

Raising the Bar on Court Practice in Child Abuse & Neglect Cases



**Judge Darlene Byrne
126th Judicial District Court
Austin, Texas**

Austin, Texas

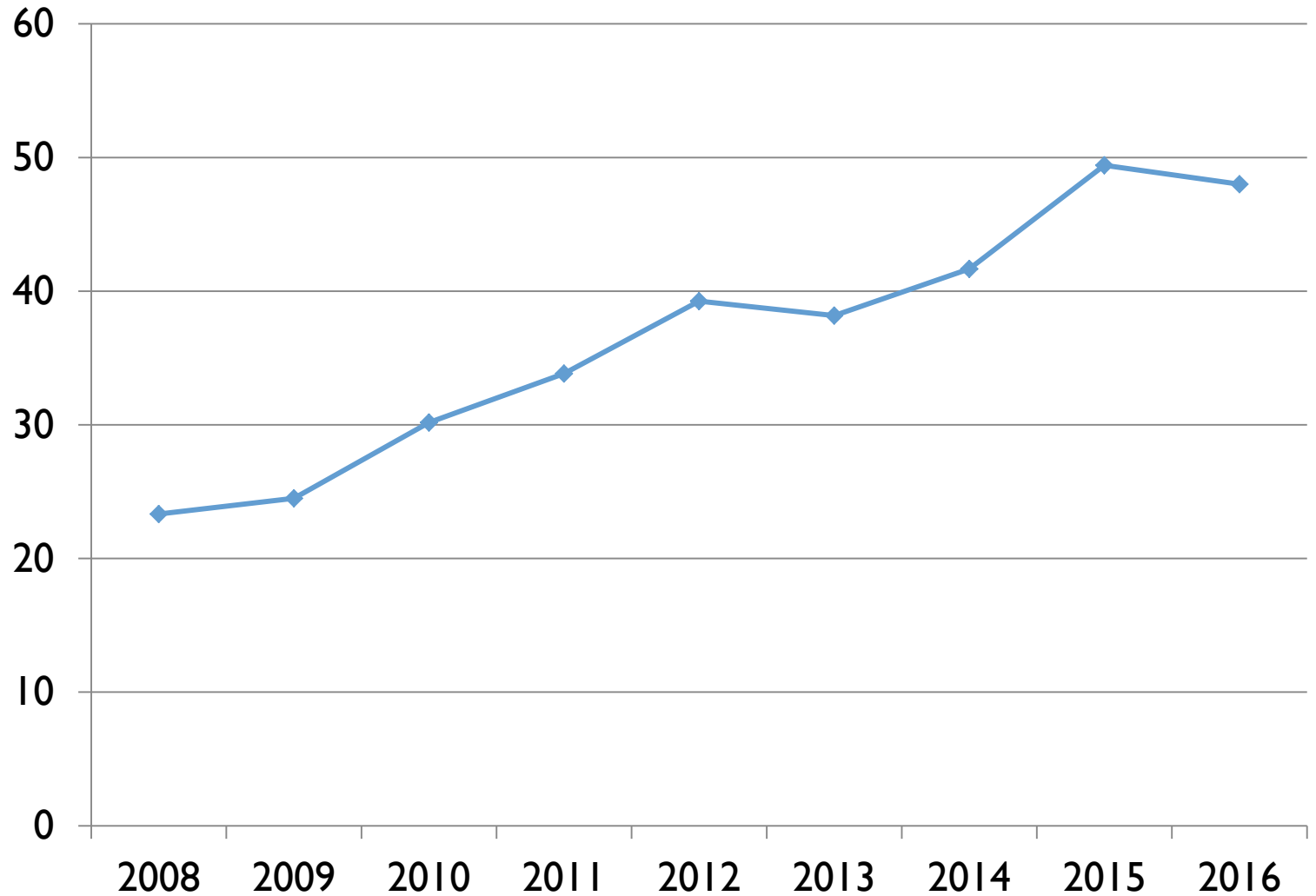


Travis County, TX



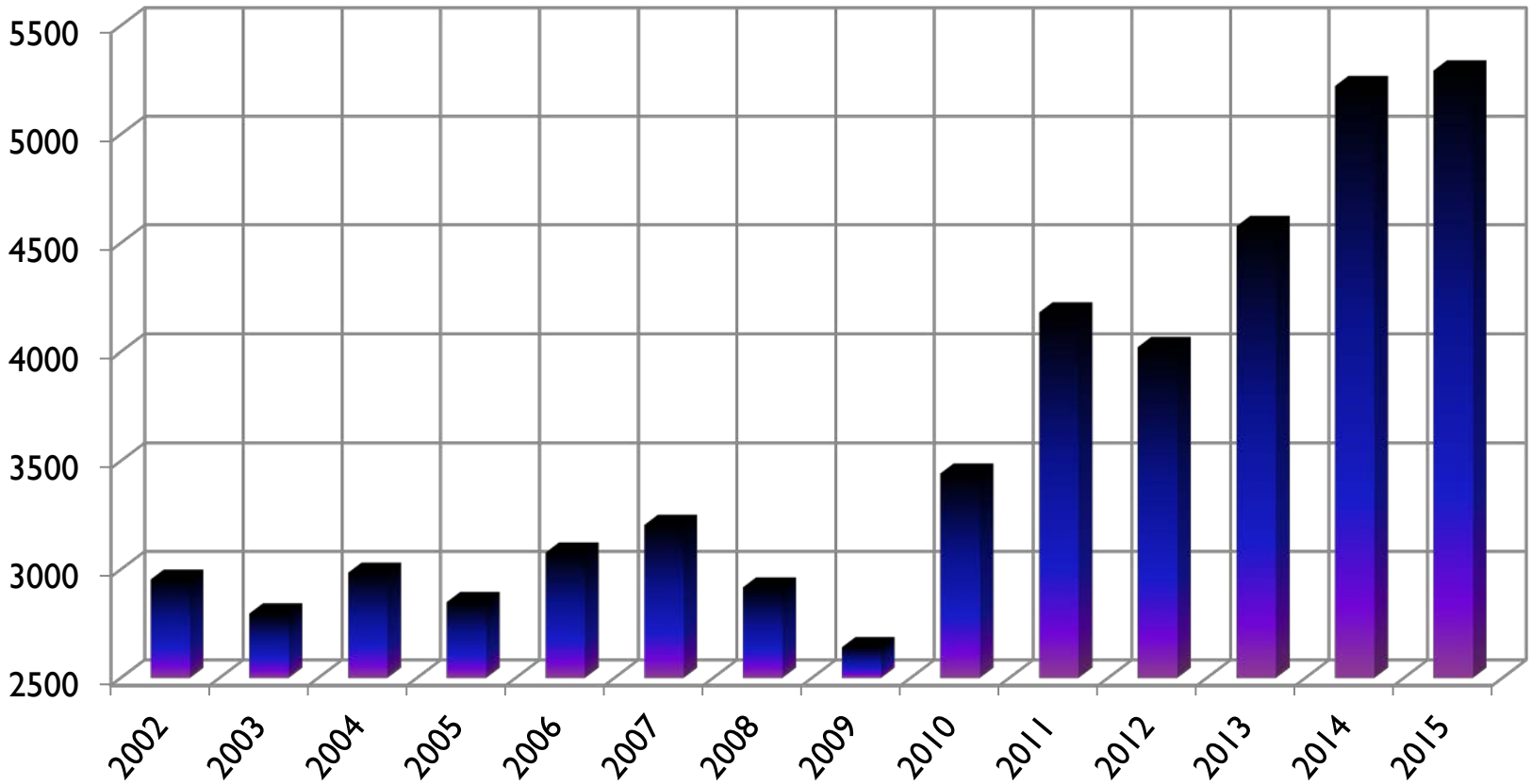
- Travis County CPS Snapshot Data (Data through June, 2017)
 - 1500 children currently under court jurisdiction (327 COS / 837 TMC / 307 PMC)
 - 2,415 total kids served in 2016
 - 48 = Avg # New Cases per month
 - 4,953 CPS Hearings in 2016
 - 413 = Avg # Statutory Hearings / month (doesn't include contested hrgs or trials)

