

**COURT PERFORMANCE
MEASURES
IN
CHILD ABUSE
AND
NEGLECT CASES**

**REPORT OF
ALLEN COUNTY'S COURT PERFORMANCE
PILOT PROJECT**

A COURT IMPROVEMENT PROJECT

**Judge Charles Pratt
Assistant Chief Juvenile Probation Officer Kathleen Rusher**

***COURT PERFORMANCE MEASURES
IN CHILD ABUSE AND NEGLECT CASES***

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2012**

PREFACE

In 2009, the Allen Superior Court-Family Relations Division was invited to apply for a Court Improvement Project (CIP) grant to pilot a court performance measurement project for child welfare cases. This report describes the reasons for the implementation of court performance measurements, the measurement model selected, the issues and recommendations related to implementation of the model; the data collected for Allen County (including measurements regarding CIP funded reforms); and recommendations for replication by other courts having jurisdiction over child abuse and neglect cases.

PROJECT ADVISORY COMMITTEE

On April 29, 2009 an Advisory Committee was developed to determine the scope of the pilot project.

The Advisory Committee consisted of the following stakeholders:

Hon. Charles F. Pratt
Allen Superior Court
Family Relations Division

Kathleen Rusher, Assistant Chief
Allen County Juvenile Probation
Department – CHINS

Division of State Court Administration
Michael J. Murphy, Staff Attorney
Court Improvement Program

Rex McFarren, Director
Allen County C.A.S.A. Program

Michelle Savieo, Local Office Director
Allen County Office Department of Child Services

Karlene Thompson
Allen Superior Court
Data Systems Administrator

Kristen Holzinger
Allen Superior Court

IMPLEMENTATION COMMITTEE

Kathleen Rusher, Chair

Kristen Holzinger
Allen Superior Court

Karlene Thompson
Allen Superior Court

Laura Littlepage
Indiana University Center for
Urban Policy and the Environment

Diane Brenner
Allen Superior Court

Robert MacKenzie
Intern

Daniel Till
Allen Superior Court

ALLEN SUPERIOR COURT – CHINS COURT MAGISTRATES

Magistrate Lori Morgan Magistrate Thomas Boyer

PROJECT GOAL

*To improve the quality and timeliness in the court’s handling of abuse and neglect cases;
to target reforms for court improvement efforts; and
to ultimately improve the lives of abused and neglected children.*

PART ONE - PILOT PROJECT OVERVIEW

I. INTRODUCTION

The Centennial of Juvenile Court Performance Measurement

The rehabilitation of children and families and the preservation of individual rights seen through the vanguard of the safety and best interests of children are the founding principles of Indiana's juvenile court system. Since its creation over a century ago, these principles have been applied and refined through the innovative leadership of Indiana's judiciary. To address the unique challenges facing dependent children, juvenile courts were originally granted broad discretion under the doctrine of *parens patriae*; a legal theory through which the court may be placed in the stead of the parent. Although tempered by the incorporation of due process protections, *parens patriae* continues to be recognized in Indiana¹. Because the exercise of this authority significantly impacts the lives of dependent children, it is essential that juvenile court judges have the tools to objectively measure court performance. The recognition of the importance of judicially led evaluations harkens to the very beginnings of Indiana's juvenile court. In 1910, Indiana's first juvenile court judge, George W. Stubbs,² issued his "Report of the Juvenile Court of Marion County" in which he detailed case load numbers, the application of procedural due process, and the outcomes associated with the safety and welfare of the children placed in the court's charge.³ A century later the performance outcomes expected of juvenile courts by federal and state law have increased in number and complexity. Thus, there exists today an even greater demand for the collection of accurate data. In response to this need, the Indiana Supreme Court granted the Allen Superior Court, Family Relations Division the opportunity to pilot a court performance measurement project for dependency cases⁴ funded through Indiana's Court Improvement Project.

The report that follows details the reasoning for measurements employed, the lessons learned, the recommendations for statewide replication, and the Allen Superior Court's outcomes realized through its court reform projects.

II. PURPOSE OF COURT PERFORMANCE MEASUREMENT

The collection of reliable data will provide the juvenile court judge with the ability to effectively evaluate the impact of court operations on the lives of children. While this is reason enough to institute court performance measurements, the juvenile court judge will also benefit by gaining reliable information needed for the following:

- To internally evaluate court staff accountability and to provide for professional development;
- To evaluate court reform practices and the use of grant funds;
- To objectively identify strengths and weaknesses of court activities;
- To determine appropriate allocations of court resources and to support budgetary needs;
- To instill public confidence in the judge's good stewardship of his or her office;
- To provide reliable court generated statistics to substantiate compliance with certain federal outcomes defined under Titles IV-B and IV-E of the Social Security Act; and
- To provide reliable data to institute reforms for areas needing improvement.

¹ For a further discussion of *parens patriae* see *In the Matter of K.G.*, 808 N.E.2d 63 (Ind. 2004).

² Reformers led by Judge George W. Stubbs, placed a bill calling for the creation of the state's first juvenile court on the desk of Governor Winfield T. Durbin in 1903. For a more complete history of Indiana's juvenile courts see the law review article by Justice Frank Sullivan, Jr., *Indiana as Forerunner in the Juvenile Court Movement*, 30 Indiana Law Review 1 (1997).

³ *Report of the Juvenile Court of Marion County, April 17, 1903 to April 17, 1910* prepared for the Governor by Judge George W. Stubbs.

⁴ The Family Relations Division of the Allen Superior Court exercises juvenile court jurisdiction in Allen County, Indiana. The generic term "dependency cases" is used in anticipation that this report may be distributed to a broader audience outside Indiana. In Indiana, the term refers to children adjudicated to be Children in Need of Services (CHINS) under I.C. 31-34.

III. SELECTION OF THE MODEL

In 2008 the Allen County Circuit and Superior Courts received grant funds to implement *CourTools*, a court performance measurement for civil and criminal caseloads developed by the National Center for State Courts (NCSC). *CourTools*, however, does not include a system for measuring court performance in child abuse and neglect cases. For that reason a separate pilot project was authorized. Originally the NCSC's companion system for dependency cases, *Building a Better Court*, was considered by the Advisory Committee. However, after further review, the measurement model developed by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) was selected.

The OJJDP's *Court Performance Measures in Child Abuse and Neglect Cases* offers a broad selection of court performance measures that align with the outcomes subject to federal audit under Titles IV-B and IV-E of the Social Security Act.⁵ Compliance with federal law is audited through Child and Family Services Reviews (CFSR) conducted by the Children's Bureau of the U.S. Department of Health and Human Services with which the court is regarded as a collaborative partner.⁶ During a CFSR and other related reviews, a state's ability to meet defined outcomes within the domains of safety, permanency and child and family well-being is determined. Deficiencies in compliance may result in fewer tax dollars being returned to the state. Since several of those outcomes are within the juvenile court's control, the Advisory Committee concluded that the juvenile court would benefit from a performance measurement tool that would (1) provide the judge with reliable court developed data that demonstrated local compliance with federally mandated outcomes; and (2) would internally provide the judge with objective information to correct deficiencies that, left unaddressed, could have a negative fiscal impact to the local community and the state.

IV. ORGANIZATION AND DEVELOPMENT OF PILOT

A working committee of court employees was established to develop the project. Under the organizational leadership of Kathleen Rusher, Kristin Holzinger provided data collection, case review, and statistical summaries. Karlene Thompson provided technical assistance for the on-going data collection within the Quest case management system. The evaluation of the data was completed internally by the court and by the Indiana University Center for Urban Policy and the Environment. On-going grant and technical assistance was provided by attorney Michael J. Murphy of the Division of State Court Administration.

The Toolkit for *Court Performance Measures in Child Abuse and Neglect Cases*⁷ was secured at a nominal cost from the Office of Juvenile Justice and Delinquency Prevention. The *Technical Guide*, *Assessment Guide*, *Implementation Guide*, *User's Guide*, and *Key Measures* may be downloaded at no cost at <http://www.ojjdp.gov/publications/courttoolkit.html>.

IV-A General categories / Outcomes measured by the model

The OJJDP Toolkit has thirty outcome measures arranged under four general categories ("areas of operation") of Safety, Permanency, Due Process, and Timeliness. Quoting from the *Key Measures* publication of the Toolkit the goal for each "area of operation" is as follows:⁸

"Safety (Measures 1A and 1B) The goal of these two measures is to ensure that children are protected from abuse and neglect while under court jurisdiction. The

⁵ Children's Bureau, Administration for Children and Families. 0s, U.S. Department of Health and Human Services. [www.acf.hhs.gov/programs/cb/cwmonitoring] See also 45 CFR Parts 1355, 1356, and 1357.

⁶ Child and Family Services Reviews Procedures Manual, Appendix J. Children's Bureau, Administration for Children and Families, U.S. Department of Health and Human Services. [www.acf.hhs.gov/programs/cb/cwmonitoring]

⁷ *Court Performance Measures in Child Abuse and Neglect Cases*, U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, December 2008, Washington D.C.

⁸ *Key Measures, Court Performance Measures in Child Abuse and Neglect Cases*, page v., supra footnote 7.

performance outcome promoted by these measures is based on the principle of “first, do no harm.” Children should be protected from abuse and neglect, no child should be subject to maltreatment while in placement, and children should be safely maintained in their homes whenever possible and appropriate.”

“Permanency (Measures 2A–2E) The goal of these five measures is to ensure that children have permanency and stability in their living situations. The permanency measures are closely related to timeliness measures but also include additional considerations. With this category, courts assess whether children change placements, whether cases achieve permanent legal status, and whether children reenter foster care (a possible safety issue as well). The permanency measures encourage courts to examine the “bigger picture” of the court experience for the abused or neglected child. In using the permanency measures, a court will need to obtain information from partner agencies such as the state child welfare system or private providers who track children placed in foster care.”

“Due Process (Measures 3A-3J) The goal of these 10 measures is for the court to decide cases impartially and thoroughly based on evidence brought before it. Due process measures address the extent to which individuals coming before the court are provided basic protections and are treated fairly.”

“Timeliness (Measures 4A–4M) The goal of these 13 measures is to minimize the time from the filing of the petition or emergency removal order to permanency. Courts generally are most familiar with timeliness measures. These measures help courts identify areas where they are doing well and areas where improvement is needed. To ensure that courts can pinpoint specific stages of the hearing process in need of improvement, these measures must be comprehensive (applied to all stages of proceedings) and sufficiently detailed.”

V.

MEASUREMENTS EXCLUDED FROM THE PILOT AT THE ONSET

Four Measurements were excluded at onset of the pilot. The Advisory Committee considered the multiple data systems that could be used in obtaining information and determined that twenty-six of the thirty outcomes could be included in pilot. The four measurements *not included* at the onset of the pilot and the reasons for exclusion are listed below:

1. **“DUE PROCESS 3A: NUMBER OF JUDGES PER CASE**

DEFINITION: Percentage of child abuse and neglect cases in which the same judicial officer presided over all hearings. *EXPLANATION:* This measure shows how consistently child abuse and neglect cases are handled by one judge throughout the entire case.”⁹

Relationship to Child and Family Services Review (CFSR) standards:

This measurement does not correspond to a related CFSR standard.

Commentary: Allen County does not follow a “one family - one judge” practice. The exercise of exclusive jurisdiction by a judge over the life of a dependency case is recommended by the

⁹ Technical Guide, *Court Performance Measures in Child Abuse and Neglect Cases*, supra footnote 7, page 79.

National Council of Juvenile and Family Court Judges.¹⁰ Arguments supporting the practice include the assertion that a single presiding judge may provide a family with greater consistency and continuity; the long term knowledge gained by a judge over the course of the case may enable him or her to “increase the government’s response to family crises”; and the practice may prevent a judge from being too dependent on the recommendations of social service agencies.¹¹

However, there are equally compelling reasons for employing an alternate practice that permits a dependency case to be reviewed by multiple judicial officers. The volume of cases and the multiple case-types over which a court has jurisdiction may render a “one family – one judge” practice impractical. In addition, parents, children, and family members may have greater confidence in a decision if the facts are freshly evaluated by a judge who is not perceived to have been tainted from evidence presented at prior hearings.

Allen County follows an alternate NCJFC model

Allen Superior Court follows an alternate model recommended by the National Council. That alternate model provides for the employment of judicial officers under the supervision of a single administrative judge.¹²

Benefit of the Family Court Project

The spirit or intent of this measurement is arguably resolved, in part, by the application of *Indiana Rule of Evidence* 201 (b) and a court’s participation in **Indiana’s Family Court Project**. That rule provides that a court may take judicial notice of “the records of a court of this state”. Through Indiana’s *Family Court Project*, listings of the multiple cases in which a family is involved can be provided to the presiding judicial officer in the dependency case. The judge may then take judicial notice of the other court orders and take action to minimize or eliminate duplicate obligations.

For these reasons, data for this measurement was not collected.

2. “DUE PROCESS 3C: EARLY APPOINTMENT OF ADVOCATES FOR CHILDREN

DEFINITION: Percentage of child abuse and neglect cases in which an attorney, guardian ad litem (GAL), or court appointed special advocate (CASA) volunteer is appointed in advance of the emergency removal hearing. **EXPLANATION:** This measure shows how often legal advocates for children are appointed *before* the emergency removal hearings. The purpose of this measure is to help courts evaluate whether legal advocates for children are appointed in time to play an active role in what is usually the first critical stage of litigation—the emergency removal hearing.”¹³ {emphasis added.}

Relationship to Child and Family Service Review (CFSR) standards:

This measurement does not correspond to a related CFSR standard.

Commentary: The Allen Superior Court does not appoint a Guardian ad Litem or Court Appointed Special Advocate *in advance* of the first emergency detention; that is, prior to the court’s determination of probable cause. Appointments are made at the first hearing once the court has jurisdiction to exercise that authority.

Indiana has long required the appointment of a Guardian ad Litem or C.A.S.A. in every case that a child is alleged to be child in need of services. Under I.C. 31-34-10-3 the appointment is made at the Initial Hearing. Since the appointment is at, and not before, the first hearing, no data was collected for this measurement.

¹⁰ Resource Guidelines, *Improving Court Practice in Child and Neglect Cases*, Section II(B), General Issues, National Council of Juvenile and Family Court Judges, Reno, Nevada, Spring 1995.

¹¹ Resource Guidelines, supra page 19.

¹² Resource Guidelines, Section II(D) General Issues, supra.

¹³ Technical Guide, *Court Performance Measures in Child Abuse and Neglect Cases*, supra footnote 7, page 95.

3. “DUE PROCESS 3D: EARLY APPOINTMENT OF COUNSEL FOR PARENTS

DEFINITION: Percentage of child abuse and neglect cases in which attorneys for the parents were appointed in advance of the emergency removal hearing. *EXPLANATION:* This measure shows how often attorneys for parents are appointed before the emergency removal hearings. The purpose of this measure is to help courts evaluate whether attorneys for parents are appointed in time to play an active role in what is usually the first critical stage of litigation—the emergency removal hearing.”¹⁴

Relationship to Child and Family Service Review (CFSR) standards:

This measurement does not correspond to a related CFSR standard.

Commentary: The Allen Superior Court does not appoint an attorney for a parent, guardian or custodian in advance of the first emergency detention; that is, prior to the court’s determination of probable cause. Parties are advised of their right to secure the presence and /or to seek the advice of legal counsel. And, pursuant to Indiana Code 31-32-4-3, the Allen Superior Court appoints pauper counsel for each parent in proceedings to terminate parental rights. However, appointment of pauper counsel is not statutorily required for other proceedings. Instead, when requested by a party, the court will make a determination for the appointment of pauper counsel (in cases other than to terminate parental rights) pursuant to the procedures defined in Sholes v. Sholes, 760 N.E.2d 156, (Ind. 2001) and related cases¹⁵.

Since the appointment is not considered until the first hearing no data was collected for this measurement.

4. “DUE PROCESS 3G: PRESENCE OF ADVOCATES DURING HEARINGS

DEFINITION: Percentage of child abuse and neglect cases in which legal counsel for the government or other petitioner and for other parties who have been served are present at every substantive hearing. *EXPLANATION:* This measure shows how consistently advocates are present in court during hearings. The measure includes the government, the petitioner, and other parties who have received service of process. The purpose is to evaluate whether the government, the petitioner, and other parties who have been served are consistently represented by advocates at hearings.”¹⁶

Relationship to Child and Family Service Reviews (CFSR) standards:

This measurement does not correspond to a related CFSR standard.

Commentary: The *Technical Guide*, acknowledges that implementing this measure may not be necessary when the regularity of the appearance of counsel of record is obvious. It is the practice of the Department of Child Services to have legal counsel present at every hearing type. Similarly, local Allen County practice requires the Guardian ad Litem or CASA to be present at all hearings. Should a parent’s attorney fail to appear for a hearing, the parent is granted the right to a continuance to secure the lawyer’s presence. In addition an appointed attorney’s payment is tied to attendance at the requisite hearing(s). At the time the pilot was completed it was not possible to tabulate the data electronically through the court’s case management system. Thus the information could only be obtained by physically reviewing each closed file.

¹⁴ Technical Guide, *Court Performance Measures in Child Abuse and Neglect Cases*, supra footnote 7, page 101.

¹⁵ Sholes requires a court to determine applicant’s indigence and whether he has “sufficient means’ to defend the action.

¹⁶ Technical Guide, *Court Performance Measures in Child Abuse and Neglect Cases*, supra footnote 7, page 128.

Unless knowingly waived by the affected party, the Allen Superior Court will not proceed with a hearing until the attorney's presence is secured. Therefore the use of limited resources for the collection of this measurement was not deemed practical.

Please Note: Practices may vary from county to county. Therefore judicial authorities may wish to consider statewide application of this Measurement if a case management system can be designed to electronically capture the required data.

The authors of the *Technical Guide* expressed concerns about any local practice that permits, as it does in Indiana, a parent to waive counsel.¹⁷ The authors assume that:

“Without counsel, many important facts known to parties - as well as parties' points of view – *may not be heard.*” Parents may not be fully literate...” [emphasis added]¹⁸

This statement of a federal agency is troubling because it assumes that local judicial officers will blind themselves to the demands of justice and that individuals are without the ability, reason, and intellect to exercise their rights.

The above concerns have been appropriately resolved in Indiana. As noted above, financial indigence is not the trial court's only consideration in determining whether to appoint pauper counsel. The Indiana Supreme Court in the *Sholes* case (cited supra) ruled that trial courts may consider whether the requesting party has “sufficient means” to address the case without legal assistance. In determining “sufficient means” the court may consider the party's relationship to the particular case type, its complexities, and whether it is of a nature that is often handled by persons of means without counsel. Thus, through this procedure, the issues of the parent's literacy, mental health and stability, and other “means” related factors are addressed.

Court Improvement
Project Benefit

Allen County has instituted a court reform that requires all dependency cases to be mediated (facilitated) by an independent mediator / facilitator. By design, Allen County's court reform ensures that the parents, the extended family, and children have a voice in the proceedings.

Based on the totality of the above considerations, no data was collected for this measurement.

VI.

ADDITIONAL MEASUREMENTS EXCLUDED AS A RESULT OF THIS STUDY

Originally, data was expected to be secured from the physical review of the court's case files; from *Courts*, Allen County's prior case management system; from *Quest* the court's current case management system; and /or from the Department of Child Services data system, ICWIS.¹⁹ As a result of this pilot study, the Advisory Committee concluded that several measures in addition to those listed above should also be deleted. This decision was made because the data was not available or the amount of time and resources required for its collection outweighed its benefit. A more detailed discussion with regard to each of the recommended deletions is provided in PART TWO of this report.

VII.

