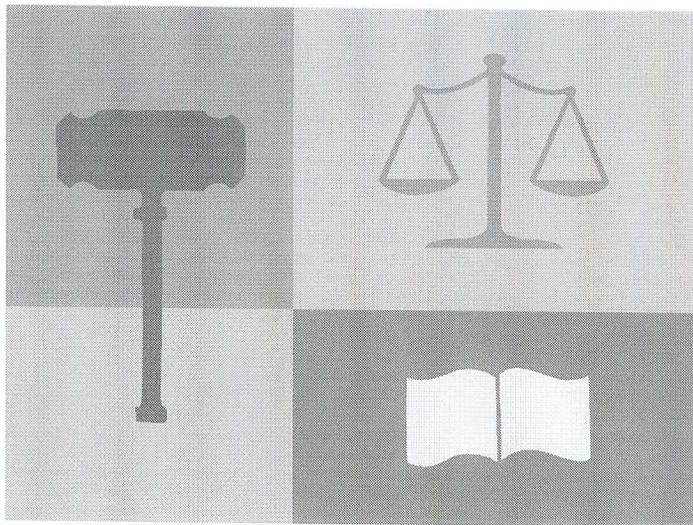


**STATE OF NEW MEXICO
ADMINISTRATIVE OFFICE OF THE
COURTS**

**ADOPTION OF UNIFORM COURT PROCESSES IN
ABUSE AND NEGLECT CASES**



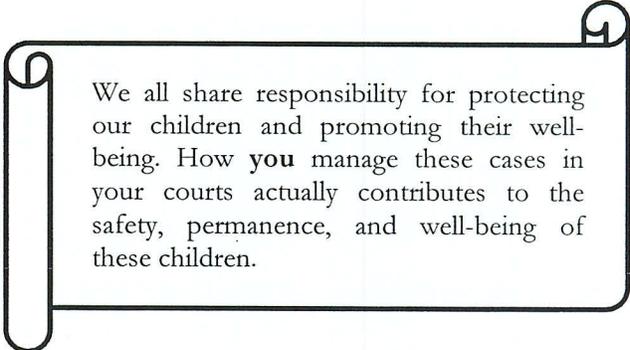
**JUNE 2014- JUDICIAL STAFF VERSION
A PROJECT OF THE CHILDREN'S COURT IMPROVEMENT COMMISSION**

CHAPTER 1

OVERVIEW OF ABUSE AND NEGLECT CASES

1.1 Introduction

Child abuse and neglect cases are not like other cases handled in New Mexico's District Courts. In the first place, they are sequestered, or closed to the public (Section 32A-4-20 NMSA 1978), and all records are confidential (Section 32A-4-33 NMSA 1978). In the second place, the time requirements in child abuse and neglect cases are rigorous and spelled out both in state law and in federal law.



We all share responsibility for protecting our children and promoting their well-being. How **you** manage these cases in your courts actually contributes to the safety, permanence, and well-being of these children.

State Law: The **New Mexico Children's Code** requirements for key events in abuse/neglect cases are spelled out on the chart on the following page. These include court hearings and reviews as well as other requirements such as mandatory pre-hearing meetings and Citizen Review Board reviews.

Federal Law: The federal **Adoption and Safe Families Act (ASFA)** was enacted to ensure that abused or neglected children do not remain in foster care for very long. The New Mexico Children, Youth and Families Department must make every reasonable effort to avoid removing children from their homes and, if removal is necessary for the safety of the child, the Department must make every reasonable effort to return the children to their homes as soon as possible. If it is not possible for a child to return home safely, the Department must make every reasonable effort to find another permanent home for the child as soon as possible.

1.2 Purpose of These Revisions to Process and Codes

New Mexico courts are required to produce federal and state mandated performance measures in order to assess whether the courts' efforts are in compliance with relevant federal and state laws. These measures are also critical to assessing and improving the courts' efficiency and effectiveness. The performance measures require the courts to focus on permanency, due process, and timeliness as they relate to individual children in legal custody. Child abuse and neglect cases in Odyssey are of course filed and maintained for whole families; individual children are parties within these cases. One or more children can be involved in a case, but not everything that happens in a case will apply equally to every child.

The revisions outlined in this guide will allow us to extract Odyssey data elements about the individual children within these cases and in turn generate the performance measures based on the aggregate of all children involved. These revisions allow us to establish and identify connections between the children and the various respondents in order to measure performance by individual child. They also allow us to tie hearings and events to specific parties.