Avg New CPS Cases Filed/Month



CPS Hearings Have Increased Dramatically

2002-2015 (Increased by 97% since 2009)



(Note: 2015 includes data thru Aug, plus projected #s for Sept-Dec)

The Federal Administration



Children's Bureau

An Office of the Administration for Children & Families

Child and Family Services Reviews

- CFSRs enable the Children's Bureau to:
 - (1) ensure conformity with federal child welfare requirements;
 - (2) determine what is actually happening to children and families as they are engaged in child welfare services; and
 - (3) assist states in enhancing their capacity to help children and families achieve positive outcomes.

CFSRs Focus on...



7 OUTCOMES IN THESE 3 AREAS OF FOCUS:

- SAFETY
- PERMANENCY
- FAMILY & CHILD WELL-BEING

Bottom Line, Oregon:



Dependency Work from the Court Perspective



Photo: CASAspeaks4kids.com

Inspiration

NCJFCJ
est. 1937

NATIONAL COUNCIL OF
JUVENILE AND FAMILY COURT JUDGES

WWW.NCJFCJ.ORG

Judicial Leadership

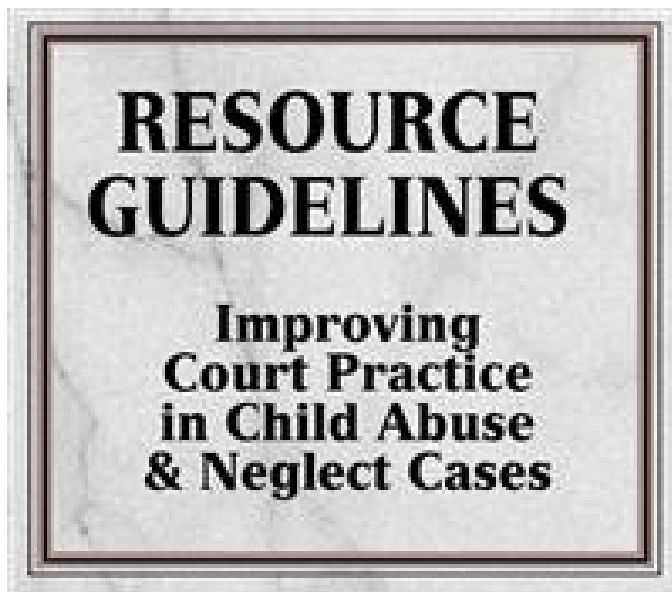
- **How are you called to serve...**
 - **On the Bench?**
 - **Off the Bench?**

ON THE BENCH:

Judicial Leaders Should Embrace...

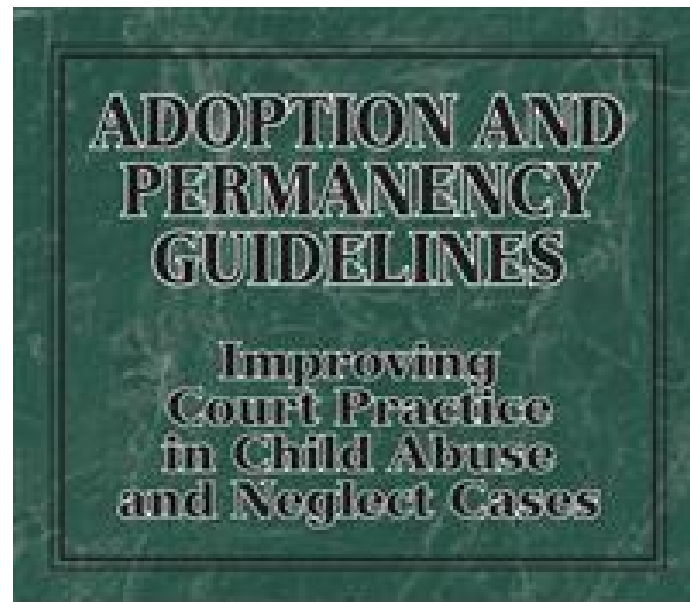
- **Trauma-Informed Thinking**
- **Avoiding Judicial Bias**
- **Focus on Child Safety**
- **Promising Practices**

