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## Family Court Case Conferencing and Post-Dispositional Tracking: Tools for Achieving Justice for Parents in the Child Welfare System

**Cover Page Footnote**

Judge, Family Court of the State of New York

# **FAMILY COURT CASE CONFERENCING AND POST-DISPOSITIONAL TRACKING: TOOLS FOR ACHIEVING JUSTICE FOR PARENTS IN THE CHILD WELFARE SYSTEM**

*Sara P. Schechter\**

## **INTRODUCTION**

Parents who participated in the two-day Conference on Achieving Justice: Parents and the Child Welfare System, held at Fordham University School of Law in the spring of 2001, consistently voiced a litany of complaints about their experiences in Family Court. As panelists and members of working groups, parents who had been respondents in Family Court reported a number of problems in the course of having their cases reviewed: they did not understand what was going on during the court proceedings; their lawyers never talked to them or explained the nature of the proceedings; they were never given an opportunity to talk in court or tell their side of the "story"; they were never consulted with respect to the formulation of the service plans for their families; and they had to spend inordinate amounts of time waiting for their cases to be called into court and had to return to court many times after repeated adjournments. Few parents perceived the court process as having contributed to the reunification of their families. At best, the court was seen as a rubber stamp for the child welfare agencies and, at worst, as an independent obstacle and source of delay.

The Conference produced numerous recommendations from all the working groups that seek to address the issues listed above, along with other defects in the New York child welfare system. In particular, the Working Group on the Judiciary and the Courts made certain recommendations about the use of case conferencing and post-dispositional tracking of cases that merit further elaboration. Case conferencing and post-dispositional tracking have been successfully tested in an experimental project instituted in the Family Court in Manhattan (i.e., New York County) and are now being implemented in the other boroughs of New York City.

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\* Judge, Family Court of the State of New York.

## I. THE MODEL COURT

The pilot, officially called the “Special Expedited Permanency Part,” was commonly known as the Model Court because it was the first major innovation to the Family Court of New York City, which was designated in 1998 as a model court by the National Council of Juvenile and Family Court Judges.<sup>1</sup> As a demonstration project, the Special Expedited Permanency Part functioned for two calendar years, 1999 and 2000, and the data discussed herein were collected during that period.<sup>2</sup> I was privileged to preside over the demonstration part, and although we are now known as Part 9 of the New York County Family Court, we continue to use the methodology and techniques we developed as the Model Court.<sup>3</sup>

The overriding goal of the Special Expedited Permanency Part, as its name implies, was to achieve faster permanency for children in the child welfare system. To make sure that the court process was not itself an agent of delay, we set standards for the Model Court to complete the fact-finding on child protective cases within sixty days of the filing of the abuse/neglect petitions and move forward to disposition within ninety days of such filing.<sup>4</sup> Everyone loves the axiom “justice delayed is justice denied,” and that has never been more accurate than in Family Court. At the same time, however, New York has been justly proud of its tradition of providing due process for respondents in Family Court. Our challenge, therefore, was to devise a process that would be both fast and fair. In addition, we

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1. Funding for the pilot was provided by the federal government through the State Court Improvement Project, which directs funds to the highest court in each state for the improvement of child welfare proceedings. The New York Court of Appeals designated the Permanent Judicial Commission on Justice for Children to implement New York’s projects in connection with these funds, which include the Model Court. Technical assistance with regard to the Model Court was provided by the National Council of Juvenile and Family Court Judges.

2. The Model Court handled 1509 child protective and permanency cases, including those for neglect, abuse, extension of placement, termination of parental rights, adoption surrenders, adoptions, status review of freed children pursuant to section 1055-a of the New York Family Court Act, and related cases such as those concerning paternity, guardianship, and custody/visitation. *See* N.Y. Fam. Ct. Act § 1055-a (McKinney 2001) (outlining the court’s procedure in ensuring that adoptions proceed expeditiously).

