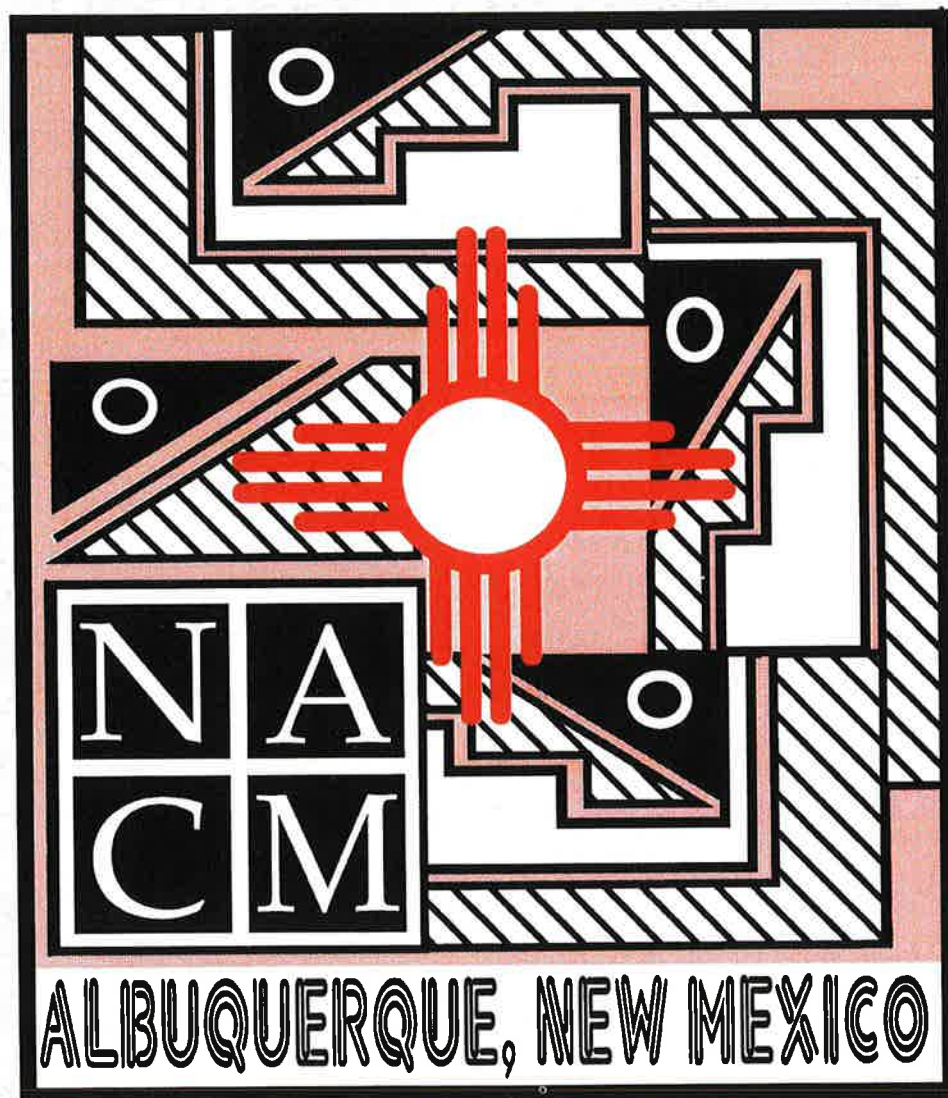


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Keeping the Promise: Permanency Planning in Nevada

Gerald W. Hardcastle, Linda Ley, and Thom Reilly

In 1994, the Clark County (Las Vegas, Nevada) Juvenile Court, in cooperation with various child-serving agencies, established the Juvenile Court Abuse/Neglect Core Committee to provide court/agency cooperation in child welfare cases. The committee explored new ways to address permanency for children in foster care. The effort did not come about because the system was doing poorly, but from the belief Nevada could accomplish this important task more effectively.