History and Impact of the Original *RESOURCE GUIDELINES Companion Documents*



NATIONAL COUNCIL OF JUVENILE
AND FAMILY COURT JUDGES
Reno, Nevada

NCJFCJ ©1995



NATIONAL COUNCIL OF JUVENILE
AND FAMILY COURT JUDGES
Reno, Nevada

NCJFCJ ©2000

The *ENHANCED RESOURCE GUIDELINES*

The Need for Revision

- Lessons Learned and Insights from Model Courts
- Combining the Resource Guidelines and the Adoption and Permanency Guidelines



The Key Principles

- **Now Expanded and More Detail**
- **14 Revised Key Principles (vs 5 Original Key Principles)**
- **Recognizes:**
 - **Growing Body of Research**
 - **Greater need for Judicial Training and Understanding**
 - **Role of Judge as Leader in Improving the Dependency Court System**

ENHANCED RESOURCE GUIDELINES Topics

New info on topics, including:

- Child safety
- Domestic violence and child protection
- Judicial Bias
- Who should be present at hearings
- Engaging families and children in the courtroom
- Child well-being

The Bench Cards

- Preliminary Protective Hearing
- Adjudication
- Disposition
- Permanency Hearing
- Review Hearings
- Termination of Parental Rights

PERSONS WHO SHOULD BE PRESENT AT THE PRELIMINARY PROTECTIVE HEARING

- Expanded List – Esp. Family / Relatives / Fictive kin
- Not like other cases where the only ones you have to worry about getting in the courtroom are the Judge, Court reporter, Clerk, and Court security



COURTS CAN MAKE SURE THAT PARTIES AND KEY WITNESSES ARE PRESENT BY...



REVIEW & CONSIDER

- REVIEW RELEVANT DOCUMENTS
- CONSIDER WHETHER THERE ARE ANY RELATED CASES IN JUVENILE OR OTHER COURTS – NO WRONG DOOR TO ENTER COURTHOUSE



CONDUCTING THE PRELIMINARY PROTECTIVE HEARING

- **Opening the Hearing**
- **Due Process Considerations**
 - **Notice**



CONDUCTING THE PRELIMINARY PROTECTIVE HEARING (continued)

Representation



CONDUCTING THE PRELIMINARY PROTECTIVE HEARING (continued)

- COMPETENCY
- APPLICABILITY OF OTHER FEDERAL LAWS AND REGULATIONS



CONDUCTING THE PRELIMINARY PROTECTIVE HEARING (continued)

ENGAGE PARENTS AND ANY CHILDREN OR RELATIVES PRESENT.



REFLECTIONS ON THE DECISION-MAKING PROCESS TO PREVENT BIAS



INDIAN CHILD WELFARE ACT (ICWA) DETERMINATION

KEY ICWA INQUIRIES THE COURT SHOULD MAKE:



Is the child under 18, unmarried, and:

A member of a federally recognized tribe, or

Eligible for membership in a federally recognized Indian tribe, and

A biological child of member of federally recognized tribe?

KEY ICWA INQUIRIES THE COURT SHOULD MAKE (Continued)



LEGAL THRESHOLD FOR REMOVAL

*Best
Interest*

*Contrary to
the Welfare*

**Reasonable
Efforts**

IF PROBABLE CAUSE IS FOUND:

- Determine whether placement in shelter care is in the best interests of the child and that no reasonable options exist to allow the child to remain at home.



REASONABLE EFFORTS (TO PREVENT REMOVAL)



REASONABLE EFFORTS TO ALLOW THE CHILD TO SAFELY RETURN HOME

- Is the agency making reasonable efforts to effect the safe reunification of the child and family? (45 C.F.R. § 1356.21(b)(1))
- What is preventing the child from SAFELY returning home TODAY?



