

Strengthening Georgia's Juvenile Courts

**Striving for Better Outcomes
for Georgia's Foster Children**

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Executive Summary

In 1994, the Child Placement Project (CPP) commissioned the Carl Vinson Institute of Government (CVIOG) to conduct a study on strengthening and improving the juvenile court system, particularly for accountability of deprivation case handling. The CPP advisory committee determined the scope of research to be conducted and agreed that after receiving the research from CVIOG, the committee would formulate its own recommendations. Four areas were identified by the committee for research: (1) the selection of juvenile court judges, (2) the confidentiality of court records and proceedings, (3) the federal Juvenile Court Improvement Project reviews regarding court accountability, and (4) current checks and balances in Georgia for juvenile courts and judges.

Selection of Juvenile Court Judges

There are at least four distinct selection processes employed among the 50 states, with some states using different methods in different districts. The selection processes include

- (1) gubernatorial selection through nominating commission,
- (2) gubernatorial or legislative appointment without nominating commission,
- (3) partisan or nonpartisan elections, and
- (4) appointment by members of the judicial branch.

Confidentiality of Juvenile Courts and Juvenile Documents

Deprivation proceedings and records are still confidential in most juvenile court jurisdictions despite the call in recent years to open both juvenile court records and hearings. Fewer than 15 states have enacted laws that allow for open deprivation proceedings, and nearly all have kept juvenile records confidential. Debates continue. However, with a recent amendment to federal regulations under the Child Abuse Prevention and Treatment Act, many speculate that more courts will opt for open court proceedings.

Juvenile Court Improvement Project Reviews

All 50 states have begun implementing changes recommended in the preliminary review phase of the federal Court Improvement Project grant program. The program was intended to provide state courts with funds to systematically reform their processes in order to satisfy the Adoptions and Safe Families Act (ASFA). Progress reports from the states have shown that they are generally meeting federal guidelines for the treatment of their cases. However, some courts and judges still fail to meet the timelines set forth by ASFA, prompting a call for better means of accountability for such judges and courts.

Juvenile judge performance reviews, improvement in the continuity of judicial officers and legal representation, and model courts with public access are

some methods being used to strengthen juvenile courts. Typically, juvenile courts and judges throughout the nation are held accountable through judiciary performance and conduct review boards. One of the strongest systems of accountability instituted is found in Utah and Michigan, in which a data collection system is used to check for compliance with ASFA guidelines.

Checks and Balances in Georgia's Juvenile Courts

In the state of Georgia, there are several formal and informal measures and processes of accountability for juvenile court systems and juvenile court judges.

- *Selection of Juvenile Court Judges:* In all but one judicial circuit, juvenile court judges in Georgia are appointed by the superior court in each respective jurisdiction. House Bill 182 (codified at O.C.G.A. § 15-11-18) outlines the qualifications and procedures. Floyd County is the only jurisdiction that has taken localized control of its selection process; it opted to have its juvenile court judge elected by the citizens of the jurisdiction.
- *Judicial Qualifications Commission:* The formal mechanism of judicial accountability in Georgia is the Judicial Qualifications Commission (JQC). Established by constitutional amendment in 1972, the JQC is charged to conduct investigations and hearings regarding complaints of misconduct by judges throughout Georgia.
- *The Appeals Process:* Deprivation and abuse cases can be appealed for reconsideration on rulings on law, objections, decisions, and various other aspects of trial.
- *Federal IV(e) Audits:* The Georgia State Division of Family and Children Services is subjected to periodic IV(e) audits by the federal government. Under the ASFA, agencies and courts must adhere to certain regulations in order to receive federal funds for foster care. Specific areas of review that reflect directly on accountability of the court and the juvenile court judges include reasonable efforts determinations, contrary to the welfare of the child determinations, and properly worded court orders.
- *Day in Court Project:* While Georgia is a state in which deprivation hearings and records remain confidential, judges do have discretion to open individual hearings to the public. Some courts have instituted Day in Court Projects to allow members of the community to observe deprivation hearings so that they can gain an understanding of the needs of children in the deprivation and abuse processes.
- *Child Placement Project:* The CPP has been instrumental in working with courts to improve deprivation and abuse case processing. As Georgia's recipient of federal Court Improvement Project grant funds, CPP will continue identifying and addressing areas in which process improvements, judicial accountability, and education can be enhanced.

Following presentation of its research to the CPP, CVIOG interviewed members of the CPP advisory committee regarding their reactions and recommendations. In addition, several meetings were conducted among juvenile court

judges as well as among superior court judges. The CPP advisory committee then drafted its own recommendations for strengthening the juvenile court system. The recommendations are included in the report.

Introduction

In 2004, the Child Placement Project (CPP) commissioned the Carl Vinson Institute of Government (CVIOG) to conduct a study on strengthening and improving the juvenile court system, particularly for accountability of deprivation case handling. The CPP advisory committee determined the scope of research to be conducted and agreed that after receiving the results of the research from CVIOG the committee would formulate its own recommendations. The following areas were identified by the committee for research: (a) the selection of juvenile court judges, (b) the confidentiality of court records and proceedings, (c) the federal Juvenile Court Improvement Project reviews regarding court accountability, and (d) current checks and balances in Georgia for juvenile courts and judges.

CVIOG conducted national research and stakeholder interviews (see Appendix A) and presented the research to the CPP advisory committee and other juvenile court judges. After considering the research, the CPP advisory committee drafted its own set of recommendations.

Selection of Juvenile Court Judges

States with juvenile justice systems that use separate juvenile courts and judges were identified for this study. Their judicial selection processes and a historical analysis of the reasons for those processes are reported. Special attention is given to the role of campaign finances on judicial performance.

Confidentiality of Court Records and Proceedings

In accordance with the request of the CPP, a state-by-state account of juvenile court confidentiality rules is provided. In addition to an analysis of the trends regarding the opening or closing of deprivation records, the pros and cons of confidentiality are also considered.

Juvenile Court Improvement Project (JCIP) Reviews

All 50 states have begun implementing changes recommended in the preliminary review phase of the federal Court Improvement Project grant program. Several of these changes have created systemic mechanisms for juvenile court accountability, which are discussed in this report.

Current Checks and Balances for Georgia's Juvenile Courts

This report also outlines the current system of checks and balances used in Georgia to hold the court system and judges accountable for their processing of deprivation cases. The role of the Judicial Qualifications Commission (JQC) in the complaint process as well as the process's effectiveness is explored. Furthermore, several checks and balances models found across the United States are presented.

Scope of CVIOG Role

Subsequent to compiling the information outlined above, CVIOG conducted a series of interviews with members of the CPP subcommittee on juvenile court improvement. Ten interviews were conducted between March and May 2004. Participants included superior court judges, juvenile court judges, attorneys, and other professionals with child-serving agencies. In this study, CVIOG's role has been to gather information through research and key informant interviews. It has not engaged in recommending to the CPP how best to strengthen the juvenile court system. Recommendations for actions included in the report were developed by the CPP after reviewing the information compiled by the Institute.

Improving Juvenile Courts

Historically, juvenile courts have had a tremendous impact on child welfare through their pivotal role in determining permanency options for children in neglect and abuse cases. Juvenile courts ultimately decide such sensitive issues as the existence of maltreatment, the placement of children in state custody, and the termination of parental rights. In recognition of the impact juvenile courts have on child welfare, several states have made a substantial effort to develop systemic mechanisms that improve how juvenile courts function and to help juvenile court judges meet federal standards in the adjudication of child deprivation cases.

Most states have attempted to improve accountability in the following ways: (a) identifying system failures and performance trends, (b) implementing change in management protocol and training court personnel, and (c) creating a specific mechanism for accountability.

The process of improving juvenile courts generally incorporates several steps, which eventually result in mechanisms for holding actors in the juvenile court system accountable for their decisions (Addison and Spar 1999). Administrators of juvenile court systems typically begin by gathering accurate information about how their respective systems are performing. The information is gathered through the construction of automated data collection systems, the outputs of which are reviewed regularly to identify both flaws in the system and performance trends of the judiciary and staff. Combining this data collection with extensive training of court personnel on child welfare issues and better education for the judiciary may lead to positive outcomes as contemplated by the National Council of Juvenile and Family Court Judges in their publication *Resource Guidelines*. States can then open the process to the public view using model courts, open proceedings, or publicly published assessments of individual courts' adherence to federal and state guidelines.

With this process, states have systematically reduced flaws in case management systems for courts and implemented changes that help judges meet the Adoption and Safe Families Act of 1997 (ASFA) guidelines. Despite these changes, however, some courts and judges still do not adhere to federal guidelines for

deprivation cases, prompting the call for better means of accountability for such judges and courts.