3. Intake to the Model Court closed at the end of 2000, except for cases related to those already pending in the Model Court such as new neglect/abuse cases for after-born children and termination of parental rights cases stemming from the abuse/neglect cases that began in the Model Court. All cases that began in the Model Court remain within the jurisdiction of that court, however, and data on the progress to permanency of the children involved in those cases is still being collected.

4. In the Model Court, 63.5% of the neglect/abuse cases met the goal of disposition within the ninety-day period, as compared with 16.2% of such cases in the New York City Family Court in 1999, the most recent year for which data is available. By the end of the sixth month, 92.7% of the Model Court cases had reached disposition within the targeted time limit, as opposed to only 38.4% in the New York City Family Court.

wanted to restore to the Family Court a human element that had been drowned out as caseloads have risen and court proceedings have become more formal in the post-*Gault*<sup>5</sup> era. Finally, our invention had to work in the Manhattan Family Court, where child protective/permanency judges typically handle upwards of thirty cases per day.

The solution was to create a conferencing process that parallels the court process up to the point of disposition and then takes over the case upon disposition until permanency is achieved. This process entailed using quasi-judicial personnel such as court attorneys, referees, and court-employed social workers as conference facilitators and reviewers, intensively tracking cases from the day the petition is filed until the court's involvement is no longer required. In the Model Court we tracked not only children in foster care, but also those who were paroled or released to their parents under supervision.<sup>6</sup> Each court appearance was preceded by a conference, and at least two post-dispositional reviews were held before the permanency hearing in the fourteenth month after the child's removal from the home. Conferences up to the point of disposition were considered "off the record," as they often involved settlement discussions, whereas post-dispositional reviews (commonly called "back-end tracking") were tape-recorded. Tracking ended only when a child was discharged outright to the custody of a parent or relative, or when the child was adopted.

Initial reaction to the announcement of the Model Court was cautious optimism.<sup>7</sup> While everyone recognized the deficiencies of the old system (and no one said, "Don't fix it if it ain't broke"), our plan nevertheless met a degree of skepticism, as some practitioners seemed to hear "permanency" as a code word for "adoption." As the results of the plan started to materialize (and they were more dramatic than

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5. *In re Gault*, 387 U.S. 1 (1967), was the seminal decision incorporating constitutional due process protections into Family Court. It was followed by numerous cases of similar ilk and statutory amendments codifying or anticipating *Gault* jurisprudence. For example, as a result of *Gault*, the child protective article of the New York Family Court Act, now article 10, was rewritten in 1970 "[t]o provide a due process of law for determining when the state, through its family court, may intervene against the wishes of a parent on behalf of a child so that his needs are properly met." N.Y. Fam. Ct. Act § 1011 (McKinney 1999).

6. Our decision to track children released to their parents under supervision proved crucial to our success in preventing placement and achieving early reunification of those children, who had to be temporarily removed, with their parents, as agencies and law guardians were more willing to agree to let the children remain at home when they were assured of the court's close scrutiny.

7. Our potential had already grown in Manhattan based on the positive precedent set by the Family Treatment Court, a specialized part of the court that handles neglect cases where parental drug or alcohol abuse is alleged. The success of the Family Treatment Court, which began operations in 1998, demonstrated that change was indeed possible and that sometimes change was for the better.

even we had expected), everyone “put their shoulders to the wheel” and helped us shift the old paradigm.

Less than half of the children in the Model Court were subjected to placement,<sup>8</sup> more than a quarter were released to their parents or other family members,<sup>9</sup> and almost twice as many cases as those in the rest of New York County were either adjourned in contemplation of dismissal, withdrawn, or dismissed.<sup>10</sup> In the cases where foster care was required to avert imminent danger to the child, the median length of stay in foster care by a child subject to the Model Court was only 4.6 months, a sharp contrast to the twenty-seven-month median length of stay that was calculated for the rest of New York City in 1998.

