	Cases indicate participation in mediation (yes/no)	Kierkus & Johnson, 2019
	Pilot project administrative dataset	Cases indicate participation in mediation (yes/no)	Madden & Aguiniga, 2013

Gaps in Understanding

Studies suggest that court structures that promote specialization in overseeing child welfare cases, and use processes that engage parents in decision-making processes, may be associated with child welfare outcomes. Descriptive information suggests that the physical environment of the court may influence the family’s experience of the court process, but thus far, research has not been done to determine whether this is associated with hearing quality or case outcomes. While the COVID-19 pandemic has brought attention to the importance of continuity of court services, research on whether courts engage in disaster planning has not been conducted.

Court Collaboration With Child Welfare System Stakeholders

Court collaboration with child welfare system stakeholders is conceptualized as ways the court communicates and works with other system partners (e.g., juvenile justice, education). No performance measures were found for this subcategory (exhibit 13), but standards and national recommendations for practice do exist. Studies of court collaboration have used descriptive methods (e.g., surveys, interviews) to understand whether and how it is occurring (exhibit 14).

Court Collaboration With Child Welfare System Stakeholders contains four topics:

- **Cross-system communication:** Communication involving court and system partners
- **Cross-system activities:** Joint activities between court and system partners
- **Information sharing:** Court and system partners collaboration regarding aggregate data on system performance and child well-being
- **Shared accountability:** Court and system partners identification of shared goals and the means to measure them

Exhibit 13. Existing Performance Measures of Court Collaboration

Topics	Measure	Source
Cross-system communication	None found	
Cross-system activities	None found	
Information sharing	None found	
Shared accountability	None found	

Inclusion in National Recommendations and Standards

Standards in this subcategory are described in materials by the American Bar Association (ABA, 1996, 2004, 2006, 2010); the National Council of Juvenile and Family Court Judges (Gatowski, Miller, Rubin, et al., 2016); the National Association of Counsel for Children (2021); the National Center for State Courts (Ostrom & Hanson, 2010); the Indian Child Welfare Act of

1978 (ICWA, 1978); and the U.S. Department of the Interior (Bureau of Indian Affairs, 2016). No national recommendations or standards were found specific to shared accountability.

- Cross-system communication:
 - Tribal and state courts should communicate regarding ICWA eligibility and case transfer (ICWA, 1978; Bureau of Indian Affairs, 2016).
 - Agency and parent attorney managers should meet regularly with the court and state CIP and multidisciplinary committees (ABA, 2004, 2006).
 - Children’s attorneys should engage with community partners during each phase to develop a response that maximizes safety and access for petitioners, while protecting respondents’ due process rights (ABA, 1996; NACC, 2021).
 - Tribal Courts should work with community health and social service providers to offer Native healing, medicines, and wellness practices grounded in tribal community values (Aleut Community of St. Paul, n.d.).
 - Judges should increase efficiency in how domestic violence cases are handled (Gatowski, Miller, Rubin, et al., 2016).
- Cross-system activities:
 - Tribal and state courts should actively work together regarding transfer and shared jurisdiction (ICWA, 1978; Bureau of Indian Affairs, 2016).
 - Tribal-state agreements that establish specific procedures to follow in Indian child custody proceedings are encouraged (ABA, 1996).
 - Court leaders should develop and implement state and local plans to enhance the quality of child abuse and neglect proceedings that include collaboration with other interested agencies and organizations. Judges should lead these efforts by encouraging and convening these meetings with court personnel, attorneys, caseworkers, or service providers when necessary (ABA, 2010).
 - An ongoing process for meaningful collaboration should be established between tribal and state courts and the child welfare agency and other system partners (Gatowski, Miller, Rubin, et al., 2016).
- Information sharing:
 - If a tribal court accepts transfer, all records should be shared expeditiously in a way that minimizes service disruption for the family (ICWA, 1978; Bureau of Indian Affairs, 2016).
 - A chief judge or court leadership team should circulate data on court performance to help interpret results, plan improvements, and discuss concerns (Ostrom & Hanson, 2010).

- Courts should review available data to identify strengths and weaknesses and make improvements. Partnering with local colleges and universities to study court performance is encouraged (ABA, 2010).
- Judges should support sharing data, encourage evidence-based practice, and advocate for improvements (Gatowski, Miller, Rubin, et al., 2016).

Research Evidence

Several descriptive studies have explored the extent to which courts collaborate with other child welfare system partners. They have relied on surveys, interviews, focus groups, and document review to describe how judges and attorneys communicate and share information with tribal, juvenile justice, and domestic violence partners. The extent of these activities varied, but did occur.

Exhibit 14. Existing Research Measures of Court Collaboration

Topics	Data source	Measures	Reference
Cross-system communication	Interview	How information is shared between GALs and system partners	Pitchal, Freundlich, & Kendrick, 2009
	Survey	Communication between courts during cases where families might be involved in child welfare and domestic violence proceedings	Malik, Silverman, Wang, et al., 2008
Cross-system activities	Document review	Description of Child and Family Service Plan requirements for collaboration among tribal and state agencies	Limb & Brown, 2008
	Survey	Participation in cross-system training and perceptions of voice in partnerships	Malik, Silverman, Wang, et al., 2008
	Interviews and focus groups	Cross-system collaboration with court and other systems, specifically around addressing racial disproportionality in removal decisions	Pryce, Lee, Crowe, et al., 2019
Information sharing	Survey	Interactions between judges in dependency courts, domestic violence organizations, and child welfare agencies to share information	Malik, Silverman, Wang, et al., 2008
	Interviews	Processes used to coordinate information between juvenile justice and dependency court system	Pitchal, Freundlich, & Kendrick, 2009
System accountability	None found		

Gaps in Understanding

Little is known about whether and how courts collaborate with system partners. More studies that further explore the processes courts use to collaborate, and with which partners, are needed. Nothing is currently known about whether different collaboration activities support positive outcomes for families.

Practices

The practices category contains four subcategories:

- **Judge activities outside hearing**
 - Activities outside of hearing
 - Collaborative activities
 - Administrative activities
 - Judicial training
- **Attorney activities outside hearing**
 - Attorney pre-petition legal practice
 - Activities outside of hearing
 - Collaborative activities
 - Attorney training
- **Judge activities during the hearing**
 - Judicial engagement/inquiry
 - Legal requirements met
 - Safety decision-making
 - Court decorum
 - Orders made to child welfare agency and partners
- **Attorney activities during hearing**
 - Attorney presence
 - Attorney advocacy
 - Professional requirements met

Each subcategory is described below.

Judge Activities: Outside of Hearings

Judge activities outside of hearings include all activities that judges perform when they are not in a child welfare hearing. These activities may be case related, such as preparing for and following up on hearings, or non-case-related, such as collaborating with system partners, performing administrative tasks, and participating in trainings. While several best-practice standards recommend and outline “off-the-bench” activities for judges, no existing performance measures for judicial activities outside of hearings were found (exhibit 15).

Few research studies were found for this subcategory (exhibit 16). The studies that were found measured judicial activities outside of hearings primarily through surveys, interviews, off-the-bench logs, document review, and court observation. Most studies were strictly descriptive, although one study using a quasi-experimental (pre-post) research design found significant initial hearing quality improvements (e.g., increased engagement of parents who are present, increased discussion of key topics, and an increase in required findings) after judges had attended a judicial training program (Summers, Gatowski, & Devault, 2016).

Judge Activities: Outside of Hearings contains four topics:

- **Activities outside of hearing, case related:** Case-related activities the judge does to prepare for, and follow-up on hearings
- **Collaborative activities:** Activities by that judge involving collaboration with court and child welfare system partners
- **Administrative activities:** Judicial activities to ensure efficient court operations
- **Judicial training:** Training received by the judge

Exhibit 15. Existing Performance Measures of Judge Activities: Outside of Hearings

Topics	Measure	Reference
Activities outside of hearing, case-related	None found	—
Collaborative activities	None found	—
Administrative activities	None found	—
Judicial training	None found	—

Inclusion in National Recommendations and Standards

The National Council of Juvenile and Family Court Judges’ *Enhanced Resource Guidelines* (2016) provide best-practice recommendations for judges’ activities outside of child welfare

hearings that are case related, as well as collaborative, administrative, and training activities for judges.

Activities Outside of Hearing, Case Related

- The *Enhanced Resource Guidelines* list specific activities that judges should engage in prior to each key child welfare hearing (e.g., initial, adjudication, disposition, review, permanency, termination of parental rights, post-permanency review hearings) to prepare for those hearings. These activities include reviewing all relevant documents and reports to the court (e.g., to determine whether the proposed services address all identified safety issues, are accessible, and are culturally and linguistically appropriate and comply with the requirements of Adoption and Safe Families Act (ASFA) and state laws). After hearings have concluded, judges should ensure that any orders of the court are produced and disseminated in a timely manner to all relevant parties.

Collaborative Activities

- The *Enhanced Resource Guidelines* stress the leadership role of judges in child welfare cases. This includes encouraging multidisciplinary training, promoting collaboration by bringing stakeholders to the table to discuss improvements, sharing data, and encouraging evidence-based and outcome-informed practice, and advocating for improvements in the administration of justice. For example, judges who preside over child welfare cases should develop and support meaningful collaborations between tribal and state courts; work with attorney organizations to ensure that all parties have access to competent representation; and work with system partners to ensure that front-loading procedures are available in cases so that, at the earliest point possible, all parties to a court proceeding begin doing all they can to minimize the length of time that children remain in temporary placement (e.g., judges should encourage the development and use of practices such as pretrial conferences, family group decision-making or family team meetings, and child protection mediation). Judges should also engage in activities that inform the community of the unique and diverse needs of children and families involved in the child welfare system to support the development of policy, program, and practice improvements.

Administrative Activities

- Judges should engage in careful docket and calendar management to ensure that hearings are held in a timely manner; that decisions are made in compliance with federal and state mandated timeframes; and that caseworkers, parents, attorneys, and other

parties do not have to spend long hours at court waiting for hearings. Judges should ensure the court's case flow management procedures are aligned with statutory deadlines for case processing. Judges should develop a firm and effective policy on continuances and share it with stakeholders.

Judicial Training

- Judges should engage in continuing education with professional training topics encompassing the latest knowledge of child abuse and neglect issues, including prevailing laws and effective court practices, cultural competence, domestic violence, substance use, mental health, trauma, child well-being, implicit bias, gender and identity, and fairness. Judges should also be knowledgeable about the services available in the community and their effectiveness.

The ABA's *Standards for Judicial Excellence* also includes recommendations for collaborative judicial activities.

Collaborative Activities

- Judges who are responsible for child abuse and neglect cases should be systematically represented in larger decision-making and advisory bodies related to their work. Because child abuse and neglect courts depend upon the agency to provide most of the information about the case through its petitions, affidavits, reports, caseworker testimony, and witnesses, judges need to participate in meetings (convening them on some occasions) to ensure that the agency, court, attorneys, and others understand each other's organizational needs and constraints and maintain open lines of communication to resolve problems unrelated to specific cases.

The ABA's *Standards for Child Representation* make specific recommendations about judges' activities outside of hearings that are case-related, collaborative, and administrative.

Activities Outside of Hearing, Case Related

- Judges should require that reports from agencies be prepared and presented to the parties in a timely fashion.

Collaborative Activities

- Judges who preside over child welfare hearings should participate in trainings that are conducted for the child's attorney, whether they are conducted by the courts, the bar, or any other group. Judges should help ensure that all representatives of the child (i.e.,

attorneys, GALs, CASAs, citizen review panels) understand the importance and elements of the role of child's representative.

Administrative Activities

- If judges become aware that individual lawyers are close to, or exceeding, the levels of caseloads suggested in ABA standards, they should expand the size of the list from which appointments are made; alert relevant government or private agency administrators that their lawyers have an excessive caseload problem and review; recruit law firms or special child advocacy law programs to engage in child representation, and review any court contracts/agreements for child representation and amend them accordingly so that additional lawyers can be compensated for case representation time; and alert state judicial, executive, and legislative branch leaders that excessive caseloads jeopardize the ability of lawyers to competently represent children pursuant to state-approved guidelines, and seek funds for increasing the number of lawyers available to represent children.

The ABA and the National Council of Juvenile and Family Court Judges (NCJFCJ) have made recommendations for early, pre-court involvement of legal advocates that specify collaborative activities for judges.

Collaborative Activities

- Judges should consider ways to support pre-court legal advocacy in their jurisdictions by learning how attorneys are representing clients at investigation, encouraging the use of early legal advocacy in appropriate cases, and talking with advocates who take early appointments and legal representation programs that support early pre-court legal advocacy about their experiences, challenges, and successes.

The National Center for State Courts' (NCSC's) *Achieving High Performance: A Framework for Courts* recommends the following collaborative and administrative activities for judges.

Administrative Activities

- Judges should manage and control the flow of cases through the court. Judges should ensure that more complicated, more difficult, and more serious cases receive more time than the less complex, less difficult, and less serious cases. Judges and court managers should establish a structured screening process using clear mechanisms to sort cases according to agreed-upon criteria and setting up alternative calendars for different

gradations of cases. Judges should establish and communicate clearly what, how, and when actions are expected of each party at all critical stages of the case process.

Collaborative Activities

- Judges should support innovation of court and system practices, ensure their courts operate in an inclusive manner (both internally and externally), champion ideas that are first discussed among the entire bench and professional staff, and seek collaborative relationships with system partners. Judges should establish a collaborative work environment and effective court-wide communication. Judges' efforts to build consensus on court policies and practices should extend to involving other system partners, groups in the community, and ideas emerging in society.

Research Evidence

One study was found that included an assessment of judges' collaborative activities and another was found that examined participation in training and their relation to case processing and hearing quality outcomes. One multisite descriptive study used surveys to evaluate the implementation of a domestic violence demonstration project (the Greenbook initiative). When compared to baseline (pre-Greenbook initiative), project sites had increased judicial and court involvement in collaborative efforts, had implemented more innovative practices, had more separate case plans for perpetrators and survivors of domestic violence, and had reduced the likelihood of failure to protect charges (Malik, Silverman, Wang, et al., 2008). Another study using a quasi-experimental design and more robust methods examined the extent to which judges' participation in the NCJFCJ's Child Abuse and Neglect Institute judicial training program impacted their on-the-bench initial hearing practice. Judges' initial hearings pre-training were observed and compared to their initial hearings post-training. The study found statistically significant differences in the quality of judges' post-training initial hearings, including increased appearance of mothers; increased engagement of mothers and fathers; increased judicial inquiry about key topics (e.g., whether cultural considerations had been taken into account in removal, services to the family allowing the child to remain home, and the safety plan); and increased judicial findings related to ICWA, reasonable efforts and contrary to welfare findings (Summers, Gatowski, & Devault, 2016).

Exhibit 16. Existing Research Measures of Judge Activities: Outside of Hearings

Topics	Data source	Measures	Reference
Judicial activities outside hearing: case related	Survey	Time spent (hours) in preparing for hearings	DiPietro, 2008
	Off-the-bench logs	Daily count of time spent (minutes/hours) preparing for and following up after hearings	Dobbin, Gatowski & Summers, 2010
Collaborative activities	Survey	Time spent (hours) in committee work and community outreach	DiPietro, 2008
	Interview	Interview questions asked about judicial leadership and participation in collaborative efforts to champion a domestic violence initiative; court personnel asked to what extent they agreed that the court encouraged the use of domestic violence advocates in both the court case and in the service plans for battered mothers	Malik, Silverman, Wang, et al., 2008
	Off-the-bench logs	Daily count of time spent (minutes/hours) for outreach, collaborative meetings, and systems reform efforts	Dobbin, Gatowski & Summers, 2010
Administrative activities	Off-the-bench logs	Daily count of time spent (minutes/hours) in administrative duties	Dobbin, Gatowski & Summers, 2010
Training	Survey	Time spent (hours) in training	DiPietro, 2008
	Interview	Whether judges had received training on ICWA (yes/no)	Haight, Waubanasum, Glesener, et al., 2020
	Off-the-bench logs	Time spent (minutes/hours) in judicial education activities and in training	Dobbin, Gatowski & Summers, 2010

Topics	Data source	Measures	Reference
	Court observation	Pre- versus post-training extent to which judges in initial hearings engage parties using specific engagement strategies (e.g., speaks directly to, calls by name, gives opportunity to be heard); extent of judicial inquiry on specific topics (e.g., frequency and mean); whether judge made specific findings during hearings (yes/no)	Summers, Gatowski, & Devault, 2016

Gaps in Understanding

Judicial activities outside of hearings, while measured in a few studies, have rarely been examined in relation to how those activities affect case processing and outcomes. Only two studies were found linking judges' collaboration activities with system partners and their participation in training with positive case processing and hearing quality outcomes. As a result, little is known about how judges' activities outside of hearings impact child welfare cases.

Attorney Activities: Outside of Hearings

Attorney activities outside of hearings include all activities that attorneys perform when they are not in a child welfare hearing. Several performance measures and best-practice representation standards outline activities for attorneys outside of hearings (exhibit 17). These activities include pre-petition representation provided to parents during child welfare investigations or advocating for services that will help keep children in the home, meeting with parents or youth before and after attending court hearings, participating in settlement or alternative dispute resolution procedures on behalf of clients, collaborating with court and other system partners to improve the system, and attending training.

Several quality legal representation programs have been the subject of research studies. While these studies typically described the out-of-court activities performed by attorneys in the model programs, few studies examined the relationship of specific out-of-court activities to case processing and outcomes (exhibit 18).

Attorney Activities: Outside of Hearings contains four topics:

- **Attorney pre-petition legal practice:** Pre-petition legal representation
- **Activities outside of hearing, case related:** Activities the attorney does to prepare for and follow up on hearing and advocacy outside of the hearing including motion practice,

settlement negotiations, attending out-of-court meetings, and independent investigation/discovery practice

- **Collaborative activities:** Activities by attorney involving collaboration with system partners
- **Attorney training:** Training received by the attorney

Exhibit 17. Existing Performance Measures of Attorney Activities: Outside of Hearings

Topics	Measure	Source
Activities outside of hearing, pre-petition	Risk categories and/or risk levels of cases assigned to prevention attorneys during time period under review; percentage of pre-petition cases in which petitions are subsequently filed, within 6 to 12 months; percentage of pre-petition cases in which children are subsequently removed, within 6 to 12 months	California Court Performance Measures (CA CPM)
Activities outside of hearing, case related	Number written motions filed to promote case plan (e.g., to increase or alter visitation with parents or siblings; to move children to in-home placements, or placements with relatives, neighbors, or fictive kin/close family friends); percentage of hearings where client and attorney spoke at least once prior to day of hearing (in person or on phone, any other form of contact); number of referrals to services made by attorney or team member (defined as the attorney or team member made an initial contact to the service provider); number of out-of-court meetings between client and attorney, per case; percentage of family team meetings (or other key child welfare agency meetings with client) attended by attorney or other team member; number of appeals filed; number of investigators utilized; percentage of cases where attorney met with the client prior to the first court hearing	FJI Indicators
	Time spent with client outside of court hearings; presence at key non-hearing case events such as mediation, family team meetings, etc.; frequency and quality of communication with the child welfare agency, other attorneys, service providers, and other stakeholders; parent had regular contact, on days other than a day the parent was expected in court, with the attorney; attorney talked to parent about the opportunity to appeal the case and the likely outcome of the appeal; attorney followed parent's direction in filing the appeal	Parent Representation Indicators
Collaborative activities	None found	—

Topics	Measure	Source
Attorney training	Percentage of parents' attorneys who participate in training	Parent Representation Indicators

Inclusion in National Recommendations and Standards

National best-practice recommendations and standards for attorney practice in child welfare cases have been developed for child welfare attorneys, parents' attorneys, and child representation. Recommendations for attorney activities outside of child welfare court hearings from these national standards are summarized below, beginning with pre-petition practices, and then organized by attorney role.²

Activities Outside of Hearing, Pre-Petition Practice

Some jurisdictions permit parents' attorneys to begin their representation before the child welfare agency files a petition with the court. When the agency becomes involved with families, it can refer parents to attorneys so that parents will have the benefit of counsel throughout the life of the case (ABA Standards for Parents' Representation, 2006). The ABA and the NCJFCJ have made recommendations for early, pre-petition involvement of legal advocates that specify outside-of-court activities for attorneys (ABA & NCJFCJ, 2021). These pre-petition activities include—

- Helping families address legal issues or barriers that affect a child's safety in the home, such as filing a restraining or a protective order, applying for public benefits, assisting with affordable housing and expungement of criminal records, negotiating a lease, or filing for guardianship
- Providing counsel and advice during child welfare investigations, including informing parents of their rights, negotiating child safety plans, and identifying relative and other safe placement options
- Advocating for services that will help keep the child in the home, such as counseling, respite care, and medical care to address the child's or parent's health needs

ABA Standards of Practice for Lawyers Representing Child Welfare Agencies (2004) recommend the following outside of court activities for child welfare agency attorneys:

² See each source document for more detailed description of the out-of-court attorney activities summarized here.

Activities Outside of Hearing, Case Related

- Develop a case theory and strategy to follow at hearings and negotiations; prepare or help prepare the initial petition and all subsequent pleadings; timely filing of all pleadings, motions and briefs; obtain all documents and information needed, including copies of all pleadings and relevant notices filed by other parties; participate in all depositions, negotiations, discovery, pretrial conferences, and mediation sessions; participate in settlement negotiations and attempt speedy resolution of the case when appropriate; develop a case timeline and tickler system for remembering timelines; subpoena and prepare all witnesses, including the client; ensure proper notice of all hearings is provided to all parties; when relevant, participate in jury selection and drafting jury instructions; prepare proposed findings of fact, conclusions of law, and orders when they will be used in the courts decision; follow all court orders pertaining to the attorney for the client/agency; review court orders to ensure accuracy and clarity and review with agency if necessary; take reasonable steps to ensure agency complies with court orders; consider and discuss with agency the possibility of an appeal; timely filing of necessary post-hearing motions and the notice to appeal paperwork; request an expedited appeal, when feasible, and file all necessary paperwork while the appeal is pending; communicate results of the appeal to the agency/client.
- Counsel caseworkers concerning the legitimacy of positions; counsel the client/agency about all legal matters related to individual cases as well as policy issues and periodically monitor cases.

Attorney Training

- The agency attorney shall fully understand and comply with all relevant federal and state laws, regulations, policies, and rules and be trained on and have knowledge of general and specific child welfare topics (ABA Standards, 2004; page 21 provides a listing of recommended training topics); attorneys should be required to attend at least 12 hours of training before beginning and at least 10 hours of training every year after.

ABA Standards of Practice for Lawyers Representing Parents in Abuse and Neglect Cases (2006) include the following recommendations for out-of-court activities for parents' attorneys:

Activities Outside of Hearing, Case Related

- Maintain regular attorney-client contact and communication; take diligent steps to locate and communicate with a missing parent; meet and communicate regularly with the client before court proceedings (e.g., counsel client about all legal matters related to the case,

including allegations, the service plan, the client's rights in the proceeding, orders entered against the client, and potential consequences of failing to obey court orders or cooperate with service plans); interview the client before each hearing, in time to use client information; provide interpreters, investigators, and other specialists needed by the attorneys to competently represent clients.

- Provide client with copies of all petitions, court orders, service plans, and other case documents; ensure client understands documents; be aware of the client's mental health status and be prepared to assess whether the parent can assist with the case.
- Conduct a thorough and independent investigation at every stage of the proceeding; review the child welfare agency case file periodically, obtain all necessary documents, including copies of all pleadings and relevant notices filed by other parties, and information from the caseworker and providers; use formal discovery methods to obtain information; parent's attorney should file timely motions for discovery to obtain records.
- Develop a case theory and strategy to follow at hearings and negotiations; timely file all pleadings, motions, and briefs; research applicable legal issues and advance legal arguments when appropriate.
- Engage in case planning and advocate for appropriate social services using a multidisciplinary approach; attend major case meetings; with the client's permission, and when appropriate, engage in settlement negotiations and mediation to resolve the case.
- Thoroughly prepare the client to testify at the hearing; identify, locate, and prepare all witnesses; identify, secure, prepare, and qualify expert witness when needed; when permissible, interview opposing counsel's experts; identify experts, and seek funds to retain them.
- Review court orders to ensure accuracy and clarity and review with client; counsel client about appeal options and consequences of failing to comply; take reasonable steps to ensure client complies with court orders and to determine whether the case needs to be brought back to court; approach other parties who are not meeting their responsibilities.
- Consider and discuss the possibility of appeal with client; if the client decides to appeal, timely and thoroughly file the necessary post-hearing motions and paperwork related to the appeal and closely follow the jurisdiction's Rules of Appellate Procedure; request an expedited appeal, when feasible, and file all necessary paperwork while the appeal is pending; communicate the results of the appeal and its implications to the client.
- Cooperate and communicate regularly with other professionals in the case (e.g., attorneys for the other parties, CASAs, GALs, caseworkers, foster parents, service providers) to learn about the client's progress and their views of the case, as appropriate.

- Parent's attorney should help the client access information about the child's developmental and other needs by speaking to service providers and reviewing records; parent attorney and client should identify barriers to engagement in services; attorney should work with the service providers to resolve barriers.

Attorney Training

- Adhere to training and mentoring requirements before accepting a court appointment to represent a parent.
- Acquire knowledge of all relevant federal and state laws, regulations, policies, and rules.
- Parent attorney should be trained in mediation and negotiation skills.

ABA Standards of Practice for Lawyers who Represent Children in Child Abuse and Neglect Cases (1996) include the following out-of-court activities for children's attorneys:

Activities Outside of Hearing, Case Related

- Obtain copies of all pleadings and relevant notices.
- Participate in depositions, negotiations, discovery, and pretrial conferences.
- Communicate with other parties to inform them and their representatives that the attorney is representing the child and expects reasonable notification prior to case conferences, changes of placement, and other changes of circumstances affecting the child and the child's family.
- Counsel the child concerning the subject matter of the litigation, the child's rights, the court system, the proceedings, the lawyer's role, and what to expect in the legal process.
- Develop a theory and strategy of the case to implement at hearings, including factual and legal issues.
- Identify appropriate family and professional resources for the child.
- Meet with the child and independently investigate to support the child's position (e.g., review court records, evaluations, obtain information from parents/caretakers or GAL), file petitions, motions, responses, or objections as necessary; seek appropriate services for the child, including services to address special needs; request authority from the court to pursue issues on behalf of the child (e.g., educational services, supplemental security income (SSI) benefits) if needed.
- Prepare child to testify in court if needed.
- After the hearing, the attorney should review the court order and the attorney should monitor the implementation of court orders.

- Participate in settlement negotiations to seek expeditious resolution of the case, including mediation.

The National Association of Counsel for Children (NACC) Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings (2021) recommend the following outside-of-court activities, collaborative activities, and attorney trainings for children's attorneys (including that attorney compensation equally incentivize in- and out-of-court work):

Activities Outside of Hearing, Case Related

- Observe and, dependent upon the child's age and capabilities, interview the child.
- Engage in consistent and meaningful communication with the child that is trauma informed and culturally responsive. Contact should be at least before and after each court hearing, after any placement change, and no less than monthly by the attorney or member of the legal team until the conclusion of the case.
- Prepare child before each hearing and debrief with them afterward. Before the hearing begins, preview case details that are likely to be shared, including the purpose and timing of the hearing, possibility of attending virtually, and the likelihood of specific parties being present.
- Ensure the court provides notice and opportunity for the client attend every stage of the process, including at each hearing and case event. Advocate for hearings and case events to be scheduled at dates and times conducive for client to attend and proactively ensure there is a transportation plan in place for client to travel to and from the hearing.
- Use all available opportunities to advocate for the client's interests between court hearings (e.g., mediation, negotiation, emails, phone, virtual/in-person hearings); meaningfully engage clients in these opportunities through preparation and debriefing.
- Independently investigate the client's position.
- Routinely inquire about client safety and well-being by collecting information from other parties, witnesses, professionals, and collateral contacts (e.g., parents, kin, teachers, medical providers).
- Independently litigate the legal matter; file motions, reports or other pleadings to advance the client's objectives.
- Collaborate with the client to develop safety plans, permanency plans, and a case theory to present to the court. Assess and advocate for education services and opportunities. Attend special education meetings, facilitate information sharing where appropriate

between court and education systems to ensure clients have opportunity to meaningfully participate in court.

- Make older youth aware of the benefits of extended foster care, where offered, and ensure development of high-quality transition plans before a youth is discharged from court jurisdiction.
- Appeal adverse rulings if necessary.

Collaborative Activities

- Participate in policy and practice reforms that seek to dismantle inequities, such as data collection, committee work, training initiatives, or legislative reform.

Attorney Trainings

- Engage in foundational training before the first court appointment and frequent, ongoing, learning while practicing child welfare law; understand applicable federal and state laws and regulations, court rules, ethical duties, trial skills, interviewing skills, and social science research, including information on trauma and child and adolescent development. Participate in initial and ongoing training on cultural humility, the impact of systemic racism, and disproportionate and disparate outcomes experienced by Black and Indigenous children and by LGBTQIA+ youth. Endeavor to uncover personal biases and triggers, and develop a process that uses objective criteria to guide advocacy recommendations and decision-making (see *NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings* for a list of specific training topics).

Research Evidence

Models for high-quality representation practice in child welfare cases have been developed, implemented, and studied. While specific models vary, most identify out-of-court tasks and responsibilities for attorneys and provide attorneys with enhanced training on the needs of parents and/or children in child welfare cases. Some representation models also provide access to multidisciplinary professionals for support and consultation (e.g., social workers, parent advocates, investigators); require early appointment in cases; ensure reasonable caseloads; and provide supervision and adequate compensation. Although several evaluations of representation practice models report the frequency with which attorneys perform out-of-court activities (e.g., Lukowski & Davies, 2002; Michigan Courts, 2009; Orlebeke, Zhou, Skyles, et al., 2016; Zinn & Peters, 2015), few have examined or isolated the relationship between specific out-of-court attorney activities and positive case process and outcome findings.

Zinn and Peters (2015) interviewed professional stakeholders about the types of activities (in and out of court) that children's attorneys involved in a model program were engaged in and the specific impact of each activity on case processing and outcomes. Interviewees identified the filing of legal motions, the filing of termination of parental rights petitions and expediting the certification of adoptive homes, attending staffing and case plan meetings, and advocating for services as the activities having the most impact. In another study, survey participants rated the amount of attorney and parent contact and the building of the attorney-parent relationship as the top key factors contributing to timely in-home placement in child welfare cases (Harper, Brennan, & Szolnoki, 2005). Gerber, Guggenheim, Pang, et al. (2020) interviewed attorneys, judges, and parents about their experiences with an interdisciplinary law office (ILO) parents' representation program. Interview respondents believed that ILO attorneys filed more motions and made more requests for court hearings than attorneys who were not part of the program (Gerber, Guggenheim, Pang, et al., 2020).

One study compared children's attorneys who were part of a model program to control groups in Georgia and Washington States (Orlebeke, Zhou, Skyles, et al., 2016). In Georgia, program attorneys met with their child client more frequently, contacted more parties relevant to the case, and spent more time on cases than control attorneys. Washington program attorneys contacted foster parents and substitute caregivers more, spent more time developing the theory of the case, and made more efforts to initiate a non-adversarial case resolution process compared with control group attorneys. Family team meetings and motion hearings were also more likely to occur for cases represented by program attorneys, compared with control attorneys in Washington State. With respect to outcomes, there was no average difference in the likelihood of permanency among children represented by program attorneys compared with control attorneys, including all assignment and exit timings, in either state. When a distinction was added to the analysis model to analyze the likelihood of permanency within 6 months (and, by definition, having been represented by either a treatment or control attorney at some point during those 6 months), the findings were different by state. Children assigned to program attorneys in Washington were 40 percent more likely than children represented by control attorneys to experience permanency within 6 months. The Georgia case sample did not show average differences in permanency between program and control attorneys. For the remainder of the sample, for children assigned attorneys after at least 6 months in care, there was no average difference in the likelihood of permanency in either state. Children represented by program and control attorneys did not have different experiences of placement moves or placement with kin, in either state.

Exhibit 18. Existing Research Measures of Attorney Activities: Outside of Hearings

Topics	Data source	Measures	Reference
Activities pre-petition	None found		
Activities outside of hearing: case related	Interviews Case file review	Children’s attorneys’ interaction/investigation score combined the following: number of people the attorney talked to, number of sources of factual information, number of persons who urged the attorney to accept their recommendations (an indication of the attorney’s interaction with others), and the total number of hours spent on the case. Child scale combined the following: whether the attorney met with the child, the percentage of time spent talking to the child, the rank of the child as an important source of information, the utility of contact with the child, and the degree of consideration given to the child's wishes.	Duquette & Ramey, 1986
	Interviews	Parents’ attorneys: Parent satisfaction with how attorney contacted and prepared them for court hearings; attorney level of preparedness for hearings; number of motions filed, and requests made for court hearings by attorneys; number of out-of-court meetings and conferences with agency that parent attorney attended	Gerber, Guggenheim, Pang, et al., 2020
	Interviews, focus groups, case logs	Parents’ attorneys: Use of investigative and expert services in dependency cases; time spent in case preparation; assessment of delivery of adequate client advice; views of attorney information gathering and decision-making; time spent with clients per month (case log); whether indigency screening of parents, guardians, and legal custodians conducted	Harper, Brennan, & Szolnoki, 2005
	Survey, interview	GALs: Extent to which GALs pursue/receive increased access to information; extent to which GALs conduct an independent investigation regarding the case; frequency meet with the child and appropriate parties; whether GAL explains their role to the child;	Lukowski & Davies, 2002

Topics	Data source	Measures	Reference
		whether necessary pleadings filed; extent monitor case plans, court orders, and services; whether promote cooperative resolutions among parties	
	Survey	GALs: Number of conversations had with child's foster parents/caregivers before the day of each hearing (scale: 0/1–2/3–4/more than 4); number of conversations had with caseworker about the case before each hearing (scale: 0/1–2/3–4/more than 4); level of involvement in the development and monitoring of the child's case plan, court orders, and provision of services for the family; frequency pursues issues on behalf of the child that do not arise directly from the scope of the court appointment (e.g., immigration matters, school disciplinary matters, delinquency cases, spec education issues, social services/general benefits, social security/disability claims, tribal issues, inheritance issues, adult care transition issues)	Michigan Courts, 2009 Michigan Courts, 2009
	Survey	Children's representative: Amount of contact with individuals related to case (how many times the children's representative met in person, spoke on the phone, emailed, texted with this child; how many times the children's representative met in person, spoken on the phone, emailed, or texted with the following individuals [caregivers, parents, attorney's, CASA, teacher, service providers]); amount of time spent on specific case activities (how much time have spent involved in the following activities in furtherance of the child's case [see activities listed in source document]); whether made any efforts to initiate a non-adversarial case resolution process (e.g., negotiation, mediation, case conferences) on behalf of the child (yes/no); whether made any substantive efforts to initiate or maintain a formal alternative dispute resolution process on behalf of the child (yes/no); whether, over the course of this case, ever requested an evaluation of	Orlebeke, Zhou, Skyles, et al., 2016

Topics	Data source	Measures	Reference
		the child's health, mental health, or educational needs (yes/no); whether, over the course of this case, ever requested an evaluation of a parent or caregiver's health or mental health needs (yes/no)	
	Survey, interview	GALs description of level of access to experts and frequency of using experts to help assess child's needs; judge's report on GALs use of experts; youth descriptions of the nature of the relationship with their GAL and how frequently they met with the GAL; GAL survey reporting types/frequency of their communication with the child, and report of frequency of communicating with children's teachers; youth report of their GAL's knowledge of grades, school transfers, school attendance issues, educational successes, and challenges; GALs description of their level of coordination with a child client's lawyer in delinquency cases; GALs and other stakeholders' report of how frequently GALs contact child welfare caseworkers, CASAs, and parents and foster parents; other stakeholders' (e.g., CASAs, child welfare caseworkers, county attorneys, foster parents) report of how frequently GALs meet with child clients; foster parent survey asking whether GALs paid attention to child's educational needs, school attendance/truancy, and their comfort in addressing the child's educational needs with the GAL; foster parent's report of GALs knowledge of, and relationship with the child; GALs survey and interview asking if GALs critically reviewed child welfare agency reports	Pitchal, Freundlich, & Kendrick, 2009
	Interviews	Children's attorneys: Interviews asked professionals about the types of activities (in and out of court) that child attorneys engaged in and the specific impact of each activity on the case.	Zinn & Slowriver, 2008

Topics	Data source	Measures	Reference
	Interviews	Children’s attorneys: Interviews asked professionals about the types of activities (in and out of court) that child attorneys engaged in and the specific impact of each activity on the case.	Zinn & Peters, 2015
	Survey	Children’s attorneys: Perception of attorney regarding whether specific tasks were their responsibility (scale of little or none, limited, shared, primary, exclusive). Tasks included attending case planning meetings; establishing the goals that parents need to meet in order to have their children returned to them; identifying caregivers who can serve as foster parents for the children they represent; and identifying potential adoptive homes. Perception of attorneys regarding the importance (on a scale of not at all important, somewhat important, important, very important) of establishing and maintaining a relationship with the child; giving the children opportunity to express their wishes; informing children of positions the attorney has taken or will take as legal advocate; explaining to children meaning of attorney-client privilege; keeping children informed of progress and status of their case; making sure children understand the legal options; communicating children’s wishes and needs to others in the case; being culturally sensitive in interactions with youth.	Zinn, Orlebeke, Duquette, et al., 2016
Collaborative activities	None found		
Training	Survey Interview	Amount of training GALs received	Lukowski & Davies, 2002
	Survey	Measured the number of attorneys who attended training on the Quality Improvement Center for Child Representation (QIC-ChildRep) Best Practice Model as well as attorney participation in pod meetings and coaching sessions following 2-day training	Orlebeke, Zhou, Skyles, et al., 2016

Topics	Data source	Measures	Reference
	Survey	Survey of GALs' hours of training received prior to appointment as GAL; type of training received in the past 12 months; GAL-reported interest in receiving more training on roles and responsibilities as GALs; GAL reports of what topics in training would be most helpful; GAL rating of their own skills; GAL report of comfort applying federal law, including ICWA, to their cases; other stakeholders' report on GAL skills and competencies	Pitchal, Fruendlich, & Kendrick, 2009
	Survey	Children's attorney: Perception of attorneys regarding the importance (on a scale of not at all important, somewhat important, important, very important) of understanding the impact of maltreatment and trauma on child's mental and behavioral well-being; understanding the cognitive and communication capacity of individual children	Zinn, Orlebeke, Duquette, et al., 2016

Gaps in Understanding

More attorney performance measures have been developed for outside of hearings, case-related activities than for any other subcategory of out-of-court attorney activities. Within the subcategory of outside of hearings, case-related activities, more measures have been developed for parents' attorneys than for children's attorneys or for child welfare agency attorneys. No specific performance measures were found for collaborative activities of attorneys, which were instead addressed by practice standards and recommendations; few performance measures were found for training activities.

