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Idaho Child Abuse and Neglect Court Proceedings Baseline Assessment

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Introduction

The Idaho Child Protection Committee as part of federally required Court Improvement Program efforts, has begun a process to continuously improve the quality of child abuse and neglect court proceedings. The first phase of this project is to gather data to explore the current state of child abuse and neglect court proceedings in Idaho to better identify strengths of practice and opportunities for improvement. The purpose of this project is to:

- Conduct exploratory analyses to determine whether opportunities for improvement in child protections cases throughout the state of Idaho exist.
- Provide additional descriptive information regarding Shelter Care Hearings, Adjudicatory Hearings, and first Permanency Hearings.
- Identify some high-level components that represent quality hearings, which are intended to produce positive outcomes for child protection cases.

Why Focus on Hearing Quality?

The Children's Bureau has requires that Court Improvement Programs focus on improving timely and quality child welfare court hearings. Components of high-quality court hearings are defined nationally through the *Enhanced Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases*,¹ as well as at the state level through state laws and best practice guidance from judicial bench books and the like. Commonly identified components include:

- Early and active engagement of parents and youth at hearings
- Presence of key parties (parents, youth, and their attorneys) at hearings
- Discussion of relevant topics at hearings
- Judicial findings on the record

Prior research has demonstrated a consistent trend that illustrates the importance of conducting high quality child welfare court hearings. In fact, all the components of quality hearings have shown some relationship to positive child welfare case outcomes. For example, presence of both parents and parents' attorneys at hearings has been linked to timelier permanency and an increase in the chance of

¹ National Council of Juvenile and Family Court Judges (2016). *Enhanced Resource Guidelines: Improving Court Practice in Child Abuse and Neglect*. Reno, NV: Author. Available online <https://www.ncjfcj.org/publications/enhanced-resource-guidelines/>

reunification.² Breadth of discussion of relevant topics has also been linked to timelier permanency³ and increased chances of reunification,⁴ particularly in early case hearings. In addition, discussing specific topics has been shown to be related to permanency outcomes. One study found a relationship between discussion of the permanency plan at permanency hearings and timelier permanency.⁵ Presence of the parents at hearings has also been shown to be related to timely permanency.⁶ In addition, presence of attorneys has been related to timelier permanency, especially presence early in the process.⁷ Judicial engagement of parents (that is, when judges talk directly to parents, ask if they have questions, etc.) has been shown in multiple studies to be related to better placement outcomes,⁸ timely permanency,⁹ and increased reunification.¹⁰ Research on judges making verbal findings on the record is more limited, but one study has shown that jurisdictions that make verbal reasonable efforts findings also had timely permanency outcomes.¹¹ Overall, the research has highlighted that it is important to ensure that parties are present and engaged, key topics are discussed, and appropriate findings are made.

Hearing quality, for the purpose of this study was defined based on prior research studies that have identified constructs such as presence and engagement of parents and youth, presence of key professionals (including attorneys for all parties), discussion of relevant topics, advocacy by attorneys, and making required findings on the record. The project identified the following research questions as of interest to the committee to inform long-term systems change efforts:

1. How does the overall quality of hearings affect permanency and placement decisions?

² Wood & Russell, 2011, Summers et al., 2017; Summers & Gatowski, 2018; Bohannon et al 2015. Wood, S., Summers, A., & Duarte, C. (2016). Legal Representation in the Juvenile Dependency System: Travis County, Texas' Parent Representation Pilot Project. *Family Court Review*, 54(2), 277–287. <https://doi.org/10.1111/fcre.12218>

³ Bohannon, T., Nevers, K., & Summers, A. (2015). *Hawaii courts catalyzing change case file review and court observation pre and post benchcard*. Reno, Nevada. National Council of Juvenile and Family Court Judges.; Summers, A., & Gatowski, S. (2018). Nevada Hearing Quality Study: Examining the Quality of Child Welfare Court Hearing Practice in Nevada. Reno, NV: Administrative Office of the Courts, Nevada Court Improvement Program. Summers, A., Gatowski, S. I., & Gueller, M. (2017). Examining hearing quality in child abuse and neglect cases: The relationship between breadth of discussion and case outcomes. *Children and Youth Services Review*, 82(C), 490–498. Retrieved from <https://ideas.repec.org/a/eee/cysrev/v82y2017icp490-498.html>; Summers, A. (2017). Exploring the Relationship Between Hearing Quality and Case Outcomes in New York. *New York State Unified Court System Child Welfare Improvement Project*.

⁴ Supra note 2 (Summers & Gatowski, 2018; Summers et. al 2017)

⁵ Supra note 2 (Summers, 2017)

⁶ Wood, S. M., and Russell, J. R. (2011). Effects of parental and attorney involvement on reunification in juvenile dependency cases. *Children and Youth Services Review*, 33, 1730-1741; Summers 2017.

⁷ Supra note 5

⁸ Macgill, S., & Summers, A. (2014). Assessing the relationship between the quality of juvenile dependency hearings and foster care placements. *Family Court Review*, 52(4), 678–685.; Supra note 2 Bohannon et al 2015)

⁹ Supra note 2 (Summers, 2017; Summers & Gatowski 2018)

¹⁰ Supra note 4

¹¹ Supra note 4

- a. Engagement
 - b. Discussion
 - c. Parties present
 - d. Findings on the record
- 2. How is frontloading at the first hearing on the case (e.g., increased discussion, engagement of parents) related to case outcomes?
- 3. How does the type and frequency of engagement between the judge and various parties attending the hearing have on permanency and placement decisions?
- 4. Does the order in which the judge engages the parties have an impact on hearing outcomes?
- 5. What kind of information is the judge presented with at hearings?
- 6. Is there a relationship between timely hearings and permanency and placement outcomes?
- 7. What does attorney advocacy look like in hearings and how does presence and advocacy relate to case outcomes?
 - a. What do attorneys advocate for at hearings?
 - b. Do parents' attorneys ask at every hearing what is keeping the child from returning home today?

Method

To explore the research questions and better understand current child abuse and neglect court proceeding practice, a multi-method approach was employed. The primary method for data collection included a structured court observation process. Two coders listened to recorded audio hearings of court proceedings. This was supplemented by administrative data to include additional information about the case, such as number of placements and case outcomes. The Idaho Child Protection Committee identified three court proceedings to be the focus of the research. These included the Shelter Care Hearing, the Adjudicatory Hearing, and the first Permanency Hearing on the case.

Court Observation. The court observation instrument was constructed using prior instruments as a base. The prior instruments had been used in multiple studies. The instrument was modified to meet the needs of the Idaho Child Protection Committee's court observation goals. This included updating the instrument to include language specific to Idaho child abuse and neglect court proceedings, as well as to include topical discussion items of interest. A unique instrument was constructed for three distinct hearings – Shelter Care, Adjudicatory, and Permanency. These instruments were nearly identical but had distinct items relevant to the hearing of interest. The items were included on the court observation instruments based on best practice recommendations of what constitutes a high-quality hearing, as well as Idaho's statutory requirements for abuse and neglect court proceedings.

All instruments included the following list of variables. The list includes how the items were measured and (when applicable) how calculations were conducted for the findings section.

Basic Hearing Info

- *Date*. The date the hearing was held.
- *Judge*. The judge who presided over the hearing, when known. A list of hearings was used to identify audio recordings to pull for inclusion in the study. The list included the judge for the hearing. However, the judge was sometimes different than documented in the list. Coder noted the judge when the judge identified themselves on the record or used the list to identify the judge.
- *County*. The list provided for the coders included from which county each case/hearing was assigned. Some counties indicated the county on the record, but not all.
- *Start and End Time*. The start and end times of the hearing were collected. This was used to calculate length of the hearing. The start time was deducted from the end time. In addition, recess time was noted on the instrument. Recess time was deducted from the time derived from deducting start from end time. This allowed for a calculation of length of hearing in minutes.

Hearing Quality Indicators

- *Parties present*. Presence of parties was documented at each hearing reviewed. Parties were listed as a checklist and coders marked all the persons noted as present. It is important to note that accurately identifying who is present relies heavily on an accurate and clear record. When listening to hearings, sometimes the record began in the middle of identifying parties (so parties before that may have been missed). Further, parties might be identified just by their name (and not their role) or may have been general such as “John Smith for the child.” An unclear statement like this made it impossible to accurately determine who was present (is John Smith an attorney or guardian ad litem?) in 100% of the cases reviewed. Parties present also does not provide an indication of who should be there. Therefore, it is impossible to determine if an interpreter should be there but is missing. The hearings instrument only identifies who is there as described on the record.
- *Judicial engagement strategies for parents and youth*. Engagement was defined by a series of yes/no statements regarding whether the judge engaged in specific behaviors. These behaviors included whether the judge explained the hearing process, spoke directly to the party, called the party by name (e.g., not mom or dad), asked if the person had questions, identified the next steps, asked if the person understands next steps, asked if the person understood what happened at the hearing and gave the person an opportunity to be heard. Engagement was measured in two ways. The first is the percentage of time a judge used a strategy. Engagement was also calculated as an

“average” engagement score. When a party was present, each potential engagement item was counted as a 1 for yes (the judge did this) and a 0 for no. An average across all items allowed for an average engagement score that represents the overall number of strategies a judge used to engage parents in the process.

- *Discussion topics.* Discussion topics were derived from best practices and Idaho priority areas. These included topics that could be informative to judicial decision making on the case. All instruments included some overlap in topics, including child placement, visitation/family time, child well-being, safety, and agency efforts. There were also topics specific to the hearing (e.g., mother’s progress at the permanency hearing). Discussion for each of these topics was coded on a 3-point scale, including 0 (no discussion), 1 (statement only/minimal discussion), and 2 (more than a statement). In addition to this, there was the potential to indicate if an item was not applicable. For example, *education needs* was one of the topical areas. If children were not yet school or pre-school age, then this would be considered not applicable. It is important to note that it was not always possible for the coder to determine if the item was not applicable. If no one in the court identifies the age of the child, then it would be impossible to know if education needs is applicable or not. When coders could not determine if the item was applicable, and it was not discussed, then the item was coded as “0” for no discussion. This means that the percentage of time a topic was discussed when applicable may be underrepresenting the actual discussion. That is, the courts may actually be talking about the topic more often when applicable than can be determined from observing hearings alone. It is important to note that the discussion topics are derived from information that is relevant to parents and youth in the child abuse and neglect court process. The judges may also get information from reports presented to the court. However, observers have no way to know what information is in the report.
- *Whether parties reference a report.* Both the Adjudicatory and Permanency instrument included an opportunity to identify whether someone referenced a prior report. This indicated that parties had the report prior to the hearing. Coders marked yes or no as to whether there was a reference to a report. This did not indicate whether everyone had seen the report, whether it was submitted timely, or what was in the report, only if it was referenced.
- *Judicial findings on the record.* For each hearing, coders indicated whether they heard the judge make a verbal finding on the record. Findings on the record focused on the findings/orders relevant to the hearing being observed. For example, the Shelter Care hearing included whether there was a finding regarding Indian Child Welfare Act applicability, whether there was a finding

of contrary to the welfare, and whether there was a reasonable efforts finding on the record. In addition, there was information about whether parents stipulated, whether there was an indication that the stipulation was knowing and voluntary, and whether there was a reasonable basis in fact. Again, the instrument did not always distinguish when the finding should be made. For example, some findings may only need to occur once. However, this was meant to capture typical practice in the state, so practice was noted in order to be described at every hearing type.