Significantly, these results were achieved despite the Model Court’s intake of exactly the same types of neglect/abuse cases as the other child protective parts—cases involving the mildest to the most severe allegations and those involving the most compliant to the most intractable of respondents.<sup>11</sup> In fact, our intake was random (i.e., without pre-screening), and the consent of the parties was not sought or required for a case to be assigned to the Model Court.

## II. INTAKE

The Model Court methodology applies from the very beginning of the legal process; that is, from the day a child protective petition is filed. Before the case is called into the courtroom, respondents eligible for assigned counsel are introduced to the attorneys who will be representing them. A “resources” form is distributed to each respondent and law guardian, requesting a list of *all* relatives who might be considered as caretakers, as well as their addresses and telephone numbers, which will be consulted in the event the court grants a remand of the child.

When the case is called, the judge formally assigns counsel and checks the petition to see whether both parents’ names, addresses, and birth dates have been correctly stated. If some of that information is listed as “unknown,” the court will inquire of the respondents or other family members, who may be present, as to

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8. More specifically, only forty-six percent of the children in child protective proceedings held in the Model Court, compared to fifty-eight percent in the Manhattan Family Court, were subjected to placement in 1999.

9. More specifically, twenty-seven percent of the children in child protective proceedings held in the Model Court, compared to twenty-five percent in the Manhattan Family Court, were released to their parents or other family members.

10. More specifically, twenty-four percent of the child protective cases brought in the Model Court, compared to thirteen percent in the Manhattan Family Court, were either dismissed, withdrawn, or adjourned.

11. The Model Court case mix was typical for a child protection and permanency part in New York City, where Family Court judges are assigned to one of three specialties: (1) delinquency and PINS (“persons in need of supervision”), (2) custody and domestic violence and (3) child protection and permanency.

whether they can supply the missing information. If a non-respondent parent's whereabouts are known, the court will order that the notice of pendency be sent to the absent parent immediately. If the name, but not the whereabouts, of the absent parent is known, a diligent search to find the parent is ordered. The early identification and involvement of non-respondent parents have proven to be an important key in preventing foster care placement. Even if the non-respondent parent is unable to take custody of his or her child for a reason such as incarceration, for example, that parent nevertheless may have extended family members who can come forward to care for the child. The caseworker is directed to explore *each* of the individuals listed on the "resources" form thoroughly until an acceptable caretaker for the child is located.

If a child is remanded to foster care at intake, the court inquires as to whether the respondents are requesting a hearing to challenge the remand of the child. If a respondent or law guardian requests such a hearing, the temporary custody hearing is calendared for a date within three court days, with a preliminary conference scheduled slightly earlier in the day to attempt to resolve some or all of the interim issues prior to the hearing.<sup>12</sup> As a radical departure from practice in the other family courts of New York, however, a preliminary conference is scheduled in the Model Court even if a respondent does not request a 1028 hearing.<sup>13</sup> In many other jurisdictions, courts routinely conduct temporary custody hearings (sometimes called "show cause hearings" or "shelter hearings") even absent a party's specific request.

In designing the Model Court, we debated whether, in our already overburdened court, it was wise to incorporate automatic preliminary hearings. The idea of a preliminary conference instead of a preliminary court hearing seemed to be a reasonable compromise between judicial expediency and parents' rights to be heard. To our surprise, the preliminary conference turned out to be the cornerstone of the Model Court process. In the few cases where circumstances prevented our conducting a preliminary conference, we found that the subsequent steps of the legal process were less effective.

### III. PRELIMINARY CONFERENCE

The Model Court preliminary conference is a hybrid of legal and service planning aspects. The conference facilitator, a court attorney or the Model Court's social worker, conducts the conference following

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12. Such hearings are colloquially called "1028 hearings" after the statutory section that authorizes them. N.Y. Fam. Ct. Act § 1028 (McKinney 2001) (requiring petitioner to establish that the child would be in "imminent danger" if they are returned to the respondent).