While our review found research studies that described the out-of-court activities of parents' and children's attorneys in child welfare cases (case-related and non-case related), few of those research studies examined the relationship of specific out-of-court attorney activities to case processing or outcomes using robust methods. No studies examined the impact of attorneys' specific collaborative activities on case processing or outcomes. As a result, we cannot say which elements of attorney out-of-court practice are most important for achieving positive results in child welfare cases.

Short-Term/Hearing Quality Outcomes

The short-term/hearing quality outcomes category contains five subcategories:

- **Judge activities: during the hearing**
 - Judicial engagement/inquiry
 - Legal requirements met
 - Safety decision-making
 - Court decorum
 - Orders made to child welfare agency and partners
- **Attorney activities: during the hearing**
 - Attorney presence
 - Attorney advocacy
 - Professional requirements met
- **Due process: during the hearing**
- **Discussion of key issues**
- **Family experience: during the hearing**
 - Parent and youth access/presence
 - Family access/presence
 - Family understanding of the hearing

Each subcategory is described below.

Judge Activities: During the Hearing

Judge activities during the hearing can be conceptualized as both a practice and a short-term outcome of hearing quality, as judicial behaviors are often defining features of high-quality court hearings. Judge activities during hearings include all activities that a judicial officer might oversee within the context of a child welfare court hearings. This subcategory has been measured primarily through performance measures (exhibit 19) structured court observation but also case file review, administrative data, and surveys (exhibit 20). Most of the studies related to judicial activities in hearings are descriptive in nature, although some provide correlations to outcomes of interest. Studies have shown some relationship between judicial engagement practices and placement decisions and timelier permanency. These studies are small, correlation studies.

Judge Activities: During the Hearing contains five topics:

- **Judicial engagement/inquiry:** Judge’s interactions with parties, professionals, and other stakeholders present at the hearing
- **Legal requirements met:** The judge makes required findings and orders that federal laws require
- **Safety decision-making:** Discussion and decisions made regarding child safety
- **Court decorum:** Judge conducts an orderly and efficient hearing
- **Orders made to child welfare agency and partners:** Orders made by the judge to child welfare agency and partner agencies (e.g., schools, juvenile justice)

Exhibit 19. Existing Performance Measures of Judge Activities: During the Hearing

Topics	Measure	Source
Judicial engagement/inquiry	Percentage of hearings in which a judicial inquiry is made when a child 10 years of age or older is not present at hearing; for children 10 years of age or older and in foster care for at least 6 months, percentage for whom the court has inquired whether the social worker has identified persons important to the child	CA CPM
	Length of the hearing; judicial engagement of the parents and children; how often each of the following engagement strategies were used in hearings: spoke directly to parent/child, addressed by name, explained hearing process, explained legal timelines, asked if have questions	NY Hearing Quality Toolkit
Legal requirements	Cases in compliance with the requirements of the Indian Child Welfare Act (ICWA)	CA CPM
	Whether there is testimony from a qualified expert witness (QEW) and when does it occur; what the credentials of the QEW are; Findings on the record re: applicability of ICWA;	ICWA Baseline Measures

Topics	Measure	Source
	whether/when active efforts findings are made on the record; whether active efforts were provided to prevent foster care placement; whether/when there is a finding that placement with parent results in serious emotional or physical damage; what efforts constitute active effort; whether/how often tribes motion to transfer case and whether/why court denies; whether findings include clear and convincing evidence standard; whether findings include beyond a reasonable doubt standard; finding of correct ICWA evidentiary standards; using the language of “good cause” on the record as to why transfer was denied or placement preferences weren’t followed; procedure for consent to adopt and consent to TPR followed	
	There was testimony from a qualified expert witness; judge made a finding the tribe received notice of the hearing; judge made a finding of clear evidence that the child was likely to suffer emotional or physical damage if continued in the custody of the parent; judge made an active efforts finding; judge made a finding of active efforts to prevent removal; judge made a finding of active efforts to return the child	ICWA Toolkit
	Percentage of cases in which the court reviews case plans within established time guidelines	The Toolkit
Safety decision-making	None found	
Court decorum	None found	
Orders made to child welfare agency and partners	Percentage of cases in which no reunification services are ordered and reasons; percentage of children 14 years of age or older with current transitional independent living plans; cases in which the court has requested relative-finding efforts from the child welfare agency; for children 10 years of age or older in foster care for at least 6 months, percentage for whom the court has made orders to enable the child to maintain relationships with persons important to that child	CA CPM
	Findings/orders made at the hearing	NY Hearing Quality Toolkit

Inclusion in National Recommendations and Standards

Judicial activities during hearings are part of several best-practice recommendations. Of primary note, the National Council of Juvenile and Family Court Judges’ *Enhanced Resource Guidelines* (2016) provides best-practice recommendations for judges in child abuse and neglect hearings related to judicial engagement and inquiry, meeting legal requirements, and findings and orders made to the agency and other.

Judicial Engagement and Inquiry

- The court should do all that it can to encourage and support the meaningful engagement of children, youth, and families in the child welfare process and proceedings. The judge has an important role to play in gaining the confidence of the parents and reassuring the child that the proceedings will be fair and that their voices will be heard.
- Specific judicial engagement suggestions include asking the parent questions and providing information to the parents about the process, including—
 - What language are you most comfortable speaking and reading?
 - Do you understand what this hearing is about? (Explain the hearing purpose)
 - Do you understand the petition? (Review the petition with parents)
 - What family members and/or other important people should be invited to be involved in this process?
 - Asking parent and children if they understand what occurred in the hearing and engaging them in conversation about next steps
 - Advising parents of the importance of their active participation in all proceedings
 - Ensuring parents have contact information for caseworkers and attorneys and that they understand the process to request a court review if necessary
 - Asking if there are any questions for the court
- Judges should engage in inquiry of the agency in order to make informed decisions and necessary findings at the hearings. The Resource Guidelines offers a comprehensive list of questions for judges to ask at specific hearing types to inform their decision-making. Some of the inquiry is specifically related to findings that judges need to make at hearings.
 - Judges must determine whether ICWA applies to the case.
 - Judges must determine whether the legal threshold has been met for removal.
 - Judges must determine whether reasonable efforts were made to prevent removal (at the beginning of the case) and later whether reasonable efforts have been made to achieve permanency.

Legal Requirements Met

- The *Enhanced Resource Guidelines* provides hearing-specific recommendations for findings and decisions that must be made.
- Preliminary protective hearing:

- The court should make a determination about the applicability of ICWA for every child who appears before the court.
 - The court must make a finding that continuation in the home of the parent or legal guardian would be contrary to the child's welfare.
 - The court must make a finding that reasonable efforts were made to prevent or eliminate the need for removal from the home.
 - The court must also make a finding that the placement and care of the child are the responsibility of the state agency or any other public agency with whom the responsible state agency has an agreement.
- Adjudication hearing:
 - The court must make specific findings as to the basis of the finding of abuse and/or neglect.
 - Determine whether the agency is not required to make reasonable efforts to prevent removal from the home or make it possible for the child to return home.
 - Determine whether it would be contrary to the welfare and best interests of the child to continue in the home.
- Disposition hearing:
 - The court must determine the legal disposition of the case, including the custody of the child.
 - Specify why continuation in the home would be contrary to the child's welfare.
- Review hearing:
 - Determine whether the agency is making reasonable efforts to place the child in a timely manner in accordance with the permanency plan.
- Permanency hearing:
 - Has the agency made reasonable efforts to finalize the permanency plan?
 - If the child has been in foster care 15 of the past 22 months, has a termination of parental rights petition been filed? If not, is there a compelling reason not to file a TPR?

Judicial Engagement and Inquiry

The judge should make inquires of child welfare staff about threats of danger, child vulnerability, and the parent's protective capacities, to determine the child's safety and placement.

- Questions the judge can ask:
 - Has the parent demonstrated the ability to protect the child in the past under similar circumstances and family conditions?
 - Has the parent arranged for the child to not be left alone with the adult/parent maltreater or source of danger?
 - Is the parent intellectually, emotionally, and physically able to protect the child given the threats?
 - Is the parent free from needs that might affect the ability to protect such as severe depression, lack of impulse control, or medical needs?
 - Does the parent have resources to meet the child’s basic needs in light of the other changes the court is expecting from the family?
 - Is the parent cooperating with the caseworker’s efforts to provide services and assess family needs?
 - Does the parent display concern for the child’s experience? Is the parent intent on emotionally protecting the child?
 - Can the parent specifically articulate a feasible, realistic plan to protect the child, such as the maltreating adult leaving when a situation escalates or calling the police in the event the restraining order is violated?

Safety Decision-Making

- The ABA Safety Guide provides specific information on the decision-making process for judges. This summarizes the process:
 - The court is given sufficient information about the family (Chapter 2—the six questions).
 - The court weighs the information against criteria for threat of danger (Chapter 3—15 threats) and determines whether one or more threats exists.
 - The court is given sufficient information to understand if the children are vulnerable, analyzes it, then determines if they are vulnerable.
 - The court considers the criteria for protective capacities (Chapter 3—protective capacities) and determines whether protective capacities exist and if they are sufficient to manage specific threats.
 - If no threats are present, the child is safe.
 - If threats are present, but the child is not vulnerable, the child is safe. If threats are present with a vulnerable child, but sufficient protective capacities exist, the child is safe.

- If threats are present, the child is vulnerable, and protective capacities are insufficient, the child is unsafe.
- Concluding a child is or is not safe is based on information observed or gathered from credible sources. The information determines whether threats, protective capacities, and child vulnerability exist. The following are six background questions that should guide safety in each case. The answers will help the court assess threats of danger, child vulnerability, and protective capacities. The information will later help judges decide what to do about an unsafe child.
 - What is the nature and extent of the maltreatment?
 - What circumstances accompany the maltreatment?
 - How does the child function day-to-day?
 - How does the parent discipline the child?
 - What are overall parenting practices?
 - How does the parent manage their own life?

Orders to Child Welfare Agency and Partners

- There are hearing-specific recommendations regarding orders to the agency. In particular, recommendations at each hearing focus on the necessity of placement and decision for specific placement and the court's decisions regarding visitation/family time.
- When placement or services are not agreed upon, the order should specify the evidence or legal basis upon which the order is made.

The ABA's *Child Safety Guide* also makes specific recommendations related to judicial engagement and inquiry, meeting legal requirements, safety decision-making, and the orders made to the agency and other partners.

The ABA *Standards of Practice for Parent Representation* also identify recommendations related to court decorum and orders made to agency and partners. The *NACC Redbook* makes recommendations regarding court decorum. The *Trauma-Informed Benchbook for Tribal Justice Systems* describes court decorum as rooted in a holistic approach and guided by community traditions (Aleut Community of St. Paul, n.d.). The *BIA Guidelines for Implementing ICWA* offer suggestions under the category of legal requirements met. Finally, the ABA's guidance on reducing racial disparity makes recommendations for meeting legal requirements and safety decision-making.

Research Evidence

The majority of studies about judicial activities in hearings have focused on judicial engagement and inquiry. Four studies have explored a relationship between judicial engagement strategies and case outcomes. Three of the four studies showed that higher levels of engagement were related to improved outcomes, including more parent and relative placements (Macgill & Summers, 2014) and timelier permanency (Summers & Gatowski, 2018; Summers, 2017). One study showed that even though judicial engagement increased, outcomes were not different. None of the studies had robust methodology. For the category of legal requirements, three studies examined correlations between making findings on the record and outcomes on the case. One study found that the judge’s making verbal reasonable efforts finding in hearings was correlated with an overall higher rate of reunification (Summers, 2017). Another study examined the reasonable efforts finding and its relationship to permanency and found no correlation (Summers & Gatowski, 2018). The third study looked at the required ICWA findings on a case. Cases that met the standards in the study made more of the required ICWA findings and were more likely to have followed placement preferences than cases that had not met the study standards (CBCC, 2019). The subcategory of judicial activities in hearings may be related to hearing quality discussion. While discussion may occur through other parties with no direct inquiry or input from the judge, the judge could inquire about specific topics, thereby increasing discussion in hearings. Studies exploring the use of judicial bench cards have shown that discussion increases with judicial inquiry (NCJFCJ, 2011).

Exhibit 20. Existing Research Measures of Judge Activities: During the Hearing

Topics	Data source	Measures	Reference
Judicial engagement/inquiry	Court observation	Whether the judge engaged parents using specific strategies; whether the judge made direct inquiry for specific topics; hearing length	Bohannon, Nevers, & Summers, 2015
	Court observation	Extent to which judges ask questions from an initial hearing bench card during the initial hearing (court observation); extent to which judges engage parents in initial hearings (court observation)	Gonzalez & Summers, 2014
	Court observation	Judicial inquiry (yes/no) on a series of topics; judicial engagement of parents (yes/no) on a series of engagement strategies	Macgill & Summers, 2014
	Court observation	Judicial engagement (yes/no) of parents	Summers, 2017

Topics	Data source	Measures	Reference
		for a series of strategies	
	Court observation	Judicial engagement of the child (yes/no) to a series of strategies; judicial engagement of caregivers (yes/no) to a series of strategies	Summers & Darnell, 2015
	Court observation	Percentage of hearings that the judge engages mother, father, and child, in various strategies (e.g., speaks directly to party, calls by name, gives opportunity to be heard); percentage of hearings that the judge inquires about specific topics; percentage of hearings that the judge inquires about ICWA applicability	Summers, Gatowski, & Devault, 2016
	Court observation	Average hearing length	Summers, Macgill, Gatowski, et al., 2013
	Court observation	Percentage of topics addressed by direct inquiry from the judge	Summers, Russell, Darnell, et al., 2012
	Court observation	Length of hearing; whether the judge engaged in specific engagement strategies with mothers, fathers, and youth	Summers & Gatowski, 2018
	Court observation	Deeper judicial exploration—whether the judge asked more than high-level questions about specific topics; length of hearing	Supreme Court Children’s Commission, 2014
	Court observation	Time and duration of judicial interaction with the child in hearings; types of information provided to the child; questions asked by the judge	Weisz, Wingrove, Beal, et al., 2011
	Court observation	Whether the judge used specific engagement strategies with mother, father, and child	Wood & Gonda, 2014
	Interview	Interview responses addressed the role of the judge in facilitating participation of families, tribal members, and staff	Haight, Waubanasum, Glesener, et al.,

Topics	Data source	Measures	Reference
			2020
Legal requirements	Case analysis	How determined ICWA status	Brown, 2020
	Court observation	Whether a reasonable efforts finding was made; whether ICWA was addressed thoroughly in hearing	Dobbin, Gatowski, & Summers, 2010
	Court observation	Whether a reasonable efforts finding was made	Gonzalez & Summers, 2014
	Court observation	Whether judge made ICWA finding and reasonable efforts finding	Summers & Gatowski, 2018
	Case file review	Percentage of cases that ICWA determination was made by jurisdictional hearing	Gatowski, Dobbin, & Litchfield, 2002
	Case file review	Compliance with placement preferences; use of qualified expert witnesses; incorporation of Indian culture and resources	Limb, Chance, & Brown, 2004
	Interview	Variability in implementing ICWA	Haight, Waubanasum, Glesener, et al., 2020
Safety decision-making	None found		
Court decorum	Court observation	Preparedness of all parties; whether hearings had welcoming climate	Summers, Russell, Darnell, et al., 2012
Orders made to child welfare agency and partners	Case file review	Number and type of services ordered for mother and father	Sicafuse, Wood, & Summers, 2014
	Case file review	Type and number of mandated services	Bohannon, Nevers, & Summers, 2015
	Case file review	Count of orders for medical and psychological evaluation and treatment; count of orders of formal court jurisdiction	Duquette & Ramsey, 1986
	Case file review	Difference between court orders at preliminary hearing and review hearing;	Herring, 1993

Topics	Data source	Measures	Reference
		how often judges adopt agency recommendation for placement and services	
	Case file review	Whether judge adopted GALs placement recommendation	Karatekin, Gehrman, & Lawler, 2014
	Case file review	Number of court-ordered services	Sicafuse, Wood, & Summers, 2014
	Survey	Extent to which court worked with agency to ensure separate services plans for victims and perpetrators of domestic violence	Malik, Silverman, Wang, et al., 2008

Gaps in Understanding

Despite the fact that there are multiple studies that describe measures of judicial activities in child welfare court hearings, the gaps in understanding far outweigh what is known. There is preliminary evidence that there is a relationship between judicial engagement of parents and improved outcomes for children and families. However, these studies are limited in scope and methodology. Further research could help to define which components of judicial engagement are most effective at engaging parents in the process and how the judicial behavior on the bench is related to better outcomes for children and families. The research on legal requirements is severely limited and the field still does not know how following legal requirements can improve outcomes. Research is lacking about safety decision-making, court decorum, or orders to the agency and their relation to outcomes.

Attorney Activities: During the Hearing

Attorney activities during the hearing are defined as the presence, participation, and activity of any attorney or advocate within the child welfare system in court hearings. This subcategory has been measured most often by surveys but also with case file review, court observation, and interviews (exhibit 21). Studies have shown (exhibit 22) that the parent's attorney presence is related to better outcomes for children and families. Models of representation for child advocacy have shown mixed results.

Attorney Activities: During the Hearing contains three topics:

- **Attorney presence:** Attorney is present at hearing. This includes punctuality and preparedness and limitations on continuances for attorney substitutions and absences.
- **Attorney advocacy:** Attorney activities during the hearing to present evidence and advocate for their client
- **Professional requirements met:** Adherence to standards of practice. This includes adherence to required trainings, sufficient knowledge of abuse and neglect cases, and cooperation with other professionals.

Exhibit 21. Existing Performance Measures of Attorney Activities: During the Hearing

Topics	Measure	Source
Attorney presence	Number of hearings postponed due to lack of attendance by attorney	FJI Indicators
	Child attorney present; parent attorney present	NY Hearing Quality Toolkit
	Percentage of continued cases that were continued due to parent’s court-appointed attorney not being present at court (double coded—timeliness)	Parent Representation Indicators
	Presence of advocates during hearings; percentage of child abuse and neglect cases in which legal counsel for the government or other petitioner and for other parties who have been served is present at every hearing	The Toolkit
Attorney advocacy	Number of experts utilized for either testimony or an evaluation/assessment (e.g., psycho-social, medical, bonding study, learning disability); number of times attorney submitted evidence or argument to the court to seek or enforce court orders for services; percentage of cases where attorney submitted evidence or argument regarding psychotropic medications; number of times attorney submitted evidence or argument for educational advocacy (e.g., prevent expulsion or suspension, 504 plan, school enrollment)	FJI Indicators
	<ul style="list-style-type: none"> • Do the attorneys front-load their advocacy efforts in the first 90 days of the case, understanding the urgency of this period for the family? • Do attorneys advocate for appropriate services and visitation/family time for parents with the agency and, when needed, in court? • Number of motions filed by parents’ court-appointed attorneys. • Do attorneys provide persuasive legal arguments through motions (oral or in writing), briefs, or other pleadings that 	Parent Representation Indicators

Topics	Measure	Source
	<p>are helpful to the courts' rulings?</p> <ul style="list-style-type: none"> • Do attorneys provide factual alternatives, for example through presenting witnesses or documentation, that are useful to judicial decision-making? • Do attorneys engage in appropriate discovery? • Attorney files appropriate appeal. • Parents believe their attorney helped them access appropriate services • Attorney provided advice but allowed the parent to direct the representation. • Attorney talked to parent about the opportunity to appeal the case and the likely outcome of the appeal. Attorney followed parent's direction in filing the appeal. 	
Professional requirement met	None found	

Inclusion in National Recommendations and Standards

Attorney activities within hearings are included as part of the *ABA Standards of Practice* for attorneys, the *NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings*, and the *NACC Redbook*.

ABA Standards of Practice for Lawyers Who Represent Children

Attorney presence

- The child's attorney should participate in all hearings.

Attorney advocacy

- File relevant motions and objections and present evidence. The child's attorney should seek to ensure that questions to the child are phrased in a syntactically and linguistically appropriate manner. At the conclusion of hearing, if appropriate, the child's attorney should make a closing argument and provide proposed findings of fact and conclusions of law.

ABA Standards of Practice for Lawyers Who Represent Parents

Attorney presence

- Actively represent a parent in the prepetition phase of a case, if permitted within the jurisdiction.

- For the parent to have a fair chance during the hearing, the attorney must be prepared and present in court. Counsel's failure to participate in the proceedings in which all other parties are represented may disadvantage the parent. Other than in extraordinary circumstances, attorneys must appear for all court appearances on time. In many jurisdictions, if an attorney arrives to court late, or not at all, the case will receive a long continuance. This does not serve the client.

Attorney advocacy

- Attend and prepare for all hearings, including pretrial conferences; participate in all telephone/conference calls with the court.
- Understand and protect the parent's rights to information and decision-making while the child is in foster care.
- Advocate for the client's goals and empower the client to direct the representation and make informed decisions based on thorough counsel; do not usurp the client's authority to decide case goals.
- Advocate with the child welfare agency and court for appropriate accommodations to enable parent engagement in proceedings or in service plan
- Be aware of the unique issues an incarcerated parent faces and provide competent representation to the incarcerated client; be prepared to advocate for reasonable efforts, understand the impact of ASFA for incarcerated parents, and use of incarceration as a basis for TPR.
- Engage in case planning and advocate for appropriate social services using a multidisciplinary approach to representation when available.
- Advocate for regular visitation in a family-friendly setting and develop a visiting plan; details should include frequency, length, location, supervision, type of activities, and visit coaching.
- Prepare and make all appropriate motions and evidentiary objections.
- Present and cross-examine witnesses; prepare and present exhibits.
- In jurisdictions in which a jury trial is possible, actively participate in jury selection and drafting jury instructions.
- Request closed proceedings (or a cleared courtroom) in appropriate cases; be aware of who is in the courtroom.
- Request the opportunity to make opening and closing arguments.
- Prepare proposed findings of fact and conclusions of law and orders when they will be used in the court's decision or may otherwise benefit the client.

- When necessary, the parent's attorney should seek court orders to force the child welfare agency to provide services or visitation to the client. The attorney may need to ask the court to enforce previously entered orders that the agency did not comply with in a reasonable period.

Professional requirements met

- Act in accordance with the duty of loyalty owed to the client; show respect and professionalism toward clients.
- Adhere to all laws and ethical obligations concerning confidentiality.
- Be alert to and avoid potential conflicts of interest that would interfere with the competent representation of the client; attorney should not represent both clients if interests differ.

ABA Standards of Practice for Child Welfare Attorneys

Attorney presence

- The attorney shall attend all hearings.

Attorney advocacy

- The attorney should prepare and make all appropriate motions and evidentiary objections; present case in chief; present and cross-examine witnesses; present exhibits; and request the opportunity to make brief opening and closing arguments when appropriate.

Professional requirements met

- Fully understand and comply with all relevant federal and state laws, regulations, policies, and rules.
- Understand and comply with state and federal privacy and confidentiality laws.

NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings and the NACC Redbook

Attorney presence

- Fully participate in all hearings.

Attorney advocacy

- Make opening and closing statements, call and question fact and expert witnesses, introduce evidence, make and respond to objections and preserve issues for appeal, and submit proposed findings of fact and conclusions of law.

- Offer legal counsel and advice.
- Within the confines of state law, advocate that the client's presence at hearings only be waived in exceptional circumstances.
- Act in accordance with the duty of loyalty owed to the client; show respect and professionalism toward client.
- Be alert to and avoid potential conflicts of interest that would interfere with competent representation of the client.

Professional requirements met

- Provide loyal and independent representation.
- Understand and comply with state and federal privacy and confidentiality laws and maintain confidentiality.
- In direct representation jurisdictions, attorneys are obliged to zealously pursue the client's stated objectives while leaving the judge to make the best interest determination. However, an attorney may take reasonably necessary protective action, including seeking the appointment of a GAL.
- Preserve continuity of legal representation (i.e., avoid all unnecessary case transfers).

Judicial Excellence in Child Abuse and Neglect Proceedings

Attorney presence

- In addition to employing the types of techniques described above, courts need to focus on special causes of delays often associated with child abuse and neglect cases. For example, time-consuming processes for the appointment of attorneys and the initiation of attorney-client contacts and attorneys with scheduling conflicts that interfere with their availability to schedule timely hearings in child abuse and neglect cases.

Attorney advocacy

- Children and parents are typically not educated consumers of legal services. Children and most parents do not pay for their attorneys, and court-appointed attorneys often receive low pay and carry high caseloads. These facts, however, do not diminish the attorneys' obligation to provide the highest standard of representation. As shown in recent reassessments of state court performance in child abuse and neglect cases, required as part of the federal Court Improvement Project grant and conducted by state Court Improvement Projects, the level of performance of attorneys falls seriously short in many courts. Without high-quality representation, not only are parents and children less

effectively represented, but insufficient and inaccurate information is presented to the court or is unchallenged.

Professional requirements met

- To support quality representation, judges should remind attorneys of their ethical duties to their clients when they appoint them. In turn, attorneys should be cognizant that their duties extend beyond the minimum expectations of judges or social workers.

Research Evidence

Several of the studies were more descriptive in nature, describing a program or perceptions of a program. For example, studies described a GAL program, including reach and satisfaction. Several studies also tracked presence of attorneys and reported it as a frequency without relating it to other variables of interest. As such, only studies that linked these variables to outcomes are discussed.

Multiple studies (exhibit 22) have shown a correlation between attorney presence at key points in the case or early in the case and positive outcomes for children and families, including timelier permanency (Wood, Summers, Soderman Duarte, 2016; Summers, 2017) and a decreased likelihood of creating legal orphans (Summers & Gatowski, 2018).

More research has been conducted on youth advocacy programs. A study of demonstration sites for attorney practice found that demonstration site lawyers scored higher on measures of advocacy for the child. Higher advocacy was related to more specific court orders for treatment and services and cases resolved in fewer days (Duquette & Ramsey, 1986). A study of child representation models found statistically significant differences in practices in one site, with treatment attorneys meeting with their child client more frequently, contacting more parties relevant to the case, spending more time on cases, and engaging in more advocacy activities than control attorneys. The second project site had fewer differences but project attorneys contacted foster parents and substitute caregivers more, spent more time developing the theory of the case, and made more efforts to initiate a nonadversarial case resolution process (Orlebeke, Zhou, Skyles, et al., 2016).

Although findings on differences in practice were found, the findings on differences in outcomes for youth were more mixed. In one robust study of child attorney models, the study found no differences in placement or difference in achievement of permanency for child program attorneys compared with control group attorneys (Orlebeke, Zhou, Skyles, et al., 2016). A second study offering a specific legal representation model to youth found no impact on reunification, but a significant impact on guardianship and adoption rates (Zinn & Slowriver,

2008). Similarly, a study of expressed interest legal representation found that youth were more likely to achieve permanency and had higher rates of adoption, but there was no impact on reunification rates (Zinn & Peters, 2015).

Only one study explored agency attorneys. It examined changes after a state law was passed. One key difference was found—in cases handled by the local assistant prosecutors under the new Michigan law, TPR petitions were consistently filed earlier than in cases handled by local assistant prosecutors under the old Michigan law. Overall, the study found a rather small effect from the type of legal representation used by agency (Herring, 1993).

Attorney activities within hearings are directly related to hearing discussion, as attorneys have opportunities to raise issues within hearing to increase the level of discussion. Attorney activities may also be related to judicial orders at hearings as often the agency or state attorney will offer proposed orders for the judge. This concept is likely also related to attorney activities outside of hearings as practice models often have specific in- and out-of-court activities.

Exhibit 22. Existing Research Measures of Attorney Activities: During the Hearing

Topics	Data source	Measures	Reference
Attorney presence	Case file review	Presence of the parent’s attorney at various hearings: (1) 14-day, (2) status, (3) first permanency, (4) second permanency, and (5) final	Wood & Duarte, 2013
		Presence of mother’s attorney and presence of father’s attorney at the preliminary protective, adjudication, disposition, and first review hearings	Wood & Russell, 2011
		Presence of the parent and/or the parent’s attorney was collected across five hearings: (1) 14-day, (2) status, (3) first permanency, (4) second permanency, and (5) final. Percentage of Presence was calculated by recording the number of hearings each party was present at and dividing by the number of possible hearings that each party could have attended.	Wood, Summers, & Soderman Duarte, 2016
	Survey	Judges’ rating of how prepared all attorneys are on a scale for each hearing type (e.g., preparedness for temporary custody hearing, adjudication, disposition, PH, TPR); on scale (e.g., “most” “almost all” full scale not specified); are attorneys prepared “about the same” or “better” than attorneys in other civil litigation	DiPietro, 2008

Topics	Data source	Measures	Reference
		(asked of judges). For District Attorneys (DAs): How often do DAs file proposed court orders timely (asked of judges; “most” “almost all” hearings). Parent survey: My attorney was prepared for my hearing.	Gonzalez, Bohannan, & Summers, 2015
	Court observation	Presence of mother attorney, presence of father attorney, presence of child attorney, presence of child welfare agency attorney	Gonzalez, Bohannan, & Summers, 2015
		The court observation tool tracked who was present at the permanency hearings, including parent attorneys.	Summers, 2017
		Parties present	Summers & Darnell, 2015
		Presence of mother attorney, father attorney, child attorney, and state/agency attorney	Summers, Gatowski, & Devault, 2016
		Whether attorneys are present for mother, father, child, and the agency/state	Summers & Gatowski, 2018
		Which attorneys were present and how they participated in court	Supreme Court Children’s Commission, 2014
Attorney advocacy	Case file review	Advocacy score combined the following: Number of recommendations made by the representative, number of services obtained, and number of people monitored by the representative after the first major disposition	Duquette & Ramsey, 1986
		Measured the number of witnesses by role: protective service workers, foster care workers, police officers, neighbors and friends of the respondent parents, children, mental health experts, medical experts and other witnesses. number of exhibits by type: agency reports, reports of mental health experts, reports of medical experts, photos of children, photos of respondent’s home, documents of respondent’s criminal history and other exhibits	Herring, 1993
	Court observation	What issues were brought to the court’s attention and their methods of advocacy, such as oral motions or calling a witness	Supreme Court Children’s Commission, 2014
	Interview	Asked professionals about the types of activities (in and out of court) that child	Zinn & Slowriver,

Topics	Data source	Measures	Reference
		attorneys engaged in and the specific impact of each activity	2008
		Interviews asked professionals about the types of activities (in and out of court) that child attorneys engaged in and the specific impact of each activity.	Zinn & Peters, 2015
	Survey	Whether attorneys present evidence or make arguments (how often in hearings by hearing type)	DiPietro, 2008
		Value of GAL input into service plan regarding: the extent to which input from GALs informs court processes and judicial decision-making in cases; location of placement, frequency of visitation by family of origin, and safety of children/youth while in placement and after court dismissal	Hess, Swanke, & Batson, 2007
		Extent to which Lawyer-Guardians ad Litem (LGALs) present a case on behalf of the child, including calling witnesses; the extent to which there are conflicts between the child's best interest and the child's wishes and whether these conflicts are reported to the court	Lukowski, & Davies, 2002
		Number of advocacy activities asked (yes/no or scale 1–5): Have there been substantive changes in the services ordered for, or provided to, this child; did you argue for, or make other concerted efforts to change, the array of services provided to this child; have there been substantive changes in the services ordered for, or provided to, this child's family; did you argue for, or make other concerted efforts to change, the array of services provided to this child's family	Orlebeke, Zhou, Skyles, et al., 2016
		GALs report of frequency of providing a report to the court at dispositional and review hearings or making written recommendations to the court; surveys of GALs asking about extent of presenting evidence/advocacy within hearings	Pitchal, Freundlich, & Kendrick, 2009
Professional requirement met		None found	

Gaps in Understanding

No research was found regarding professional requirements being met for attorney practice. In addition, the research on agency/state attorneys is very limited. Only one study met the criteria for inclusion in the literature review. It is important to consider how agency attorney practices may be related to case outcomes. Further, research on parent attorney practice and outcomes is limited. Most of the studies focused on presence at hearings, as opposed to larger practice models that may be related to outcomes. Child advocacy models had the most robust research for this topic, and findings in those studies are mixed. Overall, attorney practice within hearings has not been studied enough for definitive answers on whether and how attorney presence and practice within hearings is related to better outcomes for children and families.

Due Process: During the Hearing

Due process was defined as legal actions that ensure families receive fair and impartial hearings. Due process was measured both within hearings and across the life of the case (exhibit 23). Studies have shown that trainings and best-practice models can improve due process activities and that timelier notice is related to better placements in ICWA cases (exhibit 24).

Exhibit 23. Existing Performance Measures of Due Process: During the Hearing

Measure	Source
<ul style="list-style-type: none"> How/when notice is provided to the tribe (is it timely) Whether notice is sent to the BIA if the tribe is unknown Whether there is record in the court file that the tribe received notice When and how parents or Indian custodians receive notice Whether/when the parent is provided an attorney Whether parents are informed of their right to counsel for each proceeding 	ICWA Baseline Measures
<ul style="list-style-type: none"> Percentage of time tribes receive notice; how many days on average prior to the hearing do tribes receive notice 	ICWA Toolkit
<ul style="list-style-type: none"> Service of process to parties: Percentage of child abuse and neglect cases in which all parents receive written service of process of the original petition Advance notice of hearings to parties: Percentage of child abuse and neglect cases with documentation that written notice was given to parties in advance of every hearing Advance written notice of hearings to foster parents, preadoptive parents, and relative caregivers: Percentage of child abuse and neglect cases with documentation that written notice was given to foster parents, preadoptive parents, and relative caregivers in advance of every hearing for which they were entitled to notice 	The Toolkit

Measure	Source
<ul style="list-style-type: none"> How consistently both parents receive service of process of the original petition preceding the adjudication 	WV CAN Measures

Inclusion in National Recommendations and Standards

Due process is included in national standards of attorney practice and in best-practice recommendations for judges.

ABA Standards of Practice for Lawyers Representing Parents

- Develop a system for the continuity of representation. Attorney manager should develop a case assignment system that fosters ownership and involvement in the case by the parent’s attorney. Can have a one attorney, one case approach, or cases may be assigned to a group of attorneys who handle all aspects of a case as a team and are all assigned to one judge. If a team approach is adopted, establish mechanisms to aid communication about cases and promote accountability.
- Ensure appointments are made when a case first comes before the court, or before the first hearing, and last until the case has been dismissed from the court’s jurisdiction.
- The attorney should ensure a formal interpreter is involved when the attorney and client are not fluent in the same language. The attorney should advocate for the use of an interpreter when other professionals in the case who are not fluent in the same language as the client are interviewing the client as well.
- Parents should have competent legal representation; meet regularly with clients; provide client with copies of documents and ensure understanding; conduct investigation and informal and formal discovery; prepare client and all witnesses for hearings; attend and be prepared for all hearings; cross-examine witnesses and make appropriate motions; explain court process and documents; and ensure understanding and ramifications of court orders (entire document).
- Provide interpreters, investigators, and other specialists needed by the attorneys to competently represent clients.
- Meet and communicate regularly with the client before court proceedings; counsel the client about all legal matters related to the case, including allegations, the service plan, the client’s rights in the proceeding, orders entered against the client, and potential consequences of failing to obey court orders or cooperate with service plans.
- Provide the client with copies of all petitions, court orders, service plans, and other case documents; ensure client understands documents.
- The parent’s attorney must not represent both parents if their interests differ. The attorney should generally avoid representing both parents when there is even a potential

for conflict of interests. In situations involving allegations of domestic violence, the attorney should never represent both parents.

- Review court orders to ensure accuracy and clarity and review with the client; correct any inaccuracies; and counsel the client about appeal options and consequences of failing to comply.
- Communicate the results of the appeal and its implications to the client.