ESTABLISHING A BASELINE FOR FUTURE ANALYSIS

Replication of this court performance model will provide the participating trial court with baseline data against which the court may determine:

1. The current level of benchmark compliance for judicial standards. Many bench marks are established by federal regulation, legislation, and/or case law. Every attempt has been made to identify, where relevant, regulatory or the *Indiana* case/statutory requirement of a particular measurement. The benchmarks may vary in other states.

¹⁷ Indiana Code 31-32-5-5 permits a parent to waive representation by counsel.

¹⁸ Technical Guide, supra footnote 7, page 127.

¹⁹ Indiana Child Welfare Information System

2. Performance measures may be tabulated from a county's historic case data to compare with the current (base line) data to measure the efficacy of any existing court reform measures. This process was employed in Allen County. Data from 1997, 1998, and 1999 was collected to compare with 2008, 2009, and 2010 in order to evaluate current practices. The 2008 – 2010 data, however, is Allen County's baseline for its on-going court performance evaluations.
3. The baseline registers current practice and will also identify the need for corrections in case management practices. As reforms are instituted, the court, in future reviews, will be able to objectively determine the effectiveness of the reforms employed.
4. Most of the performance measurements are based on a dataset of cases closed in the reporting year. Thus, cases begun prior to the initiation of a court reform may nevertheless be included in the data for a reform year. Accordingly, in some instances a different dataset should be used in order to accurately reflect current practices. (See Section VIII. below.)

VIII.

PROBLEMS DISCOVERED WITH THE OJJDP'S MODEL

At the beginning of this pilot, the Advisory Committee followed the *Technical Guide's* recommendation and only collected data from cases that closed in each reporting year.²⁰ The exclusive use of this dataset created significant problems in some measurements. By only tabulating closed cases, it is often impossible to accurately establish a baseline for current practices. For example, if a court institutes a reform in 2009, the benefits will not be fully reflected in the 2010 data. This is because the 2010 data includes cases that were opened under pre-reform practices but not closed until 2010. Old cases, not guided by newly instituted practices, can skew statistical results that may otherwise demonstrate the benefit of the reform. Care should therefore be taken in selecting the appropriate dataset for the evaluation of improved case management processes and other reforms.

The collection of data from open cases in certain circumstances (the Technical Guide noted *Measure 4B: Time to Adjudication* as an example.) is permitted. However, when a deviation is adopted, the evaluator must make sure that the datasets for various reporting years are the same when making comparisons.

IX.

REPORT INCLUDES ANALYSIS OF ALLEN COUNTY'S COURT IMPROVEMENT PROJECT

In addition to establishing a baseline for future data collection and analysis within eighteen measured outcomes, Allen County collected data to determine the impact of the Allen Superior Court's *Court Improvement Projects*. Data was collected for the "pre-reform years" of 1997, 1998 and 1999 and the "post-reform years" of 2008, 2009 and 2010.

In the margins of this report we have inserted markers that highlighted the impact of Court Improvement Projects and the Family Court Project.

²⁰ Technical Guide, Supra footnote 7, page 9.

PART TWO

COURT PERFORMANCE MEASUREMENT FOR CHILD ABUSE AND NEGLECT CASES

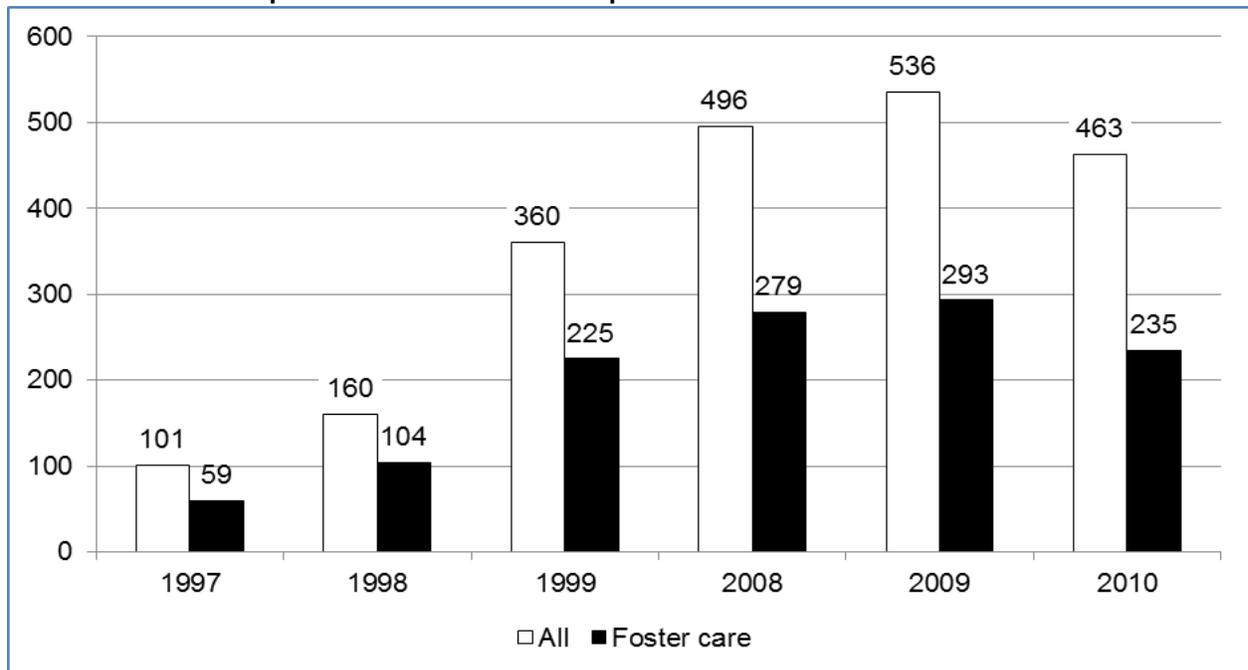
I.

STRUCTURE AND CONTENT

The following report summarizes the pilot project for the application of Court Performance Measures of dependency cases. The report also details Allen Superior Court, Family Relations Division's statistical compilation and/or analysis for twenty-six measures within the four outcomes (areas of operation) of *Safety*, *Permanency*, *Due Process*, and *Timeliness*. The Report includes:

1. The *Definition and Explanation* of each measure as quoted from *Key Measures, Court Performance Measures in Child Abuse and Neglect Cases Toolkit*, U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, December 2008, Washington D.C.
2. The relationship to Child and Family Service Review (CFSR) standards;
3. The data collected for cases in 1997, 1998, and 1999 as Allen County's pre-reform baseline;
4. The data for 2008, 2009, and 2010 for comparison analysis with pre-reform years and to establish a new baseline for determination and evaluation of future reforms;
5. A commentary interpreting the data; and
6. "*Lessons Learned and Proposals*", a commentary on issues related to replication of the measurement by other courts.

Chart 1: Number of Allen Superior Court dependency cases closed in each reporting year that were Included in this court performance measurement pilot.



SAFETY: (Measures 1A and 1B).

“The goal of these two measures is to ensure that children are protected from abuse and neglect while under court jurisdiction.”

SAFETY MEASURE 1A:

CHILD SAFETY WHILE UNDER COURT JURISDICTION

DEFINITION: Percentage of children who are abused or neglected while under the court jurisdiction.

EXPLANATION: This measure shows the percentage of children who suffer *further* abuse or neglect after court proceedings are initiated for their protection but before the case is closed.” The Measurement, as defined in this pilot, includes children placed in foster care, in shelter care, in the home of the parent, guardian, or custodian, extended family, or in a residential treatment facility.”

Relationship to Child and Family Services Review (CFSR) standards:

This measurement is related to two (2) Child and Family Service Review (CFSR) standards:

CFSR SIA Recurrence rate of abuse and neglect. This standard reports the percentage of children not victims of substantiated or indicated maltreatment during a 6-month period (National Standard 95.2% or more).

CFSR SIB Rate of child abuse and neglect while the child is in foster care. This standard reports the percentage of children not victims of substantiated or indicated maltreatment by a foster parent or facility staff member. (National Standard 99.68% or more).

**NO DATA WAS AVAILABLE THROUGH THE COURT’S CASE MANAGEMENT SYSTEM-
See Commentary for further explanation.**

Although no court generated data was available, the Indiana Department of Child Services provided the following summaries:

- In 2008, 41 percent of cases had prior involvement;
- In 2009, 46 percent of cases had prior involvement and,
- In 2010, 40 percent of cases had prior involvement.
- One case listed 7 dates of prior involvement. Most had 1 or 2 dates of prior involvement.
- In 2009, four children experienced substantiated repeat maltreatment out of 1,354 children in foster care in Allen County, or an absence of substantiated maltreatment in 99.7% of the cases.
- In 2010, eight of 1,200 children reported substantiated repeat maltreatment or an absence of substantiated maltreatment in 99.3% of the cases.
- The national standard is 99.68%.

Commentary:

1. Within *Quest* (Allen Superior Court’s current case management system for Child Abuse and Neglect cases) there is no mechanism to generate an accurate report delineating the number of children who suffered neglect or abuse *after* the initiation of court proceedings. This is because:
 - a. **The Department of Child Services does not enter reports of abuse or neglect in the court’s case management system.** At present, the Department of Child Services (Department) is not required to file with the court a specific notice of any new allegation of abuse or neglect during the pendency of an abuse or neglect case.

Under current state policies, the Department may substantiate a new episode of abuse or neglect without recording it in the court's case management system.

- b. **Court's Current Case Management System not designed to record incidents.** At present logistical barriers preclude the Court from collecting the required data *independently*. Typically, instances of abuse or neglect during a pending case come to the court's attention in the following ways:
- The Department reports the abuse or neglect in a periodic review or permanency report;
 - The Department may report a change of placement from one foster home to another owing to a report of abuse or neglect. However, in this instance, the Department is not required to request a hearing because the change of placement is not a relocation to a more restrictive setting; or
 - The Department or Guardian ad Litem requests a hearing due to new allegations of abuse or neglect.

In the first two instances the reports do not generate an internal electronic "triggering" event that would record the incident in the Court's case management system. In the last instance, the court's current practice does not separate a hearing on the child's detention from other status hearings. That is, an emergency detention hearing may be entered into the case management system and held for a variety of reasons other than to consider a new incident of abuse or neglect. Thus, while the number of such hearings may be recorded, the fact that a detention hearing is held is not, in and of itself, proof of an incident recordable in this measure.

2. In the preparation of this pilot, data from the Department was requested. However, the Department reports this measurement in the form of a *percentage* based upon all *open cases* under its supervision for the identified years. Since the Department's information comprises a different data set there is no way of determining whether the reported incidents of subsequent abuse or neglect were within or outside the court's closed case dataset. The two datasets cannot be compared.

Lessons Learned and Proposals:

1. The Court's current case management system must be modified to ensure that the information required for this Measurement can be generated on each case. Unlike the Department's data system (ICWIS), Allen County's current case management program (Quest) is able to identify the *individual* cases in which acts of abuse or neglect occurred within the larger dataset. The ability to review those specific cases and to assess case errors or anomalies is essential to a proper diagnosis and system reform.
2. Two alternatives may serve to resolve the deficiencies identified in above commentary:
 - a. The case management system could be altered to capture the reason for a child's relocation from a petition for modification of placement. (Please note that a separate pleading form would be required that incorporates the necessary electronic markers to distinguish it from other detention or placement requests.)

Caveat: Since not all changes in placement require a hearing, the data generated would only reflect those cases in which the Department decided to take some legal action. (For example, if abuse or neglect occurs in licensed foster care the Department may transfer the child to another foster home without seeking prior court approval.)
 - b. The trial court could require the Department to record subsequent incidents of abuse or neglect in the court's case management system. This alternative would be onerous on the case manager and the court performance measurement would become dependent on data

from sources outside the court’s control and supervision. The *Technical Guide* recognizes that this method is challenged by the “agency’s consistency in providing reports to the court...”²¹

3. Since 2(a), above, is the best of the limited alternatives to collection of data for the Measurement the following additional recommendations are made to ensure proper implementation:
 - a. *For Children in Foster Care / Agency Placements:* This measurement seeks, in part, to identify incidents of abuse or neglect while a child is in foster care. However, the juvenile court does not usually select the specific foster home in which a child should be placed. Instead, the Department acts on the court’s general order for foster care placement. The Department then selects a home based on a number of criteria, not the least of which is licensure. The licensing and oversight of foster parents is in the exclusive domain of the Department. Therefore systemic correction of abuse or neglect while a child is in foster care is primarily within the Department’s authority. As noted above, a Child and Family Services Review (CFSR) standard is closely aligned with this measurement. Through the CFSR, the Department is provided the information and has the incentive to correct any failings within this area. However, the audits and CFSR’s are completed in intervals of time that, while helpful in the development of systemic corrections, do not provide the immediate information that is required for a specific child’s protection. Therefore, procedures should be put in place that require instances of foster care or agency abuse to be promptly reported to the court and the child’s advocate immediate action.
 - b. The incorporation of a reporting requirement with the court performance tracking system described in paragraph 2(a), above, would:
 - Assist child advocates to seek immediate action to protect the child;
 - Grant the system the ability to identify each case (rather than a percentage of cases) in which a subsequent act of abuse or neglect occurred. The identification of specific cases provides the means for a more detailed analysis of the need for possible system reform;
 - Provide an independent and arguably more accurate identification of recidivism within dependency cases; and
 - Provide the dataset on a regularity that would prompt more immediate system corrections.

In the *Technical Guide* the OJJDP confirms that *COURT* supervision of “in-home” dependency cases is essential for the proper protection of children.

For Children Placed with a Parent or Relative Care: By definition of the Measurement and its commentary in the *Technical Guide*, the Office of Juvenile Justice and Delinquency Prevention clearly recognizes the importance of the Court’s role in the prevention of abuse for children placed or left in the home. As with the children in foster care, the report of allegations of subsequent acts of abuse or neglect should not be screened from the Court by the Department. Rather, hearings should be scheduled to review the allegations and findings should be issued that confirm or rule out the abuse or neglect. With this reporting / hearing process data markers could be incorporated into the case management system to accurately report on this measurement.

4. Once the means to identify and address subsequent incidents of abuse or neglect in existing cases is operational, this Measurement should be amended to include the timeliness of response:
 - The time between the incident, the report and the court’s response should be monitored to ensure that children are receiving the greatest measure of protection possible.

²¹ Technical Guide, supra footnote 7, page 23.

5. In general, an accurate accounting of incidents and the ability to review *specific* cases gives the Court the information needed to assess:
- Whether it is receiving credible and accurate information about the proposed placement of a child in relative or parental care; and
 - The means to evaluate the advocacy and child protection skills of the professionals appearing before it.

Efforts to correct case management systems and policies to collect this data is a priority.

The purpose of this Measurement is to protect children by developing the means to evaluate the efficacy of the facts presented to the court and the court's resulting judgment for the retention, placement or return of the child to a parent, relative, or the child's placement in foster care or with an agency.

It is therefore recommended that, regardless of the child's placement, the Department should be required to immediately report all alleged incidents of abuse or neglect to the Court and the child's advocate. From that report the need for a hearing can be considered and appropriate action can be taken. The filing of a report will provide data in the casemanagment system through which the Court may track this Measurment in the future

Additional Commentary:

The *Technical Guide* provides an important point with regard to the collection of data for this measurement. The *Guide* recognizes that,

“[t]he fact that the judge made the placement decision does not mean the abuse or neglect was necessarily the judge's fault. The agency may not have presented enough information, advocacy may have been insufficient, or there may have been facts that the agency could not have known.”²²

IMPORTANT NOTE:

Checks and Balances are essential to cases in which children are retained at home as well as cases in which children are placed with relatives, foster care, or with an agency. The safety and wellbeing of a child is clearly dependent on the on-going review and advocacy by multiple professionals.

Inherent in the above quote is the recognition of the need for an effective checks and balances system within all dependency cases. Clearly this measurement would require improvement in:

- The presentation of accurate facts by the Department;
- The improvement of child advocacy; and
- The contribution of additional facts from other reporting sources to ensure that an informed decision is made.

The hearing process and the services of Guardians ad Litem /CASA creates a system of checks and balances through which incidents of abuse and neglect can be quickly identified and corrected. The absence of this institutional safeguard can result in children suffering grave consequences.

²² Technical Guide, supra footnote 7, page 23.

SAFETY MEASURE 1B:

CHILD SAFETY AFTER RELEASE FROM COURT JURISDICTION

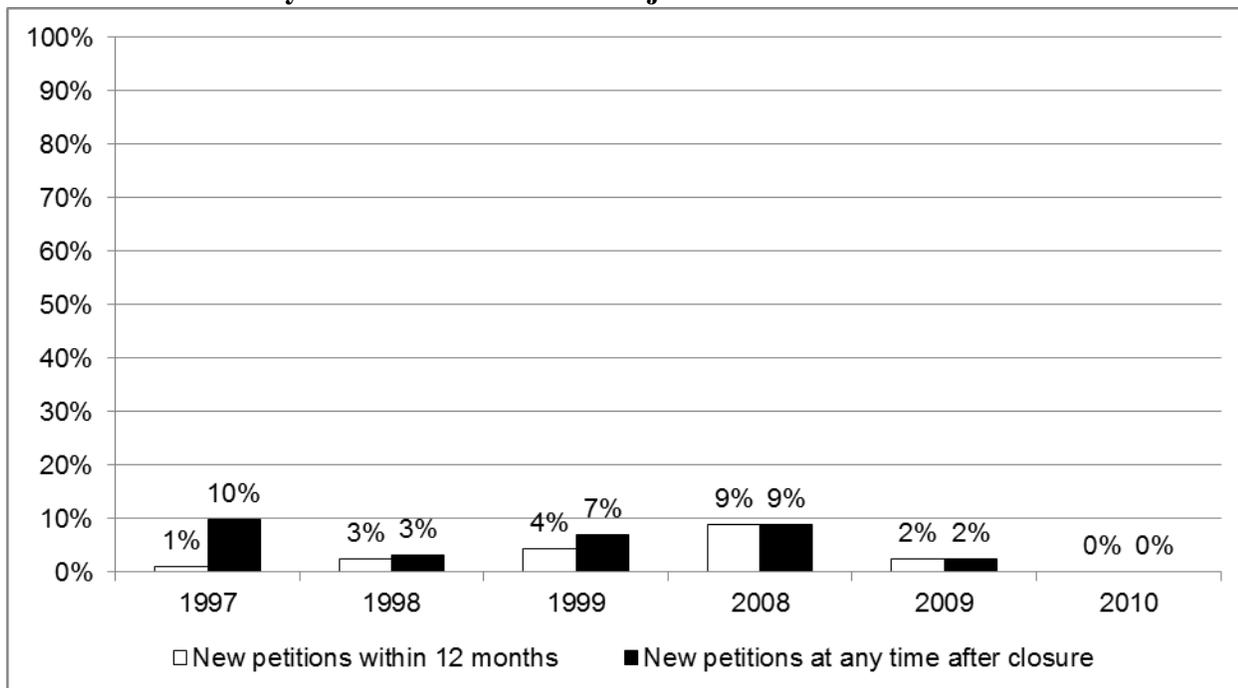
“*DEFINITION:* Percentage of children who are abused or neglected within 12 months after the case is closed following a permanent placement. *EXPLANATION:* This measure shows the proportion of children who suffer further abuse or neglect after the court has closed the original case. Case closure means there are no longer any pending child protection court proceedings, whether based on the original petition of abuse or neglect or based on supplemental or amended petitions filed while the original case was still pending.”

Relationship to Child and Family Services Review (CFSR) standards:

This measurement is related to one Child and Family Services Review (CFSR) standard:

CFSR S1A Recurrence of abuse and neglect: What percent of children were not victims of another substantiated or indicated maltreatment during a 6-month period.