Performance Review of Juvenile Court Judges and Juvenile Courts

Because many states do not have a separate juvenile court system, many judges that preside over cases involving juveniles are not subject to any identifiable specialized performance review (American Judicature Society 2003). Instead, complaints are investigated by the state's general judicial ethics committee. However, most states have undertaken a "juvenile court improvement project," in accordance with the federal Court Improvement Project grant program, which seeks to enhance the courts' ability to handle abuse and neglect cases. These projects include committees composed of representatives of social service agencies, judges, and lawyers that have the authority to set time frames and guidelines for conducting deprivation hearings. In most cases, demonstration courts that adhere to a committee's recommendations have been effective in achieving timely permanent plans for children. The court improvement projects have also allowed states to identify areas in which courts and judges need improvement.

Quality and Depth of Hearings

Most states have attempted to improve the quality and depth of juvenile hearings by focusing on improving the continuity of judicial officers and legal representation (Dobbin et al. 2003). One method used reduces the number of judges and legal representatives that handle a single case. This decrease in the number of players seeks to reduce the diffusion of responsibility that occurs when a series of individuals, rather than a sole individual, make important decisions without regard for the decisions of others made at pivotal junctions in the procession of a case through the system. States, like Delaware and Rhode Island, have mandated that a single juvenile court judge adjudicate a case throughout its life. This initiative has come to be known as the one judge/one family policy. In Utah, over 90 percent of juvenile court judges have implemented this policy in their districts. Following the implementations, the percentage of children going to pretrial within 15 days of a shelter hearing increased by 21 percent.

Treatment of Parties

To improve the treatment of the various parties with legitimate interests in any particular case, several initiatives have been proposed and implemented (Addison and Spar 1999). In some states, a model court, which is generally open to the public, has been formed. In theory, this public access could place external pressure on judges and courts to adhere to guidelines and err on the side of caution in difficult cases. Furthermore, model courts are sometimes used as testing grounds for innovative solutions to management problems in the juvenile court system. The information gathered helps court administrators identify systemic problems

that are making it difficult for a particular court to meet guidelines for handling deprivation cases.

The Selection Method of Juvenile Court Judges

Elections are often touted as a direct way to improve the accountability of judges. Proponents of judicial elections assert that in a democracy, judges should be held accountable to the public. Opponents reject this idea, contending that judgeships become overly politicized when based on elections (Berkson 1980). There are several issues of concern in determining the best method for selecting judges:

- (a) accountability of judges to the public,
- (b) campaign finances and impartiality of judges,
- (c) public awareness of juvenile court matters and informed decision making in elections, and
- (d) partisan support for a supposedly ideologically neutral position.

These issues are best studied in a historical context as well as in the context of current practices.

Historical Judicial Selection Methods

The manner in which judges are selected has always been a matter of controversy. In the Colonial era when the King of England exerted considerable influence on the judicial branch in the colonies through his exclusive and unchecked appointment powers, the issue was in fact a major point of contention (Berkson 1980). After the American Revolution, framers of state constitutions instituted processes that were meant to prevent the chief executive from controlling the judiciary through the power of appointment. Eight of 13 states placed the power of appointment in the hands of the legislature, while the remaining states mandated that gubernatorial appointments be consented to by a special council.

Over time, states began experimenting with popular elections of judges. In Georgia, for example, the constitution was amended in 1812 to allow the election of lower court judges (Berkson 1980). Many states followed suit, and in many parts of the nation the appointive system was challenged as being contrary to popular sovereignty—a cornerstone of the period's Jacksonian Democracy. Policymakers and the citizenry were uncomfortable with a system that prevented nonlandowners from participating in the selection process of an entire branch of government. By the time of the Civil War, 24 of 34 states were using popular elections to appoint judges.

The election system began falling out of favor by 1867, however. Constitutional conventions in New York and Massachusetts declared that the integrity of judgeships was being subverted by political forces (Niles 1966). Some characterized elected judges as tools of political machines that ultimately selected and controlled members of the court. They pointed to rampant corruption in the

courts and incompetence on the bench to evidence their claims and pushed for a restructuring of the election process. States began moving toward nonpartisan elections, and 12 states were using this election process by 1927.

It was not long before nonpartisan elections were also criticized. For instance, the South Dakota Bar Association objected to what they referred to as an “intrinsic lack of real public choice” (Berkson 1999). They illustrated that it was difficult for the public to differentiate between candidates because party leaders were able to select and present candidates without party labels due to the construction of the system. With little information on the performance of judges and their political affiliations available to them, the public could not be expected to make rational choices between candidates. Many legal scholars and professionals declared the judicial election process a failure. Roscoe Pound, one of the system’s most ardent critics, said, “Putting courts into politics and compelling judges to become politicians, in many jurisdictions, has almost destroyed the traditional respect for the bench” (Pound 1906).

The subsequent reform movement focused on eliminating partisan politics from judicial elections through the use of what are now referred to as merit plans for the selection of judges. Merit plans are intended to increase the pool of candidates and eliminate from consideration party affiliations, party service, and friendship with appointing executives. Albert Koles of the American Judicature Society is often credited with originating the merit plan; he was the architect of several merit plans introduced in a number of state legislatures in the 1930s. Today, while no two state plans are identical, most use permanent, nonpartisan commissions composed of lawyers and public and private figures. These commissions recruit and screen candidates and submit a list of individuals meeting qualification standards to the executive power for its judicial selection.

When taken in the context of juvenile courts and deprivation cases, the historical concern for the potential conflict between impartiality and campaign politics may hold true. Advocacy groups and individuals with special interests in such cases can influence the judicial selection process by simply backing judges they like with financial support. The Committee for Economic Development reported that judges often rely on attorneys as fund-raising sources. In the 2000 election cycle, “issue advocacy” groups spent record amounts on judicial campaign finances (Research and Policy Committee of the Committee for Economic Development 2002). Because of the juvenile confidentiality laws, the public is not necessarily aware and typically does not possess the wherewithal to ascertain the veracity of claims made by such political forces. Therefore, they may not be as properly informed about the juvenile court process as they should be. It is difficult, however, to determine the reality of this contention systematically (outside of anecdotal accounts) because of differences in court structures among and within states.

Contemporary Judicial Selection Methods across the Nation

There are at least four distinct selection processes for juvenile judges employed throughout the 50 states. They include (American Judicature Society, 2003)

- (1) gubernatorial selection through nominating commission,
- (2) gubernatorial or legislative appointment without nominating commission,
- (3) either partisan (p) or nonpartisan (n) elections, and
- (4) appointment by members of the judicial branch.

Gubernatorial Selection through Nominating Commission

The gubernatorial selection through nominating commission selection method requires nominations from an appointed nominating committee composed of lawyers, citizens, and, sometimes, sitting judges. The governor selects a judge for appointment from a list generated by the committee. Once appointed, a juvenile court judge is subject to a retention election at the end of the appointment term, allowing citizens a simple yes or no vote. Performance review committees rate each judge on the basis of results from questionnaires concerning a judge's performance record throughout the judicial term. The questionnaires are filled out by lawyers in a respective judge's district. States that use this method tend not to distinguish between superior court judges and juvenile court judges, however. Rather, responsibility for juvenile court cases is shared by judges within a district or circuit so that the "juvenile court judge" position itself is usually rotational. The 12 states that use this method are Alaska, Colorado, Connecticut, Delaware, Iowa, Maryland, Massachusetts, Nebraska, Nevada, Rhode Island, Utah, and Wyoming.

Gubernatorial or Legislative Appointment without Nominating Commission

Juvenile court judges in several states are appointed by the governor or legislative body, without the assistance of a special nominating commission. After a set term, the judges stand for retention or open elections. These states are Maine, South Carolina, New Jersey, and Virginia.

Partisan or Nonpartisan Elections

The vast majority of states utilize partisan or nonpartisan elections to select their juvenile court judges. It should be noted, however, that juvenile court cases are often presided over by associate judges, who are usually appointed by the local chief district judge or judiciary body. The following states elect their judges: Alabama (p), Arizona (n), Arkansas (n), California (n), Florida (n), Illinois (p), Indiana (p), Kentucky (n), Louisiana (p), Mississippi (n), Montana (n), New Mexico (p), North Carolina (n), North Dakota (n), Ohio (n), Oklahoma (n), Pennsylvania (p), South Dakota (n), Tennessee (p), Washington (n), West Virginia (p), Wisconsin (n), Michigan (p), and Minnesota (n).

Appointment by Members of the Judicial Branch

Juvenile court judges in six states, including Georgia, are selected by a body of judges. The states are Georgia, Hawaii, Idaho, Illinois, Texas, and Vermont. Kansas and Missouri use a mixed method to appoint juvenile court judges; in some districts they are appointed by the governor, while in other districts elections are held.