ABA Standards of Practice for Lawyers Representing Children

- All children should have legal representation throughout the case. After disposition, the child's attorney should seek to ensure continued representation of the child at all further hearings, including at administrative or judicial actions that result in changes to the child's placement or services, so long as the court maintains its jurisdiction.
- The term "child's attorney" means a lawyer who provides legal services for a child and who owes the same duties of undivided loyalty, confidentiality, and competent representation to the child as is due an adult client.
- The child's attorney must advocate the child's articulated position, in all but the exceptional case.
- When there is a conflict caused by performing both roles of GAL and child's attorney, the lawyer should continue to perform as the child's attorney and withdraw as guardian ad litem. (Note: GALs may advocate for child's best interest, but attorneys must advocate for child's articulated position.)
- In cases where siblings have different positions, the attorney should not represent all siblings.

ABA Standards of Practice for Lawyers Representing Child Welfare Agency

- The attorney should ensure proper notice of all hearings is provided to all parties; obtain all documents and information needed, including copies of all pleadings and relevant notices filed by other parties.

NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings and the NACC Redbook

- Attorneys should be appointed at the time the dependency petition is filed or in advance of the first court hearing, whichever is earlier. Attorneys should make initial contact as soon as possible with the client and no later than 48 hours after appointment as counsel.

- The same attorney should represent the child for as long as the child is subject to the court's jurisdiction. Any substitute counsel must be familiar with the child and the child's case.
- The system of representation of children must be well defined by statute, bar standards, administrative guidelines, supreme court directive, or other documents such that every attorney appointed for a child can understand their precise role and duties and be held accountable for performance of those duties.
- Attorneys should ensure the court provides notice and opportunity for the client to attend every stage of the process, including at each hearing and case event. Within the confines of state law, the attorney should advocate that the client's presence only be waived in exceptional circumstances.
- Ensure equitable access to the court for the client, including language translation or other accessibility measures.
- Provide competent representation (i.e., knowledge, skill, thoroughness, preparation, adequate time and resources) and have the ability to function without constraint or obligation to any party other than the child client
- The attorney must perform a full and independent case investigation; the child's attorney is prohibited from representation that would constitute a conflict of interest; mandate that independent attorneys be appointed to represent the interests of children in all such proceedings for child welfare cases.

Supporting Early Legal Advocacy

- Benefits of having legal advocates before court involvement include the protection of due process rights of parents and children during the early stages of the case.

Judicial Excellence Standards

- Ensure that all people coming before the court have equal access to justice. As noted in Standard D.2, the *ABA Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases* recommend that attorneys are provided with interpreters when needed to properly represent their clients. Similarly, courts must ensure that all parties coming before them have the appropriate accommodations necessary to allow for equal access to justice (e.g., interpreters or accommodations under the Americans With Disabilities Act).

Achieving High Performance: A Framework for Courts

- The High-Performance Court Framework focuses on case processing quality at a level that corresponds to “what many consider the essence of justice”: assure each person’s constitutional right of due process. The link between due process and basic rights is clearly recognized. When considering the meaning of due process in action, scholars distinguish two basic goals. The first, called substantive due process, is to achieve more accurate legal rulings through the use of fair procedures. The second, called procedural due process, is to ensure that appropriate and just procedures (or “processes”) are used to make people feel that the government has treated them fairly by, say, listening to their side of the story.
- The rationale for court administration is to support the adjudicatory process by enhancing procedural due process. What constitutes a high-performance court is measured independently and separately from the legal decision itself. The substantive validity of trial court decisions is beyond the scope of administrative performance measurement and conclusions. Yet, there is a vital linkage between administrative high performance (procedural due process) and adjudication.
- How a court is organized and conducts business directly affects the quality of the legal procedures and processes. This belief underlies the frequently heard proposition that by sharing administrative responsibilities with court managers, judges have more time to devote to the substantive aspects of case resolution, which is their unique responsibility.
- Because the amount of available work time is limited even for the most conscientious judge, allocation of administrative tasks to nonjudicial personnel promotes the goal of effective and substantively fair adjudication of disputes.

BIA Guidelines for Implementing ICWA

- The applicability of ICWA to a child-custody proceeding turns on the threshold question of whether the child in the case is an “Indian child.” It is, therefore, critically important that there be inquiry into that threshold issue by courts, state agencies, and participants to the proceedings as soon as possible. If this inquiry is not timely, a child-custody proceeding may not comply with ICWA and thus may deny ICWA protections to Indian children and their families. Notification requirements, timelines, and limitations ensure that parents, Indian custodians, and the tribe have time to determine whether a child is an Indian child and respond to and prepare for the proceeding. If a parent or Indian custodian of an Indian child appears in court without an attorney, the court must inform them of their rights, including any applicable right to appointed counsel, right to request that the child-custody proceeding be transferred to tribal court, right to object to such

transfer, right to request additional time to prepare for the child-custody proceeding as provided in § 23.112, and right (if the parent or Indian custodian is not already a party) to intervene in the child-custody proceedings.

NCJFCJ'S Enhanced Resource Guidelines

- It is the responsibility of judges to see that all children and each parent are afforded their constitutional rights to due process.
- Each bench card includes actions that should be taken at every hearing including due process issues that should be addressed repeatedly (e.g., ICWA, location of absent parents).

Research Evidence

Very little research has been conducted on due process within the hearing (exhibit 24). One study that examined implementation of model court practices found an increase in the specificity of court orders (Halemba, Siegal, Gunn, et al., 2002). Another study found that a judicial training increased judge's explaining of the hearing process to fathers (Summers, Gatowski, & Devault, 2016). One study examined timely notice to tribes for ICWA cases and found that timelier notice was related to placements that were more likely to follow placement preferences (CBCC, 2019). This subcategory is related to judicial engagement of parties in hearings and attorney engagement of their clients in hearings, as well as specific attorney practices that include providing notice to parties. Due process within the hearings is also related to due process across the life of the case.

Exhibit 24. Existing Research Measures of Due Process: During the Hearing

Data source	Measures	Reference
Case file review	Inform parents of the date, time, and place of the initial hearing; provide written notice within 24 hours of petition filing; provide written orders regarding placement, services, and visitation; distribute orders at end of hearing; notify parents whether settlement conference is scheduled	Halemba, Siegal, Gunn, et al., 2002
	How/when notice is provided to the tribe (is it timely); whether notice is sent to the BIA if the tribe is unknown; whether there is record in the court file that the tribe received notice; when and how parents or Indian custodians receive notice; whether/when the parent is provided an attorney; whether parents are informed of their right to counsel for each proceeding	Capacity Building Center for Courts, 2019
Court observation	Judicial engagement of parties: explains purpose of PPH (double-coded judicial inquiry), asks about mother's/father's understanding of next steps (double-coded judicial inquiry), asks if mother/father	Summers, Gatowski, & Devault, 2016

Data source	Measures	Reference
	has any questions (double-coded judicial inquiry), uses nontechnical language when speaking to mother/father (double-coded judicial inquiry); judicial inquiry petition, paternity, and parents' rights; reviewed petition with parties (doubled-coded judicial inquiry)	
	Structured court observation tool contained 14 hearing due process indicators potentially relevant to a hearing such as service on the parents, compliance with ICWA, attorney appointment, and setting the next court hearing	Supreme Court Children's Commission, 2014

Gaps in Understanding

Due process has not been studied in a meaningful way. In most of the research available, it is only described as a percentage of time a specific behavior occurs (e.g., notice provided, judge explains hearing). There are more gaps than known information. Studies have yet to examine how due process within the hearing is related to parent's experience of the hearing, parent's presence at the hearing and at subsequent hearings, or how ensuring due process early on in a case may be related to better outcomes for children and families.

Discussion of Key Issues

Discussion of key topics is defined as the topics discussed and level at which they are discussed in hearings. This subcategory has been measured exclusively through court observation (exhibit 25). Studies have shown a relationship between hearing discussion and better outcomes for children and families (exhibit 26). However, research in this area does not have robust methodologies that could demonstrate a causal impact.

Exhibit 25. Existing Performance Measures of Discussion of Key Topics

Measure	Source
<ul style="list-style-type: none"> • How tribe is included in discussion, case planning, and decision-making • Whether/how often tribes intervene and whether court allows intervention • Whether there is "real tribal engagement" (double-coded family presence) • What the court orders/does re: inquiry • Voluntary termination: Was it done in front of a judge? • Did the judge ask the participants if the child might be an Indian child? 	ICWA Baseline Measures
<ul style="list-style-type: none"> • Discussion of how the tribe has been involved in case planning and decision-making 	ICWA Toolkit

Measure	Source
<ul style="list-style-type: none"> • Discussion about culturally appropriate services for the family 	
<ul style="list-style-type: none"> • Extent of discussion of key topics 	NCJFCJ Judicial Workload
<ul style="list-style-type: none"> • Percentage of hearings with discussion of key topics; breadth of discussion—percentage of applicable topics discussed 	NY Hearing Quality Toolkit

Inclusion in National Recommendations and Standards

Discussion in hearings is included in the National Council of Juvenile and Family Court Judges *Enhanced Resource Guidelines* as a primary focus. Best practices are offered in terms of discussion topics for each hearing type in the child welfare court process.

- The court should always include a thorough discussion of all relevant issues in open court, rather than a total reliance on written reports.
- The *Enhanced Resource Guidelines* provide recommendations for topics of discussion via the bench cards that include areas of inquiry related to reasonable efforts, notice, representation, visitation, placement, and hearing-specific findings and orders that need to be made.

Research Evidence

Studies of hearing discussion are often limited in scope and methodology. They are often meant to describe practice for continuous quality improvement efforts. All of the research on discussion has focused primarily on correlations between hearing quality and outcomes of interest. These studies cannot demonstrate causal impact and often do not have all the variables needed to control for other variations in a meaningful way.

Studies that examined discussion as an outcome have found that both training (Summers, Gatowski, & DeVault, 2016) and use of a bench card (Bohannon, Nevers, & Summers, 2015) have shown increased discussion in hearings in pre-post tests. Process-oriented evaluations have also found that judges need more time in hearings to hold substantive discussion (Dobbin, Gatowski, & Summers, 2010; Summers, Macgill, Gatowski, et al., 2013).

Five studies explored discussion in relation to case outcomes. One study found no relationship between discussion in hearings and placement (Macgill & Summers, 2014). Two studies found relationships between the breadth of discussion (percentage of topics discussed at hearings) and timelier permanency outcomes, with one related to timelier permanency of any outcome (Summers & Gatowski, 2018) and one only showing a relationship to timely adoption (Summers, 2017). Both studies were correlations between average practice and average county level

outcomes. An additional study found that breadth of discussion at the first hearing on the case predicted the likelihood of reunification (Summers, Gatowski, & Gueller, 2017).

This subcategory is related to judicial practice and attorney practice within hearings. Any party or child welfare professional can raise topics at a child welfare hearing and can contribute to the discussion in a meaningful way. As such, judicial and attorney practice can drive discussion in hearings.

Exhibit 26. Existing Research Measures of Discussion of Key Issues

Data source	Measures	Reference
Court observation	Extent of discussion of key topics	National Council of Juvenile and Family Court Judges, 2011
	Breadth of discussion is calculated as the percentage of relevant topic areas (e.g., safety threat to child and compliance of parents with case plans) that are discussed throughout the hearings (i.e., the number of topics discussed divided by the number of possible topics that are applicable to discuss at the hearing).	Bohannon, Nevers, & Summers, 2015
	Level of discussion in the court hearing	Brown, 2020
	Level of discussion of key items that should be addressed at each specific hearing	Dobbin, Gatowski, & Summers, 2010
	Depth of items discussed. Depth of discussion for each of the 21 topic items on the data collection instrument was coded on a 3-point scale as follows: Discussion topics were coded as 0 if no statement was made about the topic. Discussion topics were coded as 1 if discussion of the issue was limited to a statement, with no other remarks. Discussion topics were coded as 2 if discussion of the issue include multiple statements.	Macgill & Summers, 2014
	Discussion as measured with a list of 26 topics that could be relevant to discuss at the hearing; percentage of time a key topic was discussed (e.g., efforts to reunify, barriers to permanency); breadth of discussion (percentage of applicable items discussed at hearings out of all applicable topics)	Summers, 2017
	Discussion was coded based on any person in the hearing raising or contributing verbal information about the topic of interest. Discussion of each of the 19 topics was coded on a 3-item ordinal scale (0 = no discussion, 1 = statement only, and 2 = more than a statement), with a “not applicable” option as well. This coding scheme allowed for analysis of the number and percentage of topics discussed (i.e., breadth of discussion) as well as the depth of discussion for topics.	Summers & Darnell, 2015

Data source	Measures	Reference
	Level of discussion of 19 topics	Summers, Gatowski, & Gueller, 2017
	The level of discussion of any topic in the court was coded as “1” (indicating no discussion), “2” (a statement was made) or “3” (more than a statement was made).	Summers, Gatowski, & Devault, 2016
	Key discussion items were selected from the Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases’ recommendations for best practices in dependency court hearings (NCJFCJ, 1995). The instrument asks judges or observers to identify the level of discussion of each issue on a scale of 1 to 4, with 1 = no discussion, 2 = statement only, 3 = sufficient discussion, and 4 = substantive discussion (i.e., thoroughly discussing the issue). “Sufficient discussion” constitutes more than a statement but is not as in-depth as possible (e.g., other possible subtopics could emerge, more information could be helpful to the discussion), and “substantive discussion” exhausts or nearly exhausts the topic.	Summers, Macgill, Gatowski, et al., 2013
	Court observations of percentage of relevant topics discussed by parties; percentage of each type of topic discussed and determination of topics that were most frequently discussed (e.g., appropriateness of current placement, next steps in case plan, physical well-being, educational needs, review of permanency plan); percentage of hearings addressing each topic and average depth of discussion for each topic (“statement only” or “more than a statement”)	Summers, Russell, Darnell, et al., 2012
	Structured court observation: The level of discussion was rated on a 3-point scale where 0 = no discussion, 1 = statement only, and 2 = more than statement; also the level of discussion across various topics was rated for the mother, father, and child. These topics included relative resources, well-being, and resilience.	Wood & Gonda, 2014
	Breadth of discussion is the percentage of items discussed out of all the potential topics that were applicable to be discussed at the hearing. In addition, discussion measured as percentage of hearings (when applicable) that a topic is discussed. Focused analysis on three specific topics: safety concerns; efforts to reunify; and child well-being	Summers & Gatowski, 2018
	Breadth of discussion in PPH (initial hearings) measured as percentage of applicable topics discussed in the hearing; 19 specific topics coded via court observation instrument as either discussed during initial hearings, not discussed, or not applicable.	Summers, Gatowski, & Gueller, 2017

Gaps in Understanding

Discussion has been studied in multiple evaluation reports. However, it is still very limited in terms of what we know in the field. These reports are often used for descriptive purposes for court improvement efforts to identify what practice looks like in relation to best-practice recommendations. Rarely are data available to link specific court hearing practices (like discussion) to specific case outcomes. As such, all that is known are correlations, often at aggregate levels that discussion may be related to better placements, reunification, and timelier permanency. Further, there is little known about how discussion in court hearings impacts the family's experience with the court process. More robust studies are needed to account for the variation that occurs between sites in court practices, judge and attorney practices, local court rules, and service delivery to really understand the importance of discussion within court hearings. Studies also need to explore how discussion in the hearings facilitates parents' understanding of the court process and overall experience.

Family Experience: During the Hearing

Family experience during the hearing is defined as the presence, participation, and understanding of parents, youth, and extended family or community members in the child welfare hearing. Family experience is a critical variable in the process. Presence and participation are often used as proxies for engagement in the system. Family experience has been explored both as an outcome of interventions and as a predictor of long-term case outcomes and has associated performance measures (exhibit 27). Presence of parties has typically been measured through court observation and structured case file review, while understanding of the hearing has been measured with surveys and interviews. This subcategory has typically been measured through court observation. Studies (exhibit 28) have shown relationships between interventions and increased presence and participation of parties as well as a relationship between presence and better outcomes for children and families (see research section below).

Family Experience: During the Hearing contains three topics:

- **Parent and youth access/presence:** Whether parents and youth attend and participate in the hearing
- **Family/community presence:** Whether extended family, community supports, and tribal representatives attend the hearing
- **Family understanding of hearing:** Whether family members understand the purpose and results of the hearing

Exhibit 27. Existing Performance Measures of Family Experience: Within the Hearings

Topic	Measure	Source
Parent and youth access/presence	Percentage of youth present at section 391 termination of jurisdiction hearing with judicial confirmation of receipt of all services and documents mandated by section 391(b)(1–5)	CA CPM
	Percentage of hearings where parties were present at hearings (mother, father, child)	NY Hearing Quality Toolkit
Family/ community presence and participation	None reported	
Family understanding of hearing	Parent satisfaction; parents understand what they must do to successfully resolve their case	Parent Representation Indicators

Inclusion in National Recommendations and Standards

Family experience within hearings is included in the *ABA Standards of Practice for attorneys*, *NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings*, the *NACC Redbook*, the *BIA Guidelines for Implementing ICWA*, and the *NCJFCJ's Enhanced Resource Guidelines*.

ABA Standards of Practice for Lawyers Representing Children

- The attorney should ensure the child's the right to meaningful participation in the case, which includes presence at the hearing. The child's attorney should ensure the child's presence at the hearing, except for extraordinary circumstances (e.g., child does not want to, the experience would be traumatizing). This may require obtaining a court order or writ of habeas corpus ad testificandum to secure the child's attendance at the hearing. The child's attorney should ensure the state agency is providing transportation to the hearing.
- The child's attorney should ensure the child's understanding of the meaning and consequences of actions by tailoring all communications (e.g., age, language). The child's attorney should ensure that a written order is entered at the conclusion of the hearing. After the hearing, the attorney should review the written court order and communicate the meaning of the order to the child.

ABA Standards of Practice for Lawyers Representing Child Welfare Agencies

- The attorney should play an active role in deciding whether the child should testify and/or be present in the courtroom during hearings.

ABA Standards of Practice for Lawyers Representing Parents

- Provide client with copies of documents and ensure understanding; prepare client and all witnesses for hearings; explain court process and documents; and ensure understanding and ramifications of court orders (entire document).

NACC's Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings and the NACC Redbook

- The system of representation must provide the child with an opportunity for their needs and wishes to be expressed to the court. Every child should have the opportunity to present their witnesses in the court proceedings. The system of representation must recognize the child as a party to the litigation and must include the child in all phases of the litigation. The child must also be given notice of all proceedings and copies of all pleadings. The child should be physically present early in the proceedings; the child's presence may not be required at every court hearing.
- Advocate for hearings and case events to be scheduled at dates and times conducive for client to attend and proactively ensure there is a transportation plan in place for client to travel to and from the hearing. Within the confines of state law, attorney should advocate that their client's presence only be waived in exceptional circumstances.
- The attorney has a duty to explain their role to the child in developmentally appropriate language. The child client must be informed about the responsibilities and obligations of the representative as well as the ability and requirements of the representative to accomplish these things.
- Counsel clients on the purpose and content of the hearing, timing of the hearing, possibility of virtual participation, and likelihood of attendance by other parties. Ensure clients understand what is being said at hearings and request recesses as needed to confer with client.
- Refer to client by preferred name and pronouns.
- Children need confidential communication with their attorneys. The attorney has a duty to explain the extent of confidentiality in developmentally appropriate language.

NCJFCJ Enhanced Resource Guidelines

- At the very first hearing on a petition alleging abuse or neglect, efforts should be made to include all parents involved in the life of the child as well as to locate absent parents. It is equally important, particularly when a child must be removed from the home, to identify all relatives of the mother, father, or putative father(s) and to investigate all of these relatives as potential caretakers for the child. Courts can make sure that parties and key witnesses are present by—
 - Ensuring that the judge, not the bailiff or court staff, makes the determination about who is allowed to be in the courtroom
 - Asking the youth/family if there is someone else who should be present
 - Requiring quick and diligent notification efforts by the agency
 - Requiring both oral and written notification in a language understandable to each party and witness
 - Requiring service/tribal notice to include the reason for removal, purpose of the hearing, and availability of legal assistance in a language and form understandable to each party and witness
 - Requiring caseworkers and/or protective service investigators to facilitate attendance of children, parents, relatives (paternal and maternal), fictive kin, and other parties
 - Facilitating telephonic or video conferencing appearance at hearings
 - Implementing time-certain calendaring
- At the disposition hearing, parties present should include current placement caregivers (e.g., foster parents, nonrelated extended family, fictive kin [persons known and trusted by the families, godparents]); cultural leaders, cultural liaisons, religious leaders
- Understanding and Competency:
 - Do the parents understand the allegations and the purpose of the hearing?
 - Are there parental competency issues?
 - Specifically ask parents and children if they understand what occurred at the hearing and engage them in a conversation about next steps.
 - Can you tell me what happened here today?
 - Can you tell me what the next steps are?
 - Advise parents of the importance of their active participation in all proceedings.
 - Advise parents of the rigorous timeframes for child abuse and neglect cases outlined in state and federal laws.
 - Advise parents of the consequences for failure to appear at any further court hearings.

- When calendaring the next hearing, all parties, including the parents, should be asked if the scheduling works for them, and if not, ask for a better time.
- Ensure that parents and children have contact information for caseworkers and attorneys and that they understand the process to request court review if necessary.
- Ask if there are any questions for the court.

Judicial Excellence in Child Abuse and Neglect Proceedings

- Rural judges should ensure that child abuse and neglect cases are scheduled for a specific time on the court's docket, to ensure that all parties and service providers will be able to attend. Rural judges should be aware that the ordinary courtroom may not be configured in a way to maximize participation and should be attentive to the courtroom arrangement so that all family members, attorneys, and other parties can participate in the proceedings.

ABA Child Safety Guide

- Parents' confusion about what they must do or accomplish creates barriers to the child's safe and timely return. Failing to identify and explain conditions for return leads to lower rates of reunification.

BIA Guidelines for Implementing the ICWA

- Family/Community Section 23.133 encourages state courts to permit alternative means of participation in Indian child-custody proceedings, such as by phone or video. This enables the court to receive all relevant information regarding the child's circumstances and also minimizes burdens on tribes and other parties. Several state court systems permit the use of video-conferencing in various types of proceedings. The department notes that requesting statements under oath, even by teleconference, as to who is present may provide sufficient safeguards to maintain control over who is present on the teleconference for the purposes of confidentiality. A service such as Skype would be included in "other methods." This issue may be particularly relevant to a tribe's participation in a case. A tribe's members may live far from the tribal reservation or headquarters and the Indian child's tribe may not necessarily be located near the state court Indian child custody proceeding. As such, it may be difficult for many tribes to participate in state court proceedings, particularly where those actions take place outside of the tribe's state. Allowing alternative methods of participation in a court proceeding can help alleviate that burden.

- While not required by the act or rule, we recommend that state agencies and/or courts provide notice to tribes and parents or Indian custodians of: each individual hearing within a proceeding; any change in placement—the statute provides rights to parents, Indian custodians, and tribes (e.g., right to intervene) and a change in circumstances resulting from a change in placement may prompt an individual or tribe to invoke those rights, even though they did not do so before; any change to the child’s permanency plan or concurrent plan—a change in the ultimate goal may prompt an individual or tribe to invoke their rights, even though they did not do so before; any transfer of jurisdiction to another state or receipt of jurisdiction from another state.

Research Evidence

Presence of parties is regularly collected in research and evaluation studies. It is frequently reported descriptively, such as how often a specific party is present at a hearing or across multiple hearings. It has been explored in the literature as both an outcome of interventions and as a predictor of longer-term case outcomes.

Five studies examined parent or youth presence and participation as an outcome of interest with mixed results. Attorney representation was not related to parent’s presence at hearings (Sicafuse, Wood, & Summers, 2014). Parents who attended Dependency 101 (a parent mentor program) were more likely to be present at court hearings (Bohannon, Gonzalez, & Summers, 2016). Parents were more likely to be present at initial hearings post-bench card training (Bohannon, Nevers, & Summers, 2015). In one study of hearing quality, the breadth of discussion at the first hearing predicted parent’s presence across the life of the case, with more discussion related to increased presence (Summers, Gatowski, & Gueller, 2017). A survey of perceived impact of program for father found participants felt the program had a positive impact on father’s involvement in the case, including that the father’s voice was more likely to be heard (McNaughton, 2014).

An analysis of several youth in court programs showed that youth want to participate in their hearings and that being present can improve decision-making (Elstein, Kelly, & Trowbridge, 2015).

Two studies explored factors related to parent or youth’s understanding of the hearing. One study of youth’s understanding found that more than half could not explain the court’s decisions. Further, attending court did not impact knowledge or attitudes of the youth (Block, Oran, Oran, et al., 2010). A study of judicial engagement and parent satisfaction found that judicial engagement of parents is related to mother’s satisfaction and understanding of the court process, but not father’s (Wood & Gonda, 2014).

Studies have also explored how presence of parents may be related to case outcomes. One study found no impact of parent’s presence on reunification (Gonzalez & Summers, 2014). Three studies found an impact of parent’s presence as a predictor of reunification (Summers & Gatowski, 2018; Summers, Gatowski, & Gueller, 2017; Wood, Summers, & Soderman Duarte, 2016). Two studies found that the presence of the parents at early case hearings were related to timelier reunification (Wood & Russell, 2011) or timely permanency (Summers & Gatowski, 2018). The same study found that giving parents an opportunity to be heard was related to timelier permanency (Summers & Gatowski, 2018).

This subcategory is directly related to the cross-cutting issue of family experience with the child welfare process as their experience in hearings contributes to an overall experience with their case.

Exhibit 28. Existing Research Measures of Family Experience: Within the Hearings

Topic	Data source	Measures	Reference
Parent and youth access/ presence	Court observation	Measure included the presence of the parent at various hearings: (1) 14-day, (2) status, (3) first permanency, (4) second permanency, and (5) final	Wood & Duarte, 2013
		Parents’ court hearing attendance was based on whether or not parents were present for specific hearing types (i.e., shelter care, adjudication, disposition, 6-month review, first permanency). Attendance was coded on a dichotomous scale of 0 = no or 1 = yes. An overall percentage of how often each parent attended hearings across these hearings was calculated.	Bohannan, Gonzalez, & Summers, 2016
		Parties present; whether the child was present and whether the child spoke/participated in the hearing	Summers & Darnell, 2015
		Coders indicated (with a yes/no response) which parties were present at the hearing.	Summers, Gatowski, & Gueller, 2017
		Presence of mother, father, child	Summers, Gatowski, & Devault, 2016
		Whether parents and youth are present at the hearing	Summers & Gatowski, 2018
		Coders indicated (with a yes/no response) whether mothers, fathers, or youth were present at initial	Summers, Gatowski, &

Topic	Data source	Measures	Reference
		hearing.	Gueller, 2017
		The observation instrument included items assessing whether the child was present and whether the child spoke/participated in the hearing.	Summers, Russell, Darnell, et al., 2012
		Which parties were present and how they participated in court. Parties included parents and children. For parties, court engagement was rated as low, medium, or high.	Supreme Court Children's Commission, 2014
		Presence: A dichotomous yes/no variable for each party (mother, father, and child)	Wood & Gonda, 2014
	Case file review	Case file data on frequency of parent appearances in court; percentage of presence was calculated by recording the number of hearings each party was present at and dividing by the number of possible hearings that each party could have attended.	Sicafulse, Wood, & Summers, 2014
		Frequency of party's presence at hearings: mother, father, child; hearing attendance is a measure of the percentage of hearings each party was present at.	Bohannan, Nevers, & Summers, 2015
		Parties present at each hearing (no specifics provided)	Dobbin, Gatowski, & Summers, 2010
		Presence of mothers and fathers at each hearing stage (file review: number of hearings attended of total possible hearings)	Gonzalez & Summers, 2014
		What children say during hearings when they are asked questions about who they want to live with, who they want contact with, and who they believe should have authority to make decisions on their behalf, as documented in court files	Kratky & Schröder-Abé, 2020
		Mother presence and father presence at the preliminary protective, adjudication, disposition, first review hearings	Wood & Russell, 2011
		Presence of the parent and/or the parent's attorney was collected across five hearings: (1) 14-day, (2) status, (3) first permanency, (4) second permanency, and (5) final.	Wood, Summers, & Soderman Duarte, 2016

Topic	Data source	Measures	Reference
	Survey	Youth report of experiences with respect to court participation; GAL report on frequency of advocating for the child's presence at court and promoting child's opportunity to speak to the judge	Pitchal, Freundlich, & Kendrick, 2009
		Parent survey: I want my hearings to start at a specific time (e.g., 9 a.m., 1 p.m.); hearing	Gonzalez, Bohannon, & Summers, 2015
		Perceived participation questions: 1. Did you get to talk to the judge? 2. Did you get to tell the judge what you wanted? 3. Did you get to talk with your attorney today? 4. Did you get to tell your attorney what you wanted? 5. Did your attorney tell the judge what you wanted?	Block, Oran, Oran, Baumrind et al., 2010
	Synthesis of reports	Youth involvement and engagement in court	Elstein, Kelly, & Trowbridge, 2015
Family/ community presence	File review	Frequency of party's presence at the TFC hearings: foster parent, relative. Hearing attendance is a measures of the percentage of hearings each party was present at.	Bohannon, Nevers, & Summers, 2015
		Case file review data on parties present at each hearing (no specifics provided)	Dobbin, Gatowski, & Summers, 2010
	Court observation	Presence of relatives	Summers, Gatowski, & Devault, 2016
		Observation instrument assessed percentage of hearings with caretaker presence	Summers, Russell, Darnell, et al., 2012
		Observation tool captured which parties and attorneys were present and how they participated in court. Parties included caretakers. For parties, court engagement was rated as low, medium, or high.	Supreme Court Children's Commission, 2014
		Information was collected on the presence of other parties, including mother's attorney, father's attorney, child's attorney, guardian ad litem, foster	Wood & Gonda, 2014

Topic	Data source	Measures	Reference
		parent, relative, and treatment provider.	
		Court obs: Whether relatives, foster parents, tribal representations and treatment providers are present at hearings	Summers & Gatowski, 2018
		Coders indicated (with a yes/no response) which parties were present at the initial hearing (relatives, foster parents, tribal representatives, others).	Summers, Gatowski, & Gueller, 2017
Family understanding of hearing	Survey	Parent survey: I understood what happened in court today.	Gonzalez, Bohannan, & Summers, 2015
		Perceived knowledgeable of noncustodial father's rights and responsibilities.	McNaughton, 2014
		Parent survey questions that asked parents to rate the level of agreement with statements: I understood what happened in court today; I understand what I am supposed to do next; all of my questions were answered.	Wood & Gonda, 2014
	Interview	Children's Court Questionnaire (CCQ) Knowledge: 1. What does a judge do? 2. What does a social worker do? 3. What does a child's attorney do? 4. What does a parent's attorney do? 5. What does a clerk do? 6. What does a court reporter do? 7. What does a bailiff do? 8. Why do children come to court? 9. Why do both your parents and you have attorneys? 10. What did your parent's attorney do differently from your attorney? Interview questions: 1. When you left the courtroom, what do you think happened? Do you know what happened? 2. Did you have your own lawyer?	Block, Oran, Oran, Baumrind et al., 2010
		Whether they had a GAL, and asked if they knew the GAL's name; foster parent survey asking if child knew how to contact their GAL	Pitchal, Freundlich, & Kendrick, 2009

Gaps in Understanding

Questions still remain about family presence, participation, and engagement. In particular, little to no research has focused on relative caregivers, foster parents, or other relative supports and how their presence and participation may impact a case. The research on youth experience is very limited and mostly descriptive in nature. It would be helpful to learn more about what is successful in engaging the youth and helping them to understand the process. Further, there has been very little research on parent's understanding of the child welfare process. As parents need to understand what happens in court and what they need to do for their case, it seems that more research should be done about how judges and attorneys can facilitate a better understanding of the process and link court practices to this outcome. Finally, more research should examine how parent's understanding of the court process is related to better outcomes for children and families.

Intermediate Outcomes: During the Case

The intermediate outcomes: during the case category contains nine subcategories:

- Due process: During the case process
- Timeliness of hearings
- Judicial continuity during the case
- Attorney continuity during the case
- Visitation/family time
- Child placement during the case
- Family engagement in services and case process
- Child safety during the case
- Child well-being during the case

Each subcategory is described below.

Due Process: During the Case Process

Due process during the case process is an intermediate case outcome and is defined as the legal actions that ensure families receive fair and impartial hearings throughout the case and not just in specific hearings or stages. Examples of due process indicators during the case (exhibit 29) include: early appointment of attorneys in the case; timely and adequate service and notice to all parties of hearings throughout the case; access to all hearings and presence of interpreters and translators (if applicable) across the case; ensuring parents and eligible youth receive appropriate documents throughout the case; parents' perceptions of and belief in the fairness of the case process; and ensuring that the requirements of the Indian Child Welfare Act (ICWA) to protect the rights of Indian children and families are followed throughout the case when ICWA applies. Due process during the case has also been conceptualized in national standards of judge and attorney practice as having one judge preside over all stages of a child welfare case and attorney representation for families by the same attorney for the life of the case. Continuity of judge and attorney throughout the case is discussed in this section (as due process indicators during the case) and in subsequent sections covering the intermediate case outcomes of judicial and attorney continuity specifically.

Exhibit 29. Existing Performance Measures of Due Process During the Case Process

Topics	Measure	Source
Due process during/throughout the case	Percentage of cases in which all hearings are heard by one judicial officer; percentage of cases in which both parents receive written service of process of original petition; percentage of children for whom legal counsel, guardian ad litem, or CASA volunteer is appointed in advance of the emergency removal hearing; timely percentage of cases where counsel for parents are appointed in advance of the emergency removal hearing; percentage of cases for which there is documentation that written notice was given to parties in advance of every hearing; percentage of cases in which there is documentation that written notice was given to foster parents in advance of every hearing; percentage of cases in which legal counsel for parents, children, and the agency is present at every hearing; percentage of cases in which parties are present at every hearing; percentage of cases in which legal counsel for children changes between assignment of counsel and case closure; percentage of cases in which legal counsel for parents	The Toolkit

Topics	Measure	Source
	changes between assignment of counsel and case closure	
	Percentage of all cases in which all parties and other statutorily entitled individuals are served with a copy of the original petition; percentage of hearings in which notice is given to all statutorily entitled parties and individuals within the statutory timeframe	CA CPM
	Percentage of all cases where an interpreter was used, in-court or out-of-court	FJI Indicators
	Individual satisfaction with access to the court and fairness (how the legal process dealt with their issue, interests, or case on a scale from strongly agree to strongly disagree)	NCSC CourTools
	Whether the court makes reasonable efforts to remove physical and language barriers to service	NV QLR measures
	Parent's overall satisfaction with the representation from appointment through the end of the case (including appeal); whether there is a mechanism in place for a parent to obtain a new attorney when they are dissatisfied with the original court-appointed attorney; parents' awareness of the system to obtain new counsel	Parent representation indicators

Inclusion in National Recommendations and Standards

National best-practice standards for judge and attorney practice in child welfare cases (e.g., the NCJFCJ's *Enhanced Resource Guidelines* [2016] for judges; the ABA's standards for parents' attorneys [2006], child welfare agency attorneys [2004] and children's attorneys [1996]; and the NACC's recommendations for children's attorneys [2021]) recommend that the following should occur to ensure due process is upheld for children and families throughout the case: Judges and attorneys have appropriate training, skills, and knowledge to competently perform their roles; cases are heard by one judge throughout the case; attorneys for parents and children are appointed early in the case (e.g., when a case first comes before the court or before the first hearing); the same attorneys represent parents and children throughout the life of the case; attorney assignments must take into consideration any conflicts of interest (e.g., attorneys should avoid representing both parents when there is potential for conflict and in situations involving allegations of domestic violence); proper notice of all hearings is provided timely to all parties; parties are provided interpreters and/or accommodations for any disabilities throughout

the case if needed; copies of documents (e.g., petitions, court orders, service plans) are provided timely to parties throughout the case; and confidentiality is maintained.

The U.S. Department of the Interior, Bureau of Indian Affairs (2016) *Guidelines for Implementing the Indian Child Welfare Act* (ICWA) articulate additional due process requirements during cases involving Native American children and their families. These include inquiring if the child is an Indian child as soon as possible in a case to determine if ICWA applies and continuing that inquiry throughout the case until the question is resolved; ensuring notification requirements and timelines are followed during the case so that parents, Indian custodians, and the tribe have time to determine whether a child is an Indian child and respond to and prepare for proceedings; and ensuring qualified expert testimony is provided throughout the case when required by ICWA.

Research Evidence

This review found two research studies that specifically examined due process as an intermediate outcome of child welfare cases (exhibit 30). One study found that when compared with District Court, Family Courts (where judges hear only juvenile or family court matters and follow Family Court Rules designed to promote uniformity and improve court practice) were statistically more likely to have provided copies of petitions and all court orders to parties throughout the case (Boes, Collins-Camargo, & Thomas, 2015). In another study of a family treatment drug court (FTDC), the perceptions of parents’ procedural justice/fairness of the case process, and reunification rates of FTDC parents, were compared against a control group of non-FTDC parents (Fessinger, Hazen, Bahm, et al., 2020). Results indicated that FTDC parents had a higher perception of procedural justice/belief that the court process was fair when compared with control parents, and that this perception was associated with more consistent participation in court-ordered services and in higher rates of reunification of FTDC parents versus control parents.

