

Technical Assistance Bulletin

Volume II

No. 5, July 1998

Judicial Leadership and Judicial Practice in Child Abuse and Neglect Cases

194266

PERMANENCY PLANNING FOR CHILDREN DEPARTMENT

**NATIONAL COUNCIL OF JUVENILE
AND FAMILY COURT JUDGES**

Technical Assistance Bulletin is a publication of the Permanency Planning for Children Department of the National Council of Juvenile and Family Court Judges. This document was supported by Grant No. 96-CT-NX-0001 from the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice. Points of view or opinions in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice or the National Council of Juvenile and Family Court Judges.

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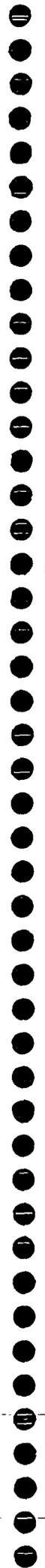
**U.S. DEPARTMENT OF JUSTICE
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Delinquency Prevention*

**Judicial Leadership and Judicial Practice
in Child Abuse and Neglect Cases**

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AND FAMILY COURT JUDGES**



**Judicial Leadership and Judicial Practice in
Child Abuse and Neglect Cases**

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Technical Assistance Bulletin is a publication of the Permanency Planning for Children Department of the National Council of Juvenile and Family Court Judges. The publication is made possible by the contributions of state court improvement specialists, judges, and other professionals from across the country. We extend our gratitude to all who participated in the gathering of information for this endeavor.

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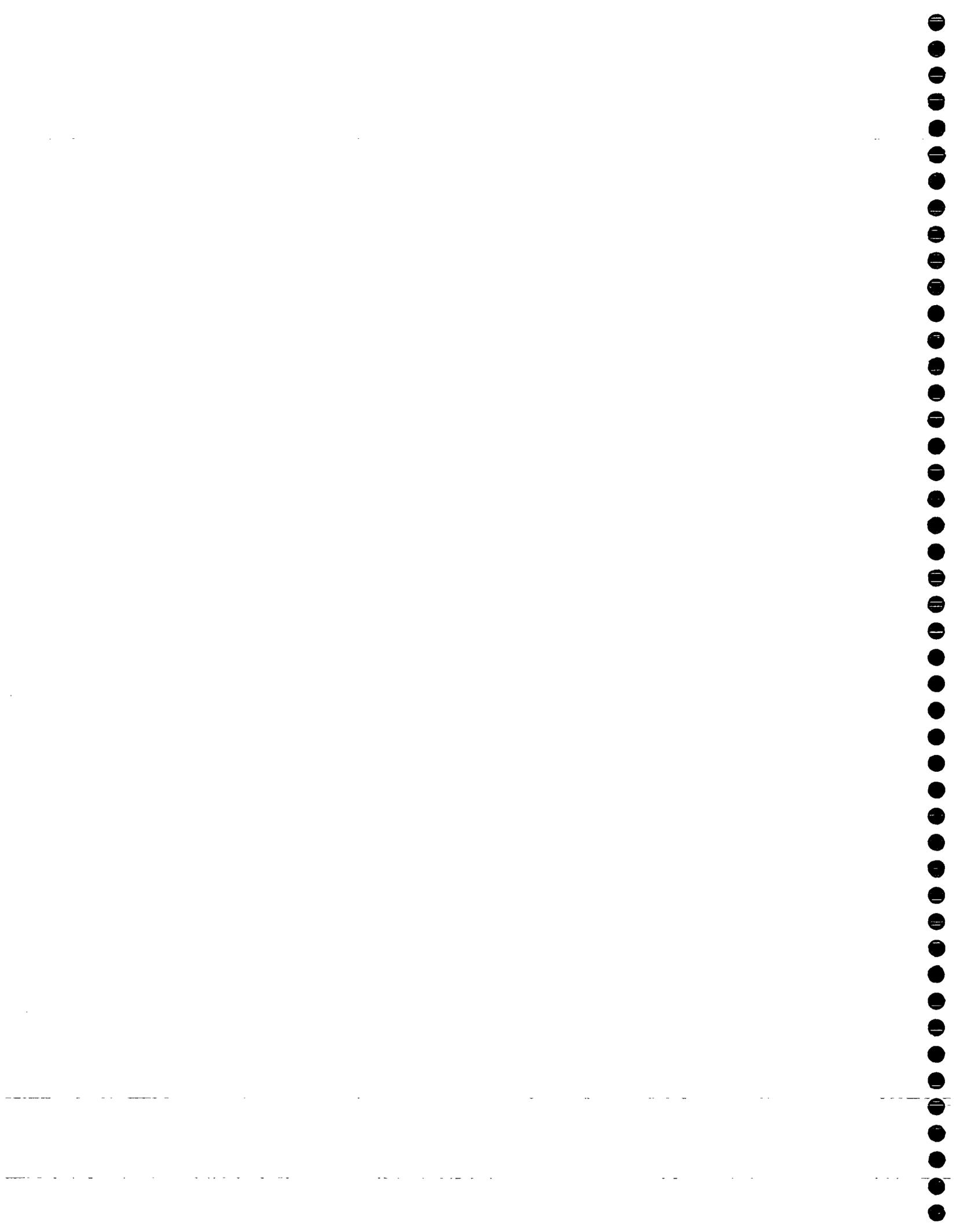


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Introduction

“The only institution that can reasonably exercise leadership on behalf of the society and children is the juvenile court. The reason is simply that no other institution can claim to have an equally broad view of all the interests that are at stake, to have as wide a range of action, or be able to make decisions that are designed to reflect the values of society as expressed in its laws and constitution.”

Mark H. Moore, M.P.P., Ph.D.
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Arguably, next to the child, the most important person in the juvenile and family court is the judge. The role of the juvenile and family court judge is a unique one and it combines judicial, administrative, collaborative, and advocacy components. Judge Leonard P. Edwards, of the Santa Clara County Superior Court in San Jose, California, identifies the various components of the role of the juvenile and family court judge in dependency cases.¹ These include holding parents, social workers, attorneys, and service providers accountable; the creation and dissolution of legal rights and responsibilities relating to child custody; the protection of children’s rights; and the articulation of community norms. Judicial leadership is critical to ensuring that the court’s introduction into the lives of children and families appropriately protects children, strengthens families, and promotes safe and timely permanency for children.

1

See Edwards, Leonard P. (1992). “The Juvenile Court and the Role of the Juvenile Judge.” *Juvenile and Family Court Journal*, Vol. 43(2), National Council of Juvenile and Family Court Judges.

Introduction

Leadership in the court ensures a better informed and improved culture of decision-making, a fairer and more just system, and a concentrated focus on better outcomes for children and families. As Judge Stephen B. Herrell, President of the National Council of Juvenile and Family Court Judges, remarked at the recent Permanency Partnership Forum,² effective judicial leaders ultimately serve four primary leadership functions, those of case manager, convener, change agent, and system advocate. Each of these functions is vital if court improvement goals are to be reached and the judge's vision of the court is to be achieved.

In his book, *Leaders are Made: A Building Block Approach to Effective Leadership*,³ John Bucciarelli lists what he views as the essential skills required of leaders (see below). It is worth noting that these are the same skills required of judges.

<i>Essential Skills Required of Leaders</i>		
Oral communication	Influence	Decisiveness
Oral presentation	Judgement	Physical Stamina
Delegation	Planning	Problem Analysis
Written communication	Administrative Control	Initiative
Mission Accomplishment	Problem Analysis	Followership
Sensitivity	Technical Competence	

²

Permanency Partnership Forum III, Arlington, Virginia, June 15-17, 1998.

³

Bucciarelli, J. (1997). *Leaders are Made: A Building Block Approach to Effective Leadership*. Florida: Blue Note Books.

While judges are not leaders merely by their position, judges are positioned to *become* leaders. As with any worthwhile skill, becoming an effective leader, judicial or otherwise, involves life-long learning and experience. As one continually strives to become a better judge, so too will one become a better leader.