APPROPRIATENESS OF PLACEMENT



SETTING THE STAGE FOR SUBSEQUENT HEARINGS AND ACHIEVING POSITIVE OUTCOMES FOR CHILDREN AND FAMILIES

- *Aggravated Circumstances*
- *Effective Case Planning*
- *Trauma*
- *Well-Being*



Image from: <http://www.casaforchildren.org>

CASE MANAGEMENT – PREPARE FOR THE NEXT HEARING



Availability

- **Online**

- <http://www.ncjfcj.org/ncjfcj-releases-enhanced-resource-guidelines>

- **Hardcopy**

- Available in hardcopy format as the previous Resource Guidelines and Adoption and Permanency Guidelines with bench card inserts, references, and resources

Court, Agency, and Community Working Together



What is a Model Court?

- Model Courts Are:
 - Problem Solving Courts
 - Committed to Implementing “Promising Practices”
 - Laboratories for systems change
 - Advocates for change and models for change
 - Open to review and self-assessment
- Model Courts Are Not:
 - Reflections of Perfection

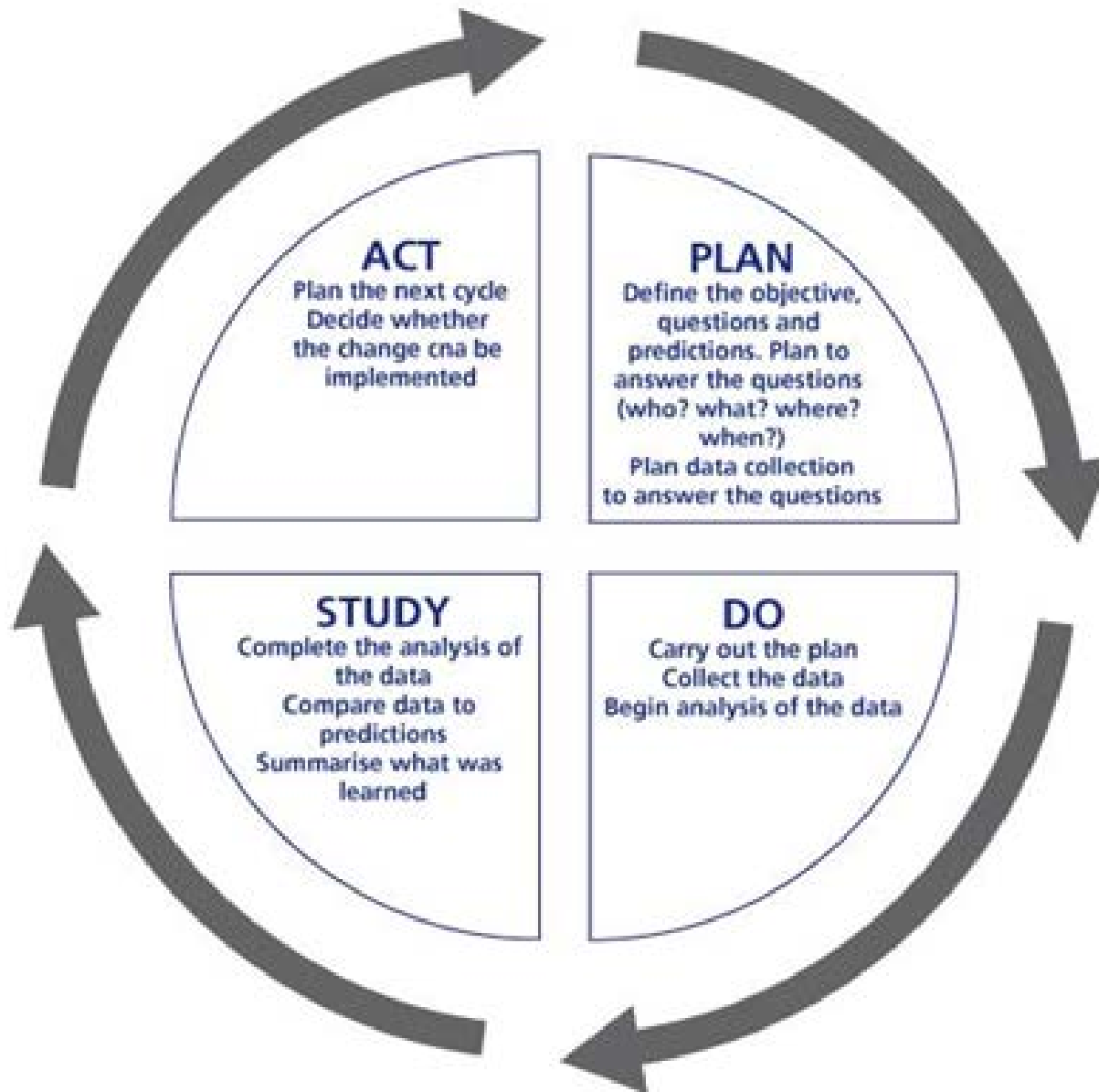
Disproportionality

- Has been a focus of Model Court since 2008
- Recognizes Disparate Presence of People of Color in CPS cases compared to general population
- Efforts to collect data, host trainings
- Survey and white paper on court-ordered services for parents, especially parents of color and Spanish-speaking parents.

Early Attorney Appointments

