



Making the Legal System Work for Children and Parents

Implementing FJI System Attributes

Attribute 6: Accountability/Use of Data

This guide is one in a series providing guidance on implementing the six system attributes in the [FJI Attributes of High-Quality Legal Representation](#). View the other [implementation guides](#).

Attribute 6: Accountability/Use of Data

- Use a continuous quality improvement process to measure qualitative and quantitative outcomes.

Meeting This Attribute

Collect and examine data on existing and new practices and programs.

A powerful anecdote can illustrate the importance of high-quality legal representation for children and parents involved in the child welfare system, but success stories are often not enough to create practice and policy changes, hold attorneys accountable, or convince a legislature to provide funding.¹ FJI recommends that jurisdictions or programs collect and regularly examine data to ensure existing or newly adopted practices and programs are being implemented as planned and contributing to positive outcomes for families.

While high-quality legal representation has been consistently linked to improved child welfare outcomes, such as timelier family reunification² and increased permanency,³ high-quality legal representation also can result in fairer court processes. This may be demonstrated, for example, by improved client engagement or attendance at court hearings. System stakeholders should be aware that improved child welfare outcomes (e.g., shorter time to permanency or increased reunification rates) are not the only relevant measure of improved legal representation.

Consider using CQI to inform and monitor ongoing progress of practices and programs.

Continuous quality improvement (CQI) is one data-centered approach to measuring outcomes of legal representation reforms and managing changes in practice. CQI generally means collecting data and using it to “identify, inform, monitor and improve progress toward outcomes in an ongoing fashion.”⁴ The CQI process involves a cyclical, multi-step process: (1) identify and assess a practice or problem by evaluating existing data; (2) create a theory of change that identifies the root of the potential problem and an appropriate intervention; (3) design or adapt an intervention to meet the needs of the jurisdiction; (4) create an implementation plan, assess for readiness, and build capacity; and (5) collect data and assess results, making adjustments to the intervention as needed.⁵ While the CQI process is intended for new interventions, the idea of using data to inform and monitor ongoing progress can be applied to existing representation programs or practices as well.

Identify data needs and design an evaluation approach. To start, jurisdictions or programs should determine what they want their intervention to accomplish and then they should design their approach. The

jurisdiction or program should then decide (1) what it wants to measure, and (2) which data sources exist, such as worklogs, case files, and administrative databases, that it can use. A number of available tools can help determine appropriate data measures for parent and child legal representation, including the ABA publication *Indicators of Success for Parent Representation*⁶ as well as the [FJI data collection template](#).

Several experienced researchers worked with FJI to develop its downloadable data collection template. The data collection template features a list of specific data points for possible process and outcome measures. While some programs may have staff with research training to determine appropriate data measures and create evaluation plans, others should consider partnering with an experienced evaluator (such as a local university) and/or seeking technical assistance from FJI, the ABA, or other organizations.⁷

Obtain buy-in for data collection and create a transparent culture.

Once a program has chosen what it is measuring and which data it will be collecting, the program also must also consider who will be collecting the data and how. Because of time and resource constraints facing many child and parent attorneys, attorneys may resist additional data entry requirements. To ensure the success of evaluation efforts, leaders should foster a culture that is transparent and open to continuous learning and improvement. One way to accomplish this is to discuss the purpose of data collection and consult with attorneys and staff when choosing the data measures so they are a part of the decision-making process.⁸ Sometimes, just implementing a data collection process can contribute to elevated practice as attorneys and other professionals know they will be held accountable to meeting practice requirements.

It is helpful to frame data collection as a tool that can aid attorneys in their day-to-day practice. For example, consistent data collection and case tracking can provide a clear and easily accessible history of a case that can assist attorneys as they prepare for court hearings or discuss case issues with opposing counsel. Other strategies to encourage data collection are: (1) arrange for support staff to enter data; (2) pay attorneys to fill out data sheets; (3) make data collection a condition for payment to counsel; and (4) share evaluation results to show the value of collecting

data and boost morale.⁹ Additional potentially relevant data may be available through the federal [Adoption and Foster Care Analysis and Reporting System](#) (AFCARS), as well as from state or county child welfare agencies.

Invest in rigorous evaluation design when possible.

Rigorous evaluation via an experimental design that can show a causal link between improved representation and improved child welfare outcomes is an ideal way to encourage investment in high-quality legal representation for children and parents.¹⁰ Information for attorneys, legal practitioners, and legal system leaders about key considerations when contemplating subjecting a program to a rigorous outcome evaluation can be found on the [FJI website](#). Such an evaluation design is not always possible, whether due to lack of funding, or ethical concerns about assigning some indigent parties attorneys hypothesized to be less effective.¹¹ However, tracking data for a set of quality indicators, even without an experimental design, is important because it can lay the groundwork for later evaluation, improvements, and program support.