- *Attorney advocacy.* Instruments also explored attorney advocacy. Advocacy was measured for the mother's, father's and child's attorney/advocate at each hearing. Coders marked whether the attorney/advocate requested something for their client. Topics of advocacy included advocating for a return home, increased visits with parents, increased sibling visits, services for the family, placement, educational stability, or the child's best interest. If the attorney was advocating or requesting something for their client that was not on this list, the coders noted this as general advocacy. To count as advocacy, the attorneys had to be trying to enhance their client's position in some way, not just agreeing or noting an agreement (like a stipulation). If the coder observed any advocacy by any attorney, it was marked as a "Yes". If nothing was marked, this indicated a no. To calculate percentage of hearings where advocacy was observed, the count of "yes" was divided by the number of hearings where that attorney (e.g., mother's attorney) was present. As with discussion items, it is important to note that it is not always possible to determine when something (like sibling visits or educational stability) is applicable for a case. It is also important to note that there may be no need for advocacy as the parents and youth may have everything they need. However, this is meant to identify how often this practice is occurring at specific hearings.

Administrative Data. Administrative data was used to supplement court observation data. This included identifying whether the case had closed, what the case outcome was, the time to permanency for each case, timeliness data for holding the hearing, and placement data for the case being reviewed.

Sampling Procedures

A stratified random sampling method was used to gain adequate representation from each area of the state. That is, cases were selected randomly from all cases that opened and held a shelter care hearing in 2018. Counties that have higher child abuse and neglect caseloads had more cases selected compared to cases with smaller child abuse and neglect caseloads. A cohort of cases that opened in 2018 was used for this study for two reasons. The first is that this allowed for a review of recent court practices. The second is that this allowed for an opportunity for cases to be closed at the time of the final review. This cohort

was selected based on having a shelter care hearing in fiscal year 2018 (July 1, 2017 – June 30, 2018). Then cases were followed and both the adjudicatory and the permanency hearings of these same cases were reviewed, if they were held. Some cases closed prior to Adjudicatory or prior to Permanency. A total of 488 hearings were originally identified to be included in the study.

Data Gathering, Security, and Access

The Idaho Supreme Court IT department helped facilitate the identification and gathering of recorded audio hearings and established secure access to the recorded hearings for the coders. The process required identification of the cases that were part of the sampling frame, and tracking down the audio recordings based on the indicated date and time that the hearing should have occurred. The audio snippet (for that specific hearing) was then copied and put into a secure folder that coders could access remotely. To ensure additional security, coders signed a confidentiality agreement that identified how the data would be used for the purposes of the study and what data would be collected. This included that no identifying information about the family would be captured on code sheets. The confidentiality agreement also indicated that data would not be downloaded from the secure site to ensure all confidential case information remained confidential.

Coding

A team of two researchers with expertise in child abuse and neglect quality court hearings coded all of the hearings that were selected. Coding included listening to audio recordings of hearings and completing the structured court observation instrument for each hearing. The researchers worked with the Idaho Child Protection Committee staff to train on the instruments and ensure reliability. Practice coding took place to identify any discrepancies, questions or concerns with the coding instrument and Idaho practice. Staff from Idaho worked with the researchers to ensure clarity in coding.

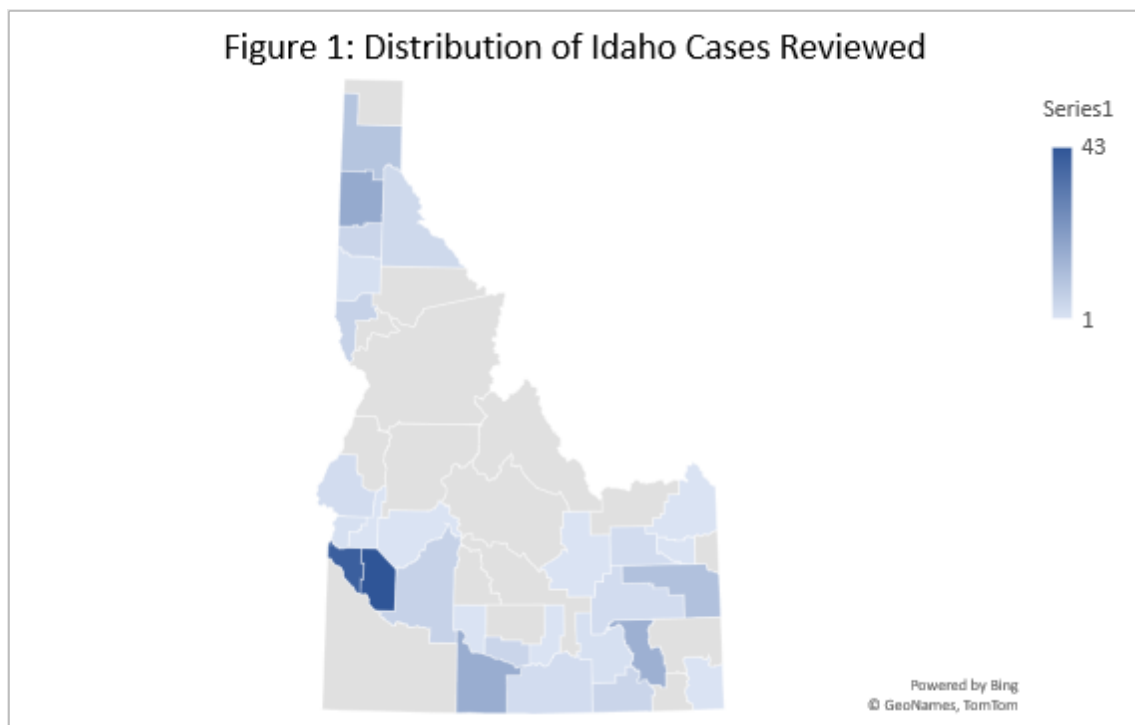
Analysis

Staff from Idaho entered all the data into Excel files for analysis and provided additional administrative data to include. One of the researchers who coded the hearings, provided analytical support. Data were analyzed to describe current practice and to explore relationships between variables of interest (e.g., hearing quality factors and case outcomes).

Sample

Although 488 hearings were originally identified to be included in the study, not all of these hearings were available. There are multiple reasons why a case would not have all three hearing types. Upon trying to extract hearings, it was discovered that some jurisdictions do not hold Shelter Care hearings. Instead,

parties may waive shelter care and then a formal hearing on the record is not held. This helps to explain why larger counties (such as Ada) may have fewer cases than expected in the sample. The same was also discovered related to Adjudicatory hearings, if the parties stipulated a formal hearing may not have been held. In some cases, the audio file for the recording had errors that prevented identification or playback. Even within the sample that was coded, there were some audio problems or challenges with getting a complete and final recording of the hearing record. The final sample for the study included 415 child abuse and neglect court proceedings, including 149 shelter care hearings, 140 Adjudicatory hearings, and 126 first permanency hearings. Twenty-four counties were represented in the final sample, with Canyon County representing the highest number of cases. The sample also included 62 different judges across the 415 hearings. Figure 1 illustrates the distribution of cases reviewed. The final sample included 212 unique cases. Fifty-eight (27%) of the cases reviewed included all three hearing types, 87 (41%) included two of the three hearing types, and 67 (32%) included only one hearing type per case. Twenty-nine cases only had a shelter care reviewed, 15 cases only had an adjudicatory hearing reviewed, and 23 cases only had a permanency hearing reviewed.



Findings

Findings for this study are meant to answer multiple research questions. The overarching purpose of this study is to explore what practice currently looks like in Idaho child abuse and neglect proceedings to

identify areas of strengths and opportunities for improvement. As such, the findings are presented first to describe hearing quality variables of interest in the Shelter Care, Adjudicatory, and Permanency hearings that were reviewed. Findings then are reported to explore relationships between hearing quality variables and outcome variables of interest for the study. It is important to note – findings are not meant as a “score” for how well the state is doing. That is, saying that a behavior occurred in 50% of cases is not to say that the state is doing poorly. It is not always possible from the methods of this study to know how often practice *should be* occurring. Therefore, findings should be considered in terms of local priorities and should be used to identify strengths and areas for potential improvement. *It is also important to consider the context in which the findings are presented and the limitation of the data collection method.* Court observation only allows the person listening to the hearings to know what has been said about the case. Without the case file, the observer would not know key details. For example, it is not always possible to know when a father has been identified on a case. So, if at Shelter Care, the father is not present, it is impossible to know (unless explicitly stated on the record), whether the father should be present or not. As such, findings of presence of parties at hearings may underrepresent how often a father is present, when identified. Other examples to consider for context include:

- ICWA findings. The court observation instrument included whether there was an ICWA inquiry and whether there was an ICWA finding on the recording. It did not capture what the finding was or whether it was an ICWA case. Therefore, it is impossible to determine how often these findings should have been made. Instead, from a best practice perspective, ICWA findings of whether or not ICWA applies could be made at all hearings.
- Related to ICWA findings, the instrument notes when a tribal representative is present at the hearings. Since it is not known how many of these cases are ICWA cases, then it is impossible to know how often a tribal representative *should be* appearing at the hearing. These are raw numbers meant to be a snapshot of practice.
- It is not clear from listening to a hearing whether the person who is there to represent the child is a guardian *ad litem* (GAL) or an attorney (although sometimes it is clear when there is a GAL *with* an attorney). As such, information about a child’s representation is indicated as a child advocate. This could be either an attorney or a GAL. When it was easy to determine, this was almost always a GAL. Since it was not always possible to determine, the report will refer to the person representing the child as the child advocate.

Shelter Care

The Shelter Care hearing is the first hearing on the case and represents an opportunity to engage parents in the case process. Coders reviewed 149 Shelter Care hearings, but data were incomplete on two hearings that had recording issues. A total of 147 hearings were part of the analyses in this section. Ninety-four percent of shelter care hearings were completed, 4% were continued and 2% were dismissed.

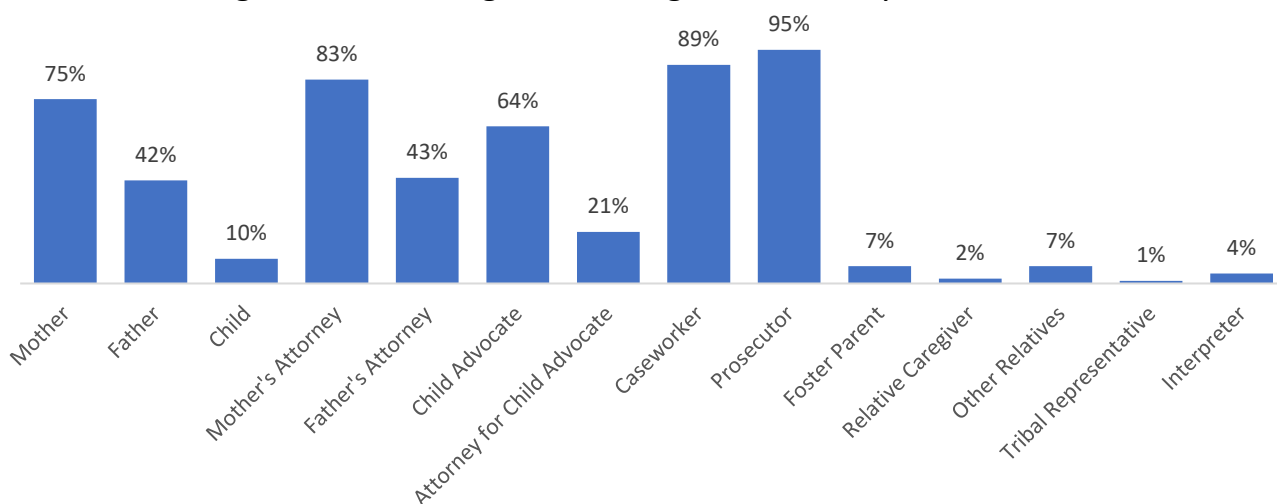
Length

Hearing length was calculated by subtracting the start time from the end time and then subtracting any time that the court was in recess. Shelter Care hearings ranged from 2 minutes to 66 minutes in length, with an average of 15 minutes per hearing.