Confidentiality of Juvenile Courts and Juvenile Documents

The newspapers carry daily accounts of abused and neglected children whose maltreatment could have been averted had child welfare authorities simply “done their jobs.” These stories often incite massive pressure by the public to hold the responsible parties accountable for their mistakes or failures to act in the best interest of the most vulnerable children. Many raise the issue of confidentiality and how it affects accountability and juvenile court improvement.

Arguments for and against Confidentiality

Deprivation proceedings and records are still confidential in most juvenile court jurisdictions despite the call in recent years to open both juvenile court records and hearings. Fewer than 15 states have enacted laws that allow for open deprivation proceedings, and nearly all have kept juvenile records confidential.

Proponents for removing confidentiality protections from juvenile courts assert that if more “sunshine” is shone on the deprivation court system the public scrutiny will force actors in the system to become more accountable for their decisions (Soule 2000). Opponents disagree, asserting that merely opening the court to public attention will not increase accountability in any way that could be considered systemic but rather will cause further trauma to child victims in maltreatment cases sensationalized by the media (Tucker 2000). There are numerous arguments for and against confidentiality in deprivation cases (Tucker 2000).

Argument in opposition to opening juvenile proceedings and records

- Children would be deterred from reporting abuse, and parents would be deterred from seeking help if the records are open;
- Child victims would experience process-trauma if the records are open;
- Parents would be deterred from admitting abuse or neglect (admitting abuse or neglect is key to treatment) if the records are open;
- Children and their families would risk stigmatization if the records are open;
- Family privacy would be compromised if the records are open; and
- Insensitivity by the media in publishing the names of children and families may further complicate the lives of children and their families.

Argument in support of opening juvenile proceedings and records

- Closed proceedings allow systemic problems to remain unchecked due to lack of accountability for various actors in the system;
- Closed proceedings are contrary to the public’s right to access government functions, and the public lacks confidence in “secret” systems; and
- Achieving confidentiality by closing proceedings is virtually impossible because the same information is available in criminal and child custody cases.

Federal Guidelines for Confidentiality

Two legislative acts serve as guidelines for the states regarding confidentiality. Under the Child Abuse Prevention and Treatment Act (CAPTA), states must abide by its guidelines on confidentiality in order to receive federal funds. Moreover, the Adoption Assistance and Child Welfare Act of 1980 (AACWA), which allocates money to states for child welfare and adoption programs, mandates that fund recipients keep child records and information confidential. Both of these acts require that, with few exceptions, records remain closed. The Children's Bureau of the U. S. Department of Health and Human Services contends that states operating with open deprivation proceedings are in conflict with federal guidelines on confidentiality because confidential records and information are often read and disclosed in those proceedings. However, with a recent amendment to federal regulations under CAPTA, open courts are no longer in violation of CAPTA guidelines if the open court policy "at a minimum, ensure[s] the safety and well-being of the child, parents, and families."

Removing Confidentiality and the Effect on Court Operations

Because there are not enough states with open courts to compare with closed courts states, it is difficult to ascertain the impact that open hearings and courts have on juvenile court improvement and accountability. However, there is some anecdotal evidence that in the states in which courts have been opened there has been little growth in the public's interest in deprivation cases. Officials in Minnesota and Michigan have stated that the press is interested only in "notorious" cases, so their courts have not been disrupted by any more public attention than they received before their confidentiality laws were loosened (Tucker 2000).

The methods and degree to which confidentiality rules have been changed varies among the states that have opened their juvenile courts. Oregon, for instance, has opened its juvenile courts almost completely but leaves to the judge's discretion the ability to close court proceedings when deemed appropriate. However, the state has not opened its records to the public. Florida, on the other hand, has opened its proceedings and has also partially opened its records to the public. Perhaps most interesting is the court system of Minnesota, which has varying confidentiality rules depending on the district. Twelve counties are experimenting with open records (with the exception of mental and health records) and proceedings. Officials and stakeholders are still assessing the impact that removing confidentiality has had on their courts.

The following states have pilot open courts or statewide open deprivation proceedings and grant judges discretion to close them if deemed necessary to prevent trauma to the child and to ensure an equitable process: Arizona (pilot), California (pilot), Colorado, Florida, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Montana, Nebraska, Nevada (pilot), New York, North Carolina, Ohio, Oregon, Tennessee, Texas, Utah (pilot), and Washington. Most states have presumably closed deprivation proceedings and grant judges the discretion to open the proceedings. They include Alabama, Alaska, Arkansas, Connecticut,

Delaware, Georgia, Hawaii, Idaho, Illinois, Kentucky, Louisiana, Maine, Massachusetts, Missouri, Mississippi, New Hampshire, New Jersey, New Mexico, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming. The specific guidelines of each state are provided in Appendix B.

There are several arguments expressed by advocates and stakeholders that support removing confidentiality. They contend that accountability is needed and may be accomplished through open records and proceedings, citing that many courts and child welfare agencies hide systemic flaws and failures behind the shield of confidentiality. These advocates of removing confidentiality do not see how it would be at odds with sensitivity to the children because confidential information in closed systems is still easily available through other sources such as criminal and child custody cases. They agree that great care should be taken to prevent further trauma to children by the system.

Advocates and stakeholders that oppose removing confidentiality expressed great concern about stigmatizing the very children for whose care the system is charged. They also have examined existing open systems and note that public scrutiny is not likely to increase in such systems but will concentrate only on “front page” cases that would already attract the media’s attention. While some individual cases are often powerful devices for swaying public opinion, these cases are not necessarily reflective of the norm and, therefore, do not provide the public with a true view of the system. Thus, the goal of increased accountability will not be realized by removing confidentiality.

It may be possible to satisfy both sides of the debate if there is recognition that the system, rather than individual families, is what needs to be scrutinized. By allowing for public scrutiny of the system through a model court or citizen panel, the goal of accountability is achieved without punishing the individual or prematurely and reactively changing a functioning system based on any single case.

Other Mechanisms of Accountability Used by Juvenile Court Systems in the United States

Recognizing the important role courts play in child welfare, the Court Improvement Project grant program was created as part of the Omnibus Budget Reconciliation Act of 1993 (Addison and Spar 1999). It was intended to provide state courts with funds to systematically reform their processes to meet the ASFA guidelines.

Nearly all states have completed the assessment phase of their projects and instituted statewide systemic changes in their juvenile court systems. Progress reports from each of these states have shown that states are generally meeting federal guidelines in the treatment of their cases. However, even with fundamental changes to their systems, some courts and judges continue to fail to meet the timelines set forth by ASFA.

This problem does not appear to be systemic in Georgia. For instance, the Office of the Child Advocate reported to a task force for the Child Fatality Review Panel that complaints regarding continuances and missed hearing deadlines are isolated occurrences around the state.

Conduct Review Boards and Retention Elections

Typically, juvenile courts and judges throughout the nation are held accountable through judiciary performance and conduct review boards (American Judicature Society 2003). Complaints are filed with and investigated by the appropriate body of authority. Once the veracity or merit of the case is established, the convening authority deals with the judge accordingly. The overwhelming majority of states use special conduct review boards to investigate complaints about judges and establish the fitness of judges to remain on the bench. Most of these states grant these review boards the power to recommend censure, remove, or suspend judges, with appeals ultimately decided by the state supreme court. Voters have the power to recall judges in eight states: Arizona, California, Colorado, Minnesota, Nevada, North Dakota, Oregon, and Wisconsin.

Six states that use retention elections have created performance review panels that rate each judge's record on the bench (American Judicature Society 2003). The evaluations are based on surveys to attorneys, peace and probation officers, social workers, court employees, and jurors, as well as on investigative materials specific to each judge. Once the evaluations are complete, the results are mailed to citizens within the judicial circuit with explanations of their meaning and brief narratives about the judges. The retention election process is also explained in the package. Citizens who review the information are then equipped with information to assist them in their voting decisions. In Arizona, judges have the opportunity to review their performance reports in teams and construct plans to address "deficiencies" prior to information packages being mailed to potential voters. See Appendix C for the Arizona survey. Data on retention elections in Alaska shows that citizens largely base their decision to retain judges on the scores received on these evaluations.

The Utah and Michigan Models

One of the strongest systems of accountability instituted is found in Utah and Michigan. Both use court administrative offices and the data collection system constructed through their respective court improvement projects to review data on a county and district level for compliance with ASFA guidelines. The results are sent to juvenile court judges periodically, and judges within districts collectively plan how to address any inability to meet federal standards. Michigan uses "stakeholder" groups, which include juvenile court judges and court participants, to plan how to address shortcomings of the court. Because of improvements in their courts and higher standards of accountability, only 10 percent of Utah stakeholders characterize continuances as a problem (Dobbins et al. 2003). The average time between scheduled hearings and actual hearings is less than three days.