Some jurisdictions also may consider beginning their CQI process with a survey of system stakeholders, similar to the 2018 Supreme Court of Texas Children's Commission study to determine the state of court-appointed legal representation in child welfare cases¹² or with a comprehensive evaluation of representation programs, including file review, stakeholder interviews, and court observations.¹³

Jurisdictions may also choose to focus on a specific sub-issue of high-quality legal representation, such as the 2015 ABA study on improving youth engagement in court, which used surveys and court observation to collect data on youth and other stakeholders' attitudes on the presence of youth in court.¹⁴ No matter how a jurisdiction or program chooses to start, data is an important part of efforts to improve the quality of legal representation for children and parents.

Examples of Good Practice Hearing Quality Project, Louisiana Court Improvement Program

For years, leaders in Louisiana experienced difficulty gathering basic information on child welfare hearings

and legal representation because the state lacked a statewide court information system. But in 2016, the Louisiana Court Improvement Program (CIP) launched a project to implement a standardized management information system (MIS) for use by each entity providing representation for children throughout the state.

Identifying data needs and approach. The CIP worked with the ABA to create a list of indicators based largely on the ABA's [*Indicators of Success for Parent Representation*](#), which included data elements related to timeliness, continuances, caseloads, and more. The CIP then worked with a company to modify an existing MIS to capture the data elements and program a variety of reports. As a result, quality indicator reports can be generated and used to identify representation and hearing quality issues, which can then be addressed through targeted training and technical assistance.

Providing training on data system and data entry. The success of the system relies on attorneys entering pertinent data points into the MIS. This requires the CIP to provide training on the new data system to each legal representation entity. One of the biggest challenges to implementation has been the response from attorneys, who report a lack of time to enter information into the system because they often have more than a hundred cases. This challenge has been overcome, at least in part, by stressing to the attorneys that when the legislature is considering increased funding or cuts to the legal representation budget, it tends to be more responsive to positive outcome data than to anecdotal, individual success stories.

New Mexico Family Advocacy Program (NMFAP)

Evaluating outcomes for children and families. The NMFAP, which provides interdisciplinary representation to parents in child welfare proceedings, recently developed an evaluation plan to study outcomes for children and families. Although evaluation is required as part of a federal grant NMFAP received, the value it will bring to the program is real. NMFAP hopes to show improved outcomes, which will provide a basis for a stronger and more accurate budget requests to expand the program across the state.

Technical Assistance

FJI team members are available to help implement the FJI attributes.

Visit the [Family Justice Initiative website](#) for more information.

Designing an evaluation plan. Developed in partnership with the National Center for State Courts, the evaluation plan features random assignment of cases to three groups of attorneys: those who are not in the program, those who have been through additional training on interdisciplinary practice but will not have access to a social worker, and those who have additional training on interdisciplinary practice and will work with a social worker and parent mentor when available. The worklogs of the attorneys will be expanded to include out-of-court contact with parents as a way to measure if one group has more communication with parents. Social workers will have similar data points regarding their contact with parents. The evaluation plan also includes a pre- and post-survey with parents who are a part of the program and a comparison of treatment plans for parents in the program versus those who are not. NMFAP shares that one difficulty in creating the evaluation plan has been determining how to quantify engagement and other factors.

Washington State Office of Public Defense, Parents Representation Program

Ongoing program evaluation. The Parents Representation Program has been consistently studied since the first pilot program evaluation in 2001.¹⁵ These studies were important to the success of the program because they helped dispel negative perceptions of parent attorneys (e.g., that parent attorneys slow down cases) by showing that parent attorneys were linked with increased reunification and permanency rates and decreased time to reunification and permanency.¹⁶

Tying data to practice standards and improvement. With numerous studies showing positive outcomes, the program currently focuses on using data for internal quality improvement. Data is analyzed on a state and county level to understand and respond to trends in practice. In addition to systemwide analyses,

the Parents Representation Program uses data for the equally important purpose of ensuring accountability of individual attorneys. Data points collected from attorneys include caseloads, hours worked overall, time spent communicating with clients, and the use of support services. This information is examined during reviews to assess whether attorneys are adhering to practice standards and expectations, such as the requirement to spend a third of contracted time on communication with clients and the expectation that the attorney will use social workers and experts on cases when needed.