Exhibit 30. Existing Research Measures of Due Process During the Case

Topics	Data source	Measures	Reference
Due process during/throughout the case	Case file review	Compared district court versus family court on percentage of cases in which orders to all parties were served; percentage of cases in which copies of petitions were provided to all parties; percentage of cases in which both	Boes, Collins-Carmargo, & Thomas, 2015

Topics	Data source	Measures	Reference
		parents received written service of process of the original petition; percentage of cases for which there is documentation that written notice was given to parties in advance of every hearing	
	Survey Case file review	FTDC parent versus non-FTDC parent perception of fairness of court process, with items measuring components of procedural justice, including voice, neutrality, trust, and respect. Examples of the items include “The process of getting my children back is fair” and “I have a say in the decisions that affect me and my children.”	Fessinger, Hazen, Bahm, et al., 2020

Gaps in Understanding

Performance measures, toolkits, and standards of practice for judges and attorneys conceptualize due process throughout the child welfare case measures as timely service, notice, provision of petitions, court orders and reports; timely appointment and consistency of attorneys; consistency of judges who preside over child welfare cases; access to interpreters; and parents’ and youths’ overall perception of the fairness of the case process. Little research, however, was found that focused on due process as an intermediate case outcome. More research is needed to understand the impact of due process performance indicators on cases.

Timeliness of Hearings

Timeliness of hearings during the case process is an intermediate case outcome measured (exhibit 31) as whether hearings are held within timeframes set by federal and state laws (e.g., that case review hearings are held within 6 months and every 6 months during the case, that first permanency review hearings are held within 12 months of the time the child first enters out-of-home care) and the time between case events (e.g., time from original petition filing to adjudication, time from disposition to service plan). It includes measures of delay, such as continuances of hearings and wait times for individual hearings. Timeliness measures help courts identify where they are doing well and areas where improvement is needed.

Exhibit 31. Existing Performance Measures of Timeliness of Hearings

Measure	Source
<p>Time to adjudication: Average (median) time from filing of the original petition to adjudication; Timeliness of adjudication: Percentage of cases that are adjudicated within 30, 60, or 90 days after the filing of the original petition; Time to disposition hearing: Average (median) time from filing of the original petition to the disposition hearing; Timeliness of disposition hearing: Percentage of cases in which disposition hearing occurred within 10, 30, or 60 days after adjudication; Timely case review hearings: Percentage of cases in which the court holds hearings to review case plans within the time limits set by law; Time to first permanency hearing: Average (median) time from filing of the original petition to first permanency hearing; Time to termination of parental rights petition: Average (median) time from filing of the original petition to the petition for termination of parental rights; Time to termination of parental rights: Average (median) time from filing of the original petition to the termination of parental rights; Timeliness of termination of parental rights proceedings: Percentage of cases for which there is a final order within 90, 120, or 180 days of the filing of the termination of parental rights petition; Time from disposition hearing to termination of parental rights petition: Percentage of cases in which the termination of parental rights petition is filed within 3, 6, 12, and 18 months after the disposition hearing; Timeliness of adoption petition: Percentage of cases in which adoption petition is filed within 3, 6, and 12 months after the termination of parental rights; Timeliness of adoption proceedings: Percentage of cases in which adoption is finalized within 3, 6, and 12 months after the filing of the adoption petition</p>	<p>The Toolkit</p>
<p>Percentage of children for whom the initial hearing is completed within the statutory timeframe following the filing of the initial petition; percentage of children for whom the jurisdictional hearing is completed within the statutory timeframe following the initial hearing; percentage of children for whom the disposition hearing is completed within the statutory timeframe following the finding of jurisdiction; percentage of children for whom a 3-month or other interim review hearing is held; percentage of children for whom the 6-month review hearing is completed within 6 months of the date the child entered foster care; percentage of children for whom the 12-month permanency hearing is completed within 12 months of the date the child entered foster care; percentage of children for whom the 18-month review hearing is completed within 18 months of the date of original protective custody; percentage of children for whom the first section 366.26 hearing is completed within 120 days of the termination of reunification services; percentage of children whose post-permanency hearing is completed within 6 months of the last post-permanency hearing; percentage of children in long-term foster care whose subsequent post-permanency hearing is completed within 12 months of the previous post-permanency hearing; percentage of children whose adoption is finalized within 180 days after termination of parental rights; median time from disposition or post-permanency hearing to order establishing guardianship; percentage of children for whom the first and subsequent post-permanency review hearings are completed within the statutory timeframe; percentage of hearings delayed by reasons for delay and hearing type; median time from filing of original petition to implementation of a permanent plan by permanent plan type</p>	<p>CA CPM</p>

Measure	Source
Time in days from filing to disposition	FJI Indicators
Percentage of cases disposed or otherwise resolved within established timeframes; the age of the active cases pending before the court, measured as the number of days from filing until the time of measurement; the number of times cases disposed by trial are scheduled for trial; court's ability to hold trials on the first date they are scheduled to be heard (trial date certainty)	NCSC CourTools
The average time on each case from removal to disposition; time from petition filing to disposition; number of permanency hearings that are continued or adjourned	NY Hearing Quality Toolkit
Time from petition filing to preliminary hearing with child removal; start of pre-adjudicatory improvement period (PAIP) to review hearing; duration of PAIP; end of PAIP to adjudicatory hearing; preliminary hearing to adjudicatory hearing with child removal without improvement period; time to adjudicatory hearing without child removal; duration of adjudicatory improvement period (AIP); review hearings during AIP—every 3 months; adjudicatory hearing to dispositional hearing; duration of dispositional improvement period (DIP); DIP review hearings—every 3 months; DIP to final dispositional hearing; petition filing to multidisciplinary treatment team (MDT) convene date; time between permanent placement reviews; disposition order to permanent placement; time to family case plan submission when PAIP is granted; time to family case plan submission when AIP is granted; time to family case plan submission when DIP is granted; time to permanency hearing when reasonable efforts are required; time to permanency hearing when reasonable efforts are not required; time between conclusion of the hearing and court entering an order of adjudication, including findings of fact and conclusions of law (within 10 days of the conclusion of the hearing); amount of time court extends any improvement period granted; average and median time from filing of the original petition to permanent placement. average and median time from filing of the original petition to termination of parents' rights; time a case begins to the disposition hearing; average and median time from filing the original petition to adjudication. time from filing of the original petition to the day the first permanency hearing is completed; percentage of cases for which there is a final order within 90, 120, and 180 days of the filing of the termination of parental rights (TPR) petition; time from disposition hearing to TPR petition—percentage of cases in which the TPR petition is filed within 3, 6, 12, and 18 months after the disposition hearing; timeliness of adoption petition—percentage of cases in which the adoption petition is filed within 3, 6, and 12 months after the TPR; timeliness of adoption proceedings—percentage of adoption cases finalized within 3, 6, and 12 months after the filing of the adoption petition; how long it takes from the date the original child abuse or neglect petition is filed to the date the TPR petition is filed	WV CAN

Inclusion in National Recommendations and Standards

The NCJFCJ's *Enhanced Resource Guidelines* (2016) recommend that courts develop techniques to reduce litigation delays by implementing sound case flow management. Judges should exercise strong oversight of cases to ensure they follow established deadlines for each

preliminary protective, review, and permanency hearing as well as deadlines for other events, such as filing the case or service plan and the completion of the termination of parental rights. If state statutes do not include timelines for key hearings, judges should exercise leadership to ensure that they do. The court's case flow management procedures should be set up to align with these deadlines and to enable the court to identify or "flag" cases that are outside accepted time standards. The court's information system should be able to maintain and report statistics on the length of time from case filing to each major court event and to case closure as well as on process and outcomes as they relate to key case demographic features (e.g., age, gender, race and ethnicity of children and families involved in the court's cases). The court must develop a firm and effective policy on continuances and share it with stakeholders. With a strict policy against continuances and an adequate number of judges, all hearings can be set for a "time-certain." When cases are set for a time-certain, typical waiting time for hearings should be less than 20 minutes.

The ABA's *Standards for Judicial Excellence* (2010) state that courts need to focus on special causes of delays often associated with child abuse and neglect cases. Some of these include: court reports, motions, and petitions not filed within times specified by law and court rules; untimely delivery of services to families and children, making it difficult for judges to make permanency decisions as required by law; time-consuming processes for the appointment of attorneys and the initiation of attorney-client contacts; attorneys with scheduling conflicts that interfere with their availability to schedule timely hearings in child abuse and neglect cases; shortages and inefficiencies in arranging ancillary judicial services, such as simultaneous translation and transportation to court; protracted appeals that interfere with trial courts' ability to meet reasonable permanency planning decision deadlines; and attorneys and caseworkers who appear late in court.

The NCSC's *Framework for High-Performing Courts* (Ostrom & Hanson, 2010) emphasize the importance of analyzing the timeliness of the court process. A "high-performing court" will examine the time it actually takes to resolve a particular type of case in comparison to how much time it should take if the case flow process is working as planned. A high-performing court seeks to optimize the use of judge and staff time to make best use of its own resources so as to ensure timely, effective, and fair case resolution for customers. This measure of productivity focused on the relationship between elapsed time (e.g., time to disposition) and value-added time (e.g., amount of judge time consumed in the process).

National standards and recommendations for attorney practice also address the timeliness of court hearings. The ABA's *Standards for Child Welfare Agency Attorneys* (2004) state that attorneys should promote timely hearings and reduce case continuances because delay in

cases slows permanency for children. The ABA's *Standards for Parents Representation* (2006) recommend that the parent's attorney should not request continuances unless there is an emergency, or it benefits the client's case. If continuances are necessary, the parent's attorney should request the continuance in writing as far as possible in advance of the hearing and should request the shortest delay possible, consistent with the client's interests. The attorney must notify all counsel of the request. The parent's attorney should object to repeated or prolonged continuance requests by other parties if the continuance would harm the client. The ABA's *Standards for Child Representation* (1996) recommend that the child's attorney should attempt to reduce case delays and ensure that the court recognizes the need to speedily promote permanency for the child.

The *BIA Guidelines for Implementing ICWA* stress determining at the outset of any state court child custody proceeding whether ICWA applies promotes stability for Indian children and families and conserves resources by reducing the need for delays, duplication, appeals and disruptions. The *Guidelines* outline timelines for the case process for Indian children and families, specifically: No child-custody proceeding for foster care placement or termination of parental rights may be held until the waiting periods to which the parents or Indian custodians and to which the Indian child's tribe are entitled have expired, as follows: (1) 10 days after each parent or Indian custodian (or secretary where the parent or Indian custodian is unknown to the petitioner) has received notice of that particular child-custody proceeding in accordance with 25 U.S.C. 1912(a) and § 23.111; (2) 10 days after the Indian child's tribe (or the secretary if the Indian child's tribe is unknown to the party seeking placement) has received notice of that particular child-custody proceeding in accordance with 25 U.S.C. 1912(a) and § 23.111; (3) up to 30 days after the parent or Indian custodian has received notice of that particular child-custody proceeding in accordance with 25 U.S.C. 1912(a) and § 23.111, if the parent or Indian custodian has requested up to 20 additional days to prepare for the child-custody proceeding as provided in 25 U.S.C. 1912(a) and § 23.111; and (4) up to 30 days after the Indian child's tribe has received notice of that particular child-custody proceeding in accordance with 25 U.S.C. 1912(a) and § 23.111, if the Indian child's tribe has requested up to 20 additional days to prepare for the child-custody proceeding.

Research Evidence

The timeliness of court hearings has been included in several studies of court performance (exhibit 32). The time from court event to court event, the percentage of cases in compliance with statutorily mandated timeframes for hearings, as well as continuance practice and sources of delay have been the focus of many courts' performance assessments. In addition, several evaluations of court structures and processes (e.g., Summers & Shdaimah, 2013; Boes, Collins-

Carmargo, & Thomas, 2015; Gonzalez, Bohannon, & Summers, 2015; Zinn & Cusick, 2014) and judicial and attorney practices (e.g., Summers, 2017; Darnell, 2015; Sicafuse, Wood, Summers, 2014; Summers & Wood, 2014; Dobbin, Gatowski, & Summers 2010; Halemba, Siegal, Gunn, et al., 2002; Oetjen, 2003) have examined whether those structures, processes, and practices have impacted the timeliness of court hearings. A few examples of this research are summarized below.

Looking at the influence of court structures and processes on hearing timeliness, a study of the implementation of uniform family court rules of procedure (Boes, Collins-Carmargo, & Thomas, 2015) found that after implementation of the uniform rules, family court jurisdictions were significantly more likely to adjudicate cases timely (within 30 and 60 days of the petition) than district court jurisdictions. Family courts, however, took significantly longer to hold a disposition hearing compared with district courts. No significant differences were found for time to file the termination of parental rights petition or to convene a termination of parental rights hearing. A study of “frontloading” procedures (e.g., convening a prehearing conference after emergency removal hearings but before the preliminary protective hearing), using a pre-post implementation research design, found that postimplementation cases took significantly less time to reach most early case-processing milestones, including the number of days from petition filing to the first scheduled hearing on the case, completion of these initial proceedings, resolution of petition findings (adjudication), and completion of the disposition hearing (Halemba, Siegal, Gunn, et al., 2002). Summers (2017) examined the timing of several court events and their impact on time to permanency in multiple sites within one state. The study found that less time to achieve permanency was significantly associated with less time to achieve the disposition hearing and fewer total adjournments (continuances) in the case. Zinn & Cusick (2014) examined how time to key court hearings and court calendaring practices impacted permanency. Results suggested that the transitions between certain legal milestones (e.g., disposition to reunification, disposition to TPR) accounted for a majority of the variability in children's permanency outcomes.

A study of parent representation looked at the effects of having a parent's attorney appointed early in the case on future hearing timeliness (Sicafuse, Wood, Summers, 2014). The study found the average number of days from petition filing to adjudication was shorter in cases with parent representation (both project and private representation) than in cases without representation. The average number of continuances was similar across cases with and without parent representation, suggesting that parent's attorneys did not cause unnecessary delays. Another evaluation of a pilot parents' representation program (i.e., providing parents' attorneys with specialized training and support from investigators and caseworkers) found that pilot cases

had significant reductions in the average number of days from removal to initial hearing compared with a matched sample of cases with attorneys appointed from outside of the pilot program (Oetjen, 2003).

Exhibit 32. Existing Research Measures of Timeliness of Hearings During the Case

Data source	Measures	Reference
Interviews	Number of postponements (continuances)	Gerber, Guggenheim, Pang, et al., 2020
Case file review	Number of adjournments (continuances) at the first four permanency hearings in order to calculate a total number of adjournments; dates of key court events across the life of the case (time to key events, including time from petition filing to disposition of the case, time from the start of the permanency hearing to the completion of the permanency hearing, and time from petition filing to the filing of the TPR)	Summers, 2017
Case file review	Time to completion of the permanency hearing from removal and initial petition filing; time from petition filing to the filing of the TPR	Summers & Gatowski, 2018
Court observation	Number of continuances and continuance reasons	Summers, Gatowski, & Devault, 2016
Case file review	Timeliness of adjudication, defined as the percentage of cases that are adjudicated within 30, 60, and 90 days of filing of the original petition; timeliness of disposition hearing, defined as the percentage of cases in which disposition hearing occurred within 10, 30, or 60 days after adjudication; timeliness of termination of parental rights proceedings, defined as the percentage of cases for which there is a final order within 90, 120, or 180 days of filing of the termination of parental rights petition; timeliness of adoption hearings, defined as the percentage of cases in which the adoption is finalized within 3, 6, and 12 months after filing of the adoption petition	Boes, Collins-Carmargo, & Thomas, 2015
Case file review	Time (days) between filing and adjudication and disposition; time (days) between disposition and termination of parental rights	Zinn & Peters, 2015
Survey/ court observation	Parent Survey: I want my hearings to start at a specific time (e.g., 9 a.m., 1 p.m.); Stakeholder survey: The wait time for hearings is frustrating to me; The wait time is frustrating to my clients. Court observation: Delays/time waited for hearing to begin	Gonzalez, Bohannan & Summers, 2015
Court observation	Hearing start times compared with scheduled start times from the court docket for computation of delay	Summers & Darnell, 2015

Data source	Measures	Reference
Case file review	Number and reasons for continuances in case file; who requested continuances (parent's attorney, the court, or the agency attorney); reasons for continuances requested by parent attorneys (e.g., to establish paternity, to locate one of the fathers, to allow the parent's attorney more time to prepare); reasons courts requested continuances that were documented in case file (e.g., parents without representation had asked for an attorney); average time from petition filing to adjudication	Sicafuse, Wood, Summers, 2014
Case file review	Percentage of cases each year that reached the fact-finding hearing within 75 days of petition filing (a statutory requirement); percentage of cases in 1 year that reached a permanency planning hearing within 12 months of placement	Wood, Russell, Macgill, 2014
Case file review	Time between key events including time between filing and disposition; time between disposition and outcomes (reunification, TPR, guardianships); time between TPR and adoption	Zinn & Cusick, 2014
Court observation	Delays in hearing start times (compared docket time to actual time)	Supreme Court Children's Commission, 2014
Case file review	Length of time from entry into care to the permanency hearing	Summers & Shdaimah, 2013
Case file review	Number of/average number of continuances per case; average time (days) and the percentage of cases meeting the statutory requirement for timeliness of petition to fact-finding (case resolution), removal to first 6-month review, removal to permanency planning hearing	Summers, Wood, Mclellan, et al., 2011
On-the-bench time logs/ case file review	Continuances granted due to time constraints documented by judges (time log); hearing dates, and the number of and reason for continuances (case file review)	Dobbin & Gatowski, 2001
Survey interviews	Survey of GALs: Whether GALs ask for (and how often they ask for) continuances; whether and how often GALs object to continuances; judicial interviews: how often judges grant GAL continuances and reasons for granting	Pitchal, Freundlich, & Kendrick, 2009
Case file review	Timing of case processing measured from original petition filing to shelter care hearing, adjudication, disposition, and termination of parental rights; timing and frequency of motion hearings from previous hearing; timing and frequency of status check hearings from disposition; timing of termination of protective supervision from TPR petition filing; time from case service plan approval to child	Zinn & Slowriver, 2008

Data source	Measures	Reference
	permanency	
Case file review/ survey	Time (average, median, minimum, maximum) elapsed in days from temporary custody order to adjudication order, from adjudication order to disposition order, from temporary custody order to first permanency order, from original petition filing to TPR order, from TPR petition filing to TPR trial; parties (judges and professional stakeholders) perception of delay and timeliness (survey; percentage of hearings delayed and why); when in case processes continuances typically occur (survey of judges and professional stakeholders); number of continuances and documented reason for continuance (case file review; mean, median, minimum, maximum per case)	Dipietro, 2008
Document review/ interviews	Number of continuances requested by attorneys, including those based on their unavailability reported in interviews and documented in attorney monthly case reports	Harper, Brennan, & Szolnoki, 2005
Case file review	Percentage of cases meeting statutory requirements related to timing of hearings (mean days between case events)	Oetjen, 2003
Case file review/ interviews	Whether shelter hearing (initial hearing) held within 24 hours of a child being placed into temporary protective custody (as required by statute); whether jurisdictional/dispositional hearing held within 60 days of the filing of the petition (as required by statute); days from removal to shelter hearing; days from shelter hearing to second shelter hearing (intervention is use of second shelter hearing); days from second shelter hearing to jurisdictional/dispositional hearing; number of continuances for initial and jurisdictional/dispositional hearings; stakeholder perceptions of the usefulness of the timing of the second shelter hearing intervention to move case forward; stakeholder report of reasons for continuances	Gatowski, Dobbin, & Litchfield, 2002
Case file review	Time between hearings (in days)	Halemba, Siegal, Gunn, et al., 2002
Case file review	Number of days from the time that the petition was authorized until a written case service plan was developed; length of adjudication phase of trials in hours; number of days between the date originally set by the court for the initial disposition hearing and the date the initial disposition hearing actually occurred	Herring, 1993
Case file review Interviews	Court processing time measured as the number of days between the filing of the petition and the first major dispositional hearing	Duquette & Ramsey, 1986

Gaps in Understanding

Courts generally are most familiar with timeliness measures and have greater capacity to collect data on these measures via court case management information systems. Many courts produce timeliness reports on the percentage of key hearings held within statutorily mandated or best-practice timelines as well as the average time between court events. To better pinpoint the specific stage of the hearing process that is delayed and in need of improvement, timeliness measures should apply to all stages of proceedings. Several studies were found examining the impact of court structures and processes as well as judicial and attorney practices on hearing timeliness and delay. However, few court performance assessments and evaluation studies were retrieved that compared hearing timeliness by specific case characteristics and child and family variables, collected information about the reasons for continuances, or explored the impact of delay by hearing from the families themselves.

Judicial Continuity During the Case

Judicial continuity is conceptualized as an intermediate case outcome. It is defined as the number of judges who oversee hearings throughout the family’s case. Judicial continuity (few or no changes of judge throughout the case) can be facilitated by court processes such as the “one family, one judge” case assignment model or hindered when different judges oversee cases as the result of court processes that rotate judges across locations or types of hearings (exhibit 33). Judicial continuity is operationalized as a due process outcome measure in the original *Toolkit* performance measures and is a recommended best practice in both the NCJFCJ’s *Enhanced Resource Guidelines* and the ABA’s *Standards for Judicial Excellence* for child abuse and neglect cases.

Exhibit 33. Existing Performance Measures of Judicial Continuity During the Case

Measure	Source
Percentage of cases in which all hearings are heard by one judicial officer (as well as how many two, three, or more judicial officers)	The Toolkit
Percentage of children for whom all hearings are heard by one judicial officer (as well as two, three, or more judicial officers)	
Number of judges overseeing a case	NY Hearing Quality Toolkit
Number of judges per case	WV CAN Measures

Inclusion in National Recommendations and Standards

The NCJFCJ's *Enhanced Resource Guidelines* (2016) standards for child abuse and neglect case processing recommend that one judge preside over child welfare cases from beginning to end. The *Guidelines* further recommend courts implement the “one family, one judge” case assignment model (the same judge should hear all matters related to a family) as well as the use of “direct calendaring” to facilitate judicial continuity in cases. The ABA's *Standards for Judicial Excellence* also recommend that after a judge is assigned to hear a child abuse and neglect case, that same judge should hear all stages of the case until the case is dismissed, and when jurisdictions use subordinate judicial officers to hear child abuse and neglect cases, the same judicial officer should hear all stages of a case until the case is dismissed. The ABA *Standards for Judicial Excellence* also recommend that the same judge should hear all matters related to one family and add that court leaders should encourage and support competent judges to continue in their child welfare case assignments rather than encourage rotation.

Research Evidence

While several studies examining judicial continuity in child welfare cases as a descriptive measure (i.e., research that describes a program or perceptions of a program and summarizes characteristics of a dataset with statistics such as frequencies or averages) were found (exhibit 34), these studies did not further explore the association between the number of judges per case and case outcomes (e.g., Gatowski & Dobbin, & Litchfield, 2002; Supreme Court Children's Commission, 2014; Bohannon, Nevers, & Summers, 2015). Two studies, however, included an examination of the effect of the number of judges on case outcomes. One study of permanency hearing quality and case outcomes in New York, for example, found that the number of judges over the life of the case was a significant predictor of time to permanency and the likelihood of reunification in cases (Summers, 2017). Another study using a pre-post test design to examine the effect of implementing the one family, one judge model of case assignment practice found the post one family, one judge cases (i.e., cases with significantly fewer judges) reached case closure in significantly less time than the pre-implementation cases (Summers & Shdaimah, 2013).

Exhibit 34. Existing Research Measures of Judicial Continuity During the Case

Topics	Data source	Measures	Reference
Judicial continuity during the case	Court observation/ case file review	Number of judicial officers at early hearings in the case (measure of “frontloading” the case); whether same judge presided over initial hearing, second shelter care hearing, and adjudication hearing	Gatowski, Dobbin, & Litchfield, 2002
	Case file review	Number of judicial officers per case	Summers, Wood, McLellan, et al., 2011
	Case file review	Number of judicial officers per case	Summers & Shdaimah, 2013
	Court observation/ case file review	Number of judicial officers per case	Supreme Court Children’s Commission, 2014
	Court observation/ case file review	Number of judicial officers per case	Bohannon, Nevers, & Summers, 2015
	Court observation/ case file review	Number of judicial officers per case	Summers, 2017

Gaps in Understanding

Judicial continuity has long been identified as a best-practice in child welfare cases. Having a single judge hear a case is thought to provide judges with greater knowledge of the case history and experience with the family, which in turn promotes responsibility over and consistency in decision-making. Although we found two studies linking judicial continuity in cases to timely case processing and reunification, more research is needed to understand whether judicial continuity positively impacts the child welfare case process and outcomes.

Attorney Continuity During the Case

Attorney continuity is conceptualized as an intermediate case outcome. It is defined as the number of attorneys advocating for their client throughout the family’s case. Continued presence of an attorney over the life of the case can be facilitated or hindered by processes used by the court or law firms to appoint or assign attorneys to cases. Attorney continuity for advocates for children (e.g., attorneys and GALs), parents, and child welfare agency attorneys are considered due process outcome measures in the original *Toolkit* performance measures (exhibit 35).

Best-practice standards for attorneys indicate that continuity of parent and child representation is an important factor in child welfare litigation. The ABA’s *Standards* for parent and child representation and the NACC’s *Recommendations for Legal Representation of Children and Youth*, for example, recommend that attorneys remain constant throughout cases. The timing of the appointment of attorneys and attorney presence at specific hearings, while components of continuity throughout the case, are covered in other sections of this review (i.e., court attorney processes and attorney presence in hearings).

Exhibit 35. Existing Performance Measures of Attorney Continuity During the Case Process

Measure	Source
<p>Child’s attorney: Percentage of child abuse and neglect cases in which the same advocate represents the child throughout the case; percentage of cases in which counsel for child changes (and number of changes); percentage of cases in which counsel for child is present at every hearing</p> <p>Parent’s attorney: Percentage of child abuse and neglect cases in which the same legal counsel represents the parent throughout the case; percentage of cases in which legal counsel for parents change (and number of changes); percentage of cases in which legal counsel for parents are present at every hearing</p> <p>Child welfare agency attorney: Percentage of cases in which legal counsel for the agency is present at every hearing</p>	The Toolkit
Percentage of cases in which the same attorney appeared at all hearings; percentage of cases in which counsel was changed from original counsel	FJI Indicators
Frequency of parties present at all hearings and for the life of the case	ICWA Toolkit
Percentage of cases in which the assigned attorney appears in court on behalf of the parent/percentage of substitute parent counsel appearing at hearings; percentage of changes in counsel for parents for other reasons (e.g., use of separate appellate panels)	Parent Representation Indicators
<p>Continuity of advocacy for children: How consistently children in abuse and neglect cases are represented by one advocate throughout the life of the case</p> <p>Continuity of counsel for parents: How consistently parents in abuse and neglect cases are represented by one attorney throughout the life of the case</p>	WV CAN Measures

Inclusion in National Recommendations and Standards

The ABA's *Standards for Parent Representation* (2006) recommend that attorney offices develop a system for the continuity of representation with a case assignment system that fosters ownership and involvement in the case by having the same parent's attorney represent clients throughout the case. The *Standards* note that having attorneys assigned to a case for the life of the case decreases delays because the attorney does not need to learn the case each time it is scheduled for court and has extensive knowledge of the case history. If a team approach is adopted (i.e., a group of attorneys are assigned a case and handle all aspects of the case as a team) rather than a one attorney, one case approach, the *Standards* recommend that mechanisms to aid communication about the case and promote accountability should be established. The *NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings* (2021) also advocate that the same attorney represent the child for as long as the child is subject to the court's jurisdiction, that unnecessary case transfers be avoided, and that representation ideally be holistic (i.e., present in ancillary matters that impact the child's safety, well-being, and permanency, such as educational advocacy, delinquency, and immigration). The *BIA Guidelines for Implementing ICWA* (2016) recommend that, where possible, the same counsel should be appointed for the entirety of the court case (throughout all proceedings) to ensure parents' rights are addressed consistently throughout the case, rather than appointing different representatives at each stage. None of the standards for best practice reviewed addressed the continuity of child welfare agency attorneys or prosecuting attorneys in child welfare cases.

Research Evidence

Most of the studies examining the continuity of attorneys for parents and children were descriptive studies (exhibit 36) that reported the frequency the same attorney was involved in all hearings in a case or the frequency with which attorneys changed in the same case (e.g., Summers, Woods, McLellan, et al., 2011; Pitchal, Freundlich, & Kendrick, 2009; DiPietro, 2008; Gatowski, Dobbin, & Litchfield, 2002; Lukowski & Davies, 2002). Only one study was found that examined child welfare agency (i.e., attorneys general) continuity in cases (Summers, Woods, McLellan, et al., 2011). No studies were found that examined attorney continuity (or lack thereof) and its impact on the case process and outcomes.

Exhibit 36. Existing Research Measures of Attorney Continuity During the Case

Data source	Measures	Reference
Court observation/ case file review	Parents' attorneys: Continuity of parents' attorneys at early stages of the case; whether mother's and father's attorney were the same from initial hearing to shelter care hearing to adjudication hearing	Gatowski, Dobbin, & Litchfield, 2002
Survey/ interview	Children's attorney: Percentage of cases in which GAL is consistent throughout all stages of court proceedings	Lukowski & Davies, 2002
Survey	Parent's and children's attorneys: Percentage of cases same attorney is present for each hearing	DiPietro, 2008
Survey	Children's attorney: Attorneys were asked if they sought the court's approval prior to using substitute attorney (yes/no/sometimes)	Michigan Courts, 2009
Survey	Children's attorney: Stakeholders' report, including report of youth, asking whether same GAL represented child throughout the case	Pitchal, Freundlich, & Kendrick, 2009
Case file review	Attorney general: Whether same attorney general attended all hearings Parent's attorney: Whether same parent attorney attended all hearings	Summers, Woods, McLellan, et al., 2011

Gaps in Understanding

Standards of best practice state that the consistency of legal representation (for parents and for children) is an important factor affecting the quality of child abuse and neglect litigation. Consistency of representation is considered important because having the same attorney leads to a greater sense of responsibility for the case, better preparation for each new hearing, better knowledge of child welfare law and practice, and a better relationship with or connection to clients. Performance measurement toolkits provide measures of attorney continuity, and descriptive studies have used those measures to describe the frequency with which attorneys for children and parents change in cases. More research is needed, however, to move beyond description to better understand whether continuity of child, parent, and child welfare agency representation positively impacts the child welfare case process and outcomes, and in what ways.

Visitation/Family Time

Visitation/family time is defined as the opportunities for children in foster care to spend time with their parents, siblings, or other relatives. It is believed that frequent and consistent visits with

parents can help reduce the trauma of removal (Smariga, 2007). Research has also demonstrated that there is a relationship between frequency of visitation and reunification on cases (Davis, Landsverk, Newton, et al., 1996). Family time can be measured in multiple ways (exhibit 37), including frequency (e.g., how many times in a given time period); duration (e.g., how long the visit is); setting (e.g., family-like, institution); level of supervision (e.g., monitored, supervised); and quality.

Exhibit 37. Existing Performance Measures of Visitation/Family Time

Measure	Source
<ul style="list-style-type: none"> • For children who have siblings under court jurisdiction but are not placed with all of them, percentage of cases in which sibling visitation is not ordered and reasons (double-coded well-being; placement) • Percentage of cases in which visitation is not ordered for parents and reasons • Number of visitation orders for adults other than parents and siblings 	CA CPM
<ul style="list-style-type: none"> • The percentage of ASFA hearings where sibling placement or visitation was addressed • Percentage of ASFA hearings during which parent visitation was addressed • Median time from date of order for supervised visitation to date of first order for unsupervised visitation 	NCSC Physical/Emotional Well-being
<ul style="list-style-type: none"> • Parents believe their attorney helped them access visitation/family time 	Parent representation indicators

Inclusion in National Recommendations and Standards

Visitation is mentioned in three of the American Bar Association’s standards of practice. These include:

ABA Standards of Practice for Lawyers Representing Children

- Visitation should provide immediate and frequent contact between the child and parent(s). Visitation helps maintain the child’s identity and reduces trauma.

ABA Standards of Practice for Lawyers Representing Parents

- The parent’s attorney should advocate for an effective visiting plan and counsel the parent on the importance of regular contact with the child. Preservation of parent-child bonds through regular visitation is essential to any reunification effort. Courts and child welfare agencies may need to be pushed to develop visiting plans that best fit the needs of the individual family.
- Aggressively advocate for regular visitation in a family-friendly setting.

ABA Child Safety Guide

- Immediate and frequent contact between the child and parent(s) helps maintain the child's identity and reduces trauma. Visitation plans should not place unreasonable restrictions on the parent-child contact.

The *NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings* emphasize “360-degree advocacy” for child clients that includes advocating for access to frequent, high-quality family time or visitation between child and parent(s).

Visitation is mentioned in NCJFCJ's *Enhanced Resource Guidelines* in terms of judicial decision-making, judicial inquiry for key discussion topics, and making appropriate orders on the record. There is a section for judges to consider when evaluating family time:

- The safety and well-being of children should always be paramount in considerations of family time.
- Judges should ensure that visits are in the child's best interests.
- Judges should ensure that the plan for family time is individualized and promotes permanency.
- Efforts should be made to ensure that transportation and logistics are not barriers to visitation or visitation frequency.
- Efforts should be made to ensure that family time takes place in the most natural setting or least restrictive setting that can assure the child's safety and well-being.
- Efforts should be made to respect the child's routines (e.g., eating, sleeping, other consistent daily patterns) in scheduling family time.
- Family time should be as proactive as possible and offer opportunities for mutual enjoyment for parents and children (e.g., play); opportunities to develop predictable and nurturing care (e.g., engaging in family or child-care routines such as mealtime); and opportunities for developmental stimulation (e.g., reading) to help parents understand their children's skills and needs and how to promote their learning.
- Ensure family time is well documented so the court will have sufficient evidence moving forward to order reduced or increased restrictions, reunification, or termination of parental rights.

Research Evidence

Visitation is an outcome of interest for child welfare cases because it has been demonstrated to be related to reduced trauma and reunification for youth. The research linking visitation to other outcomes was limited for this literature review, but a couple of studies (exhibit 38) did

demonstrate a relationship between a program or practice and visitation. One study showed that when mothers had an attorney, they had more hours of visitation per week (Sicafuse, Wood, & Summers, 2014). This study was limited in scope and by the amount of missing data regarding visitation in case files. A second study found that participation in a Dependency 101 course (part of a parent mentor program) was related to parent’s increased compliance with their visitation orders (Summers, Wood, Russell, et al., 2012).³

Exhibit 38. Existing Research Measures of Visitation/Family Time

Data source	Measures	Reference
Case file review	Amount (days per week and hours) and type (supervised or unsupervised) of visitation	Sicafuse, Wood, & Summers, 2014
Case file review	When placed with kin, level of supervised or unsupervised visits from parent	Casanueva, Goldman Fraser, Gilbert, et al., 2013
Case file review	Count of visits included any order related to visitation, such as orders allowing supervised or overnight visitation, or prohibiting visits	Duquette & Ramsey, 1986
Case file review	Court order measure of compliance with visitation (in compliance, partial compliance, no compliance)	Summers, Wood, Russell, et al., 2012

Gaps in Understanding

Prior research has demonstrated a link between visitation and reunification and in reducing trauma in general for youth. However, within the context of court practice and visitation, there is still much to understand. Few studies explored visitation as an outcome of interest. When visitation was explored in court practice, it was primarily examined in discussion in hearings. Several studies have examined the breadth and depth of discussion of visitation in child welfare hearings. There are no studies that examine the relationship between discussing visitation (or specifics like why supervision is required) and the resultant visitation order for families. There are also no studies that examine attorney practices in relation to visitation.

Child Placement During the Case

Child placement during the case is defined as the type and continuity of the child’s temporary placements during the case. Many performance measures have been developed to measure child placement (exhibit 39). Studies of placement have used a variety of data sources (exhibit

³ See profile on Family Engagement in Services and Case Processes for more discussion of parent mentor programs.

40) but have generated mostly correlational findings (i.e., variables are related but not necessarily predictive).