- Parents get a lawyer immediately...don't have to wait until the 14-day hearing to ask for one.
- Started as Pilot Project – 2010
- Supported by 2015 Legislation: SB 1931
- One goal – Reduce Continuances
- Fast-tracking the case may also reduce the trauma on the child related to removal and/or foster care placement.

“Plan-Do-Study-Act”



Trauma and the “Whole Child”

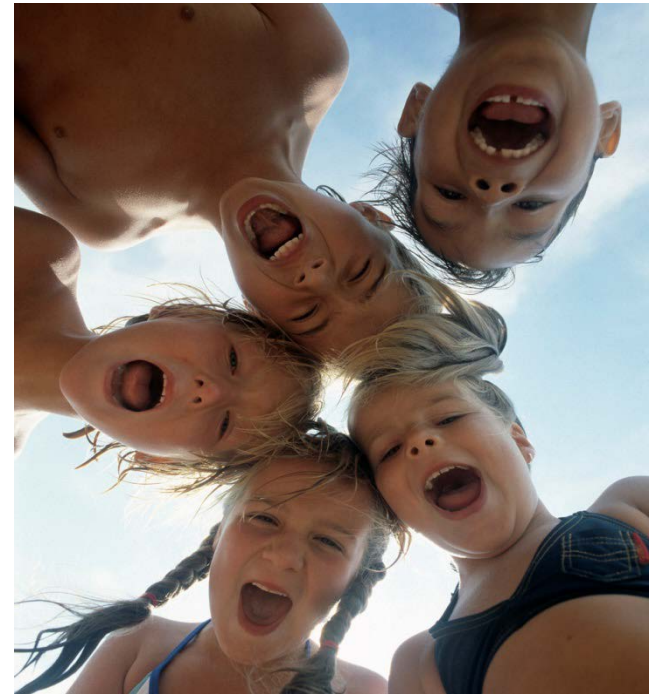
- Focus on the “Whole Child” should include a focus on...
 - Siblings
 - Parents
 - Caregivers
 - Relatives
 - even Judges
- How do the circumstances of or behavior of each of these individuals affect the child?



Holistic Approach

- Treat the Child as if they were our own.
- Everyone needs to come together to focus on the Whole Child:

- Ensuring the child's safety / physical needs
- Meeting the child's other needs, including:
 - Making the child feel secure
 - Ensuring permanent, meaningful connections
 - Normalcy Activities: (Soccer / Dance / Coding / etc.)



Pet Therapy Dogs

- Just Launched new program to bring Pet Therapy Dogs to Court areas where children and parents are waiting for cases.



Kona with his human, Nicolette

Secondary Trauma Training

- 2016 Training for Professionals on:
- Compassion Fatigue
- Burnout
- Secondary Trauma.



You can help make “Innovation” a
“Way of Doing Business” in your
court



Questions?