States across the country are engaging in system change efforts to improve the processing of child abuse and neglect cases. As part of their court improvement efforts, states have identified a wide range of problems and barriers that need to be addressed and have developed a wide range of creative solutions designed to improve case processing and bring about safe and timely permanency for children. As part of a national research project conducted by the Permanency Planning for Children Department (PPCD) of the National Council of Juvenile and Family Court Judges, court improvement specialists in 49 states⁴ and the District of Columbia participated in a telephone interview. Court improvement specialists were chosen for their ability to discuss their states' statutes and day-to-day practice in child abuse and neglect cases. In all cases, the participants had been involved in court improvement efforts over the past several years. Their responses, therefore, were informed by data gathered over the course of statewide court improvement assessments. (For more information about the National Research Project please see Appendix A.) While problems and solutions identified varied among states, all court improvement specialists agreed that knowledgeable and committed judicial leaders are critical to the success of reform efforts. As one court improvement specialist noted,

⁴

Wyoming did not participate in the interview and questionnaire phase of the research. The total sample size is 50 (49 states and the District of Columbia).

Introduction

“Judges should be the most active person in the court — they need to lead so that others will follow.”

The goal of this *Technical Assistance Bulletin* is twofold. The first section presents an overview of effective leaders and effective leadership. It is intended to provide readers with a sense of what it means to be an effective leader. The second section presents the findings from the telephone interview that pertain directly to judicial practice and places those findings within the context of judicial leadership.

Effective Leaders and Effective Leadership

Much has been written over the past few decades about what constitutes effective leadership, which “leadership styles” are most appropriate for given situations, and what personality characteristics are shared by effective leaders. It is now generally recognized that there is no single leadership style which is universally successful. Leadership styles vary across and within organizations and situations, and leadership characteristics vary among individuals. However, there are some general attributes that are common to effective leaders.⁵

Effective leaders

- ◆ have a clear vision of a common purpose
- ◆ show true respect for people
- ◆ foster honest, open communication
- ◆ have the courage to develop their own leadership style

5

Compiled from the following leadership literature and research: Barron, C. (1996). *Dare to Lead*. New York: Plenum; Cacioppe, R. (1998). “An Integrated Model and Approach for the Design of Effective Leadership Development Programs.” *Leadership and Organizational Development Journal*, Vol. 19(1), pp. 44; Capozzoli, T.K. (1997). “Creating a Motivating Environment for Employees.” *Supervision*, Vol. 58(4), April, pp. 16; Chrislip, D.D. and Larson, E. (1994). *Collaborative Leadership: How Citizens and Civic Leaders Can Make a Difference*. San Francisco: Jossey-Bass; Flores, F.P. (1992). “Team Building and Leadership.” *Supervisory Management*, Vol. 37(4), pp. 8; Keller, R.T. (1995). “Transformational Leaders’ Make a Difference.” *Research-Technology Management*, Vol. 38(3), May-June, pp. 41; Lee, C. (1991). “Followship: The Essence of Leadership.” *Training: The Magazine of Human Resource Development*, January, Vol. 28(1), 27; Opart, D. (1996). “Effective Leadership and Skills Development.” *Discovery and Innovation*, Vol. 8(3), pp. 204; Stoltenberg, J. and McIntosh, C. (1990). “See the Big Picture? Now show your staff.” *Working Woman*, Vol. 15(4), April, pp. 84; Thomas, C. C. and Tartell, R. (1991). “Effective Leadership: Evaluations of the Next Generation of Workers.” *Psychological Reports*, Vol. 69(1), pp. 51.

Effective Leaders and Effective Leadership

- ◆ empower people and align people behind them
- ◆ know their own worth and have positive self-regard
- ◆ view every misstep as a learning opportunity
- ◆ do not believe in failure
- ◆ always strive to achieve balance but resist status quo

Becoming an effective leader does not require charisma, nor a library of management theories waiting to be applied. It does, however, require: vision; clear goals; a willingness to work with peers, superiors, and constituents; a good sense of the overall situation and context; the ability to adapt; good communication skills; and a commitment to action.

There is no universal definition of leadership; leadership means different things to different people, to different organizations, and within different contexts. What can be agreed upon, however, is that leadership is defined not only by what it is, but also by what it does. Leadership is reflected both in thought and in action. Leadership empowers, motivates, and organizes people to achieve a common objective, and provides moral guidance. It is both a service to people and a vision for the future.

Leadership is

- ◆ Leadership is a state of mind and a way of life, not something that one turns on and off.
- ◆ Leadership is practiced in the most mundane activities, the most tedious tasks.
- ◆ Leadership is looking for solutions, not fault.
- ◆ Leadership is to respect conventional wisdom, but not be totally bound to it or intimidated by it.
- ◆ Leadership is risk taking.
- ◆ Leadership is providing direction where none exists.
- ◆ Leadership is changing direction in a timely manner when circumstances warrant.
- ◆ Leadership is viewing every mistake as an opportunity for growth and change.
- ◆ Leadership is recognizing your own limitations and the limitations of others.
- ◆ Leadership is accepting responsibility for one's actions and demanding that others in the sphere of influence do the same.

Adapted from Adams, S. (1997). "Thoughts on Leadership." *The Rose: Online Literary Magazine*, March, pp. 4; "Leadership in Changing Times." (1998). *Ontario Prevention Clearinghouse*, pp. 1-4. Ontario, Canada: Ministry of Health.

➡ ***Effective leaders as “meaning makers”***

A successful leader interprets the present, creates a shared horizon of possibilities for the future, creates an environment for change, and expands the capacity for action. The most effective leaders are those who influence others not by making them do something but by making them want to do it; not by telling them what to do but by telling them why it is important. Effective leaders communicate a compelling vision, one that people want to see happen.⁶ A compelling vision energizes and motivates, and it is ultimately reflected in the behavior and action of those striving to bring about its realization.

Effective judicial leaders are “meaning makers.”

All of the aforementioned qualities of effective leaders can also be ascribed to effective judicial leaders. But effective judicial leaders are also “meaning makers;” they provide the court and those who come before it with a sense of *purpose*, a sense of *meaning*. This sense of purpose and meaning is a reflection of a judge’s vision for the court. However, in order to be realized, the vision must be communicated to others and set in motion. Once set in motion, the vision may change and develop over time. As a consequence of gained experience, input from others, new policies, and changes in staff and collaborators, the vision of the court will continue to evolve.

Collective envisioning is a powerful motivator — that is, a vision that arises from teamwork and collaboration. The effective leader is someone who can articulate the vision that develops from tapping into the strengths of everyone in the group.

⁶

Stoltenberg and McIntosh, *Supra* note 5.

Not only does collective envisioning serve as a powerful motivator, but it also enriches the vision itself. A vision that arises from teamwork and collaboration integrates and reflects the experiences of others; it reflects diverse and unique views, creative options, and multiple voices. Teamwork also makes the vision go further — a judge communicates her vision to 10 people, who spread the vision to 10 others, and so on. By expanding others' notions of what they can achieve, the leader imparts to them a sense of dignity, along with a sense of pride and participation in the endeavor. Instilling in people a sense of what can be achieved is the most important incentive of all.



Communicating a vision for the court

If a judge's vision of the court and dependency practice is going to be communicated effectively, and if the vision is to energize change and improvement, then the judge must be fully and passionately committed to the vision and to achieving court improvement goals. The more personally relevant and important a vision is to the judge, the better the judge will be able to make it vivid, personal, and achievable to other system participants. The best way to mobilize people for change is to paint a picture as seen by the judge, enabling them to visualize it. The vision must be communicated so that it becomes something for people to focus on and rally around. The passion of the judge, reflected in the vision, will lend it credibility.

Communicating a Vision

Let your vision possess you; believe in it absolutely.

Engage people's imagination; make your vision vivid to them.

Be passionate when communicating your vision.

Consistently act in accord with your vision; set the best example.

Take a collective view.

Adapted from Stoltenberg and McIntosh, *Supra*, note 5.