1.3 Learning Objectives

Over the course of this training, we will accomplish the following objectives:

- 1) Learn how the accuracy of docketing and case management impacts the permanency outcomes for children.

- 2) Better understand the structure of an abuse and neglect case and the participants involved.
- 3) Be able to clearly implement the proper docketing procedures and codes into Odyssey.

1.4 Children's Court

The Children's Court has a critical role in ensuring that the NM Children's Code and ASFA requirements are met. Ultimately, the purpose of Children's Court is to keep children safe, to help families create a safe home for their children, and to create permanency in children's lives, either in their own homes or through adoption or another permanency plan. The Children's Court is not designed to punish parents. The Children's Court does not deal with criminal charges. When criminal charges are appropriate they are filed with the Court through a Grand Jury Indictment, a Criminal Complaint, a Criminal Information or a Citation and result in Criminal Category cases usually of the case type Felony Domestic Violence (District Court), Domestic Violence Felony or Domestic Violence Misdemeanor (Magistrate Court).

In New Mexico, we have Children's Courts that are responsible for making critical decisions in child abuse and neglect cases. When these cases are brought to the Children's Court, the Judge decides whether or not child abuse or neglect, in fact, exists and whether the child may safely remain at home. The Children's Court Judge also decides whether custody of the child should be given temporarily to the state child welfare agency, the Children, Youth, and Families Department (CYFD).

If the child is placed in CYFD custody, the Children's Court Judge will monitor the case. The Judge will order the family to get help and to comply with their case plan. The Judge will hold a number of judicial hearings and reviews to make sure the child is safe and to make sure the family is complying with their case plan. At each hearing, the Judge will make a determination about whether or not efforts are being made to return the child home or to some other permanent arrangement, such as adoption, as soon as possible.

1.5 Children and Families

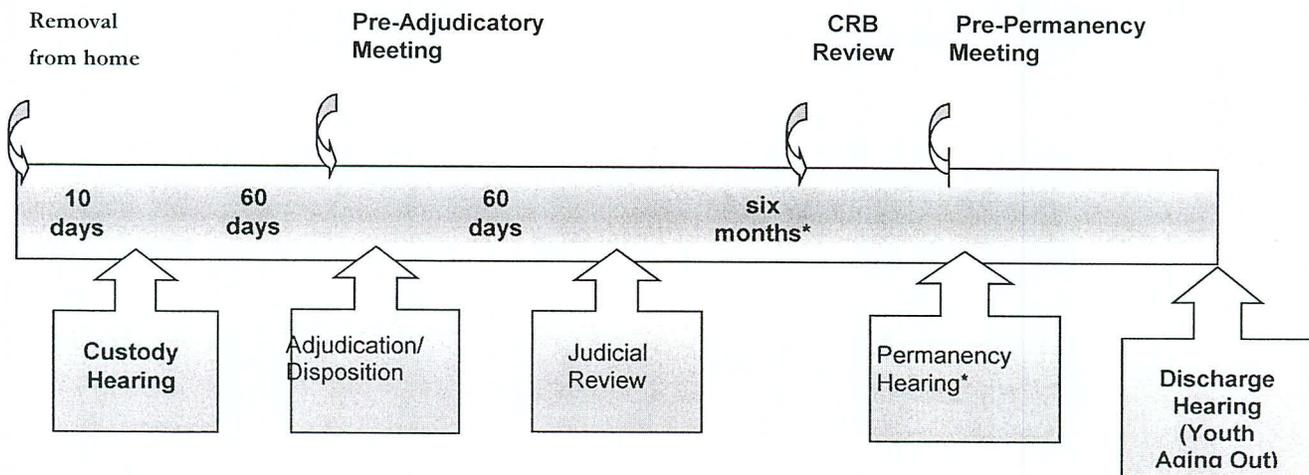
Children who have been abused or neglected may respond in many different ways – there is no standard profile. Typically, an abused or neglected child feels sadness, grief, and loss. The child may also feel responsible and guilty. For some children, it is difficult to trust or find comfort from any adult; other children may be extremely needy. An abused or neglected child is often angry and that anger may be turned outward (in the form of tantrums, violence, aggressiveness) or inward (in the form of depression, self-destructive behaviors, substance abuse, even suicide). Sometimes the child may feel a sense of relief that someone knows what has been happening.