Checks and Balances Used in Georgia's Juvenile Courts

In the state of Georgia, there are several formal and informal measures and processes of accountability for juvenile court systems and juvenile court judges. The effectiveness and accessibility of these measures and processes was explored through stakeholder interviews, surveys, and focus groups during the second phase of this research.

Selection of Juvenile Court Judges

In all but one judicial circuit, juvenile court judges in Georgia are appointed by the superior court in each respective jurisdiction. In accordance with House Bill (HB) 182 (codified at O.C.G.A. § 15-11-18), the juvenile judicial position must be posted in the local legal organ once a month for a period of three months prior to appointment or reappointment. The superior court, either in its entirety or by committee, interviews each candidate that meets the minimum qualifications. These qualifications require that a candidate be a minimum age of 30 years, be licensed to practice law for 5 years, and be a citizen of Georgia for a least 3 years.

After the appointment process, juvenile court judges serve a term of four years and must report to their local superior court. Reporting requirements and frequency of communication varies from circuit to circuit.

In accordance with HB 182, at the end of a four-year term, the position must be posted again and the process open to all interested and qualified persons. Although it is unclear whether accountability was contemplated when this process was created, the procedure ultimately lends itself to judicial performance review as opposed to “rubber-stamped” reappointments. In many jurisdictions, the juvenile court produces annual and term reports of the accomplishments of the court under the judge’s leadership. Superior court judges review these reports when determining whether or not to grant reappointment.

Jurisdictions that do not access state funds under HB 182 do not have to follow the same procedure indicated above. However, most juvenile judges are selected by the superior court after an open and fair process of interviewing and selection. The term of these judges is also four years, and the minimum qualifications remain the same.

One exception to Georgia’s local judicial appointment process is the juvenile court system in Floyd County, which first localized control of its selection process for juvenile court judges in 1980. The Georgia legislature and Floyd County voters enacted administrative rules by which their juvenile court judge would be selected and compensated through a Georgia Constitutional Amendment and Local Act in 1980, 1982, and most recently in 1990. Currently, the provisions provided in the 1990 amendment require that the full-time juvenile court judge be elected, the election be nonpartisan, the judge not practice law outside the judgeship duties, the judge be paid out of the county budget, and the judge meet eligibility requirements as outlined in the act. In 2001, HB 414, which would have

repealed the previous amendments allowing Floyd County to elect its Juvenile Court Judge, was proposed. The measure failed to pass, and the matter has not been taken up since that time. Floyd County, then, remains the only Georgia county with a juvenile court judicial position maintained by a general election—a system of accountability through selection by the general public every four years rather than by the superior court.

Recent changes in judicial election law allow judges to make campaign speeches, directly receive campaign contributions, and seek public endorsements. *Weaver v. Bonner*, 309 F.3d 1312, 1321 (11th Cir. 2002). As a result, there is much debate regarding whether the practice of judges seeking support from attorneys and other parties who may appear before them will damage the integrity of the judiciary.

Judicial Qualifications Commission

The formal judicial accountability mechanism in Georgia is the JQC. Established by constitutional amendment in 1972, the JQC is charged to conduct investigations and hearings regarding complaints of misconduct by all judges throughout Georgia—including juvenile court judges.

Anyone may file a complaint with the JQC. All complaints must be based on allegations that a judicial officer has violated at least one of the seven Canons of the Code of Judicial Conduct, which are as follows:

- (1) Judges should uphold the integrity and independence of the judiciary;
- (2) Judges should avoid impropriety and the appearance of impropriety in all their activities;
- (3) Judges should perform the duties of their office impartially and diligently;
- (4) Judges may engage in activities to improve the law, the legal system, and the administration of justice;
- (5) Judges should regulate their extrajudicial activities to minimize the risk of conflict with their judicial duties;
- (6) Judges should regularly file reports of compensation received for quasi-judicial and extrajudicial activities; and
- (7) Judges should refrain from political activity inappropriate to their judicial office.

After receiving a complaint, the executive director of the JQC may authorize a preliminary inquiry. Following analysis of the information gathered, the complaint and relevant information are sent to each commission member for review prior to their monthly meeting. The JQC then either closes the complaint because it concludes that the complaint fails to state, or the facts developed upon an initial inquiry to the judge or the investigation fail to show any reason for the institution of disciplinary proceedings, or the JQC proceeds with an informal investigation and hearing, after which it either closes the complaint or files formal proceedings. If a judge is found to be in violation of one or more of the seven canons, the JQC may recommend to the Supreme Court retirement, censure, suspension, or removal from office.

Judicial misconduct that is considered to be within the scope of the JQC includes

- failure to perform duties impartially and diligently,
- failure to dispose promptly of the business of the court,
- conflict of interest, and
- other conduct which reflects adversely on the integrity of the judiciary.

The JQC does not address the following issues of judicial conduct:

- rulings on the law or facts;
- issues within the discretion of the court;
- rulings on admissibility of evidence;
- rulings involving alimony, child support, custody, or visitation rights;
- sentences imposed by the court; and
- believing or disbelieving witnesses.

Thus, as a tool for accountability regarding the processing of deprivation cases, the JQC is not appropriate for assessing performance measures and other case-specific issues. Although the JQC is an available tool for providing accountability of juvenile court judges, many parties, especially lawyers or service providers who may have to continue trying cases before the judge in question, are reluctant to use its process.

The Appeals Process

Deprivation and abuse cases can be appealed for reconsideration on rulings on law, objections, decisions, and various other aspects of trial. In this regard, judges and courts are held accountable for following the law as set forth in the Georgia code and in case law precedent. Most appeals from deprivation and abuse cases regard termination of parental rights hearings and whether law, policy, and process were followed. As a practical matter, many indigent clients do not feel empowered to appeal these decisions.

Federal IV(e) Audits

Under ASFA, state agencies and courts must adhere to certain regulations in order to receive federal funds for foster care. Consequently, the Georgia State Division of Family and Children Services is subjected to periodic IV(e) audits by the federal government. The audits include an on-site review to measure conformity with outcomes. Some of the statewide data indicators are

- *Repeat maltreatment.* Of all children who were victims of substantiated or indicated child abuse and/or neglect during the period under review, what percentage had another substantiated or indicated report within a 12-month period?
- *Maltreatment of children in foster care.* Of all children in foster care in the state during the period under review, what percentage was the subject of substantiated or indicated maltreatment by a foster parent or facility staff?

- *Foster care reentries.* Of all children who entered care during the period under review, what percentage reentered foster care within 12 months of a prior foster care episode?
- *Length of time to achieve the permanency plan.* Of all children who were reunified with their parents or caretakers at the time of discharge from foster care, what percentage was reunified in less than 12 months from the time of the latest removal from home? Of all children who exited care to a finalized adoption, what percentage exited care in less than 24 months from the time of the latest removal from home?
- *Stability of foster care placement.* Of all children served who have been in foster care less than 12 months from the time of the latest removal from home, what percentage have had no more than two placement settings?
- *Length of stay in foster care.* For a recent cohort of children entering foster care for the first time in the state, what is the median length of stay in care prior to discharge?

While many of these indicators cannot rest entirely with the court, the judge, in guiding and overseeing the deprivation case process, certainly has great impact on each. The care by which judges review case plans and placements, the decisions to return a child to a stable home to prevent reentries, and the prevention of continuances and other delays that may unnecessarily extend a child's stay in foster care are all factors that require a great deal of judicial oversight.

Other areas of review that reflect directly on judicial accountability are reasonable efforts determinations, contrary to the welfare of the child determinations, and properly worded court orders. All of the determinations must be made in a timely manner and documented in the court orders. In fact, the contrary to the welfare of the child determination must be made in the first court order sanctioning the removal of the child from the home. The federal regulations allow states up to 60 days to obtain a judicial determination with regard to reasonable efforts to prevent removal of a child from home. Moreover, within 12 months of the date the child is considered to have entered foster care, the state is to obtain a judicial determination that the state agency made reasonable efforts with respect to the permanency plan that is in effect. Finally, *nunc pro tunc* orders are not permitted in order to preserve the certainty that these determinations are made in accord with the statute. See 45 C.F.R. §§ 1355–1357 (2000).

Agencies are completely dependent upon judges to meet these federal requirements. The most recent IV(e) audit for Georgia clearly outlined the areas in which judicial actions or inactions caused the loss of foster care funds. As a result of the audit, Georgia lost federal funding to support children and foster care. These guidelines and audits are, therefore, another measure of accountability for judges and juvenile court systems.

