

IMPROVING OUTCOMES FOR CHILDREN THROUGH DATA EXCHANGE*

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Collaboration between courts and child welfare agencies improves outcomes for children. Electronic data exchanges support this collaboration.

Accountability and Outcomes for Children

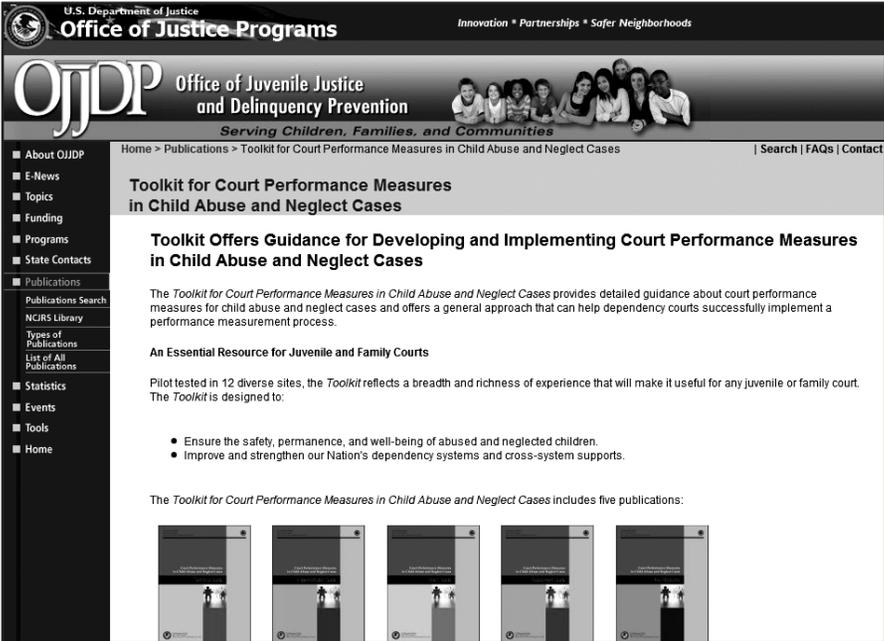
Courts and child welfare agencies are both involved in child abuse and neglect cases, and the public holds both responsible for achieving permanent homes for children. Courts do not play the same extensive role in the lives of children and families as child welfare agencies, yet their role is critical to determining whether children will be removed from their homes, the length of time children remain in foster care, and where they will permanently reside.

Performance measures are necessary to monitor the achievement of shared goals in achieving better outcomes for children. They also help courts and child welfare agencies identify best practices, diagnose areas where they need to improve, and establish a *baseline* to measure the success of their improvement efforts. Some process measures, especially timeliness, can be generated by courts and child welfare agencies separately, but they must be added together to produce the total timeline of the child's journey toward permanency. If either child welfare agencies or courts fail to meet timelines, the total time to permanency is affected. Therefore, it is not enough for courts and child welfare agencies to achieve their separate goals. Both partners must achieve their goals to improve safety, permanency, and well-being for children. Consequently, data from both courts and child welfare agencies are necessary to get a complete picture of how states are progressing in achieving timely permanency for children. Electronic exchange is the most efficient and effective way of sharing this information.

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Much of the data required to determine the safety, permanency, and well-being of children are available from the child welfare system. Child welfare agencies are subject to the Child and Family Services Review (CFSR) process using outcome measures published in the *Federal Register* (65 FR 4040-4093). Court performance measures are less well established, but were designed to be compatible with CSFR standards. Key measures were further selected to represent the ASFA goals of safety and permanency and the important court goals of safety, permanency, due process, and timeliness.