One of the most important ways a leader communicates a vision is by consistently acting on and personifying that vision. A leader must live the values he or she espouses. These values are reflected in choices made and demonstrated by actions from the bench. For example, if a judge is committed to timely decision-making and timely permanency, then the judge must *communicate*

and *demonstrate* this commitment to court and system personnel. This commitment can be communicated and demonstrated through continuance practices, court response to non-compliance on deadlines and court orders, and an insistence on making people accountable for their actions.

Barriers to Communication and Cooperation:

- Ego and turf issues;
- Lack of mutual respect;
- Absence of standard protocols;
- Break in the continuity of care; and
- Competition for shrinking or limited social service dollars and attention.

Resolution:

- *Communication* between identifiable service providers and from direct services to social institutions; and
- *Communication* between levels -- involve different levels through participation, education, and accurate information-sharing.

Richard J. Fitzgerald, Chief Judge, Jefferson County Family Court, Kentucky.

A vision provides the central meaning to the court and court practice. The judge's commitment to this vision must be consistently communicated and demonstrated to all system participants. This vision should serve to bring people together for achieving its realization. If the vision for the court is to ensure safe and permanent homes for children, then that vision should drive everything the judge does and what those individuals who come before the court do. It should facilitate, energize, and sustain improvements in court practice designed to bring about the realization of the vision.

➡ *The concept of shared leadership*

Overwhelming changes in our courts and communities are straining courts' ability to seek solutions to increasingly complex problems and caseloads. Traditional "top-down" approaches to leadership cannot support the creativity and commitment needed to adopt changed structures, develop new relationships, and learn new skills. An environment needs to be created in which people can collaborate and support each other rather than simply follow directions.

How to Foster Shared Leadership

Create a shared vision and sense of community.

Foster commitment rather than compliance.

Inspire trust.

Integrate diverse views.

Support skillful conversations through dialogue.

Help others exert their influence.

Be a good role model.

Facilitate, energize, sustain.

Adapted from "Leadership in Changing Times," *Supra*, note 5.

Leaders need to understand their own strengths and weaknesses in order to feel comfortable learning from others. Ideally, judicial leaders should draw on existing leadership skills throughout the system while creating conditions that allow others to see their own roles in leadership. Creating such an environment facilitates a more open exchange of information, better relationships among system participants, and a stronger commitment to a common vision.

Individuals bring energy and commitment to their work if they feel valued and if they feel a shared sense of ownership. As a consequence, individuals are more ready and able to support activities they help to create. An interactive process of leadership holds more promise for the transformation of court improvement goals into improved court practice than traditional patterns of leadership from the top.

When shared leadership occurs, people approach problems in collaborative ways, engaging each other in defining the work to be done, facilitating interaction and sustaining action so that goals can be realized. People come to focus on the work itself rather than on the person who has authority to do it. Shared leadership directs; it does not dictate.

How to Foster Leadership in Others

- Communicate your vision.
 - Share power.
 - Affirm others.
 - Actively listen.
 - Allow for differences of opinion.
 - Support risk.
 - Support passion.
 - View mistakes as an opportunity for growth.
 - Provide others with “the big picture.”
- Adapted from “Leadership in Changing Times,” *Supra*, note 5.

Shared leadership is necessary for guiding change, overcoming resistance, and mobilizing partners, while, at the same time, building competence and self-reliance in others.

One effective way to facilitate collaborative envisioning and shared leadership is to hold regular meetings with all participants in the juvenile and family court process. Regular meetings provide the opportunity for all participants to have a voice in how goals will be met and the judicial vision realized, as well as provide an opportunity for different individuals to take responsibility for various initiatives.

“We know the court doesn’t stand alone and we gladly accept the challenge of achieving timely permanency for children as an ongoing series of collaborations.”

Nancy S. Salyers, Presiding Judge, Child Protection Division, Circuit Court of Cook County, Illinois.

Judge Nancy Salyers meets quarterly with her Child Protection Advisory Work Group, composed of 30 professionals from offices, agencies, and universities serving the court who address problem areas and recommend action.

Effective Leaders and Effective Leadership

The key elements in convening regular meetings are:

- a sincere desire on the part of all meeting participants to improve the court process;
- an agenda which includes system's problems from the perspectives of all participants;
- an opportunity for everyone in attendance to fully participate in the meeting and its corollary activities; and
- the delegation of responsibility to committee members for working on individual problems and reporting back to the committee.

Regular meetings also enable the judge to continually reinforce his vision for the court and dependency practice and to underscore the importance of reflecting that vision in the daily activities of all system participants. Facilitating collaboration and shared responsibility, and continually reinforcing the judicial vision, ensures "buy-in" from system participants and increases the likelihood that the vision will be realized.

If you are leading, is anyone following?

One of the prerequisites for providing effective leadership is understanding the importance of quality *followership*.⁷ Effective leadership depends on effective followers. Yet "follow" is almost a pejorative term in our culture. We much prefer to focus on the leader. Consider this image: John Wayne, inspiring his troops to dash to the rescue, a gun blazing in either hand, his horse's reins in his teeth. This is a leader. His faithful charges, hanging back in the weeds and waiting for orders are followers. Yet, without followers, leaders cannot lead.

⁷

Lee, *Supra*, note 5.

Without followers, even John Wayne becomes a solitary hero, or, given the right script, a comic figure, posturing on an empty stage.⁸

Considerable research and training has focused on leaders, what they do, and how they should do it. Historically, the leader tends to be viewed in isolation, as the only truly active agent in the picture. If we consider followers at all, it is as empty vessels, waiting to be filled with the leader's inspiration and vision. But this view of leadership is myopic. As Robert Kelley, a business professor at Carnegie Mellon University, points out, without followers, "Napoleon would have just been a little man with grandiose ambitions."

Organizations with effective leaders tend to be the kind of places that develop effective followers. Effective followers are partners in creating the vision in the first place; they take responsibility for getting their jobs done; they take initiative to fix problems or improve processes; they question leaders when they think they are wrong. In other words, effective followers often act like leaders. What links effective, independent-thinking followers with effective leaders? *Empowerment*. When individuals have a role in developing a guiding vision, a say in how their jobs are designed, and when they are involved in making decisions about how their work is conducted, they are more effective.

- ◆ Effective followers have personal integrity that demands both loyalty to the court and a willingness to act in accord with their beliefs.
- ◆ Effective followers "own the territory," meaning they understand the court and their contributions to it.

8

Illustrative example presented in Lee, *Supra*, note 5.

Effective Leaders and Effective Leadership

- ◆ Effective followers are versatile, skillful, and flexible enough to adapt to a changing environment.
- ◆ Effective followers are assertive, critical thinkers, who will allow their talents to be utilized.
- ◆ Effective followers take responsibility for their own actions.⁹

It is the job of an effective leader to create and foster an environment in which effective followers can develop and flourish. Such an environment is one in which everyone is invested in achieving the envisioned future. Leaders must foster ownership of the vision through collaborative efforts and conversations with everyone whose efforts will be necessary to achieve its realization. Judges who hold regular meetings with agency representatives and other members of the child protection system empower followers to help realize the vision.

Passing the gavel

Changes in leadership often lead to periods of disruption. These periods of disruption can occur for many reasons. For example, a successor may operate according to different values or be unclear as to the vision and mission of the court; a successor may lack the informal channels of communication and information-sharing that are available to individuals well established in their positions; a successor may need time to build a strong sense of loyalty among system professionals; a successor may have new ideas on how to approach problems and overcome barriers; and a successor may have a different leadership

⁹

Based upon the work of Stephen Lundin, a professor at Metropolitan State University in Minneapolis and Lynne Lancaster of Lancaster Consulting Group in St. Paul, MN. Reprinted in Lee, *Supra*, note 5.

style. While a brief period of disruption is to be expected, a smooth “passing of the gavel” from one leader to another can be facilitated in a number of ways.