13. Where a 1028 hearing is not requested, the preliminary hearing will be scheduled within ten days of intake.

a checklist of topics. Although our conference rooms are tiny, we manage to squeeze anyone involved with the case who wishes to participate into the room. This routinely includes the attorney and the caseworker from the Administration for Children's Services ("ACS"), the caseworker of the agency providing foster care or preventive services, the respondents, the respondents' attorneys, and the law guardian for the child. Often other family members wish to sit in, and respondents sometimes bring their clergy or lay advocates. At the law guardian's recommendation, a child of appropriate maturity is also allowed to participate in a portion of the conference. However rarely, sometimes the attorney for the respondent advises the client to remain in the waiting room during the conference. Most respondents participate at least in the service planning aspects of the conference. A respondent's acceptance of services offered at the conference is not treated as an admission to the allegations contained in the petition, and although there is no promise of confidentiality, no reference to the conference will be included in the presentment agency's case at the fact-finding stage.

The preliminary conference agenda includes updates on efforts to locate and notify missing parents and to serve process on any respondent who has not yet appeared, as well as the distribution of open file discovery. With the legal issues out of the way, the conference then turns to service planning. Parents are encouraged to agree to begin services, although the court cannot order services without a respondent's consent until after a fact-finding inquiry (called an "adjudication" in many jurisdictions) has been conducted. The vast majority of respondent-parents agree to start services at this stage upon hearing that their compliance will help them get their children home sooner. When the respondents agree, a preliminary services order is prepared. These orders are extremely detailed, specifying precisely which caseworker should make each referral, to which facility the referral should be made, the type of service to be provided, and the anticipated starting date of the service. We learned to avoid using general terms such as "counseling," when we really meant to state "individual psychotherapy with a qualified mental health professional." Visitation orders are also prepared, and they are similarly specific as to the time and place of visits and what sort of supervision, if any, is required.

At the Fordham Conference, many parents complained that the rules seemed to change in the midst of the permanency planning process. After completing the services that the parents had thought were required, the parents found that a new caseworker had been assigned and additional requirements had been appended to their service plan. Careful court monitoring of service planning from the inception of the case decreases the likelihood of such misunderstandings. While further services may certainly be required



when new problems are revealed or when the parent has not benefited from the services originally offered, the continuity of the court process ensures that additional requirements will not be heaped on arbitrarily.

If the children cannot be returned immediately to the parents, even with the services agreed upon, every effort is made by the Model Court to identify an appropriate relative or friend who is able to care for the child. Usually the caseworker finds an acceptable caretaker from the "resources" form prepared by the respondents at intake. Sometimes further investigation is required, or the "resource" needs a few more days to prepare the home for the child (e.g., acquire additional furniture or install smoke alarms). In such cases, a follow-up conference is scheduled within a few days. Although it may seem contrary to the goal of family reunification, the Model Court considers, at this early stage, whether the proposed "resource" would be willing and able to care for the child in the long-term if the parents do not succeed in rehabilitating themselves. The preliminary conference provides an opportunity for the court to discuss these questions frankly with the proposed caretakers in the presence of the respondents. This concurrent planning not only benefits the child, but also serves as a way of putting the respondents on notice of just how much is at stake. A few fortunate children have numerous acceptable relatives vying for the privilege of caring for them. In those situations, the preliminary conference functions more as a family group conference where the family members, including the parents, are able to talk among themselves with gentle guidance from the facilitator to reach a consensus as to which relative is best suited to become the caretaker.

The final business of the preliminary conference is that of scheduling the settlement conference and fact-finding hearing. The parties are given adjournment slips for both dates, which also state the specific time when the case will be called. The case then goes before the judge for a brief period, which gives the respondents an opportunity to note on the record their agreement to the preliminary service order and allows the court to make any agreed upon changes to the status of the child, such as a parolee to a parent or relative. When a 1028 hearing has been requested, the preliminary conference usually resolves the issues that prompted the respondent to request a 1028 hearing. If the conference fails to achieve this effectively, however, the court conducts the 1028 hearing, since respondents in the Model Court are not required to give up any of their rights to have hearings.