Child abuse or neglect in a family tends to be a secret. When abuse or neglect is reported, the family's secret is exposed and family functioning disrupted. The family's response at first may be denial and blaming. The parents may express anger at the CYFD Worker or look to another adult to blame, perhaps a teacher or someone else they suspect may have reported the abuse or neglect. Even the child victim could be blamed for "causing" the problem. When a child is removed from the family home, the disruption to the family is intensified. For everyone in the family there is a great deal of sadness and loss. It is important to remember that most parents who abuse or neglect their children still love them.

The requirements spelled out in the Children's Code and ASFA are of course critical as both CYFD and the State's District Courts must maintain compliance with these laws. But they also matter in terms of keeping children safe and helping families become better able to ensure the safety and well-being of their children. The time frames were developed with consideration for a child's sense of time. As we get older, the years seem to fly by. Not so for a three-year old – a year is a third of his or her life.

1.6 Hearings in an Abuse/Neglect Case

Most child abuse and neglect cases have at least four Court hearings during the first year. The time lines for these events are spelled out in New Mexico's Children's Code.



**The law requires a Permanency Hearing within six months of the initial judicial review of a child's dispositional order or within twelve months of a child entering foster care.*

1.6.1 Custody Hearing: Within ten working days of when a petition is filed in Children's Court, the Judge will hold a **Custody Hearing**. At that hearing, the Judge will decide if the child should stay in the temporary custody of CYFD until the trial (adjudicatory hearing) is held.

1.6.2 Adjudication and Disposition: The **Adjudicatory Hearing** is a trial before the Judge on the allegations involved in removing the child from home. It must be held within 60 days of the date that the respondent is served the petition. At this trial the Judge decides whether or not there is reason to find that the child has been abused or neglected. The **Dispositional Hearing** is usually held at the same time as the Adjudication. If not, it must be held within 30 days of the Adjudicatory Hearing. At this hearing, the Judge orders the case plan that the parents must follow in order to have the child returned home.

1.6.3 Initial Judicial Review: Within 60 days of the Disposition, there will be an initial **Judicial Review**. At that time, the Judge will review the case and make sure the case plan is being followed and that the parents and CYFD are all doing what has been ordered. The Judge may order changes in the case plan at that time.

1.6.4 Permanency Hearings: The **Initial Permanency Hearing** is an extremely important event. It is held within six months of the initial Judicial Review or within twelve months of a child entering foster care, whichever occurs first. Before the case goes to the Permanency Hearing, the local **Citizens Review Board** (CRB) meets to review the case and make recommendations to the Judge. At the Initial Permanency Hearing, the Judge hears from CYFD, the GAL or Youth Attorney, the respondent's attorney, the Court Appointed Special Advocate (CASA) if one has been assigned, and others about whether or not the child can be safely returned home.

If the Judge decides the child's permanency plan should be reunification (return home), and the child is not returned home within three months, a **Permanency Hearing** will be held to decide if the permanency plan should be changed to adoption or some other permanent arrangement. **Subsequent Permanency Hearings** are held every 12 months thereafter until the case is dismissed.

1.6.5 Periodic Judicial Reviews: If a child remains in custody after the Permanency Hearing, there will be a **Periodic Judicial Review** in Court six months thereafter, and a Permanency Hearing every twelve months until the case is dismissed. At each review, the Judge will consider the appropriateness of the child's permanency plan and make sure that reasonable efforts are being made to implement the plan. The local Citizen Review Board will also continue to review the case approximately every six months for the life of the case.

1.6.6 Discharge Hearing: The last judicial review or permanency hearing held prior to a youth's eighteenth birthday is the **Discharge Hearing**. The court reviews the youth's transition plan and determines whether CYFD has made reasonable efforts to implement various requirements, including providing the youth with written information about the family as well as official documents like a birth certificate and social security card, arranging for Medicaid, and setting up a guardianship if the youth is incapacitated. If the court determines that reasonable efforts to meet these requirements have not been made, and that termination of jurisdiction would be harmful to the youth, the court may continue jurisdiction for a up to a year from the youths eighteenth birthday if the youth agrees.

1.6.7 Additional Hearings: The Children's Code also requires a mandatory **Pre-Adjudicatory Meeting** and **Pre-Permanency Meeting**. The parents and their attorneys, the GAL or Youth Attorney, and CYFD must be there. At the Pre-Adjudicatory Meeting, the child's placement, the case plan, and the issues to be addressed at the Adjudicatory Hearing will be discussed. At the Pre-Permanency Meeting, participants will discuss what the child's permanency plan (for example, reunification or adoption or other planned permanent arrangement) should be. This plan will then be recommended to the Judge.