The most substantial result of the committee's work was the formation of the Foster Care Review Board, composed of the juvenile court judge, child welfare staff, mental health personnel, and lay persons.

Unlike other foster care review systems, the Clark County Foster Care Review system included administrative, judicial, and citizen input in the process.



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Permanency planning reviews were set at twelve months rather than the customary eighteen months, and a committee of judicial, administrative, and citizen representatives simultaneously reviewed the status of children in out-of-home care. The Nevada Foster Care Review system is unique in that it includes the expertise of the courts, the knowledge of agency personnel, and the benefit of citizen and community involvement. The committee believed that a review board would provide a better system for monitoring case activity. It hoped to develop a dynamic system to reduce the length of time children remain in out-of-home care and to achieve permanent placements more expeditiously.

Background

Finding permanent homes for children removed from their families has long been the central goal for child welfare agencies and juvenile court systems. The Adoption Assistance and Child Welfare Act of 1980 (PL 96-272) has, as its primary purpose, the prevention of "foster care drift." The law's goal is to ensure that every child has a permanent home by reuniting the birth family, or, where this is not feasible, by placing the child with a relative or in an adoptive home. However, there has been growing criticism regarding the success of permanency planning nationally. One study notes that "the permanency planning revolution appears to be stalled."¹

Despite federal and state laws that limit the time a child should stay in foster care to twelve to eighteen months, thousands of children remain in foster care for substantially longer periods of time. George, Wulczyn, and Hardin analyzed recent foster care trends using state databases in five states with the largest populations.² They found that the median length of time children remained in out-of-home care ranged from a low of 8.7 months in Texas to a

high of 34.8 months in Illinois. In addition, the number of children entering foster care continues to increase. This follows a decline in rates of out-of-home care usage between 1977 and 1982, when the estimated number of children in foster care decreased from 503,000 to 243,000.³ By 1992, the estimated number of children in foster care had increased to 429,000 and is projected to reach between 550,000 and 840,000 by 1996, effectively negating the gains credited with the enactment of PL 96-272.⁴

Children entering foster care today are more likely to be younger, poorer, homeless, and experiencing more health problems than their 1983 counterparts.⁵ A disproportionate number are minorities, especially African-American,⁶ and have experienced multiple placements in foster care.⁷ In addition, infants are staying in care longer than children who enter at older ages.⁸

Increasingly, children and families served by the child welfare system have multiple problems. According to the final report of the National Commission on Children, "the foster care population is made up of seriously troubled adolescents at one end of the spectrum and medically fragile infants and young children at the other end . . . the number of emotionally disturbed, mentally ill, developmentally disabled, and delinquent children has also increased."⁹ The proliferation of single-parent families and the increase in substance abuse have also severely affected the foster care population.¹⁰ At the same time, a recent study of several large states indicates foster care caseloads have more than doubled over the past ten years.¹¹

Since the barriers to permanency are many and represent complex legal, political, and social issues, several states have implemented permanency planning efforts, including citizen review panels. These panels monitor the case activity of children in

foster care and decrease the time children remain in care. They have either replaced or assisted the courts in ensuring that the child welfare agency was making reasonable efforts to prevent placement, reunify the child and family, or to proceed with another permanent placement. However, research on the success of citizen-only reviews, when compared to reviews by pure administrative or judicial-only reviews, is inconclusive.

Foster Care Review Systems

One study outlines four basic types of periodic reviews: judicial-citizen, pure judicial, pure administrative, and enriched administrative (includes both internal and external reviewers).¹² Inquiry into the effectiveness of the various types of foster care review systems has been limited.