Day in Court Projects

While Georgia is a state in which deprivation hearings and records remain confidential, judges do have discretion to open individual hearings to the public. Some

courts have instituted Day in Court Projects to allow members of the community to observe deprivation hearings so that they can gain an understanding of the needs of children in the deprivation and abuse processes. Leaders, service providers, elected officials, and others have the opportunity to watch proceedings and ask questions following hearings. Judges have found this project extremely helpful in garnering support for increased county resources, obtaining new community resources, and soliciting volunteers for programs such as Court Appointed Special Advocates and Citizen Panel Review.

Child Placement Project

The CPP has worked with courts to improve deprivation and abuse case processing. As Georgia's recipient of the federal Court Improvement Project funds, CPP will continue identifying and addressing areas in which process improvements, judicial accountability, and training can be enhanced.

The above list of accountability measures and programs are not exhaustive, but they do form the core of what currently exists in Georgia.

Child Placement Project Advisory Committee Recommendations

The CPP committee makes the following recommendations for improving juvenile court accountability.

Improving Juvenile Courts and Their Accountability

CPP, which is Georgia's Court Improvement Project, should continue to work toward collecting automated data to identify both the bright spots and the flaws in Georgia's child welfare system and to analyze performance trends of the judiciary and staff of Georgia's Juvenile Courts. This information should be published in an annual report as a public assessment of the child welfare system's adherence to state and federal law, particularly the Adoption and Safe Families Act (ASFA). CPP also needs to continue working with the Council of Juvenile Court Judges and other agencies to assist with the training of all court participants in best practices for model deprivation proceedings. The CPP committee believes that the One Judge/One Family model put forth by the National Council of Juvenile and Family Court Judges and Georgia's Model Court program is one best practice to improve the quality and depth of hearings and the treatment of the parties. Other best practices include utilizing model court orders, early appointment of representation for all the parties, instituting a no-continuance continuance policy and frequent, timely hearings.¹

The Selection Method of Juvenile Court Judges

The current process of selecting and reappointing juvenile court judges should not be changed radically at this time, but the process can be improved. For instance, CPP does not recommend elections for juvenile court judges, although it acknowledges that some stakeholders would support elections because of their belief that elections would make juvenile courts independent of the superior courts and may elevate the stature of the juvenile court in the eyes of the public. The majority of the committee members did not support a change to elections across the state for a number of reasons:

- The cost of elections would be prohibitive;
- The election process would not be consistent with the current confidential nature of the juvenile court proceedings; and
- Juvenile cases can involve very sensitive information and can be too easily sensationalized.

CPP committee members agreed, however, that the selection and reappointment of the juvenile court judges should be standardized.² In addition, CPP felt that local communities could assist the superior court judges in selecting applications. For example, in one county a juvenile court selection panel was created. It consisted of the chair of the local bar, the local law enforcement representative, the local public defender, the local Court Appointed Special Advocate (CASA) director, and others. The panel reviewed applications, conducted interviews, and created a short list of recommended juvenile court judge candidates for the superior court judges who make the final decision.³ Superior court judges are already accountable to their local communities through elections.

It is hoped that standardization of and engaging the community in the selection process would accomplish several goals. One goal would be to level the playing field between lawyers who have demonstrated their commitment to juvenile issues and others whose primary motivation is to gain a foothold on the path to a judicial career in adult court. The second goal would be to have more professionals on the bench who have expertise in juvenile law.

Confidentiality of Juvenile Courts and Juvenile Documents

CPP would support efforts to pilot an “open” juvenile court in one or more jurisdictions in which all hearings would be presumed open but could be closed at the judge’s discretion. Several juvenile court judges in Georgia have voiced concerns that the current level of confidentiality in the juvenile court interferes both with the ability to measure court effectiveness and with the effort to engage more of the community in the work of the court. Since juvenile hearings are conducted without juries to protect the confidentiality of children before the court, the general public rarely sees how their local juvenile court functions. One proposed open court pilot program would be modeled after a similar pilot in Minnesota, where juvenile courts are experimenting with a number of different open court formats to see if the benefits of openness are real and to be sure that children are

not harmed in the process. For further guidance in structuring its pilot programs, Georgia could look to Oregon, which has constitutionally mandated open juvenile court hearings. Sixteen other states have also opened their juvenile courts in some capacity.⁴ CPP should monitor any such pilot program closely and assist with the evaluation of the pilot program outcomes.

Other Mechanisms of Accountability Used by Juvenile Court Systems in the United States

CPP should look to the data performance annual reporting used by Utah and Michigan. Utah requires an annual report to a legislative body set up specifically for this purpose, and Michigan requires an annual report to a judicial body that includes juvenile court judges and court participants. Both states have already begun extensive work in collecting data on county and district levels to measure compliance with ASFA guidelines. CPP has recently received the Strengthening Abuse and Neglect Courts of America (SANCA) grant to set up juvenile court measures in Georgia. CPP should look to the Utah and Michigan models for lessons learned on what to avoid and what to include as it implements its work under the SANCA grant. Georgia already has the JQC, which serves as a performance and conduct review board, and CPP is not recommending performance evaluations for retention elections.

Checks and Balances Used in Georgia's Juvenile Courts

CPP should make sure the public is aware that current checks and balances already exist to hold juvenile court judges accountable. Appeals on issues of law and fact, the JQC for issues of judicial conduct, the reappointment process of the juvenile court judge, and the superior court's authority over juvenile court are all current system checks. Finally, CPP should become more involved with the current, ongoing federal reviews, especially the portion of the reviews that looks at the impact of the juvenile court's orders on the county IV(e) federal reimbursement rate and the Child and Family Services review, which evaluates performance of all agencies, including the juvenile court, across the board.

Notes

1. For more information on judicial best practices, see <http://www.state.ga.us/courts/supreme/cpp>.
2. Georgia law establishes the procedure for advertising juvenile court positions locally. See O.C.G.A. § 15-11-18(d)(3): “After the initial appointments and prior to any subsequent appointment or reappointment of any part-time or full-time juvenile court judge under this Code section, the judge or judges responsible for making the appointment shall publish notice of the opening on the juvenile court once a month for three months prior to such appointment or reappointment in the official legal organs of each of the counties in the circuit where the juvenile court judge has venue. The expense of such publication shall be paid by the county governing authority in the county where such notice or notices are published.”
3. See O.C.G.A. § 15-11-18(h): “Action by superior court judges. In any case in which action under this Code section is to be taken by the superior court judge of the circuit, such action shall be taken as follows: (1) Where there are one or two judges, such action shall be taken by the chief judge of the circuit; and (2) Where there are more than two judges, such action shall be taken by a majority vote of the judges of that circuit.”
4. For more information, see <http://www.childwelfare.net/activities/interns/2000summer/OpenCourts/>.

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Appendix A

Summary of Key Informant Interviews

Between March and May 2004, the Carl Vinson Institute of Government conducted a series of interviews with the members of the Child Placement Project (CPP) subcommittee on juvenile court accountability. The subcommittee included a cross section of superior court judges, juvenile court judges, attorneys, and other professionals from child-serving organizations associated with the juvenile court, including the Division of Family and Children Services (DFACS). A structured interview guide based upon the Juvenile Court Accountability Draft Report was used to gather feedback from these experts.

This summary is divided into sections that roughly correlate to the sections of the final report.

Performance Review of Juvenile Court Judges and Juvenile Court Processes

The key informant interviews revealed that

- There is no common information gathering, analysis, or reporting system for juvenile courts in Georgia. A reporting system is critical to understanding the status of juvenile court accountability and assessing any improvements to it.
- There are no standards for judges, court personnel, or court protocol that relate to the number of cases being handled. The key informants felt that there is a strong link between resources available to handle the juvenile caseload and the outcomes for children and families.
- Key informants reported that court efforts to collaborate with agencies such as DFACS have been successful in developing innovative tools like the case plan reporting system.
- Management information systems need to be developed to be user friendly, to provide useful information, and to be outcome oriented. The information should extend beyond court process management data and include quality of life data for children and families.

Quality and Depth of Hearings

The key informants focused on the one judge/one family model and felt that

- The one judge/one family model in juvenile courts is operating in many places in Georgia, particularly in rural areas.
- The one judge/one family model is important because it provides consistency in the lives of the children seen by the court and enhances the understanding and review of their situations.

- The one judge/one family model can be derailed by high caseloads and lack of resources.