The National Court and Child Welfare Collaborative, composed of the ABA Center on Children and the Law, the National Center for State Courts, and the National Council of Juvenile and Family Court Judges, with support from the Children's Bureau and the Office of Juvenile Justice and Delinquency Prevention, published a set of performance outcome measures in January 2009: *Toolkit for Court Performance Measurement in Child Abuse and Neglect Cases* (see also ABA Center on Children and



The screenshot shows the website for the Office of Justice Programs (OJJDP), Office of Juvenile Justice and Delinquency Prevention. The page title is "Toolkit for Court Performance Measures in Child Abuse and Neglect Cases". The main heading is "Toolkit Offers Guidance for Developing and Implementing Court Performance Measures in Child Abuse and Neglect Cases". The text describes the toolkit as providing detailed guidance about court performance measures for child abuse and neglect cases and offers a general approach that can help dependency courts successfully implement a performance measurement process. It is described as an essential resource for juvenile and family courts. The toolkit is designed to:

- Ensure the safety, permanence, and well-being of abused and neglected children.
- Improve and strengthen our Nation's dependency systems and cross-system supports.

The toolkit includes five publications, which are shown as small icons at the bottom of the page.

Toolkit for Court Performance Measures in Child Abuse and Neglect Cases—Web site
<http://ojjdp.ncjrs.gov/publications/courttoolkit.html>

the Law, National Center for State Courts, and National Council of Juvenile and Family Court Judges, 2004; Flango, 2001). The *Toolkit* consists of five separate monographs, as well as streaming video on the performance measures (U.S. Department of Justice, 2008).

Many states cannot generate either the key measures or the performance measures unless they conduct time-consuming and labor-intensive interviews and case-file reviews. Unless performance measures can be produced efficiently and cost-effectively, they will not be used to promote best practices in child welfare or to effect policy change.

Benefits of Data Exchange

There are significant benefits to both courts and child welfare agencies if they produce their own information and exchange it electronically, such as using shared data elements to construct performance measures and management reports. Child welfare data can help courts to reduce continuances and to make timely and informed decisions, including whether removal is warranted, placements are appropriate, permanency goals are suitable, and case plans and services are adequate. The court, for example, could advance the timetable to permanency if they have current information that shows that a relative is available and qualified to serve as a guardian. Similarly, court data provides child welfare agencies with court notices and court orders and informs agency supervisors of court actions in a timely fashion so they can take immediate action and better schedule staff time.

Electronic information exchange reduces the burden of data entry for both agency caseworkers and court staff and, more important, reduces errors. Child welfare staff do not have to enter petition information, hearing dates, court motions, and orders into their systems, and court staff do not have to enter basic data about the child and family, including complex relationships among individuals and collateral parties, into theirs.

The NET Task Force concluded that data exchange in child welfare should be expedited so that each state would have a common template to work from.

The Court/Child Welfare National Exchange Template

Sharing data between courts and child welfare agencies is facilitated by data-exchange protocols and standards. The National Center for State Courts (NCSC) has experience in developing national standards for exchanging critical data using the national standard adopted by the justice community—the National Information Exchange Model (NIEM). By standardizing the semantics or meaning of content in data exchanges, NIEM ensures that different systems will understand data elements in the same way. NCSC obtained a small amount of funding from the Bureau of Justice Assistance to convene a meeting of state and national experts to extend the NIEM model to child welfare data, which developed into the Court/Child Welfare NET (National Exchange Template) Task Force.

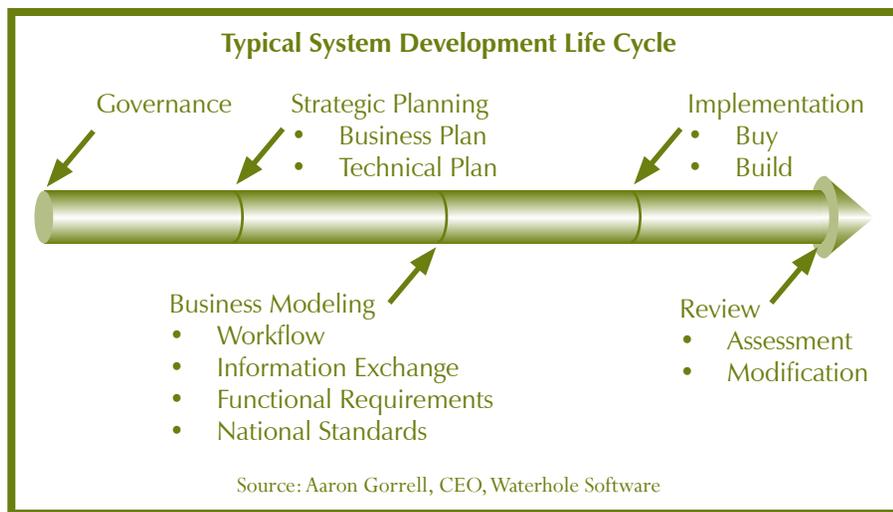
The NET Task Force concluded that data exchange in child welfare should be expedited so that each state would have a common template to work from. Data-exchange standards would make it easier for courts and child welfare agencies to exchange data elements to generate performance measures for child abuse and neglect cases and for private vendors to produce or modify case management software to contain the required data elements.