In 1974, South Carolina became the first state to enact legislation establishing a statewide foster care review system.¹³ According to the National Association of Foster Care Reviewers (NAFCR), the South Carolina system significantly reduced the number of children in foster care. By 1979, New Jersey, Arizona, Delaware, and Maryland had also passed legislation requiring citizen reviews. Each state reduced the costs associated with foster care as the result of these citizen panels. "In 1991, citizen review systems were operating or legislated in twenty-two (22) states while in six additional states, citizens were participating in administrative reviews or serving on pilot . . . review panels."¹⁴

A study of the Nebraska Citizen Review Panel found that children whose cases were reviewed externally were more than twice as likely to be placed for adoption as the children whose cases were reviewed only by the internal system.¹⁵ Wert, Fein, and Haller also found some evidence in Connecticut that judicial-citizen reviews move children more rapidly toward permanency than pure judicial reviews.¹⁶ Likewise, a study

conducted in 1987 by the NAFCR looked at citizen review panels in cities in Alaska, Arizona, Washington, and Illinois. Each of these sites conducted the first review within sixty days of placement. The initial findings indicated that children receiving early reviews from the citizen panels remained in care for a shorter time than those who did not receive early reviews.¹⁷ Finally, Montgomery, Bukowski, and Still reported on the Anchorage Early Citizen Review Process from January 1988 through June 1989 and found that "reviewed children spent an average of 49.9 days in foster care, while children in the control group spent an average of 80.3 days in foster care. Thus, it can be concluded an early citizen review process may reduce the time a child spends in foster care."¹⁸

Not all findings point to the superiority of citizen reviews. Comparing judicial-citizen reviews with pure administrative reviews in Georgia, Lindsey and Wodarski concluded that there were no clear positive outcomes for children in foster care receiving the citizen reviews.¹⁹ Likewise, a report to the Minnesota legislature on the Citizen Review Board Pilot Project found "there were no significant differences in the number of placements, days in placement, or placement type by model of review for the children in the project."²⁰ Finally, McMurtry examined legal and procedural innovations in Arizona that included the state's citizen review panel.²¹ The results indicated that the innovations did not free up children at a greater rate; however, they did increase the number of children considered as adoption candidates.

The Clark County Experience

This article examines the process in Clark County, Nevada. The hypothesis is that converging judicial, administrative (agency), and community efforts will result in a better model for permanency review of children in foster placement.

Regardless of the importance of child abuse and neglect, few persons become juvenile court judges. These judges are generally selected from general jurisdiction or family court judges who rotate the assignment.

Upon selection, the judge's limited experience in juvenile matters consists largely of having handled a few juvenile matters while in public or private practice. After selection, the judge may attend some of the few juvenile court courses offered and will be apprised that he or she must advocate for services for abused and neglected children and further that he or she is a critical moving force for children in his or her jurisdiction. At this point reality sets in. While the judge is committed to leading the efforts, he or she may have an abiding feeling of being a mere corporal leading generals into battle. There are many who have more knowledge and experience. The question becomes where to begin.

This scenario is not a fantasy but a reality in Clark County, Nevada. For all the abilities and authority judges are asserted to possess, those appointed to juvenile court have no significant experience in juvenile law and even less experience in administration of juvenile services.

The establishment of Nevada's unified family court system has not resolved the difficulty. Family court judges are more likely to come with experience in divorce and child custody litigation than juvenile abuse, neglect, and delinquency. While both juvenile court and domestic court issues involve children, there are significant and substantial qualitative differences between juvenile abuse and neglect matters and other domestic matters.

Accompanying this issue of experience and knowledge is that of the juvenile court judge's ability to effect change. Nevada's juvenile court judges have historically been perceived as leaders on juvenile abuse and neglect issues.

In the areas of child welfare, Nevada's juvenile judges have statutory authority over county child protective services. In Clark County, however, the juvenile court judge's direct authority over protective services has been eliminated by the creation of a separate county agency. Other child welfare services, such as family preservation, foster care, adoption, and child and adolescent mental health services, are administered by the state Division of Child and Family Services. Accordingly, and regardless of the creation of the family court, the ability of the Clark County juvenile court judge to directly control juvenile abuse and neglect services has decreased.