Parties Present

Figure 2 illustrates the percentage of hearings observed that a party was marked as present. It is important to note that the court observation process could not distinguish whether the father had been identified or not, so this may underrepresent the percentage of time a father was present when he was identified on a case. It is also important to note that the child advocate is mostly a GAL, but could be an attorney for the child.

Figure 2. Percentage of Hearings Where Party Was Present

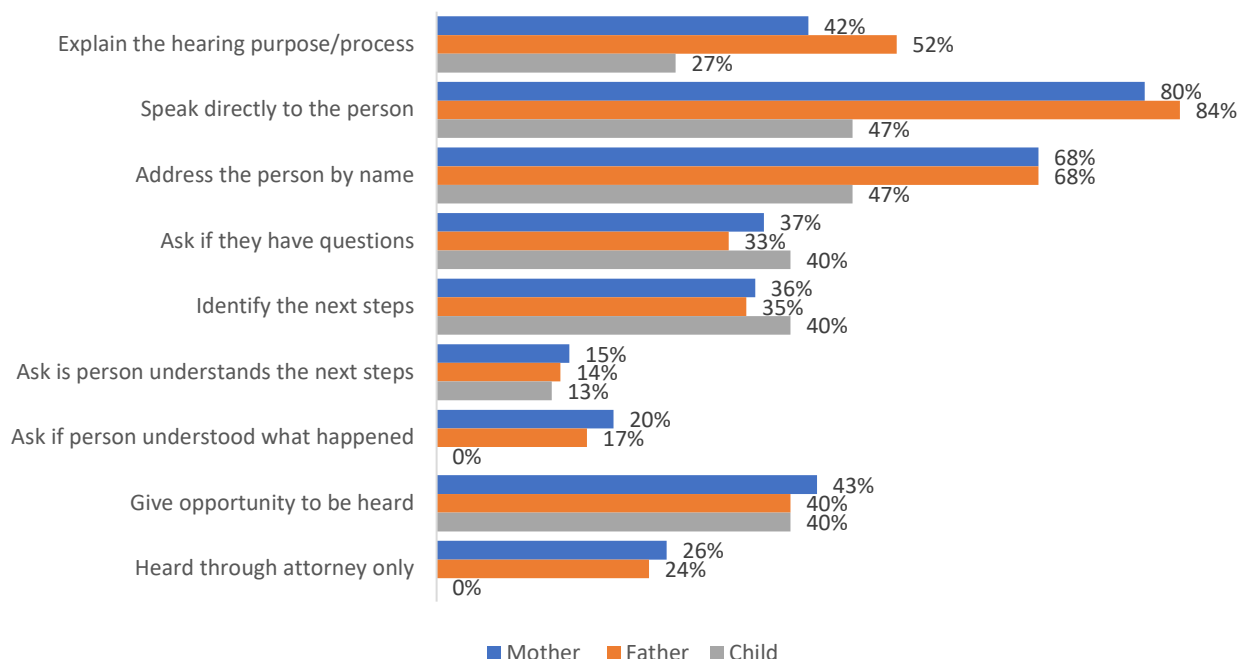


The attorney for the mother was appointed at that hearing in 17% of these cases, for the father at 17% of the hearings, and the advocate (either GAL or attorney) for the child was appointed at 21% of hearings.

Parent and Youth Engagement

As noted below, judges explained the hearing process 42% of the time when mothers were present and 52% of the time to fathers when they were present. Judges used an average of 52% of the 8 strategies for mothers and 46% of the strategies for fathers. Judges employed 40% of strategies when engaging youth at the Shelter Care hearing.

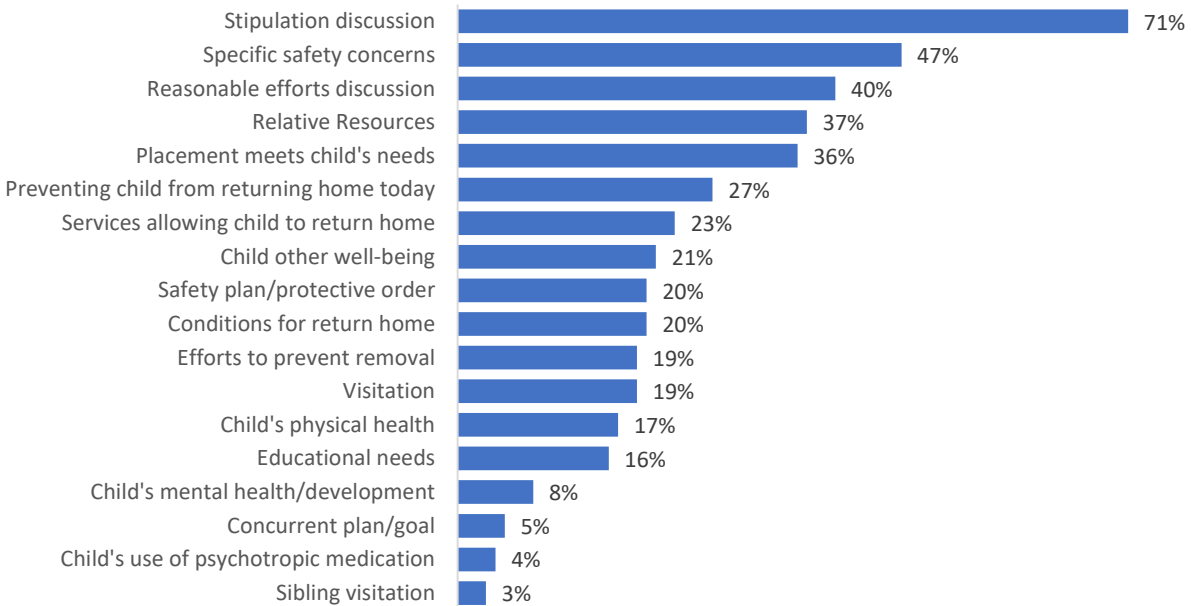
Figure 3. Percentage of Hearings When Party Was Present That Judge Engaged Party



Hearing Discussion

Nineteen items were identified as potentially applicable for discussion at Shelter Care hearings. Figure 4 illustrates the percentage of hearings when a topic was discussed at all. Overall, 30% of applicable topics were discussed, on average, in Shelter Care hearings. Placement was only discussed in 36% of hearings, and even then, most hearings did not indicate *where* the child was placed.

Figure 4. Percentage of Hearings a Topic Was Discussed When Applicable



Discussion was also explored in terms of depth or how much discussion there was. Depth was scored on a 3-point scale. Depth scores could range from 0 to 2.0 for each item. The average depth of discussion was .34, with a range of 0 to 1.47 for items. This indicates that most items were not discussed in depth. Discussion was similar in Shelter Care hearings when mothers were present (discussing 30% of applicable topics) compared to when they were absent (discussing 29% of applicable topics). When fathers were present, the court discussed 33% of applicable topics compared to when fathers were absent (28%).

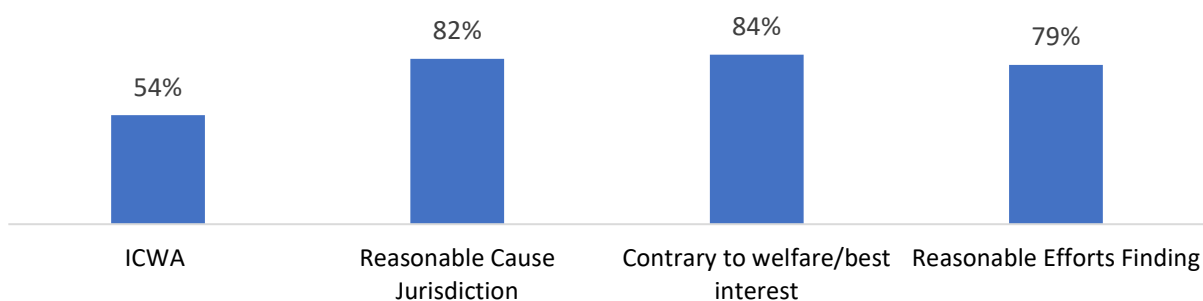
Findings and Orders

Several findings and orders were explored for the court observation. For these, the coder indicated if the judge made the finding verbally on the record. The findings of interest included stipulation, Indian Child Welfare Act (ICWA) applicability, reasonable cause for jurisdiction, contrary to welfare/best interest finding, and reasonable efforts. If a parent stipulated at the hearing, court observation tracked whether there was an indication that this was knowing and voluntary and whether there was a reasonable basis in fact. In addition, the court observation explored whether the next hearing was set on the record. For these cases, the judge inquired about ICWA in 73% of cases. Table 1 and Figure 5 illustrate the percentage of time that coders heard the judges make a verbal finding on the record. Judges may have made findings on the record (on paper) that were not expressed verbally within the hearing. The ICWA finding was

whether or not a judge made a verbal finding that ICWA did (or did not) apply. The Shelter Care hearing also explored whether the judge indicated that there was reasonable cause for jurisdiction, whether placement in the home was contrary to welfare and whether the agency made reasonable efforts.

Table 1. Percentage of Shelter Care Hearings Where Findings Occurred		
	Mother	Father
Stipulation	45%	26%
Knowing/Voluntary	61%	61%
Reasonable Basis in Fact	62%	63%

Figure 5. Percentage of Hearings That Judge Made Verbal Finding



In addition, the judge set the next hearing on the record in 80% of the hearings observed.

Advocacy

The final measure of the quality of court hearings was attorney advocacy. Advocacy was measured for the attorneys (or guardians ad litem) that represented the mother, the father, and the child in the case. There was no advocacy of any kind in 58% of hearings where an attorney was present. Table 2 illustrates the percentage of hearings where an attorney (or guardian ad litem) advocated for something for their client.

Table 2. Percentage of Shelter Care Hearings Where Advocacy Was Noted			
	Mother's Attorney	Father's Attorney	Child Advocate
General advocacy	23%	27%	6%
Return home	9%	14%	0
Parent's visits	3%	5%	1%
Sibling Visits	0	0	0
Services	1%	0	0
Placement	6%	9%	3%
Educational Stability	0	0	0
Child's best interest	0	2%	4%

Qualitative Impressions

In addition to the structured code sheet, coders could indicate qualitative impressions of the hearing and note areas of strength. For the Shelter Care hearing, hearing practice varied significantly by county and judge. Coders made notes for strengths or opportunities in practice. While not all hearings had qualitative notes, there were some behaviors that stood out. These included:

- Some judges did an excellent job of explaining the hearing purpose to the parents.
- Some judges had a good process for explaining stipulations and talking with parents to make sure it was knowing and voluntary as well as discussing reasonable basis in fact.
- In one case, the agency indicated that ICWA did not apply. The judge took time to explain what that meant to the parents and make additional ICWA inquiry.
- One judge asked the parents how to pronounce the children's names to ensure that he had it correct.
- In one hearing, the judge explained the concept of concurrent planning to the parents so they would have a better understanding of what that meant.
- Several hearings exhibited good practice by clearly identifying all the parties on the record, including the role of each party (e.g., attorney for mother, not just by name).