Selection Method of Juvenile Court Judges and Accountability

Elections

- The vast majority of participants in the key informant interviews did not support the election of juvenile court judges.
- Opponents to the election of juvenile court judges believe that the key issue for juvenile judicial selection is performance. Expertise in juvenile court issues is critical, they believe, and is most often guaranteed by appointment. These participants also believed that the time and expense of mounting a campaign would detract from a juvenile court judge's ability to focus on the expertise needed and might discourage persons with the needed expertise from seeking the position.
- Participants supporting the election of juvenile court judges cited the need for public awareness of the juvenile court process. These few participants thought that if juvenile court judges were elected, their campaigns would include speeches, literature, and other opportunities to make the public aware of the needs of children and families involved with the court.

Current Method of Selecting Juvenile Court Judges in Georgia

Although most participants felt that the current method of selection of juvenile court judges—appointment—is still political in nature, they felt that it has the greatest potential to ensure the needed level of expertise. Participants suggested the following changes to improve the current system:

- More periodic, uniform oversight by the superior court throughout the term of a juvenile court judge's appointment, with scheduled reviews (at least prior to reappointment);
- More uniform oversight and review by the superior court regarding whether the law is being followed and whether the court processes overseen by the juvenile court judge are efficient and effective; and
- Clarity in the criteria justifying the acceptance by a juvenile court judge of cases from the superior court.

Confidentiality of Juvenile Courts and Juvenile Documents

While the interviewees view the opening of juvenile courts as a mechanism leading to public understanding of the grave crises children in our communities face, there was large support for using judicial discretion to determine whether to open the courts. The interviewees felt that judicial discretion could address various concerns, including:

- Judges should question whether opening their courts in all cases would achieve the goals of public education and understanding. Some concern was expressed that, with constant availability to juvenile court hearings, only sensational cases would receive attention. On the other hand, programs such as the Day in Court program, which schedules court access and publicizes that access, are perceived as being effective in achieving the public education and understanding goals.
- Judges should determine whether the privacy and confidentiality needed for children, particularly in cases of sexual abuse, are maintained if the court is open.

Many interviewees anticipated few changes to public involvement in the juvenile court processes if the system was changed and the courts opened.

Checks and Balances Used in Georgia’s Juvenile Courts

Judicial Qualifications Commission

The Judicial Qualifications Commission (JQC) is supported by the interviewees and is deemed to be a necessary component to juvenile court accountability. Interviewees expressed two concerns related to the use of the JQC:

- Whether the JQC is being used in all instances in which its use is appropriate, and
- Whether the families involved with the juvenile court process know of the JQC.

Appeals Process

Participants reported an increase during the last several years in appeals from juvenile court decisions, especially in cases dealing with termination of parental rights. They expressed concern about the availability of equal access for all families to the appeals process, citing:

- lack of knowledge about the appeals process,
- the high cost of the appeals process, and
- the low use of appeals by DFACS.

Federal IV(e) Audits

Interviewees were concerned about Georgia receiving its full allotment of Title IVe funds and about court processes being consonant with DFACS procedures so that these funds are assured. They thought that continued training on appropriate court roles in the process was needed to ensure funding. They also felt that it was critical for juvenile courts to receive feedback from DFACS regarding their court process performance.

The Michigan and Utah Models of Judicial Review

Interviewees unanimously expressed interest in the Michigan and Utah models of judicial review for achieving juvenile court accountability. The models were viewed as potentially appropriate for use in Georgia and worthy of further study.

Conclusion

Interviewees most frequently cited three requirements for effective juvenile court accountability:

- Information systems that allow for uniform data collection, uniform reporting mechanisms, uniform data analysis, and linkages with other systems;
- Increased opportunities for public awareness of what is happening in the juvenile courts and the situations of the children and families they serve; and
- Parallel status with other courts so that needed resources and standards can be developed.

The key informants in these interviews felt that much has been accomplished in strengthening the accountability of juvenile courts since the inception of the juvenile court system in Georgia. They believe that we must continue to build upon the accomplishments of many dedicated professionals who have sought continually to improve the juvenile court system and help to ensure the well being of children and families in Georgia.

Appendix B

Juvenile Court Judge Selection Process, Performance Review, and Court Confidentiality Rules in the Fifty States

Alabama

- Selection Process: Gubernatorial appointment; partisan elections; six-year term; reelection.
- Performance Review Mechanism: Complaints filed with Judicial Inquiry Commission and Court of Judiciary.
- Confidentiality: Deprivation hearings and records are closed to the general public. Ala. Code Sec. 12-15-65(a) (1998) and Sec. 12-15-100-101 (1998).

Alaska

- Selection Process: Gubernatorial appointment from Alaska Judicial Committee; four-year term; retention vote by the public.
- Performance Review Mechanism: Alaska Judicial Committee submits performance review reports for each judge up for retention.
- Confidentiality: Deprivation hearings and records are closed to the general public. Alaska Stat. Sec. 47.10.070 (1999) and Sec. 47.10.090 (1999).

Arizona

- Selection Process: Nonpartisan election/gubernatorial appointment for counties with populations greater than 250,000; four-year term; retention vote by the public.
- Performance Review Mechanism: Judicial Nominating Committee makes appointment recommendations. Commission on Judicial Review submits performance review of each judge.
- Confidentiality: Deprivation hearings and records are closed to the general public. Ariz. Rev. Stat. Sec. 8-224 (2003). There are pilot open courts effective Dec. 31, 2004. (2003 Az. SB 1304).

Arkansas

- Selection Process: Nonpartisan elections; six-year term; reelection.
- Performance Review Mechanism: Complaints are filed with the Judicial Discipline and Disability Commission.
- Confidentiality: Deprivation hearings and records are closed to the general public. Ark. Cod. Ann. Sec. 9-27-325(i) (1999).

California

- Selection Process: Gubernatorial appointment; Nonpartisan election; six-year term; reelection.
- Performance Review Mechanism: Commission on Judicial Performance investigates complaints. The Commission on Judicial Nominees reviews the performances of each judge prior to each election.
- Confidentiality: Deprivation hearings and records are closed to the general public. Cal. Welf. & Inst. Code. Sec. 346 and Sec. 827 (1999). Pilot Open Courts were authorized under Cal. A.B. 2627 (2003).

Colorado

- Selection Process: Gubernatorial appointment from district nominating committee; six-year term; retention election.
- Performance Review Mechanism: Judicial Performance Commission reviews performance of judges prior to each retention vote.

- Confidentiality: Deprivation hearings are open to the general public with judicial discretion to close them if in the child's best interests. Colo. Rev. Stat. Ann. Sec. 19-1-106(2) (1998). Deprivation records are closed to the general public. Colo. Rev. Stat. Ann. Sec. 19-1-304 (1998).

Connecticut

- Selection Process: Gubernatorial nomination from judicial selection commission; legislative appointment; eight-year term; governor renominates and legislative appointment.
- Performance Review Mechanism: Judicial Performance Evaluation Program sends out questionnaires to trial lawyers. Evaluations are examined by the Judiciary Committee, which makes recommendations for appointments to the governor.
- Confidentiality: Deprivation hearings and records are closed to the general public. Conn. Gen. Stat. Ann. Sec. 46b-122 (1997) and Sec. 46b-124 (1998).

Delaware

- Selection Process: Gubernatorial appointment from Judicial Nominating Committee; 12-year term.
- Performance Review Mechanism: State Justice Institute administers the Family Court Performance Project.
- Confidentiality: Deprivation hearings and records are closed to the general public. Del. Code Ann. tit. 10 Sec. 1063(a) (1998).

Florida

- Selection Process: Gubernatorial appointment; nonpartisan election; six-year term; reelection.
- Performance Review Mechanism: Complaints are filed with the Judicial Qualifications Commission.
- Confidentiality: Deprivation hearings are open to the general public with judicial discretion to close them if in the child's best interests. Deprivation records are closed to the general public. Fla. Stat. Ann. Sec. 985.205 (1998).

Georgia

- Selection Process: Appointed by superior court judges of the circuit; four-year term; reappointment by the superior court judges of the circuit. One juvenile court judge in Georgia is elected; four year term.
- Performance Review Mechanism: Complaints are made to the Judicial Qualifications Commission.
- Confidentiality: Deprivation hearings and records are closed to the general public. Ga. Code. Ann. Sec. 15-11-28(c) (1998) and Sec. 15-11-58 (1998).

Hawaii

- Selection Process: Appointed by the chief justice, who in turn has been appointed from the Nominating Commission with senate confirmation.
- Performance Review Mechanism: Judicial performance reviews administered by Judicial Evaluation Review Panel; results shared with judge and can be used to initiate removal of the judge.
- Confidentiality: Deprivation hearings and records are closed to the general public. Hawaii. Rev. Stat. Sec. 571-41(b) (1998) and Sec. 571-84 (1998).