Realistically, juvenile judges lack the knowledge, experience, ability, and power to meaningfully effect changes in the juvenile system. Collaboration with others has always been critical. Recent changes, including a reduction in the statutory authority of the judge and the population increase, simply make collaboration more critical.

The process of defining any successful collaboration effort is difficult. It is uncertain whether the result is attributable to good planning or good fortune.

The experience in Clark County, however, is that collaboration under the leadership of the juvenile judge is possible and has led to the creation of an innovative system for review of children in foster care. This article analyzes both the process and the result.

The Process

Establishment of the Core Committee. The individual juvenile court judge may possess few assets.

One valuable asset, however, is the ability to command the presence of those who know more than the judge. Judges do not necessarily possess great knowledge or abilities, but they know those who do and are very effective at bringing those with abilities together.

In Clark County, the juvenile court judge established a core committee of persons interested in permanency for abused and neglected children. The committee comprised representatives from child protective services, foster care, adoptions, the Court Appointed Special Advocate (CASA) program, child and adolescent mental health services, foster parents, and attorneys. Membership was based on recognized leadership ability.

From the perspective of the juvenile court judge, the most important aspect was to gather committee members who possessed a desire to improve the abuse and neglect service system. No particular regard was given to the title or position of the member. The involvement of the judge gave importance to the effort. What was lacking was expertise. Members were selected based for their ability to provide effort and expertise.

This selection principle is best demonstrated by the involvement of one child protective service worker. He was not a supervisor, but, in addition to being a child protective service worker, he was a foster parent with a recognized interest in foster parent efforts. There are many such persons in any abuse and neglect system whose abilities are dormant but whose desire to contribute is great.

The Initial Efforts. When the core committee first met, it encouraged general discussion on abuse and neglect. The meetings established relationships among committee members to enable them to become committed to the goals of the committee. Equality among members was recognized.

The initial process is difficult to define, largely because there was

no effort to reach a specific result. It was important to form relationships of trust and respect among the committee members and develop communication lines. Underlying this process was a commitment to improve permanency efforts.

Beginning the Work. The initial effort of the core committee was to develop a mission statement that defined the committee's purpose as providing a "forum for review of an integrated service delivery system relating to all aspects of foster care from decisions regarding initial placement in foster care through review processes to permanency planning."

Next the committee identified problem areas in the child welfare system that were chronic impediments to permanency of children in foster care. They were (1) visitation during foster placement between the foster child, parents, and/or siblings, (2) foster parent involvement in the review process, (3) efficiency of the transfer process when a case is assigned by the county protective service worker to the state Division of Child and Family Services, and (4) jurisdictional ability of the juvenile court judge to continue to terminate parent rights in case plan failures or to grant guardianships for wards of the juvenile court.

Formation of Subcommittees. After defining the areas of study, the core committee established subcommittees of representatives from various agencies to study each separate area and recommend changes. Subcommittee participation was extended by the juvenile judge, and a "kickoff" meeting, complete with refreshments, was held.

The kickoff meeting may appear frivolous; however, it communicated judicial support for this important effort. Throughout the entire process, the judge reflected a personal commitment to the importance of the process to the children of Clark County.

Deadlines were set for the subcommittees' reports. Without exception, they met and submitted



reports without further reminders. The quality varied, but each subcommittee provided more than a minimal effort. In some cases, most notably the foster parent subcommittee, a very significant effort was made. The foster parent subcommittee report has been used as a study tool statewide.

Keeping the Promise. Subcommittees were promised that their respective efforts would be implemented by the core committee. This promise was made credible by the involvement of the judge and various agencies on the core committee. At present, efforts to implement various subcommittee recommendations are being pursued.

The Results

Continued efforts by the core committee and subcommittees resulted in exploring and discussing many suggested improvements in existing abuse and neglect procedures and policies. Abuse and neglect efforts went from static to dynamic. Changes were numerous, and many were enacted largely without ceremony.