1.7 Why These Requirements Matter

The Children, Youth and Families Department and the State's District Courts need to be in compliance with both State and Federal law as a matter of ensuring the safety, permanency, and well-being of the children in care. Being able to measure and demonstrate that compliance is critical for several reasons, not the least of which is to provide opportunities for continuous quality improvement.

In order to assess whether or not judicial performance is in conformance with requirements, we need to be able to access the Court's Odyssey system to generate a number of performance measures. We need to demonstrate that actions and events are happening as required and timeframes for hearings are being met. In addition, this information helps court staff monitor their own performance and the performance of other individuals involved in the judicial processing of child abuse and neglect cases. Information such as that provided by the Odyssey system also helps the State's Court Improvement Project to keep track of issues of concern to the members of the Project's Supreme Court-appointed Children's Court Improvement Commission, such as how long children remain in the court system and at what point they leave the system. Accurate, complete, and up to date automated court records, therefore, are vitally important.

CHAPTER 2

ESSENTIAL ODYSSEY PROCESSES AND CODES

The initiative to implement uniform and improved court processes and data quality standards in abuse and neglect cases arise from a vital need for accurate data in these cases. The Odyssey system allows for better accuracy and a more child-centered focus in the courts' case management of abuse and neglect cases. The new court process and codes will help the courts achieve this goal.

This chapter is divided into sections that correspond to work tasks or specific functions in Odyssey. The section may be further divided into specific areas within Odyssey. The section will include a description of the revised processes, accompanying codes, and any notes or tips related to that section. Not every section will apply to the work you perform on a daily basis. If that is the case, the information is merely for your reference.

The project has been designed to accommodate local practice where possible. The Guide will indicate where that is not possible.

2.1 Scheduling Hearings

How a particular judge's chambers schedules hearings varies wildly from court to court. In abuse and neglect cases, it is essential that the correct hearing types are used. This can be challenging if the Notices are filed with confusing or unclear titles. For example, a Notice of Motion for a Termination of Parental Rights Hearing is actually a Termination of Parental Rights hearing. It is not a Motion Hearing. However, in the course of a case, there may likely be hearings about a particular Motion. These would be Motion Hearings.

2.1.1 HEARING CODES

There are several statutorily defined hearings that might occur during an abuse and neglect case. Your judge may hold any number of hearings, but the ones below are the most common.

Code	Description	Code	Description
4509	Custody Hearing	4575	Initial Permanency Hearing
4500	Adjudicatory Hearing	4572	Permanency Hearing
4511	Dispositional Hearing	4576	Subsequent Permanency Hearing
4584	Adjudicatory/Dispositional Hearing	4561	Termination of Parental Rights Hearing
4592	Initial Judicial Review Hearing	4548	Relinquishment Consent Hearing
4535	Periodic Judicial Review Hearing	4575	Initial Permanency Hearing
4599	Discharge Hearing	4544	Status Conference

2.1.2 SCHEDULING ORDERS and ADVANCED CALENDARING

Advance Calendaring involves setting upcoming court dates and related events at the earliest possible point in an abuse or neglect case and as far in advance as reasonable. Ideally, at the conclusion of the Custody Hearing, the Court would schedule the mandatory Pre-Adjudicatory Meeting, the Adjudicatory and Dispositional Hearings, the Initial Judicial Review, the mandatory Pre-Permanency Meeting, and the Permanency Hearing. Alternatively, at the conclusion of the Adjudicatory and Dispositional Hearing, the Court would schedule the Initial Judicial Review, the mandatory Pre-Permanency Meeting, and the Permanency Hearing.

Advance Calendaring is particularly important in child abuse and neglect cases where time frames are firmly fixed in federal and state law. Advance Calendaring is also instrumental in ensuring that efforts to achieve permanency for the child are moving forward as efficiently and effectively as possible. In furtherance of this goal, additional review hearings should be scheduled on a case-by-case basis to address issues that should be reviewed prior to the next statutory hearing.

As early as possible in the child abuse or neglect case, preferably at the end of the Custody Hearing, the Court issues a Scheduling Order specifying the times and dates of all upcoming events, including the Pre-Adjudicatory Meeting, the Adjudicatory and Dispositional Hearings, the Initial Judicial Review, the Pre-Permanency Meeting, and the Permanency Hearing.