Using data to gauge attorney and program effectiveness. The Program also uses court observation to provide feedback on the attorney's effectiveness and advocacy for clients during hearings. While this level of supervision sometimes requires ending contracts with certain attorneys, more often than not, the Program uses quantitative and qualitative data to provide constructive criticism and help attorneys brainstorm on how to approach difficult cases, which ultimately improves the quality of representation.

Endnotes

1. See, e.g., Andrew Davies & Angela Olivia Burton, *Why Gather Data on Parent Representation? The Pros, Cons, Promise and Pitfalls*, 34 CHILD LAW PRACTICE 49, 54-57 (2015), at https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-34/april-2015/why-gather-data-on-parent-representation--the-pros--cons--promis/.
2. Courtney, M. E., & Hook, J. L., Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing of Permanency Outcomes for Children in Foster Care. 34(7) CHILDREN & YOUTH SERVSS REV. (2012).; Gerber, L. A., et. al., *Effects of an Interdisciplinary Approach to Parental Representation in Child Welfare*. 102 CHILDREN AND YOUTH SERVICES REVIEW (2019).
3. See *id.*
4. U.S. Dep't of Health & Human Servs., Admin. for Child. & Fam., *Program Instruction for State Courts Applying for Court Improvement Program (CIP) Funds for Fiscal Years (FYs) 2017-2021*, ACYF-CB-PI-16-05, 10 (Jan. 11, 2016).
5. *Id.* at 10-11.
6. See ABA Center on Children and the Law, *Indicators of Success for Parent Representation* (2015), at https://www.americanbar.org/content/dam/aba/administrative/child_law/parentrep/Indicators-of-Success.pdf.
7. Contact FJI staff through the FJI website at: <https://familyjusticeinitiative.org>.
8. Davies & Burton, *supra* note 1.
9. *Id.*
10. See e.g., Lucas A. Gerber, et. al., *Effects of an interdisciplinary approach to parental representation in child welfare*, 102 CHILDREN & YOUTH SERVS. REV. 42-55 (2019); Andrew Zinn & Jack Slowriver, *Expediting Permanency: Legal Representation for Foster Children in Palm Beach County* (Chapin Hall, 2008).
11. See Mark E. Courtney, *Introduction to Evaluating the Impact of Legal Representation Programs on Outcomes for Parents and Children* (2019), <https://familyjusticeinitiative.org/wp-content/uploads/sites/48/2019/05/FJI-evaluation-brief-draft-Mark-Courtney.pdf>.
12. Supreme Court of Texas Children's Commission, *2018 Study of Legal Representation in Child Protective Services* (2018), <http://texaschildrenscommission.gov/media/83923/2018-legal-representation-report-final-online.pdf>.
13. For example, the ABA Center on Children and the Law has evaluated systems of parent representation in Wyoming, Michigan, and North Carolina. Reports are available at: https://www.americanbar.org/groups/public_interest/child_law/project-areas/parentrepresentation/resources/.
14. ABA Center on Children & the Law, *Engaging Youth in Court: A National Analysis* (2015), https://www.americanbar.org/content/dam/aba/administrative/child_law/youthengagement/NationalAnalysisFinal.authcheckdam.pdf.
15. See Mark E. Courtney & Jennifer L. Hook, *Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing of Permanency Outcomes for Children in Foster Care*, 34 CHILDREN & YOUTH SERVS. REV. 1337-43 (2012); see also Wash. State Office of Pub. Def. & Wash. State Ctr. for Court Research, *Reunification and Case Resolution Improvements in Office of Public Defense (OPD) Parents Representation Program Counties* (2010); NW. Inst. for Children and Families, *Dependency and Termination Parents' Representation Evaluation Report* (2005).; Jason Oetjen, *Improving Parents' Representation in Dependency Cases: A Washington State Pilot Program Evaluation* (2003); Wash. State Office of Pub. Def., *Dependency and Termination Parents' Representation Pilot: Evaluation* (2002); Wash. State Office of Pub. Def., *Dependency and Termination Defense Pilot Project: Interim Evaluation* (2001).
16. Courtney & Hook, *supra* note 16, at 1340-41 (2012).



The FJI unites professionals from around the country to ensure every child and every parent has high-quality legal representation when child welfare courts make life-changing decisions about their families. Through the FJI's work, child welfare lawyers, researchers, judges, social workers, policymakers, families impacted by abuse and neglect, and others are reenvisioning how to best protect children, strengthen families and support communities.