Two changes, however, have been more formally explored and are being implemented. The first involves expanding the participation of foster parents in the foster care review process. The second involves the establishment of a foster care review board.

Increased foster care participation. The foster care subcommittee strongly urged increased participation of foster parents in the review process. While this suggestion is not unique and implementation is long overdue, participation by foster parents in the review process has been casual in Clark County. Foster parents are not notified of review hearings. If they appear, they may be heard, but without notice they rarely appear.

To increase participation, the core committee recommended a judicial order that granted foster parents the right to participate as team members in the review pro-

cess. The juvenile court judge established the foster parents' rights to notice of review hearings, to be heard at review hearings, and, to the degree consistent with federal and state law, to access reports submitted to the court during review of foster children in their care.

Additionally, the order directed the various agencies involved in the review process, including the state Division of Child and Family Services, the CASA program, and county child protective services, to meet with foster parent representatives and to establish guidelines and procedures to address other foster parent concerns, such as disclosures required at the time of placement. Financial issues, such as increased foster care payments and respite care, were not addressed.

The juvenile judge has had the authority to enter the procedural order at any time. The agencies participating on the core committee recognize the changes are worthwhile to provide improved services to children in foster care, instead of having the changes forced upon them by the judge.

Further, directing the continued participation of agencies to address other foster parent issues results in even greater efforts to explore and resolve foster parent issues. Again, the process has changed from static to dynamic.

Foster Care Review Board. The most dynamic change is in the remodeling of the foster care review itself. Presently, the juvenile court judge conducts all reviews concerning abused and neglected children in substitute care. The judge reviews each case every six months and permanency reviews are heard at eighteen months. Parents are formally notified, but their appearance at the hearings is not otherwise encouraged. Foster parents are not notified or encouraged to attend. Generally, the caseworker appears alone or with a CASA, if one has been appointed.

The sterility of such hearings is obvious. To alleviate this ster-

ity, the core committee created a foster care review board, made up of six members consisting of the juvenile court judge, a mental health representative, a case management (foster care/adoptions) supervisor, a child protective service representative, a court appointed special advocate administrator, and a member of the general public. Review by the board will be at the twelve-month review period instead of the statutorily mandated eighteen-month review.

The board will focus on permanency, not placement, for the child. It will try to increase the participation of natural and adoptive parents, foster parents, and all others involved with the child, including the child him/herself where appropriate.

Clark County recognizes that citizen review boards have been established in many states. Additionally, core committee members viewed citizen review boards in another state. While such boards have the advantage of earlier review than anticipated in Clark County, there is a disadvantage in that the citizens' boards lack the ability to impose orders and completely address and resolve the issues presented at the hearing. The presence of the judge at the hearing provides substance and authority; if an order is needed, it is made at the hearing.

Second, although some applaud citizen boards for their lack of agency involvement, the core committee believes that agency involvement can provide expertise that is unavailable to citizen boards.

Implementation of the foster care review board started with hearings commencing on September 1, 1995. Through December 1995, 273 foster children involved in 154 families were re-



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A Question of Ethics

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Brian thought Bob ought to negotiate with Harry as to how many calls and how much time is appropriate to both fulfill the union's need for proper employee representation and management's need to complete the court's work. Brad also thought it was worth Bob's time to find out why it was taking so long to deal with these personnel matters.

Phyllis's Calls to Her Teenage Daughter

Brad and Brian thought Phyllis's calls were ethical because she was legitimately concerned about her daughter. Everyone makes a certain number of personal phone calls that are acceptable. Tom did not see this situation as an ethical issue; rather he thought it was simply a personnel/supervision concern.

Brad and Brian both agreed that the court needs to draw a line regarding an acceptable number of telephone calls employees can make. Bob might consider negotiating with Phyllis to either reduce the number of telephone calls she

makes or changing her hours so she can handle her family concerns. Even though this might be a trivial issue now, it can become more serious later on. Bob needs to deal with it now. Bob could possibly write a memo to all personnel on this issue and also ask the county to establish a policy. The important point is to strive for consistent treatment.