Implementation Issues for States

Data exchange can improve outcomes for children, and the federal government has provided financial incentives to encourage collaboration between courts and child welfare agencies. Nevertheless, states will still have to confront issues involving governance, strategic planning, and policy and technical challenges if they are to improve data exchange and outcomes for children.

The national template follows the NIEM process by

1. identifying the business process involved in taking a case through the courts;
2. identifying points in the business process where courts and child welfare agencies typically exchange data;
3. creating a set of scenarios to track the progression of cases to permanency;
4. creating maps of each scenario to show the points of exchange between courts and child welfare agencies; and
5. specifying the data elements necessary to meet data-exchange requirements.



Governance

“Governance,” in systems speak, translates to “collaboration” in the child welfare world—getting the right partners to the table to discuss data exchange, the obstacles to data exchange between courts and child welfare agencies, and the resources and support available to overcome those obstacles. Who are the stakeholders who should participate in the governing body for court/child welfare data exchanges? If a governing body exists already, how effective are they?

Data exchange is still a new concept for many states, and states need to know about the potential of data exchange for improving the lives of children. The NET Task Force has established an Outreach Committee to create a strategy to encourage states to participate in the data-exchange effort.

Strategic Planning

Assuming states know about the potential of data exchange for improving the lives of children, the next step is joint planning between courts and child welfare agencies. All stakeholders need to be involved in the planning early, and expectations need to be managed and time frames kept realistic.

To encourage joint planning, NCSC has promoted a series of regional meetings on data exchange sponsored by the Children’s Bureau of the U.S. Department of Health and Human Services and the National Resource Centers for Child Protective Services, Child Welfare Data and Technology, Family-Centered Practice, and Legal and Judicial Issues. These meetings provide “hands-on” technical assistance and are attended by state teams composed of representatives from both courts and child welfare agencies. States are expected to prepare an action plan describing the progress they expect to make in the next six months following the meeting.

Policy Challenges of Data Exchange

Privacy and Confidentiality. Confidentiality is an important consideration whenever information sharing is discussed in the context of children and families. Nevertheless, confidentiality and privacy issues need not be an impediment to data exchange.

Ex Parte Issues. In Colorado and other states that have made significant progress in data exchange, one of the most difficult issues was ex parte communication. “Ex parte” occurs when a party to a case, or someone involved with a party, communicates directly with a judge about issues in a case without the other party’s knowledge. The rule banning ex parte communication ensures that all parties have the same information as the judge, which allows a party who disagrees with some points to challenge them in court.

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Electronic records sent by one party to the court but not sent or not accessible to all parties may constitute ex parte communication. Ex parte issues can be reduced if all parties have access to the information. In some states information sent to courts is not automatically sent to the judge hearing the case. Rather, it is placed in an electronic file or Web site, where it is available for access at the certain points in the case when the judge needs it.

With respect to privacy, the Child Abuse Prevention and Treatment Act, 42 U.S.C. Sec5106a(b)(2)(a), permits the disclosure of data to federal, state, or local government entities that have a need for such information to carry out their

responsibilities to protect children from abuse and neglect. The U.S. Department of Justice's Global Justice Information Sharing Initiative (2008) promotes standards-based electronic information exchange to provide timely, accurate, complete, secure, and accessible information.

