



One Family, One Judge, No Continuances

By Alicia Summers and Corey Shdaimah

ABSTRACT

Continuances are a source of delay in juvenile dependency cases that may increase the length of time a child is in care. The current study builds upon an emerging body of research examining the effectiveness of the one family, one judge model in improving case efficiency. The study first examines the expectation that continuances delay case processing, then examines whether the implementation of a one family, one judge model of judicial oversight reduces continuances. Results reveal that continuances delay case events up to the adjudication hearing, but do not delay time to permanency. Although implementation of the one family, one judge model did not reduce continuances, there was a relationship between the number of judicial officers per case and number of continuances. When there is only one judicial officer per case, the majority of cases have no or only one continuance. Every two judicial officers added to the case result in one additional continuance. These findings indicate that judicial continuity can be an effective way to improve case efficiency.

The Adoption and Safe Families Act of 1997 (ASFA: P.L. 105-89) set specific time standards for achieving permanency for children placed in foster care. Prior to ASFA, children often remained in the foster care system for long periods of time, experiencing multiple delays that prevented or inhibited permanency (Bishop, Murphy, Jellinek, Quinn, & Poitras, 1992). Following ASFA, many courts still struggle to meet timeliness standards. In a recent review of state Court Improvement Programs (CIPs), most states reported efforts to improve their timeliness (Planning and Learning Technologies, Urban Institute, & Center for Policy Research, 2007). Although not specified in the report, potential barriers to achieving timeliness and efficient case processing could include continuances.

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Due to the unique nature of child abuse and neglect cases, cases have multiple parties and any one of them can request a continuance. This is particularly problematic in jurisdictions with high caseloads, where parties may be unavailable to attend a scheduled hearing so a case may have to be continued for weeks or months until all parties are available. Prior research has identified common causes for continuances, including attorneys' availability, scheduling problems, parties' agreement to continue the case, and late reports (Dobbin, Gatowski, Litchfield, Maxwell, & Oetjen, 2003; Judicial Council of California Administrative Office of the Courts, 2005). Other studies have found that courts do not always have formal policies regarding continuances, but often have informal policies that allow for agreed-upon continuances and common courtesy between attorneys that grants each side a continuance (Knepper & Barton, 1996). The informal court rules may increase the perception that continuances are allowable, which may increase the number of continuances and delay the hearing process.

In a review of 25 state CIPs, continuances and other delays were identified as barriers to achieving timely permanency. Continuances appear to be most problematic before or at the adjudication hearings. Even jurisdictions that did not identify continuances as a problem continued 20% of adjudication hearings (National Council of Juvenile and Family Court Judges [NCJFCJ], 1998).

The Washington State CIP re-assessment found that, despite improvement in the number of continuances in the last five years, adjudication hearings still showed a significant number of continuances. Thirty-one percent of adjudication hearings were continued in one project site, and nearly half the adjudication hearings were continued in another. This number was significantly larger than the number of continued shelter care hearings (13%) or review hearings (13%; NCJFCJ, 2005a). The Nevada State CIP re-assessment confirmed that continuances are more likely to occur at the adjudication hearing (NCJFCJ, 2005b). These continued adjudication hearings delayed the court process up to six weeks (NCJFCJ, 2005a). Because continuances delay hearings early in the case, it is important to understand how they might affect the overall case progression and achievement of permanency outcomes.

Some research has examined the effects of continuances on the timeliness of case outcomes. In a study of child abuse and neglect cases in Washington State, cases had an average of 2.7 continuances (Washington State Institute for Public Policy, 2004). The data revealed that every continuance extended the child's stay in foster care by 12 days. The finding was particularly pronounced when the delay came early in the case (prior to the adjudication hearing), with these continuances extending the child's time in foster care by 20 days (Washington State Institute for Public Policy, 2004). Continuances also extended the time the case was open, lengthening cases by 32 days for every one continuance.