Adjudicatory Hearing

One hundred and forty adjudicatory hearings were reviewed as part of the study. Of the hearings observed, 91% were completed, 4% were continued, and 5% were dismissed. Continued and dismissed hearings would not be expected to have all the discussion and findings on the record that completed hearings would.

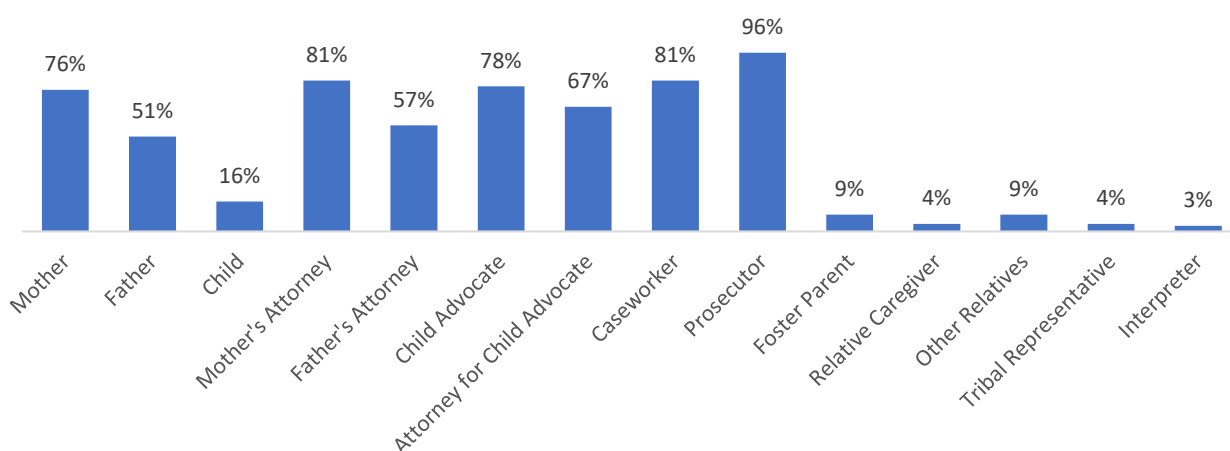
Length

Adjudicatory hearings ranged in length from 2 minutes to 3 hours and 30 minutes. The average Adjudicatory lasted 21 minutes. It largely depended on stipulation of the parties as to how long the hearings lasted. When mothers stipulated, hearings averaged 17 minutes compared to 30 minutes when they did not stipulate. A similar pattern was seen for fathers. When fathers stipulated, hearings averaged 14 minutes compared to 28 when they did not stipulate.

Parties Present

Figure 6 identifies the percentage of hearings where a party was noted as present at the Adjudicatory hearing. The Prosecutor and caseworker were most likely to be present, followed by the mother's attorney and an advocate for the child.

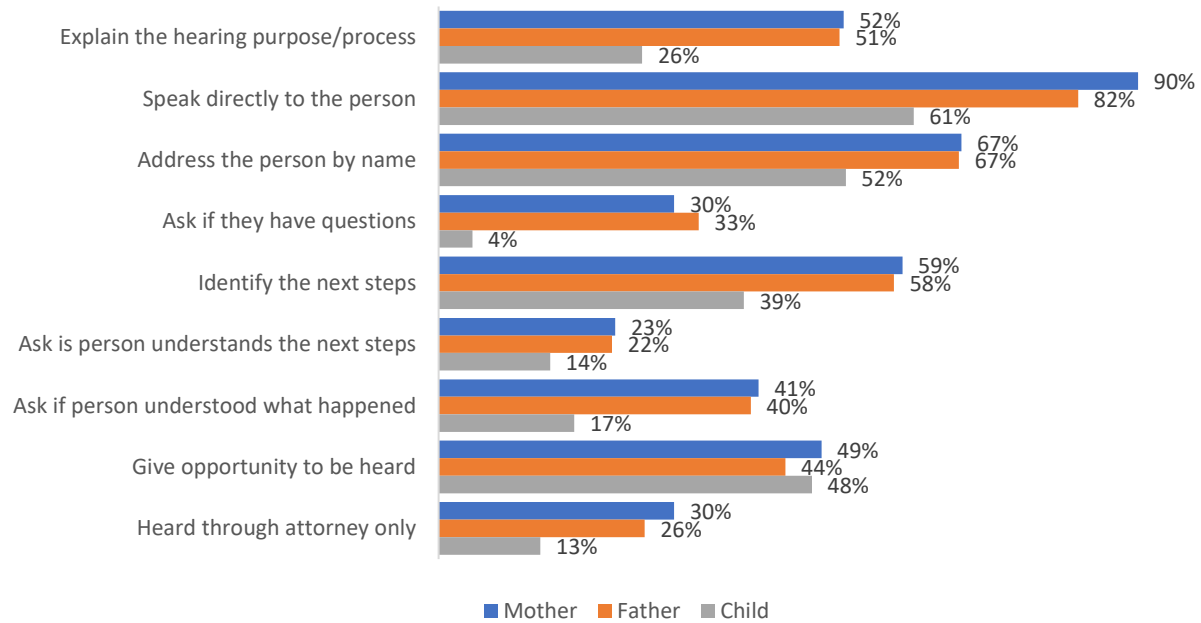
Figure 6. Percentage of Adjudicatory Hearings Where Party Was Present



Engagement of Parties

Engagement was measured both in terms of the percentage of times the judge engaged in a specific strategy and an “average” engagement score. Engagement was only explored in the hearing where a parent or youth was present and could be engaged. Average engagement equaled 37% for mother, 24% for fathers and 5% for youth. Figure 7 illustrates the engagement strategies for the Adjudicatory hearing and how often these strategies were used when a parent was present. As noted below, the judge was most likely to speak directly to the person and address the person by name.

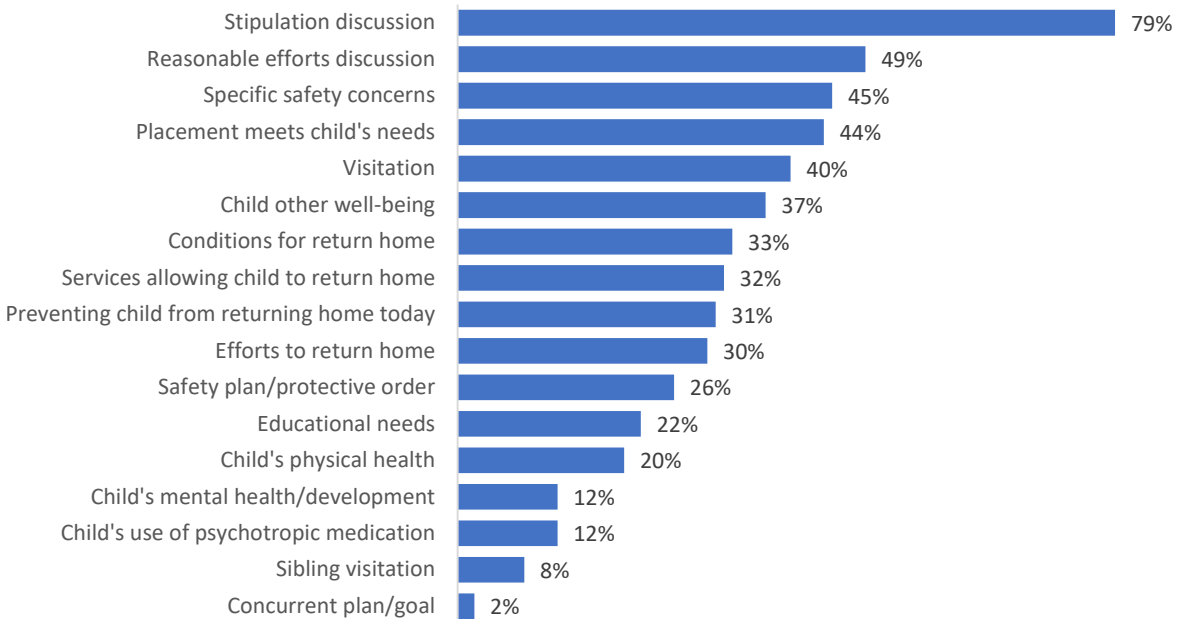
Figure 7: Percentage of Adjudicatory Hearings When Party Was Present That Judge Engaged Party



Hearing Discussion

Sixteen topics were identified as potentially applicable to an Adjudicatory hearing. Discussion averaged 33% of relevant topics. Discussion was increased when parties were present. When mothers were not present, discussion averaged 20% compared to 38% when mothers were present. The same pattern was true for fathers. When fathers were present, discussion was 38% compared to 29% when fathers were not present. Parents were addressed prior to the state in 44% of hearings. Figure 8 illustrates the percentage of Adjudicatory hearings where a topic was discussed. A discussion of stipulation was most common at the Adjudicatory hearing, followed by reasonable efforts, safety concerns and placement. Even when placement was discussed, the current placement was only identified for 52% of cases.

Figure 8. Percentage of Adjudicatory Hearings a Topic Was Discussed When Applicable



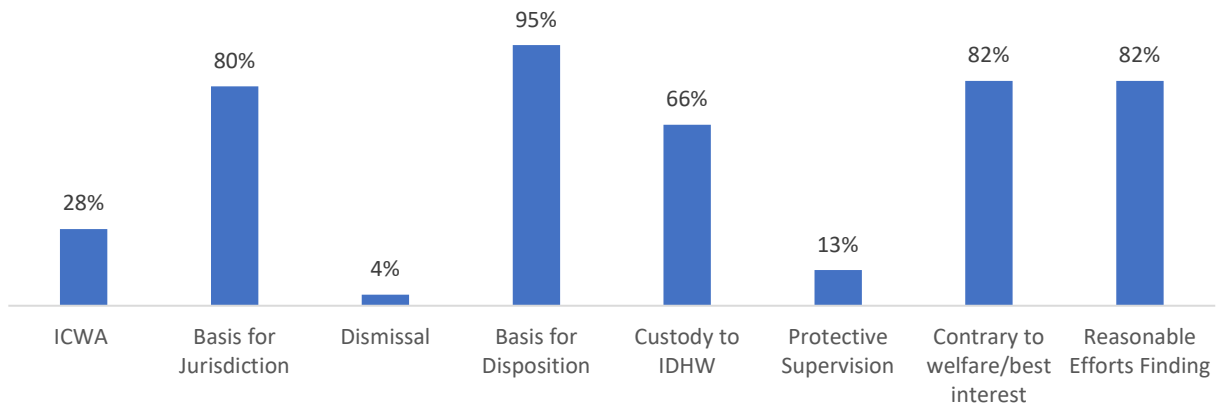
In addition to the reported discussion items, a party referenced reports that had been submitted to the court. The report of investigation was referenced in 66% of cases, the GAL report in 45% of cases, and other reports in 36% of cases. Judges also inquired about ICWA in 57% of cases.

Findings and Orders

Stipulations will not add up to 100% because the Adjudicatory hearings may have only been for one parent and the other parent may have had a separate hearing or stipulated at an earlier hearing. Table 3 and Figure 9 identifies the percentage of Adjudicatory hearings where the judge made verbal findings related to jurisdiction, disposition, reasonable efforts, and ICWA.

Table 3. Percentage of Adjudicatory Hearings Where Findings/Orders Occurred		
	Mother	Father
Stipulation	68%	54%
Knowing/Voluntary	82%	79%
Reasonable Basis in Fact	72%	68%
Finding	9%	9%

Figure 9. Percentage of Adjudicatory Hearings That Judge Made Verbal Finding



The next hearing was set in 88% of hearings.