Chart 2: Child safety after release from Court jurisdiction.



Explanation: All cases were included in this measure. Because the dataset requires information from up to 12 months after case closure, statistics were not available for all cases closed in 2010.

Chart 3: Children with petitions of abuse or neglect within 12 months after case closure in 2008, by age group (age at time of case closure)

Age Group	Cases Closed	New Petitions	Percent
Newborn-2 years	76	8	10.5%
3-5 years	88	7	8.0%
6-9 years	100	12	12.0%
10-14 years	119	8	6.7%
15 years and older	113	9	8.0%
All ages	496	44	8.9%

Commentary on the Collected Data:

1. **Individual case review required for 1997 -1999:** In 1997, the Court case numbering system was significantly different from current practice. Allen County's 1997 practice attached a case number (formerly "cause numbers") to the mother and not to each child. The same case could be closed and then reopened for the same or other children multiple times without registering any new court data. Therefore the only means by which information required in this Measurement could be gathered for the baseline periods of 1997-1999 was through individual case reviews.
2. The 2010 data is not yet available because the measurement seeks data about abuse and neglect occurring up to twelve months after case closure.
3. **Not all new acts of abuse or neglect are reported to the Court:** The 2009 data reflects a relatively low recidivism rate of two (2%) percent. However, this data only includes those cases that were reported to the Court by the Department. The Department may or may not bring a subsequent incident of abuse or neglect to the Court's attention. Since not all of the incidents of recidivism are reported to the court, this *Court Measurement is not an accurate reflection of recidivism*. Nevertheless, this information can be valuable. An increase in court measured recidivism can place a Court on notice to evaluate the effected cases and to determine the required corrective action.
4. **Recent changes in the Department's Practice Models and the increase in hotline "screen outs" may affect recidivism rates.** IARCCA (an Indiana association of child protection and care providers) recently reported that the number of reports screened out (that is not referred for investigation) has risen from 15.4% two years ago to 39%. If former cases are now screened out owing to changes in policy then a true understanding of recidivism may not be possible.²³
5. **This measurement if implemented correctly could indicate to the Court whether it is receiving accurate information supporting requests for wardship termination:** Principle to this Measurement is whether accurate facts and solid advocacy was provided, whether wardship was prematurely terminated, and/or whether the permanency plan was appropriate.

Lessons Learned and Proposals:

For additional discussion on proposals see *Safety Measurement IA*.

²³ IARCCA Monday Morning Update, January 23, 2012

PERMANENCY: (Measures 2A–2E).

The goal of these five measures is to ensure that children have permanency and stability in their living situations.

PERMANENCY MEASURE 2A:

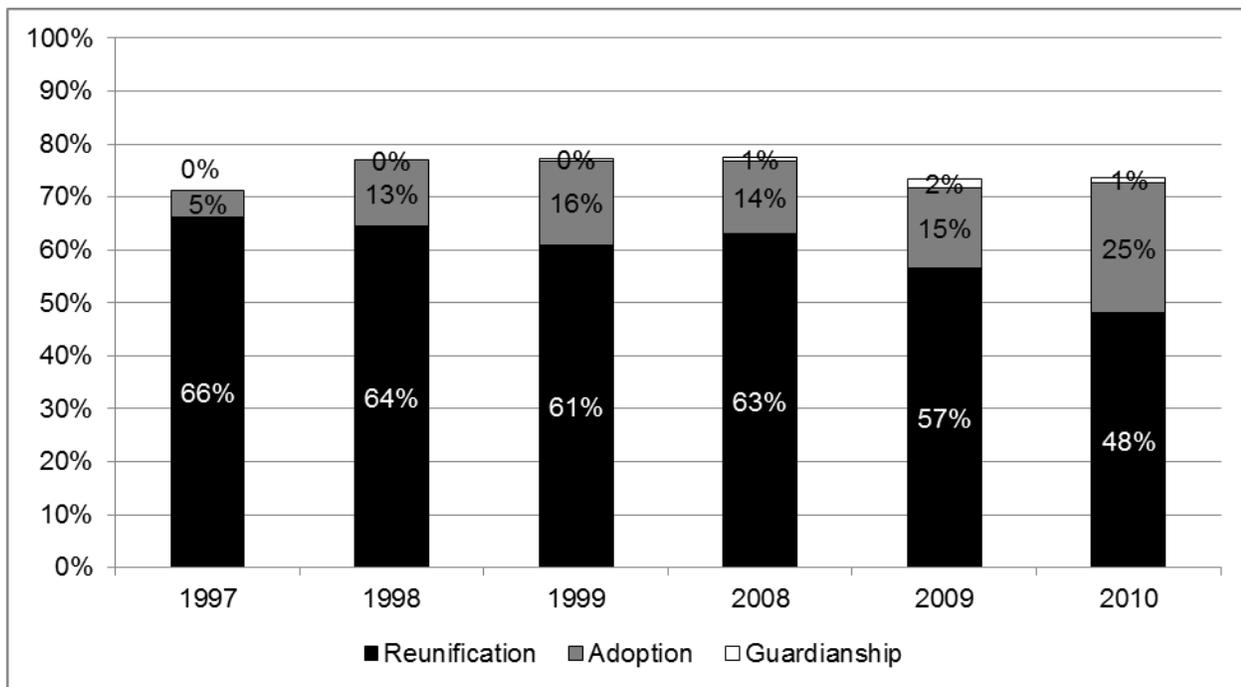
ACHIEVEMENT OF CHILD PERMANENCY:

“*DEFINITION:* Percentage of children in foster care who reach legal permanency by reunification, adoption, or guardianship. *EXPLANATION:* This measure evaluates the combined success of courts and child welfare agencies in achieving legal permanency by the time the court has closed each case involving children in foster care. ‘Legal Permanency’ means that there is a permanent and secure legal relationship between the adult caregiver and the child.”

Relationship to Child and Family Services Review (CFSR) standards:

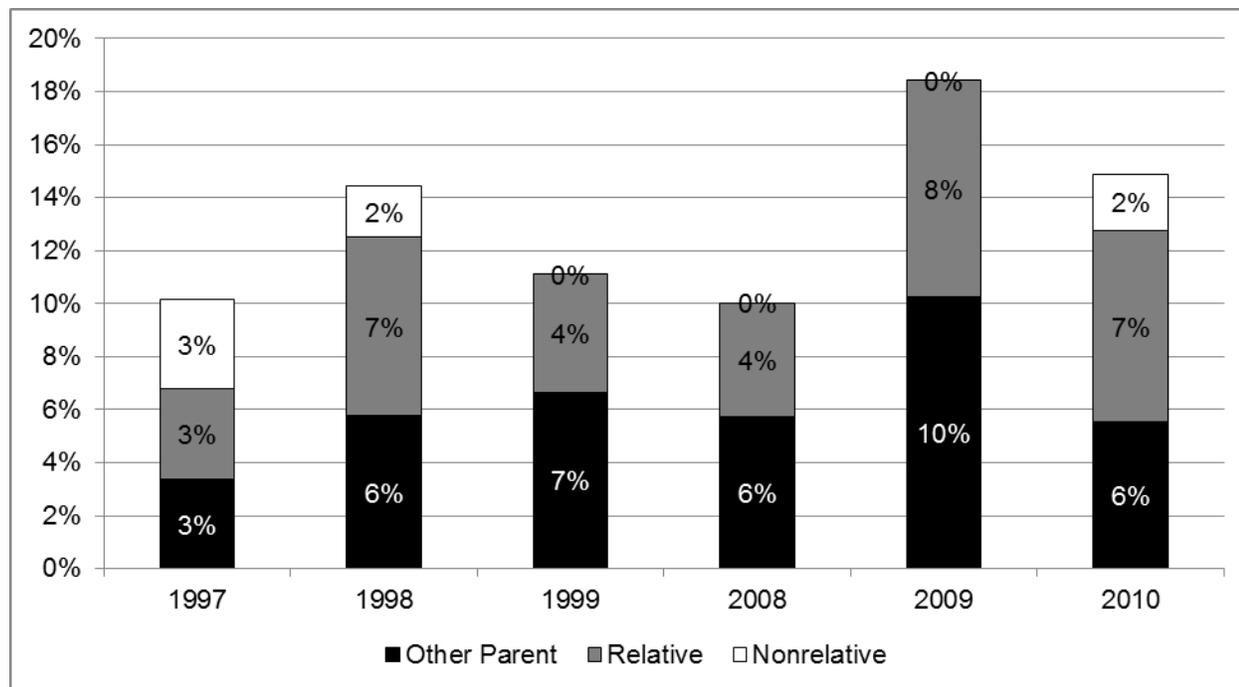
CFSR PC3A2: What percent of children in foster care for 24 months or longer were discharged to a permanent home by their 18th birthday.

Chart 4: Percent of children who reach permanency through ADOPTION, REUNIFICATION, or GUARDIANSHIP. NOTE: The numbers do not add up to 100% because there were additional permanency types adopted by the Court over the three listed here. The numbers in this chart do *not* include permanency plans that provided for a change in custody to another parent or other relative.



In some sectors, a change in custody to another parent is regarded as a reunification permanency plan. The following chart reflects the percentage of cases in which permanency was established through custody modification.

Chart 5: Percent of children who reach permanency through changes in custody.



Commentary on the Collected Data:

1. This measurement reflects the cases closed in each reporting year and separates by type the sustainable legal permanency achieved for children in foster care. Notwithstanding the ten year comparison, the Allen Superior Court has not yet instituted any reforms within this field. This Measurement is therefore regarded as base line data.
2. Reporting year 2010 reflects a significant increase in adoptions over the preceding years. Because the data represents cases closed in each reporting year, an increase in the number of terminations of parental rights in a prior year can influence the data for the years that follow. In 2009 the Allen Superior Court experienced a significant increase in the number of termination of parental rights cases and may account for the increase in adoptions in 2010.
3. Of importance is the fact that Allen County has consistently achieved sustainable permanency in a family environment for children in foster care in the range of 88-90% of its cases. (Charts 4 and 5 combined. See also Chart 6).
4. The remaining 10 – 12% are cases in which permanency was either not achieved or the permanency plan was not reunification, adoption, guardianship, or custody modification.

Lessons Learned and Proposals:

1. **Defining “Reunification”** Note that the Measurement 2A only measures the percentage of children *in foster care* who reach permanency in the preferred placement options of Family Reunification, Adoption, or Legal Guardianship. The primary issue in the development of the pilot for this measurement was that the *Technical Guide* defined “Family Reunification” as the restoration of “the *original* legal position of the family prior to court

involvement.” [emphasis added]²⁴ There is some confusion in Indiana that a plan for *reunification* includes modification of custody to the noncustodial parent. However, Indiana Code 31-34-21-7.5(c)(1)(A) separates reunification to the original custodian from the modification of custody to the noncustodial parent as two different permanency plans. Indiana Code 31-34-21-7.5(c)(A) authorizes as a permanency plan the “return or continuation of existing custodial care of the child’s parent, guardian, or custodian *or* placement of the child with the child’s noncustodial parent.” (emphasis added). The statute is in the disjunctive and thereby creates two separate plans (one for the return of the child to the existing custodial parent; the other a modification to the noncustodial parent). The statute is therefore in line with the definition of Measurement 2A.

2. **Reunification and Custody modification should be separately measured.** Because the placement of the child with the noncustodial parent requires additional legal proceedings, the date that it is affected may be delayed. Therefore, a separate measurement should be created for custody modifications.²⁵
3. **Relative Custody:** The Technical Guide separates a child’s placement with relatives from the preferred options. However, inclusion is permissible within this Measurement at the option of the court. Indiana Code 31-34-21-7.5(c)(1)(D) specifically includes relative placement as a permanency plan. Therefore, custody to a relative (as opposed to guardianship) was included in this Measurement but should also be separated for future reporting purposes.
4. **A new category should be incorporated into this measurement for “Children who Achieve Alternate Planned, Permanent, and Sustainable Living Arrangements”.** An additional class of foster children should be incorporated in Measurement 2A. Children in this category are those who are granted sustainable placements through a means other than adoption, guardianship, reunification, or custody modification. This would include those who are transferred to adult group homes through the Bureau of Disabilities. [See Measurement 2B.]
5. The remaining permanency plans recognized by statute, termination of parental rights (I.C. 31-34-21-7.5(c)(1)(B) and placement in a planned permanent living arrangement (I.C. 31-34-21-7.5(c)(1)(F), are addressed in other measurements.²⁶

²⁴ Technical Guide, supra footnote 7, page 38.

²⁵ This report notes this distinction because there has been some discussion in various sectors that placement with a noncustodial parent should be captured under the broad term of “reunification” However, that position is not statutorily supported, is contrary to the definition in the Technical Guide, and does not provide a true statistical picture of the ways by which dependency cases are resolved.

²⁶ Placement of a child in a planned permanent living arrangement is addressed in Measurement 2B. Termination of Parental Rights is considered in Measures 4H,I,J,and K.

**PERMANENCY MEASURE 2B:
CHILDREN NOT REACHING PERMANENCY**

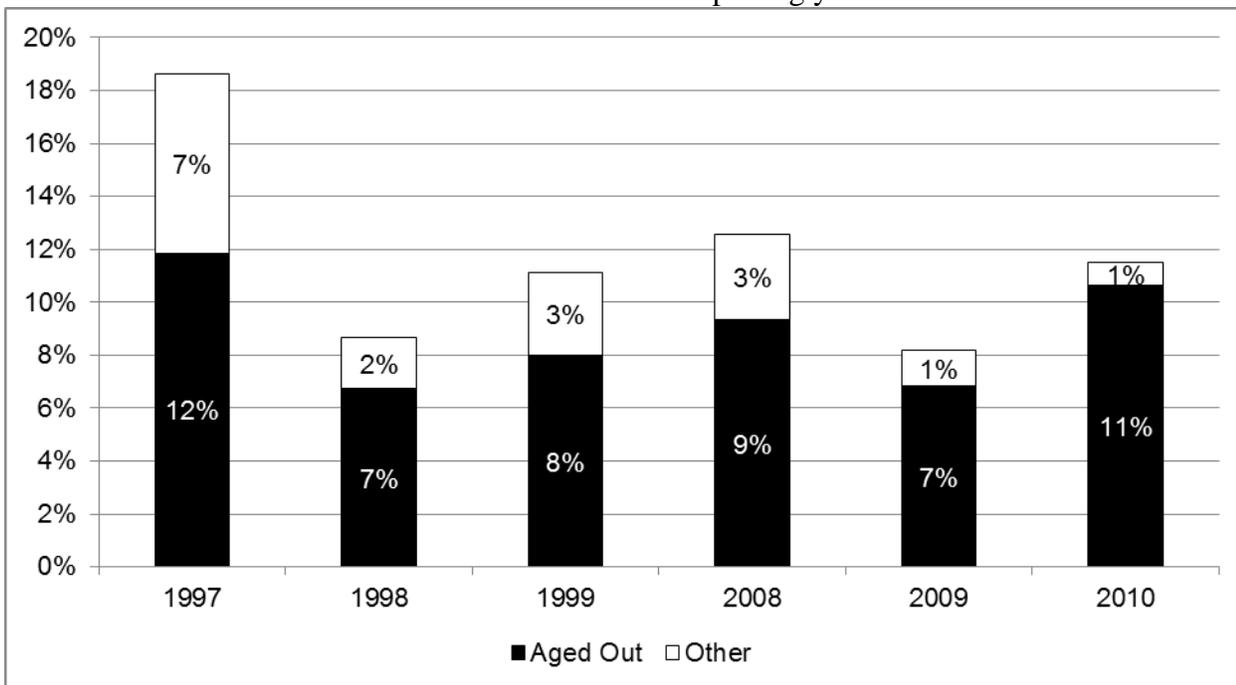
“*DEFINITION:* Percentage of children in foster care who do not reach legal permanency by reunification, adoption, or legal guardianship. *EXPLANATION:* This measure evaluates the combined *lack of success* of the courts and child welfare agencies in achieving legal permanency by the time the court has closed each case involving children in foster care. This measure is the “flip side” of *Toolkit Measure 2A: Achievement of child permanency*, which focuses on the extent of success in achieving permanency.”

Relationship to Child and Family Services Review (CFSR) standards:

No CFSR standard specifically relates to this Measurement except that which is referenced for Permanency Measurement 2(A).

Chart 6: Percent of children who do NOT reach permanency.

The dataset is the cases closed in each reporting year.



NOTE: Children who do not reach permanency are children who “aged out”, were transitioned into independent living, who were emancipated or who were transferred to a juvenile justice agency or a developmental disabilities agency. The *other* group in Chart 6 includes children who have absconded from placement and wardship was terminated or children who have died.

Chart 7: Legal orphans by year based on cases closed in the reporting year.

This measurement is not required; however, it is extremely important data.

	1997	1998	1999	2008	2009	2010
Number of children who did not reach permanency	11	9	24	35	24	27
Number of children who had TPR orders	1	0	0	2	2	6
Percent of non-permanency children with TPR orders	9%	0%	0%	6%	8%	22%

Commentary on the Collected Data:

1. In general the *Technical Guide* states that cases in which children are placed in *independent living* should not be attributed as having achieved permanency. However, a permanency plan that provides for “Another Planned Permanent Living Arrangement” may, under the *Technical Guide*, be considered a proper plan if it is narrowly applied to those situations in which the child is in a placement that “cannot be disrupted without court order.”²⁷ Generally cases must have characteristics of a permanent placement.
2. As noted for Permanency Measurement 2A, Allen County has achieved legal sustainable permanency for foster care children on average of 88%.
3. Those who did not achieve “legal permanency” include those children who “aged out” and who, owing to their cognitive levels, were provided adult services through the Bureau of Developmental Disabilities Services. The “*Other*” category in the chart reflects children who have died or who may have run from placement.

Exception is taken to the characterization in the *Technical Guide* that the transfer of a child to adult services is a failure to achieve permanency.

The *Technical Guide* at page 51 states that a “child who is transferred to another agency (e.g., a juvenile justice agency or developmental disabilities agency) should be included in this measure.” (That is, as a child who has not achieved permanency). We take exception to the *Guide*’s bureaucratic conclusion that “Such cases usually do reflect the court’s and the child welfare’s *lack of success* in planning, oversight, and decisionmaking (sic) with regard to the child. (emphasis added)”²⁸ The transfer of a child into adult services who is mentally ill and who functions at an I.Q. level of below 70 requires extraordinary case management foresight and work. In most (if not in all) cases, such an arrangement serves the long term best interests of the child, conforms to the family’s requests and needs, and ensures a safe, stable, and sustainable future for the child.

Lessons Learned and Proposals:

1. **A new category “Children who Achieve Alternate Planned, Permanent, and Sustainable Living Arrangements”** should be incorporated in Measurement 2A. Children in this category are those who are granted sustainable placements through a means other than adoption, guardianship, reunification, or custody modification.
2. This Measurement seeks to determine children who are legal orphans or who “age out”. Current trend are to terminate wardship for the children in this category at age 18 years with a referral to Chafee²⁹ and other benefits. New programs are being developed in the private sector to shore up these children who become homeless as a result. Tracking true permanency failures is essential to review current policies and the need for additional supports for this class of children. The collected data, therefore should be specifically tailored to identify the actual number of children who aged out, and who otherwise did not achieve “legal permanency” through the provision of a sustainable residential plan.
3. Through the *Quest* case management system, each case within this measurement field can be identified. The importance of this feature cannot be underscored enough. The Allen Superior Court is able to evaluate each case to better understand the reasons why a percentage of children do not achieve permanency for any given year. From that knowledge other reforms may be suggested. When replicating this model, the judge is encouraged to ensure that the data system includes the ability to collect case specific information.