The preliminary conference is more than the sum of its parts. Although no element of the conference is novel, and each of its tasks could probably be accomplished in some other setting, we have found that the preliminary conference had an almost magical, synergistic potency. It is an opportunity for the people who will be working

together to start getting acquainted with each other, express their points of view on the child protective matters at hand, and offer their suggestions.

At the Fordham Conference, participants from all backgrounds recalled experiences of communication breakdowns and a pervasive, almost paranoid, reluctance to share information within the child welfare system. The sheer size of New York City's child welfare system is largely to blame. Although telephonic and e-mail communications are indispensable in today's world, they are poor vehicles for discussion of the complex and emotion-laden issues involved in a child protective proceeding. Face to face contact is required.

At the Model Court preliminary conference, the participants sit down together to share ideas and information in a safe and neutral setting. While the respondents and their attorneys spend time together, ACS and foster care agency caseworkers meet and put a face on what might otherwise have been just another voice over the telephone. It is easier for parties whose professional relationships have begun on these open and collaborative terms to continue to work together effectively throughout the process.

At the Fordham Conference, several parents also mentioned that they had felt uncomfortable in court, that the course of the proceedings was hard to follow, and that somehow they never seemed to get their turn to talk. In this regard also, the Model Court preliminary conference adds a dimension to the legal proceeding. The atmosphere of the conference is serious and businesslike, but not as adversarial, formal, and intimidating as that inside the courtroom. Respondents and family members are able to speak freely and ask questions. Within this focused, but accommodating environment, the course that the child protective case will follow is charted. Each person's role is explained, and each participant leaves the conference with marching orders in hand.

#### IV. SETTLEMENT CONFERENCE

The parties' next contact with the court is a settlement conference, which is conducted by an experienced court attorney approximately forty-five days after the intake day. One characteristic of the legal culture of the Manhattan Family Court has always been a low settlement rate. In this difficult environment, our project aspired not only to negotiate settlements and avoid fact-finding hearings in the majority of cases, but also to learn in advance of the hearing date which cases would settle and which would go to trial. While we made definite progress,<sup>14</sup> this aspect of our project inflicted the most wear

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14. The trial rate in the Model Court was thirty-nine percent. The Office of Court Administration does not keep trial rate statistics, but in a small sample counted by

and tear on us. With experience and acceptance, the other components of the Model Court have become "plug-and-play," but each settlement conference has to be hand-cranked like an old Victrola. Nevertheless, we continue to work hard to arrive at settlements for three reasons: (1) court time is precious and is not to be squandered on matters that are unprovable or indefensible; (2) the purpose of a child protective proceeding is to protect the child and not to stigmatize and humiliate the respondents; and (3) abusive and neglectful parents need to acknowledge their problems in order to successfully overcome them. When the parents have wholeheartedly participated in the services ordered in the preliminary conference, the chances of settlement improve dramatically. As part of a settlement negotiation, ACS might offer an adjournment in contemplation of dismissal, or the respondents might be prepared to admit to some of the allegations. Often, it is possible to parole the child at this time or to fix a future date for parole contingent upon the respondents' completion of certain services that are already in progress.

If a case is settled, it goes before the judge that day for the settlement to be placed on the court record. The fact-finding date that had been scheduled at the preliminary conference is then vacated, and the time is "recycled" for 1028 and other emergency hearings. Even if the case cannot be settled, however, the settlement conference is not wasted because it provides an opportunity for the court attorney conducting the conference to check whether the service plan is on track. If the respondents have not yet begun to utilize the services as required in the preliminary services order, the Model Court's social worker is available to assist them with difficulties that may have developed concerning funding or snags in the referral process.