The Scheduling Order identifies the amount of time allotted for the events. All parties would receive a copy of the Scheduling Order. Following the hearing, the Scheduling Order is filed and the events are docketed by the Court Clerk. Then, at each subsequent hearing, the Court would confirm the date of the next scheduled event, identify specific issues to be addressed, and inform the parties of expectations regarding evaluations and assessments to be conducted, services to be provided, reports to be submitted, and other expectations.

Advance Calendaring is a best practice. The court, not CYFD, is responsible for managing the defined timelines. Your judge may or may not currently engage in advance calendaring. Regardless, you should be aware of the practice and attached copy of Scheduling Order.

SAMPLE SCHEDULING ORDER

STATE OF New Mexico COUNTY OF
JUDICIAL DISTRICT IN THE CHILDREN’S COURT

STATE OF NEW MEXICO ex rel., CHILDREN, YOUTH AND FAMILIES DEPARTMENT,

In the Matter of (Child(ren)'s names), A Child(ren), And Concerning (Jane Doe and John Doe),
Respondent(s).

JQNo.

Judge

SCHEDULING ORDER

The Court enters the following scheduling order:

1. All parties and counsel shall attend the mandatory pre-adjudication meeting (as to all parties), on (date), at (time)a.m./ p.m. at the County District Court, , New Mexico, with (time allotted) allotted for the meeting.
2. The Adjudicatory and Dispositional Hearing (as to Jane/John Doe), is hereby set for (date), at (time) a.m./p.m. at the County District Court, , New Mexico, with (time allotted) allotted for the hearing.
3. The Initial Judicial Review Hearing (as to Jane/John Doe), is hereby set for (date), at (time) a.m./p.m. at the County District Court, , New Mexico, with (time allotted) allotted for the hearing.
4. All parties and counsel shall attend the mandatory pre-permanency meeting (as to all parties), on (date), at (time) a.m./ p.m. at the County District Court, , New Mexico, with (time allotted) allotted for the conference.
5. The Permanency Hearing is hereby set on (date), at (time) a.m./p.m., (trailing), at the- -•---- County District Court, , New Mexico, with (time allotted) allotted for the hearing.

Honorable Judge

2.1.3 SCHEDULING CHALLENGES in ABUSE AND NEGLECT CASES

Abuse and neglect cases are complicated. These cases may often involve absent respondents or respondents that are hard to find. There are statutorily defined timelines for specific hearings. Many of these timelines are based on the date that a specific respondent was served notice of petition. In a case with multiple respondents, it is possible to have respondents who are different stages in the case based on different times to service.

For example, Respondent 1 has been served 3 days after the petition has been filed. RS1 will be on target for her adjudication to be held 63 days after the petition was filed (ADJ = date of service +60). However RS2 has been served 60 days after the case was opened. Thus, RS2's adjudicatory hearing could be held 120 days after the petition was filed. In this scenario is it possible to have a hearing on the 120 day of a case that is an Initial Judicial Review for RS1 and an Adjudicatory Hearing for RS2.

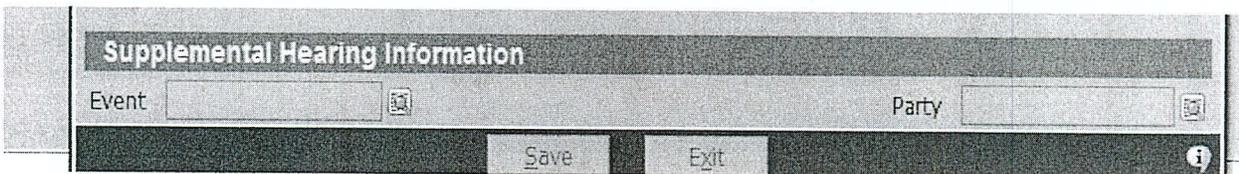
BOTH hearings must be accounted for. Local and Judicial Practice will dictate how to accomplish this.

2.2 Hearings

2.2.1 SUPPLEMENTAL HEARING INFORMATION

The Supplemental Party Field is mandatory for all of the statutory hearings. This is field is NOT the parties that actually attended the hearing. Instead, it is the party that the hearing relates too. For example, if there are two respondents and one has been served and the other is missing. Than the first Adjudicatory hearing will be ONLY for the RSP who has been served. Thus, the Supplemental. Party field should only have that one RSP selected.