Advocacy

In 43% of cases, there was no advocacy of any kind. Table 4 illustrates the type of advocacy observed.

	Mother's Attorney	Father's Attorney	Child Advocate
General advocacy	40%	47%	26%
Return home	14%	18%	1%
Parent's visits	2%	0	2%
Sibling Visits	0	0	1%
Services	8%	3%	4%
Placement	7%	5%	13%
Educational Stability	0	0	1%
Child's best interest	2%	3%	15%

Qualitative Impressions

Qualitative impressions were also gathered for the Adjudicatory hearing. Again, there was a variability in practice. Some hearings were very focused on stipulation or testimony for legal finding. When strengths were noted, they included:

- Good interaction with mother on the case to make sure she understood stipulation.
- Judge did a good job explaining the purpose of the hearing.
- Judge asked if mother was satisfied with her attorney.

- Judge provides very detailed explanation of the findings, including a good discussion with the father.
- Judge engages foster parents in conversation about how the child is doing.
- Good demeanor with parents (multiple hearings).
- Judge asks if mom needs anything.
- Positive reinforcement to parents for recognizing they have substance issues and being willing to address them.
- Judge provided very specific information to parents on tasks required.

Permanency Hearing

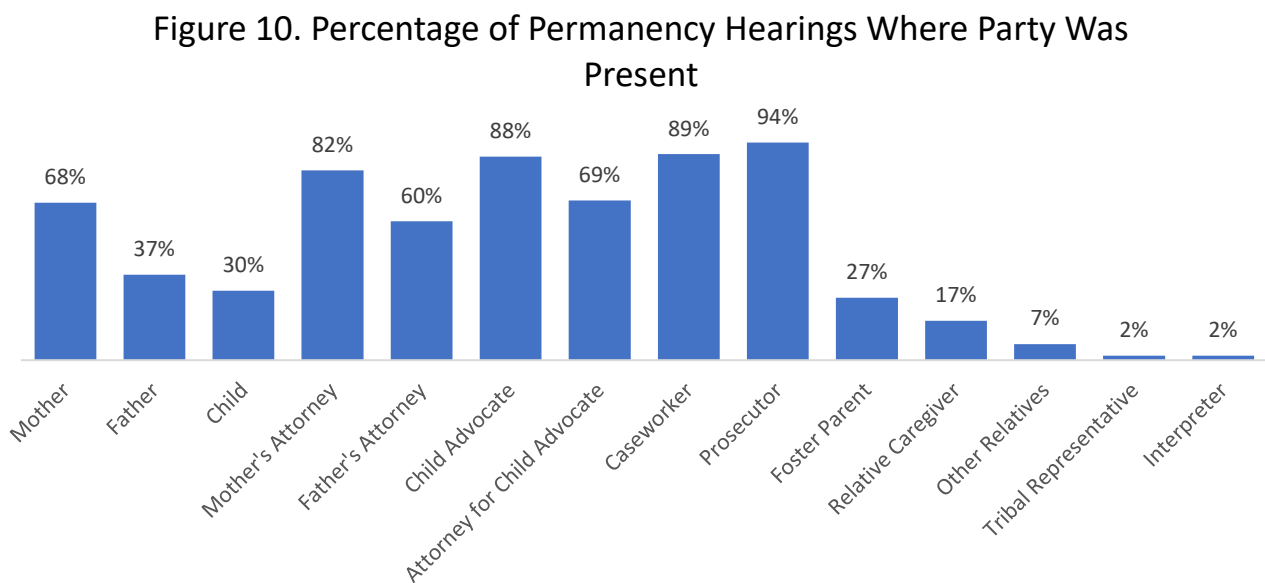
One hundred and twenty-six permanency hearings were observed. In 5% of hearings, the hearing was continued, in 3% it was dismissed, and in 92% of the cases, the hearings were completed.

Length

Permanency hearings ranged in length from 1 minute to 1 hour and 27 minutes, with an average of 18 minutes.

Parties Present

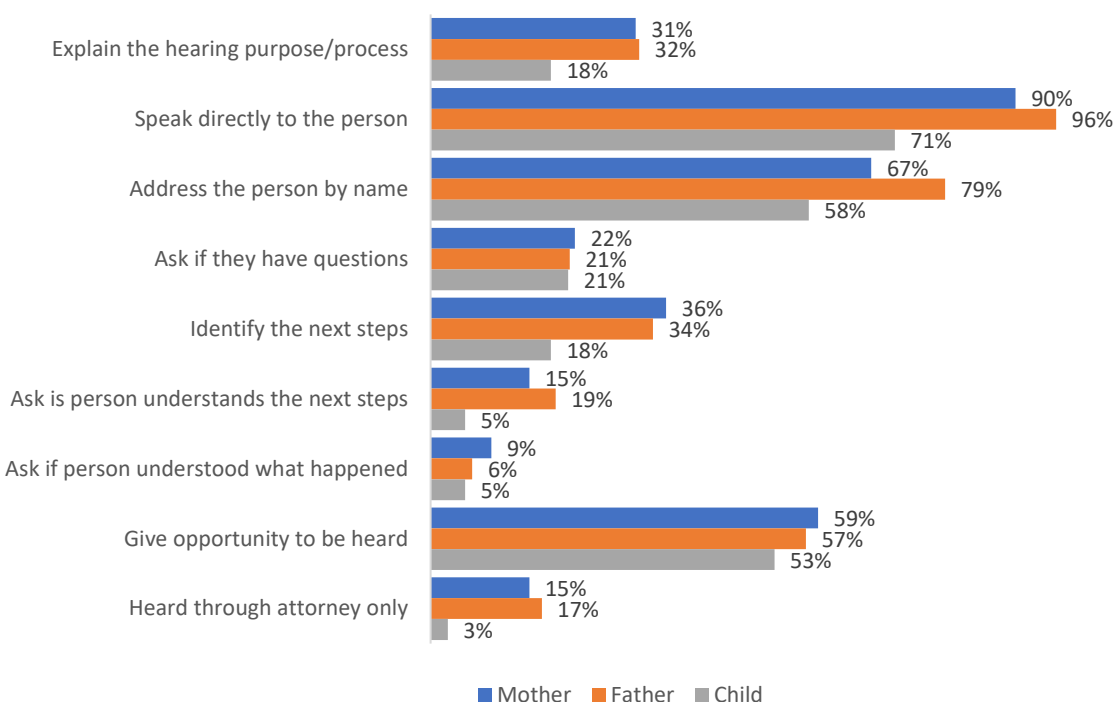
Figure 10 illustrates the percentage of permanency hearings where a party was noted as present.



Engagement of Parties

Engagement included 28% of strategies for mothers, 16% of strategies for fathers, and 9% of strategies for youth. In 24% of cases, the parents were addressed prior to the state. In 43% of cases when a child was present, the child was addressed prior to the state. In 19% of cases when the child was present, the child was talked to before the parents. Figure 11 portrays the percentage of permanency hearings where specific judicial strategies were used.

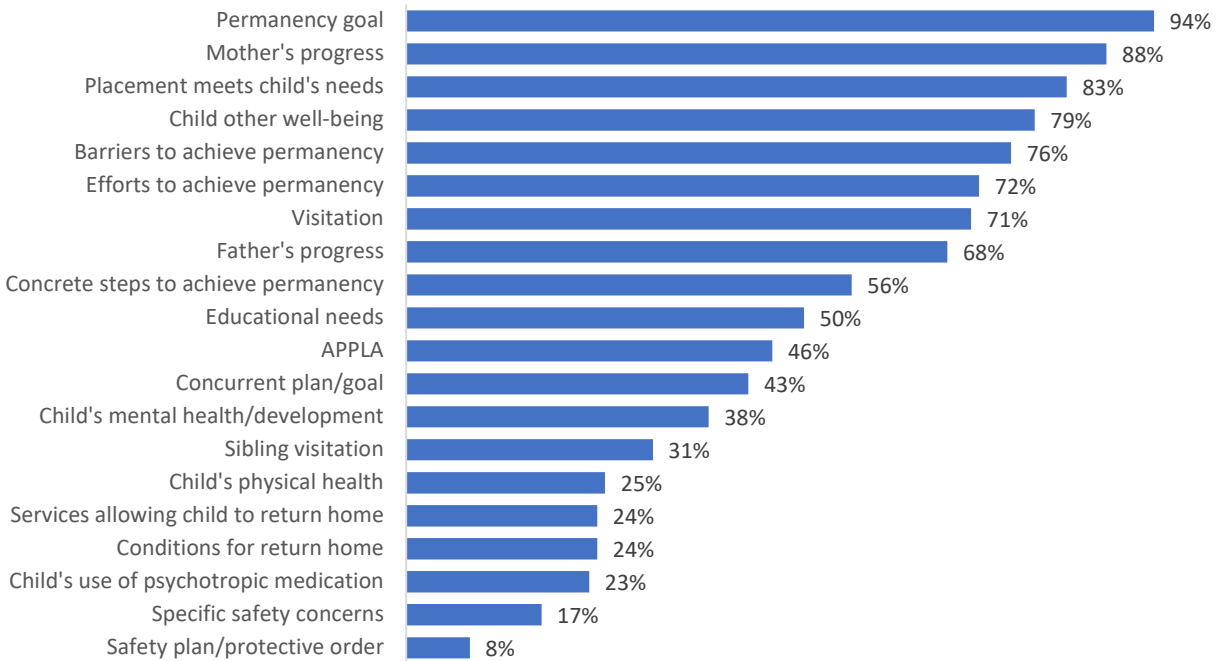
Figure 11. Percentage of Hearings When Party Was Present That Judge Engaged Party



Hearing Discussion

Twenty potentially applicable topics were identified as relevant for the Permanency hearing. Hearing discussion averaged 52% of applicable topics. Discussion did not vary much depending on parent's presence. Discussion was 50% when mother was not present and 54% when mother was present. When father was present there was discussion 57% of the time compared to when the father was not present 50%. The judge inquired about ICWA in 26% of cases.

Figure 12. Percentage of Hearings a Topic Was Discussed When Applicable



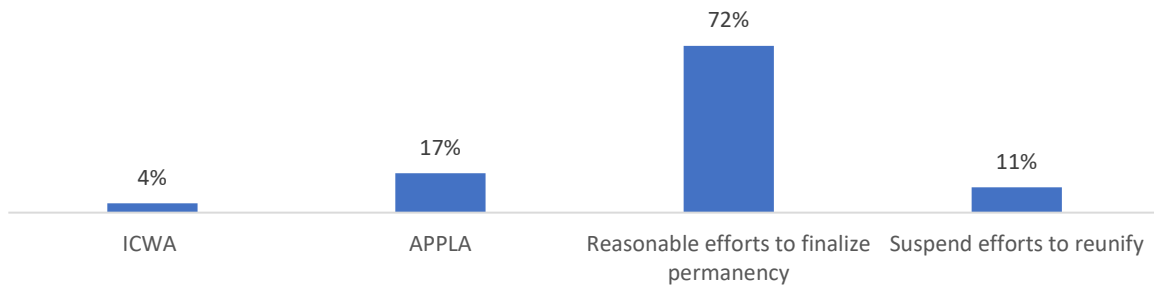
In 83% of hearings a permanency report was referenced, 65% of hearings a GAL report was referenced, and 5% of the cases referenced other reports.

Findings and Orders

Table 5 and Figure 15 illustrate the percentage of permanency hearings where a verbal finding was made. For the stipulation “finding” this includes whether parents stipulated to anything.