Due to concerns that continuances can delay the process, many suggest that courts should adhere to a strict continuance policy. The National Council of Juvenile and Family Court Judges' seminal work, *Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases*, which outlines the basics of best practices in child abuse and neglect court practice, suggests that a strict policy against continuances is essential in ensuring timely and efficient case processing (NCJFCJ, 1995). In their pursuit of system reforms, judges have also recommended juvenile dependency court improvements that include avoiding

“unnecessary continuances or delays of court proceedings” (Edwards, 2007, p. 6). This policy has also been supported by the Children’s Bureau in its book, *Working with the Courts in Child Protection* (Jones & Children’s Bureau Office of Child Abuse and Neglect, 2006). The authors suggest that continuances should be avoided when possible as they delay the court process and can ultimately be detrimental to families and children by preventing families from reaching timely permanency.

States’ ongoing reform efforts often require improved policy and practice. The recommendations for a strict continuance policy suggest that strong court oversight could affect case processing and outcomes for children. Judges are in an ideal position to enforce strict continuance policies because they are the ultimate decision-making authority in the courts. Judges can deny continuances, set standards for timely practice, and encourage moving the case forward in an efficient manner. One way to encourage active judicial oversight is through implementation of a one family, one judge (OFOJ) model.

The OFOJ model requires that one judge oversee a child abuse and neglect case from start to finish. This model of judicial oversight has been implemented to varying degrees in courts across the country. Most of the courts involved with the NCJFCJ Victims Act Model Courts project have implemented some form of the model. As part of the Court Improvement Program efforts, other states have reported that most of their judges also follow this model (Dobbin et al., 2003; Judicial Council of California Administrative Office of the Courts, 2005). Despite these reports, little research has been conducted to determine whether the OFOJ model can positively affect case processing. A pilot assessment of the OFOJ model found positive support for improving case timeliness (Summers & Shdaimah, in press), but did not specifically focus on the continuance practice. This study builds on the emerging empirical knowledge base of the effectiveness of OFOJ (Shdaimah & Summers, in press; Summers & Shdaimah, in press) by examining one potential mechanism (i.e., reduced continuances) through which effectiveness can be achieved.

CURRENT STUDY

Prior research has indicated that continuances are a source of delay in child abuse and neglect cases. Since the research on this topic is still developing, we propose two research questions to examine both the role of continuances in case processing and the effects of implementing a one family, one judge model on reducing the number of continuances.

Research Question 1: Do continuances affect the timeliness of case processing? Because literature has indicated that continuances often occur prior to the adjudication hearing and that continuances may affect timeliness, we examine three timeliness measures:

- (1) Time from petition filing to the adjudication hearing;
- (2) Time from entry into care to the permanency hearing; and
- (3) Time from petition filing to case closure.

We selected time to the adjudication hearing because in many jurisdictions, adjudication hearings are continued more often than other hearings. Further, the adjudication hearing is the pivotal point in the case when the judge must decide whether the evidence is sufficient to substantiate child abuse or neglect allegations. The *Resource Guidelines* suggests that an adjudication hearing be held “as soon as it is practical” (NCJFCJ, 1995, p. 47) and recommends that adjudication occur within 60 days of removing the child from the home. Many state statutes recognize the importance of the adjudication hearing in moving the case forward in a timely manner, and limit the time allowable to achieve adjudication in each case, often with stricter requirements than those suggested by the *Resource Guidelines*.

The second measure of time to the permanency hearing is federally mandated by ASFA to occur within 12 months of the date on which the child entered care. Entry into care is defined as the earlier of the dates the court first finds that the child has been abused or neglected, or 60 days after the child has been removed from the home (ASFA, 1997). We selected this measure because it represents adherence to statutory requirements. The third timeliness variable (time from petition filing to case closure) provides a measure of permanency because it indicates the total amount of time that the child spent under court jurisdiction and potentially in out-of-home care.