²⁷ *Technical Guide*, supra footnote 7, page 50.

²⁸ *Technical Guide*, supra footnote 7, page 51.

²⁹ *Chafee* refers to the Foster Care Independence Act of 1999 and related federal laws.

PERMANENCY MEASURE 2C: CHILDREN MOVED WHILE UNDER COURT JURISDICTION

“*DEFINITION:* Percentage of children in foster care who resides in one, two, three, four, or more placements while under court jurisdiction. *EXPLANATION:* These measures shows how many times abused and neglected children are moved from one placement to another while under court jurisdiction.”

Relationship to Child and Family Services Review (CFSR) standards:

CFSR PC 4 includes three related measures.

- Percentage of children in foster care for more than eight (8) days and less than twelve (12) months that had two (2) or fewer placements;
- Percentage of children in foster care for at least twelve (12) but less than twenty-four (24) months that had two (2) or fewer placements;
- Percent of children in foster care for at least twenty-four (24) months that had two (2) or fewer placements.

Chart 8: Number of times children moved while under court jurisdiction (percent)

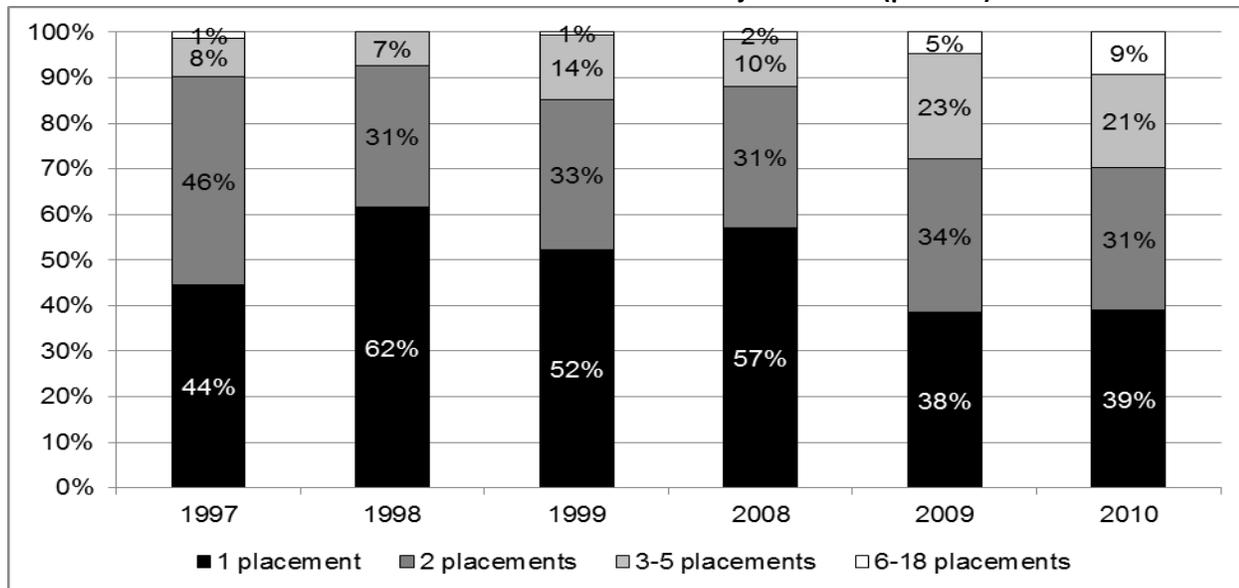


Chart 9: Number of Children moved while under court jurisdiction (number)

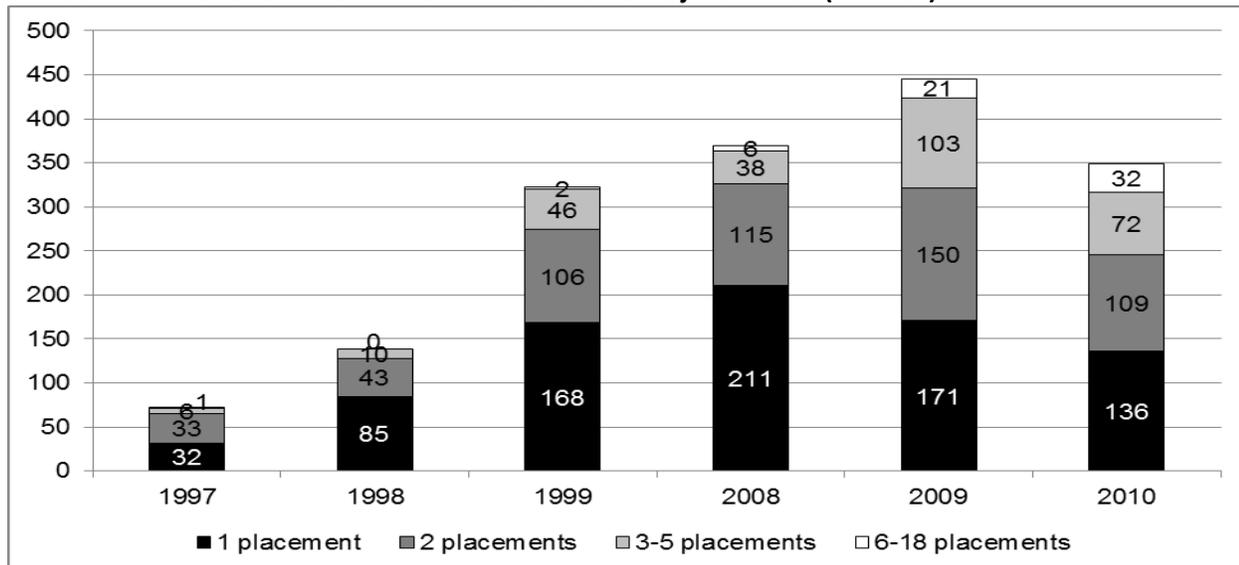


Chart 10: CURRENT PRACTICE: This chart excludes those cases that were closed in 2010 but initiated in years prior to the court’s reform measures.

	<i>Number of placements</i>				
	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5-7</i>
2010 children:	223	82	24	6	6

Commentary on the Collected Data:

The following clarifications are essential to an understanding of this Measurement:

1. The data only reflects those instances when a child has been removed:
 - a. from home to foster care,
 - b. from foster care to a treatment facility,
 - c. from home to a treatment facility, and
 - d. from a treatment facility to foster care.
2. This Measurement *does not* include the child’s return to the care of the parent, guardian or custodian from whom the child was removed as a change in placement.
3. The collected data is generated from hearings that are conducted with regard to placement changes. Hearings are only required when there is a request or proposal that a child be placed in a more restrictive placement or returned home.
4. Generally changes from one foster home to another are NOT represented in this data. This is because the court’s current case management system cannot track “lateral changes” from one foster home to another. In general the Allen Superior Court does not order placement to a specific foster home. Rather, the order is for foster care placement. Without a requirement that the Department of Child Services provide the court with case specific reports of the change in foster home placements for every child, the Court cannot monitor the level of foster care drift.
5. For the years 1997, 1998, and 1999, the numbers of changed placements were gathered by the physical review of each file. For 2008 – 2010 the data was collected from the information regarding the number of placements listed in the last report filed in each case by the Department. Because different data sets are reported any comparisons may not be valid. Accordingly, the data set for 2008 – 2010 will be used as Allen County’s base line.
6. The *2010 Current Practice* suggests that there have been significant improvements.
7. Through Quest, the court’s case management system, specific cases may be identified within the data set. Therefore, the cases in which a child has had frequent relocations can be identified and studied.

Lessons Learned and Proposals:

The *Technical Guide* acknowledges the difficulty associated with acquiring the number of foster home placement changes experienced by a child. The *Guide* suggests as possible solutions:

- Require electronic data transfers from the Department regarding changes in placements; or
- Require the information regarding placements to be provided in the case manager’s written reports to the court.³⁰

Problems are presented in both alternatives. In each, collaboration with the Department is needed. In the first alternative, the Department would have to authorize and enable the data recorded in ICWIS to communicate to the court’s case management system. This may or may not be fiscally and technologically possible. In the second alternative, case managers would have to be directed by the Department to report placement changes in their reporting forms. The information would still need to be recorded in the court’s electronic data system for later retrieval.

³⁰ Technical Guide, supra footnote 7, page 61-62.

PERMANENCY MEASURE 2D:

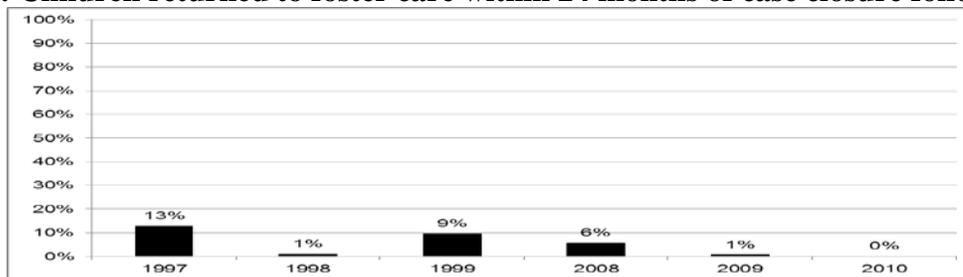
REENTRY INTO FOSTER CARE AFTER RETURN HOME

“*DEFINITION*: Percentage of children in foster care who return to foster care pursuant to court order within 12 and 24 months of case closure. *EXPLANATION*: This measure shows how often, after judges return children home from foster care and close their cases, children are brought back to court and placed again into foster care within a relatively short period of time. The measure focuses on the quality of judicial decisions to return children home from foster care on a permanent basis. (When a judge closed a case following a child’s return home, this decision indicates that the judge regards the child’s return home as permanent.)”

Relationship to Child and Family Services Review (CFSR) standards:

CFSR PC1B: The percent of children that re-entered foster care within 12 months of their date of discharge.

Chart 11: Children returned to foster care within 24 months of case closure following reunification



Commentary on Collected Data:

1. This chart shows the percentage of children who return to foster care within 24 months of case closure. For the later time period (2008-2010) not all of the data on this measure was available.
2. Cases included in the dataset are those that were closed in the reporting year.
3. Owing to the required passage of time no measurement could be completed for those cases closed in reporting years 2009 and 2010 at the time data was collected.

Lessons Learned and Proposals:

1. The fact that closed cases are evaluated distinguishes this Measurement from the CFSR standards. CFSR PC1B includes children returning to foster care in the course of an *active* case. Since it has been the practice of the Department to request orders for “extended home

Uses of “Extended Home Visits” are not reported as a change in placement. Should the “extended home visit” fail, the child returns to foster care. However, this re-entry is not recorded for CFSR purposes.

home visits” and not placement, a return to foster care is not reported as a failed reunification. Therefore the CFSR PC1B data may not accurately reflect recidivism and is not as instructive for consideration of corrective practices.

2. Collection for data for this Measurement requires file reviews. If a child is identified as needing services after the prior wardship is terminated a new case number is assigned. Thus, a name search and a review of any identified closed cases must be completed to determine if there was a prior dependency CHINS adjudication.

RECOMMENDATION: To reduce costs in the collection of this Measurement a court could collect data on regular intervals or in sample numbers to achieve a “snap shot” from which trends could be identified.

PERMANENCY MEASURE 2E:

REENTRY INTO FOSTER CARE AFTER ADOPTION OR GUARDIANSHIP

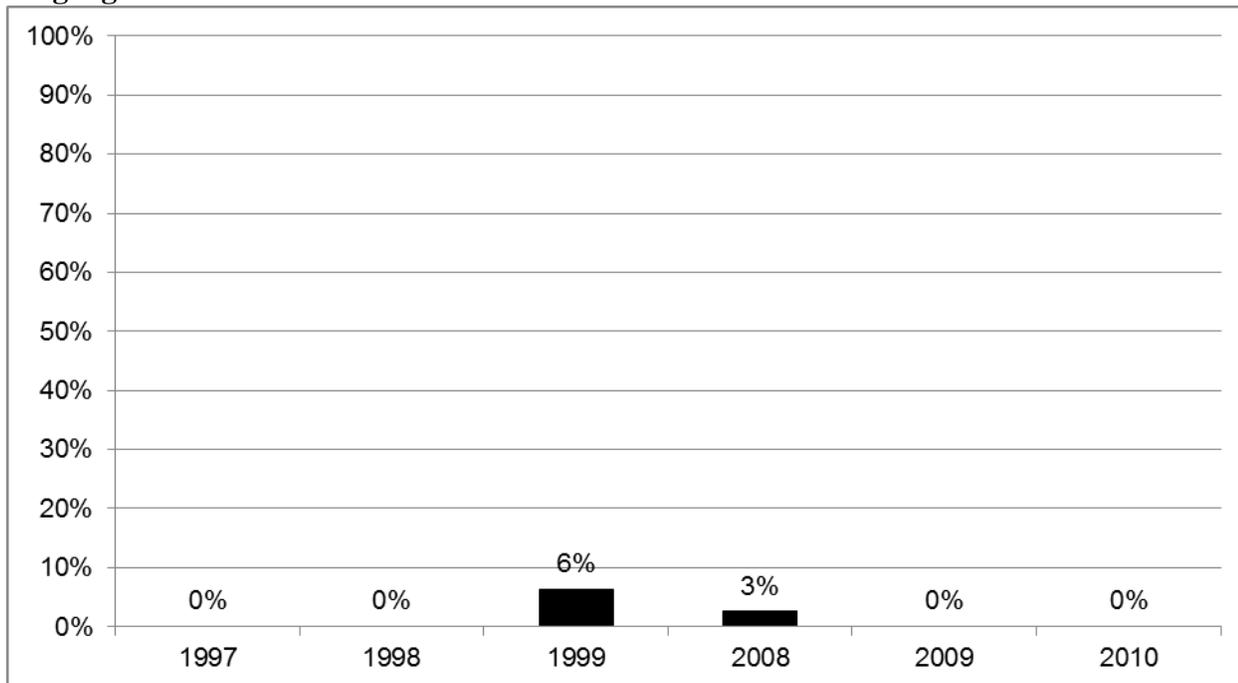
DEFINITION: Percentage of children in foster care who return to foster care pursuant to court order within 12 and 24 months of case closure following adoption or placement with a legal guardian.

EXPLANATION: This measure shows the percentage of children who reenter foster care because their adoptions or legal guardianships fail within a relatively short period of time.”

Relationship to Child and Family Services Review (CFSR) standards:

No CFSR standard relates to this measure.

Chart 12: Children returned within 4 years after case closure following adoption or placement with a legal guardian.



Commentary on Collected Data:

1. The chart shows the percentage of children who return to foster care within four years of case closure. As with Measure 2D, not all the data on this measure are available for 2008-2010.
2. See the Commentary on Measurement 2D

Lessons Learned and Proposals:

This Measurement is labor intensive under the court’s current case management system. If, after wardship termination a child is identified as needing services, a new case number is assigned. To determine whether he had a prior dependency case requires a name search and a review of any identified closed cases. As is recommended in Measurement 2 D, trends could be gleaned from small numbers of cases.

DUE PROCESS: Measures 3B, 3E, 3F, 3H, 3I, and 3J

As explained in Section IV of this report, data was not collected for *Due Process Measures 3A, 3C, 3D, and 3G*.

The goal of remaining six measures “is for the court to decide cases impartially and thoroughly based on evidence brought before it. Due process measures address the extent to which individuals coming before the court are provided basic protections and are treated fairly.”

THE ADVISORY COMMITTEE DETERMINED THAT MEASURES 3B, 3E, AND 3F SHOULD BE EXCLUDED FROM THIS STUDY FOR THE REASONS EXPLAINED BELOW:

DUE PROCESS MEASURE 3B:

SERVICE OF PROCESS TO PARTIES

“*DEFINITION:* Percentage of child abuse and neglect cases in which both parents receive written service of process of the original petition. *EXPLANATION:* Service of process of the original petition means that parents receive a copy of the original petition and a written summons instructing them to appear in court and contest the case if they wish to avoid losing rights concerning the child.”

DUE PROCESS MEASURE 3E:

ADVANCE NOTICE OF HEARINGS TO PARTIES

“*DEFINITION:* Percentage of child abuse and neglect cases with documentation that written notice was given to the parties in advance of every hearing. *EXPLANATION:* This measure shows how often parties entitled to notice (including both parents) receive advance written notice of each hearing. The purpose is to help courts evaluate how consistently they are providing advance written notice of hearings.”

DUE PROCESS MEASURE 3F:

ADVANCE WRITTEN NOTICE OF HEARING TO FOSTER PARENTS, PRE-ADOPTIVE PARENTS AND RELATIVE CAREGIVERS

“*DEFINITION:* Percentage of child abuse and neglect cases with documentation that written notice was given to foster parents, pre-adoptive parents, and relative caregivers in advance of every hearing for which they were entitled to receive notice. *EXPLANATION:* This measure shows how often foster parents, pre-adoptive parents, and relative caregivers receive advance written notice of each nonprocedural hearing for which they are entitled to receive notice. The purpose is to help courts evaluate how consistently they are providing advance written notice of hearings to foster parents, pre-adoptive parents, and relative caregivers.”

Relationship to Child and Family Services Review (CFSR) standards:

No CFSR standard relates to these measures.

Commentary on Collected Data:

No data could be collected.

Lessons Learned and Proposals:

NO DATA WAS COLLECTED FOR THE FOLLOWING REASONS:

1. As a matter of practice, the Department provides the parents with a copy of the Preliminary Inquiry report. Those parents, guardians or custodians appearing at the Preliminary Inquiry / Initial Hearing are personally served with a summons, petition, and notice of hearing in open court. The Court cannot proceed on a hearing with regard to a parent, guardian or custodian absent proof of services of summons.
2. The failure of service as to one parent, guardian, or custodian will not necessarily cause a delay in the case.
3. The judges' *Case Notes*³¹ completed by judicial officers at all hearings requires an entry to be made that will generate an order to the Department to secure service on any necessary party.
4. **The current case management system has no marker to electronically capture this data.** Originally it was believed that the current case management system could provide this information. However, upon review, it was determined that this information was contingent on the Department completing all of their notices in Quest (the court's case management system). Thus, the integrity of the data is outside the trial court's ability to control.
5. After a case is opened all parties are entered in the case management system in Allen County. All court orders or court generated notices are automatically sent to all the persons in the case listed in the "*person detail*" section.
6. The Technical Guide regards written notices as superior to the provision of oral notice in open court.³² As noted above Allen County's reform model is structured such that all orders are sent to all parties entered in the person detail of the case management system whether the person attended the hearing or not. Thus by system design, this measure is significantly met. That having been said, however, this report acknowledges that the court's case management system only forwards notices and orders to those who have been entered in the "*person detail*" with an accurate address.
7. Indiana Code 34-10-2 provides that a summons shall be issued to the child; the child's parent, guardian or custodian, guardian ad Litem or CASA and any other person necessary for the proceedings. Indiana Code 31-34-21-4 provides that notice of review be given to parent, guardian or custodian; an attorney who has filed a written appearance; a prospective adoptive parent; the foster parent; any other person who the Department has knowledge is providing care for the child; and any suitable relative or person who has a significant care giving relationship with the child. It should be abundantly clear from that list that parties to a dependency case can change as the case progresses. Alleged fathers are identified or excluded, extended family members may be added after the case is initiated, or step-parents or other custodians may enter or leave the case as circumstances in the family change. Thus the accurate tracking of the provision of notice to all parties has significant technological challenges.
8. The Technical Guide assumes that the provision of notice is the court's responsibility. However, statutorily in Indiana it is the duty of the Department to send notice. (See Indiana Code 31-34 in general and specifically I.C.31-34-10-2 and I.C.31-34-2`-4). Thus the importance of this measurement for court performance evaluation is questionable.
9. Since it was impossible to collect this data, none was collected.