George's Calls to His Doctor

Brian saw George's situation as more of a supervision question than an ethical one. Tom thought George should simply stay home and take care of his medical business. Brad and Tom both were unsure if the public would see George as potentially misusing government resources, but Tom pointed out the possibility of universalizing the problem to all employees certainly existed. Either way, Bob needs to deal with the work issue, possibly by arranging a flex-time schedule. George might also do well to avail himself of the court's employee assistance program.

Marva's Calls to Her Attorney

Brian considered Marva's calls to be ethical, though Tom thought Marva should call her attorney on her own time. All three said that the court has the responsibility to define reasonable parameters. Bob needs to set such a standard for all employees. Marva needs to be treated like all other employees. If others have been allowed to make calls, she should not be singled out. Bob should also ensure that all employees within the court are being treated the same and check for similar occurrences of telephone abuse in other departments.

The telephone temptation brings up a number of ethical and supervisory issues with which we all must deal; proper use of public resources, appropriate compensation for service in office, the public's perception of abuse of office, and making issues into trivialities. Thanks again to Tom, Brian, and Brad for their comments. If you have an interesting ethical issue you would like to share, send it to me in care of *The Court Manager*. CM

Keeping the Promise:

Continued from p. 11

viewed. While a survey of attitudes regarding the process has just recently begun, initial comments reflect that those participating appreciate the time and effort to fully review permanency. People are afforded the opportunity to understand why and how decisions are made.

Further, not only is much accomplished at the hearings but much is accomplished in *anticipation* of the hearings. Case managers reflect a clearer commitment to permanency for foster children.

There was a concern that the judge might dominate the hearings. However, as everyone became familiar with the process, participation by members increased. After the first few

months, participation by all members was active and appropriate.

Statistical and historical data are premature. Surveys have begun and ongoing issues are being addressed and monitored by the board participants. The process is improving and efforts will be made to analyze those results when significant information is available. For the present, however, the foster care review board has strengthened the review of children in foster care and has helped Clark County better address the needs of foster children.

While the specific efforts of the core committee can be debated, the transition of Clark County's response to abuse and neglect from a static to dynamic

process cannot. The lesson is that collaboration results in dynamic energy and ideas, and, with change comes growth and improvement. Individual participation increases because the effort is recognized as being worthwhile. Everyone wants to be part of the effort and the outcome. The result is an increased commitment to improving a system that benefits children. Clark County's efforts are not necessarily the best or only way of addressing abuse and neglect issues. What is being demonstrated is that, in a time when financial resources are limited, involvement by participants in the abuse and neglect system under the leadership of the juvenile judge can result in innovative

efforts designed to benefit children in placements.

Implications and Barriers

The Clark County model of incorporating judicial, multidisciplinary administrative, and citizen participation into the panel raises implications and barriers, some of which have been previously addressed and some of which are unique. In this model, the spotlight and priority are placed on permanency through the multifaceted panel. The implication is that children will move toward permanency at a faster and steadier rate, thus reducing their length of stay in foster care. Monitoring permanency will center the system's focus on process outcome and client outcome for the child. This shift and emphasis of focus may result in a rush toward reunification, when such a plan is not in the child's best interest. The panel will be cognizant of this potential barrier and address it when germane in the course of the case review.

Stabilizing placements for children is an implication of this model. The attention to permanency should produce a reduction in placement changes. The panel is charged with the review and evaluation of permanency for each child. In so doing, each placement will be measured in that context and fewer placement moves, which are not specifically aimed at permanency, are anticipated. In conjunction, the process will formally identify and prioritize permanency options. The panel will provide clarity to the concepts of reunification, adoption, guardianship, long-term foster care, and independent living, and direction as to the appropriate application of each of these options.