For example, clearly communicating the vision of the court and dependency practice so that it is reflected in the daily activities of those who operate within the court helps to ensure that an incoming judge has a clearer understanding of what is expected of court staff, system professionals, and private individuals. Communication can occur indirectly through judicial activities on the bench and directly through regular meetings with system participants.

Moreover, as Judge Leonard Edwards suggests, “judges should ensure that local court rules and forms are drafted and implemented covering the administration of child welfare cases within the court system.”¹⁰ In this way, judges not only actively ensure that the structural and procedural environment supports their vision of the court, but also that it provides a legacy for successors to follow. Discussions with the successor and other decision-makers should also focus on how philosophies of judicial leadership and effective court practice relate to the realization of the vision. The judge’s vision should be clearly and passionately articulated to the successor, as well as those who are charged with choosing the successor whether that be the public, judicial selection committees, the governor, or the legislature. Passion must be instilled in everyone involved in the succession process.

Strong judicial advocacy may be the only way to ensure that the incumbent judge’s vision for the court continues to provide meaning to the court and dependency practice and continues to motivate change. Indeed, judicial advocacy

¹⁰

Judge Leonard P. Edwards, (1997). “23 Steps: Improving Juvenile Dependency Courts.” *Juvenile and Family Court Journal*, Vol. 48(4), pp. 9.

beyond the bench is critical to smooth succession. If a judge has gone into the community and articulated her vision for the court and dependency practice, and instilled in the community a commitment to the realization of that vision, then the vision becomes a community norm and an expectation for court practice. Since the articulation and integration of community norms into court practice is part of the judicial role, then a strong community norm that reflects a vision for the court and dependency practice can provide clear expectations for the incoming judge.

Institutionalization of the judicial vision, both within the court and the wider community, is more likely to be achieved if the judge has served on the child abuse and neglect docket for a number of years. Longevity is an important part of leadership and helps to ensure that the judge's vision for the court and dependency practice, and resultant system changes, are sustained beyond the incumbent judge's time on the bench.

The goal of facilitating a smooth transition is not to create a carbon copy of the incumbent in the successor. Rather, the goal is to ensure that court improvement efforts and the efforts of those with whom the incumbent has worked are not lost or truncated. And, a time of transition should also be a time for self-reflection and growth. It should be a time to revisit and refine the court's vision.

 ***Judicial practice as a component of judicial leadership***

While good practice from the bench is a behavior associated with judicial leaders, effective judicial leadership is much more than good practice. Skills and training alone do not translate into good practice. Certainly leadership is exhibited in judicial behavior, but examining judicial behavior alone will not capture the essence of what it means to be an effective leader.

Judicial leaders have clear values and visions for the court; communicate these to all system participants, and assume responsibility for promoting these values and a vision throughout the court system, both through good practice and system-wide advocacy.

Judges must never forget that changes in the juvenile court must come from them. No one else has responsibility for day-to-day operation of the court process including adequate representation, ensuring adequate facilities, overseeing security, ensuring that necessary papers get to all parties, collecting data on court operations, providing oversight of social service activities, ensuring that children reach permanency in a timely fashion and more. True judicial leadership is the appreciation that in addition to calendar management other issues must be addressed and that judges must take responsibility to see that they are. No one else will.

Leonard P. Edwards, Supervising Judge, Family Relations Division, Santa Clara County Superior Court, San Jose, California



As you review the results of the telephone interview in the next section, consider how each of the weaknesses and problems raised by court improvement specialists can be addressed through better, more effective judicial leadership. Note that many of the strengths are reflective of effective judicial practice. Becoming an effective leader is an ongoing process of learning. What can be learned from these results that can be incorporated into your judicial practice and into a leadership role? Think about the extent to which your activities on the bench reflect your vision for the court.

Judicial Leadership and Judicial Practice: Results From the National Research

➔ *General strengths of judicial practice*

At the beginning of the telephone interview, court improvement specialists were asked to identify what they saw as strengths of the overall system for processing child abuse and neglect cases in their state. Their answers were based on just-completed statewide assessments sponsored by the court. While a wide variety of general responses were given on a multitude of issues pertaining to child abuse and neglect cases, specialists from 17 states (34%)¹¹ provided comments relating specifically to the strength of the judiciary in their state.

The two most frequently given strengths pertaining to the judiciary were: (1) extent of judicial knowledge of child abuse and neglect issues and effective court practice; and (2) commitment to timely decision-making.



Judicial leaders are knowledgeable and committed, and that knowledge and commitment is clearly demonstrated through their actions on the bench and their active involvement in cases. Judicial leaders set clear expectations and communicate those expectations to all system participants. Judicial leaders foster communication and information-sharing among all parties. Judicial values and vision should be visible in the daily activities of the court.

¹¹

49 states and the District of Columbia participated in this research. Wyoming was excluded from this phase of the research.

Table 1: General Strengths of Judicial Practice¹²

Identified Strength	#	Sample Comments
Judicial knowledge of child abuse and neglect issues and effective court practice	6	<ul style="list-style-type: none"> • judges are well educated and sensitive to issues; their philosophical approach to children is very supportive • judges are knowledgeable about the constraints on the overall system • judges are very proficient and seem knowledgeable about these cases • judges are very comfortable with the process in these cases
Judicial commitment to timely decision-making	5	<ul style="list-style-type: none"> • judges are committed to moving these cases along • judges give child abuse and neglect cases top priority and are committed to timely case processing; they take a real interest in these cases • judges are committed to timely case processing and keep parties to time frames
Judicial review of cases	3	<ul style="list-style-type: none"> • judges give full attention to review of cases, not merely "rubber-stamping" cases • judicial review of all cases on a quarterly basis is a real strength
Communication	3	<ul style="list-style-type: none"> • judges are instrumental in facilitating communication between all parties • judges communicate when things are supposed to happen and what is expected of parties
One judge/one family	2	<ul style="list-style-type: none"> • the same judge hears the entire case • one judge/one family promotes consistency and uniformity and encourages timely case processing

➡ *General weaknesses of judicial practice*

Court improvement specialists were also asked a general question about the most problematic aspects of case processing in their respective states. Specialists from

¹²

Some specialists provided more than one comment.

Judicial Leadership and Judicial Practice

14 states (28%) mentioned some aspect of practice related to the judiciary as an area in need of improvement.

The number one area identified as needing the most improvement with regard to the judiciary was training.

Table 2 (page 24) provides a summary of areas related to judicial practice identified by specialists as needing improvement. Judicial practice areas needing improvement are listed in order of frequency of mention, along with a sample of specific comments provided by specialists.



Judicial leaders view every problem as an opportunity for growth and change. Judicial leaders are self-reflective and recognize their own strengths and weaknesses. Judicial leaders accept responsibility for their actions and demand that all system professionals and private parties do the same.

Judicial Leadership and Judicial Practice

Table 2: General Weaknesses of Judicial Practice		
Problem Areas	#	Sample Comments
Training of the judiciary	7	<ul style="list-style-type: none"> • judicial training and knowledge needs improvement • judges feel unprepared – cases are complex and they need guidance through better training • there aren't enough judges trained in dependency practice • twenty counties are using non-attorney judges – better training is definitely essential
Judicial review of cases	4	<ul style="list-style-type: none"> • there is no judicial review of cases • judicial review needs improvement • quality of judicial review hearings is questionable • judicial reviews aren't detailed enough
Judicial commitment	2	<ul style="list-style-type: none"> • we need more proactive involvement of judiciary in these cases • attitude is a real problem – judges see it as punishment to be assigned to these cases
Judicial oversight	2	<ul style="list-style-type: none"> • we need more effective judicial oversight • judicial oversight can definitely be improved
Available resources	1	<ul style="list-style-type: none"> • additional judicial resources are sorely needed
Continuances	1	<ul style="list-style-type: none"> • judges are granting a high number of continuances

Not surprisingly, all of those specialists who identified judicial training as a specific area in need of improvement also identified judicial training as a specific court improvement goal in their state. Specialists described various efforts to conduct state-wide and regional training conferences on the judicial role and effective oversight of child abuse and neglect cases, and to develop bench books on effective judicial practice in dependency cases. Many of these training schemes were described as “cross-training” involving judges, case workers, and attorneys. Other specialists noted that their state was in the process of drafting judicial practice standards, as well as involving teams of well-respected judges in

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legislative changes and curriculum development. Some specialists also indicated that they were examining barriers to training, such as a workload that does not decrease while judges are attending training, and trying to address these concerns in their court improvement planning.