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³¹ Court orders are completed from forms completed by the judicial officer. The forms have a series of questions and blanks that are completed from which the staff prepares the full text of the order. Through this practice the inclusion of essential provisions and consistency of form is assured.

³² Technical Guide, *supra* footnote 7, page 111-112.

THE ADVISORY COMMITTEE DETERMINED THAT MEASURE 3H SHOULD BE EXCLUDED FROM THIS STUDY FOR THE REASONS EXPLAINED BELOW:

DUE PROCESS MEASURE 3H:

PRESENCE OF PARTIES DURING HEARINGS

“*DEFINITION:* Percentage of child abuse and neglect cases in which parties who have been served are present at every substantive hearing. *EXPLANATION:* This measure shows how often parties attend substantive hearings. The purpose is to help courts evaluate how consistently parties are present at substantive hearings.”

Relationship to Child and Family Services Review (CFSR) standards:

No CFSR standard relates to these measures.

Commentary on Collected Data:

No data could be collected.

Lessons Learned and Proposals:

NO DATA WAS COLLECTED FOR THE FOLLOWING REASONS:

1. Data on this Measurement could not be collected electronically under the current case management system.
2. To encourage attendance the Allen Superior Court has initiated reforms; several of which are in addition to those suggested in the *Technical Guide*.³³ Hearings are scheduled well in advance for each case and the dates are included in all written orders. Through its facilitation process, the parents are encouraged to bring family support members to the mediation that immediately precedes the Initial Hearing. The court room is modified to be less intimidating and to encourage dialogue. As suggested in the Technical Guide, the Court asks the parties and legal counsel as to their availability for scheduled hearings. Parents, Guardians, Custodians, Relatives, and Foster Parents (and others) are permitted to appear telephonically when a personal appearance is impossible. Special speaker telephones are in place in each facilitation room and hearing rooms.
3. In Quest each order lists those who attended the hearing. Thus an individual case review can identify attendance trends.

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THE ADVISORY COMMITTEE DETERMINED THAT MEASURES 3I AND 3J SHOULD BE EXCLUDED FROM THIS STUDY FOR THE REASONS EXPLAINED BELOW:

DUE PROCESS MEASURE 3I:

CONTINUITY OF ADVOCATES FOR CHILDREN

“*DEFINITION:* Percentage of child abuse and neglect cases in which the same legal advocate represents the child throughout the case. *EXPLANATION:* This measure shows how consistently children in abuse and neglect cases are represented by one advocate throughout the life of the case. The purpose is to help courts evaluate how often children’s legal representation in the courtroom is stable throughout the life of the case.”

Relationship to Child and Family Services Review (CFSR) standards:

No CFSR standard relates to these measures.

³³ Technical Guide, supra footnote 7, page 143.

Commentary on collected data:
No data could be collected.

Lessons Learned and Proposals:

NO DATA WAS COLLECTED FOR THE FOLLOWING REASONS:

1. Quest, the court's case management system cannot identify changes in Guardian Ad Litem or CASA volunteers unless the change is recorded through a formal withdrawal of appearance. Accordingly, when one Guardian Ad Litem temporarily appears in the stead of another for reasons of the absent person's illness or calendar conflict, no identifiable marker is created in the system.
2. Since this data can only be acquired through a review of each dependency file, this Measurement was not tracked.

DUE PROCESS MEASURE 3J: CONTINUITY OF COUNSEL FOR PARENTS

“DEFINITION: Percentage of child abuse and neglect cases in which the same legal counsel represents the parent throughout the case. *EXPLANATION:* This measure shows how consistently parents in abuse and neglect cases are represented by one attorney throughout the case. The purpose is to help courts evaluate how often parents' legal representation in the courtroom is stable throughout the life of the case.”

Relationship to Child and Family Services Review (CFSR) standards:

No CFSR standard relates to these measures.

Commentary on Collected Data:
No data could be collected.

Lessons Learned and Proposals:

NO DATA WAS COLLECTED FOR THE FOLLOWING REASONS:

1. Quest, the court's case management system cannot identify whether one attorney has appeared in the stead of another unless the change is recorded through a formal withdrawal of appearance. Accordingly, when one attorney appears in the stead of another for reasons of the absent person's illness or calendar conflict, no identifiable marker is created in the system.
2. Since this data can only be acquired through a review of each dependency file, this Measurement was not tracked.

TIMELINESS: Measures 4A–4M

The goal of these 13 measures is to minimize the time from the filing of the petition or emergency removal order to permanency.

TIMELINESS MEASURE 4A

TIME TO PERMANENT PLACEMENT

“DEFINITION: Average (median) time from the filing of the original petition to permanency.

EXPLANATION: This measure shows how long it takes for children in abuse and neglect cases to achieve legal permanency following the filing of the original petition. “Legal permanency” means that there is a permanent and secure legal relationship between the adult caregiver and the child. The purpose is to help courts evaluate their success in eliminating needless delays in achieving legal permanency for children in abuse and neglect cases.” *This Measurement should be limited to youth in foster care.*³⁴

Researcher’s Note: The next several measures are concerned with the length of time from critical milestones in the judicial process. All cases within the dataset were included in the Timeliness Measurement series except for Measures 4F and 4G reference foster care cases only. The *Technical Guide* advises that the starting point for all Timeliness Measures should be consistent and suggests that the date the original petition is filed be the starting date. Other options are permissible if a court experiences uneven delays in filing petitions. For these Measures, the staff of the *Indiana University Center for Urban Policy and the Environment* used the date of the preliminary as the starting date.

Unless otherwise noted the dataset used in the Timeliness Measures are those cases closed in the reporting year. As noted earlier in this report the use of a closed cases dataset means that cases that were begun prior to the implementation of a reform may be included in cases conducted under the corrected policies. Thus the full impact of a reform may not be reflected in the statistical summary. Since many of the Allen Superior Court’s reforms under the Court Improvement Project relate to the issue of timeliness, *Current Practice* statistics are also reported. *Current Practice* statistics are gathered from a data set of cases opened and closed in reporting years 2008, 2009, and 2010.

Relationship to Child and Family Service Review (CFSR) standards:

CFSR PC1A1: The percent of children discharged from foster care for eight days or longer that are reunified within 12 months of the last removal date.

CFSR PC1A2: The median length of stay in foster care measured in months until reunification.

CFSR PC1A3: Of all children entering foster care for the first time what percentage were reunited in less than 12 months?

CFSR PC2A1: The percentage of children discharged from foster care to adoption within 24 months.

CFSR PC2A2: The median length of stay in foster care for children discharged from foster care to adoption.

³⁴ Technical Guide, supra footnote 7, page 159.

Chart 13, below, reflects the median (average) number of days from the filing of the Preliminary Inquiry to permanency according to Permanency type. It reflects a dataset based on cases closed in each reporting year. It does not reflect current practices.

	1997	1998	1999	2008	2009	2010
Reunification	517	670	740	401	426	414
Adoption	1353	1361	1732	1139	1015	1181
Guardianship	No cases	No cases	1 case-450	2 cases -272	5 cases-1695	1 case -1430
Change of custody	734	822	957	641	656	600
Fact finding only	800	1049	1300	577	614	977
All cases	800	1049	1300	470	507	662

Chart 14: CURRENT PRACTICES

Median (average) number of days from filing of preliminary inquiry to permanency by type.

	2008	2009	2010
<i>Reunification</i>	<i>172</i>	<i>324</i>	<i>351</i>
<i>Adoption</i>	<i>317</i>	<i>561</i>	<i>703</i>
<i>Guardianship</i>	<i>80</i>	<i>379</i>	<i>No cases</i>
<i>Change of custody</i>	<i>No cases</i>	<i>355</i>	<i>570</i>
<i>Fact finding only</i>	<i>No cases</i>	<i>329</i>	<i>395</i>
<i>All cases</i>	<i>172</i>	<i>325</i>	<i>475</i>

Commentary on Collected Data:

1. **Improvement in the Reunification Permanency type:** A comparison of Chart 14 with Chart 15 clearly reflects that the average number of days to achieve reunification has been reduced in the years 2008-2010 as compared to 1997-1999. Note that in Chart 14, the dataset was cases closed in each reporting year. Current Practices (Chart 15) reflect an even greater improvement in the time in which reunification is achieved.
2. **An overall improvement in this measurement is shown through the comparison of Current Practices with the times recorded for 1997-1999.**
3. The improvement in the average number of days to achieve reunification can be attributed in part to Allen County's court reforms. Allen County has adopted dependency mediation³⁵ and Family Group Decision Making³⁶ practices in CHINS cases. Through these practices, extended family members are engaged in the case at the onset. Parents are given a voice and the relevancy of their ordered services is better understood. As a result, compliance with the Dispositional Plan increases and reunification can be achieved earlier. The outcomes reported in this Measurement are consistent with the national research on both practices.
4. Allen County has employed both practices in its Court Improvement Project. The combined benefits of dependency mediation (facilitation) and Family Group Decision Making have been significant factors in achieving this improvement.

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³⁵ *Journal of the American Academy of Matrimonial Lawyers* (Vol. 16, 1999).

³⁶ See generally the American Humane Association research on Family Group Decision Making – www.americanhumane.org

5. **Use of the Preliminary Inquiry Date:** The Allen Superior Court conducts a formal Preliminary Inquiry Hearing in all cases (including those cases in which the children have not been removed). In the years 1997, 1998, and 1999 the Department was not required to file a petition within a specific period of time after it was authorized by the Court. Thus it was in some cases that the time between the Preliminary Inquiry and filing of the petition was as long as 90 days. That delay has now been corrected, in part, through the 2009 amendment of IC 31-34-10-2(h). Statute now provides that the petition must be filed before the detention hearing is held.

The purpose of this measurement is to determine the length of time between the onset of the case and permanency. Since the date of the filing of the petition is not always the date of the onset of the case, it makes sense to use the preliminary inquiry date. In addition, by using the preliminary inquiry dates, the lengths of time in each of the dataset periods (1997- 1999 and 2008 -2010) can be compared. See *Timeliness Measurement 4B* for further discussion on the use of the Preliminary Inquiry date.

Lessons Learned and Proposals:

1. **Timeliness is Due Process:** Although this pilot excluded from consideration many of the measurements under the *Due Process Measurement*, the issue of timeliness is also a due process matter.
2. Many counties may not follow a Preliminary Inquiry Hearing model as describe above. Therefore, case management systems should be adapted to record the date of the filing of the petition rather than the Preliminary Inquiry date.
3. **Proper Date for “Legal Permanency”:** A significant issue remains as to the proper date to be applied for *legal permanency*. As noted above the *Technical Guide* defines legal permanency as the date when a legal relationship between the adult caregiver and the child is secured. The Guide recognizes that this may include different dates for different types of permanencies.
 - a. For reunification the recommended legal permanency date is the date the case is closed. However, a child may be in a home without ever having been removed or returned to the home under a permanency plan to maintain him or her there.
 - b. For adoption the recommended legal permanency date is the date of the adoption or guardianship order.³⁷ Arguably, however, the importance of this measurement is not the finalization date, but, rather the date on which the child was placed in a permanent relationship with a caregiver. A child, for example, may be in a pre-adoptive home for several months awaiting the adoption process to be completed.

Recommended permanency date.

The permanency date for this Measurement is the date that wardship is terminated. The case management system should be equipped – ideally through markers in the final order – to reflect that:

- a. Wardship is terminated;
- b. Permanency was or was not achieved;
- c. Type of permanency achieved (eg.: reunification, change of custody to noncustodial parent or relative, guardianship, termination of parental rights and adoption; or
- d. If permanency was not achieved the order should list the reasons wardship was closed. For example, the child was emancipated, the child is self-sustaining in an independent living arrangement, the child died, or the child has absconded.

³⁷ Technical Guide, supra footnote 7, page 160.

TIMELINESS MEASURE 4B

TIME TO ADJUDICATION

“*DEFINITION:* Average (median) time from the filing of the original petition to adjudication.

EXPLANATION: This measure shows how long it takes from the date the proceedings have formally begun to the date on which the case has been adjudicated.

NOTE: Adjudication refers to the court’s formal finding, at the conclusion of the adjudication hearing, *whether or not the petition alleging child abuse or neglect has been sustained.* The purpose is to help courts evaluate an important element not only of their efficiency but also of their impact on abused and neglected children. Timeliness of adjudication figures significantly in the timeliness of permanency for abused and neglected children, especially those placed in foster care.”

Relationship to Child and Family Service Review (CFSR) standards:

No CFSR standard relates to these measures.

Chart 15: Median (average) number of days from preliminary inquiry to adjudication

This Chart reflects the dataset of cases closed in each reporting year and not Current Practice.

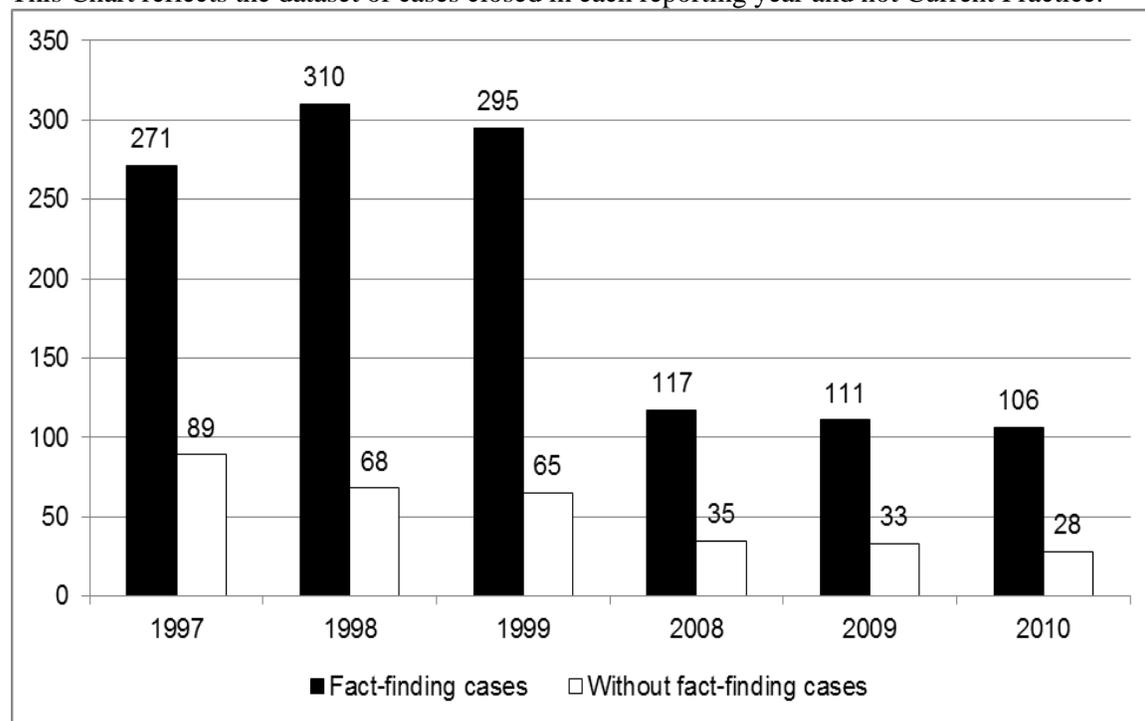


Chart 16: Median number of days from preliminary inquiry to adjudication

This Chart reflects **CURRENT PRACTICE**; that is, the cases opened in 2008, 2009, and 2010.

	2008	2009	2010
Without Factfinding	26	28	27
Factfinding cases only	98	82	96

Commentary on Collected Data:

- Note that the time period between the filing of the petition and *fact-findings* are separately charted.

2. ***The use of the Preliminary Inquiry as the starting date and (after 2007) the date of the Additional Initial Hearing as the concluding date:***

- a. Allen County conducts a formal “Preliminary Inquiry” hearing *whether or not* the child is removed. At the formal hearing the Court considers the Preliminary Inquiry report filed by the Department under Indiana Code 31-34-7 and enters orders pursuant to Indiana Code 31-34-9-2³⁸.
- b. Under the practice followed in 1997-1999, the Department did not file its petition until after the Preliminary Inquiry was held. In some instances the petition was not filed for more than a month after it was authorized by the Court. In 2007, the legislature amended Indiana Code 31-34-5-1 to provide that a petition must be filed and an Initial Hearing held within seven (7) days of the child’s detention. In 2009 the legislature again amended this section to provide that the Department must file the petition before the detention hearing if the child is detained [I.C.31-34-10-2(h)].
- c. Therefore, in order to properly compare the 1997-1999 period to the 2008-2010 period, similar datasets had to be employed. Thus, the date of the Preliminary Inquiry hearing (the date of the Court’s first involvement in each period) was used as the starting date.
- d. In order to reflect the requested data for 1997-1999 the period between the Preliminary Inquiry and the Initial Hearing was used. In 2008 – 2010, the period between the Preliminary Inquiry/Initial Hearing and the date of the Additional Initial Hearing was used.
- e. ***The Additional Initial Hearing Date:*** The Allen Superior Court sets an Additional Initial Hearing pursuant to Indiana Code 31-34-10-2(k) in order to incorporate its facilitation (mediation) process. Indiana Code 31-34-10-2(k) provides that the Additional Initial Hearing must be held within thirty (30) days of the Initial Hearing. Because of this practice, the concluding date for this measurement is the date of the Additional Initial Hearing.

Except for Factfindings, the optimal period to adjudication should not exceed 30 days.

3. One of the first goals of the Allen Superior Court through the *Court Improvement Project* was to reduce the time from the Preliminary Inquiry to Adjudication. As is clear from the chart, that goal was met.

**Court Improvement
Project Benefit**

- a. The median number of days from Preliminary Inquiry to the Initial Hearing (note: 2007 and after the Additional Initial Hearing) was dramatically reduced.
- b. The data on *current practices* reflects that that the median number of days between the filing of the petition and adjudication (exclusive of factfindings) is 27.
- c. This reduction in delay was achieved despite a significant increase in court cases.

Lessons Learned and Proposals:

1. Local practices across the state may not require a formal Preliminary Inquiry hearing. Therefore, each court’s case management system must be adapted to record the date the petition is filed.
2. This is an important measurement. In order to understand the impact of a court’s reforms, only the cases untainted by cases not opened under the corrected processes, should be measured. Therefore, the court should create a dataset of cases opened during a specific time period. (See Allen County’s definition of *Current Practice*, above.)

Create a Current Practice dataset

³⁸ I.C. 31-34-9-2 provides that upon filing of the Preliminary Inquiry report, “The juvenile court shall do the following:

(1) Consider the preliminary inquiry and the evidence of probable cause that is contained in the report of the preliminary inquiry or an affidavit of probable cause. (2) Authorize the filing of a petition if the court finds probable cause to believe that the child is a child in need of services.”

TIMELINESS MEASURE 4C

TIMELINESS OF ADJUDICATION

“DEFINITION: Percentage of cases that are adjudicated within 30, 60, or 90 days after the filing of the original petition. EXPLANATION: This measure shows the percentage of child abuse and neglect cases that are adjudicated within a reasonable period of time following the filing of the petition. The purpose is to help courts evaluate an important element not only of their efficiency but also of their impact on abused and neglected children. Timeliness of adjudication figures significantly in the timeliness of permanency for abused and neglected children, especially those placed in foster care.”

Relationship to Child and Family Services Review (CFSR) standards:

No CFSR standard relates to these measures.

Chart 17: Percentage of cases that are adjudicated within 30, 60 or 90 days from the filing of the petition. These are cases that were NOT referred for factfindings. Dataset is ALL CASES closed in each year.