Process: Click on the Hearing. At the BOTTOM of the Modify Hearing Screen/ Under 'Supplemental Hearing Information' Select the 'Party' field and enter in the relevant parties.



FOR RESPONDENTS:

4500 Adjudicatory Hearing, 4584 Adjudicatory/ Dispositional Hearing, 4586 Plea Conference, 4511 Dispositional hearing, 4592 Initial Judicial Review, 4520 Judicial Review, 4561 Termination of Parental Rights hearing, 4548 Relinquishment Consent Hearing

FOR CHILDREN:

4535 Periodic Judicial Review, 4575 Initial Permanency Hearing, 4576 Subsequent Permanency Hearing, 4572 Permanency Hearing, 4561 Termination of Parental Rights hearing, 4548 Relinquishment Consent Hearing, 4599 Discharge Hearing

2.2.2 RESULTING HEARINGS

According to New Mexico Supreme Court mandate EVERY hearing should have a result code entered for that hearing in the Minute Entry section of Odyssey. This is especially vital for abuse and neglect cases. It is essential to know how many times a case has been continued or if mediation has resulted in an admission and therefore the judge is simply accepting an admission as opposed to conducting an Adjudicatory Hearing.

Local Practice may dictate who or how often hearings are resulted. Best practice suggests the most efficient method is directly after a hearing is concluded or continued. Regardless of the method your district selects, an error report will be produced monthly to indicate if there are any hearings that have not been resulted. These hearings must then be corrected. Failure to correct these hearings will result in performance measure problems for your judge.

2.3 Performance Measures

The New Mexico Judiciary completed statewide deployment of Odyssey for all courts of general jurisdiction in the fourth quarter of 2012. With that completion, an analysis of all federal and state abuse and neglect performance measures has been conducted, business rules and requirements have been developed and testing has begun. New Mexico anticipates submitting the FY13 performance measures from Odyssey generated data. The table below is a list of the federal and state performance measures we expect to generate from Odyssey data.

Federal or State Measure Number	Performance Measure	Short Definition
PERMANENCY		
2A & 2B	Achievement of Child Permanency & Children not Reaching Permanency	% of children who reach legal permanency by reunification, adoption, or legal guardianship compared to % who do not.
2C	Children Moved While Under Court Jurisdiction	% of children who reside in 2, 3, 4, or more placements
DUE PROCESS		
3A	Number of Judges Per Case	% of cases in which the same judicial officer presides over all hearings
3B	Service of Process to Parties	% of cases in which all respondents receive written service of process of the original petition
3C	Early Appointment of Advocates for Children	% of cases in which a youth attorney or GAL is appointed before the custody hearing
3D	Early Appointment of Advocates for Respondents	% of cases in which a respondent's attorney is appointed before the custody hearing

3G	Presence of Advocates During Hearings	% of cases in which legal counsel for all parties is present at every hearing
TIMELINESS **		
4A	Time to Permanent Placement	Average & median time from filing of petition to legal permanency
State Measure	Timeliness to Permanent Placement	% of cases where legal permanency is achieved within 12, 16, 24 and greater than 24 months
4B	Time to Adjudication	Average & median time from filing of petition to legal permanency
4C & State Measure	Timeliness of Adjudication Completed	% of cases where adjudication is held within defined date ranges.
State Measure	Adjudications Continued	% of cases where adjudication is commenced and continued within defined date ranges.
4F & State Measure	Timeliness of Initial Judicial Review	% of cases in which the court holds case review hearings within the time limits set by law
4G	Time to First Permanency Hearing	Average & median time from filing of petition to the first permanency hearing.
State Measure	Timeliness of First Permanency Hearing	% of cases where the first permanency hearing is held within defined date ranges.
4I	Time to TPR	Average & median time from filing of petition to the termination of parental rights/relinquishment.
4J & State Measure	Timeliness of TPR Hearing	% of cases where TPR/relinquishment occurs within defined date ranges from the filing of petition.
4K	Time from Disposition Hearing to TPR Hearing	% of cases where TPR/relinquishment occurs within defined date ranges from the disposition hearing.
4L	Timeliness of Adoption Petition	% of cases in which the adoption petition is filed with 3, 6, 12, months after TPR/relinquishment.
State Measure	Timeliness of Custody Hearing	% of cases where the custody hearing is held within 10 days, 14 days, or 15 or greater days from filing of petition.