Exhibit 39. Existing Performance Measures of Child Placement During the Case

Measure	Source
<ul style="list-style-type: none"> • Percentage of children with multiple foster care placements • Percentage of children placed with all siblings who are also under court jurisdiction, as appropriate • Percentage of children placed with at least one but not all siblings who are also under court jurisdiction, as appropriate • Percentage of children placed with relatives 	CA CPM
<ul style="list-style-type: none"> • Time to foster care exit (may potentially be tracked through child and family identifying number from child welfare agency) • Type of foster care exit (may potentially be tracked through child and family identifying number from child welfare agency) • Number of placement moves child experienced while in foster care (may potentially be tracked through child and family identifying number from child welfare agency) 	FJI Indicators
<ul style="list-style-type: none"> • ICWA compliance: Whether active efforts were provided to prevent foster care placement (double-coded legal requirements met) • ICWA compliance: Whether/when there is a finding of imminent physical damage or harm • ICWA compliance: Placement of child (does it follow placement preference or reasons it does not) • ICWA outcome: Fewer removals • ICWA outcome: More tribal placements, either at home, with relatives, or extended tribal family • ICWA outcome: Placement stability • ICWA outcome: Improvement in disproportionate out-of-home placement numbers 	ICWA Baseline Measures
<ul style="list-style-type: none"> • Child placements that adhere to ICWA preferences; if not, reasons why 	ICWA Toolkit
<ul style="list-style-type: none"> • Percentage of children placed with all siblings who are also under court jurisdiction (double-coded—see child well-being during case) • Percentage of children placed with at least one but not all siblings who are also under court jurisdiction (double-coded—see child well-being during case) • Percentage of youth parents placed with all their children (double-coded—see child well-being during case) • Percentage of children in out-of-home care placed in relative placement 	NCSC Physical/Emotional Well-being
<ul style="list-style-type: none"> • Children moved while under court jurisdiction: Percentage of children who reside in one, two, three, four, or more placements while under court jurisdiction 	The Toolkit
<ul style="list-style-type: none"> • Percentage of children who reside in one, two, three, four, or more placements while under court jurisdiction 	WV CAN Measures

Inclusion in National Recommendations and Standards

Placement is included in five national standards of practice.

ABA Standards of Practice for Attorneys Representing Parents

- The attorney should help the client identify potential kinship placements—relatives who can provide care for the child while the parent is incarcerated. If attorney practices in a jurisdiction that has a specialized unit for parents and children, and especially when the client is incarcerated for an offense that is unrelated to the child, the attorney should advocate for such a placement.
- The attorney must learn about available resources, contact the placements, and attempt to get the support of the agency and child’s attorney.

ABA Child Safety Guide

- Conditions for return should not be confused with long-term service needs or what must change over time. It is not necessary to wait until the family is able to protect the child before returning the child home. Threats of danger do not have to be eradicated—they need to be controlled—before children can be reunified with families. Likewise, parents do not have to change before children can be reunified.
- When deciding to return a child, judges should focus on whether return can be made safely, not on parents complying, completing, or even improving with treatment.

ABA Reducing Racial Disparity in the Child Welfare System

- This recommendation calls for additional supports for relative caregivers because numerous studies have found that increasing resources to relatives helps decrease disproportionate racial and ethnic minority representation in the child welfare system. Importantly, the 2007 GAO report found that utilizing relative resources improves outcomes for racial and ethnic minority children, who if placed in nonrelative foster care end up remaining in the system significantly longer than their nonminority counterparts.

NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings

- Attorneys should collaborate with the client to develop safety plans and permanency plans. This may include services to support or restore familial connections or requests for placement.

- Attorneys should regularly consult with clients about available kin or fictive kin who may serve as supports or possible placement options and assist in contacting those individuals.
- Just as requests for family separation at the initiation of the case should be scrutinized, attorneys should also advocate for return home as soon as safely feasible, consistent with client requests.

BIA Guidelines for Implementing the Indian Child Welfare Act

- State agencies should try to identify extended family or other individuals with whom the child is already familiar as possible emergency placements. If the child is an Indian child, agencies should strive to provide an initial placement for the child that meets ICWA's (or the tribe's) placement preferences. This will help prevent subsequent disruptions if the child needs to be moved to a preferred placement once a child-custody proceeding is initiated. State agencies should also determine if there are available emergency foster homes already licensed by the state or the child's tribe. If the Indian child is placed on an emergency basis in a nonpreferred placement because a preferred placement is unavailable or has not yet met background check or licensing requirements, state agencies should have a concurrent plan for placement as soon as possible with a preferred placement. Though not required, it is recommended that state agencies and/or courts provide notice to tribes and parents or Indian custodians of: any change in placement—the statute provides rights to parents, Indian custodians, and tribes (e.g., right to intervene) and a change in circumstances resulting from a change in placement may prompt an individual or tribe to invoke those rights, even though they did not do so before; any change to the child's permanency plan or concurrent plan—a change in the ultimate goal may prompt an individual or tribe to invoke their rights, even though they did not do so before; in any adoptive placement of an Indian child under state law, where the Indian child's tribe has not established a different order of preference, preference must be given in descending order, as listed below, to placement of the child with—
 - A member of the Indian child's extended family
 - Other members of the Indian child's tribe
 - Other Indian families
 - If the Indian child's tribe has established by resolution a different order of preference than that specified in ICWA, the tribe's placement preferences apply.
 - The court must, where appropriate, also consider the placement preference of the Indian child or Indian child's parent.

Research Evidence

There has been a large amount of research that has explored placement as an outcome. Five studies have explored attorney representation in relation to placements. A study of legal representation found that counties with county-affiliated representation had more placement settings in a year compared with counties with independent legal representation (Goodman, Edelstein, Mitchell, et al., 2008). A study comparing parents with attorneys to parents without attorneys found that average number of placement settings was slightly lower for parents with attorneys but that this number was not significant (Sicafuse, Wood, & Summers, 2014). A study examining perceptions of father involvement found that there was a perception that when the father had an attorney, he was more likely to be considered as a placement option (McNaughton, 2014).

Two studies found no relationship between attorney models and outcomes. A study examining student attorneys compared with fully licensed attorneys found no statistically significant differences between in relative placements for their clients (Haight, Marshall, & Woolman, 2015). An experimental study of treatment and control attorneys had no differences in number of placement moves or placement with kin (Orlebeke, Zhou, Skyles, et al., 2016).

Four studies have examined judge or court practice in relation to placements. Research has linked discussion within hearings to better placement outcomes for children, in that higher amounts of discussion in hearings is related to higher rates of relative and parent placements at early case hearings (Macgill & Summers, 2014) and throughout the life of the case (Summers, Gatowski, & Gueller, 2017). Implementation of a judicial bench card was also related to a decrease in foster care and congregate care placements and an increase in parent and relative placements in early case hearings (Bohannon, Nevers, & Summers, 2015). An evaluation of the safe babies court found the number of placements for the court was positive in comparison to standards (Casanueva, Harris, Carr, et al., 2019).

Three studies have looked at ICWA preferred placements. One study found several important factors related to preferred placements in ICWA cases. Timelier notice to the tribe, presence of parents, presence of parent's attorneys, and following ICWA requirements were related to the child being more likely to be in a preferred placement setting (CBCC, 2019). A survey of professionals found that 68 percent were familiar with the preference for placing youth with an Indian caregiver and 50 percent were familiar with the procedures for Indian caregivers to meet child protection standards (Limb, Chance, & Brown, 2004). One study found that children with an American Indian Cultural Environment had fewer and longer placements. The study also

found that children from local tribes had significantly shorter placements than children from nonlocal tribes (Quash-Mah, Stockard, Johnson-Shelton, et al., 2010).

One study looked at placement at the initial hearing as a predictor of other outcomes. Children who were returned home had a significantly higher likelihood of reunification compared with children not returned home at the initial hearing; of the children who returned home at the initial hearing, 20 percent reentered foster care after successful case closure (Gonzalez & Summers, 2014).

Exhibit 40. Existing Research Measures of Child Placement During the Case

Data source	Measures	Reference
Case file review	Number of placement moves across the life of the case; placement types at the adjudication hearing	Sicafuse, Wood, & Summers, 2014
	Total placement is a count of the number of times a child moved to a new residence. Placement type indicates who the child resides with at a specific stage in the judicial process.	Bohannon, Nevers, & Summers, 2015
	Type of placement for children—home, relative, other (foster care, institutions, family friends)	Duquette & Ramsey, 1986
	When the court returned physical custody of the children back to the parent	Fessinger, Hazen, Bahm, et al., 2020
	Child placement at the 6-month review hearing. Child placement variable was coded as home (with parent), relative/kinship placement or nonrelative foster care.	Gonzalez & Summers, 2014
	Number of days of out of home care	Halemba, Siegal, Gunn, et al., 2002
	Percentage of cases in which at least one child required an out-of-home placement during the life of a case; number of days in out-of-home placement	Herring, 1993
	Initial placement equals percentage of children judges ordered to remain at home and to be placed out of home (excluding emergency holds). Out-of-home placements could include placement with kin, nonrelative foster care, residential treatment, etc.	Karatekin, Gehrman, & Lawler, 2014
	Placement of the child at early case hearings (i.e., preliminary protective and adjudication hearings), including parent, relative, or nonrelative foster care	Macgill & Summers, 2014
	Percentage of children placed with noncustodial parent	McNaughton, 2014

Data source	Measures	Reference
	Length of time in out-of-home placement	Oetjen, 2003
	Placement decisions (as reflected in judicial orders) made at the preliminary protective hearing, and placement decisions made at the adjudication hearing.	Russell & Summers, 2013
	Whether the child was placed with a parent, with a relative, or in stranger foster care. Stranger foster care included congregate care settings (e.g., group homes) or other institutions.	Summers, Gatowski, & Gueller, 2017
	Percentage of children removed from the home at petition filing; number of placements with parents; number of placements in foster care; number of placements with relatives at the time of the hearings	Summers, Wood, McClellan, et al., 2011
Focus group	<p>ICWA compliance: Placement of child (does it follow placement preference or reasons it does not)</p> <p>ICWA outcome: More tribal placements, either at home, with relatives, or with extended tribal family</p> <p>ICWA outcome: Placement stability</p> <p>ICWA outcome: Improvement in disproportionate out-of-home placement numbers</p>	CBCC, 2019
Interview	Asking grandparents reasons they decided to care for their grandchildren	Cross, Day, & Byers, 2010
Survey	<p>Survey respondent perceptions that the father was more strongly considered as a placement option due to his representation by an attorney.</p> <p>Survey respondent perceptions that the father's kin was considered as a placement/visitation option earlier in the case because the father was represented by counsel.</p>	McNaughton, 2014
Administrative data	CFSR statewide measures: Children in care for less than 12 months with no more than two placements; children in care from 12 to 23 months with no more than two placements	Casanueva, Harris, Carr, et al., 2019
	Mean number of placements per child and median number of days in foster care	Goodman, Edelstein, Mitchell, et al., 2008
	Percentage of cases in relative placements	Haight, Marshall, & Woolman, 2015
	Rates of kinship placement and rates of movement within one year of assignment	Orlebeke, Zhou, Skyles, et al., 2016

Data source	Measures	Reference
	The total number of placements that a child experiences; the average length of each placement; placement with guardians and relatives versus foster care	Quash-Mah, Stockard, Johnson-Shelton, et al., 2010
	Child removal and placement in foster care	Putnam-Hornstein, Ahn, Prindle, et al., 2021
	Measured placement in terms of kin, traditional foster home, treatment foster home, residential care, and other	Zinn & Cusick, 2014

Gaps in Understanding

Placement is an important outcome for children. Research has shown a negative impact for youth placed in congregate care (see, for example, Annie E. Casey Foundation, 2015). It is expected that youth in relative placements will have better outcomes than youth in stranger foster care. The available research on court, judicial, and attorney practices is limited and mixed. The one study with a robust experimental design found no impact of child representation model on placements for youth. The other studies have shown some correlations, particularly between judicial practice and discussion in hearings and more relative and parent placements. There is still much to learn. It is unclear how important discussion of placement in court or attorney advocacy for better placement are related to placement decisions in hearings and case outcomes for children and families. The research on ICWA preferred placements is also limited. A few studies showed some important relationships between case factors such as ICWA compliance and local tribes and better placement outcomes. Yet, as a whole we know very little about ICWA placements, including what predicts better placements for youth and how these placements might be related to well-being, safety, and permanency for children and families. More studies are needed to directly tie judicial and attorney practice to improved placement outcomes for families and to better determine how placement impacts youth’s well-being throughout the life of the case and beyond.

Family Engagement in Services and Case Process

Family engagement during the case is defined as the family’s communication with the court, (judges and attorneys), participation in decision-making, and participation in services and in the court process throughout the case. Performance measures for this subcategory (exhibit 41) are most often related to court activities that encourage attendance, and ongoing presence of parties throughout the case. Measures also address referrals and receipt of services, parent completion of service plans, and parent perception of their participation in the court process. Studies have focused on engagement strategies, including efforts to help families understand

legal processes and involve families in problem solving. Research often uses parent attendance at hearings throughout the case as an indicator of parent engagement.

Exhibit 41. Existing Performance Measures of Family Engagement During the Case

Measure	Source
Percentage of cases for which youth have input into their case plans; 2D Percentage of hearings in which child or parents are present if statutorily entitled to be present; 2F: Percentage of hearings in which other statutorily entitled individuals who are involved in the case (e.g., CASA volunteers, caregivers, de facto parents, others) are present	CA CPM
Percentage of hearings at which the client appears (tracked by client category: parent, child under age 5, child aged 5–10, child over 10); number of hearings postponed due to lack of attendance by client, and reason for client not attending if known (lack of notice, transportation, chose not to appear); percentage of cases in which parent completed service plan	FJI Indicators
Presence of tribal community representative at hearing	ICWA Baseline Measures
Median number of days from date of each parent’s court-ordered mental health assessment to date of assessment completion (double coded; see child well-being during case)	NCSC Physical and Emotional Well-Being
Parents feel their voices are heard.	Parent Representation Indicators
Questions for foster care providers: 1. Have you received a copy of the most recent case plan? 2. Is there anything you would suggest be added to the case plan? 14. Have you been made aware of the most recent report and/or recommendations by the GAL or CASA in this case? If so, do you agree with the recommendations? If you do not agree with the recommendations, what recommendations would you make? Are there any additional recommendations you would make? 15. Have you been made aware of the most recent report(s) and/or recommendations in this case made by persons other than the GAL or CASA? If so, do you agree with the report(s) and/or recommendations? If you do not agree with the report or recommendations, please explain. Are there any additional recommendations you would make?	SC Caregiver Measures
Advance written notice of hearings to foster parents, preadoptive parents, and relative caregivers: Percentage of child abuse and neglect cases with documentation that written notice was given to foster parents, preadoptive parents, and relative caregivers in advance of every hearing for which they were entitled to notice	The Toolkit
Presence of parties during hearings: How often parties attend substantive court hearings; how often foster parents, preadoptive parents, and relative caregivers receive advance notice of each nonprocedural hearing for which they are entitled to receive notice	WV CAN Measures
Substance use disorder (SUD): The percentage of parents in child protection cases under court jurisdiction who have case plans requiring SUD treatment; SUD services: The percentage of parents in child protection cases under court jurisdiction who have case plans requiring SUD treatment who received treatment	RJOI Child Welfare Measures for the Judiciary

Inclusion in National Recommendations and Standards

Family engagement during the case is described in standards as related to empowering parents and children, which can encourage their participation in the court process. This involves educating children about the law and options available to them, the roles and responsibilities of their representative, and the goals and purpose of child welfare court hearings (Katner, McCarthy, Rollin et al., 2001; NACC, 2021). Clearly communicating that the attorney is working to advocate for the parent's or child's interests, ensuring parents and children understand their attorney is working on their behalf, and making parents and children comfortable sharing their goals and needs are important so that attorneys can effectively advocate for their client's interest (ABA, 2006; NACC, 2021). When an Indian child is identified, extended family and the tribal community should be invited to participate in court processes, including hearings, family team meetings, and permanency planning, so that they can provide support and services to the Indian child's family (BIA, 2016).

A thorough assessment of the child's and family's needs should be conducted so that tailored service referrals can be made to promote family reunification. Family preservation strategies that are culturally appropriate and provided by the child's tribe should be employed, such as services that address historical trauma and incorporate tribal spiritual beliefs (Aleut Community of St. Paul, n.d.; BIA, 2016). If the service plan is deficient, reasonable efforts may not have been made to reunify the child with their family—this can hinder timely permanency by delaying reunification, termination of parental rights, or appeals to reverse the termination (Gatowski, Miller, Rubin, et al., 2016).

The case plan is critical, as it identifies services that will help the family resolve issues that brought them to court, and outlines expected changes that will lead to termination of the court's jurisdiction (Lund & Renne, 2009). The parent's attorney should be actively involved in case planning to make sure the client is able to ask for and receives needed services—and to ensure that the case plan does not include unnecessary services that do not address key family issues (ABA, 2006). Determining appropriate services for Indian children and their families should include discussions with tribal elders, tribal leadership, spiritual leaders, or individuals with expertise about culturally appropriate services for a given tribe (BIA, 2016). The attorney should advocate for appropriate accommodations by the child welfare agency and the court to address special issues, such as language differences and reading level, related to parents' participation in the proposed case plan (ABA, 2006). Judges can promote effective services for the family by knowing what community services are available and understanding whether evidence-based, effective services have been included in the service plan (Gatowski, Miller, Rubin, et al., 2016).

Assessing parent progress is critical in ensuring the child's safety throughout the case (Lund & Renne, 2009). Judges should not rely on service completion by the parent to make reunification decisions but should consider whether conditions in the home have changed and should require service providers to provide evidence of changes in parent behaviors and attitudes (Gatowski, Miller, Rubin, et al., 2016; Lund & Renne, 2009).

The parent's attorney should work with the client, caseworker, and service providers to address barriers to accessing services, such as job responsibilities, financial issues, and transportation; advocacy for reasonable efforts may be especially necessary for parents who are incarcerated where service access may be limited (ABA, 2006). Courts should ensure racial and ethnic minority families receive equitable referrals and are able to access services to maintain children safely in their home (ABA, 1996). To determine this, data should be collected and reviewed by the courts to understand the types of service referrals, the type and number of services accessed, and delays in services that may disproportionately impact racial and ethnic minority families (ABA, 1996).

NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings (2021) state that attorneys should collaborate with the child client to develop safety plans, permanency plans, and transition plans for youth aging-out of foster care. Attorneys should assess and advocate for education services and opportunities for youth, advocate for youth to participate in normative childhood activities within and outside of school settings, and advocate for a change of therapeutic provider if a youth does not have trust or rapport with that provider.

Research Evidence

There are a number of studies (exhibit 42) that examine the association between family engagement during the case and child and family outcomes. Child welfare court proceedings can be frustrating and difficult to understand for parents and children, which can cause families to withdraw from the process (Gerber, Guggenheim, Pang, et al., 2020). Youth reported their experiences in court could leave them feeling angry, anxious, and powerless (Zinn & Slowriver, 2008). Most children involved in child protection court cases interviewed by Block, Oran, Oran, et al. (2010) did not understand what decisions had been made in the hearing and did not know they had an attorney. Attorneys can help parents understand the court process, but this does not always occur due to high caseloads and lack of training of parent attorneys (Kierkus & Johnson, 2019).

Increased knowledge of the legal process may be associated with more positive views of court hearings (Block, Oran, Oran, et al., 2010). Mentoring programs may be used by courts to give

information to parents about the case process and provide them with peer support. P4P offers information on the court case process and follow-up support delivered by parents with lived experience in child welfare court cases. P4P was studied by using comparison groups to examine differences between cases with parents attending P4P informational sessions and those who did not (Bohannon, Gonzalez, & Summers, 2016; Summers, Wood, Russell, et al., 2012), with one study using a quasi-experimental matched case design (Trescher & Summers, 2020). Pre-post surveys of over 436 parents attending a 2-hour P4P informational session found understanding of the role of professionals, trust in the child welfare agency, awareness of issues in their families that could be addressed, and feeling alone significantly improved (Summers, Wood, Russell, et al., 2012). Studies found significantly increased attendance at hearings, visitation with children, and compliance with service plans for parents who participated the P4P informational sessions compared with parents who did not (Bohannon, Gonzalez, & Summers, 2016; Summers, Wood, Russell, et al., 2012; Trescher & Summers, 2020). Parents attending the P4P session were also significantly more likely to reunify with their children (Bohannon, Gonzalez, & Summers, 2016; Summers, Wood, Russell, et al., 2012; Trescher & Summers, 2020); no differences between racial/ethnic groups were found in relation to parent-child reunification (Bohannon, Gonzalez, & Summers, 2016).

To encourage parents' participation in the case process, practices have been used that give parents an opportunity to problem solve with court and child welfare professionals in a non-adversarial setting. FTDM meetings gather families (including parents and relatives) and professionals (attorneys and social workers) to discuss potential placements for the child. A study by Summers, Wood, Mclellan, et al. (2011) reported that in cases in which FTDM was used, parents attended a greater percentage of hearings. Mediation is another process that brings together parents and professionals to discuss and resolve issues with the help of a neutral mediator, which has been found to increase the likelihood of reunification (Kierkus & Johnson, 2019).

Parent attendance throughout the court case appears to be an important measure of court performance, as several studies have found that increased attendance is associated with a greater likelihood of reunification (Bohannon, Nevers, & Summers, 2015; Summers, 2017; Wood, Summers, & Soderman Duarte, 2016). Attendance of parents at hearings may give them an opportunity to provide input, as parent presence is associated with a greater breadth of discussion (increased number of topics discussed) in the hearing (Bohannon, Nevers, & Summers, 2015). Greater breadth of discussion at earlier hearings may be associated with greater likelihood of parent attendance at later hearings (Gonzalez & Summers, 2014), which suggests that earlier participation encourages later participation in the court process. Legal

representation has been reported to increase parent attendance (McNaughton, 2014), though not all studies have found this to be the case (Sicafuse, Wood, & Summers, 2014).

In addition to attendance at hearings throughout the court processes, parent engagement during the case has been operationalized by examining parent compliance with service plans (e.g., McNaughton, 2014; Summers, Wood, Russell, et al., 2012; Trescher & Summers, 2020). Service plan compliance is important, as it may be associated with whether the child reunifies with their parents (Summers, Wood, McLellan, et al., 2011), yet parent interviews indicate that service plans can be overwhelming, may not match their needs, and present barriers to completion (Zinn & Slowriver, 2008). Effective legal representation may help parents obtain appropriate and useful services, as attorneys can advocate for services focused on the specific issues that brought the family to court, and address barriers to accessing these services (Gerber, Guggenheim, Pang, et al., 2020).

It may be that parents who understand the court process and believe it is fair are more likely to successfully complete services. Studies of P4P have reported increased service plan compliance (Bohannon, Gonzalez, & Summers, 2016; Summers, Wood, Russell, et al., 2012; Trescher & Summers, 2020). A study of parents in FTDCs found they had a higher perception of procedural justice and belief that the court process was fair than did control parents; this perception was associated with more consistent participation in court-ordered services and, in turn, higher rate of reunification (Fessinger, Hazen, Bahm, et al., 2020).

Exhibit 42. Existing Research Measures of Family Engagement During the Case

Data source	Measures	Reference
Child interviews	Interview questions assessed knowledge of the court process and attitude toward the hearing, including perception of whether their position was represented by their attorney, and response to the court's actions.	Block, Oran, Oran, et al., 2010
Case file data	Case plan compliance and visitation compliance variables were measured on a scale of 0 = no to 1 = partial or full compliance. For each of these variables, the total number of hearings for which parents complied with services in the case plan at either the 6-month review, first permanency hearings (i.e., approximately 12 months from entering the child welfare system), or at both hearings was coded.	Bohannon, Gonzalez, & Summers, 2016
Case file data	Case plan level of compliance was measured (level of compliance ranges from 1 to 4, from noncompliance to substantial compliance); mean compliance was calculated for compliance levels at review and permanency hearings.	Bohannon, Nevers, & Summers, 2015

Data source	Measures	Reference
Review of court case files	Tribal representative involvement was measured as presence (yes/no) at the first six hearings, calculated to create a variable for if a tribal representative was ever present at any of the six hearings coded, and calculated as a percentage of the six hearings at which the tribal representative was present.	Capacity Building Center for Courts, 2019
Court administrative data	Compared needs for services and receipt of services (number of families assessed as needing services, percentage receiving these services within 60 days of referral/court order); number of days to service receipt for early intervention services.	Casanueva, Harris, Carr, et al., 2019
Interview	Interview question on protocol asked about service needs and services accessed.	Cross, Day, & Byers, 2010
Court records	A list of potential services and evaluations were compiled by evaluators, the judge, and caseworkers. If the court ordered an evaluation, coded to indicate completion. If the court ordered parents to participate in services, coded most recent 6-month reporting period (did not participate, inconsistent participation, completed participation).	Fessinger, Hazen, Bahm, et al., 2020
Case file review	Mother present (yes/no), father present (yes/no), relatives present (yes/no, number of relatives), rate of mother's appearance initial hearing to jurisdiction hearing, rate of father's presence initial hearing to jurisdiction hearing	Gatowski, Dobbin, & Litchfield, 2002
Parent interviews	Interviews assessed families' perceptions of appropriateness of services ordered.	Gerber, Guggenheim, Pang, et al., 2020
Case file review	Parental presence (by mother or father) was calculated as the percentage of time the parent attended all court hearings (i.e., number of hearings attended/total possible hearings).	Gonzalez & Summers, 2014
Survey	Survey items include (1) The case was resolved in a reasonable amount of time; (2) The courtesy of court staff; (3) Perceptions of fairness; (4) The courtesy of the judge; (5) The outcome of the case; and (6) Understanding the case outcomes.	Kierkus & Johnson, 2019
Case file review	Percentage of noncustodial fathers receiving case plans; percentage of noncustodial fathers with some, unknown, or no compliance with case plan; percentage of time noncustodial fathers appeared in court	McNaughton, 2014
Court stakeholder survey	Agreement with statement: The involvement of the attorney had a positive impact on the father's involvement in the case.	McNaughton, 2014
Survey of GALs	Survey items include whether GALs advocate for the child's presence at court, and county practices related to children's presence in court.	Pitchal, Freundlich, & Kendrick, 2009
Case file review	Frequency of parent appearances in court. Percentage of	Sicafuse,

Data source	Measures	Reference
	presence was calculated by recording the number of hearings at which each party was present and dividing by the number of possible hearings that each party could have attended.	Wood, & Summers, 2014
Court observation	Presence of parties observed at hearings, calculation of what percentage of hearings had mother present, father present, and child present within each jurisdiction	Summers, 2017
Case file review	The case file review instrument included a list of common service types. Coders marked yes/no for each service type and then had an opportunity to identify other services that were ordered beyond this list.	Summers, Gatowski, & Gueller, 2017
Case file review	Court finding of parent compliance with court-ordered case plan; parent's presence at court hearings; calculation of overall percentage of how often the parent was present across the first five hearings in the case	Summers, Wood, Russell, et al., 2012
Parent survey	Pre- and post-surveys administered to parents attending informational session to assess attitude changes in (1) trust in child protective services, (2) awareness of parenting issues, (3) understanding roles of stakeholders, (4) perceived control, and (5) feeling alone	Summers, Wood, Russell, et al., 2012
Case file review	Parent service compliance was coded for either "full compliance," "partial compliance," or "no compliance" with court-ordered services. Compliance was coded at three different hearings: the first two review hearings and the permanency planning hearings.	Trescher & Summers, 2020
Case file review	Parental presence was assessed based on the percentage of key court hearings across the life of the case that the parent was present; parental compliance with the case plan was measured based on a court finding of compliance, by hearing type (judicial officers make compliance findings at each hearing of no, partial, or in compliance for all parents that are a party to the case).	Summers, Wood, Mclellan, et al., 2011
Case file review	Percentage of presence was calculated by recording the number of hearings at which each party was present and dividing by the number of possible hearings that each party could have attended.	Wood, Summers, & Soderman Duarte, 2016
Parent interviews	Interview questions to understand experience of case process and experience with service plan	Zinn & Slowriver, 2008

Gaps in Understanding

Parents have been the focus of most studies of family engagement and service plan progress during the case. There is little research on the engagement of children during the case process, though one study found that the percentage of hearings involving judicial interactions with children was associated with permanency outcomes (Summers, 2017). There is a lack of

studies of tribal community involvement during cases where ICWA is applied, though one study reported that when the tribe was present at the initial hearing, children returned home far more quickly than in cases where the tribe was not present at the first hearing (Capacity Building Center for Courts, 2019).

Parent attendance is the most frequent indicator used to assess engagement. This information is easily obtained, and multiple studies suggest that it is associated with important child outcomes. The role of service plan completion is also important, yet how to assess whether planned services are appropriate and accessible to the needs of families is more complex. Additional study of service plan completion may be necessary, particularly to understand potential differences in service referrals and access for children and families who are members of racial and ethnic minorities.

Child Safety During the Case

Child safety during the case, for the purpose of this literature review, was defined as the absence of child maltreatment during a child welfare case. This measure (exhibit 43) includes other harm to the child, including whether the child is on runaway status or child deaths during the case. This subcategory has been measured primarily with administrative data from the child welfare agency. A few descriptive studies (exhibit 44) have examined safety during the case for program versus nonprogram cases with positive findings, but these studies did not make statistical comparisons. In the one study that did, it was limited in sample size and found an effect in only one of two sites.

Exhibit 43. Existing Performance Measures of Child Safety During the Case

Measure	Source
<ul style="list-style-type: none"> Percentage of children who were not victims of another substantiated maltreatment allegation within 6 and 12 months after the maltreatment incident that led to the filing of the initial petition For all children served in foster care during the year, percentage of children who were not victims of substantiated maltreatment by a foster parent or facility staff member 	CA CPM
<ul style="list-style-type: none"> Children will be protected from abuse/neglect and will be returned home as soon as danger of harm ceases. 	ICWA Baseline Measures
<ul style="list-style-type: none"> Children are safe. Safe childcare is available. <ul style="list-style-type: none"> - Percentage of childcare facilities reviewed for health and safety - Percentage of providers giving enhanced childcare Home settings are safe and nurturing <ul style="list-style-type: none"> - Percentage of children in state care who are re-abused 	OR Well-Being

Measure	Source
<ul style="list-style-type: none"> - Average number of months to finalized adoptions - Number of children with court-appointed advocates with home placement plans - Percentage change in Healthy Start families with child maltreatment incidents - Percentage of all funding activities meeting targets • Children do not harm themselves or others <ul style="list-style-type: none"> - Measures of suicidal behavior in children - Number of persistently dangerous schools - Individual plans completed and implemented for youth - School truancy, community runaways, and escapes - Injuries per 100 days of confinement or placement - Percentage of youth served by juvenile crime prevention services whose risk factors decrease - Number of youth served by juvenile crime prevention services 	
<ul style="list-style-type: none"> • Percentage of cases in which the children are not removed that receive a new re-referral of abuse and neglect that is substantiated within 6 months of the pre-petition appointment • Reentry rate at intervals after reunification: Percentage of cases in which child reentered within 6 months; percentage of cases in which child reentered within 12 months 	Parent Representation Indicators
<ul style="list-style-type: none"> • Child safety while under court jurisdiction: Percentage of children who are abused or neglected while under court jurisdiction 	The Toolkit
<ul style="list-style-type: none"> • Percentage of children who were victims of child abuse and neglect while under court jurisdiction 	WV CAN Measures

Inclusion in National Recommendations and Standards

NACC Recommendations for the Legal Representation of Children and Youth in Neglect and Abuse Proceedings (2021) consider it a duty of the children’s attorney to balance attention to safety, permanency, and well-being at all stages of legal representation. Regardless of the client’s placement or stage of the case, the children’s attorney should routinely ask about the client’s physical and emotional safety, report any harmful and unlawful conditions in placement to appropriate authorities, and, if needed, help formulate safety plans.

Child safety during the case is included in the ABA’s Child Safety Guide as a practice standard. The Safety Guide indicates the following:

- Child safety decisions should be made throughout the case. These decisions are informed by threats, vulnerability, and protective capacity in the case. Visitation is less helpful to future safety decisions when it is identical in every case.

Research Evidence

Very few studies (exhibit 44) have examined safety during the case, and all of the studies are primarily descriptive in nature (i.e., they don't demonstrate relationships). One study found that there were no subsequent reports of abuse and neglect for children involved in a well-being court model (Casanueva, Goldman Fraser, Gilbert, et al., 2013). A second study of pre-petition legal representation also found that none of the cases had other instances of maltreatment while in care (Detroit Center for Family Advocacy, 2013). A third study examined the effects of a parent representation model. The sample sizes were small, but a significant difference was found in the number of children returning to care. Those in the program were less likely to return to care in one of the two project sites (Harper, Brennan, & Szolnoki, 2005). This subcategory relates to judicial safety decision-making and also overlaps with the child safety as long-term outcome on the case.

Exhibit 44. Existing Research Measures of Child Safety During the Case

Data source	Measures	Reference
Case file review	Number/percentage of instances of a new removal after a trial return home placement	Summers, Wood, Mclellan, et al., 2011
Focus group	Children will be protected from abuse/neglect and will be returned home as soon as danger of harm ceases.	CBCC, 2019
Administrative data	CFSR statewide indicator Safety Performance Area 2: Of all children who were victims of substantiated or indicated maltreatment allegation during a 12-month period, what percentage were victims of another substantiated or indicated maltreatment allegation within the next 12 months?	Casanueva, Harris, Carr, et al., 2019
	Additional petitions alleging abuse and neglect during study period	Casanueva, Goldman Fraser, Gilbert, et al., 2013
	Whether any children in the family were victims of a substantiated investigation of child maltreatment in the 24 months following petition filing	Gerber, Pang, Ross, et al., 2019
	Percentage of children subjected to further maltreatment while under protective supervision and type of maltreatment; out of the cases opened more than 6 months prior to the end of the study period, percentage that were referred for another petition within the study period; child fatality rate	Karatekin, Gehrman, & Lawler, 2014
	Number of and percentage of children at case closure with outcome = runaway or death	Pitchal, Freundlich, & Kendrick, 2009
Survey	Survey asked (yes/no or scale 1–5): To what extent does the safety plan for this child address the specific safety threats that prevent this child from returning home?	Orlebeke, Zhou, Skyles, et al., 2016

Gaps in Understanding

Very little is known about child safety during the case. While it is listed in several performance measures and has been measured in the research literature, studies have not rigorously used it as an outcome measure. Studies identified have also not used safety during the case as a predictor or long-term outcome of interest, such as permanency and well-being for children. A big gap is the relationship between judicial safety decision-making and child safety during the case and after case resolution.

Child Well-Being During the Case

Child well-being during the case is defined as whether the child is able to grow and thrive during the case, and includes physical and emotional health, educational progress and achievement, connections to community and to their culture, and access to and involvement in the normal activities of childhood. This subcategory has been measured in court performance measures (exhibit 45) through assessing the child’s educational progress, connections to tribal communities and placement with siblings, and receipt of medical exams and mental health assessments. There is little research on court practices or hearing quality components associated with ensuring child well-being during the case.

Exhibit 45. Existing Performance Measures of Child Well-Being During the Case

Court performance measures	Source
Percentage of children who did not have a school change when they had a change in living placement; median number of school transfers; median number of school days between the last day attended at old school and first day of attendance at new school; percentage of ASFA hearings where the child’s education was addressed; percentage of school-aged children performing at or above grade level; percentage of hearings where the child’s educational decision-maker was present; percentage of children performing at or above grade level at case closure; percentage of children who drop out of school; percentage of children who attended at least 95 percent of school days; percentage of children aged 0–3 evaluated for early intervention; percentage of children aged 3–5 who have been enrolled in an enriched early education program; time from referral for special education services to assessment; time from completion of special education services assessment to delivery of services; percentage of children who have received school disciplinary actions; percentage of high school graduates/GED holders accepted into a post-secondary education program	NCSC Educational Well-Being
Of children not enrolled in school at time of filing, the percentage who are enrolled in school during the course of the case; improvement in child’s school attendance or grades during case	FJI Indicators
Increased tribal connections for children and youth	ICWA Baseline Measures
Percentage of children and youth who received an initial health screening no later than 72 hours after the first hearing; median number of days from first hearing to initial	NCSC Physical/Emotional

Court performance measures	Source
<p>health screening; for those children who received an initial health screening, percentage who received a comprehensive health assessment within 30 days of first hearing; for those children who received a comprehensive health assessment, the percentage of ASFA hearings where the child's preventative healthcare was addressed; the percentage of children and youth under court jurisdiction who have current immunizations at exit; percentage of children and youth under court jurisdiction who received a mental health screening within 30 days of first hearing; for children who received a mental health screening within 30 days of the first hearing, percentage of mental health assessments that occur within 60 days of order; the percentage of ASFA hearings during which the child's mental health needs were addressed; when psychotropic medications are prescribed, the percentage of ASFA hearings during which the child's psychotropic prescriptions are reviewed; percentage of youth who have a court-approved transition plan within 90 days prior to aging out of care</p>	Well-Being
<p>Questions for foster care providers: If age appropriate, what independent living services have been provided? Please describe any behavioral, emotional, or mental health concerns with the child, if any exist (e.g., any changes in eating or sleeping patterns, acting out or aggressive behaviors, withdrawal). If there are concerns, are these being addressed with services? Please identify any needs this child has that are not currently being addressed with services. Please describe the child's educational progress and identify any concerns (e.g., peer or teacher issues, bullying, academic progress or lack of progress, special education needs). Does the child have regular, ongoing opportunities to socialize or participate in recreational activities with peers? If so, please describe. Please include any challenges to participation in activities.</p>	SC Caregiver Measures

Inclusion in National Recommendations and Standards

Standards describe well-being as meeting the child's basic needs for food, shelter, clothing, healthcare, and dental care, and supporting the child's healthy development (Katner, McCarthy, Rollin et al., 2001; NACC, 2021). Educational stability and academic progress are also addressed through standards. Changes to the child's school should be avoided (Gatowski, Miller, Rubin, et al., 2016), and the child should have access to appropriate technology for remote learning (ACYF-CB-IM-21_03). Continuity of connections with family, community, and cultural connections fosters child well-being (ACYF-CB-IM-21-01; BIA, 2016). Timely, tailored services should be provided to the child to address their specific needs (ABA, 2006; NACC, 2021), such as counseling to support the child's mental health or addressing learning challenges (Katner, McCarthy, Rollin et al., 2001; NACC, 2021). Service referrals should be made with awareness of trauma that may occur when a child is separated from their parents and with awareness of unequal service delivery that may occur due to the child's race/ethnicity (ABA, 2008; NACC, 2021).