	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
Within 30 Days	4.88%	1.14%	8.26%	22.70%	43.74%	64.72%
30-45 Days	2.44%	9.09%	18.18%	65.01%	41.19%	22.22%
45-60 Days	9.76%	38.64%	25.21%	7.57%	6.16%	5.83%
60-90 Days	29.27%	30.68%	22.73%	2.84%	4.46%	1.94%
90+ Days	51.22%	20.45%	25.62%	1.89%	4.46%	5.83%
Total # Cases	41	88	242	423	471	360

Chart 18: Percentage of cases referred for factfindings that are adjudicated within 60, 120, and over 120 days. This dataset is ALL CASES closed in each year.

	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
0-60 Days	0%	0%	0%	6%	2%	16%
60-120 Days	0%	0%	18%	48%	54%	59%
120+ days	100%	100%	82%	46%	44%	24%
Total # of Cases	6	15	28	65	59	49

Chart 19: Percentage of cases that were adjudicated in 30 days, this includes all cases, even those opened prior to any court reforms being instituted.

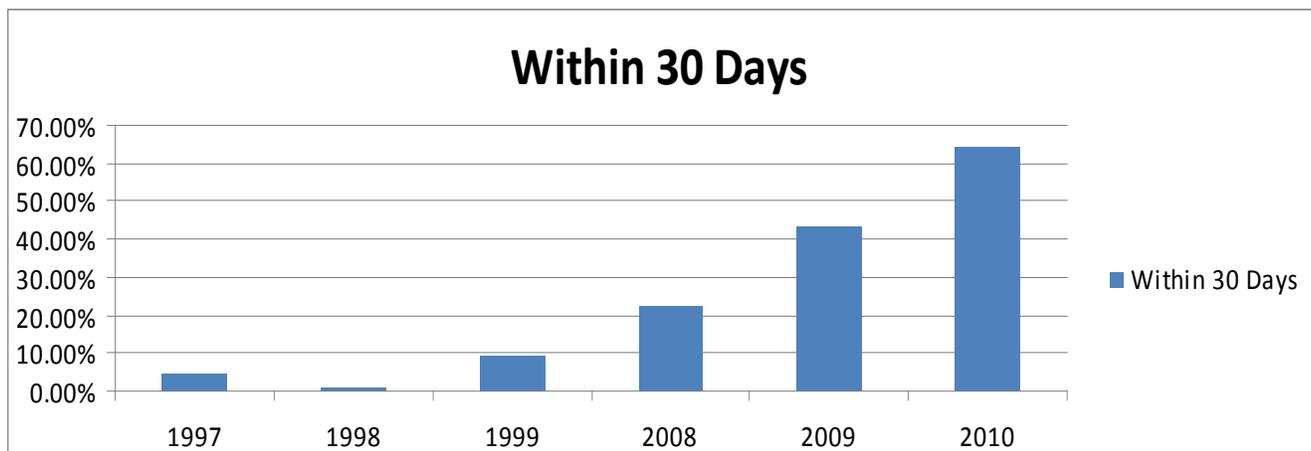


Chart 20: This chart reflects the percentage of cases under CURRENT PRACTICE that are adjudicated within the number of days reflected. The current practice dataset is comprised of those cases opened in the years 2008, 2009, and 2010.

	2008	2009	2010
30 days	90%	73%	71%
35 days	98%	83%	85%
40 days	98%	87%	89%
45 days	100%	92%	91%
55 days	100%	92%	95%
60 days	100%	92%	96%

Commentary on Collected Data:

1. As is clear from the discussion on the statutory time periods (below), distinguishing between adjudication through a party’s admission and adjudication through a Factfinding is important. Therefore, two separate charts were prepared.

2. Statutory Time Factors:

a. Cases not referred for Factfindings:

- i. Indiana Code 31-34-10-2 provides that the Court shall schedule an Initial Hearing on each petition.
- ii. However, I.C. 31-34-10-2 (h) and (i) provides that the Department shall file its petition before a detention hearing is held. The initial hearing on that petition shall be held at the same time as the detention hearing.
- iii. The Court shall set an Additional Initial Hearing not more than 30 days after the first initial hearing. [I.C. 31-34-10-2 (e) and (f)]. Thus the optimal statutory time frame in which a non-factfinding cases should be adjudicated is thirty (30) days from the filing. {Notes: I.C. 31-34-10-2 (f) and (k) provides that if the court enters written findings of extraordinary circumstances, an extension of time beyond thirty (30) days may be granted.]
- iv. The Allen Superior Court sets an Additional Initial Hearing pursuant to Indiana Code 31-34-10-2(k) in order to incorporate its facilitation (mediation) process. Because of this practice, the concluding date for this measurement is the date of the Additional Initial Hearing.

Suggested optimal time is 30 days for cases not referred to factfindings

b. Cases referred for Factfindings:

- i. Indiana Code 31-34-11-1 provides that (a) Except as provided in subsection (b), unless the allegations of a petition have been admitted, the juvenile court shall complete a fact-finding hearing not more than sixty (60) days after a petition alleging that a child is a child in need of services is filed in accordance with IC 31-34-9. (b) The juvenile court may extend the time to complete a fact-finding hearing, as described in subsection (a), for an additional sixty (60) days if all parties in the action consent to the additional time. Thus the maximum time to adjudication in factfinding cases should be 120 days. (We note that a judge under the trial rules has an additional ninety (90) days in which to rule. However, in most cases, an adjudication of CHINS should not be taken under advisement. Thus we have recommended that the optimal time be set at 120 days.)

Suggested optimal time is 120 days for cases referred to factfindings

3. Through the Quest Case management System, the Court can identify the specific cases that are outside compliance to analyze the reasons for delay.
4. Through the Court Improvement Project the period of time from the filing of the petition to adjudication has been substantially reduced:
 - a. For cases in which, through mediation (facilitation), adjudication is achieved by the parties' stipulations the number of days have been dramatically reduced. Only 8.26% of the cases closed in 1999 were adjudicated within thirty (30) days compared to 64.72% in 2010. The CURRENT PRACTICE dataset shows even greater improvement. Seventy-one (71%) percent were adjudicated within thirty (30) days in 2010.
 - b. Fact findings have also been concluded on a timelier basis. In 1999, 18% were concluded between 60 and 120 days with 82% concluded in 120 or more days. By 2010, through the Court Improvement Project 75% were concluded within 120 days. In 2010, only 24% (compared with 82% in 1999) were concluded in more than 120 days.

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TIMELINESS MEASURE 4D TIME TO DISPOSITION

“DEFINITION: Average (median) time from filing of the original petition to disposition hearing

EXPLANATION: This measure shows how long it takes for from the time a case begins to the disposition hearing. “Disposition Hearing” refers to the hearing in which the court, following adjudication, decides who will have temporary legal custody of the child. Timeliness of disposition is a significant factor in the timeliness of permanency, particularly in States where the court approves or modifies the terms of the case plan at the disposition hearing.”

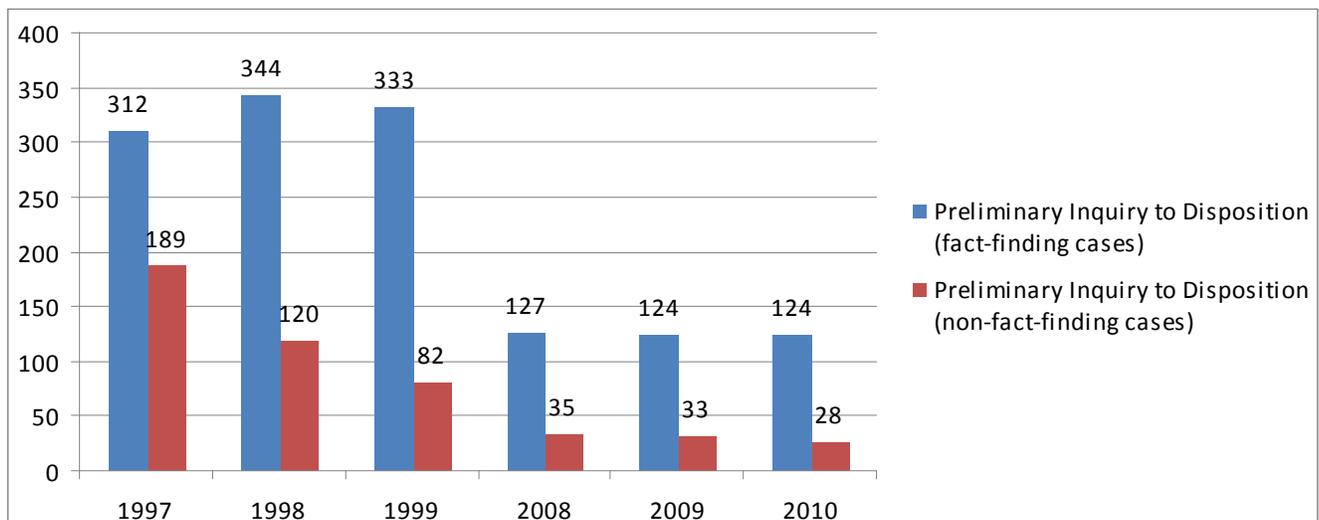
Relationship to Child and Family Services Review (CFSR) standards:

No CFSR standard relates to these measures.

Chart 21 : Median number of days to disposition hearing

	1997	1998	1999	2008	2009	2010
Preliminary inquiry to disposition (non-fact-finding cases)	189	120	82	35	33	28
Preliminary inquiry to disposition (fact-finding cases)	312	344	333	127	124	124

Chart 22: This bar chart reflects the data from Chart 19 for both case types.



Note: Charts 19 and 20 are drawn from a dataset for cases closed in each reporting year and do not reflect current practices for 2008, 2009, and 2010.

Chart 23: Median number of days to disposition hearing CURRENT PRACTICE

	2008	2009	2010
Preliminary inquiry to disposition (excluding cases referred for factfinding)	26	28	27
Preliminary inquiry to disposition (fact finding)	98	114	96

Commentary on Collected Data:

1. As is detailed in the commentary to Timeliness Measurement 4B (see above), in order to accurately measure the same information, the starting dates were based on date of the Preliminary Inquiry hearing.
2. **Statutory timelines are different from the definition of this Measurement.** Indiana Code 31-34-19-1 requires that Disposition be concluded not more than thirty (30) days after adjudication. This means for *current* statutory procedures the optimum time periods in Indiana should be the following:
 - a. **Sixty (60) days if no fact-finding is held:** For cases in which the parties admit sufficient allegations for an adjudication at the Initial (or Additional Initial) Hearing, Dispositions should be concluded within Sixty (60) days from the filing of the petition. That number is defined as follows:
 - i. An Additional Initial Hearing should be completed within 30 days of the filing of the petition (see Commentary on Measurement 4C);
 - ii. The Dispositional Hearing should be held within thirty (30) days of adjudication.
 - iii. Therefore the optimal time from filing should be within sixty (60) days.
 - b. **One Hundred Fifty (150) days if fact-finding is held:** For cases in which Fact findings are scheduled the maximum is 150 days. That number is defined as follows:
 - i. The factfinding must be concluded within 120 days of the filing of the petition (Indiana Code 31-34-11-1) (see Commentary on Measurement 4C);
 - ii. The Dispositional Hearing should be held within thirty (30) days of adjudication.
 - iii. Therefore the optimal time period should be within One Hundred Fifty (150) days.
3. Through the Court Improvement Project Allen County has dramatically reduced the median number of days from 189 days in 1997 to 28 days in 2010 for cases not referred for factfindings. A similar improvement is also shown in cases referred for factfindings. In 1997 there were a median of 312 days from petition filing to disposition compared to 124 days in 2010. In both case types, the median number of days from the filing of petition to disposition is within the optimum number of days expected under the law.

Suggested optimal time is 60 days for non-factfinding cases

Suggested factfinding optimal time is 150 days

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TIMELINESS MEASURE 4E

TIMELINESS OF DISPOSITION HEARING

“DEFINITION: Percentage of cases in which the disposition hearing occurred within 10, 30, or 60 days after adjudication. EXPLANATION: This measure shows the percentage of abuse and neglect cases for which disposition is held in a reasonable period of time following adjudication. “Disposition Hearing” refers to the hearing in which the court, following adjudication, decides who will have temporary legal custody of the child. The purpose of this measure is to help courts evaluate the timeliness of disposition hearings, which is especially important for children who have been placed in foster care before adjudication. Timeliness of disposition is a significant factor in the timeliness of permanency”

Relationship to Child and Family Services Review (CFSR) standards:

No CFSR standard relates to these measures.

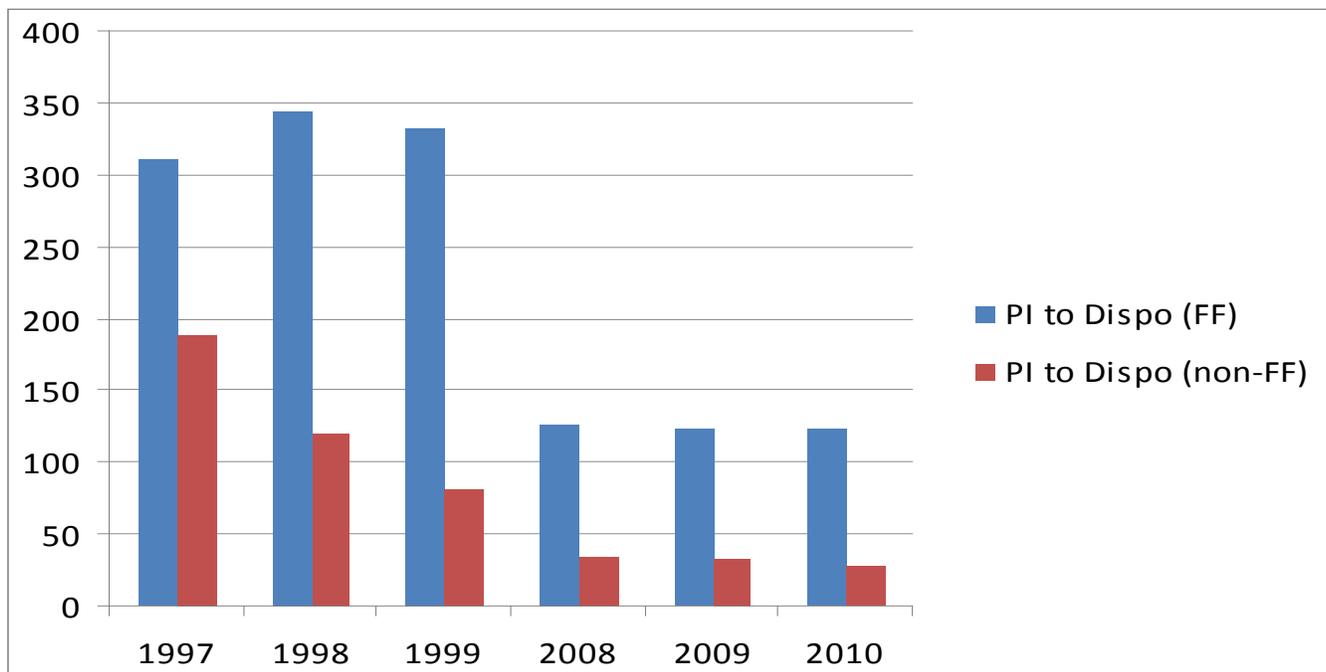
Chart 24: Percentage of cases adjudicated in specific time frames from the disposition hearing (non-fact-finding cases)

	1997	1998	1999	2008	2009	2010
10 days	11%	38%	59%	100%	99%	99%
30 Days	14%	38%	61%	100%	99%	100%
60 Days	20%	51%	68%	100%	100%	100%

Chart 25: Percentage of cases adjudicated in specific time frames from the disposition hearing in cases referred for fact-finding.

	1997	1998	1999	2008	2009	2010
10 days	30%	33%	52%	85%	72%	63%
30 Days	40%	33%	60%	90%	87%	84%
60 Days	60%	54%	67%	97%	97%	95%

Chart 26: Number of days from Preliminary Inquiry to Disposition



Commentary on Collected Data:

1. The dataset is for cases closed in each year and is not Current Practice. However, the benefits from the Court Improvement Project are well represented in the above statistical summaries.
2. Indiana Code 31-34-19-1 requires that Disposition be concluded not more than thirty (30) days after adjudication.
3. Exclusive of Fact-finding cases, in 2010 over 99% of the cases had a completed Disposition Hearing in less than thirty (30) days from the date of adjudication compared with approximately 25% in 1997. Because of the Court Improvement Project facilitation (mediation) process most Dispositions were concluded on the same day as the adjudication.
4. For cases in which Fact-findings were conducted a similar improvement was realized. In 1997 sixty (60%) percent of the cases did not have a dispositional decree entered within thirty (30) days of adjudication. In 2010 Eighty-four per cent (84%) of the cases had Dispositions entered within thirty (30) days after adjudication.
5. In Allen County, facilitation on the Parent Participation Plan and other issues related to Disposition is required in all cases, even those in which adjudication results from a contested Factfinding. The statistics clearly demonstrate that the benefits of facilitation (mediation) can be achieved without causing any delay in concluding the Disposition.

**Court Improvement
Project Benefit**

TIMELINESS MEASURE 4F

TIMELINESS OF CASE REVIEW HEARINGS

“DEFINITION: Percentage of cases in which the court holds hearings to review case plans within the time limits set by law. EXPLANATION: This measure shows how consistently courts conduct hearings to review case plans within time limits set by State and Federal law.”

Relationship to Child and Family Services Review (CFSR) standards:

The *Technical Guide* does not reference any CFSR standard related to this measurement. Federal Law requires that reviews occur at least once every six (6) months [42 U.S.C. Section 675(5)(B)]. Indiana Code 31-34-21-2 requires a periodic review within six (6) months of the child’s removal from the parent, guardian, or custodian; or from the Dispositional Decree; whichever comes first.

Chart 27: Percent of cases in which the court holds hearings to review case plans within the time limits set by law (6 months) CURRENT PRACTICE

2008	2009	2010
100%	93%	99%

Commentary on collected data:

- 1. Periodic reviews must be held within six (6) months:** Indiana Code 31-34-21-2(a) provides that “the case of each child in need of services under the supervision of the department must be reviewed at least once every six (6) months, or more often, if ordered by the court.” The first periodic case review “must be held within six months of the child’s removal from the parent, guardian, or custodian; or at least six (6) months after the date of the dispositional decree whichever comes first.”
- 2. The time period measured is from the Preliminary Inquiry to the date of the first review hearing in each case.** The explanation for the use of the Preliminary Inquiry date discussed in other Measurement sections of this report are applicable to this Measurement as well.
- 3.** Pursuant to the Technical Guide the date of the Periodic Review Hearing is the date the hearing is completed.
“The timeliness of the review hearing is important because not until the completion of that hearing does the court announce its orders adjusting the case plan and requiring parties to move the case forward by providing services for the child. This is important to placing the child permanently. Therefore we recommend that the deadline for this measure be based on the date the hearing is completed.”³⁹
- 4.** Current Practice dataset includes those cases that were opened in the years 2008, 2009, and 2010.
- 5.** Allen County’s compliance rate has been significantly improved through the Court Improvement Project.
- 6.** Through the Quest case management system, the specific cases that are outside compliance can be identified and analyzed.

Court Improvement
Project Benefit

Lessons learned and proposals:

- 1.** For establishing a baseline, a court may want to use current case dataset rather than the closed case dataset.

³⁹ Technical Guide, supra footnote 7, page 195.

TIMELINESS MEASURE 4G

TIME TO FIRST PERMANENCY HEARING

“DEFINITION: Average (median) time from filing of the original petition to the first permanency hearing
EXPLANATION: This measure shows how long it takes to complete the first permanency hearing. Under this measure, the time begins to run with the filing of the original petition and ends on the day the first permanency hearing is completed. The purpose of this measure is to comply with minimum times set by Federal and State laws by which States must complete permanency hearings.”