Table 5. Percentage of Permanency Hearings Where Judge Made Verbal Finding		
	Mother	Father
Stipulation	2%	3%
Knowing/Voluntary	67%	50%
Reasonable Basis in Fact	33%	25%

Figure 13. Percentage of Hearings that Judge Made Verbal Finding



In 89% of cases, the judge set the next hearing. In 92% of applicable hearings, the judge approved the permanency plan, in 6% of hearings the judge modified the permanency plan, and in 2% of the hearings the judge rejected the permanency plan.

Advocacy

In 24% of cases there was no advocacy. Table 6 portrays the percentage of hearings where advocacy occurred. Advocacy is only calculated when an attorney or GAL is present.

Table 6. Percentage of Permanency Hearings Where Advocacy Was Noted			
	Mother's Attorney	Father's Attorney	Guardian Ad Litem
General advocacy	50%	41%	32%
Return home	11%	11%	4%
Parent's visits	12%	11%	7%
Sibling Visits	0	0	3%
Services	12%	3%	5%
Placement	10%	3%	13%
Educational Stability	0	0	3%
Child's best interest	1%	0	27%

Qualitative Impressions

Coders noted strengths of practice, when it was observed for Permanency hearings. There was much variability in practice. Examples of strengths of practice included:

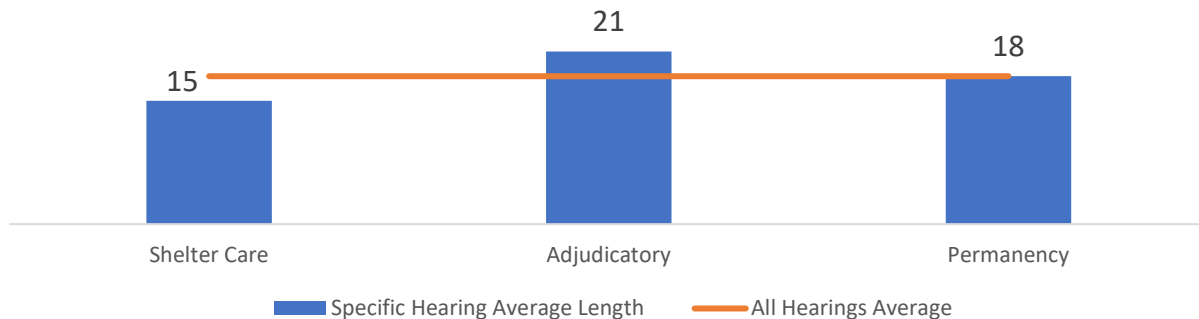
- Good demeanor in judicial interaction with mother.
- Judge did a good job recapping the case (multiple hearings).
- When child was present, judge asked what the child wanted to know and asked foster parents for an update.

- Good interaction with the mother on the case, including positive reinforcement (multiple hearings).
- Judge asks child about school and what they need.
- Judge has good discussion with parents about accountability (multiple hearings).
- Judge gives foster parents and relative caregivers an opportunity to be heard and thanks them for coming (multiple hearings).
- Judge expressed concern over not knowing child’s wishes and set status hearing to address.

Findings – Across Hearings

Hearings averaged similar lengths regardless of hearing type. Across all 415 hearings, the average length of hearing was 18 minutes. Shelter Care hearings were the shortest at 15 minutes, followed by Permanency hearings. Adjudicatory hearings varied based on whether parents stipulated or contested. Contested hearings took longer. Figure 14 illustrates the average length of hearings. The orange bar represents the average across all hearings (18 minutes).

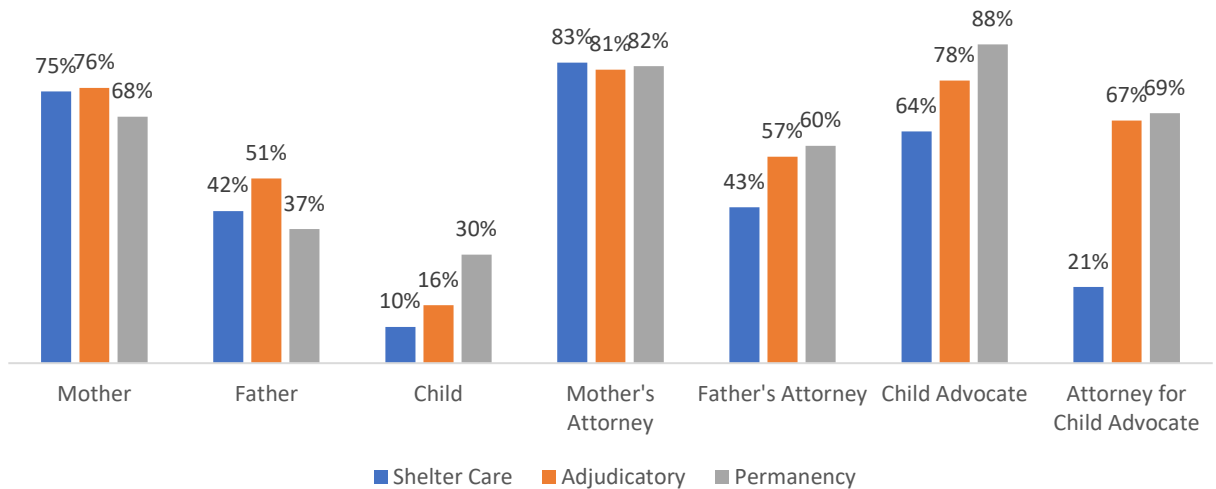
Figure 14. Average Length of Hearings



Presence of Parties

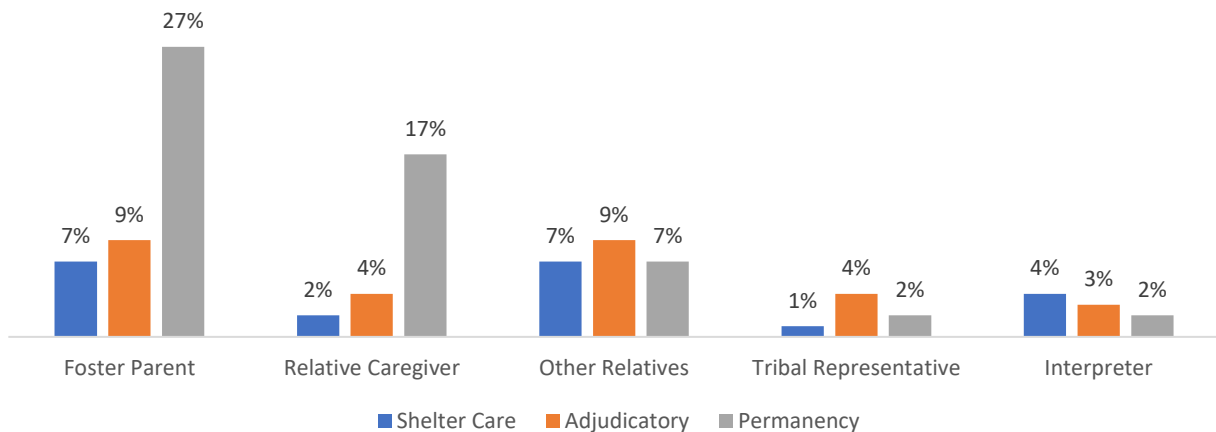
The presence of parties was similar across hearing types for most parties. Children were more likely to be present at permanency hearings than other hearing types. In addition, guardians ad litem and attorneys for guardians ad litem were more likely to be present at later hearings than at Shelter Care. Figure 15 illustrates the presence of parents, youth, and attorneys or guardians ad litem for these parties across all hearing types.

Figure 15. Presence of Parties Across Hearings



In addition, there were some differences in presence of other parties across the hearings. Both foster parents and relative caregivers were much more likely to be present at Permanency hearings than other hearing types. These differences are portrayed in Figure 16. These numbers represent all hearings observed, not just the hearings that *should* include a tribal representative or interpreter.

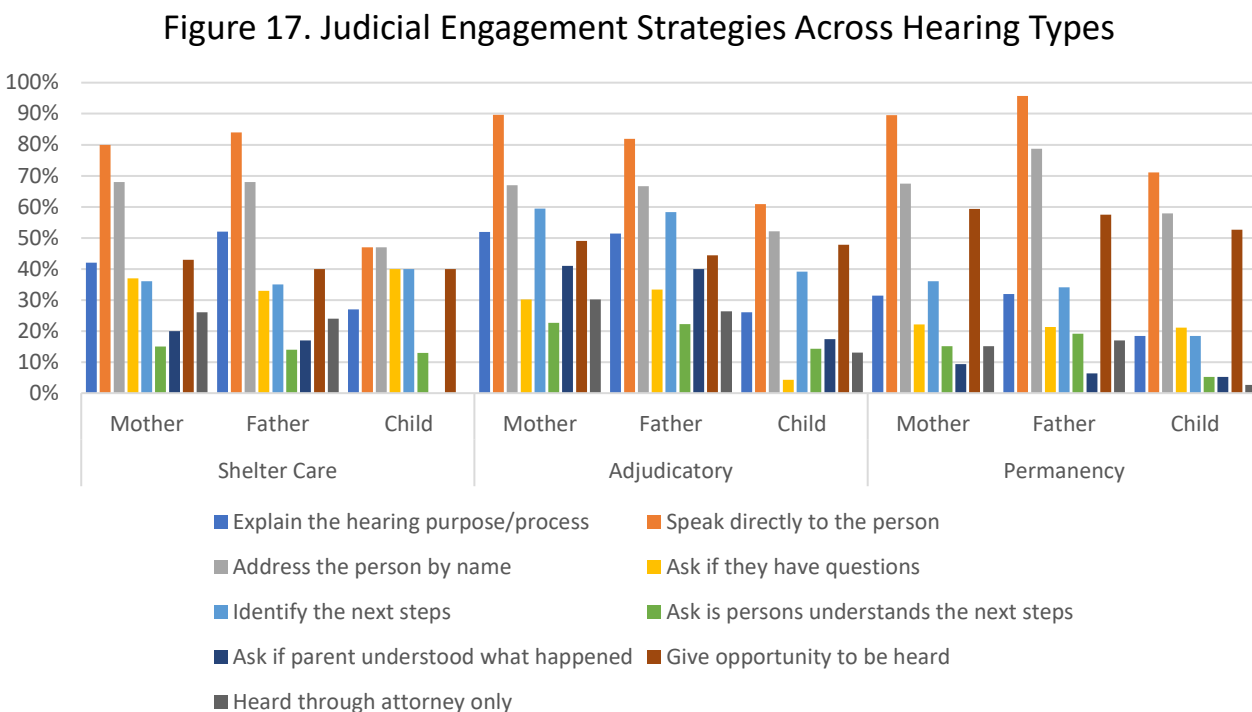
Figure 16. Presence of Parties Across Hearings



Judicial Engagement

Engagement strategies were similar across hearing types. Judges were more likely to identify the next steps to parents and ask if they understand the next steps at Adjudicatory than other hearing types and were less likely to ask if parents had questions at the permanency hearing than other hearing types.

