



Juvenile court judicial expertise and children's permanency outcomes



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ABSTRACT

Using a combination of survey and administrative data, the current study examines the relationship between juvenile dependency court judicial expertise and children's permanency outcomes. Specifically, based on several behaviorally-anchored questions about judicial expertise and decision-making from a survey of attorneys representing foster children, we examine the respective relationships between jurisdiction-level judicial expertise and the rates of (a) exit to different types of permanency and (b) transition between various dependency court milestones. Results suggest that judicial expertise is positively related to the rates of some dependency court transitions (e.g., entry to dispositional order approval, termination of parental rights to adoption finalization). However, because of a lack of significant associations with the rates of other transitions (e.g., dispositional order approval to reunification), judicial expertise is not found to be statistically significantly associated with the rate of exit to permanency. The findings are consistent with a growing body of evidence that suggests that the influence of juvenile-court-related factors may be limited to specific court milestones that, by themselves, do not account for a substantial proportion of the overall variability in the population-level rates of permanency exit.

1. Introduction

Juvenile dependency (a.k.a., child welfare) courts are responsible for ensuring timely permanence and safety, while at the same time safeguarding the due process rights of parents, children, and other parties with legal standing (Flango & Kauder, 2009). Over the last half century, the responsibility vested in the court has steadily increased in scope and become more formalized. This increase in purview was precipitated, in part, by concerns that state child welfare agencies were not achieving permanency in a timely manner, nor safeguarding the rights of parents and children. However, as scholars have argued, the increased involvement of the dependency court has itself served to delay children's exit to permanence (e.g., Rycus, Freundlich, Hughes, Keefer, & Oakes, 2006). That is, the formalized and deliberative nature of court proceedings, as well as delays borne of large dependency court caseloads and staff turnover (Hardin, 1996; U.S. Government Accounting Office, 1999), may have compounded the very problems that court oversight was meant to ameliorate.

In response to these concerns, juvenile dependency courts have implemented a variety of policy and program reforms, including improved legal representation for parents and children, automated

data and case-flow management systems, and alternative court models (Hardin, 2003; Worcel, Furrer, Green, Burrus, & Finigan, 2008). An increasingly important focus of reform has been efforts to address various aspects of dependency court judicial expertise (i.e., skill and knowledge). For example, among states participating in the federal Court Improvement Program,¹ state and local efforts to enhance the expertise of juvenile dependency court judges have increased more than any other type of dependency court reform between 1998 and 2005 (Ensign, 2007).

These efforts have been motivated, in part, by a recognition of the complex, specialized nature of dependency court cases. These cases are governed by a unique body of law and procedural rules, and involve families and children facing profound, yet disparate, challenges (Hardin, 2003). Thus, a consensus appears to be developing that, in order to effectively serve the children and families involved in the child welfare system, dependency court judges need specialized knowledge and skills (American Bar Association, 2010; Hardin, 2003). However, to date, there have been no studies (to our knowledge) that have measured dependency court judicial expertise, or examined the relationship between judicial expertise and children's permanency outcomes. Such an examination could, however, inform the efforts of juvenile court

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¹ The Court Improvement Project provides funds to help build state courts' capacities to achieve stable and permanent homes for children in foster care (Administration for Children and Families, 2016).

judges and administrators seeking to achieve more timely permanency for children and families served by dependency courts.

2. Current study

The goal of the current study is to examine the relationship between juvenile dependency court judicial expertise and the timeliness of children's permanency outcomes. Achieving timely permanence is a central tenant of federal child welfare policy and is the subject of several recommended dependency court performance measures (Flango, 2001; Flango & Kauder, 2009). The current study addresses this question by parsing children's pathways to permanence by several important dependency court milestones. In brief, exit to legal permanence typically requires children to transition through various dependency court stages. These include the approval of a dispositional order, in which a child's permanency plan goal is identified, and — for children who are adopted — the approval of a termination of parental rights order, which legally frees a child for adoption. Thus, the timeliness of exit to permanency is, by construction, a product of the timeliness of each of these respective milestones. Moreover, the findings of several recent studies have suggested that the influence of court-related factors like judicial expertise may vary across different types of milestones.

For example, Zinn and Cusick (2014) found that the proportion of overall variability in the rate of transition between entry and dispositional order attributable to the courtroom (i.e., judge) level was much larger than the proportions for other transitions. Also, Zinn and Peters (2015) found that the appointment of attorneys for children was associated with faster transitions from entry to dispositional order, and dispositional order to termination of parental rights, but was not associated with the rates of other transitions. Similarly, Orlebeke, Zhou, Skyles, and Zinn (2016) found that a training program for attorneys representing children in dependency cases increased the timeliness of children's exits to permanency, but that this effect was only statistically significant during the first 6 months after entry to care. Finally, Festinger and Pratt (2002) reported a significant reduction in the time between termination of parental rights orders and adoption finalizations for children participating in a one-case one-judge model (i.e., single judge presiding over all of a child's dependency court hearings), compared to children served by traditional court models. Although this study did not compare the impact of the one-case one-judge model across different court milestones, the findings are notable because they contradicted those of the previously cited studies which suggested that the influence of courts over this particular milestone was limited.