The benefits of the Clark County model are community education and involvement in child welfare services. Citizen participation on the panel leads to an understanding of and investment in the process. This broad base of involvement affords op-

portunities for education and advocacy not heretofore available. Identification of resource and service gaps becomes a part of the community's awareness. The barriers inherent in this aspect are commitment and scheduling complexities. Citizen panel participants bring varying levels of dedication and additional time constraints to the existing court calendaring difficulties. This requires creative calendaring and concerted community education and recruitment.

The judicial, multidisciplinary administrative, and citizen composition of the panel enhances the macro versus micro view of the case. It promotes agency consensus and system evolution through communication, cooperation, and collaboration. The nature and design of the panel elicits positive energy, teamwork, and conjoint problem solving. The hurdle of this effort arises from a clash of mandates and philosophies innate in the diversity of the panel participants. Unique in the Clark County model, the leadership and direction of the judiciary serves as a safeguard to this potential barrier.

The model emphasizes inclusion rather than exclusion. Invitation is formally extended to the child, parents, foster parents, CASAs, caseworkers, therapists, relatives, potential adoptive parents, and others identified as crucial to the case review. This forum provides for a global assessment of the case with all the players available to contribute and/or receive direction as needed. The inclusion of parents is essential as their failure or inability to comply with the case plan has historically been viewed as a dominant barrier to permanency. Additionally, the role of foster parents is elevated as they are invited to participate in the review process. This has been addressed through an administrative directive from the judiciary, which details their access to information, their ability to participate, and expectations for their accountability.

The dynamics of the open

policy, within the context of the citizen, judicial, and administrative panel, present a concern about confidentiality and the need for training. Ongoing direction from the panel, particularly the judiciary, is essential to ensure compliance.

An important outcome of the Clark County model is the expansion of the responsibility for case oversight from sole judicial review to panel scrutiny. This provides a broader perspective with more possible case suggestions, comments, and/or concerns. Problems may be more creatively addressed with a wider range of resolutions. Lack of consensus on the part of the panel participants may impede the review process. The judiciary may ameliorate this barrier through leadership and direction with a crystallized focus on the mission.

Measurements

The Clark County model presents three distinct indicators for measurement. First, the length of stay in care for each child is measured and a decline is anticipated. However, perhaps a more accurate measurement is a statistical calculation of the number of children in care after twelve months versus the number of children in care after eighteen months and twenty-four months. One measure of the model's success is reflected in a decline in length of stay in this targeted population. This indicator illustrates an improvement in permanency and measures client outcomes.

Second, the model should have a positive effect on reducing the number of placements for each child in care. The children reviewed are tracked to determine this measurement compared to a designated control group not reviewed by the panel. This indicator represents improvement in stability, which affects permanency through both client outcomes and process outcomes.

Finally, the model affords the measurement of reasonable effort mandates through a formal, standardized review process and data collection. Tracking reasonable

efforts in this manner provides invaluable information on the continuum of reasonable efforts. This data collection furnishes process outcome information through an overview of the actual child welfare system operation.

Conclusion

Underlying PL 96-272 is the premise that children develop best in their own families, and when children must be removed from their families, they should be placed in permanent settings in a timely manner. Many states are attempting to decrease the time it takes to find permanent placements for children. Foster care review systems have emerged to assist with these efforts. Unfortunately, the success of these reviews is mixed. The foster care review model developed in Clark County, Nevada, emphasizes including all parties involved in foster care in reviewing the case activity and finding solutions for children and families. The model includes the judicial, administrative, and citizen perspective and allows for additional input from foster parents, adoptive parents, and other community providers.

Special attention is given to collecting the necessary data to determine the effectiveness of these reform efforts in finding permanent homes for children in Nevada. Specific attention is given to closely monitoring the large number of poor and minority children being placed in the foster care system in Clark County. Additional research and inquiry is needed into the composition and structure of foster care review systems nationally and the benefit of combining judicial, administrative, and citizen perspectives. CM

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