Court improvement specialists were asked to reflect on the bench practices of judges in their states. Specifically, specialists were asked to comment on the following specific areas:

- perceptions of judicial commitment to timely decision-making;
- judicial oversight and court reviews; and
- judicial training and skills development.

Each of these topics will be addressed in turn. In reviewing the responses of court improvement specialists with respect to these judicial activities, it is important to remember that a judge's vision for the court, and his or her level of commitment to that vision, are reflected in the judge's actions on the bench. While these judicial activities do not, in and of themselves, connote leadership, they do provide a basis for others' judgements of judicial commitment and leadership.

Timely decision-making: A judge's reality check

Specialists were asked to identify the primary reasons for untimely outcomes in child abuse and neglect cases in their state. While specialists felt that ill-prepared attorneys and agency personnel were often a source of untimely case outcomes, 14 specialists (28%) believed that poor judicial practice often resulted in case delays. Specifically, the majority of these specialists (11) complained that judges are granting continuances much too often. Sample comments related to problems with continuance practice include:

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- “judges are granting too many continuances and are not holding people’s feet to the fire; this results in a failure to meet statutory guidelines on numerous occasions;”
- “continuances are fairly typical and a real barrier to timely case processing;” and
- “judges are too fast and loose with their continuances.”

Of the fourteen specialists who cited poor judicial practice as a primary reason for untimely outcomes, the majority noted that judicial granting of continuances was a significant source of untimely case processing.

Although specialists stressed that practice varied from circuit to circuit within each state and was highly dependent upon the specific court, of the 34 specialists who felt they could assess continuance practice, 42% indicated that judges “quite often” granted continuances, 21% indicated that judges “very often” granted continuances, and 38% indicated that judges “seldom” granted continuances.

Almost 3/4 of court improvement specialists who felt there was enough consistency in continuance practice in their state to make an assessment, felt that judges “very often” or “quite often” granted continuances.

For more information see Gatowski et al., (1998). *Child Abuse and Neglect Cases: Examining State Statutes in Everyday Practice*, NCJFCJ, February.

Of the remaining three specialists identifying poor judicial practice as a source of untimely outcomes in their state, one felt that the lack of “one judge/one family” was a primary reason for untimely case processing. Another specialist commented that judges “do not have an attitude oriented towards moving cases and children through the system,” and one specialist noted that the “lack of strong judicial leadership in our state results in a general systemic lack of commitment to timely case processing.”

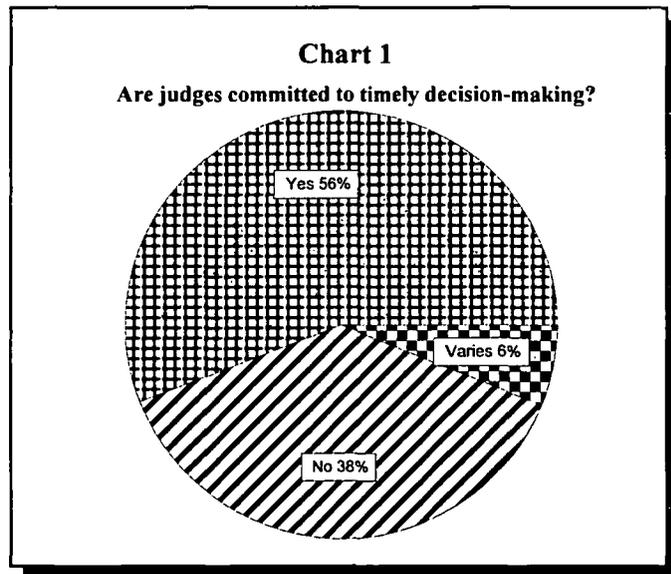
“The lack of strong judicial leadership in our state results in a general systemic lack of commitment to timely case processing.”



A judge’s actions on the bench are perceived by others to reflect commitment. A strict continuance policy clearly demonstrates judicial commitment to timely decision-making and timely permanency. Effective judicial leaders set clear expectations and demand that those expectations are met, holding everyone responsible for their actions.

➔ ***Judicial commitment to timely decision-making***

Court improvement specialists were asked if they perceived the judiciary in their state to be committed to timely decision-making. As illustrated in Chart 1, just over half of the specialists interviewed (28 or 56%) believed judges in their state were committed to timely decision-making.





Of course, this finding may not accurately reflect how many judges are actually committed to timely decision-making. What it does reflect, however, is how many judges are *perceived* to be committed. If a judge is committed, does the judge actively and continually communicate and demonstrate this commitment? Consider what level of judicial commitment others will infer when a judge frequently grants continuances? What values and vision are reflected in such a continuance practice?

The 28 specialists who believed judges were committed to timely decision-making, were asked a follow-up question about how this commitment is demonstrated to the various individuals and agencies involved in child abuse and neglect cases. Twenty-five of the 28 specialists indicated that this commitment is demonstrated to others through effective judicial practice. More precisely, these specialists' comments all related in one way or another to case monitoring and management, and communication. For example:

- actively monitoring cases;
- setting clear expectations;
- setting standards of conduct;
- clearly communicating expectations and standards; and
- holding everyone accountable for their actions.

Table 3: How Judges Demonstrate Commitment to Timely Decision-Making Through Their Practice From the Bench – Sample Comments

<ul style="list-style-type: none"> • “tell parties what is needed by detailed orders and active involvement in hearings” • “schedule hearings within statutory requirements and provide a clear message to all parties that that is the expectation” • “by conducting thorough and detailed reviews of these cases where everyone is called to account” • “holding everyone’s feet to the fire about deadlines” • “ensuring parties are aware of time frames and requirements to adhere to them” • “communicating well with all parties about deadlines, expectations, and roles” • “hold meaningful reviews that are not just an opportunity to hash out the same old problems” 	<ul style="list-style-type: none"> • “overseeing monthly reports on outstanding cases and carefully monitoring case progress” • “in part by meeting time standards both specific in rule and statute and in terms of meeting overall time standards for timely case processing” • “if there is any breach in time frames, judges call everyone to account” • “by using the information system to set events and hold parties to deadlines” • “being very explicit and forthright with all parties about expectations to move cases forward in a timely fashion” • “by giving these cases a priority in scheduling” • “by chastising parties who are unprepared and setting deadlines for case progress” • “following through on orders and holding parties accountable at review” • “fostering tight communication with all parties”
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Leadership requires vision that is reflected in everyday judicial activities. Judicial leaders demonstrate their commitment through effective judicial practice from the bench. Activities beyond the bench, and community involvement in leadership activities, will ring hollow without effective on-the-bench practice and a clearly communicated vision for the court.

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All of the specialists who reported that judges in their states are committed to timely decision-making also reported that judges remain *actively* involved in a case throughout the entire processing of that case. Such active involvement on the part of judges was described as “directing the case plan,” “keeping informed,” “setting expectations for parties,” and “clearly demonstrating their active decision-making.”

“The best judges are actively involved in decision-making throughout the whole case -- this, in turn, keeps everyone talking about the case.”

While 56% of specialists gave positive assessments, specialists from 38% of states (17) reported that judges in their state were not committed to timely decision-making. When asked to explain, specialists identified attitudinal problems, caseload management difficulties, resistance to changes in statutes, lack of information-sharing, granting a great deal of continuances, and a general lack of judicial resources. Sample comments included:

- “there are several problems with the judicial culture – the reasonable accommodation attitude of the judiciary results in a great deal of continuances;”
- “judges are not good at caseload management – they don’t keep everyone to tight deadlines, and they’re not good at chastising people when reports aren’t filed;”
- “there is a significant resistance to the new statutory changes that tighten time frames;” and
- “there is an attitudinal problem that goes along with the view of the judge as impartial adjudicator – they need to see the problems from the eyes of the child.”