3. Methods

3.1. Sample

The study sample included children 16 years old or younger who (1) had an open juvenile dependency court case within one of the 24 Washington State juvenile court jurisdictions and (2) were in substitute care sometime between May 1, 2012 and March 31, 2015 ($N = 17,259$). These jurisdictions included King (Seattle), Pierce (Tacoma), Clark (Vancouver), Spokane, and a number of medium and small size counties.² Together, these jurisdictions constituted 89.5% of Washington's child population³ and 89.6% of the state's total dependency filings.⁴

² The juvenile courts in these jurisdictions varied with respect to the number of judges presiding over dependency cases and the proportion of individual judges' dockets that were comprised on dependency cases. Larger counties were more likely to contain stand-alone dependency courts comprised of multiple judges, whereas smaller counties were more likely to have fewer judges, with more heterogeneous caseloads, presiding over dependency cases.

³ As of 2010 (U.S. Census).

3.2. Data and measures

3.2.1. Dependent variables

Integrated event histories of children's dependency court milestones and permanency exits were constructed based on two data sources. First, records containing the beginning and ending dates of children's substitute care spells, and the type of children's permanency exits, were obtained from Chapin Hall's Foster Care Data Archive (FCDA; The Center for State Child Welfare Data, 2016). Second, these records were linked to records in Washington State's Superior Court Management Information System which contain the dates of two specific dependency court milestones: dispositional order (i.e., court order establishing a child's permanency plan goal and case plan) and termination of parental rights order (i.e., court order terminating the parental rights of a child's biological parents, which legally frees a child for adoption).⁵ The resulting records contain the dates of foster care entry, dispositional order approval, termination of parental rights order approval (if applicable), and foster care exit (if applicable), as well as a descriptor of the type of exit children experienced, which included reunification (i.e., return to home of parent), subsidized guardianship, adoption finalization (Fig. 1).

3.2.2. Judicial expertise

The data used to describe judicial expertise were obtained via a web-based survey of 104 attorneys participating in the *QIC-ChildRep* evaluation that was administered in May 2012.⁶ The *QIC-ChildRep* evaluation was a randomized-control study examining the impact of the *QIC-ChildRep* practice model on attorney activities and child outcomes in dependency cases.⁷ The measure of judicial expertise was developed using several survey items concerning the knowledge and decision making of juvenile court judges who presided over dependency court cases within each attorneys' jurisdiction. Attorneys were asked to indicate their level of agreement (*strongly disagree* [−2], *somewhat disagree* [−1], *neither agree or disagree* [0], *somewhat agree* [1], and *strongly agree* [2]) to the following three statements: Judges and judicial officers presiding over deprivation cases (1) make sound legal decisions, (2) have a clear understanding of child welfare law and practice, and (3) understand the service needs of children and families who appear before the court.⁸ It should be noted that, given the limited number, and general nature, of the items used to measure judicial expertise, this measure of expertise can serve only as an indicator of overall expertise, and cannot provide any information about the underlying nature of judicial expertise itself.

In order to obtain unbiased, efficient estimates of jurisdiction-level judicial expertise based on attorneys' responses on these survey items, a multilevel confirmatory factor analysis model was estimated (Muthén, 1991). As described in Appendix A, the sample used to estimate this model included attorneys from both states participating in the *QIC-ChildRep* evaluation – Washington State and Georgia – which we argue yields a more robust estimate of the true relationships among the factor items and the “true” score for judicial expertise. Based on the results of

⁴ Based on authors' analysis of dependency filings during calendar year 2010 (using data from Washington State's Superior Court Management Information System).

⁵ Dependency court records were successfully matched for 88.7% (17,259) of the FCDA placement records (19,458). Among the 19,458 placement records from FCDA, juvenile court records were obtained for

⁶ The response rate on the attorney survey was 92.9%.

⁷ *QIC-ChildRep* is the National Quality Improvement Center on Child Representation in the Child Welfare System at the University of Michigan Law School, www.ImproveQIC-ChildRep.org.

The objective of the *QIC-ChildRep* evaluation is to examine the impact of the *QIC-ChildRep* practice model on attorney activities and child outcomes in dependency cases. For a full description of the methodology and findings of the *QIC-ChildRep* Evaluation, including the impact of the *ChildRep* training on attorney behaviors, see Orlebeke et al. (2016).

⁸ Because the web-based survey did not allow respondents to skip survey questions, there was no missingness on the variables describing judicial expertise or service availability (see below).

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