Research Question 2: Does implementation of the OFOJ model affect the number of continuances in a child abuse and neglect case? The limited research on the OFOJ model suggests it may affect case processing timeliness and efficiency. Following an assessment of whether continuances impair timeliness of case processing, we examine the use of the OFOJ model as a possible intervention for improving efficiency. For this question, we assess effects of the one family, one judge model in three ways:

- (1) We compare the number of continuances pre- and post-implementation of the OFOJ model for differences;
- (2) We compare the reasons for continuances pre- and post-implementation of the OFOJ model; and
- (3) We assess the effects of the total number of judicial officers per case on the number of continuances per case.

METHOD

Site Selection

The Juvenile Division of the Circuit Court for Baltimore City, Maryland, began implementing an OFOJ model in 2007. This urban court has a sufficient sample (i.e., 11 judges and three masters) of judicial officers and cases. Baltimore City’s Juvenile Court employs a modified OFOJ model. Cases are heard initially in shelter care hearings. These cases are then referred to the “home court” where the case is heard by the same master through resolution of the Child in Need of Assistance phase. Cases that progress to a termination of parental rights hearing must be heard by judges. We

selected the site based on willingness to participate in the study, recent implementation of the OFOJ model, and the development of a research partnership with a local university to assist with completion of the study (Shdaimah, Summers, & Dancy, 2011). Baltimore City follows Maryland Family Code statewide policy that discourages postponements of hearings in general (Foster Care Court Improvement Project, 2007). Judicial officers can reset cases when they feel there is good cause to do so. There were no changes to this policy immediately prior to or following the implementation of the OFOJ model.

Case Selection

Researchers randomly selected child abuse and neglect cases from two distinct samples. The first sample included cases that had opened and closed before implementation of the OFOJ practice. The second sample included cases that had opened immediately after implementation of the OFOJ practice. Choosing these two samples allowed for a pre-post comparison. In an attempt to control for time effects that might influence case processing, we selected cases that opened in 2005 (prior to OFOJ) and 2007 (following OFOJ). That is, we tried to select cases that opened in as close a timeframe to each other (two years) to control for other changes that might occur in the jurisdiction over time that might also influence practice. We selected 100 cases, 50 pre-OFOJ and 50 post-OFOJ, for inclusion in the study.

Procedures

Coders used a standardized case file review instrument to record case data. The variables of interest included: case demographics (i.e., the child's age and race, and the type and number of allegations), number of continuances per hearing, total number of continuances per case, dates of court hearings and case closure, and total number of judicial officers per case. Interrater reliability was calculated on a sample of 6% of the cases coded. Holsti's coefficient, a commonly accepted measurement of reliability among coders, was used to calculate interrater reliability and revealed good reliability, with an average of .87 (range of .8 to 1).

RESULTS

The final sample consisted of 89 of the 100 identified cases. The other 11 were not coded due to time constraints because each student coder only had a specified amount of time to spend on data collection. Forty-three cases were filed prior to implementation of OFOJ and 46 cases after implementation. Preliminary analysis revealed that cases were statistically similar on all variables except number of case allegations, which decreased after OFOJ implementation. Number of allegations was examined in a preliminary analysis. Results indicate that the number of allegations had no effect on number of continuances and was therefore not included in further analyses. The first set of analyses aggregated the pre and post samples for analysis.