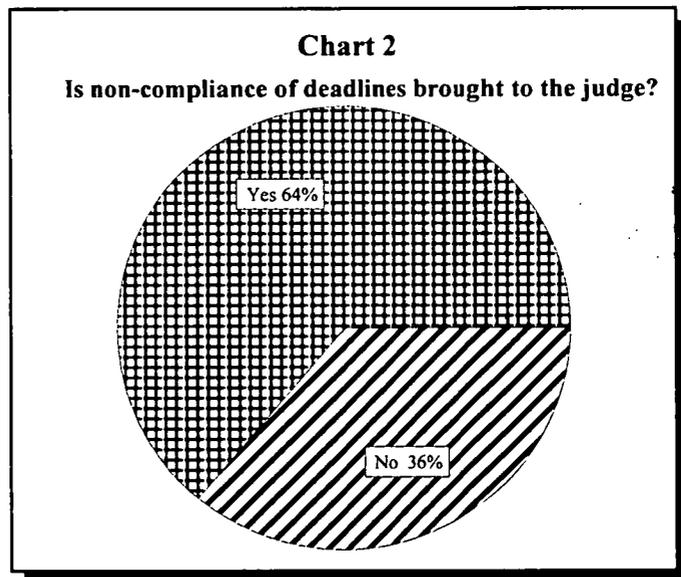
More than 1/3 of court improvement specialists perceive a lack of commitment to timely decision-making in judges in their state.

Twelve of the 17 specialists who described judges as not committed to timely decision-making also described these judges as not actively involved in the case throughout the entire process. Reasons given for this lack of active involvement invariably related to rotation practices, voluminous caseloads, and a general lack of judicial resources.

“Judges should be the most active person in the court -- they need to lead so that others will follow.”

➔ ***Judicial oversight and court reviews***

When specialists were asked if serious breaches of deadlines were formally brought to the attention of the judge, most (32 or 64%) reported that formal procedures for bringing breaches to the attention of judges are in place in their state. Eighteen specialists (36%) indicated that no formal procedures were in place, and it was strictly up to a complaining party to bring a breach of deadline to the court’s attention. See Chart 2.



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Sample descriptions of formal procedures for bringing breaches to the attention of judges include:

- “there is an investigation by the assignment judge; a follow-up conference with the assignment judge and the judge in the case is then held, and a remedial plan is developed;”
- “judges are notified by the clerk and case workers; agency supervisors and other necessary parties are then brought to the court to explain the problem;”
- “chief judges talk to judges about their decisions regarding timeliness;” and
- “case managers bring the matter to the attention of the court and the judge reviews the case file, sometimes scheduling a hearing to show cause.”

With respect to judicial review of child abuse and neglect cases, court improvement specialists were asked for both their assessments of the timeliness of court reviews and the effectiveness of these reviews. Specifically, specialists were asked if statutorily mandated court reviews are conducted by the court in a timely fashion. Of the 43 specialists¹³ that indicated that court reviews are typically used in their state, the majority (35 or 81%) report that these reviews are usually conducted within the statutorily mandated time frame. However, a number of these 35 specialists (9 or 26%) noted that in some of the “high volume” jurisdictions in their state this review might be delayed due to a “lack of judicial resources.” Eight (19%) of the 43 specialists who reported that court reviews are

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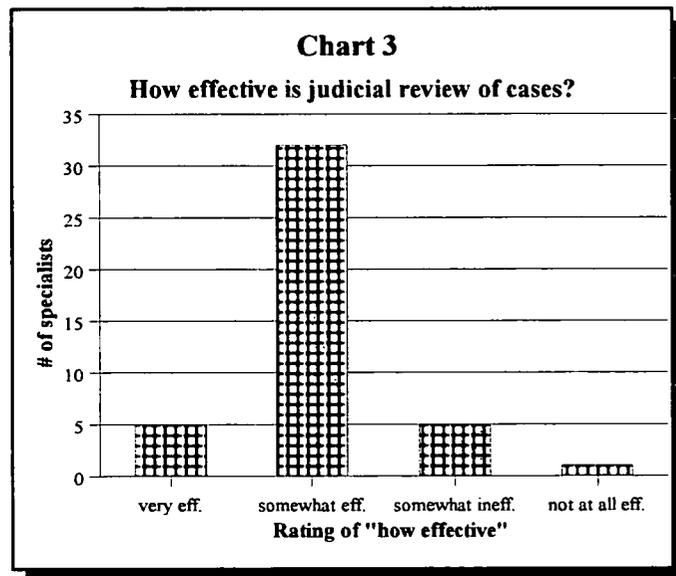
Many of the specialists noted that court review can be used in conjunction with citizen or agency review of cases. Seven specialists indicated that court reviews are not typically used in their states. Rather, citizen and foster care review boards are utilized.

typically conducted in their state, reported that these reviews are not conducted in a timely fashion (i.e., not within the statutorily mandated time frames) due to large caseloads and resource issues.

Court improvement specialists were asked to rate the effectiveness of judicial reviews of cases as either “very effective,” “somewhat effective,” “somewhat ineffective,” or “not at all effective.” Of the 43 specialists indicating the use of court reviews in their states, (32 or 74%) rated the quality of judicial review in their state as only

“somewhat effective.”

Five of the 43 specialists (12%) rated judicial review as “very effective,” five (12%) rated judicial review as “somewhat ineffective,” and one specialist rated judicial review of cases as “not at all effective.” See Chart 3.



Examples of “very effective” judicial review of cases include:

- “reviews are usually held in open court with all parties present, with the judge conducting a detailed review of compliance;”
- “judges typically conduct conscientious reviews of case progress;” and
- “court reviews are full hearings with the judge holding everyone to account.”

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Only “somewhat effective” judicial review of cases, however, was consistently described as involving a passive judge. These judges’ reviews were described, for example, as “just reading the report,” “rubber-stamping case plans,” and involving only a “ cursory review of some of the issues while omitting others altogether.” Regardless of the rating given, all court improvement specialists were asked how court reviews might be made more effective.

<ul style="list-style-type: none">• “parties need to be held more stringently to deadlines and judges need to be clearer about expectations for timeliness”• “hearings need to occur in a timely fashion but the real issue is quality – additional training might make them more effective”• “reviews need to be geared toward the child’s age and circumstances more than just gearing them toward an every-6-months deadline”	<ul style="list-style-type: none">• “reviews can be much more than they currently are; more substantive discussion is needed that is focused towards goals, expectations, and responsibilities”• “reviews need to be conducted close enough together so that you don’t have to relearn everything”• “judges need to be more involved – more of a central manager”• “hearings need to attend to the details not just be a rubber-stamp approach”
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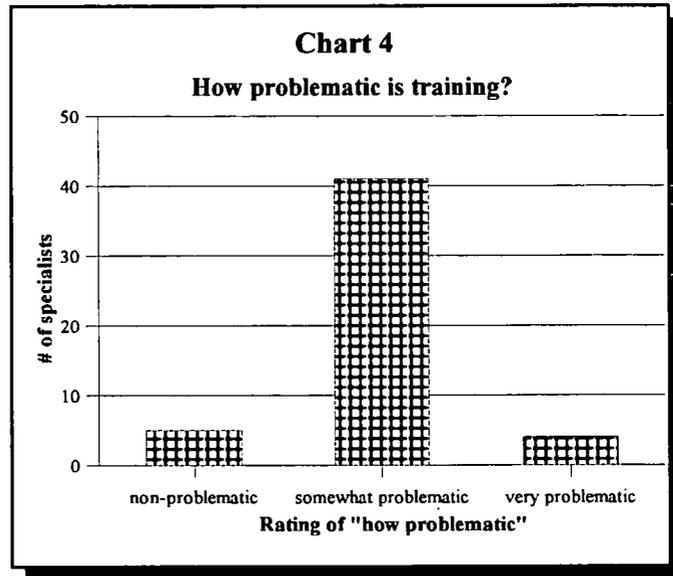
“To be effective, court review of cases needs to be infused with the judicial officer’s rational decision-making and focus on detail.”