As information sharing increases, technology itself has become increasingly useful in protecting privacy. The Global Technical Framework may be a partial solution because it lays out a standard approach for codifying business rules regarding privacy and specifies a process for enforcing those rules.

Access Beyond Courts and Child Welfare Agencies. There is a temptation to broaden access to include criminal justice agencies, guardians ad litem, attorneys for parents, and prosecuting attorneys. Increased access does improve both data exchange (by making it easier to avoid ex parte communication) and the quality of the data (because it allows other users to identify and correct errors). Expanding access to information also increases the risk of disclosure of confidential information.

Information Overload. Ironically, one of the practical issues emerging in states further along the path of information exchange is that the sheer volume of information available discourages access. In some cases, judges report that they do not have the time to access even the screens containing basic case information, such as removal date, placement date, and related cases involving the same children, let alone files that may contain more detailed information.

Candidly, some of the information on aggregate performance measures is of much more use to state court administrators and trial court administrators who need to have an overall picture of how the whole court is doing. Judges need information on specific cases that exceed timelines and are more concerned with

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their own particular caseloads. This suggests that the reports need to be tailored to provide different users with the information they want in a format they can use. For example, court administrators may need reports summarizing performance measures, while judges need reports showing which of their cases are nearing the time limits.

Technical Challenges of Data Exchange

Information System Capacity. The federal government has provided funding for the Court Improvement Program (CIP) to help state courts address a range of challenges in handling child abuse and neglect cases (ACYF-CB-PI-03-04). CIP funds enabled states to examine the strengths and weaknesses of courts in achieving timely permanency for children removed from their homes as a result of abuse or neglect, and addressing such concerns as timetables for proceedings, legal representation of all parties, and procedural safeguards for parents, guardians, and children. An initial CIP assessment and a later reassessment covered an evaluation of such things as successful practices, degree of collaboration between courts and child welfare agencies, frequency and length of judicial delays, quality of legal representation, the impact of caseloads on performance, and the quality of case-tracking systems.

In their National Evaluation of the Court Improvement Program for the U.S. Department of Health and Human Services, Pal-Tech found that 78 percent of the 50 states reporting addressed case tracking (U.S. Department of Health and Human Services, forthcoming: Figure 23). The most commonly stated purpose of automated information systems was to track ASFA timelines. Almost a third of the states (28 percent) provided judges with summaries of their cases and progress being made, and a quarter described work using automated systems to calendar cases. Less than 10 percent of the states mentioned using automated information systems to track key findings, continuances, notifications, or multiple filings. The existence of data-exchange standards and protocols will make these tasks much easier.

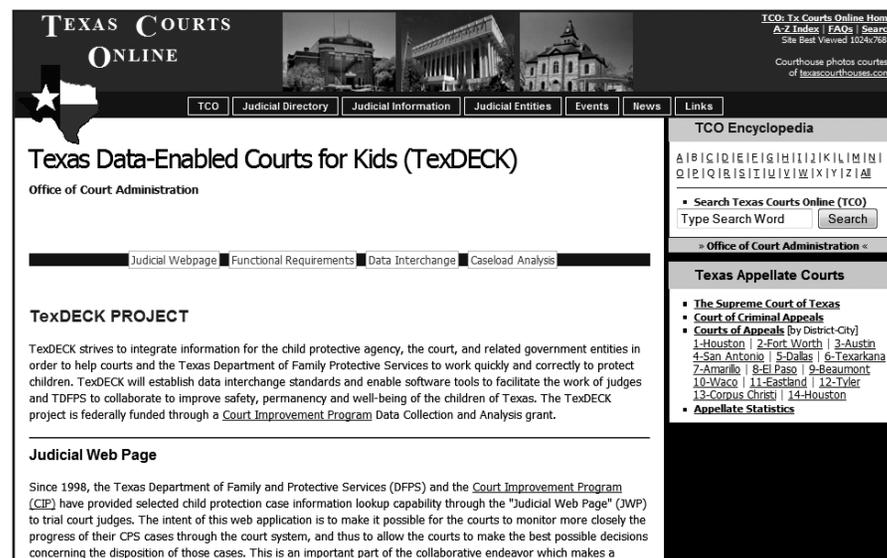
The National Evaluation of CIP reported on state-recommended next steps for court reform (U.S. Department of Health and Human Services, forthcoming: Figure 25). The most frequently recommended areas for future work were training (88 percent), legal representation (82 percent), and case tracking and information