Federal laws addressing the child’s well-being during the case include ICWA. One aspect of this law is the identification of Indian children, to support continued communication and interactions with their tribal community and relatives.

Research Evidence

There were few studies of how the court may improve the child’s well-being during the case (exhibit 46). Sloan, Gifford, Eldred, et al. (2013) reported that children in counties with unified family courts spent less time in foster care and that this reduced time in care was associated with better reading and math school performance. An evaluation of a specialized well-being court serving very young children found decreased developmental risks and improved parent responsiveness for 33 parent-child pairs who completed an intensive child-parent psychotherapeutic intervention, a service that was a central component of the court model (Casanueva, Goldman Fraser, Gilbert, et al., 2013).

Exhibit 46. Existing Research Measures of Child Well-Being During the Case

Data source	Measures	Reference
State education department administrative data	End-of-school-year math test scores, end-of-school-year reading test scores	Sloan, Gifford, Eldred, et al., 2013
Clinician assessment	Parent-child relationship outcomes	Casanueva, Goldman Fraser, Gilbert, et al., 2013
Parent report	Child’s developmental risk: Ages and Stages Questionnaire	Casanueva, Goldman Fraser, Gilbert, et al., 2013; Casanueva, Harris, Carr, et al., 2019
Parent report	The Adverse Childhood Experiences survey	Casanueva, Harris, Carr, et al., 2019
Safe Babies Court Team Database	Number of days to service receipt for early intervention services	Casanueva, Harris, Carr, et al., 2019
Court observation tool	Well-being indicators that are potentially relevant in a hearing, including child education, medical care, and psychotropic medication	Supreme Court Children’s Commission, 2012

Gaps in Understanding

Standards suggest child well-being during the case should be a focus of the court. Currently, court performance measures are often aligned with federally mandated child welfare agency actions, such as ensuring educational stability (P.L. 110-351, Fostering Connections to Success and Increasing Adoptions Act of 2008), and referring Medicaid-eligible children for medical and dental care (Medicaid’s Early and Periodic Screening, Diagnostic, and Treatment benefit, defined at section 1905(r) of the Social Security Act).

There are existing measures of court practices to ensure the child's well-being, such as hearing observations of child well-being topics. There are also outcome measures related to the child's academic progress, such as school attendance and stability, and receipt of early intervention and medical services. While studies on court structures, such as specialty courts, have been conducted, research is lacking on the relationship of court staff practices and hearing quality components that may lead to positive child well-being outcomes. Federal law (The Family First Prevention Services Act of 2018) and current research (Casanueva, Goldman Fraser, Gilbert, et al., 2013) suggests that that exploration of the extent to which court staff are aware and promote evidence-based interventions may be an important area of study. While there has been some research on disparity in child welfare family service referrals for families of color (Lovatto-Hermann, Dellor, Tam et al., 2017), there is a need for studies on whether court practices to foster child well-being differ by race/ethnicity, religion, sexual orientation, gender identity, or disability status.

Child and Family Outcomes: Closed Case and Beyond

The child and family outcomes: closed case and beyond category contains four subcategories:

- **Child safety**
- **Child permanency**
- **Child well-being**
- **Prevention/family preservation**

Child Safety

Child safety as a case outcome is defined as the absence of further child abuse or neglect after the case has closed. Examples of court-based measures of safety (exhibit 47) include the child not experiencing further maltreatment after the end of the case, such as reentering the system due to a subsequent report and substantiation of an allegation of child maltreatment. This subcategory has been measured as the percentage of children who are abused or neglected within a specified time after the case is closed following a permanent placement, and the percentage of cases in which children return to foster care because of further abuse or neglect after their case has closed to specific permanency outcomes such as reunification, guardianship, or adoption (e.g., the Toolkit).

Exhibit 47. Existing Performance Measures of Child Safety After Case Closure

Measure	Source
Percentage of children who are abused or neglected within 12 months after the case is closed following a permanent placement; percentage of children who return to foster care pursuant to court order within 12 and 24 months of case closure following reunification as a result of further abuse or neglect; percentage of children who return to foster care pursuant to court order within 12 and 24 months of case closure following adoption or placement with a legal guardian as a result of further abuse or neglect	The Toolkit
Percentage of children who suffer further abuse and neglect within 12 months after court jurisdiction ends; percentage of children who return to foster care pursuant to court order within 12 and 24 months of case closure following reunification, adoption, or guardianship	WV CAN Measures

Inclusion in National Recommendations and Standards

Child safety at case closure was not included in any of the national recommendations and standards for practice reviewed. See the section on child safety during the case, however, for how best-practice standards for judges and attorneys address child safety (e.g., Lund and Renne's *Child Safety Guide*, 2009; NACC, 2021).

Research Evidence

This review found some studies (exhibit 48) assessing court structures (e.g., one family, one judge case assignment practices and problem-solving court models); use of decision-making tools (e.g., judicial bench card interventions); and hearing quality (e.g., breadth of discussion in hearings) impacts on child safety outcomes at case closure. Using a pre-post test design to measure the effects of a one family, one judge model on permanency outcomes, researchers found no differences in reentry into foster care after case closure when comparing child welfare cases prior to and after implementation of the one family, one judge case assignment model. Researchers concluded that the timelier permanency outcomes the study had found for the one

family, one judge model cases did not result in detriments to safety (Shdaimah & Summers, 2013). Child safety after case closure was examined in a study investigating the impact of the use of a judicial bench card to address implicit bias in decision-making. The study failed to find a positive effect for bench card use on child safety after case closure. Randomly assigning judges to either a bench card implementation group or control (no bench card), the study found that cases in which the judge was a bench card user were more likely to have a new petition filed after case closure than cases where the judge was part of the control condition (Gonzalez & Summers, 2014). A study evaluating the impact of a child well-being court model (e.g., pairing child-parent pairs with therapeutic treatment and coaching) used a pre-post test design and found there were no further reports of abuse for a minimum of 6 months after closing the case in the post-test group (Casanueva, Goldman Fraser, Gilbert, et al., 2013). Conclusions that can be drawn from this study, however, are limited due to the small sample size and because the population of children studied were aged 3 or younger at adjudication.

Child safety at case closure was examined in two studies of representation practice. In one study, a representation program providing both social work and legal advocacy support for parents’ attorneys found that none of the cases assigned to the program had another instance of maltreatment in the court file at case closure (Detroit Center for Family Advocacy, 2013). Another study of a parents’ representation program providing attorneys with education about child welfare issues, appointing attorneys as close to the initial hearing as possible, and providing access to an interdisciplinary team of professionals for case support (e.g., caseworkers, investigators) found the return-to-care rate after case closure had decreased by half for cases under the program, and that this difference was statistically significant (Harper, Brennan, & Szolnoki, 2005).

Exhibit 48. Existing Research Measures of Child Safety at Case Closure

Data source	Measures	Reference
Case file review	Whether a new petition alleging abuse or neglect had been filed within 1 year of a successful case closure; coded as yes/no dichotomous variable and also indicated the date of the petition	Summers, Gatowski, & Gueller, 2017
Case file review	Reentry into foster care after case closure (yes/no); coded if the case had a new petition filed after successful case closure	Gonzalez & Summers, 2014
Case file review	Number of cases with unresolved maltreatment at the end of the case and unresolved maltreatment type (coded whether any of the presenting maltreatment types were unresolved by	Karatekin, Gehrman, & Lawler, 2014

Data source	Measures	Reference
	the end of the case; if the maltreatment type was unresolved, but if the child was not placed with the maltreating parent, did not code it as unresolved maltreatment)	
Case file review	Number of new petition filings (i.e., reentry) within 1 year of reunification	Shdaimah & Summers, 2013
Case file review	At a minimum of 6 months after case closure, whether the child or family had a new report of maltreatment (yes/no) and if the report was substantiated (yes/no)	Casanueva, Goldman Fraser, Gilbert, et al., 2013
Case file review	Number of cases with repeat instances of maltreatment cited in the court case file after case closure of permanency cases	Detroit Center for Family Advocacy, 2013
Case file review	Number and percentage of instances in which a new petition was filed after the child had returned home after the case was closed	Summers, Wood, Mclellan, et al., 2011
Case file review	Percentage of youth who reenter care after successful case closure	Zinn & Slowriver, 2008
Case file review	Number and percentage of children returned to care after returning home due to further maltreatment	Harper, Brennan, & Szolnoki, 2005

Gaps in Understanding

Although we found a few research studies demonstrating positive effects for court structures (i.e., one family, one judge case assignment and a child well-being court), hearing quality (i.e., breadth of discussion in initial hearings), and representation models that include interdisciplinary supports for attorneys representing parents on child safety at case closure, much is still unknown about whether and how court, judicial, and attorney practices impact child safety outcomes.

Child Permanency

Child permanency as a case outcome is defined as the type and timeliness of child permanency at case closure. This subcategory of measurement evaluates the combined success of courts and child welfare agencies in achieving legal permanency by the time the court has closed the case. Legal permanency means that there is a permanent and secure legal relationship between the adult caregiver and the child (e.g., reunification with parent[s], guardianship, adoption). This subcategory has been operationalized in court performance measurement toolkits (exhibit 49) and research studies (exhibit 50) as the percentage of children in foster care

who achieve specific permanency outcomes at case closure (e.g., reunification, guardianship, adoption) and the time it takes to achieve that outcome from inception of the case (e.g., from removal or original petition filing) to case closure. The achievement of child permanency has also been measured as the failure to achieve permanency at case closure (e.g., the percentage of cases that close with a youth aging out of foster care without a legal permanent placement).

Exhibit 49. Existing Performance Measures of Child Permanency After Case Closure

Measure	Source
<p>Percentage of children in foster care who reach legal permanency by reunification, adoption, or legal guardianship; percentage of children who do not achieve permanency in the foster care system (e.g., court jurisdiction ends because the child reaches the age of majority)</p> <p>Time to permanent placement: Mean and median time from filing of the original petition to achievement of permanency; percentage of children who reach legal permanency (by reunification, guardianship, adoption, planned permanent living arrangement, or other legal categories that correspond with ASFA) within 6, 12, 18, and 24 months from removal; specific timelines for this measure should be adapted to jurisdictional timelines.</p>	The Toolkit
<p>Percentage of children reunified in less than 12 months; percentage of children who were discharged from foster care to a finalized adoption within 24 months; percentage of children in long-term foster care who were discharged to a permanent home before their 18th birthdays; of children discharged to emancipation or aging out of foster care, percentage who were in foster care 3 years or longer</p>	CA CPM
<p>Time in days from filing to case closure, defined as court jurisdiction ends</p>	FJI Indicators
<p>Whether/how compliance with ICWA impacts compliance with AFSA 12-month permanency timeline; ICWA outcomes: Decrease in time to reunification; Increase in permanent outcomes; increased collaboration among all stakeholders and earlier reunification; new understandings of permanency and an understanding of how timelines shift when dealing with ICWA (not relying on ASFA since it doesn't apply in these cases)</p>	ICWA Baseline Measures
<p>Decreased time to achieve safe permanency: Reduction in the median/mean days to achieve permanency (case closure); percentage of cases achieving permanency within 12 months or 24 months of original petition filing; percentage of cases in which the child reentered within 6 months and 12 months of case closure; Permanency outcome: Increased rates of reunification; increased rates of placement with relative or guardianship with relative; increased rates of adoption; decreased rates of aging out or APPLA outcomes</p>	NV QLR Measures
<p>Time to permanency; Rates of youth aging out of care</p>	NY Hearing Quality Toolkit
<p>Median time to case closure/reunification/physical return home: Percentage of cases reunited in less than 1 month; percentage of cases reunited in 1–5 months; percentage of cases reunited in 6–11 months; percentage of cases reunited in 12–17 months; percentage of cases reunited in 18–23 months; percentage of cases</p>	Parent Representation Indicators

Measure	Source
reunited in 24+ months; median time to case closure/other permanency outcomes; parents' satisfaction with permanency outcome that was achieved	
If the child/youth is in the permanent custody of the public children services agency, describe any efforts of which you are aware to locate a permanent adoptive family or kinship placement (qualitative measure)	SC Caregiver Measures
Percentage of children in foster care who reach legal permanency by reunification, adoption, or legal guardianship	WV CAN Measures

Inclusion in National Recommendations and Standards

The ICWA specifies that child permanency outcomes for Native American and Alaskan Native children reflect ICWA preferential placements (e.g., that the child remains with or is reunified with family, or that the child's permanent home is with relatives/tribal community members). National standards and best-practice recommendations for courts, judges, and attorneys identify duties, responsibilities, and activities to facilitate the achievement of timely child permanency outcomes (e.g., NCJFCJ's *Enhanced Resource Guidelines*, *ABA Standards for Judicial Excellence*, *Child Welfare Agency Attorneys and Parent and Child Representation*, *NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings*). See previous sections for examples of court processes and judicial and attorney activities recommended to facilitate timely child permanency.

Research Evidence

Several evaluations (exhibit 50) have examined the effect of child welfare court structures, hearing quality, and attorney practice models on child permanency and the timeliness of child permanency. Using a pre-post test design to measure the effects of a one family, one judge model on permanency outcomes, researchers found that after the one family, one judge model was implemented, significantly more children achieved timely permanency compared with pre-implementation, achieving permanency within 12 months of removal. No difference was found pre- versus post-implementation for reunification outcomes, but significantly more cases closed to a guardianship prior to the one family, one judge model's implementation (Shdaimah & Summers, 2013). A study of permanency outcomes for unified family courts (i.e., one judge hears all legal matters related to a family), which matched cases on demographic and case characteristics, found that children in counties with unified family courts experienced shorter foster care stays (statistically significant) and higher rates of reunification at case closure with parents or primary caregivers (statistically significant) when compared with counties without a unified family court. There was no relation between unified family courts and the probability of adoption (Sloan, Gifford, Eldred, et al., 2013). In a study examining the effect of judicial

continuity, Summers (2017) found that time to permanency was significantly associated with the number of jurists per case, with each additional jurist increasing permanency by 162 days.

There is a growing body of research linking hearing quality measures to permanency outcomes (e.g., Wood & Russell, 2011; Summers, Gatowski, & Gueller, 2017; Summers & Gatowski, 2018; Summers, 2017; Bohannon, Nevers, Summers, 2015; Summers, Wood, McLellan, et al., 2011). One study measuring the breadth of discussion held at the initial hearing, for example, found that more discussion (i.e., greater breadth of topics discussed in hearings) was significantly associated with timelier permanency in the case (Summers, Gatowski, & Gueller, 2017). Breadth of discussion held at the initial hearing was also found to be a significant predictor of reunification outcomes in the study (even after controlling for age of child, petition allegations, and other case characteristics). Summers & Gatowski (2018) found that giving parents an opportunity to be heard in hearings was significantly related to achieving permanency within 12 months. Higher parent engagement predicted shorter times to permanency, higher rates of reunification, and lower rates of aging out. Presence of key parties was related to decreased time to permanency, increased reunification rates, and decreased likelihood of the child aging out of care. The study found that increased presence of the mother's attorneys and increased child's attorney presence were also related to decreased number of aged-out outcomes in cases. Summers (2017) found that several hearing quality variables were significantly related to increased likelihood of reunification, such as the percentage of hearings at which mothers were present and the percentage of cases in which the judge made verbal reasonable efforts to effectuate the permanency goal finding. The percent of hearings with no parent's attorney present was also significantly related to lower rates of reunification. Sites in the study with a higher percentage of time that the mother was present at hearings had more breadth of discussion at hearings, had more judicial engagement of parties at hearings, and had significantly lower median times to achieve adoption. Sites with more hearings in which the judge made verbal reasonable efforts to effectuate permanency findings, greater breadth of discussion, and fewer jurists per case had significantly fewer aged-out outcomes at case closure. Longer times to achieve the disposition and first permanency hearing were also significantly associated with longer times to permanency. In another study examining sites that were above the state average on the percentage of youth exiting care in less than 1 year, researchers found that those sites had higher than average judicial inquiry in hearings, as well as more depth of discussion and discussion specifically focused on finding a permanent home (Summers, Wood, McLellan, et al., 2011).

Evaluations of representation practice models have examined child permanency outcomes at case closure for cases assigned to the models. A study of a parents' representation program

providing attorneys with education about child welfare issues, appointing attorneys as close to the initial hearing as possible, and providing access to an interdisciplinary team of professionals for case support (e.g., caseworkers, investigators) found the number of children who were reunified with their parent(s) at case closure increased significantly after implementation of the program (Harper, Brennan, & Szolnoki, 2005). However, the time it took to achieve permanency, including reunification, increased significantly after implementation (although the return-to-care rate after case closure had decreased by half for cases under the program, and this difference was statistically significant; see Harper, Brennan, & Szolnoki, 2005). An evaluation of a children's representation (GAL) program found a relationship between the program and adoption and guardianship outcomes (no impacts were found for reunification). After controlling for youth and case characteristics, researchers found that youth who were assigned to the GAL program achieved permanency faster than youth who were not in the program (Zinn & Slowriver, 2008). Zinn and Peters (2015) explored the effectiveness of giving a child expressed interest legal representation. The study found that representation by program attorneys increased the rate of children's exit to adoption, leading to a higher overall rate of exit to permanence. No effect on reunification rates, however, was found for the model representation program. A study examining the impact of early appointment of parents' attorneys in cases (Wood & Duarte, 2013) compared counties in a state that appointed attorneys for parents at the initial petition filing (pilot counties) with counties that did not practice early appointment of parents' attorneys (control counties). While not statistically significant, the study found that higher percentages of pilot cases resulted in children returned to their parents or case dismissals, and relative or guardianship placements, compared with control cases.

One study examined the impact of ICWA implementation on permanency outcomes. Research conducted by the Capacity Building Center for Courts (2019) studied the implementation of ICWA and the relationship between level of implementation and case outcomes in five sites (three states). The study found that the mother's presence across the life of the case was found to be the best predictor of reunification. Average level of ICWA application (i.e., more ICWA requirements applied) was not correlated with reunification on its own; however, when placed in a regression model with mother's average attendance at hearings, it was a significant predictor of reunification. Five variables predicted timely permanency. These included an active efforts finding at the initial hearing, the tribal representative being present at the first hearing, the time to confirmation of ICWA status, and the child's placement at the first hearings. The study also found that time to ICWA confirmation was significantly related to time to return home, in that longer time to confirmation was related to longer time until the child was returned home. In addition, the tribe being present at the first hearing was related to longer times to return home.

No relationships were found between ICWA application variables and the outcome of relative custody.

Exhibit 50. Existing Research Measures of Child Permanency at Case Closure

Data source	Measures	Reference
Case file review	Whether/how compliance with ICWA impacts compliance with AFSA 12-month permanency timeline; decrease in time to reunification; increase in permanent outcomes; increased collaboration among all stakeholders and earlier reunification	CBCC, 2019
Case file review	Date court ends jurisdiction over the child(ren) and outcome of the case (reunification with a parent, guardianship, adoption, age out/emancipation, or dismissal of the original child abuse and neglect petition)	Summers, Gatowski, & Gueller, 2017
Case file review, administrative data review	Time from petition filing to achievement of legal permanency (median); percentage of cases that reunified; percentage of youth aging out of care; percentage of cases achieving permanency within 12 months; Percentage of legal orphans (no permanency outcome)	Summers & Gatowski, 2018
Case file review	Whether case had closed and outcome of the case (reunification with a parent, guardianship, adoption, age out/emancipation, or dismissal of the original child abuse and neglect petition)	Summers, Gatowski, & Gueller, 2017
Case file review, administrative data review	Percentage of cases resulting in reunification and what percentage of cases are reunified within 12 months of entry into care; time to permanency calculated from date of petition filing to case closure; timely permanency calculated as percentage of cases where children were still in care after 24 months from administrative data (most recent applicable entry cohort); failure to achieve permanency measured as percentage of youth aging out without achieving permanent legal connection	Summers, 2017
Case file review	Whether child had achieved permanency, reunified, been adopted, or was in long-term custody, and the time to permanency for each of these events	Zinn & Peters, 2015
Case file review	Percentage of cases closing to specific permanency outcomes; time in days (mean, median) from original petition filing to case closure	Bohannon, Nevers, & Summers, 2015
Case file review	Reunification with a parent: The reunification variable was dichotomous (i.e., Yes = 1, No = 0) and indicated the child had been reunified with a parent.	Gonzalez & Summers, 2014
Case file review	Percentage of cases where permanency was achieved within federal guidelines for timeliness; permanency disposition of the case (reunification/family preservation; transfer of parental rights;	Karatekin, Gehrman, &

Data source	Measures	Reference
	permanent transfer of legal custody to a relative or other parent; temporary transfer of custody to county, to be followed by adoption; pending; other); duration of case (measured from removal and petition filing)	Lawler, 2014
Case file review	Percentage of cases in a year that reached a permanent placement before 15 months of out-of-home care; percentage of cases that completed adoption within 6 months of a termination of parental rights order	Wood, Russell, Macgill, et al., 2014
Administrative data review	Time from disposition to specific permanency outcomes of reunification, guardianships, TPR, and TPR to adoption	Zinn & Cusick, 2014
Case file review	At exit from foster care, number of children reunified with a parent or primary caregiver or adopted	Sloan, Gifford, Eldred, et al., 2013
Case file review	Number of case dismissals, family reunifications, adoptions, and legal guardianships; aging-out outcomes; number of children achieving successful reunification with their families within 12 months of their removal	Shdaimah & Summers, 2013
Case file review	Court file reviews after a minimum of 6 months had passed after closing the case: Whether the child was reunified (yes/no), adopted, or in guardianship	Casanueva, Goldman Fraser, Gilbert, et al., 2013
Case file review, administrative data	At case closure of permanency cases: Number of adoptions, reunification with a biological parent, guardianships, another planned permanent living arrangement (APPLA), out-of-state placements with relative, aged out of system, and unknown	Detroit Center for Family Advocacy, 2013
Case file review	Permanency outcome at case closure; time (days) from original petition filing to case closure	Wood & Duarte, 2013
Administrative data	Courts with above average permanency outcomes were those that were above the state average on the percentage of youth exiting care in less than 1 year and the percentage of youth exiting to adoption. Additionally, these courts were below the state average on the percentage of youth exiting care after 3 years and the percentage of youth aging out of services.	Summers, Russell, Darnell, et al., 2012
Case file review	Number/percentage of children reunified, placed with non-charged parent, relative placement, TPR/adoption, guardianship (non-relative), age out, dismissed; average time (days) and the percentage of cases meeting the statutory requirement for timeliness; petition to return home (for those returned home); original petition to case closure (achievement of permanency); termination of parental rights to adoption	Summers, Wood, Mclellan, et al., 2011

Data source	Measures	Reference
Case file review	Percentage of cases achieving reunification at case closure	Wood, Russell, Macgill, et al., 2014
Case file review	Percentage of cases achieving permanency by permanency outcome; time (days) from original petition filing to case closure	Pitchal, Freundlich, & Kendrick, 2009
Case file review	Date of and type of exit from care (reunification, emancipation, adoption, guardianship, preadjudication dismissal); Removal date to case closure date for time to permanency	Zinn & Slowriver, 2008
Case file review	Number of children returned home	Harper, Brennan, & Szolnoki, 2005

Gaps in Understanding

Child permanency outcomes and time to achieve child permanency outcomes frequently appear as measures in evaluations of court, judicial, and attorney practices in child welfare cases. There is a growing body of research linking court practices, hearing quality factors, and representation practice models with permanency outcomes and permanency timeliness. Several studies were found demonstrating positive effects on child permanency and permanency timeliness for court structures (i.e., one family, one judge case assignment and unified family courts); hearing quality (i.e., breadth of discussion, judicial engagement of parties, verbal reasonable efforts findings, and presence of parties at hearings); the use of different representation practice models; and implementation of ICWA. More research using robust methods is still required, however, to better understand how court, judicial, and attorney practices impact permanency outcomes as well as timely permanency, and which might be the most important to achieving positive results.

Child Well-Being

Child well-being as a case outcome is defined as the child continuing to grow and thrive after the case ends. Child well-being encompasses aspects of the whole child: safety, physical health, and development; psychological and emotional development; social development and behavior; cognitive development and educational achievement; connection to culture and communities, including tribal communities; having a support network of peers and adults; and financial security (exhibit 51). Child well-being as a case outcome represents the combined

success of courts and child welfare agencies in ensuring that children leave the foster care system without having done harm and with the tools they need to be happy and successful adults. Well-being must be attended to during the case in order for those outcomes to be realized post-case closure (see profile on child well-being during the case).

Exhibit 51. Existing Performance Measures of Child Well-Being After Case Closure

Measure	Source
<p><u>Employment</u>: Youth is employed full-time if employed at least 35 hours per week, in one or multiple jobs, as of the date of the outcome data collection; a youth is employed part time if employed between 1 and 34 hours per week, in one or multiple jobs, as of the date of the outcome data collection; a youth has obtained employment-related skills if the youth completed an apprenticeship, internship, or other on-the-job training, either paid or unpaid, in the past year at outcome data collection; <u>Financial</u>: A youth is receiving Social Security if receiving Supplemental Security Income or Social Security Disability Insurance, either directly or as a dependent beneficiary as of the date of the outcome data collection; a youth is receiving educational aid if using a scholarship, voucher (including education or training vouchers pursuant to section 477[h][2] of the Social Security Act), grant, stipend, student loan, or other type of educational financial aid to cover educational expenses as of the date of the outcome data collection; a youth is receiving public financial assistance if receiving ongoing cash welfare payments from the government to cover some of his or her basic needs, as of the date of the outcome data collection; a youth is receiving public food assistance if receiving food stamps in any form (i.e., government sponsored checks, coupons, or debit cards) to buy eligible food at authorized stores as of the date of the outcome data collection (this definition includes receiving public food assistance through the Women, Infants, and Children program); a youth is receiving public housing assistance if the youth is living in government-funded public housing or receiving a government-funded housing voucher to pay for part of his or her housing costs as of the date of the outcome data collection (room and board payments are not included in this definition); a youth has other financial support if receiving any other periodic and/or significant financial resources or support from another source not listed in the elements described above as of the date of outcome data collection (such support can include payments from a spouse or family member [biological, foster, or adoptive], child support that the youth receives for him or herself, or funds from a legal settlement); <u>Education</u>: A youth has received an education certificate if the youth has a high school diploma or general equivalency degree (GED), vocational certificate, vocational license, associate degree (e.g., A.A.), bachelor’s degree (e.g., B.A. or B.S.), or a higher degree as of the date of the outcome data collection. Year degree from a community college; indicate whether the youth is enrolled in and attending high school, GED classes, or postsecondary vocational training or college, as of the date of the outcome data collection; <u>Connection to adult</u>: A youth has a connection to an adult if, as of the date of the outcome data collection, the youth knows an adult to whom he/ she can go for advice or guidance when there is a decision to make or a problem solve, or for companionship when celebrating personal achievements (the adult must be easily accessible to the youth, either by telephone or in person; this can include, but is not limited to, adult relatives,</p>	<p>National Youth in Transition Database</p>

Measure	Source
<p>parents, or foster parents; the definition excludes spouses, partners, boyfriends or girlfriends, and current caseworkers); <u>Homelessness</u>: A youth is considered to have experienced homelessness if the youth had no regular or adequate place to live (this definition includes situations where the youth is living in a car or on the street or staying in a homeless or other temporary shelter); <u>Substance abuse</u>: A youth has received a substance abuse referral if the youth was referred for an alcohol or drug abuse assessment or counseling (this definition includes either a self-referral or a referral by a social worker, school staff, physician, mental health worker, foster parent, or other adult); <u>Incarceration</u>: A youth is considered to have been incarcerated if the youth was confined in a jail, prison, correctional facility, or juvenile or community detention facility in connection with allegedly committing a crime (misdemeanor or felony); <u>Children</u>: A youth is considered to have a child if the youth has given birth herself or the youth has fathered any children who were born; <u>Marriage at child's birth</u>: A youth is married at the time of the child's birth if he or she was united in matrimony according to the laws of the state to the child's other parent; <u>Medicaid</u>: A youth is receiving Medicaid if the youth is participating in a Medicaid-funded state program, which is a medical assistance program supported by the federal and state government under title XIX of the Social Security Act as of the date of outcomes data collection; a youth has other health insurance if the youth has a third-party pay (other than Medicaid) for all or part of the costs of medical care, mental healthcare, and/or prescription drugs, as of the date of the outcome data collection (this definition includes group coverage offered by employers, schools or associations, an individual health plan, self-employed plans, or inclusion in a parent's insurance plan; this also could include access to free healthcare through a college, Indian Health Service, or other source); health insurance type (mental health, prescription drug coverage)</p>	
<p>Health status: Change (or lack of) in physical health status from filing of original petition to case closure; Mental health status: Change (or lack of) in mental health status from filing of original petition to case closure; Social/behavioral functioning: Change (or lack of) in behavioral problems from filing of the original petition to case closure</p>	<p>NCSC Physical/Emotional Health Well-Being Measures</p>
<p>ICWA Outcome: Increased tribal connections for children and youth</p>	<p>ICWA Baseline Measures</p>

Inclusion in National Recommendations and Standards

National recommendations and standards for practice identify a role for courts, judges, and attorneys to ensure child well-being throughout the case, which, hopefully, results in improved child well-being outcomes at case closure. The NCJFCJ's *Enhanced Resource Guidelines* emphasize the role of judges in overseeing and holding all parties accountable for their efforts to ensure child well-being for all children under court jurisdiction. The *Guidelines* state that judges should ensure all foster children receive a good education, are not moved from school to school unnecessarily, are provided with specialized education assistance (if necessary), and are apprised of opportunities for higher education after they leave the foster care system. Judges

should consider the social and emotional development of children when making judicial decisions about removal, placement, and permanency. Standards and recommendations for practice for children's attorneys (e.g., ABA and NACC) specify a role for attorneys in ensuring the well-being of children in care throughout the case. The ABA's *Standards for Parent Representation* outline a role for parents' attorneys in helping clients access information about their child's well-being throughout the case so they can understand these issues to make appropriate decisions for their child's care at case closure (i.e., at reunification). The *BIA Guidelines for Implementing ICWA* emphasize the importance of determining at the outset of any state court proceeding whether ICWA applies. Doing so promotes stability for Indian children and families. State courts must also work to ensure Indian children maintain their connections to tribal communities.

Research Evidence

Only three court-focused studies were retrieved as part of this review that included child well-being at case closure as a measure (exhibit 52). In one study of a child well-being court model using a pre-post intervention design (Casanueva, Goldman Fraser, Gilbert, et al., 2013), researchers found that children who had begun the intervention with an Ages and Stages Questionnaire (ASQ) score indicating developmental risk showed statistically significant improvement in almost all areas measured by the ASQ by case closure. A longitudinal survey of former foster youth designed to collect information on child well-being, with a focus on examining outcomes for LGBTQ (lesbian, gay, bisexual, transgender, queer) youth, found that when compared with their straight and cisgender peers, LGBTQ youth reported more challenges in several areas, including permanency, housing, financial capability, social capital, and health (Poirier, Wilkie, Sepulveda, et al., 2018). The study also tested the statistical significance of outcomes among youth who are LGBTQ based on their race/ethnicity. Financial capability was the only outcome area that showed statistically significant differences in outcomes between these two groups. Young people of color who are LGBTQ were less likely than their peers who are White and LGBTQ to report having savings and being able to cover expenses in the month before the survey. Also, they were less likely to report having a peer to help them reach their life goals. In a study evaluating the effects of unified family courts (where the judge hears all legal matters related to the family), longitudinal data from the child welfare agency and department of education were examined to determine school performance before, during, and after foster care ended (Sloan, Gifford, Eldred, et al., 2013). Results showed that children in counties with unified family courts experienced shorter stays in foster care, higher rates of reunification with parents or primary caregivers, and improved school performance (i.e., better reading and math scores, fewer grade retentions).

Exhibit 52. Existing Research Measures of Child Well-Being at Case Closure

Data source	Measures	Reference
Assessment tools	Parent-child relationship outcomes were measured using an adapted version of the Modified Parent-Child Relationship Assessment–Crowell; children’s developmental status (developmental risk) was measured using the ASQ	Casanueva, Goldman Fraser, Gilbert, et al., 2013
Survey	Youth and well-being indicators for former foster youth: Adult support, housing stability, education and employment, mental and physical health, young parents, social capital, financial capability, and asset purchasing by sexual orientation/gender identity and race/ethnicity	Poirier, Wilkie, Sepulveda, et al., 2018
Administrative data review (court and education system)	School performance measured by end-of-grade math and reading test scores, grade retention, and attendance at end of foster care placement	Sloan, Gifford, Eldred, et al., 2013

Gaps in Understanding

While child well-being outcome measures have been defined in the literature (e.g., Sydow & Flango, 2012; National Youth Transition Database), they have not been widely implemented in court-based research. This review retrieved few documents that described court cases at closure by the child well-being outcomes achieved. More articles were found that tracked child well-being measures throughout the case (see the section of this review covering child well-being during the case measurement).

Prevention/Family Preservation

Prevention and family preservation as a case outcome is defined as families’ ability to care safely for their children at case closure. Examples include families being able to parent their children in a safe and positive way after the end of the court case, including measures (exhibit 53) of parental well-being at case closure (e.g., physical and emotional health, employment, connections to culture and community). Prevention and family preservation could also be outcomes of cases that were only open with the child welfare agency with attorney involvement, but never opened with the court. Case closure in those situations occurs when the agency formally closes its prevention services or when attorneys close services to the family. Prevention and family preservation at case closure may also be outcomes in cases that included a petition and attorney and judicial involvement, but in which the child was never removed from the home.

Exhibit 53. Existing Performance Measures of Prevention and Family Preservation After Case Closure

Measure	Source
Physical health status: change (or lack of) in parent physical health status from filing of original petition to case closure; Mental health status: Change (or lack of) in parent mental health status from filing of original petition to case closure; Abstinence/relapse: Change (or lack of) in parents' amount of illegal drug use from filing of original petition to case closure; Accountability/social functioning: Percentage of parents who are employed at case closure; Accountability/social functioning: Change (or lack of) in amount of parent criminal behavior and legal system involvement from filing of original petition to case closure; Accountability/social functioning: Public assistance status of parents at case closure; Accountability/social functioning: Residential stability of parents at case closure; Accountability/social functioning: Drivers' license status at case closure; Accountability/social functioning: Number of positive peer/mentor/adult/kin or familial relationships; Exposure to violence: Percentage of parents/guardians exposed to violence while under court jurisdiction; Parenting skills: Change (or lack of) in parenting skills from the filing of the original petition to case closure	ICWA Baseline Measures

Inclusion in National Recommendations and Standards

National recommendations and standards that are related to prevention and family preservation at case closure are as follows:

- The ABA’s *Recommendations for Reducing Racial Disparities in the Child Welfare System* (2011) stress that judges and child welfare courts have a role in ensuring that culturally specific services are provided to help families ameliorate the impact of poverty. The *Recommendations* state that judges and courts should work with child welfare agencies and other community groups to enhance access to high-quality services that can help families avoid unnecessary child welfare and dependency court system interventions.
- The ABA and NCJFCJ’s *Supporting Early Legal Advocacy before Court Involvement in Child Welfare Cases* (2021; see also FJI) recommends early legal advocacy to counsel and supports parents during child welfare investigations to help them address legal issues that threaten their child’s safety in the home. As a form of preventive legal advocacy, early legal advocacy aims to keep the family together, keep children in the home, and prevent the need for foster care.

Research Evidence

This review found no studies (exhibit 54) that examined prevention or family preservation as case closure outcomes.

Exhibit 54. Existing Research Measures of Prevention/Family Preservation at Case Closure

Data source	Measures	Reference
None found		

Gaps in Understanding

While measures for prevention and family preservation at case closure were identified (i.e., ICWA Baseline Measures), there is a lack of research examining prevention and family preservation as outcomes of cases. This review found no studies assessing the influence of court structures or processes, or judicial and attorney practices, on prevention and family preservation after cases had ended.

Cross-Cutting Themes

The cross-cutting themes category contains three subcategories:

- **Child & Family Experiences**
- **Equity**
- **System Legitimacy**

Child & Family Experiences

Parent and youth experience is a critical cross-cutting component of the child welfare court system. Child and family experiences are defined as the perceptions of the family about their court experience. This could include the degree to which children and families feel their voices are heard, their preferences are respected, and legal outcomes are achieved fairly. This may also include experiences with the judge, their attorney, or the court process more broadly. Feeling engaged in the court process is theorized to increase parent participation in their case and lead to better outcomes for children and families. It is also important that parents feel like the process is fair and equitable (see the related section on equity). This is a key component of procedural justice and can lead to satisfaction with the outcomes and process. Child and family experiences are most commonly measured (exhibit 55) with surveys of parents or youth but has also been measured with interviews and document review. Studies (exhibit 56) have shown a positive relationship between specific programs, practices, and judicial engagement strategies and parent and youth positive experiences with the system.