Idaho

- Selection Process: Appointment by district magistrates for 18 months; retention election.
- Performance Review Mechanism: Idaho Judicial Council reviews and makes recommendations regarding the retention of judges.
- Confidentiality: Deprivation hearings and records are closed to the general public. Idaho Code Sec. 16-1608 (1998) and Idaho Juv. R. 32 (1997).

Illinois

- Selection Process: Partisan election for circuit judges; appointment by circuit judges for associate judges; four-year term; retention/reappointment.
- Performance Review Mechanism: Juvenile Committee reviews performance of juvenile court. Judicial Performance Evaluation Program for each judge rates their performance in deprivation cases.
- Confidentiality: Deprivation hearings and records are closed to the general public. 705 ILCS 405/1-5 (1998) and 705 ILCS 405/1-8 (1998).

Indiana

- Selection Process: Supreme Court Appointment; partisan election; six-year term; reelection.
- Performance Review Mechanism: Varies throughout the state. Performance evaluations in some counties; Periodic reviews by Judicial Committee.
- Confidentiality: Deprivation hearings are open to the general public with judicial discretion to close them if in the child's best interests. Deprivation records are closed to the general public. Ind. Cod. Ann. Sec. 31-32-6-2 (1998).

Iowa

- Selection Process: Gubernatorial appointment through nominating commission; six-year term; retention election.
- Performance Review Mechanism: Commission on Judicial Qualifications investigates complaints. Prior to retention election, reviews of judges are made available to the public.
- Confidentiality: Deprivation hearings are open to the general public with judicial discretion to close them if in the child's best interests. Deprivation records are closed to the general public. Iowa R. Juv. Proc. 5.10(b) (1999) and Iowa R. Juv. Proc. 5.10(a) (1999).

Kansas

- Selection Process: Varies by district; gubernatorial appointment from nominating commission; partisan election; four-year term; retention election; partisan reelection.
- Performance Review Mechanism: Nominating Commission composed of lawyers and non-lawyers review performance before nomination.
- Confidentiality: Deprivation hearings and records are open to the general public with judicial discretion to close them if in the child's best interests. All information that identifies victims of sex offenses are closed to the public. Kan. Stat. Ann. Sec. 38-1652 (1997) and Sec. 38-1607 (1997).

Kentucky

- Selection Process: Gubernatorial appointment from judicial nominating commission; nonpartisan election; eight-year term; reelection.
- Performance Review Mechanism: Complaints are reviewed by the Judicial Conduct Committee.
- Confidentiality: Deprivation hearings and records are closed to the general public. Ky. Rev. Stat. Ann. Sec. 610.070(3) and Sec. 610.340 (Michie 1998).

Louisiana

- Selection Process: Supreme court selection; partisan election; six-year term; reelection.
- Performance Review Mechanism: Judiciary Commission reviews complaints.
- Confidentiality: Deprivation hearings and records are closed to the general public. La. Stat. Ann. ch. C Art. Sec. 407 (1998).

Maine

- Selection Process: Gubernatorial appointment with senate confirmation; seven-year term; reappointment with consent of the senate.

- Performance Review Mechanism: Judicial Selection Committee makes recommendations to the governor on selection of judges. The Committee on Judicial Responsibility and Disability reviews complaints about judges.
- Confidentiality: Deprivation hearings and records are closed to the general public. Me. Rev. Stat. Ann. Tit. 15 Sec. 3307(2) (1997).

Maryland

- Selection Process: Gubernatorial appointment from nominating commission with senate confirmation after first year; 15-year term; reappointment.
- Performance Review Mechanism: Commission on Judicial Disabilities investigates complaints regarding judicial misconduct.
- Confidentiality: Deprivation hearings are open to the general public with judicial discretion to close them if in the child's best interests. Deprivation records are closed to the general public. Md. Code Ann., Cts & Jud. Proc. Sec. 3-818 (1998).

Massachusetts

- Selection Process: Gubernatorial appointment from judicial nominating commission approved by Governor's Council; term until age 70.
- Performance Review Mechanism: Judicial Institute trains and assists in educational services for judges. Commission on Judicial Conduct reviews complaints.
- Confidentiality: Deprivation hearings and records are closed to the general public. Mass. Gen. Laws. Ann. Ch 199 Sec. 65 (1998).

Michigan

- Selection Process: Gubernatorial appointment; nonpartisan election; six-year term; reelection.
- Performance Review Mechanism: Judicial Tenure Commission can recommend that a judge be removed for misconduct.
- Confidentiality: Deprivation hearings and records are open to the general public with judicial discretion to close them if in the child's best interests. Mich. Comp. Laws Sec. 712A.17(7) (1998) and Sec. 712A.28 (1998).

Minnesota

- Selection Process: Gubernatorial appointment; nonpartisan election; six-year term; reelection.
- Performance Review Mechanism: Board on Judicial Standards investigates complaints against judges.
- Confidentiality: Deprivation hearings and records are open to the general public with judicial discretion to close them if in the child's best interests. Minn. Rules of Juv. Prot. Procedure 27 (2004).

Mississippi

- Selection Process: Gubernatorial appointment; nonpartisan election; four-year term; reelection.
- Performance Review Mechanism: Commission on Judicial Performance can make a recommendation for removal of a judge after investigating a complaint.
- Confidentiality: Deprivation hearings and records are closed to the general public. Miss. Code Ann. Sec. 43-21-203(6) (1998) and Sec. 43-21-259 (1998).

Missouri

- Selection Process: Varies by district; partisan election/gubernatorial appointment from nominating commission; six-year term; retention election.
- Performance Review Mechanism: Commission on Retirement, Removal and Discipline can recommend dismissal of any judge for misconduct.
- Confidentiality: Deprivation hearings and records are closed to the general public. Mo. Rev. Stat. Sec. 211.171(6) (1998) and Sec. 211.321 (1998).

Montana

- Selection Process: Gubernatorial appointment; nonpartisan election; six-year term; reelection.
- Performance Review Mechanism: Judicial Standards Commission investigates complaints about judges.
- Confidentiality: Deprivation hearings are open to the general public with judicial discretion to close them if in the child's best interests. Deprivation records are closed to the general public. Mont. Code Ann. Sec. 41-5-1502(7) (1998) and Sec. 41-5-205 (1998).

Nebraska

- Selection Process: Gubernatorial appointment from nominating committee; six-year term; retention election.
- Performance Review Mechanism: Commission on Judicial Conduct investigates complaints regarding judges.
- Confidentiality: Deprivation hearings are open to the public with judicial discretion to close them if in the child's best interests. Deprivation records are closed to the public. Neb. Rev. Stat. Sec. 43-277 (1998).

Nevada

- Selection Process: Gubernatorial appointment from nominating commission; six-year term; reelection.
- Performance Review Mechanism: Commission on Judicial Discipline can remove a judge for misconduct. Judges are also subject to recall.
- Confidentiality: Deprivation hearings are closed to the general public in jurisdictions with populations under 400,000 and open in jurisdiction with populations over 400,000 with judicial discretion to close them if in the child's best interests. Deprivation records are closed to the general public. Nev. Rev. Stat. Ann. Sec. 62.193(i) (1999) and Sec. 62.360 (1999). Pilot open hearings and records were approved for all cases in Clark County. 2003 Nev.A.B.132.

New Hampshire

- Selection Process: Nominated by the governor subject to approval by the executive council; term to age 70.
- Performance Review Mechanism: Judicial Conduct Committee investigates complaints.
- Confidentiality: Deprivation hearings and records are closed to the general public. N.H. Rev. Stat. Ann. Sec. 169-B:34 (1999) and Sec. 169-B:35 (1999).

New Jersey

- Selection Process: Gubernatorial appointment with senate confirmation; seven-year term; reappointment by governor with senate confirmation.
- Performance Review Mechanism: Legislative branch investigates conduct of judges.
- Confidentiality: Deprivation hearings and records are closed to the general public. N.J. Court Rules, 1969 R.5:19-2 (1998) and N.J. Stat. Ann. Sec. 2A:4A-60 (1999).

New Mexico

- Selection Process: Gubernatorial appointment; partisan election; six-year term; reelection.
- Performance Review Mechanism: Judicial Performance Evaluation Commission reviews and provides the public with information about judges.
- Confidentiality: Deprivation hearings and records are closed to the general public. N.M. Stat. Ann. Sec. 32A-2-16(B) (1998) and Sec. 32(A-2-33) (1998).

New York

- Selection Process: Gubernatorial appointment by judicial screening committee with consent by senate and by mayor in New York City; partisan election/appointment by

Mayor in New York City; 10-year term; reelection/reappointment by Mayor in New York City.