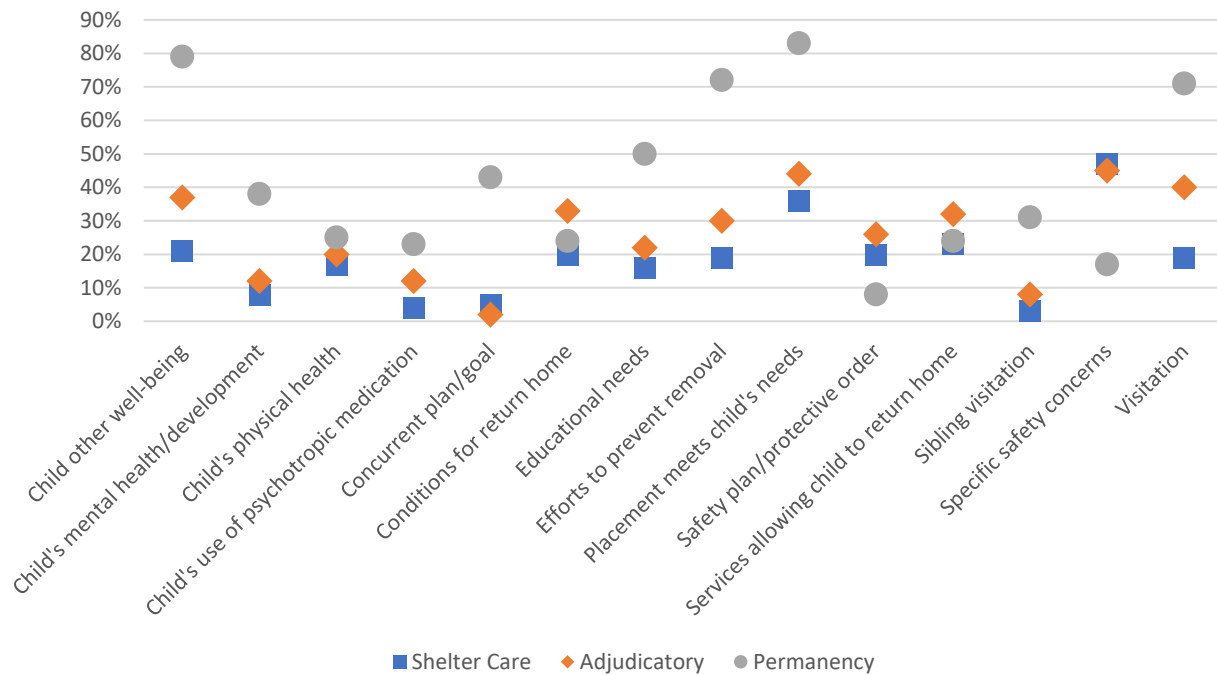
Parents were also more likely to get an opportunity to be heard at later hearings. Figure 17 illustrates judicial engagement strategies for all parties and all hearing types.



Discussion

Discussion was explored by topical area for the topics that were considered relevant in all the hearings. Topics that were specific to a given hearing (e.g., mother's progress at permanency hearings), are not included on this graph. Figure 18 portrays the average discussion at each hearing type. Discussion was variable across hearings. Some topics, like safety planning, were rarely discussed in any hearing. Other topics, like child well-being varied widely across the hearing types with only 20% of Shelter Care hearing discussing this compared to 80% of Permanency hearings.

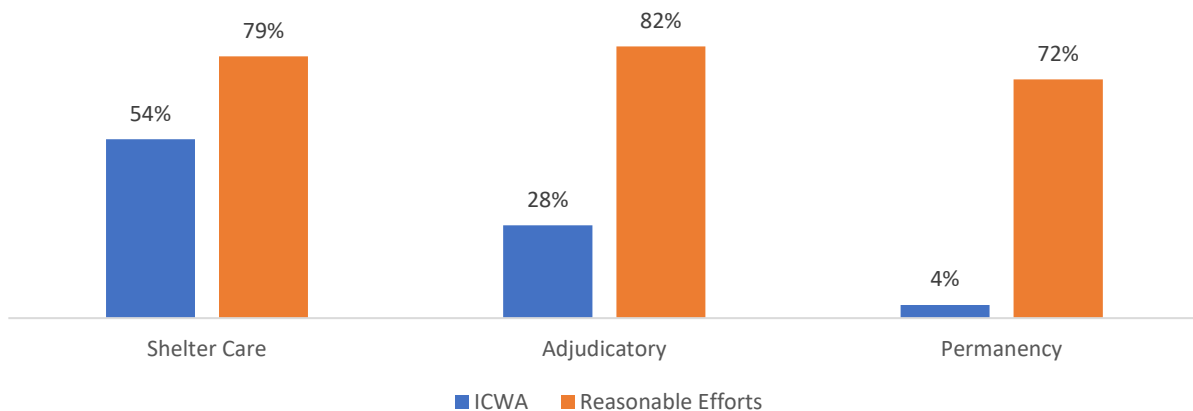
Figure 18. Discussion of Key Topics Across Hearings



Judicial Findings

Required judicial findings varied by hearing type. Across all hearing types, two findings were required at all hearings. Figure 19 portrays the percentage of hearings where judges made these findings verbally on the record. Fifty-seven percent (57%) of cases observed never had a verbal finding that the Indian Child Welfare Act did (or did not) apply. Twenty-seven (27%) percent of Shelter Care and Adjudicatory hearings had no contrary to welfare finding verbally stated on the record, while 42% of cases made the finding during at least one of these hearings, and 31% made the finding verbally at both the Shelter Care and Adjudicatory hearings. In addition, for 31% of the cases observed, there was no verbal reasonable efforts to prevent removal finding noted at Shelter Care or Adjudicatory hearing, while 40% of cases made the finding verbally at one of these hearings, and 29% of hearings made the finding verbally at both hearings.

Figure 19. Judicial Findings Across Hearings



Relationship of Findings to Outcomes

In addition to baseline information on the quality of hearings and practices across hearings, this study aimed to answer several research questions of interest to the Idaho Child Protection Committee. This section presents findings to answer the questions. Findings are sometimes descriptive only, but other times include additional analysis. The primary additional analyses that were conducted were correlational analyses.

Correlations explore the relationship between two variables. Correlations do not demonstrate a causal relationship, that is, one cannot say that hearing quality causes a better outcome, only that there seems to be an association between the two items. Correlation findings are reported when there is a statistically significant finding. Correlations are reported in terms of direction and strength on a scale ranging from -1 to +1. Numbers closer to 1 (-/+) are strong correlations. Items closer to 0 are weaker relationships. In addition, correlations have directions. Positive correlations indicate that that the items vary in the same direction. That is, when one increases, the other increase. Negative correlations indicate the items vary in differing directions. That is, when one increases the other decreases. Correlations are reported with an *r* statistic.

Statistical significance is a way that researchers quantify their confidence that a relationship found between two variables is not found by chance alone. The standard in the field for statistical analysis is represented by a *p* value with values less than .05 considered “significant.” For this study, only relationships found to be statistically significant will be reported. Findings are reported for each question

of interest. If the finding does not include an r value, then the findings are from predictive models, such as linear or logistic regression. These too will show a relationship between variables.

It is also important to note that there are factors which may impact statistical significance. For example, the sample size for the study. The sample was sufficient for exploratory analysis, but it did not have enough cases for more robust statistical analyses. Further, items where there was low variability or that rarely occurred may not demonstrate statistical relationships with other variables. For example, some topics items were rarely discussed. It would not be expected that an item that was discussed in 4 (out of 150) hearings would demonstrate a relationship to any outcomes because the numbers are too small.

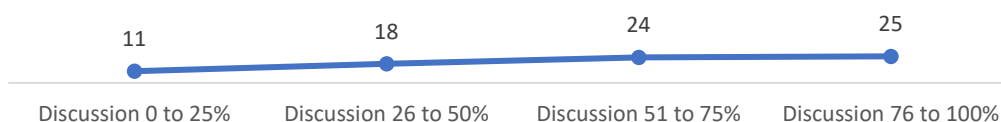
Hearing Quality. How does the overall quality of hearings affect permanency and placement decisions?

Hearing quality components identified above were explored with correlations to permanency and placement outcomes. The relationships identified are reported below. No other relationships were found.

Length

- There was no relationship between hearing length and permanency or placement outcomes.
- Length of hearings was directly proportional to the average discussion. Discussing more items meant that hearings were longer. It was only 6-7 minutes longer to discuss up to twice as many topics.

Figure 20. Length of Hearing by Percentage of Applicable Topics Discussed



Engagement

- If the judge identifies next steps to the mother at Shelter care, the case is less likely to be open at the time of the study ($r = -.254$, $p = .043$).

Discussion

- Average discussion (overall percentage of items discussed) was not related to reunification, whether the case was closed at the study time, number of placements, or time to permanency. This was true for discussion at each hearing type.

- An average discussion variable was created across all hearings. This overall average discussion was also not predictive of outcomes.
- At the Shelter Care hearing, there was a relationship between discussion of conditions for return and reunification, in that more discussion was related to higher rates of reunification ($r = .237, p < .001$).
- At the Shelter Care hearing, there was a relationship between discussion of safety planning and fewer placements ($r = -.191, p = .03$).
- There was also a relationship between discussion of conditions for return at the Permanency hearing and decreased time to permanency ($r = -.41, p = .005$). There was also a relationship between discussion of services allowing the child to return home and shorter time to permanency ($r = -.32, p = .03$).
- A few discussion items were related to longer times to permanency. Increased discussion of mother's progress ($r = .28, p = .04$) and concurrent planning ($r = -.41, p = .005$) at the Permanency hearing were both related to longer times to permanency.
- At permanency, hearings where there was more discussion of the permanency goal were also less likely to result in reunification ($r = -.23, p = .02$).
- Each discussion topic was explored by hearing type in relation to case outcomes. Average discussion was also explored at each hearing type and across hearings. No other relationships emerged.

Parties Present

- If mother's attorney is present, judges are more likely to give mother an opportunity to be heard ($r = .16, p = .05$).
- The mother being present at the Permanency hearing was related to reunification ($r = .29, p = .01$).
- The mother's presence across all the hearings was related to higher rates of reunification ($p = .02$).
- If fathers were present at the Permanency hearing, the case was less likely to be open and more likely to have achieved permanency within two years ($r = -.29, p = .01$).
- Father's presence at the Adjudicatory hearing is related to reunification ($r = .34, p = .001$).
- Father's attorney's presence at the Adjudicatory hearing is related to reunification ($r = .24, p = .02$).

- Presence across all of the hearing explored was also examined. Mother's presence across all hearings observed on a case was also related to achievement of reunification ($p = .02$). The more often the mother was present, the more likely the case resulted in reunification. No other presence variables across the life of the case were predictive.

Findings on the record

- No relationships were found between making findings on the record and case outcomes.

Frontloading. How is frontloading at the first hearing on the case (e.g., increased discussion, engagement of parents) related to case outcomes?

For the purpose this study, frontloading was defined as early conversations in the case. In particular, there was an interest in whether conversations about permanency and concurrent planning early in the case are related to case outcomes. Correlational analyses explored whether specific discussion topics, overall breadth and depth of discussion, and overall engagement of parties was related to permanency and placement outcomes. Permanency outcomes included reunification (or not), whether the case was currently open or closed, and the time to permanency. Placement outcomes explored relationship between discussion and number of placements. Findings include:

- The more a judge engages the mother at the first hearing, the higher the level of discussion at the hearing ($r = .21, p = .04$).
- If discussion includes conditions for return home at Shelter Care, there is a positive relationship to likelihood of reunification ($r = .24, p < .000$).
- If there was discussion of safety planning at first hearing, then there were fewer placements across the life of the case ($r = -.19, p = .03$).
- There was no relationship between when parents were addressed (i.e., before or after the state) and the level of discussion within the case or any of the case outcomes of interest.
- There was no relationship between the discussion of concurrent planning at the first hearing and later outcomes. It should be noted that concurrent planning was rarely discussed (only 4% of cases) which could impact the ability to find a relationship.