Exhibit 55. Existing Performance Measures of Child & Family Experiences

Measure	Source
<ul style="list-style-type: none"> If transfer to tribal court, did parent object? 	ICWA Baseline Measures
<ul style="list-style-type: none"> Survey about overall experience with court, understanding of what one was required to do, helpfulness of services ordered, whether one was treated with respect, fairness, and courtesy throughout the entire court process. What changes should the court make? 	NCJFCJ Crisis Planning Toolkit
<ul style="list-style-type: none"> Satisfaction with access to the court and how the legal process dealt with their issue, interest, or case (fairness). Questions included: (1) Finding the courthouse was easy; (2) The forms I needed were clear and easy to understand; (3) I felt safe in the courthouse; (4) The court makes reasonable efforts to remove physical and language barriers to service; (5) I was able to get my court business done in a reasonable amount of time; (6) Court staff paid attention to my needs; (7) I was treated with courtesy and respect; (8) I easily found the courtroom or office I needed; (9) The court's website was useful; (10) The court's hours of operation made it easy for me to do my business; (11) The way my case was handled was fair; (12) The judge listened to my side of the story before he or she made a decision; (13) The judge had the information necessary to make good decisions about my case; (14) I was treated the same as everyone else; (15) As I leave the court, I know what to do next about my case. 	NCSC CourTools
<ul style="list-style-type: none"> Satisfaction with permanency outcome achieved; satisfaction with overall representation from beginning to end of case; believe voice has been 	NV QLR Measures

Measure	Source
<p>heard/concerns were listened to; believe representative helped them access services, family time, or treatment; believe representative helped them understand what they had to do in the case and understand the case process; believe representative advocated for their position, interests, or goals; had regular contact with representative; believe representative treated them with respect.</p>	
<ul style="list-style-type: none"> Satisfaction agreement items: (1) My attorney helped explain the process to me; (2) The hearing process was fair; (3) I had an opportunity to say what I wanted to say; (4) I was part of the decision-making process; (5) I understood what happened in court today; (6) All my questions were answered. 	<p>NY Hearing Quality Toolkit</p>

Inclusion in National Recommendations and Standards

Child and family experiences are noted in two of the national standards. The NCJFCJ’s *Enhanced Resource Guidelines* stress the importance of family engagement in the process:

- Family engagement is a family-centered and strengths-based approach to partnering with families in making decisions, setting goals, and achieving desired outcomes. It is founded on the principle of communicating with families in a way that supports disclosure of culture, family dynamics, and personal experiences in order to meet the individual needs of every family and every child. Family engagement goes beyond mere involvement of families by “motivating and empowering families to recognize their own needs, strengths, and resources and to take an active role in working toward change.”
- Judges have a significant opportunity to connect with and engage families appearing before them. Often referred to as therapeutic jurisprudence, the judge’s demeanor, behavior, and interactions with each party, relative, and community member are crucial to the perception of fairness of the court process.
- Mediation may reduce the family’s sense of alienation from the child protective system and the courts through decreasing adversarial processes.

The NCSC’s *Achieving High Performance: A Framework for Courts* also stresses the importance of procedural satisfaction:

- The procedural satisfaction performance area focuses on asking individuals to evaluate the accessibility of services and the fairness of decision-making procedures. It emphasizes the fundamental importance of individuals and how they are treated in the American legal system. Measures of procedural satisfaction are related to flexibility and focus on whether the court is “doing the right things right;” they are uniquely defined by each individual. Two types of individual experiences and corresponding evaluations

have emerged as leading measures of this aspect of institutional performance. Do individuals find that a court's administrative policies and practices make the legal process accessible to them? Once they are involved in the legal process, what do they think about the manner in which court business is conducted?

Research Evidence

Two studies explored the impact of a court program on parent satisfaction. The first study showed that parents involved in family treatment drug courts had higher reports of procedural fairness than the control group and that this perception was related to higher engagement in services (Fessinger, Hazen, Bahm et al., 2020). The second study examined the use of a Dependency 101 course (part of a parent mentor program) and found that parents' attitudes changed significantly after the course, including a better understanding of the process, increased trust in the child welfare agency, and increased belief in control over case outcomes (Summers, Wood, Russell et al., 2012).

Three additional studies explored perceptions related to court practices. The first study examined perceptions of wait times in relation to satisfaction. Parents who were satisfied with their wait time were also more likely to be satisfied with the judge's decision, their attorney, feeling respected by the judge, and their overall court experience. The same study found similar relationships between satisfaction with their attorney related to feeling respected by the judge and satisfaction with their overall court experience (Gonzalez, Bohannan, & Summers, 2015). The second study examined the relationship between judicial engagement and parent satisfaction with the hearing. Parents who agreed with the decision in the court hearing were more likely to have a positive experience. In addition, increased judicial engagement of mothers was related to increased satisfaction and feeling treated with respect. There was no relationship between judicial engagement of fathers and their perception of the hearing (Wood & Gonda, 2014). The third study examined the relationship between judicial engagement and questioning of youth and their perceptions. The judge's engagement of youth in the process was related to benefits to the youth and more satisfaction with the process and better understanding of what occurred (Weisz, Wingrove, Beal et al., 2011).

Child and family experiences during the process are directly related to parent and youth access and presence at hearings and their understanding of the court hearing. Child and family experiences are also related to system legitimacy, as part of legitimacy is that users view the system as just. As a cross-cutting factor, child and family experiences are important to explore across all the court processing, judge activities, attorney activities within a case, and activities of legal-side support staff.

Exhibit 56. Existing Research Measures of Child & Family Experiences

Data source	Measures	Reference
Survey	Family's perception of fairness of court process; items measured the components of procedural justice, including voice, neutrality, trust, and respect (e.g., The process of getting my children back is fair; I have a say in the decisions that affect me and my children).	Fessinger, Hazen, Bahm et al., 2020
	Overall, I am satisfied with my court experience. The judge listened to me. The judge treated me with respect.	Gonzalez, Bohannon, & Summers, 2015
	Agreed with statements: (1) I believe my family will get help we really need from child protective services; (2) I feel like I can trust child protective services to be fair and see my side of things; (3) I think things will get better for my child(ren) because child protective services is involved; (4) Child protective services is not out to get me; (5) I realize I need some help to make sure my kids have what they need; (6) There were definitely some problems in my family that child protective services saw; (7) I understand the roles of the professionals involved in the child welfare system; (8) I believe there are things I can do so that the court will return my children to me; (9) I feel like I am the only one that is involved with child protective services.	Summers, Wood, Russell et al., 2012
	Asked whether children should be able to attend hearings and how children felt after hearings; assessed children's perceptions of fairness of the judge's decisions, knowledge, and understanding of the case.	Weisz, Wingrove, Beal et al., 2011
	Measured with parent survey that contained statements related to the parents' court experience, including: (1) The judge treated me with respect; (2) The judge listened to me; (3) I had a chance to say everything I wanted to say.	Wood & Gonda, 2014
	<p>Youth: Asked whether they had been to court; the last time they went to court (e.g., Who was there? What did they do? What did you do? What did they say? How did you feel in the courtroom? What did you say?); what the adults are trying to decide; who the people are trying to figure out what is best for them; what has been decided so far; what they think will happen next; where they think they will need to move again; how many times they have moved so far; where they live, who lives with them, and how often they see siblings, mom, and dad; whether they have an attorney and what the attorney does, what the attorney is supposed to do, and what kinds of things can they ask the attorney; who is going to decide where they live.</p> <p>Parents: Asked if the child is part of the program; if they have contact with the child's attorney; what their understanding is of the Foster Child Project; what they needed to do to get their kids back; what help they received from the social worker and other professionals; how much say they had in deciding changes/tasks.</p>	Zinn & Slowriver, 2008

Data source	Measures	Reference
Interview	Self-reported respectful and supportive relationships with their attorneys and the rest of the team (e.g., social worker, parent advocate, other members of the legal team working on the case); parental report as to whether attorney placed a strong emphasis on protecting their rights; parental report on whether their voices were heard by attorneys; how parents described their attorney attended to the trauma of their experience; whether they experienced a lack of cultural competency or implicit bias from their attorney; perceptions of due process and fairness in case.	Gerber, Guggenheim, Pang et al., 2020
	Child experience and relationship with their guardian ad litem.	Pitchal, Freundlich, & Kendrick, 2009
File review	What children say when asked questions during child protection proceedings (outside of hearings) about who they want to live with, who they want contact with, and who they believe should have authority to make decisions on their behalf.	Kratky, & Schröder-Abé, 2020

Gaps in Understanding

Questions still remain about parent and youth experiences in the court process. Parent and youth experiences are rarely measured. When measured, they are often reported descriptively. Currently, there are a lot of gaps. It is unclear how judicial and attorney practices are related to parents’ experience of the system and how this experience relates to their active participation and case outcomes. Further, research has yet to explore how parent perceptions of the system may be different due to race and ethnicity of the family and how these differences may be resolved. Much more is needed to understand the family experience.

Equity

Equity is defined as “the quality of being fair and impartial.” For the purpose of the literature review, this included equity in court processes and overrepresentation of population groups. The category includes all individuals who belong to underserved communities that have been denied equitable treatment, such as Black, Latino, Indigenous and Native American persons, Asian Americans and Pacific Islanders, and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality (Executive Order No. 13985, 2021). Disproportionality data on race and ethnicity have demonstrated a consistent trend (more than a decade) of overrepresentation of Black children in foster care at a rate that is close to twice their rate in the general population. In addition, the rate of American Indian overrepresentation has been steadily climbing in the last

10 years, with current rates at 2.6 times their rate in the general population. This varies widely by state. Other equity has been studied less.

Equity was only found in two performance measures in the field (exhibit 57). Equity has typically been studied by collecting demographic data (e.g., race, gender, disability) and using it to make outcome comparisons. This has been measured using administrative data, surveys, and structured case file review.

Studies (exhibit 58) have consistently shown disparate outcomes for Black and American Indian youth involved in foster care (e.g., Wildeman, Edwards, & Wakefield, 2020). Limited research has also shown disparate outcomes for LGBTQ youth (Poirier, Wilkie, Sepulveda et al., 2018).

Exhibit 57. Existing Performance Measures of Equity

Measure	Source
<ul style="list-style-type: none"> Whether a tribal representative is present at hearings; whether there is "real tribal engagement" (double-coded judicial engagement). 	ICWA Baseline Measures
<ul style="list-style-type: none"> Survey of court personnel: Questions about race equity, including: Have you witnessed an outcome of a hearing that appeared to you to be influenced by the race of the litigant? If yes, how often have you witnessed an outcome based upon the race of the litigant? Have you ever seen a family court employee provide better or worse customer service to a litigant due to the litigant's race? In your opinion, are litigants who appear in family court treated fairly and equitably by court staff regardless of race? 	NCJFCJ Crisis Planning Toolkit

Inclusion in National Recommendations and Standards

Equity is included in several of the standards of practice, identified below.

ABA Standards of Practice for Lawyers Representing Children

- Child With Special Needs.** Consistent with the child's wishes, the child's attorney should assure that a child with special needs receives appropriate services to address the physical, mental, or developmental disabilities. These services may include, but should not be limited to—
 - (1) Special education and related services
 - (2) Supplemental security income to help support needed services
 - (3) Therapeutic foster or group home care
 - (4) Residential/inpatient and outpatient psychiatric treatment

ABA Standards of Practice for Lawyers Representing Parents

- The parent's attorney should learn about and understand the client's background, determine how that has an impact on the client's case, and always show the parent respect.
- The attorney must understand how cultural and socioeconomic differences impact interaction with clients, and must interpret the client's words and actions accordingly.
- The attorney must act in a culturally competent manner and with regard to the socioeconomic position of the parent throughout all aspects of representation.
- The attorney must be aware of the unique issues an incarcerated parent faces and provide competent representation to the incarcerated client.
- While the attorney is not expected to be a mental health expert, the attorney should be familiar with mental health conditions and should review such records carefully.
- The fact that a client experiences a disability does not diminish the lawyer's obligation to treat the client with attention and respect. If the client seems unable to assist the attorney in case preparation, the attorney should seek an assessment of the client's capacity from a mental health expert. If the expert and attorney conclude that the client is not capable of assisting in the case, the attorney should inform the client that the attorney will seek appointment of a guardian ad litem from the court. The attorney should be careful to explain that the attorney will still represent the client in the child protective case. The attorney must explain to the client that appointment of a guardian ad litem will limit the client's decision-making power. The guardian ad litem will stand in the client's shoes for that purpose.

NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings

- Attorneys for children and youth should engage in culturally humble representation and actively challenge inequitable treatment.
- Attorneys should learn about and understand the client's background and communication should be culturally responsive.
- Attorneys have a duty to engage in initial and ongoing training on cultural humility, the impact of systemic racism, and disproportionate and disparate outcomes experienced by Black and Indigenous children as well as LGBTQIA+ youth. Education should include the impact of race, ableism, disability status, cultural identity, gender identity and expression, and LGBTQIA+ status on child welfare outcomes.
- Attorneys should practice cultural humility and continually reflect on and work to mitigate their own biases. Attorneys should endeavor to uncover what triggers their own biases

and develop a process that uses objective criteria to guide their advocacy recommendations and decision-making.

- Attorneys should challenge white supremacy culture and implicit and explicit biases when they occur, including values and beliefs held by case professionals and the court about what is in the best interest of children. Actions may include raising and litigating evidence of bias or discrimination that impacts the case or the client.
- Attorneys are encouraged to participate in policy and practice reforms that seek to dismantle inequities, such as data collection, committee work, training initiatives, or legislative reform.

Supporting Early Legal Advocacy Before Court Involvement

- The benefits of having legal advocates before court involvement include reducing overrepresentation of families of color in the child welfare system by reducing child welfare removals for low-risk families by putting preventative services in place.

NCJFCJ's Enhanced Resource Guidelines

- Judges should self-reflect on implicit bias. Take a moment before every hearing or before making decisions in a case to ask yourself:
 - What assumptions have I made about the cultural identity, genders, and background of this family?
 - What is my understanding of this family's unique culture and circumstances?
 - How is my decision specific to this child and this family?
 - How has the court's past contact and involvement with this family influenced (or might influence) my decision-making process and findings?
 - What evidence has supported every conclusion I have drawn, and how have I challenged unsupported assumptions?
 - Am I convinced that reasonable efforts (or active efforts in ICWA cases) have been made in an individualized way to match the needs of the family?
 - Am I considering relatives as preferred placement options as long as they can protect the child and support the permanency plan?
 - Have I placed the child in foster care as a last resort?
 - Have I integrated the parents, children, and family members into the hearing process in a way that ensures they have had the opportunity to be heard, respected, and valued?
 - Have I offered the family and children the chance to respond to each of the questions from their perspective?

- Is this family receiving the same level and tailoring of services as other families?
- Is the parents' uncooperative or negative behavior rationally related to the involvement of the agency and/or the court?
- If this were my child, would I be making the same decision? If not, why not?
- Judges can engage parents and children in the proceedings, and also ensure their right to due process, by asking direct questions (in everyday language) about issues such as the need for an interpreter; need for representation by trained counsel; parental competence, disability, or other issues that may impact the case; and the involvement of the broader family.
- There are a number of key informants on this issue in addition to the agency: Parents, extended family; religious, cultural, or tribal representatives or experts; community leaders.
- Judges should inquire whether the incident(s) causing the harm or safety concerns were related to the parent engaging in a cultural or religious practice or belief. The court must carefully consider whether these customs rise to the level of child abuse or neglect. If the judge finds that cultural or community practices and beliefs contributed to the allegations, there should be an exploration of the risk of harm to the child if the practice was to continue. If the judge does believe there is a safety threat to the child, the parents' willingness to explore different ways to respect cultural tradition without causing harm to the child must be evaluated.

ABA Reducing Racial Disparities in the Child Welfare System

- The American Bar Association urges state, local, territorial and tribal child welfare agencies, dependency courts and judges, and children's and parents' advocates to help racial and ethnic minority families readily access needed services and to help ensure that removal of children from their homes is based on objective child safety criteria so that all families in the child welfare system are treated fairly and equitably.
- The American Bar Association urges Congress to change laws, including amendment of Titles IV-E and IV-B of the Social Security Act, to broaden federal review of the disproportionate representation of racial and ethnic minority children in the child welfare system and require and fund states to track, report, analyze, and take and report on corrective action . . . data should also track provision of specific services, and the length of time to the initiation of services, accessed by racial and ethnic minority families, including resources dedicated to promoting family preservation and reunification. Studies recommend tracking services offered to minority families as a way to combat bias in the child welfare system. This is because studies reveal that minority children and families in

the child welfare system receive fewer services than non-minorities. For example, even though research has found that minority children may develop more severe physical and mental symptoms following abuse, they receive less mental and physical healthcare services when in foster care.

- States should be encouraged to take a new, careful look at both their initial child removal criteria and the review of such decisions at initial child protective court hearings, since these are major system entry points at which disproportionate minority family representation may first be evidenced. Some state statutory language permits those making first response decisions concerning removal, such as the police, to remove a child where the danger to them is not necessarily determined to be severe or life-threatening. Ideally, state law and policy would impose three criteria for child removal decisions: immediate and substantial risk of harm to the child; whether the child could be made safe within the home without removal; and consideration of the risk of harm to the child if and when they were removed from home.
- Precipitous removals from home should be based on best judgments of imminent danger of serious harm to a child that necessitates placement, and whether the child could be made safe without removal . . . his recommendation calls for additional supports for relative caregivers because numerous studies have found that increasing resources to relatives helps decrease disproportionate racial and ethnic minority representation in the child welfare system.
- Importantly, the 2007 GAO report found that utilizing relative resources improves outcomes for racial and ethnic minority children, who if placed in non-relative foster care end up remaining in the system significantly longer than their non-minority counterparts.

BIA Guidelines for Implementing the Indian Child Welfare Act

- Section 23.133 encourages state courts to permit alternative means of participation in Indian child-custody proceedings, such as by phone or video. This enables the court to receive all relevant information regarding the child's circumstances, and also minimizes burdens on tribes and other parties. Several state court systems permit the use of video-conferencing in various types of proceedings. The department notes that requesting statements under oath, even by teleconference, as to who is present may provide sufficient safeguards to maintain control over who is present on the teleconference for the purposes of confidentiality. A service such as Skype would be included in "other methods." This issue may be particularly relevant to a tribe's participation in a case. A tribe's members may live far from the tribal reservation or headquarters and the Indian child's tribe may not necessarily be located near the state court Indian child custody

proceeding. As such, it may be difficult for many tribes to participate in state court proceedings, particularly where those actions take place outside of the tribe's state. Allowing alternative methods of participation in a court proceeding can help alleviate that burden.

- The applicability of ICWA to a child-custody proceeding turns on the threshold question of whether the child in the case is an "Indian child." It is, therefore, critically important that there be inquiry into that threshold issue by courts, state agencies, and participants to the proceedings as soon as possible. If this inquiry is not timely, a child-custody proceeding may not comply with ICWA and thus, may deny ICWA protections to Indian children and their families.
- The determination of whether a child is an "Indian child" turns on tribal citizenship or eligibility for citizenship. The rule recognizes that these determinations are ones that tribes make in their sovereign capacity and requires courts to defer to those determinations. The best source for a court to use to conclude that a child or parent is a citizen of a tribe (or that a child is eligible for citizenship) is a contemporaneous communication from the tribe documenting the determination. Tribes, as sovereign governments, have the exclusive authority to determine their political citizenship and their eligibility requirements. A tribe is, therefore, the authoritative and best source of information regarding who is a citizen (or member) of that tribe and who is eligible for citizenship of that Tribe. Thus, the rule defers to Tribes in making such determinations and makes clear that a court may not substitute its own determination for that of a tribe regarding a child's citizenship or eligibility for citizenship in a tribe.
- ICWA requires the use of "active efforts" to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. The statute does not define "active efforts," but the regulation does in § 23.2. The "active efforts" requirement in ICWA reflects Congress' recognition of the particular history of the treatment of Indian children and families. Many Indian children were removed from their homes because of poverty, joblessness, substandard housing, and other situations that could be remediated through the provision of social services. The "active efforts" requirement helps ensure that parents receive the services that they need so that they can be safely reunified with their children. The "active efforts" requirement is designed primarily to ensure that services are provided that would permit the Indian child to remain or be reunited with her parents, whenever possible, and helps protect against unwarranted removals by ensuring that parents who are, or may readily become, fit parents are provided with services necessary to retain or regain custody of their child. The rule indicates that, to the maximum extent possible, active efforts should be provided in a

manner consistent with the prevailing social and cultural conditions of the Indian child's tribe, and in partnership with the child, parents, extended family, and tribe. This is consistent with Congressional direction in ICWA to conduct Indian child-custody proceedings in a way that reflects the cultural and social standards prevailing in Indian communities and families. There is also evidence that services that are adapted to clients' cultural backgrounds are better.

- Determining the appropriate active efforts may entail discussions with tribal leadership, elders, or religious figures or academics with expertise concerning a given tribe as to the type of culturally appropriate services that could be provided to the family.
- The placement preferences included in ICWA and the rule codify the generally accepted best practice to favor placing the child with extended family. Congress recognized that this generally applicable preference for placing children with family is even more important for Indian children and families, given that one of the factors leading to the passage of ICWA was the failure of non-Indian child welfare workers to understand the role of the extended family in Indian society. In many cases, the placement preferences have special force and effect for Indian children, since, as Congress recognized, there are harms to individual children and parents caused by disconnection with their tribal communities and culture, and also harms to tribes caused by the loss of their children.
- While it may be the practice in some jurisdictions for judges to defer to state agencies to issue placement orders, the statute contemplates court review of placements of Indian children. For this reason, there must be a court determination of the placement and, if applicable, an examination of whether good cause exists to depart from the placement preferences.

Trauma-Informed Benchbook for Tribal Justice Systems

- Historical trauma continues to impact tribal children and families. Tribal courts can help heal their communities by understanding and addressing historical trauma responses. By positively interacting with families, building partnerships with providers, and supporting indigenous healing initiatives, courts can promote healing in their community. Tribal courts can also employ restorative remedies that reflect their community's unique values and knowledge of their community.

Research Evidence

Nineteen studies (exhibit 58) were included in the literature review that explored some aspect of equity or, at a minimum, reported collecting data on specific groups. Not all reports analyzed data by group characteristics. For those that did, some examined group differences in service

delivery, program effectiveness, or used groups as predictor for outcomes of interest. The most commonly assessed group was race and ethnicity.

In one study that explored program effectiveness of a peer mentor program by race, White families that participated in the program were less likely to have their parental rights terminated; there were no differences for Black and American Indian families when comparing program and non-program participants (Bohannon, Gonzalez, & Summers, 2016). Another study that examined program (Safe Babies Court) implementation, found no differences in service referrals, receipt of services, and case outcomes by race (Casanueva, Harris, Carr et al., 2019). A third study explored services ordered by county characteristics and found that families served by a GAL/CASA in urban counties with more poverty received more services while families with a GAL/CASA residing in counties with a greater percentage of minorities received fewer orders for services (Jaggers, Beerbower, Kondrat et al., 2018).

Several studies that explored child welfare outcomes have found differences by race. The cumulative percentage of Black and Native American children who had encounters with child protective services was significantly higher than that of other children; both groups experienced all levels of child protective services involvement at more than twice the rate of White children in the cohort (Putnam-Hornstein, Ahn, Prindle et al., 2021). Once in the system, case processing may look similar but outcomes do not. One study found that while there were no differences in time to disposition or overall achievement of permanency, there were differences in how permanency was achieved (Zinn & Cusick, 2014). A study that explored multiple years of administrative data found that the risk for termination of parental rights is highest for American Indian and African American youth (Wildeman, Edwards, & Wakefield 2020). A third study found that Black children had lower rates of guardianship and adoption than White children (Zinn & Slowriver, 2008).

Other studies that explored court decision points have found no differences in race for the court outcomes of interest (Gonzalez & Summers, 2014; Karatekin, Gehrman, & Lawler, 2014).

Of the studies reviewed, one focused on identifying common themes in the counties that had reductions in removals of Black children from the home. Those counties reported having community and preventative services in place to address racial disproportionality, initiatives focused on reducing racial disproportionality, cross-system collaboration, judicial awareness and leadership to address disproportionality in removal decisions, and training on race equity (Pryce, Lee, Crowe et al., 2019).

Research on other groups is more limited. One study examined older youth who were part of Jim Casey’s Opportunity Passport Initiative. These were mostly older youth (18–26). The study examined race and sexual orientation. LGBTQ youth, particularly those of color, had disparate outcomes in comparison to White and straight youth in permanency, housing stability, financial capacity, asset purchasing, social capital, and health outcomes (Poirier, Wilkie, Sepulveda, & Uruchima, 2018).

Only one article was found that examined religion. The study explored religion in the schools. While most students reported witnessing bullying in schools, relatively few teens witness religious bullying in classrooms (Pew Research Center, 2019).

Equity, as a cross-cutting theme, is potentially related to all the other variables identified and should be explored as such.

Exhibit 58. Existing Research Measures of Equity

Data source	Measures	Reference
Survey	Whether tribal representatives report that they were given an opportunity to be heard in hearings.	DiPietro, 2008
	Percent Hispanic and percent minority.	Jaggers, Beerbower, Kondrat et al., 2018
	Demographics of attorneys.	Orlebeke, Zinn, Duquette et al., 2015
	Compares experiences and findings of participants based on race and sexual orientation and gender identity (LGBTQ) of young people, related to issues of permanence and adult support, housing stability, education and employment, and financial capability.	Poirier, Wilkie, Sepulveda et al., 2018
	Religious views, asked about school experiences with peers and adults. Questions included: In what ways have other students been unfriendly to your religious or spiritual views? Bullied for religious beliefs? Being mean or made fun of in general? Bullied for lack of religious beliefs? Called wrong/challenged on truth of religious beliefs? No longer friends/left out due to different beliefs? Other students try to force their views/feel preached to? Negative or inaccurate comments made about beliefs? Called wrong/challenged on truth of irreligious beliefs?	Pew Research Center, 2019
Administrative data	Assessed timeliness of services (developmental screening, parent/child psychotherapy) and CFSR statewide measures (time in foster care, number of placements, timeliness of	Casanueva, Harris, Carr et al., 2019

Data source	Measures	Reference
	permanency) by race/ethnicity to determine whether there were differences.	
	Rates of substantiated cases were compared between parents with and without disabilities, and among parents with different types of disability, accounting for child characteristics, including gender, race, and ethnicity, and risk factors such as inadequate housing, financial problems, and the use of public benefits.	Lightfoot, Mingyang, & DeZelar, 2021
	Compares race of child for program and non-program youth on case outcomes.	Zinn & Slowriver, 2008
	Looked at gender and race as predictors of timely permanency.	Zinn & Cusick, 2014
	Child race: African American, American Indian/Alaska Native, Hispanic, Asian Pacific Islander, and White	Wildeman, Edwards, & Wakefield, 2020
Case file review	Measured three racial groups: Caucasian, African-American, and Native American.	Bohannon, Gonzalez, & Summers, 2016
	Compared population race/ethnicity of county to study sample of children and family child welfare cases on representation in foster care and court-related variables.	Karatekin, Gehrman, & Lawler, 2014
	Tracked race and ethnicity of families in child welfare system to make comparisons for allegations, placement decisions, and case outcomes.	Russell & Summers, 2013
	Percentage of Native children with an adjudication order compared to non-Native children; timeliness of adjudication orders in Native family cases compared to non-Native families; permanency outcomes of Native children compared to non-Native children.	DiPietro, 2008
	Allegations by race/ethnicity (file review: allegations of failure to protect by race); when in case placed with parent or relative (file review: placement at 6-month and 12-month review by race/ethnicity); rates at which petitions are dismissed by race (file review); rates of reunification with parent by race (file review).	Gonzalez & Summers, 2014
	Maternal birth records used for race and ethnicity variables (Black, Latina or Hispanic, Asian or Pacific Islander, Native American, White); age at time of birth (< 20 years, 20–24 years, ≥ 25 years); and education (less than high school, high school diploma, or more). Birth payment method from health insurance type (private insurance, public insurance); paternity establishment inferred from the presence of a named father at the time of delivery (established, missing).	Putnam-Hornstein, Ahn, Prindle et al., 2021
Interview	Grandparents interviewed were asked about their knowledge of ICWA and how it had impacted their care of their	Cross, Day, &

Data source	Measures	Reference
	grandchildren. Many grandparents were not aware of the law.	Byers, 2010
	Interviews with child welfare agency directors, supervisors, caseworkers: What community and preventative services (family supports, family connections) are offered to Black families? What collaborations exist across systems (court, child welfare agency, school) to reduce disproportionality? What training is provided to case-level child welfare agency staff on race equity? How is family input sought/how are families involved at the case level (e.g., family team meetings, identification of alternative family as placements)?	Pryce, Lee, Crowe et al., 2019

Gaps in Understanding

Research in child welfare cases has consistently demonstrated both overrepresentation by Black and American Indian families and disparate outcomes for these families. Yet, gaps still remain. Most of the research has been focused on entry rates into care or exits from care. There is still very little known about the court process and how it may differ by race and ethnicity. Within the literature review, three studies had at least some court/intermediate outcomes that did not vary by race/ethnicity. It is important to further examine how race impacts the court process, and whether key decision points vary by race. This will allow a more nuanced understanding of how the court process differs for non-White families. No studies were found that examined family experience with the court system by race/ethnicity. As family experience with the system is also a cross-cutting theme, it is important to determine how families differ in the experience of the system. Finally, while some research examined case outcomes by race and ethnicity of families, there remain gaps in our understanding of the experience of the child welfare court process and outcomes among Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders, and other persons of color; members of religious minorities; LGBTQ+ persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality. The limited research on other forms of equity also represents a large gap that needs to be filled to better understand how the system is different for different families, and ultimately, what can be done to create equity within the system for all.

System Legitimacy

Legitimacy of the legal system has been defined in the procedural justice realm through the work of Tom Tyler, who indicated that legitimacy is “the belief that authorities, institutions, and social arrangements are appropriate, proper, and just” (Tyler, 2006, p. 376). For the purpose of the literature review, this was defined as whether professionals, families, children, and

community stakeholders of the child welfare system believe it is designed and implemented in a fair way. This included perspectives of individuals outside the system, persons with lived experience, and programs that provided peer support, and the idea of transparency of the system. No existing national measures (exhibit 59) were found related to legitimacy. No research was specific to system legitimacy, although there was some overlap with parent experience research.

Exhibit 59. Existing Performance Measures of System Legitimacy

Measure	Source
None found	

Inclusion in National Recommendations and Standards

The construct of legitimacy is hinted at in several national standards although not overtly discussed in depth in any.

ABA Standards of Practice for Lawyers Representing Child Welfare Agencies

- Child welfare attorneys should initiate and maintain positive working relationships with other professionals in the child welfare system (e.g., judges, court staff, opposing counsel). This is promoted because maintaining positive relationships with other professionals could benefit the agency if community members believe their opinion is valued and they are an integral part of the child welfare system as a whole.

NCJFCJ’s Enhanced Resource Guidelines

- Recognizing that the “public has a legitimate and compelling interest in the work of juvenile and family courts,” and that open court hearings would increase public awareness of child protection matters and increase accountability in the conduct of hearings, the membership of the NCJFCJ resolved in July 2005 that, “Our nation’s juvenile and family courts be open to the public except when the juvenile or family court judge determines that the hearing should be closed in order to serve the best interests of the child and/or family members.”

ABA’s Judicial Excellence in Child Abuse and Neglect Proceeding

- Judicial meetings should not only involve advocates and parties who frequently come before the court, but also other stakeholders. Stakeholders are a much broader group, including a wide range of critical service providers to children and families, such as educators and domestic violence, substance abuse, and mental health providers. Other

stakeholders include age-appropriate children or youth recently involved in the system (i.e., “alumni”), and parent alumni. These stakeholders frequently have information that is vital to the court and may provide services that can help ensure child safety and timely permanency that judges by law must seek in their decisions.

ABA’s Reducing Racial Disparities in the Child Welfare System

- The American Bar Association urges Congress to change laws, including amendment of Titles IV-E and IV-B of the Social Security Act, to broaden federal review of the disproportionate representation of racial and ethnic minority children in the child welfare system and require and fund states to track, report, analyze, and take and report on corrective action.

NCSC’s Achieving High Performance: A Framework for Courts

- Stresses the use of information in communicating the work of the court to its partners in the justice system and to members of the public and policymakers. A sharing of information is vital and its absence, an institutional weakness. This point is confirmed in citizen surveys that show disseminating clear information on court performance to the public is a priority. This perceived failing is a leading criticism of the work of courts. For this reason, courts can gain the trust and confidence of members of the public and policymakers only if they engage others through open communication and a willingness to receive and act on feedback.
- Decisions Demonstrate Procedural Justice. Many assume that winning or losing is what matters most to people when dealing with the courts. However, research consistently shows positive experiences are shaped more by court users’ evaluations of how they are treated and whether the process of making decisions seems fair. The administrative principle of procedural justice is the concept that deals with the perception of fairness regarding court procedures and outcomes. This principle is of fundamental importance to the institutional legitimacy of a court and to the degree of trust placed in it by participants in the legal process, policymakers, and members of the public. In turn, perceptions that procedures are fair and understandable influence a host of outcome variables, including satisfaction with the process, respect for the court, and willingness to comply with court rulings and orders—even if individuals don’t like the outcome.
- Trust and confidence are assessments; they concern what the public and policymakers think courts are doing even when they do not “see” or interact with court personnel directly. They are an approval rating based on broad considerations of what courts are

thought to accomplish and achieve and are not limited to personal experiences or direct encounters with court activities.

Research Evidence

No specific research (exhibit 60) was found on system legitimacy. The only research related to system legitimacy found was parent experience with the system and whether the parents felt like the system was fair and that they would get the help they needed from child protective services (see Child and Family Experiences section).

Exhibit 60. Existing Research Measures of System Legitimacy

Data source	Measures	Reference
None found		

Gaps in Understanding

Legitimacy in the criminal justice system has long been studied (e.g., Tyler, 2006). However, there is no research on system legitimacy specific to the child welfare court system. Some research on parents' experience with the system may overlap with legitimacy by asking about fairness within the system. However, there is nothing so far that focuses specifically on this construct. As such, there is much that needs to be known.

Summary of Gaps

Performance measurement is essential to a court's capacity to improve the efficiency and effectiveness of its operations and to sustain those improvements. Courts should focus not only on the timeliness of their case process and decision-making, but also on the quality of the process and the outcomes resulting from processes, structures, and practices. If courts, judges, and attorneys are to succeed in their efforts on behalf of children and families, they must know where they have been. In other words, they must measure the impact of their activities and determine what works and what does not.

Unfortunately, despite years of performance measurement development and implementation efforts for courts, and years of research and evaluation work in the field, the breadth of what we still do not know far outweighs what we do. This section provides a summary of gaps in our understanding of child welfare court, judge, and attorney performance measures. First, we provide a list of the subcategories of measurement with little to no defined measures. We then include a list of the subcategories of measurement that—while defined as performance measures—currently lack research study and support for their link to outcomes.

Measurement Subcategories With Little to No Defined Court, Judicial, or Attorney Performance Measures

Legal and Judicial Context

- **Court judicial processes:** No performance measures were found for any of the court judicial processes' subcategories of measurement. The subcategories of judicial assignment and workload, however, have been defined in research studies. While initial studies of judicial assignment practices such as the one-family-one-judge model have yielded promising results, conclusions that can be drawn are limited due to small study sample sizes. A large-sample, experimental study of judicial workload has not been conducted.
- **Court attorney processes:** While many best practice standards exist for attorney processes, studies of court attorney processes are limited. Studies of interdisciplinary team approaches have shown promising results, but study replication would strengthen the conclusions. Most studies that have examined attorney processes have been descriptive and limited in scope. No studies were found that examined attorney workload, compensation, training, or supports with outcomes.
- **Court structure:** Within this subcategory, no performance measures were found for court planning for continuity and additional legal/advocacy supports. No research measures were found for court planning for continuity, and none were found for data transparency/CQI processes.
- **Court collaboration with child welfare system stakeholders:** No performance measures were found for this subcategory, but standards and national recommendations for practice do exist. Nothing is currently known from the research about whether and how different collaboration activities support positive outcomes for families.

Practices

- **Judge activities outside of hearings:** No performance measures were found for this subcategory, but several best practice standards outline activities for judges outside of hearings. Most research studies have focused on judge's case-related activities outside of hearings only. Little is known about how judges' activities outside of hearings impact child welfare cases. Only two studies were found linking judges' collaboration activities with system partners and their participation in training with positive case processing and hearing quality outcomes.
- **Attorney activities outside of hearings:** No performance measures were found for attorneys' collaborative activities. Attorney training measures were also not well defined

in the literature. Few research studies examined the relationship of specific out-of-court attorney activities with case processing and outcomes, and no studies examined the impact of attorneys' collaborative activities on case processing and outcomes.