If the settlement process fails, it becomes necessary to double-check the trial-readiness of the case. At the Fordham Conference, parents who had been respondents in Family Court told of how they deplored the days wasted waiting for their cases to be called, only to find that the matter was adjourned due to the presentment agency's lack of readiness. Recommendations for better calendar control were issued by several working groups. Successful time-certain scheduling, however, requires much more than writing the name of the case in the relevant part's diary. The court must have an accurate idea of which cases will go forward and how much court time each case will require. In the Model Court, this is the responsibility of the person conducting the settlement conference.<sup>15</sup> That person makes sure that the

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hand in October 1997 to provide baseline data for the Model Court, the trial rate in the Manhattan Family Court child protective/permanency planning parts was sixty-five percent.

15. In fact, the Office of Court Administration recently created a new job title, Case Coordinator, which will be filled by persons who will assume these duties of managing the time requirements and scheduling of cases as they proceed through

witnesses are available, subpoenaed documentary evidence has arrived, any discovery materials that became available subsequent to the preliminary conference have been shared, orders to produce incarcerated respondents have been submitted to the appropriate correctional facilities, and the amount of time set aside on the court calendar for the trial is sufficient. If more or less time will be required than was estimated at the preliminary conference, the schedule is adjusted immediately.

## V. DISPOSITIONAL CONFERENCE

After the fact-finding has been conducted, whether through admission or after trial, the case proceeds to disposition. Again, at the conclusion of the fact-finding, the parties are given two adjournment slips, both establishing times certain for the dispositional conference and a court date for disposition of the case. In child protective/permanency parts that have not yet adopted the Model Court methodology, the disposition is the first point when the court can take a serious look at the service plan. In the Model Court, of course, the case has already been following a court-ordered service plan for several weeks.

In preparation for disposition, judges generally order an Investigation and Report ("I&R"). When an I&R is ordered, the ACS case is transferred to a specialized unit within the ACS field office in charge of the case. The caseworker who prepares the I&R assembles post-filing information from a variety of sources, particularly from the worker assigned to the family in the foster care agency under contract with ACS. After considerable experimentation, we found that in the Model Court we rarely need an I&R. This step is unnecessary in the Model Court because the foster care worker attends the conferences in person and relays information directly to the court. Since the preparation of the I&R is often the cause of delay, eliminating this step aids us significantly in meeting our goal of having cases reach disposition within ninety days after the petition is filed. We require only that the caseworker already assigned to the case obtain updated reports from all the service providers.

The purpose of the dispositional conference, which is conducted by the Model Court's social worker, is to make sure all the necessary reports are obtained, discuss any amendments to the service plan that might be appropriate, and agree upon the actual language of the dispositional order. If the disposition is agreed upon, the case comes before the court to allow for the disposition to be stated on the record. Usually, however, some information is missing on the conference day, and the parties must return on the previously scheduled court date. Contested dispositions are extremely rare in the Model Court,

although the court is always available to conduct a hearing if the parties cannot agree. All court orders from the Model Court are distributed to the respondents and the caseworkers right outside the courtroom immediately following each court appearance.

## VI. POST-DISPOSITIONAL REVIEWS

Service plans require constant attention and oversight. When we were designing the Model Court, we imagined that the primary business of the post-dispositional reviews would merely be to mark off the service plan those services that had been completed. Thus, we only required two post-dispositional reviews: the first, approximately ninety days after disposition of the case and, the second, about sixty days before the expiration of the supervision or placement order, giving the referee discretion to schedule more reviews as needed. In practice, however, reviews have taken place much more frequently, and this phase of the Model Court, which everyone calls "back-end tracking," is its most popular feature.