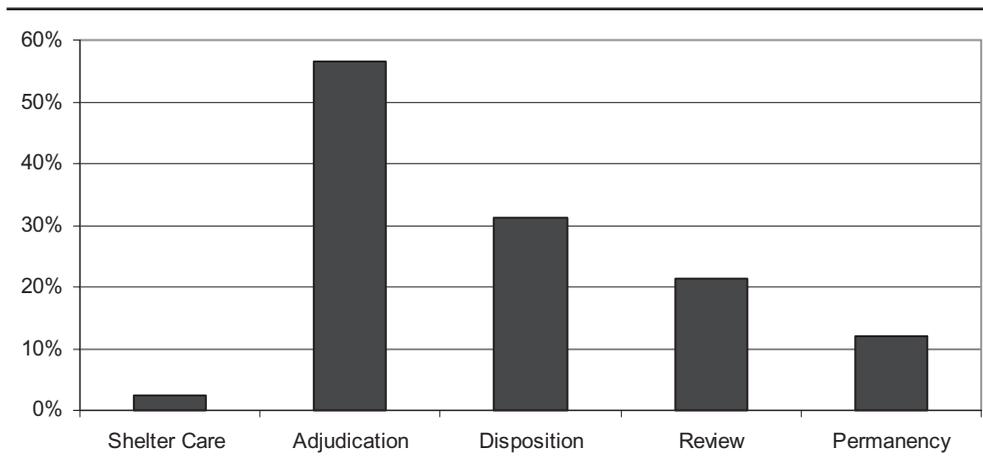


FIGURE 1. Percentage of Hearings with at Least One Continuance, by Hearing Type

Including both the pre and post samples, cases had an average of 1.3 ($SD = 1.5$) continuances per case, with a range from zero to eight continuances. As expected, the number of continuances was largest for the adjudication hearing. Fifty-seven percent of adjudication hearings were continued. Disposition hearings were the second highest, with 31% of dispositions continued. Because only 16 disposition hearings were recorded (most are held in conjunction with an adjudication hearing), this number should be interpreted with caution. Figure 1 illustrates the percentage of hearings with at least one continuance, by hearing type.

Since the majority of continuances occurred at the adjudication hearing, we further examined the reasons for continuance at this hearing type. Most continuances were requested because a party—generally the parent—was not present (51%). The second most common cause of continuances was because the case was contested (37%). Contested cases could result in continuances for two reasons: either the parties want more time to reach settlement outside of court, or the current docket cannot accommodate the length of time needed to adequately resolve the case issue and reach a decision. Figure 2 illustrates the reasons for case continuances at adjudication. Continuances without clearly identified reasons were coded as “other.”

Effects of Continuances on Delaying the Case

The number of case continuances was entered into a series of regression models to predict three time variables: time from petition filing to adjudication, time from entry into care (the earlier of adjudication finding or 60 days after removal) to the permanency hearing, and time from petition filing until case closure (achievement of permanency). In the first model, the number of continuances significantly predicted time from petition filing to adjudication hearing $F(1, 81) = 5.17, p = .03, \beta = .25, R^2 = .06$. More continuances led to longer time from petition filing to adjudication, with each continuance increasing time to adjudication by 20 days. The second model included a much

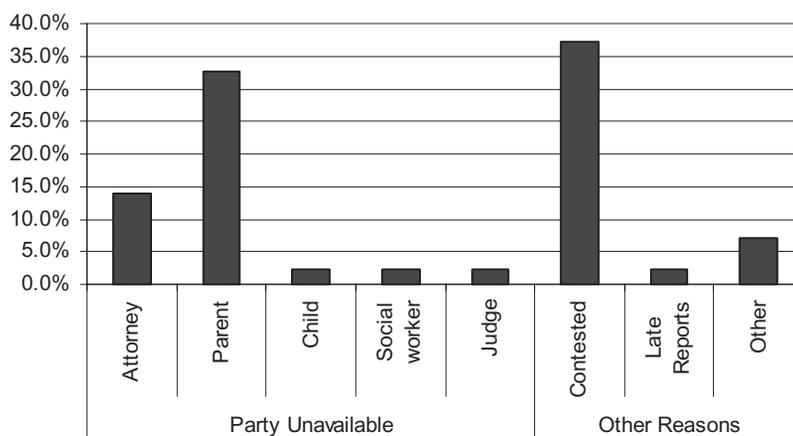


FIGURE 2. Reasons for Continued Adjudication Hearings. This graph illustrates the percentages of each reason for a continuance at the adjudication hearing.

smaller sample of cases ($n = 24$) because not all cases held a permanency hearing. Cases would not have held permanency hearings if they closed before the permanency date. For the second model, the number of continuances was not a significant predictor of time from entry into care to a permanency hearing, $p = .22$. Number of continuances also did not predict time from petition filing until case closure, $p = .42$.