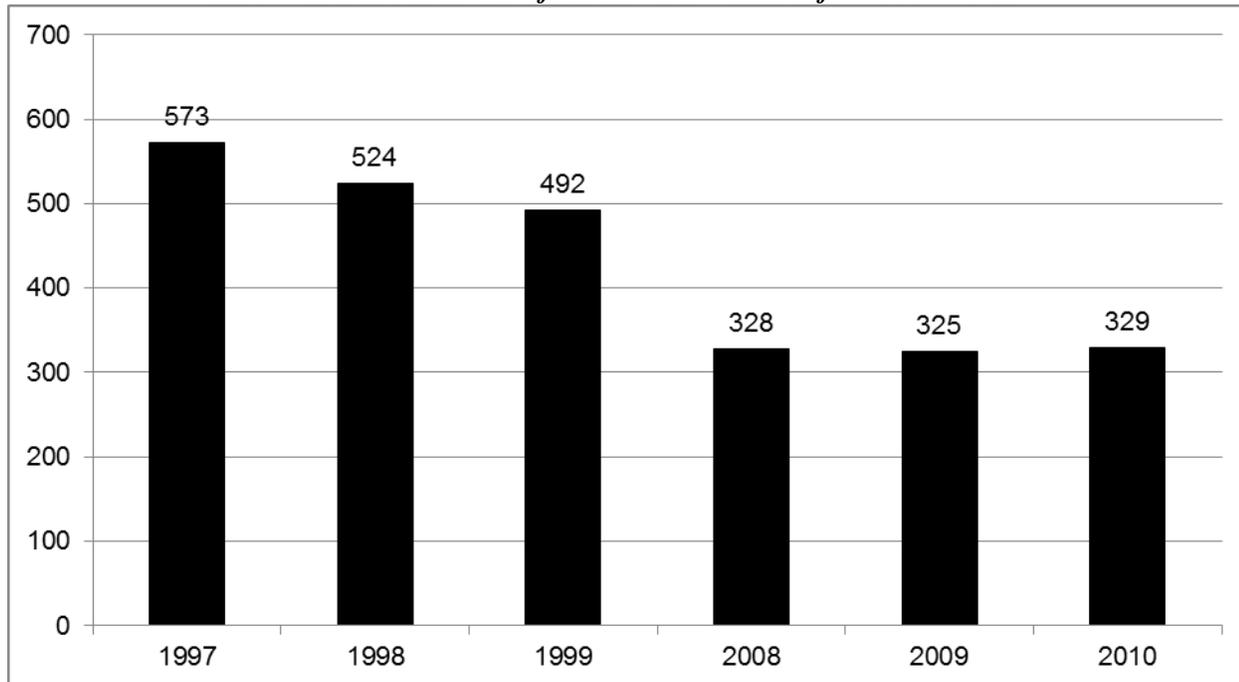
Relationship to Child and Family Services Review (CFSR) standards:

The *Technical Guide* does not specifically reference any specific CFSR standard related to this measurement. However, at page 201 it states that state compliance is tested through “Child and Family Services Reviews (CFSRs) and indirectly in Title IV-E reviews. Although Title IV-E eligibility reviews technically determine whether judicial findings of reasonable efforts to achieve permanency are timely, the time limits for permanency hearings, and those determinations are commonly made during permanency hearings. If noncompliance is found in either of these reviews, it can have potentially negative financial consequences.”⁴⁰

With some exceptions⁴¹, Indiana Code 31-34-21-7 requires a Permanency Hearing within twelve (12) months of the child’s removal from the parent, guardian, or custodian; or from the Dispositional Decree; whichever comes first.

Chart 28: Median number of days from Preliminary Inquiry to first permanency hearing

Note: This chart does not reflect Current Practices for 2008 – 2010.



⁴⁰ Technical Guide, supra footnote 7, page 201.

⁴¹ I.C. 31-34-21-7(a) The court shall hold a permanency hearing: (1) not more than thirty (30) days after a court finds that reasonable efforts to reunify or preserve a child’s family are not required as described in section 5.6 [IC 31-34-21-5.6] of this chapter; (2) every twelve (12) months after: (A) the date of the original dispositional decree; or (B) a child in need of services was removed from the child’s parent, guardian, or custodian; whichever comes first; or (3) more often if ordered by the juvenile court.

Chart 29 Cases in compliance with federal time standards for first permanency hearing
 [The 2008 -2010 data is Current Practice]

	1997	1998	1999	2008	2009	2010
12 months				100%	100%	100%
18 months	44%	57%	60%			

Commentary on collected data:

1. **Permanency hearing must be held within 12 months after the Dispositional Decree date:**
 Indiana Code 31-34-21-7 requires that, “The court shall hold a permanency hearing every twelve (12) months after the date of the original dispositional decree; or a child in need of services was removed from the child's parent, guardian, or custodian whichever comes first.”
2. The legislature first required a permanency hearing within 12 months beginning on July 1, 1998. Thus 1997-1999 cannot be used as a comparative base line. However, twelve month reviews were required. To the extent that the court at that time was not conducting 12 month periodic reviews in a timely fashion can be used to measure the impact of current court reform.
3. The 2008 – 2010 dataset reported in the above chart is a Current Practice dataset. It reports cases opened in 2008, 2009, and 2010 and does not include cases from prior years that were closed in 2008 – 2010. Thus, only those cases impacted by court reform measures are reflected.
4. In 2010, the median number of days to the first permanency hearing is 329 days.
5. In 2008-2010, 100% of the cases met the one year statutory time frame.

**Court Improvement
 Project Benefit**

Lessons learned and proposals:

1. For establishing a baseline, a court may want to use a current case dataset rather than the closed case dataset.
2. Because of the federal and state importance of this statistic, any cases reflecting non-compliance should be carefully reviewed and evaluated for explanation and the prompt initiation of corrective measures.

TIMELINESS MEASURE 4H

TIME TO TERMINATION OF PARENTAL RIGHTS PETITION

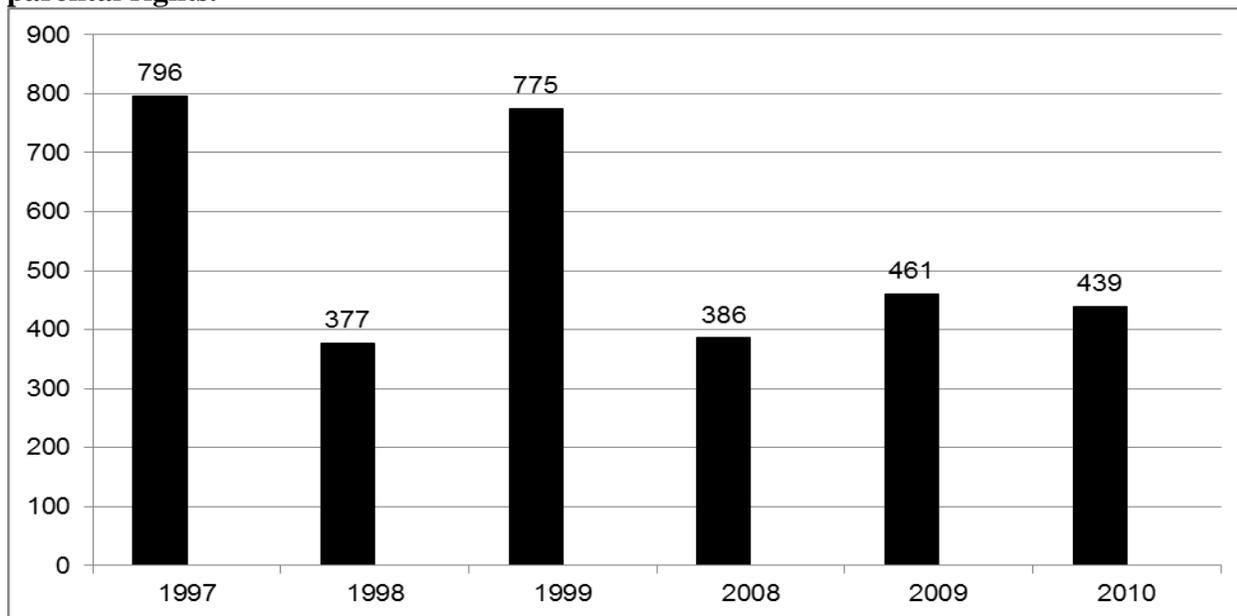
“DEFINITION: Average (median) time from filing of the original petition to filing the petition for termination of parental rights (TPR) EXPLANATION: This measure shows how long it takes from the date the original child abuse or neglect petition is filed to the date the termination of parental rights petition is filed. TPR means that a parent is permanently deprived of all rights to a child, including custody, visitation, or participation in decision making for the child.”

Relationship to Child and Family Service Review (CFSR) standards:

Federal Child and Family Services Review (CFSR) Permanency Composite 2 “Timeliness of Adoption”, includes three components: (A) timeliness of adoptions of children discharged from foster care, (B) progress toward adoption of children who meet Adoption and Safe families Act (ASFA) time-in-care requirements, and (C) progress toward adoption of children who are legally free for adoption.

For a more thorough discussion see the Technical Guide page 214-125.

Chart 30: Median number of days from Preliminary Inquiry to filing petition for termination of parental rights.



Commentary on collected data:

1. The dataset used in this measurement are those cases closed in each reporting year. The data does not necessarily reflect Current Practices.
2. **The date of the Permanency Hearing determines when a petition to terminate parental rights may be filed.** The court authorizes the Department to file a petition to terminate parental rights at the permanency hearing.
3. The median number of days in 2008, 2009 and 2010 were significantly lower than those reflected in the baseline years of 1997-1999.

4. **The Mandatory Petitions to Terminate Parental Rights that include automatic self dismissal provisions are included in this data.** This data includes the mandatory petitions to terminate parental rights. Indiana Code 31-35-2-4 and Indiana Code 31-35-2-4.5 provide that the Department shall file a petition to terminate parental rights if the child has been removed from the parent's care for fifteen (15) of the most recent (22) months. The petition may include a provision for its automatic dismissal for compelling reasons. These petitions are outside the intent of this Measurement in that they are not part of a case plan and a permanency order.

Lessons learned and proposals:

1. It is not always in the child's best interests to seek termination of parental rights at the first permanency hearing. Drug addictions, mental illness and other chronic conditions often require longer periods of time to correct. Arbitrary and bureaucratic dates should never override a child's best interests and the preservation of the family. Curiously, the federal bureaucratic approach seems to be at odds with this premise. The Technical Guide at page 210 states,

“Courts have the power and responsibility to cause TPR petitions to be filed. By setting a goal of adoption during a permanency hearing, the court requires the State to file a petition for TPR. Further more, by determining that reasonable efforts are not required, a court may set in motion a permanency hearing, in which the court may cause the State to file a TPR petition.”

The *Technical Guide* recognizes, however, that the Department may have a case plan that demonstrates compelling reasons why the filing of the petition to terminate parental rights would not be in the child's best interests.

All of this suggests that contrary to the *Technical Guide*, local discretion, acting on the evidence and the child's best interests should govern the permanency plan for a child.

2. **Care should be given in drawing broad conclusions from the data:** From Measurement 4G we know that the time from the original petition to permanency in Allen County is an average of 329 days. If we assume that the permanency plan in each case is for the termination of parental rights, then it may be fair to conclude that it took, on average, 110 days for the Department to file its petition. However, a close and judicious analysis reflects that (1) the average number of days from CHINS petition to TPR petition is significantly more than one year suggesting that the first permanency *plan* is not usually TPR. Thus a conclusion that the Department has not been diligent in its practice would be unfair.
3. **A separate measurement is recommended to ensure the timely filing of petitions.** The discussion in paragraph (2) above raises a concern within the general scope of measuring court performance. The time period between petition authorization and the filing of the petition is not totally within the court's ability to control. We recommend that a measurement be added that would reflect the time between the date the permanency plan provided for Termination of Parental Rights and the date the Department filed its petition.
4. **Recommendations for enhancing the information to be drawn from this Measurement:**
 - a. Markers for Permanency Hearings (as opposed to Review Hearings) should be specific in the case management system.

- b. Upon granting a plan for Termination of Parental Rights, the Court should immediately set a case conference date to ensure that the petition is timely filed. This case management date can also serve as a marker for recording dates in the case management system.
- c. The mandatory petitions to terminate parental rights should be excluded from this Measurement (see comments above). To eliminate these petitions, it is recommended that at the time the permanency plan for the filing of a petition for the Termination of Parental Rights is granted, the underlying CHINS order should include a calendar setting for the status of the filing of the petition for Termination of Parental Rights authorized by the Court. The Termination of Parental Rights petition should reference the CHINS case number so that the court's electronic case management system can correlate, for data purposes only, both cases. Through this practice, the Court can ensure the timely filing of the petitions for Termination of Parental Rights and the case management system can exclusively track the Termination of Parental Rights cases that require court intervention.

TIMELINESS MEASURE 4I

TIME TO TERMINATION OF PARENTAL RIGHTS

“DEFINITION: Average (median) time from filing of the child abuse and neglect petition to the termination of the parental rights. EXPLANATION: This measure shows how long it takes from the date the original child abuse or neglect petition is filed to the date the termination of parental rights proceedings is completed.”

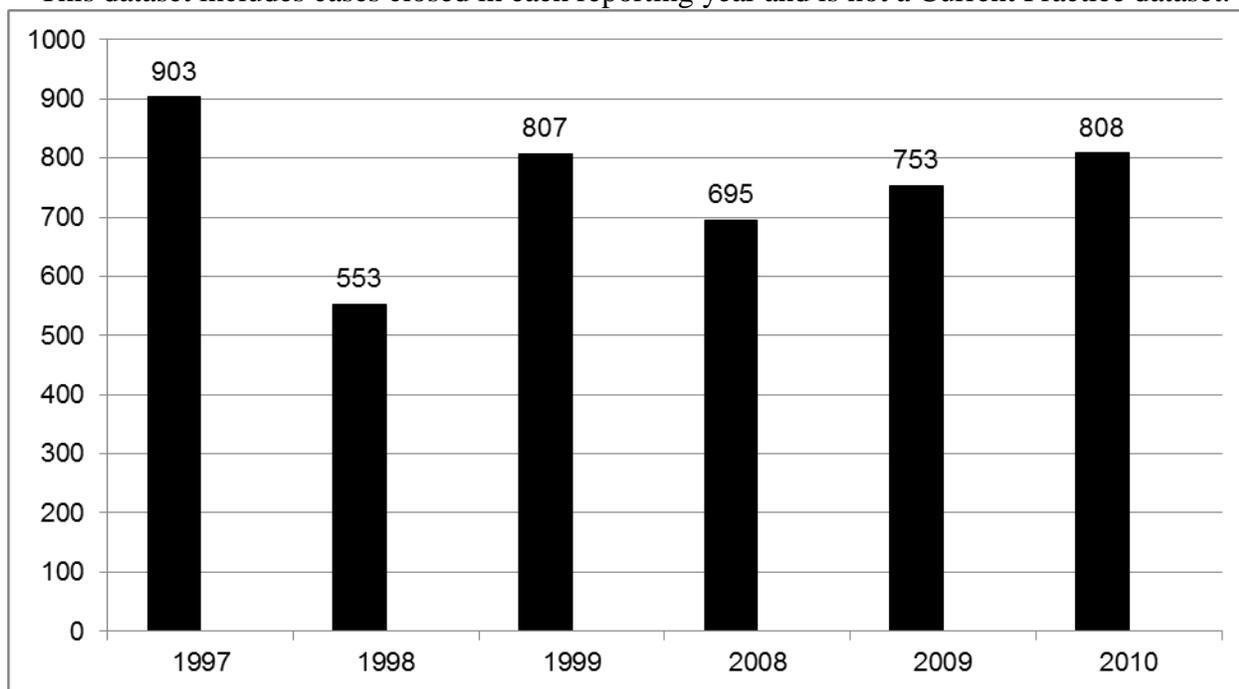
Relationship to Child and Family Services Review (CFSR) standards:

Federal Child and Family Services Review (CFSR) Permanency Composite 2 “Timeliness of Adoption”, includes three components: (A) timeliness of adoptions of children discharged from foster care, (B) progress toward adoption of children who meet Adoption and Safe families Act (ASFA) time-in-care requirements, and (C) progress toward adoption of children who are legally free for adoption.

For a more thorough discussion see the Technical Guide page 214-125. For the Composite National Standard see the chart on page 226 of the Technical Guide.

Chart 31: Median number of days from preliminary inquiry to termination of parental rights.

This dataset includes cases closed in each reporting year and is not a Current Practice dataset.



Commentary on collected data:

1. **Statutory and Trial Rule timelines:** Indiana Code 31-35-2-6 provides the court shall: “commence a hearing on the petition not more than ninety (90) days after a petition is filed under this chapter; and complete a hearing on the petition not more than one hundred eighty (180) days after a petition is filed under this chapter.” If a case is taken under advisement, Indiana Trial Rule 53.2 grants a judge ninety (90) days in which to rule.
2. The maximum time line may be calculated as follows:
 - a. If the authorization to file a petition to terminate parental rights is granted at the first permanency hearing (not more that 365 days from filing of the petition in the underlying CHINS case);

- b. If the petition is immediately filed by the department, then the fact-finding on the petition must be completed within 180 days; and
 - c. If the Court does not rule for 90 days;
 - d. Then the order on a termination should take no more than 635 days to conclude.
3. **The above estimate of maximum days makes several assumptions that are not realistic.** As discussed in the commentary to Measurement 4H, the first Permanency Plan is generally not termination of parental rights. Secondly, the Court, at present has no control over the time it takes for the Department to file the petition.
4. The court's case management system should be developed to track and record the reasons for TPR delays.
5. Therefore, the more instructive measurement for court performance is Measurement 4J.

Lessons learned and proposals:

1. SEE THE COMMENTS IN MEASUREMENT 4J

TIMELINESS MEASURE 4J

TIMELINESS OF TERMINATION OF PARENTAL RIGHTS HEARINGS

“DEFINITION: Percentage of cases for which there is a final order within 90, 120, and 180 days of the filing of the termination of parental rights (TPR) petition. EXPLANATION: This measure shows how long it takes from the date the termination proceedings have formally begun to the date TPR is finalized.”

Relationship to Child and Family Services Review (CFSR) standards:

Federal Child and Family Services Review (CFSR) Permanency Composite 2 “Timeliness of Adoption”, includes three components: (A) timeliness of adoptions of children discharged from foster care, (B) progress toward adoption of children who meet Adoption and Safe families Act (ASFA) time-in-care requirements, and (C) progress toward adoption of children who are legally free for adoption.

For a more thorough discussion see the Technical Guide page 214-125. For the Composite National Standard see the charts on pages 226 AND 235 of the Technical Guide.

Table 32: Time from filing of Termination of Parental Rights petition to final order

This table reflects cases closed in each reporting year and is not necessarily indicative of current practice.

	1997	1998	1999	2008	2009	2010
Number of cases	4	14	34	21	23	51
Median number of days	10	16	0	244	276	316
180-270 days	100%	100%	94%	62%	43%	31%
271 or more days	0%	0%	6%	38%	57%	69%

Commentary on collected data:

1. **DATA SET IN TABLE (32) ARE CASES CLOSED IN EACH REPORTING YEAR;**

Please note that cases opened before reform measures were instituted may be included in the statistics for the post reform years.