The lesson we learned from back-end tracking is that things do indeed fall apart. We realize in retrospect that it was naive to expect that the service plans we put so much effort into creating would simply proceed on their own, free of problems or setbacks. On the contrary, we found that the possible causes of derailment are infinite: some of the programs that comprised vital parts of the service plans might have closed; a program might have discovered, after four sessions, that it does not accept the parents' health insurance; a parent might have lost his or her job, and with it his or her health insurance; parents might have moved to another borough and requested a referral closer to the new home; parents might have been discharged from the program for noncompliance, but may wish to try again in a new program; and the therapist might have completed his or her internship or residency, and the parent might have been put on a wait list for a new therapist. Sorting out the various imperfections of the service delivery system as exposed by the back-end tracking process will require initiatives that stretch beyond any individual case, and, using the experience of the Model Court, we are working with other child welfare system stakeholders to take the required steps in achieving that end.<sup>16</sup>

On a case-by-case basis, however, back-end tracking is instrumental in holding the case on course. The value added to permanency planning by the post-dispositional review process is in the court's ability to project an overview of the course each case takes (or "see

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16. With the technical assistance of the National Council of Juvenile and Family Court Judges, the New York Family Court was able to establish improved methods of communication and collaboration with other child welfare system stakeholders, such as ACS and law guardians, over the past three years.

the forest," if you will). For a variety of reasons, including high caseworker turnover and vacancy rates, agencies tend to lose sight of the time constraints built into the permanency planning process.<sup>17</sup> When a permanency hearing is held after a child's first year in care,<sup>18</sup> parents should not be told, "Time's up," if throughout that previous year, everyone had behaved as if they had all the time in the world. The back-end tracking process, therefore, is relentlessly goal-oriented.

Because so much information is shared during the post-dispositional reviews, permanency hearings, which are conducted by judges in the Model Court, are thorough and substantive. Often, the children are already home on trial discharge at the time of the permanency hearing, or a date is set for the trial discharge process to commence. The decision to begin a trial discharge is a point at which a "push" from the court is often required to overcome bureaucratic paralysis. The simple act of setting a target date for the trial discharge to begin is usually a sufficient catalyst. Occasionally, the referee conducting the post-dispositional review will find that the permanency goal needs to be changed before the child's fourteenth month in care. In such a case, the referee will direct the agency to file a petition for a permanency hearing immediately, and the matter will then come back before the judge.

Since we first implemented the Model Court, ACS institutionalized its own conferencing system and also reinforced the service plan reviews held at the child care agencies. We found that the two conferencing processes were complimentary and that the agency conferencing did not obviate the need for court conferencing and back-end tracking. When the court was told that an ACS conference was about to occur, the court conference or review was usually scheduled to follow the conference. When a productive ACS conference had taken place, the court's preliminary conference was shorter, richer, and more productive, and fewer follow-up court conferences were required.

Court conferences differ from agency conferences, however, in ways that matter to parents. At court, the performance of both the agency and the respondents is placed under scrutiny. Respondents in court are usually represented by counsel, contrary to their experiences during service plan reviews, where they are rarely able to bring an attorney. The court is mindful of the legal rights of absent parents and is able to order the production of prisoners. The court is also able to subpoena the production of records and reports from recalcitrant

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17. Where a child has been in foster care for fifteen of the most recent twenty-two months, a proceeding to terminate parental rights must be filed by the foster care agency unless compelling reasons dictate otherwise. *See* N.Y. Soc. Serv. Law § 384-b(3)(1) (McKinney Supp. 2001).

18. N.Y. Fam. Ct. Act § 1055(b)(ii) (McKinney 2001) (stating that placement cannot be extended or continued until the court holds a permanency hearing).

service providers. Finally, the court is viewed as a more level playing field, and its power as the final arbiter is recognized.<sup>19</sup>

Conferences and post-dispositional reviews help parents receive justice in Family Court. They increase parents' understanding of the court process and enhance parents' ability to state their case. They tie the service planning process to court proceedings so that the court proceedings become more relevant and the service planning process more equitable. Because conferencing and post-dispositional reviews improve communication and clarify expectations among the participants in the legal process, they are tools that help keep families together.

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19. At the permanency hearing, the court must either approve or modify both the permanency goal and the service plan. *Id.* § 1055(b)(iv)(B)(1) (addressing the court's role in considering whether placement extension is consistent with the permanency goals established in the child services plan).

*Notes & Observations*