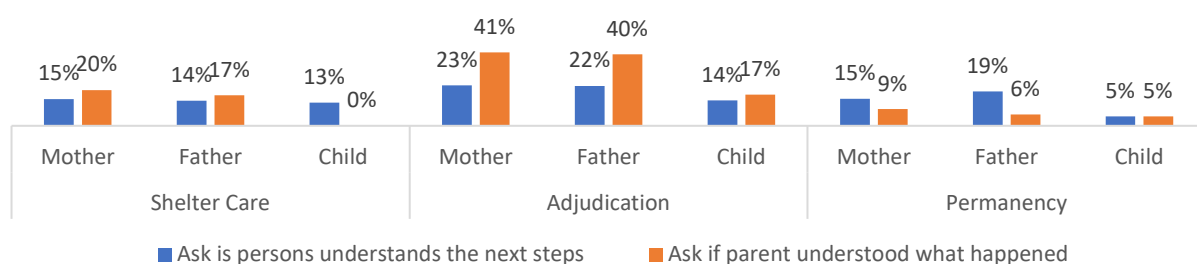
Engagement. *How does the type and frequency of engagement between the judge and various parties attending the hearing affect permanency and placement decisions?*

Engagement is defined as a yes/no variable for specific strategies (e.g., speaks directly to party, addresses party by name) and as an overall engagement score (taking the number of yeses and dividing it by the total number of strategies to create a percentage engagement for mothers, fathers, and youth). These items were explored at each hearing.

- Higher rates of judicial engagement of fathers at the Shelter Care hearing predicted father's presence at the Adjudicatory hearing ($p = .04$). There was no relationship for mothers. There was also no relationship between engagement or discussion at the first hearing at parent's attendance at the Permanency hearing.
- If the judge identifies next steps to the mother at Shelter Care, the case is less likely to be open at the time of the study (that is more likely to have achieved permanency; $r = -.254, p = .04$).
- There was a correlation between average engagement of fathers at the permanency hearing and reunification on cases ($r = .23, p = .04$).
- There was no relationship between the order parents are engaged in hearings and hearing outcomes.
- No other relationships between engagement and hearing outcomes were found.

Two items explored parents understanding. These included: *does the judge ask if the parents understand the next steps on the case* and *did the judge ask whether parties understood what happened at the hearing*. Judges rarely ask parents or youth if they understand the next steps on the case or what happened at the hearing. They are most likely to ask at Adjudicatory hearings when they are ensuring parents understand what they are agreeing to on the case. Figure 21 below illustrates how often judges inquire about understanding of parties.

Figure 21. Judicial Inquiry Related to Understanding Across Hearings



Data analyses revealed no relationships between judicial understanding questions and permanency or placement outcomes. Again, this may be because these behaviors rarely occurred at hearings.

Understanding was further explored by examining whether there was discussion of concrete steps to achieve permanency at the permanency hearing and whether this discussion was related to permanency outcomes. Concrete steps were discussed in 56% of Permanency hearings reviewed. There was no correlation between discussion of concrete steps and timely permanency or achievement of reunification.

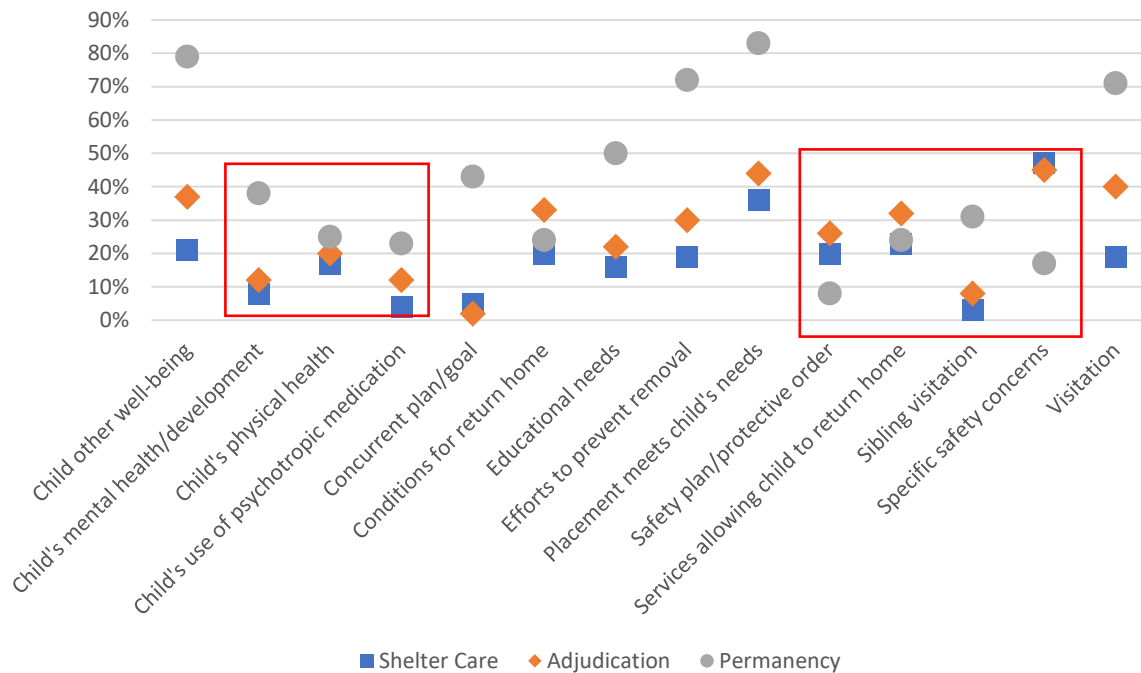
Information. What kind of information are judges presented with at hearings?

While the data cannot determine whether the judge has sufficient information to make a decision, it can explore how much and what types of information are presented.

In Adjudicatory hearings, a party referenced the report of investigation in 66% of cases, a GAL report in 45% of cases, and other reports in 36% of cases. For Permanency hearings, someone referenced a permanency report in 83% of hearings, 65% of cases referenced a GAL report, and 5% of cases referenced other reports.

A review of discussion of key items across hearings, indicates that there are many topics that are not discussed in hearings. For example, items in the red boxes in the figure below are discussed in less than 50% of hearings, regardless of hearing type. It is important to consider whether judges have all the information they need if these items are not being discussed regularly.

Figure 22. Discussion of Key Topics Across Hearings



Timely Case Processing. *Is there a relationship between timely hearings and permanency and placement outcomes?*

The Idaho Child Protection Committee provided administrative data on the timeliness of court hearings. These data were included in the dataset to explore relationships between timing of the hearing and case outcomes. The majority of hearings were held timely. Ninety-two percent of all Shelter Care hearings, 90% of all Adjudicatory hearings, and 88% of all permanency hearings were held timely. There was no correlation between timeliness of these proceedings and case outcomes. Again, this may be because most hearings were timely. In addition, the study explored whether the exact timing of the hearing (i.e., how many days prior to or after it was required to be held) was related to timely permanency or permanency outcomes. No relationships were found.

Advocacy. *What does attorney advocacy look like in hearings and how does presence and advocacy relate to case outcomes?*

Data were not available on the date of appointment and exploring which attorney was appointed was impractical due to the small sample size and large variety of potential attorneys. So, attorney advocacy was explored at each hearing and whether there was an attorney present at the shelter care was used as proxy for early appointment of attorneys. These variables were explored across hearing types. There was

a general tendency for increased advocacy over time. There was no advocacy in 58% of Shelter Care hearings, 43% of Adjudicatory hearings, and 24% of Permanency hearings. Table 7 describes the percentage of hearings where specific or general advocacy occurred.

	Shelter Care			Adjudicatory			Permanency		
	Mother's Attorney	Father's Attorney	Child Advocate	Mother's Attorney	Father's Attorney	Child Advocate	Mother's Attorney	Father's Attorney	Child Advocate
General advocacy	23%	27%	6%	40%	47%	26%	50%	41%	32%
Return home	9%	14%	0	14%	18%	1%	11%	11%	4%
Parent's visits	3%	5%	1%	2%	0	2%	12%	11%	7%
Sibling Visits	0	0	0	0	0	1%	0	0	3%
Services	1%	0	0	8%	3%	4%	12%	3%	5%
Placement	6%	9%	3%	7%	5%	13%	10%	3%	13%
Educational Stability	0	0	0	0	0	1%	0	0	3%
Child's best interest	0	2%	4%	2%	3%	15%	1%	0	27%

There was no relationship between general advocacy at individual hearings and permanency or placement outcomes. When the mother's attorney advocated for return home, there was a relationship to reunification ($r = .23, p = .004$) and to timelier permanency ($r = -.21, p = .03$). That is, if attorneys advocated for return home, those cases were more likely to reunify and have timelier permanency. If father's attorneys advocated for return home at the Shelter Care hearing, there was a relationship to reunification ($r = .28, p = .03$). Advocacy was also explored across the life of the case. Higher levels of advocacy from the mother's attorney across the life of the case was related to higher rates of reunification ($p < .05$).

Another question of interest was whether parent's attorneys ask at every hearing what is keeping the child from returning home today. Findings suggest:

- There is very little discussion of what is preventing the child from returning home. The issue was only raised in 27% of Shelter Care hearings and 31% of Adjudicatory hearings. Parents' attorneys were the ones to raise the issue in only five cases. While there was no relationship between raising this issue and timely permanency, when the issue was raised, there was more advocacy on behalf of the parent's attorney and higher levels of overall discussion in the Shelter Care.

Additional Analyses. Additional advanced statistical analyses were conducted to explore relationships. A survival analysis was used to explore predictors of time to permanency. Length of hearing, hearing

breadth, hearing depth, and average engagement were not related to timely permanency. Regression analyses were also explored but yielded no additional findings beyond those reported above.

Limitations

The type of analyses that could be conducted were limited due to a small sample size and the variability within the data. For example, in order to use data to predict an outcome, there needs to be variability of responses. If nearly all persons are present at a hearing (e.g., prosecutor), then there is not enough variability for that particular item to be used in analysis. Several of the analyses of interest had items with very few variant responses, making them poor predictors in a statistical analysis.

Conclusion

The findings in this report are meant to serve as a starting point for understanding and improving Idaho child abuse and neglect court proceedings. To have maximum value, findings should be discussed with a multidisciplinary team and shared broadly with stakeholders in order to identify strengths of practice and areas of opportunity. It will be important to consider what stands out in the report and dig into why practice may look like it does (is it court culture, lack of training, lack of resources, etc.). Some relationships were identified between practice and case outcomes. These should be further explored and considered in terms of whether there are opportunities to increase these practices within the state. In addition, although some relationships were not found in the given data, it is important to consider whether research findings from other states that have demonstrated a relationship between hearing quality and case outcomes may be valuable in informing identification of priority areas for systems change. Some additional points for consideration include:

- Do judges have sufficient information to make decision in hearings?
- What are the opportunities to increase early and active engagement of parents and youth in the hearings?
- Is attorney advocacy sufficient in hearings?
- What are the components of high-quality hearings that are most important? Which ones can be built upon to improve practice going forward?

These findings and the process for this study can also be helpful in considering ways to enhance data collection in the future. The findings may not be a 100% accurate reflection of practice because the coders could only document what they heard in the hearing. If the recordings for the hearings had challenges, such as starting a few seconds late or ending a few seconds early, this would reflect in the record. If the

parties were not clearly identified on the record, this would affect coding. The court audio record used for this study could also be used in other studies of court processes, such as Title IV-E audits to explore findings and similar efforts. It is important to use this information to identify ways to ensure that data could be better accessed in the future. The quality of the court record is imperative to clearly identify what practice looks like and how it changes over time.