2. **Statutory Time and Trial Rule Time Limitations:** The maximum allowable time in which a termination case must be completed in Indiana is two Hundred Seventy (270) days from the date the petition is filed, calculated as follows:

Time
allotted is
270 days

- a. A Court must commence a hearing within ninety (90) days and complete the hearing within one hundred eighty (180) days. I.C. 31-34-2-6⁴².
- b. If a case is taken under advisement, Indiana Trial Rule 53.2 grants a judge ninety (90) days in which to rule.

3. Since a Court has a maximum of two hundred seventy (270) days in which to complete the hearing and enter an order, the average number of cases that were closed within and outside 270 days was charted rather than the specified intervals of 90, 120 and 180 days.

4. The practice in the earlier years was for the Department to file its petition just prior to the factfinding. Thus the number of days between filing and order was artificially shorter.

5. The dataset includes cases resolved by Fact-findings and voluntary terminations but excludes:

- a. **Only Department of Child Services cases are included in the datasets:** This Measurement only includes those cases brought by the Department as a result of a

⁴² Indiana Code 31-34-2-6 provides the court shall: “commence a hearing on the petition not more than ninety (90) days after a petition is filed under this chapter; and complete a hearing on the petition not more than one hundred eighty (180) days after a petition is filed under this chapter.”

Permanency Plan in an underlying Child in Need of Services case. Cases filed by private child placement agencies are not included.

- b. ***Petitions with automatic dismissal provision are excluded:*** Those cases that were dismissed by the Department through operation of the internal provisions of its petition or by its separate motion (see Ind. Code 31-35-2-4.5).

INDIVIDUAL CASE REVIEW WAS COMPLETED ON THIS MEASUREMENT

Because of the importance of this measurement and in order to address present court performance a dataset reflecting Current Practice was completed. The *Current Practice* dataset includes the cases opened in 2008, 2009, and 2010.

Table 33: Time of filing termination of parental rights petition to final order.

The following table reflects the number of termination cases in 2008, 2009, and 2010 for which an order was entered (a) within 270 days of the filing of the petition; and (b) the number of cases for which the order was entered more than 270 days from the filing of the petition.

Number of days from the filing of a petition to terminate parental rights to the order.	Number of cases filed in 2008 (88 total cases)	Number of cases filed in 2009 (199 total cases)	Number of case filed in 2010 (218 total cases)
270 days or less	33 cases (37.5%)	136 cases (68%)	128 cases (59%)
271 days or more	55 cases (62.5%)	63 cases (32%)	90 cases (41%)

Commentary on collected data:

1. ***CURRENT PRACTICE DATA SET EXPLANATION:*** Cases included in the *Current Practice* dataset are those cases open in the years 2008, 2009, and 2010. Thus, unlike the dataset used for table 17, the *Current Practice* dataset does not include cases opened in the years prior to 2008.
2. ***CASES REVIEWED:*** The number of cases reviewed and counted only includes:
 - a. Termination of Parental Rights cases filed by the Department; and
 - b. Those cases that were *not* automatically dismissed by the terms of the petition under Ind. Code 31-35-2-4.5. Therefore dismissed cases that required some court action are included
3. ***CASE NUMBERING SYSTEMS COMPLICATE DATASETS FOR EACH REPORTING YEARS.*** The case numbering system in place during 2008, 2009, 2010 differed.
4. Through the Quest case management system the court can identify the specific cases that are out of compliance.

Of the cases in 2008- 2010 that were not completed within 270 days only 7% were for reasons exclusively chargeable to Court performance.

Only seven per cent (7%) of the delays in all of the TPR cases in 2008, 2009, and 2010 can be attributed exclusively to the court. From an individual file review multiple reasons have been found for delays. Most are outside the court’s control. They are detailed below.

5. Although the Court is only exclusively accountable for delays in a small percentage of cases (see below), the total number of cases experiencing delays is statistically significant. Therefore, a detailed file examination was completed to ascertain causes and to determine possible system-wide reforms.

MEASURE 4J(a)
**REPORT OF INDIVIDUAL FILE REVIEW OF TERMINATION CASES
OPENED IN 2008, 2009, AND 2010 IN THE ALLEN SUPERIOR COURT**

Measurement 4J(a)(i): Analysis of the 2008 cases revealed the following:

Fifty-five (55) of the Eighty-eight (88) cases filed and requiring some court action in 2008 were *not* completed within 270 days from the date of filing of the petition. From a review of each file, the causes for delay are grouped in the following categories:

Delays Due to need for additional evidence:

- In fifteen (15) cases the parties, at the time of the pretrial conference, under-estimated the trial time needed to complete the Factfinding. In some cases two or more re-settings for a half day or more trial time was required. The resulting continuances extended the hearing completion date beyond 180 days from the filing of the petition.

Delays due to the granting of continuances for good cause:

- One (1) case was delayed for the completion of DNA parentage testing to exclude an alleged father.
- One (1) case was delayed until after the parent's release from prison pursuant to *Rowlett v. Vanderburgh County Office of Family and Children*, 841 NE2d 615 (Ind. Ct. App. 2006), (transfer denied, 855 NE2d 1006 (Ind. 2006)).

Delay due to continuances with agreement by Department of Child Services:

- Thirty-four (34) cases were delayed by request or agreement of the Department to secure the parents' consent to the termination of their parental rights or to secure an alternate permanency plan such as an open adoption, reunification, or a family custody modification.
- One (1) case was referred for mediation.

Delay due to insufficient service of process:

- One (1) case was delayed due to insufficient service of process.

Delay exclusively chargeable to Court action:

- Two (2) cases were delayed by cancelation of hearings by a senior judge not frequently involved in abuse and neglect cases.

Measurement 4J(a)(ii): Analysis of the 2009 cases revealed the following:

Sixty-three (63) of the one hundred ninety-nine (199) cases were not completed within 270 days from the date of the filing of the TPR petition. From a review of each file, the causes for delay could be grouped into the following categories:

Delays Due to need for additional evidence:

- In seventeen (17) cases the parties, at the time of the pretrial conference, under-estimated the trial time needed to complete the Factfinding. In some cases two or more re-settings for a half day or more trial time was required. The resulting continuances extended the hearing completion date beyond 180 days from the filing of the petition.

Delays due to the granting of continuances for good cause:

- One (1) case was reset under provisions of the Soldiers and Sailors Act.

Continued, with Department agreement, to arrange alternate permanency plan or adoption

- Thirty-three (33) cases were delayed by request or agreement of the Department to secure the parents' consent to the termination of their parental rights or to secure an alternate permanency plan such as an open adoption, reunification, or a family custody modification.

Delay due to insufficient service of process:

- Two (2) cases were primarily delayed due to insufficient service of process.
- [Note: Three cases were delayed due to problems associated with service of process and the need for additional hearing time. These three cases are counted as delays due to the need for additional evidence (see above).]

Delay exclusively chargeable to Court action:

- Ten (10) cases – involving the same sibling group – were delayed because at the conclusion of the final hearing date one (1) hour of additional evidence was required. The Court set the additional one hour hearing outside the 180 days by 22 days.

Measurement 4J(a)(iii): Analysis of the 2010 cases revealed the following:

Ninety (90) of the two hundred eighteen (218) cases were not completed within 270 days from date of filing of the petition. From a review of each file, the causes for delay could be grouped into the following categories:

Delays due to need for additional evidence:

- In thirty-one (31) cases the parties, at the time of the pretrial conference, under-estimated the trial time needed to complete the Factfinding. In some cases two or more re-settings for a half day or more trial time was required. The resulting continuances extended the hearing completion date beyond 180 days from the filing of the petition.

Delays due to the granting of continuances for good cause:

- In addition to needing more trial time than originally projected two (2) cases were delayed by a continuance due to the substitution of new counsel. (Because the cases were also continued for additional evidence they were counted in the section above.)
- Six (6) cases representing one sibling group were continued once (over the Department's objection) to provide the opportunity for paternity to be established. The cases were again continued with the Department's consent in order to complete and interstate compact report. The cases were later dismissed on the Department's motion.

Continued, with Department agreement, to arrange alternate permanency plan or adoption

- Forty-five (45) cases were delayed by request or agreement of the Department to secure the parents' consent to the termination of their parental rights or to secure an alternate permanency plan such as an open adoption, reunification, or a family custody modification.
- Six (6) cases (still ending) representing one sibling group have been reset by the Department to resolve a dispute regarding the Permanency Plan.

Delay due to insufficient service of process:

- In 2010 no cases were delayed in any significant fashion due to service of process issues.

Delay exclusively chargeable to Court action:

- In two (2) cases (representing the same sibling group) the court, at the pretrial conference, scheduled the factfinding on a date four (4) days past the statutory completion time of 180 days.

MEASUREMENT 4J (a) SUMMARY

TABLE 34: This table compares the reasons for noncompliance for the years 2008, 2009 and 2010. The separate reasons are then calculated as a percentage.

REASON FOR DELAY	2008	2009	2010	TOTAL
Trial time underestimated at Pretrial. Additional time required.	15 of 55	17 of 63	31 of 90	63 of 208 30%
Factfinding continued for good cause.	2 of 55	1 of 63	6 of 90	9 of 208 4.3%
Continued by agreement of Department to provide alternative to Involuntary TPR or other reason	35 of 55	33 of 63	51 of 90	119 of 208 57.2%
Delay due to issues with service of process	1 of 25	2 of 63	0	3 of 208 1.4%
Delay due to Court issues	2 of 25	10 of 63	2 of 90	14 of 208 7%

Summary of Data on Current Practices

1. Of the 208 cases not concluded within 270 days over the years 2008, 2009, and 2010, one hundred ninety-four (194) or over 92% were for reasons not specifically attributed to the Court.
2. All but one case required more than 180 days to complete the presentation of evidence. Of that number the delay was compounded by the untimely issuance of an order in 14.6 %.
3. Of *ALL* TPR cases in 2008, 2009, and 2010 delays attributed exclusively to the court represented only seven (7%) per cent.
4. For recommendations on additional data collection see pages 56-57.

MEASURE 4J(b) ADDITIONAL COURT PERFORMANCE MEASUREMENT

Need for additional measurement: Measurement 4J does not measure whether the court commences a case within 90 days of the filing of the petition as is required by Indiana. Indiana Code 31-35-2-6 provides that the court shall commence a hearing on the petition not more than ninety (90) days after a petition is filed under this chapter; and complete a hearing on the petition not more than one hundred eighty (180) days after a petition is filed under this chapter. Clearly this provision is designed to ensure the case is not left to the last hour to complete. Thus, an evaluation of the Court's performance should include whether this provision of the statute was met.

The date or event that commences a TPR hearing is not defined by statute: There is a broad consensus that a case management conference, a pretrial conference, or an initial hearing on the petition to terminate parental rights all may be considered as appropriate events by which the ninety (90) day statutory timeline can be met. The statistical summaries below reflect cases that were commenced by any of those means.

TABLE 35: REFLECTS 2008 CASES: From the 55 cases in 2008 that were not timely concluded Table (A) reflects the number of cases that (a) were commenced within 90 days of filing; (b) originally scheduled to be completed within the 180 days required by law; and (c) the cases on which the court ruled within 90 days from the final hearing pursuant to the Trial Rules

Number of cases compared to total that were commenced within 90 days of filing of the petition.	Number of cases compared to total that were originally scheduled to be completed within 180 days of filing	Number of cases compared to total that were ruled on by the Court within 90 days of final submission	Number of cases compared to total that were NOT ruled on by the Court within 90 days of final submission
55 of 55	53 of 55 One delay was due to mediation referral.	46 of 55	9 of 55 ⁴³ Average delay: 113.25 days.

Chart 36: REFLECTS 2009 CASES: From the 33 cases in 2009 that were not timely concluded Table (B) reflects the number of cases that (a) were commenced within 90 days of filing; (b) originally scheduled to be completed within the 180 days required by law; and (c) the cases on which the court ruled within 90 days from the final hearing pursuant to the Trial Rules

Number of cases compared to the total that were commenced within 90 days of filing of the petition.	Number of cases compared to the total that were originally scheduled to be completed within 180 days of filing	Number of cases compared to the total that were ruled on by the Court within 90 days of final submission	Number of cases compared to the total that were NOT ruled on by the Court within 90 days of final submission
63 of 63	62 of 63	62 of 63	1 of 63 The order was issued 14 days past the limit.

⁴³ Four cases represented two separate sibling groups. The order in one was not issued for 34 days and, in the other, 63 days past the limit under the trial rules. For another sibling group, consisting of four cases, the order was not issued until 73 days past the limit. The final case was a voluntary TPR. The order was announced in open court but issued in writing for 283 days past the rule.

Chart 37. REFLECTS 2010 CASES: From the 38 cases in 2010 that were not timely concluded Table (C) reflects the number of cases that (a) were commenced within 90 days of filing; (b) originally scheduled to be completed within the 180 days required by law; and (c) the cases on which the court ruled within 90 days from the final hearing pursuant to the Trial Rules.

Number of cases compared to the total that were commenced within 90 days of filing of the petition.	Number of cases compared to the total that were originally scheduled to be completed within 180 days of filing	Number of cases compared to the total that were ruled on by the Court within 90 days of final submission	Number of cases compared to the total that were NOT ruled on by the Court within 90 days of final submission
84 of 90 Six (6) cases (one sibling group) have not been set due to Department review of the permanency plan in the CHINS case.	77 of 90 Six (6) cases (one sibling group) have not been set due to Department review of the permanency plan in the CHINS case. Six (6) cases were dismissed before the factfinding could be set.	84 of 90	6 of 90 Average delay: 13.5 days Two cases representing one sibling group received an order 22 days past the limits of the trial rules. Four cases representing one sibling group received an order 5 days past the limit.

Commentary on data:

1. With the exception of 2010 in which six (6) cases representing one sibling group and therefore one trial setting, Allen County commenced the termination of parental right cases within 90 days in 100% of the other cases.
2. A substantial number of cases 96% in 2008, 98% in 2009, and 85% in 2010) were scheduled within the statutory time frames.

Lessons learned and proposals:

1. Measurement 4J should be amended to include the periods of 180 – 270 days and 271 days or more.
2. **The Termination of Parental Rights petition should reference the CHINS case number so that the court’s electronic case management system can correlate, for data purposes only, both cases.** Through this practice, the Court can ensure the timely filing of the petitions for Termination of Parental Rights and the case management system can exclusively track the Termination of Parental Rights cases.
3. Training is needed for legal counsel to ensure that the proper estimate of trial time is given to the court and that the evidence is efficiently and timely presented.
4. **Scheduling practices should be corrected** to provide that;
 - a. **Set Termination of Parental Rights Factfindings at the Permanency Hearing in the underlying CHINS case.** Fact-finding dates for termination of parental rights should be reserved at the time the Permanency Plan for the termination of parental rights is granted.
 - b. **Set Case Management Conference and Initial Hearing on the Termination of Parental Rights petition at the Permanency Hearing.** By current practice the initial hearing on the petition is held the same day as the Factfinding.

- c. **The Termination of Parental Rights Case Management Conference should be set within 60 days of the Permanency Hearing in the underlying CHINS case and the TPR Initial Hearing should be set within 90 days.** If a case management conference is scheduled within the first 60 days some procedural problems, including service of process issues, can be corrected without delaying the Factfinding. This case management date can also serve as a marker for recording the Court’s first activity in a Termination of Parental Rights case for data purposes.
5. **Changes in Permanency Plans must be reflected in the CHINS case.** Rather than simply continuing a Termination of Parental Rights hearing to provide time for an alternative plan, the Permanency Plan in the underlying CHINS case should also be amended. At the permanency plan modification hearing, consideration should be given as to whether the pending Termination of Parental Rights petition should be dismissed.
6. **Reasons for any continuance of a Termination of Parental Rights Factfinding headings should be clearly recited in an order.** Alternative reasons can be included in the order as markers for the electronic case management system to track.
7. **If continued, a new Factfinding date should be reset within the 180 days.** In every case, any delays should be limited in time and a new Factfinding date should be secured within the required 180 days.
8. **The Case Management System should be programmed to send notices to the hearing officer at 30 and 60 days from the submission date as a reminder that a ruling is required.**

TIMELINESS MEASURE 4K

TIME FROM DISPOSITION HEARING TO TERMINATION OF PARENTAL RIGHTS PETITION

“DEFINITION: Percentage of cases in which the termination of parental rights (TPR) petition is filed within 3, 6, 12, and 18 months after the disposition hearing. EXPLANATION: This measure shows how long it takes from the date of disposition hearing to the date of the filing of the termination of parental rights petition. The purpose is to enable courts to determine how long it takes from the time the court has completed the disposition hearing to the time the TPR petition is filed. If delays are identified, the court can begin working to speed up this process and thereby improve the quality of litigation.”

Relationship to Child and Family Services Review (CFSR) standards:

No CFSR standards are referenced in this section of the Technical Guide. However, one can assume the same considerations as noted.

Chart 38: Percentage of cases within specific time frames from the disposition hearing to filing of termination of parental rights petition

	1997	1998	1999	2008	2009	2010
3 months	0%	7%	0%	7%	0%	0%
6 months	0%	14%	3%	7%	3%	3%
12 months	25%	79%	18%	59%	29%	31%
18 months	25%	86%	21%	89%	89%	88%

TIMELINESS MEASURE 4L

TIMELINESS OF ADOPTION PETITION

“DEFINITION: Percentage of cases in which the adoption petition is filed within 3, 6, and 12 months after the termination of parental rights (TPR). EXPLANATION: This measure shows how long it takes from the date of termination of parental rights to the date the adoption petition is filed. Termination of parental rights means that a parent is permanently deprived of all rights to a child, including custody, visitation, or participation in decision making for the child. The purpose of this measure is to enable courts to determine how long it takes from the time a child is legally freed for adoption until proceedings for adoption have formally begun. Adoption is the final step in securing a permanent and legally secure parent child relationship for a foster child who cannot safely be returned to his or her biological parents.”

Relationship to Child and Family Services Review (CFSR) standards:

Federal Child and Family Services Review (CFSR) Permanency Composite 2 “Timeliness of Adoption”, includes three components: (A) timeliness of adoptions of children discharged from foster care, (B) progress toward adoption of children who meet Adoption and Safe families Act (ASFA) time-in-care requirements, and (C) progress toward adoption of children who are legally free for adoption. For more thorough discussions see the Technical Guide pages 214-125 and 247-249 and 254 and 255. For the Composite National Standard see the charts on pages 226, 235, 248 and 255 of the Technical Guide.

Chart 39: Percentage of cases within specific time frames from termination of parental rights to filing of adoption petition.

	1997	1998	1999	2008	2009	2010
3 months	0%	0%	0%	10%	0%	8%
6 months	0%	0%	4%	31%	5%	17%
12 months	0%	10%	69%	38%	50%	72%

TIMELINESS MEASURE 4M

TIMELINESS OF ADOPTION PROCEEDINGS

“DEFINITION: Percentage of adoption cases finalized within 3, 6, and 12 months after the filing of the adoption petition. EXPLANATION: This measure shows how long it takes from the filing of an adoption petition for a child in foster care to the date the adoption becomes final. The purpose of this measure is to measure the amount of time between the filing of the adoption petition and the conclusion of adoption proceedings for children in foster care. Adoption is the ultimate legal step in achieving permanency for a foster child who cannot return home. It also is a culturally symbolically important step that represents the permanency of the new parent-child relationship.”

Relationship to Child and Family Services Review (CFSR) standards:

See Measure 4L above

Chart 40: Time from filing of adoption petition to finalizing of adoption.

	1997	1998	1999	2008	2009	2010
3 months and under	50%	73%	63%	69%	68%	62%
3-6 months	50%	0%	7%	3%	6%	12%
6-12 months	0%	27%	15%	21%	13%	23%
over 12 months	0%	0%	15%	7%	13%	4%