management (74 percent). About 20 percent of the states recommended better systems to monitor and remind courts about approaching AFSA timelines, hearings, and continuances.

Data-Exchange Standards. National exchange standards, protocols, and templates will greatly reduce the costs but will not solve all of the problems of data exchange. A national template permits states to evaluate a prepared, standard list of data elements for applicability to their particular situation and perhaps consider some that they may not have thought about. For example, Texas has prepared a comprehensive set of data requirements that could profitably be reviewed by other states considering data exchange (see TexDeck Web site). One set of data elements on the list considered the type and dosage of medications children were taking so that judges could consider the possibility of children being overmedicated. Part of that decision regarding what data elements to adopt involves demonstrating how the data elements can be used in reports to the court and child welfare agency. For example, with the basic data on relationships available, TexDeck can produce “genealogy” charts for complex cases that illustrate the various relationships and living arrangements of children with different caretakers. The chart can show a child living in a household with his or her mother and a significant other but also label the child’s biological and legal fathers.

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Data-exchange packages have been created for the dependency petition, the adjudication order, and the case or service plan (see NCSC Child Welfare Net Project Wiki). The next data-exchange issue to be addressed will be creating administrative exchanges between courts and child welfare agencies to assist with scheduling of hearings, appointment of counsel, addition of parties to proceedings, and changes of address and placement. Notification of parties of court proceedings, including parents, foster parents, guardians ad litem, attorneys, and prosecuting attorneys, is the next priority.



Texas Data-Enabled Courts for Kids (TexDECK)—Web site
<http://www.courts.state.tx.us/oca/texdeck/txdeck-home.asp>

The data-exchange package for the dependency petition was recently field-tested in Vermont. The national standards proved to be very helpful indeed. Approximately 65 percent of the information in the template was used for the Vermont dependency petition. Another 31 percent of the information could have been used, but was not required in Vermont. Only 4 percent of the information required in Vermont was not contained in the national template. This bodes well for the value of having a national template—it saves time and money for states.

Once all of the data-exchange standards have been completed, they will go through the review process established by the Conference of State Court Administrators and National Association for Court Management to ensure they will be acceptable to the court community.

How You Can Help

The creation of data-exchange standards for various domains is moving forward rapidly. NIEM is considering forming a family domain with data from child

support and dependency exchanges. Both dependency courts and the child welfare community need to participate in the governance process of data exchange so that their concerns can be taken into consideration while the standards are developed (see NIEM Business Architecture Committee, 2009).

In addition, NCSC is looking for feedback from both court staff and child welfare agency staff on the process models developed so far, the data requirements, and the technical specifications. Note that at least three of the NIEM steps discussed above rely on an analysis of how courts and child welfare agencies process child abuse and neglect cases, rather than technology issues. Data exchange is not a process solely for technology staff.

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We need to know how applicable the processes modeled so far are to the processes used in your states. We are also trying to create a dictionary of terms so that users will know that a “shelter care hearing” in one state is or is not the equivalent of a “preliminary protective hearing” or an “emergency removal hearing” in another. Readers are invited to visit the wiki at www.ncsconline.org/childwelfarewiki and to review the data exchanges established so far and contribute their suggestions, ideas, and comments.

ENDNOTES

*This article is excerpted from a larger issue paper on data exchange written for the Pew Charitable Trust Issue Paper Series. The author is indebted to Dick Van Duizend and Tom Clarke for the comments on drafts of the original issue paper.

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