Judicial training

All of the specialists interviewed were asked to specifically think about the training of the judiciary and to rate how problematic it is in their state. Specialists were asked to rate the training of the judiciary on a scale from 0 (“not at all

problematic”) to 10 (“extremely problematic”). Chart 4 presents an overview of their responses. For purposes of illustration the rating categories have been collapsed into three groups: relatively “non-problematic” (ratings of 0-2); “somewhat problematic” (ratings of 3-6); and “very problematic” (ratings of 7-10).

It is clear that the majority of court improvement specialists (41 or 82%) consider the training of judiciary to be “somewhat problematic.” The most common rating was a “4,” and the average rating was also a “4,” at the mid-range of “somewhat



problematic.” Typically, specialists rating the training of judges as “somewhat problematic” noted that judges need more information about child development and child psychology. Those specialists (4 or 8%) who rated the training of judges in their states within the “very problematic” range, remarked that judges are rotated very quickly and generally lack good information on child abuse and neglect cases.

“We need to make strategies for effective court leadership a priority in any training scheme if training is to translate into effective court practice.”

Again, it is important to remember that judicial training on good practice addresses only one component of leadership training and development. Certainly,

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effective judicial training and good judicial practice are critical to effective leadership; but, they do not constitute effective leadership. Not only are effective judicial leaders well trained and good judicial practitioners, but effective judicial leaders are also visionaries. They not only want to incrementally improve how cases are handled, but they also want to transform the process and achieve best outcomes for children and families. Becoming an effective judicial leader requires self-reflection and a passionate commitment to a set of values and a vision for the court and dependency practice.

Conclusion

Court improvement specialists' comments about the judiciary in their state not only give us a national snapshot of judicial practice in child abuse and neglect cases, but the comments also reveal an understanding of the vital role that judges play in achieving safe and timely permanency for children. Interview responses also reflected specialists' concern with creating a culture of judicial leadership that will foster improved practice by all participants in the system. Specialists concur that judges must lead by modeling effective practice so that others will follow in their footsteps.

Effective judges are knowledgeable about issues pertaining to child abuse and neglect cases, are committed to timely decision-making, and engage in good judicial practice. As a consequence, effective judges were identified by court improvement specialists as a strength of the dependency process in their state. The specialists' assessments of judicial practice in their state illuminate some of the good practice qualities that comprise effective judicial leadership. As previously discussed however, knowledge, commitment, and good judicial practice are only components of effective leadership, albeit critical components. Truly effective judicial leaders also have a clear vision for the court to which they are passionately committed and, through this vision, they bring meaning and purpose to dependency practice.

Our national research also reveals that effective judicial leaders do not have to be community activists or court improvement trailblazers. Indeed, effective judicial leadership can begin much closer to the bench. However wide a judge's outreach, effective judicial leadership must also be communicated and demonstrated to

Conclusion

others through everyday practice from the bench. Judicial leaders are actively involved decision-makers, who, by setting high standards of conduct for themselves and other system participants, create courtrooms that are focused on safe and timely permanency for children. A judge's commitment to timely decision-making, for example, can be communicated by having a strict continuance policy, setting clear expectations for all parties, conducting thorough and timely case reviews, and by holding individuals accountable for their actions.

The characteristics and qualities that underlie judicial leaders and judicial leadership are the characteristics and qualities that underlie effective leaders and effective leadership generally. The most important characteristic of effective leaders is a passionate belief in a vision. The judicial vision is the goal, the motivator, and the purpose. A vision serves to facilitate, energize, and sustain court improvement efforts and to bring about their realization in practice.

In order for a judge's vision for the court and dependency practice to be realized, it must be continually communicated to and reinforced in those with whom the judge interacts. Other system professionals should feel a part of the judicial vision; it is, after all, their energy and commitment that will help achieve court improvement goals. An effective judicial leader draws on the talents, strengths, and energy of others, fosters an environment that supports creativity and collaboration, and provides the best example of commitment and best practice.

Effective leadership carries with it certain implications for sustainable system change:

- ◆ Through collective envisioning and collaborative efforts judicial leaders instill in other system professionals a commitment to

achieving improvement goals and best outcomes for children and families;

- ◆ Effective leaders influence others not by making them do something, but by instilling in them a desire to do it;
- ◆ Effective leaders recognize existing strengths in others;
- ◆ Effective leaders empower their followers;
- ◆ Effective leaders institutionalize their vision in the everyday practices of the court and through court improvement advocacy throughout the system and in the community.

By institutionalizing their vision within the system and by promoting their vision beyond the courthouse, judicial leaders provide meaning to the court and dependency practice that will continue to motivate improvement once the gavel has been passed.

Leadership is vision, motivation, organization, and action.

Leadership gives people a sense of power and a sense of hope; it makes things happen. Leadership creates the future, provides guidance, direction, and inspiration. Leadership empowers people to recognize the potential for leadership within themselves. Leadership comes from strength of character and strength of convictions.

Developing leadership skills is a lifelong journey, not a short trip.

Leadership is not a gift -- it is a long-term commitment.

Appendix A: The National Research

In November 1996, the Permanency Planning for Children Department (PPCD) of the National Council of Juvenile and Family Court Judges (NCJFCJ) embarked upon a national research effort to examine child abuse and neglect case processing. There were three components to this research: (1) an analysis of existing state statutes with special attention to mandated time frames; (2) a mail-out questionnaire examining day-to-day practice with respect to statutory requirements; and (3) a lengthy telephone interview focusing on effective court practice, improvement goals, representation, and training issues, as well as future goals of court improvement projects.

The results of the first two components of the National Research Project, the statutory analysis and the mail-out questionnaire, have been presented in previous *Technical Assistance Bulletins*.¹⁴ The results of interview findings with respect to representation issues were recently published in the *Technical Assistance Bulletin* entitled: *Child Abuse and Neglect Cases: Representation as a Critical Component of Effective Practice*.

¹⁴

Child Abuse and Neglect Cases: A National Analysis of State Statutes, NCJFCJ, December 1997 and *Child Abuse and Neglect Cases: Examining State Statutes in Everyday Practice*, NCJFCJ, February 1998. For more information about these publications, and others, including the highly regarded *RESOURCE GUIDELINES: Improving Court Practice in Child Abuse and Neglect Cases*, please contact the Technical Assistance Group at the Permanency Planning for Children Department, NCJFCJ: Telephone (702) 327-5300; Fax: (702) 327-5306; Email: ppp@pppncjfcj.org.

➡ ***Participants***

Court improvement specialists in 49 states¹⁵ and the District of Columbia participated in the national research effort. These specialists were chosen for their ability to discuss their state's statutes and day-to-day practice in child abuse and neglect cases. In all cases, the participants had been involved in court improvement efforts over the past several years. Their responses, therefore, were informed by data gathered over the course of statewide court improvement assessments.

Participants had an average of nine years' experience in the area of child abuse, neglect and dependency, with years of experience ranging from one year to 31 years.

➡ ***The telephone interview***

Court improvement specialists participated in a 1-1.5 hour telephone interview with project researchers. Interviews were standardized, and included both close-ended and open-ended questions. The interview was designed to gather detailed information about practice issues in each state, as well as information about each state's court improvement goals and efforts to achieve these goals. Specialists based their assessments on data obtained from the just-completed court improvement studies undertaken by each state. At the end of the interview, specialists were asked to forward any relevant reports, including court improvement reports, to supplement interview responses. Although the telephone

¹⁵

Wyoming was not included in phases two and three of the National Research Project because it did not participate in the federally-funded court improvement project to examine abuse and neglect case processing.

Appendix A: The National Research

interview addressed a wide variety of issues (see “Interview Categories of Information”), this *Bulletin* specifically focuses on issues pertaining to the judicial role in child abuse and neglect cases and implications for judicial leadership.