- Performance Review Mechanism: Commission on Judicial Conduct investigates complaints involving the judiciary.
- Confidentiality: Deprivation hearings are open to the general public with judicial discretion to close them if in the child's best interests. Deprivation records are closed to the general public. N.Y. C.L.S. Family Ct. Act Sec. 166 (1998) and N.Y.C.L.S. Unif. Rules, Family Ct. Sec. 205.4 (1998).

North Carolina

- Selection Process: Gubernatorial appointment; partisan election; four-year term; reelection.
- Performance Review Mechanism: The Judicial Standards Commission can recommend the removal of a judge to the Supreme Court.
- Confidentiality: Deprivation hearings and records are closed to the general public. N.C. Gen. Stat. Sec. 7B-801 (1999) and Sec. 7A-675 (1999).

North Dakota

- Selection Process: Gubernatorial appointment; nonpartisan election; six-year term; reelection.
- Performance Review Mechanism: The Commission on Judicial Conduct reviews the performance of judges. The Juvenile Policy Board oversees the courts and ensures compliance of judges and agencies with juvenile court policies.
- Confidentiality: Deprivation hearings and records are closed to the general public. N.D. Cent. Code Sec. 27-20-24(5) (1999) and Sec. 27-20-52 (1999).

Ohio

- Selection Process: Gubernatorial appointment; nonpartisan election; six-year term; reelection.
- Performance Review Mechanism: Board of Commissioners on Grievances and Discipline investigates complaints against judges. Judicial College and Family Court Initiative are responsible for educating and coordinating improvement of juvenile court performance.
- Confidentiality: Deprivation hearings are open to the general public with judicial discretion to close them if in the child's best interests. Deprivation records are closed to the general public. Ohio Rev. Code Ann. Sec. 2151.35 (Anderson 1998) and Ohio Juv. R. 27 (Anderson 1998).

Oklahoma

- Selection Process: Gubernatorial appointment; nonpartisan election; four-year term; reelection.
- Performance Review Mechanism: Legislative review of judicial performance.
- Confidentiality: Deprivation hearings and records are closed to the general public. Okla. Stat. Ann. Tit. 10 Sec. 7003-4.1 (1998) and Sec. 7005-1.2 (1999).

Oregon

- Selection Process: Gubernatorial appointment; nonpartisan election; six-year term; reelection.
- Performance Review Mechanism: Commission on Judicial Fitness and Disability reviews judicial performance.
- Confidentiality: Deprivation hearings and records are open to the general public with judicial discretion to close them if in the child's best interests. Const. of Or. Art. 1 Sec. 10.

Pennsylvania

- Selection Process: Gubernatorial appointment from Judicial Advisory Commission; partisan election; ten-year term; retention election.

- Performance Review Mechanism: Judicial Conduct Board investigates complaints. Juvenile Court Judge's Commission enforces juvenile court policy and reviews outcomes of deprivation cases.
- Confidentiality: Deprivation hearings are open to the public with judicial discretion to close them if in the child's best interests and records are closed to the general public. Pa. Sons. Stat Ann. Tit. 42 Sec. 6336 (1998).

Rhode Island

- Selection Process: Gubernatorial appointment from nominating commission with senate confirmation; life appointment.
- Performance Review Mechanism: Commission on Judicial Tenure and Discipline investigates complaints. Judicial Performance Committee reviews performance of judges.
- Confidentiality: Deprivation hearings and records are closed to the general public. R.I. Gen. Laws Sec. 14-1-30 (1998).

South Carolina

- Selection Process: Legislative election; six-year term; legislative reelection.
- Performance Review Mechanism: Judicial Qualifications Committee periodically reviews the performance of all sitting judges.
- Confidentiality: Deprivation hearings and records are closed to the general public. S.C. Code Ann. Sec. 20-7-755 (1998) and Sec. 20-7-1360 (1998).

South Dakota

- Selection Process: Gubernatorial appointment; nonpartisan election; eight-year term; reelection.
- Performance Review Mechanism: Judicial Qualifications Committee reviews performance of judges.
- Confidentiality: Deprivation hearings and records are closed to the general public. S.D. Codified Laws Ann. Sec. 26-7A-36 (1999) and Sec. 26-7A-37 (1999).

Tennessee

- Selection Process: Established by special legislative act; partisan election; eight-year term; reelection.
- Performance Review Mechanism: Court of the Judiciary investigates complaints of judicial misconduct.
- Confidentiality: Deprivation hearings are open to the public with judicial discretion to close them if in the child's best interests. Deprivation records are closed to the general public. Tenn. Code Ann. Sec. 37-1-124(d) (1999) and Sec. 37-1-153 (1999).

Texas

- Selection Process: Gubernatorial appointment with consent of the senate; Associate judges appointed by judges who are subject to partisan election; four-year term; reelection.
- Performance Review Mechanism: State Commission on Judicial Conduct investigates complaints against judges. Judicial Institute is responsible for educating judges.
- Confidentiality: Deprivation hearings are closed to the general public if the child in question is under age 14. Deprivation hearings are open to the general public if the child in question is over age 14 with judicial discretion to close them if in the child's best interests. Deprivation records are closed to the general public. Tex. Fam. Code Ann Sec. 54.08 (1999).

Utah

- Selection Process: Gubernatorial appointment by nominating commission with senate confirmation; six-year term; retention election.
- Performance Review Mechanism: Performance Evaluation Program provides the public with information regarding judge's performance.

- Confidentiality: Deprivation hearings and records are closed to the general public. Utah Code Ann. Sec. 78-3a-115 (1998). Pilot open courts approved (2003 Utah H.B. 222).

Vermont

- Selection Process: Superior and district court judges sit by assignment of the Administrative Judge of Trial Courts.
- Performance Review Mechanism: Judicial Conduct Board investigates complaints against judges.
- Confidentiality: Deprivation hearings and records are closed to the general public. Vt. Stat. Ann. Tit. 33 Sec. 5523(c) (1998) and Sec. 5536 (1998).

Virginia

- Selection Process: Legislative appointment; eight-year term; legislative reappointment.
- Performance Review Mechanism: Judicial Inquiry and Review Commission investigates complaints against judges. Judicial performance evaluations are done for each judge periodically.
- Confidentiality: Deprivation hearings and records are closed to the general public. VA Code Ann. Sec. 16.1-302 (1998) and Sec. 16.1-305 (1998).

Washington

- Selection Process: Gubernatorial appointment; nonpartisan election; four-year term; reelection.
- Performance Review Mechanism: Commission on Judicial Conduct investigates complaints.
- Confidentiality: Deprivation hearings and records are open to the general public with judicial discretion to close them if in the child's best interests. Wash. Rev. Code Ann. Sec. 13.34.115 (2003).

West Virginia

- Selection Process: Gubernatorial appointment; partisan election; eight-year term; reelection.
- Performance Review Mechanism: Judicial Hearing Committee investigates complaints against judges.
- Confidentiality: Deprivation hearings and records are closed to the general public. W. Va. Code Sec. 49-5-2(i) (1999) and Sec. 49-5-17 (1999)

Wisconsin

- Selection Process: Gubernatorial appointment; nonpartisan elections; six-year term; reelection.
- Performance Review Mechanism: Judicial Commission reviews performance of judges.
- Confidentiality: Deprivation hearings and records are closed to the general public. Wis. Stat. Ann. Sec. 48.299 (1997).

Wyoming

- Selection Process: Gubernatorial appointment from nominating commission; six-year term; retention election.
- Performance Review Mechanism: Commission on Judicial Conduct and Ethics can recommend dismissal of judge.
- Confidentiality: Deprivation hearings and records are closed to the general public. Wyo. Stat. Sec. 14-6-224(b) (1999) and Sec. 14-6-203(g) (1999).

PUBLIC COMMENT ON JUDGE

The Arizona Commission on Judicial Performance Review ("JPR") invites public comments about the job performance of Maricopa and Pima County Superior Court judges, Court of Appeals judges, and Supreme Court justices pursuant to Supreme Court Rule 6(d). The comments will be considered when the judge is undergoing review.

Written comments cannot be considered unless the name and address of the author is included. PLEASE BE ADVISED THAT PUBLIC COMMENTS ARE GIVEN TO THE JUDGE AND PRESIDING JUDGE WITH THE COMMENTOR'S NAME ATTACHED.

Thank you for participating in this important process.

1. Please provide your name, address and contact information:

Name

Address

City

State

Zipcode

Telephone

FAX

E-mail

2. Name of judge and Name of court:

3. What type of interaction did you have with this judge?

4. Do you have any other comments regarding this judge?

This questionnaire was created using Perseus SurveySolutions.



The University of Georgia

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