Short-Term Outcomes, Hearing Quality

- **Judge activities during the hearing:** While well defined in standards and best practice recommendations, no performance measures were found for the subcategories of safety decision-making and court decorum. There is preliminary evidence for a relationship between judicial engagement of parents and improved outcomes for children and families, but research on legal requirements is lacking and nothing is known about safety decision-making, court decorum, or orders to the agency in relation to outcomes.
- **Attorney activities during the hearing:** While well defined in standards and best practice recommendations, no performance measures were found for the subcategory of professional requirements met. No research studies were found examining attorneys' professional requirements and possible impacts on outcomes either. Compared to parent and child representation, research on child welfare agency attorneys was especially limited (only one study was found). Overall, knowledge about how child, parent, and child welfare agency attorney practice within hearings is related to better outcomes for children and families is inconclusive.
- **Family experience during the hearing:** No performance measures were found for family/community presence and participation in hearings. Several standards and best practices for child welfare cases, however, identify roles and tasks for judges and attorneys related to the family's experience in hearings. Little to no research has focused on relative caregivers, foster parents, or other relative supports and how their presence and participation in hearings may impact a case. The research on youth experience is very limited and mostly descriptive in nature. Finally, more research is needed on parents' understanding of the hearing/court process and how that understanding is related to better outcomes for children and families.

Child and Family Outcomes: Closed Case and Beyond

- **Prevention/family preservation at case closure:** Only one toolkit was identified that included measures of prevention/family preservation at case closure (i.e., ICWA Baseline Measures). No research studies were found examining prevention/family preservation as an outcome at case closure.

Cross-Cutting Themes

- **Equity:** While equity was addressed in several standards and recommendations for practice, equity was only found in two performance measures in the field. Research consistently demonstrates both overrepresentation by Black and American Indian families and disparate outcomes for these families. However, most of this research has been focused on entry rates into care or exits from care. Very little is known about the court process and how it may differ by race and ethnicity. No studies were found that examined family experience with the court system by race/ethnicity. Many gaps exist in understanding the experience of the child welfare court process by other groups as well (e.g., families with disabilities, different religious backgrounds).
- **System legitimacy:** No existing national measures were found related to system legitimacy. No research was specific to system legitimacy, although there was some overlap with parent experience research.

Measurement Subcategories That Are Defined as Performance Measures but Lack Research Evidence

Short-Term/Hearing Quality Outcomes

- **Due process during hearings:** Studies of this subcategory of measurement have typically been descriptive only (e.g., percentage of time something occurs during a hearing). Studies have yet to examine how due process within the hearing is related to parent's experience of the hearing, parent's presence at the hearing and at subsequent hearings, or how ensuring due process early on in a case may be related to better outcomes for children and families.
- **Discussion of key topics:** Discussion of key topics in hearings has been included in multiple studies but rarely have those data been linked to specific case outcomes. Little is known about how discussion impacts the family's experience and how discussion in hearings facilitate parties' understanding.

Intermediate Outcomes: During the Case

- **Due process during the case:** Little research has focused on due process as an intermediate case outcome.
- **Timeliness:** Few court performance assessments and research studies were retrieved that compared hearing timeliness by specific case characteristics and child and family variables. Few studies of delay of the court process also examined the reasons for delay

(e.g., reasons for continuances) or explored the impact of delay on families' experience of the case process.

- **Judicial continuity:** Although judicial continuity has long been identified as a best practice, only two research studies were found linking judicial continuity in cases to positive case outcomes.
- **Attorney continuity:** Only one study was found describing child welfare agency continuity, and no studies were found that examined any attorney continuity (or lack thereof) and its impact on the case process and outcomes.
- **Visitation/family time:** None of the studies reviewed explored the relationship between visitation and child well-being or visitation and improved permanency or safety for youth. Several studies have examined the breadth and depth of discussion of visitation in child welfare hearings, but no studies examined the relationship between discussing visitation (or specifics like why supervision is required) and the resultant visitation order for families. No studies were found examining attorney practices in relation to visitation.
- **Child placement during the case:** Research is unclear about how important discussion of placement in court and attorney advocacy for better placement are related to placement decisions in hearings and case outcomes for children and families. The research on ICWA-preferred placements is also limited. More studies are needed to directly tie judicial and attorney practice to improved placement outcomes for families and to better determine how placement impacts youth's well-being throughout the life of the case and beyond.
- **Family engagement in services and case process:** Parents have been the focus of most studies, with little research on the engagement of children/youth during the case process. There is a lack of studies of tribal community involvement during cases where ICWA is applied. More research is needed to examine service plan completion to understand potential differences in service referrals and access for children and families who are members of racial and ethnic minorities.
- **Child safety during the case:** Studies that were found did not use safety during the case as a predictor of long-term outcomes of interest, such as permanency and well-being for youth. No research was found examining the relationship between judicial safety decision-making and child safety during the case and after-case resolution.
- **Child well-being during the case:** While studies on court structures, such as specialty courts, have been conducted, research is lacking on the relationship of court staff practices and hearing quality components that may lead to positive child well-being outcomes. There is also a need for studies on whether court practices to foster child

well-being differ by race/ethnicity, religion, sexual orientation, gender identity, or disability status.

Child and Family Outcomes: Closed Case and Beyond

- **Child safety at case closure and beyond:** A few research studies have demonstrated positive effects for court structures (e.g., one family-one judge case assignment, child well-being court), hearing quality (e.g., breadth of discussion in initial hearings), and attorney representation models (i.e., ones that include interdisciplinary supports for attorneys representing parents) on child safety. Much is still unknown, however, about whether and how court, judicial, and attorney practices impact child safety outcomes at case closure.
- **Child permanency outcomes:** More research using robust methods is still required to better understand how court, judicial, and attorney practices impact permanency outcomes and timely permanency, and which might be the most important to achieving positive results.
- **Child well-being outcomes:** While child well-being outcome measures have been defined in the literature, they have not been widely implemented in court-based research.

Cross-Cutting Themes

- **Child and family experiences:** Due to lack of research, it is unclear how judicial and attorney practices are related to parent's experience of the system and how this experience relates to their active participation and case outcomes. Furthermore, research has yet to explore how parent perceptions of the system may be different due to race and ethnicity of the family and how these differences may be resolved.

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Appendix B: Measurement Category Definitions

Category	Subcategory	Topics	Definition
Legal & judicial context	Court judicial processes	Judicial appointment	Structures used to appoint judges who will hear child welfare cases
		Judicial assignment	Following appointment, processes used to assign a judge to hear child welfare cases
		Judicial workload	Judicial resources directed toward hearing child welfare cases
		Judicial training requirements	Training or knowledge prerequisites and support of judicial skill development
		Judicial support	Resources to help judges complete case-related activities
	Court attorney processes	Attorney appointment	Attorney appointment processes
		Attorney workload	Attorney resources directed toward child welfare cases
		Attorney compensation	Amount an attorney is paid
		Attorney training requirements	Training or knowledge prerequisites; and support of attorney skill development such as training, mentoring, coaching, evaluation processes/monitoring
		Attorney support	Resources supporting attorney case practices
	Court structure	Court docketing/calendaring	Processes used to schedule court hearings
		Court environment	Facilities, conditions and access to the court hearings
		Data transparency/CQI processes	Activities by the court to collect and analyze operational data to assess and improve their own performance
		Court planning for continuity	Preparation and activities to ensure court functioning during emergencies
		Additional legal/advocacy supports	Appointment of supports outside judge and attorney framework
		Child welfare court structures	Court structures and models used in child abuse and neglect proceedings
	Court collaboration	Cross-system communication	Communication involving court and system partners
		Cross-system activities	Joint activities between court and system partners
		Information sharing	Court and system partners collaboration regarding aggregate data on system performance and child well-being
Shared accountability		Court and system partners identification of shared goals and the means to measure them	
Practices	Judge activities (outside hearings)	Activities outside of hearing, case related	Case-related activities the judge does to prepare for, and follow-up on hearings

Category	Subcategory	Topics	Definition
		Collaborative activities	Activities by that judge involving collaboration with court and child welfare system partners
		Administrative activities	Judicial activities to ensure efficient court operations
		Judicial training	Training received by the judge
	Attorney activities (outside hearings)	Attorney pre-petition legal practice	Pre-petition legal representation
		Activities outside of hearing, case-related	Activities the attorney does to prepare for, and follow-up on hearing and advocacy outside of the hearing including motion practice, settlement negotiations, attending out-of-court meetings, and independent investigation/discovery practice
		Collaborative activities	Activities by attorney involving collaboration with system partners
		Attorney training	Training received by the attorney
Short-term outcomes / hearing quality	Judge activities (during hearing)	Judicial engagement/inquiry	Judge's interactions with parties, professionals, and other stakeholders present at the hearing
		Legal requirements met	The judge makes required findings and orders that federal laws require
		Safety decision-making	Discussion and decisions made regarding child safety
		Court decorum	Judge conducts an orderly and efficient hearing
		Orders made to child welfare agency and partners	Orders made by the judge to child welfare agency and partner agencies (e.g., schools, juvenile justice)
	Attorney activities (during hearing)	Attorney presence	Attorney is present at the hearing
		Attorney advocacy	Attorney activities during the hearing to present evidence and advocate for their client
		Professional requirements met	Adherence to standards of practice
	Discussion of key issues	-	The topics discussed and level at which they are discussed in hearings
	Due process (during hearing)	-	Legal actions that ensure families receive fair and impartial hearings
	Family experience (during hearing)	Parent & youth access/presence	Whether parents and youth attend the hearing
		Family/community presence	Whether extended family, community supports, and tribal representatives attend the hearing
		Family understanding of hearings	Whether family members understand the purpose and results of the hearing

Category	Subcategory	Topics	Definition
Intermediate outcomes	Due process during case	-	Legal actions that ensure families receive fair and impartial hearings throughout the case
	Timeliness of hearings	-	Whether hearings are held within timelines set by federal and state laws
	Judicial continuity	-	The number of judges who oversee hearings throughout the family's case
	Attorney continuity	-	The number of attorneys advocating for their client throughout the family's case
	Visitation/family time	-	Amount and type of time children spend with parents, siblings, and other relatives
	Child placement during the case	-	Type and continuity of the child's temporary placements during the case
	Family engagement in services and court process	-	Family's communication with the court, participation in decision-making, and participation in services and in the court process during the case
	Child safety during case	-	The child does not experience further maltreatment during the court case; safety concerns given proper weight vis a vis developmental needs. Measures of safety risks involved compared to risks pre parental removal
	Child well-being during case	-	The child is able to grow and thrive during the case
Child and family outcomes	Child safety	-	The absence of further child abuse or neglect
	Child permanency	-	Type and timeliness of child permanency
	Child well-being	-	The child continues to grow and thrive after the case ends
	Prevention/family preservation	-	Families can safely care for their children
Cross-cutting themes	Child and family experiences	-	Child and family sense of being heard and sense of fairness
	Equity	-	Equity in court processes; overrepresentation of population groups
	System legitimacy	-	Whether professionals, families, children, and community stakeholders of the child welfare system believe it is designed and implemented in a fair way

Appendix C: Crosswalk of Toolkit and CFSR Measures

Note: SWDI = Statewide Data Indicators; OSRI = Onsite Review Instrument; SWA = Statewide Assessment

Toolkit measures	Toolkit measure short definition	Complementary CFSR outcome or systemic factor	Complementary CFSR measure and definition
SAFETY			
1A: Child Safety While Under Court Jurisdiction	Percentage of children who are abused or neglected while under court jurisdiction.	<p>Safety Outcome 1: Children are, first and foremost, protected from abuse and neglect.</p> <p>Safety Outcome 2: Children are safely maintained in their homes whenever possible and appropriate.</p>	<p>Safety Outcome 1: OSRI Item 1: Timeliness of initiating investigations of reports of child maltreatment Purpose of Assessment: To determine whether responses to all accepted child maltreatment reports received during the period under review were initiated and face-to-face contact with the child(ren) made, within the timeframes established by agency policies or state statute.</p> <p>SWDI Maltreatment in care: Of all children in foster care during a 12-month period, what is the rate of victimization per 100,000 days of foster care?</p> <p>Safety Outcome 2: OSRI Item 2: Services to Family to Protect Children in the Home and Prevent Removal Purpose of Assessment: To determine whether during the period under review, the agency made concerted efforts to provide services to the family to prevent children’s entry into foster care or reentry after a reunification.</p> <p>OSRI Item 3: Risk assessment and safety management. Purpose of Assessment: To determine whether, during the period under review, the agency made concerted efforts to assess and address the risk and safety concerns relating to the child(ren) in their own homes or while in foster care.</p>
1B: Child Safety After Release from Court	Percentage of children who are	Safety Outcome 1: Children are, first and	Safety Outcome 1 OSRI Item 1: Timeliness of initiating investigations of reports of child

Toolkit measures	Toolkit measure short definition	Complementary CFSR outcome or systemic factor	Complementary CFSR measure and definition
Jurisdiction	abused or neglected within 12 months after case closure.	foremost, protected from abuse and neglect. Safety Outcome 2: Children are safely maintained in their homes whenever possible and appropriate.	<p>maltreatment Purpose of Assessment: To determine whether responses to all accepted child maltreatment reports received during the period under review were initiated and face-to-face contact with the child(ren) made, within the timeframes established by agency policies or state statute.</p> <p>SWDI Recurrence of maltreatment Of all children who were victims of a substantiated or indicated maltreatment report during a 12-month period, what percent were victims of another substantiated or indicated maltreatment report within 12 months of the initial victimization?</p> <p>Safety Outcome 2 OSRI Item 2: Services to Family to Protect Children in the Home and Prevent Removal Purpose of Assessment: To determine whether during the period under review, the agency made concerted efforts to provide services to the family to prevent children’s entry into foster care or reentry after a reunification.</p> <p>OSRI Item 3: Risk assessment and safety management. Purpose of Assessment: To determine whether, during the period under review, the agency made concerted efforts to assess and address the risk and safety concerns relating to the child(ren) in their own homes or while in foster care.</p>
PERMANENCY			
2A: Achievement of Child Permanency	Percentage of children in foster care who reach legal permanency by reunification, adoption, or legal guardianship.	Permanency Outcome 1: Children have permanency and stability in their living situations.	<p>OSRI Item 5: Permanency goal for child. Purpose of Assessment: To determine whether appropriate permanency goals were established for the child in a timely manner.</p> <p>OSRI Item 6: Reunification, Guardianship, Adoption or Another Planned Permanent Living Arrangement Purpose of Assessment: To determine whether concerted efforts were made, or are being made, during the period under review, to achieve reunification,</p>

Toolkit measures	Toolkit measure short definition	Complementary CFSR outcome or systemic factor	Complementary CFSR measure and definition
			<p>guardianship, adoption or another planned permanent living arrangement.</p> <p>SWDI Permanency in 12 months for children entering foster care Of all children who enter foster care in a 12-month period, what percentage are discharged to permanency within 12 months of entering foster care?</p> <p>SWDI Permanency in 12 months for children in care 12 -23 months Of all children in care on the first day of a 12-month period who had been in care (in that episode) between 12 and 23 months, what percentage are discharged to permanency within 12 months of the first day?</p> <p>SWDI Permanency in 12 months for children in care 24+ months Of all children in foster care on the first day of a 12-month period who had been in foster care (in that episode) for 24 months or more, what percentage are discharged to permanency within 12 months of the first day?</p>
2B: Children Not Reaching Permanency	Percentage of children who do not reach legal permanency before case closure.	Permanency Outcome 1: Children have permanency and stability in their living situations.	<p>OSRI Item 5: Permanency goal for child. Purpose of Assessment: To determine whether appropriate permanency goals were established for the child in a timely manner.</p> <p>Item 6: Reunification, guardianship, Adoption or Another Planned Permanent Living Arrangement Purpose of Assessment: To determine whether concerted efforts were made, or are being made, during the period under review, to achieve reunification, guardianship, adoption of another planned permanent living arrangement.</p> <p>SWDI Permanency in 12 months for children entering foster care Of all children who enter foster care in a 12-month period, what percentage are discharged to permanency within 12 months of entering foster care?</p> <p>SWDI Permanency in 12 months for children in care 12 -23 months Of all children in care on the first day of a 12-month period who had been in care (in that episode) between 12 and 23 months, what percentage are discharged to permanency within 12 months of the first day?</p> <p>SWDI Permanency in 12 months for children in care 24+ months Of all children in foster care on the first day of a 12-month period who had been in</p>

Toolkit measures	Toolkit measure short definition	Complementary CFSR outcome or systemic factor	Complementary CFSR measure and definition
			foster care (in that episode) for 24 months or more, what percentage are discharged to permanency within 12 months of the first day?
2C: Children Moved While Under Court Jurisdiction	Percentage of children who reside in one, two, three, four or more placements while under court jurisdiction.	Permanency Outcome 1: Children have permanency and stability in their living situations.	<p>OSRI Item 4: Stability of foster care placement</p> <p>Purpose of Assessment: To determine if the child in foster care is in a stable placement at the time of the onsite review and that any changes in placement that occurred during the period under review were in the best interest of the child and consistent with achieving the child's permanency goal.</p> <p>SWDI Placement Stability</p> <p>Of all children who enter foster care in a 12-month period, what is the rate of placement moves per 1,000 days of foster care?</p>
2D: Reentry Into Foster Care After Return Home	Percentage of children who return to foster care pursuant to court order within 12 and 24 months of case closure following reunification.	Safety Outcome 2: Children are safely maintained in their homes whenever possible and appropriate.	<p>OSRI Item 2: Services to Family to Protect Children in the Home and Prevent Removal</p> <p>Purpose of Assessment: To determine whether during the period under review, the agency made concerted efforts to provide services to the family to prevent children's entry into foster care or reentry after a reunification.</p> <p>OSRI Item 3: Risk assessment and safety management.</p> <p>Purpose of Assessment: To determine whether, during the period under review, the agency made concerted efforts to assess and address the risk and safety concerns relating to the child(ren) in their own homes or while in foster care.</p> <p>SWDI Reentry to foster care</p> <p>Of all children who enter foster care in a 12-month period who were discharged within 12 months to reunification, living with a relative, or guardianship, what percentage reentered foster care within 12 months of their discharge?</p>
2E: Reentry Into Foster Care After Adoption or Guardianship	Percentage of children who return to foster care pursuant to court order within 12 and	Permanency Outcome 1: Children have permanency and stability in their living situations.	<p>SWDI Reentry to foster care</p> <p>Of all children who enter foster care in a 12-month period who were discharged within 12 months to reunification, living with a relative, or guardianship, what percentage reentered foster care within 12 months of their discharge?</p>

Toolkit measures	Toolkit measure short definition	Complementary CFSR outcome or systemic factor	Complementary CFSR measure and definition
	24 months of case closure following adoption or placement with a legal guardian.		
		<p>PERMANENCY OUTCOME 2: The continuity of family relationships and connections is preserved for children.</p>	<p>OSRI Item 7: Placement with siblings Purpose of Assessment: To determine whether, during the period under review, concerted efforts were made to ensure that siblings in foster care are placed together unless a separation was necessary to meet the needs of one of the siblings.</p> <p>OSRI Item 8: Visiting With Parents and Siblings in Foster Care Purpose of Assessment: To determine whether, during the period under review, concerted efforts were made to ensure that visitation between a child in foster care and his or her mother, father, and siblings is of sufficient frequency and quality to promote continuity in the child's relationship with these close family members.</p> <p>OSRI Item 9: Preserving Connections Purpose of Assessment: To determine whether, during the period under review, concerted efforts were made to maintain the child's connections to his or her neighborhood, community, faith, extended family, kin, Tribe, school, and friends.</p> <p>OSRI Item 10: Relative Placement Purpose of Assessment: To determine whether, during the period under review, concerted efforts were made to place the child with relatives when appropriate.</p> <p>OSRI Item 11: Relationship of Child in Care With Parents Purpose of Assessment: To determine whether, during the period under review, concerted efforts were made to promote, support, and/or maintain positive relationships between the child in foster care and his or her mother and father or other primary caregiver(s) from whom the child had been removed through activities other than just arranging for visitation.</p>

Toolkit measures	Toolkit measure short definition	Complementary CFSR outcome or systemic factor	Complementary CFSR measure and definition
WELL-BEING			
N/A	N/A	<p>WELL-BEING</p> <p>OUTCOME 1: Families have enhanced capacity to provide for their children’s needs.</p>	<p>OSRI Item 12: Needs and Services of Child, Parents, and Foster Parents Item 12 is divided into three Sub-Items: 12A: Needs assessment and services to children, 12B: Needs assessment and services to parents, and 12C: Needs assessment and services to foster parents.</p> <p>OSRI Item 13: Child and Family Involvement in Case Planning Purpose of Assessment: To determine whether, during the period under review, the agency made concerted efforts to (1) assess the needs of children, parents, and foster parents (both initially, if the child entered foster care or the case was opened during the period under review, and on an ongoing basis) to identify the services necessary to achieve case goals and adequately address the issues relevant to the agency’s involvement with the family, and (2) provide the appropriate services.</p> <p>OSRI Item 14: Caseworker Visits With Child Purpose of Assessment: To determine whether the frequency and quality of visits between caseworkers and the child(ren) in the case are sufficient to ensure the safety, permanency, and well-being of the child(ren) and promote achievement of case goals.</p> <p>OSRI Item 15: Caseworker Visits With Parents Purpose of Assessment: To determine whether, during the period under review, concerted efforts were made (or are being made) to involve parents and children (if developmentally appropriate) in the case planning process on an ongoing basis</p>
N/A	N/A	<p>WELL-BEING</p> <p>OUTCOME 2: Children receive appropriate services to meet their educational needs.</p>	<p>OSRI Item 16: Educational needs of the child</p> <p>Purpose of Assessment: To assess whether, during the period under review,</p>

Toolkit measures	Toolkit measure short definition	Complementary CFSR outcome or systemic factor	Complementary CFSR measure and definition
			the agency made concerted efforts to assess children's educational needs at the initial contact with the child (if the case was opened during the period under review) or on an ongoing basis (if the case was opened before the period under review), and whether identified needs were appropriately addressed in case planning and case management activities.
N/A	N/A	WELL-BEING OUTCOME 3: Children receive adequate services to meet their physical and mental health needs.	OSRI Item 17: Physical health of the child Purpose of Assessment: To determine whether, during the period under review, the agency addressed the physical health needs of the child, including dental health needs. OSRI Item 18: Mental/behavioral health of the child Purpose of Assessment: To determine whether, during the period under review, the agency addressed the mental/behavioral health needs of the children.
N/A	N/A	Systemic Factor: Case Review System	SWA Item 20: Written Case Plan. How well is the case review system functioning statewide to ensure that each child has a written case plan that is developed jointly with the child's parent(s) and includes the required provisions?

Toolkit measures	Toolkit measure short definition	Complementary CFSR outcome or systemic factor	Complementary CFSR measure and definition
<i>DUE PROCESS/FAIRNESS</i>			
3A: Number of Judicial Officers Per Case	Percentage of cases in which all hearings were heard by one judicial officer.	N/A	NA
3B: Service of Process to Parties	Percentage of cases in which both parents receive written service of process of the original petition.	N/A	NA
3C: Early Appointment of Advocates for Children	Percentage of children for whom legal counsel, guardian <i>ad litem</i> or CASA volunteer is appointed in advance of the emergency removal hearing.	N/A	NA
3D: Early Appointment of Counsel for Parents	Percentage of cases where counsel for parents are appointed in advance of the emergency removal	N/A	NA

Toolkit measures	Toolkit measure short definition	Complementary CFSR outcome or systemic factor	Complementary CFSR measure and definition
	hearing.		
3E: Advance Notice of Hearings to Parties	Percentage of cases for which there is documentation that written notice was given to parties in advance of every hearing.	N/A	NA
3F: Advance Notice of Hearings to Foster Parents	Percentage of cases in which there is documentation that written notice was given to foster parents in advance of every hearing.	Systemic Factor: Case Review System	<p>SWA Item 24: Notice of Hearings and Reviews to Caregivers.</p> <p>How well is the case review system functioning statewide to ensure that foster parents, pre-adoptive parents, and relative caregivers of children in foster care (1) are receiving notification of any review or hearing held with respect to the child and (2) have a right to be heard in any review or hearing held with respect to the child?</p>
3G: Presence of Advocates During Hearings	Percentage of cases in which legal counsel for parents, children and the agency is present at every hearing.	N/A	NA
3H: Presence of Parties During Hearings	Percentage of cases in which	N/A	NA

Toolkit measures	Toolkit measure short definition	Complementary CFRS outcome or systemic factor	Complementary CFRS measure and definition
	parties are present at every hearing.		
3I: Changes in Advocates for Children	Percentage of cases in which legal counsel for children changes between assignment of counsel and case closure.	N/A	NA
3J: Changes in Counsel for Parents	Percentage of cases in which legal counsel for parents changes between assignment of counsel and case closure.	N/A	NA
TIMELINESS			
4A: Time to Permanent Placement	Average (median) time from filing of the original petition to permanency.	Permanency Outcome 1: Children have permanency and stability in their living situations.	<p>OSRI Item 6: Achieving Reunification, guardianship, Adoption or Another Permanent Planned Living Arrangement</p> <p>Purpose of Assessment: To determine whether concerted efforts were made, or are being made, during the period under review, to achieve reunification, guardianship, adoption or another permanent planned living arrangement.</p> <p>SWDI Permanency in 12 months for children entering foster care</p>

Toolkit measures	Toolkit measure short definition	Complementary CFSR outcome or systemic factor	Complementary CFSR measure and definition
			<p>Of all children who enter foster care in a 12-month period, what percentage are discharged to permanency within 12 months of entering foster care?</p> <p>SWDI Permanency in 12 months for children in care 12 -23 months</p> <p>Of all children in care on the first day of a 12-month period who had been in care (in that episode) between 12 and 23 months, what percentage are discharged to permanency within 12 months of the first day?</p> <p>SWDI Permanency in 12 months for children in care 24+ months</p> <p>Of all children in foster care on the first day of a 12-month period who had been in foster care (in that episode) for 24 months or more, what percentage are discharged to permanency within 12 months of the first day?</p>
4B: Time to Adjudication	Average (median) time from filing of the original petition to adjudication.	N/A	NA
4C: Timeliness of Adjudication	Percentage of cases that are adjudicated within 30, 60, 90 days after the filing of the original petition.	N/A	NA
4D: Time to Disposition Hearing	Average (median) time from filing of the original petition to the disposition hearing.	N/A	NA

Toolkit measures	Toolkit measure short definition	Complementary CFSR outcome or systemic factor	Complementary CFSR measure and definition
4E: Timeliness of Disposition Hearing	Percentage of cases in which disposition hearing occurred within 10, 30, or 60 days after adjudication.	N/A	NA
4F: Timely Case Review Hearings	Percentage of cases in which the court holds hearings to review case plans within the time limits set by law.	Systemic Factor: Case Review System	<p>SWA Item21: Periodic Reviews.</p> <p>How well is the case review system functioning statewide to ensure that a periodic review for each child occurs no less frequently than once every 6 months, either by a court or by administrative review?</p>
4G: Time to First Permanency Hearing	Average (median) time from filing of the original petition to first permanency hearing.	Systemic Factor: Case Review System	<p>SWA Item 22: Permanency Hearings.</p> <p>How well is the case review system functioning statewide to ensure that, for each child, a permanency hearing in a qualified court or administrative body occurs no later than 12 months from the date the child entered foster care and no less frequently than every 12 months thereafter?</p>
4H: Time to Termination of Parental Rights Petition	Average (median) time from filing of the original petition to the petition for termination of parental rights.	Systemic Factor: Case Review System	<p>SWA Item 23: Termination of Parental Rights.</p> <p>How well is the case review system functioning statewide to ensure that the filing of termination of parental rights (TPR) proceedings occurs in accordance with required provisions?</p>
4I: Time to Termination of Parental Rights	Average (median) time from filing of the original petition	N/A	N/A

Toolkit measures	Toolkit measure short definition	Complementary CFJR outcome or systemic factor	Complementary CFJR measure and definition
	to the termination of parental rights.		
4J: Timeliness of Termination of Parental Rights Proceedings	Percentage of cases for which there is a final order within 90, 120 and 180 days of the filing of the termination of parental rights petition.	N/A	N/A
4K: Time From Disposition Hearing to Termination of Parental Rights Petition	Percentage of cases in which the termination of parental rights petition is filed within 3, 6, 12 and 18 months after the disposition hearing.	N/A	N/A
4L: Timeliness of Adoption Petition	Percentage of cases in which adoption petition is filed within 3, 6, and 12 months after the termination of parental rights.	N/A	NA

Toolkit measures	Toolkit measure short definition	Complementary CFSR outcome or systemic factor	Complementary CFSR measure and definition
4M: Timeliness of Adoption Proceedings	Percentage of cases in which adoption is finalized within 3, 6, and 12 months after the filing of the adoption petition.	N/A	NA

Appendix D: Measurement Subcategories Found in Research Articles and Evaluation Reports

	Systemic	Practices					Outcomes		Cross-cutting		
	Legal judicial context	Practices (outside of court)		Short-term hearing quality/in court			Intermediate	Long-term	Child/family experience	Equity	System legitimacy
Title	(e.g., judicial processes, attorney processes, structures)	Judge	Attorney	Judge	Attorney	Other	(e.g., due process, timeliness, visitation, placement)	(e.g., safety, permanency well-being)			
A Challenge for Change: Implementation of the Michigan Lawyer- Guardian Ad Litem Statute	✓		✓		✓		✓				
Abused and neglected children in court: Knowledge and attitudes						✓	✓		✓		
An Evaluation of the North Dakota Guardian ad Litem Project	✓				✓						
Assessing the relationship between a peer-mentoring program and case outcomes in dependency court						✓	✓	✓		✓	
Dependency and Termination Parents' Representation Program Evaluation Report	✓		✓				✓	✓			
Supreme Court Children's Commission Hearing Quality Observation Project: an analysis of due process and child well-being indicators in Texas child welfare hearings	✓			✓	✓	✓	✓				
The Father's Project Pilot: Project in Hennepin County to Provide Attorneys for Noncustodial Fathers at the CHIPS Stage of Child Protection Cases	✓					✓	✓				
A case study in public child welfare: County-level practices that address racial disparity in foster care placement	✓									✓	
A comparison of types of attorney representation for children in California juvenile court dependency cases	✓						✓				
A court file analysis of child protection cases: What do children say?						✓			✓		

	Systemic	Practices				Outcomes		Cross-cutting		
A National Survey on a Parent's Right to Counsel in State-Initiated Dependency and Termination of Parental Rights Cases	✓									
A New Method of Assessing Judicial Workload in Juvenile Dependency Cases	✓	✓		✓		✓				
A study of maltreated children and their families in juvenile court: I Court performance measures				✓		✓	✓		✓	
American Indian Grand Families: A Qualitative Study Conducted with Grandmothers and Grandfathers Who Provide Sole Care for Their Grandchildren						✓	✓		✓	
An empirical examination of the Indian Child Welfare Act and its impact on cultural and familial preservation for American Indian children				✓		✓				
An Evaluation of Permanency Outcomes of Child Protection Mediation	✓						✓			
An evaluation of the effectiveness of a parent-to-parent program in changing attitudes and increasing parental engagement in the juvenile dependency system.	✓					✓		✓		
An evaluation of the effectiveness of a parent-to-parent program in changing attitudes and increasing parental engagement in the juvenile dependency system	✓					✓	✓			
An Examination of the Indian Child Welfare Act Section of State Title IV-B Child and Family Services Plans	✓									
Are Reports of Child Abuse Among Parents with Disabilities More Likely to be Sustained?							✓		✓	
Assessing a Parent Representation Program in Texas	✓				✓	✓	✓	✓		
Assessing parental engagement in dependency court hearings				✓	✓	✓		✓		✓
Assessing the long-term effects of courts catalyzing change preliminary protective hearing benchcard		✓		✓		✓	✓		✓	
Assessing the relationship between the quality of juvenile dependency hearings and foster care placements				✓		✓	✓			
Characteristics of attorneys representing children in child welfare cases	✓		✓						✓	
Child abuse and neglect institute evaluation: Training impact on hearing practice		✓		✓		✓	✓			

	Systemic	Practices			Outcomes		Cross-cutting		
Children's participation in foster care hearings			✓			✓		✓	
CIP Quality Representation Committee L-GAL Report and Recommendations	✓		✓			✓			
Contextual Factors Influencing Recommendations for Service Provision by Guardian ad litem and Court-Appointed Special Advocates									✓
Cumulative Rates of Child Protection Involvement and Terminations of Parental Rights in a California Birth Cohort, 1999–2017						✓	✓		✓
Detroit Center for Family Advocacy Pilot Evaluation Report 7/2009-6/2012	✓					✓	✓		
Do specialty courts achieve better outcomes for children in foster care than general courts?	✓					✓	✓		
Domestic violence and dependency courts: the greenbook demonstration experience	✓	✓		✓					
Effects of an interdisciplinary approach to parental representation in child welfare	✓					✓			
Effects of parental and attorney involvement on reunification in juvenile dependency cases					✓	✓		✓	
Engaging Youth in Court: A National Analysis									✓
Evaluating the Court Process for Alaska's Children in Need of Aid	✓	✓			✓		✓		✓
Evaluation in multiple sites of the Safe Babies Court Team approach	✓					✓			✓
Evaluation of Implementation of the Kentucky Court Rules of Procedure and Practice: An Approach to Assessing the Impact of Court Reform Efforts	✓					✓			
Evaluation of the Guardian Ad Litem System in Nebraska	✓		✓		✓	✓	✓	✓	
Evaluation of the impact of enhanced parental legal representation on the timing of permanency outcomes for children in foster care	✓						✓		
Evaluation of the Miami Child Well-Being Court Model: Safety, Permanency, and Well-Being Findings						✓	✓		
Evaluation of the QIC-ChildRep Best Practices Model Training for Attorneys Representing Children in the Child Welfare System			✓		✓		✓	✓	
Examination of Judicial Practice in Placement Review Hearings for Youth in the Permanent Managing Conservatorship of Texas	✓			✓	✓	✓	✓		

	Systemic	Practices				Outcomes		Cross-cutting		
Examining hearing quality in child abuse and neglect cases: The relationship between breadth of discussion and case outcomes					✓	✓	✓			
Expediting Permanency: Legal Representation for Foster Children in Palm Beach County	✓		✓	✓	✓		✓	✓	✓	✓
Exploring outcomes related to legal representation for parents involved in Mississippi's juvenile dependency court system	✓			✓			✓	✓		
Exploring the relationship between Hearing Quality and Case Outcomes in New York				✓		✓	✓			
Expressed-Interest Legal Representation for Children in Substitute Care: Evaluation of the Impact of Representation on Children's Permanency Outcomes.	✓		✓		✓		✓	✓		
For a Lot of American Teens, Religion Is a Regular Part of the Public School Day										✓
Fulfilling the hope of ICWA: The role of community context							✓	✓		
Hawaii courts catalyzing change case file review and court observation pre and post benchcard		✓		✓	✓	✓	✓	✓		
Improving juvenile dependency case timeliness through use of the one family, one judge model	✓							✓		
Improving Parents' Representation in Dependency Cases: A Washington State Pilot Program Evaluation	✓						✓	✓		
Jim Casey Youth Opportunities Initiative: Experiences and Outcomes of Youth who are LGBTQ								✓		✓
Judicial workload estimates: redefining the concept of judicial work	✓	✓								
Juvenile court pathways to legal permanence for children in substitute care							✓	✓		✓
Legal representation for the state child welfare agency in civil child protection proceedings: comparative study	✓			✓	✓		✓	✓		
Legal representation in the juvenile dependency system: Travis County, Texas' parent representation pilot project	✓				✓	✓	✓	✓		
Mandatory, fast, and fair: Case outcomes and procedural justice in a family drug court	✓						✓	✓	✓	
Measuring judicial workload in dependency cases: lessons learned from Washington state	✓	✓		✓		✓	✓			

	Systemic	Practices			Outcomes		Cross-cutting		
Nevada Hearing Quality Study: Examining the quality of child welfare court hearing practice in Nevada			✓	✓	✓		✓		
One family, one judge practice effects on children: Permanency outcomes on case closure and beyond	✓					✓	✓		
Reflective decision-making and foster care placements		✓				✓		✓	
Representation of children in child abuse and neglect cases: An empirical look at what constitutes effective representation	✓		✓	✓	✓	✓			
Research Report: Assessing Time-certain calendaring				✓	✓	✓		✓	
Technical Assistance Brief. Calculating Juvenile Dependency Judicial Workload	✓				✓				
The Center for Regional and Tribal Child Welfare Studies: Systems change through a relational Anishinaabe worldview	✓	✓							
The child protection clinic: A mixed method evaluation of parent legal representation	✓					✓			
The cumulative prevalence of termination of parental rights for US children, 2000–2016							✓		✓
The Effects of Judicial Personnel on Hearing and Outcome Timeliness in Juvenile Dependency Cases	✓					✓	✓		
The impact of model court reform in Arizona on the processing of child abuse and neglect cases	✓				✓	✓	✓		
The organization of child representation services in child welfare cases: A study of Washington State	✓		✓			✓			
The Portland Model Court Expanded Second Shelter Hearing Process: Evaluating Best Practice Components of Front-Loading			✓			✓			
Understanding the effects of an interdisciplinary approach to parental representation in child welfare						✓		✓	
Washington Workload Site Assessment: Spokane	✓					✓	✓		
What Does Court Observation Tell Us About Judicial Practice and the Courts in Child Welfare?			✓		✓	✓			
Who Is an Indian Child? Institutional Context, Tribal Sovereignty, and Race-Making in Fragmented States			✓		✓			✓	