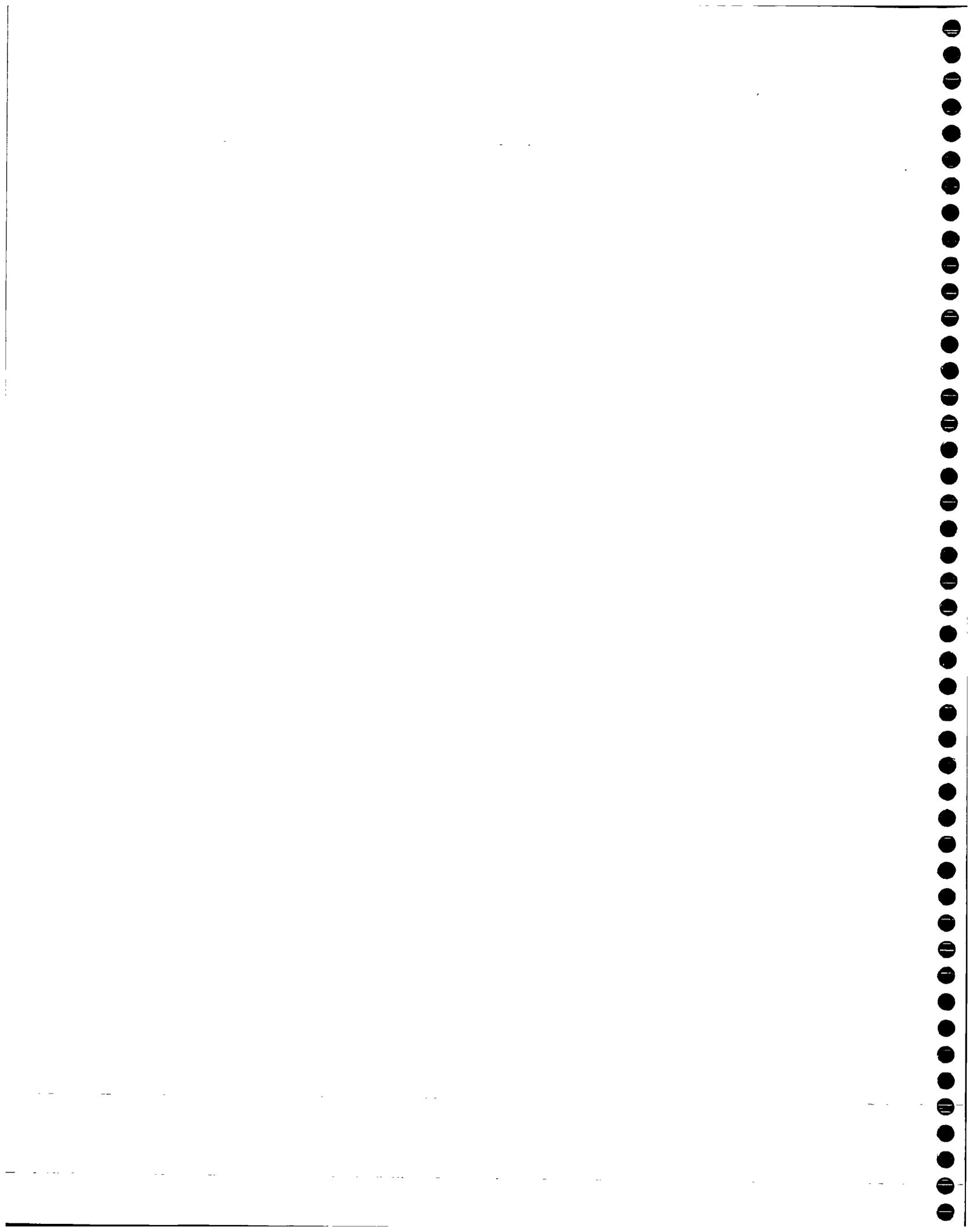
Interview Categories of Information

<p>Impressions of overall case processing in child abuse and neglect cases</p>	<ul style="list-style-type: none"> ▶ assessment of overall strengths of case processing ▶ assessment of what areas need most improvement
<p>State court improvement project</p>	<ul style="list-style-type: none"> ▶ identification of improvement goals ▶ identification of steps being taken to achieve improvement goals
<p>Ratings of specific problem areas</p>	<ul style="list-style-type: none"> ▶ timeliness of required reports and assessments ▶ training of attorneys and guardians <i>ad litem</i> ▶ case flow management and court delays ▶ timeliness of the initiation and completion of the termination of parental rights ▶ qualifications, training, and knowledge of judicial officers
<p>Time management and case flow</p>	<ul style="list-style-type: none"> ▶ general overall assessments of case processing ▶ identification of primary reasons for untimely outcomes ▶ discussion of whether or not there is a case manager or administrator who tracks case processing; if yes, an assessment of duties and responsibilities ▶ assessment of information-gathering system ▶ assessment of the procedure(s) for spotting delayed cases ▶ assessment of the timeliness and scheduling of hearings (pre-trial, adjudicatory, and post-adjudicatory)
<p>Role of the judiciary</p>	<ul style="list-style-type: none"> ▶ assessment of how committed judiciary is to timely decision-making ▶ assessment of how actively involved judiciary is in case processing ▶ assessment of the timeliness and quality of judicial case reviews

Appendix A: The National Research

<p>Reasonable efforts</p>	<ul style="list-style-type: none"> ▶ assessment of definition of reasonable efforts ▶ assessment of decision-making process with regard to reasonable efforts ▶ identification of reasonable efforts for preventing removal, reunification, and termination of parental rights
<p>Permanency planning</p>	<ul style="list-style-type: none"> ▶ assessment of how realistic federally mandated 18-month permanency deadline is for state ▶ identification of what steps are taken to ensure timely permanency ▶ assessment of average length of time period required to bring about permanency ▶ assessment of procedures and timeliness of termination of parental rights ▶ assessment of the role of the court and social services in termination of parental rights
<p>Quality and timeliness of hearings</p>	<ul style="list-style-type: none"> ▶ assessment of timeliness, quality of hearings, level of preparation by representatives and social services ▶ assessment of court facilities
<p>Representation for parents and children, including attorneys, guardians <i>ad litem</i>, and CASAs</p>	<ul style="list-style-type: none"> ▶ assessment of when and if appointment made; timeliness of appointment ▶ assessment of representatives' qualifications and training ▶ assessment of role requirements and general quality of representation ▶ assessment of compensation rates ▶ identification of training preferences and training goals
<p>Interstate Compact for the Placement of Children (ICPC)</p>	<ul style="list-style-type: none"> ▶ identification of steps taken to facilitate interstate movement of children ▶ assessment of procedural requirements of ICPC
<p>Indian Child Welfare Act (ICWA)</p>	<ul style="list-style-type: none"> ▶ identification of issues pertaining to ICWA ▶ discussion of the extent to which native issues were included in court improvement project
<p>Unique approaches, unique strengths</p>	<ul style="list-style-type: none"> ▶ identification and discussion of approaches, goals, or strengths unique to state ▶ identification of procedures believed to be particularly effective in state

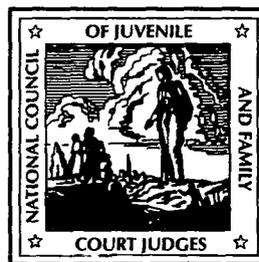
After each interview was completed, responses were transcribed by the interviewer. A code book was constructed and interview responses were coded for comparative purposes. The results of the analysis of the interview responses with implications for judicial leadership in child abuse and neglect cases are presented in the body of this *Bulletin*.



For additional copies of this *Technical Assistance Bulletin*, please contact the Training and Technical Assistance Division of the Permanency Planning for Children Department, National Council of Juvenile and Family Court Judges: (775) 327-5300; FAX (775) 327-5306; or Email to ppp@pppncjfcf.org. Overhead transparencies of the tables and charts contained in this publication are available at a nominal cost.

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ORGANIZED MAY 22, 1937

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