Effects of One Family, One Judge on Reducing Continuances

On average, cases had 1.3 continuances. The number of continuances pre-OFOJ ($M = 1.23$, $SD = 1.80$) compared to post-OFOJ ($M = 1.41$, $SD = 1.22$) was not statistically significant ($p = .53$). We also examined the reasons for continuances. Due to the small sample size for each specific reason for continuances, we were unable to conduct any rigorous statistical comparisons. However, qualitative assessment of the data (examining trends and themes) revealed that the reasons for continuances were similar for both the pre and post samples. As a final analysis, we conducted a linear regression to see whether the total number of judicial officers affected the number of continuances. Number of judicial officers was a statistically significant predictor of number of continuances $F(1, 86) = 20.57$, $\beta = .44$, $R^2 = .19$, $p < .001$. As the number of judicial officers increased, so did the number of continuances, in that every two judicial officers added to the case also added one additional continuance. Figure 3 illustrates the relationships between number of judicial officers and number of continuances.

Fidelity to the model was an important indicator of continuances. When a case had only one judicial officer from beginning to end, there were fewer continuances. Most cases with only one judicial officer had no continuances (63%) or only one continuance (25%). Adding just one more judge increased continuances by 25%.

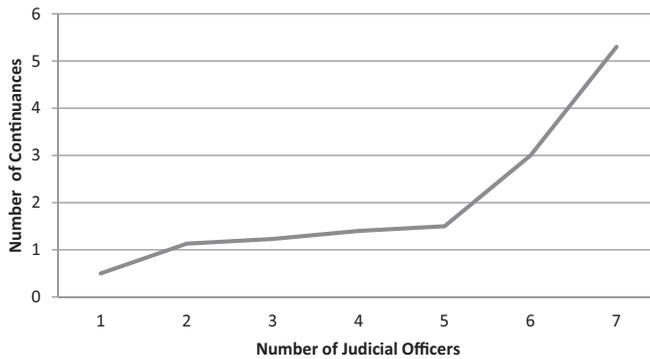


FIGURE 3. Differences in Number of Continuances by Number of Judicial Officers. This graph illustrates the changes in average number of continuances by the number of judicial officers per case.

DISCUSSION

This study revealed that continuances delayed time to adjudication, but did not further affect case processing and time to permanency in the sample of cases studied. Unlike prior work that determined continuances significantly delay case processing, we found a difference only early in the case. The number of continuances did not directly influence time to a permanency hearing or time to case closure. The lack of findings regarding timeliness to the permanency hearing could reflect differences in the sample because few cases held a permanency hearing (other cases had either closed or returned the child to the home before the permanency hearing deadline).

The finding that continuances affect time to adjudication has relevant implications. It confirms prior evaluations of court practice, which show that most continuances occur before or at the adjudication hearing. The adjudication is a pivotal part of case processing, the hearing where the judge substantiates allegations of abuse or neglect or chooses to dismiss the petition. It is important not only because it means the child is under court jurisdiction and likely removed from the home, but also because at this point in the case, the judge and stakeholders can move forward with identifying the needs of the parents and ordering relevant services that may alleviate the conditions described in the petition. The more quickly the family can resolve the concerns that brought them before the court, the faster they can reunify with their child. Delays at this point may mean that families go longer without services. Finally, delays at adjudication could result in unnecessary stays for youth in foster care if the case is ultimately dismissed, which typically occurs prior to or at the adjudication. If the judge does not substantiate the allegations, the petition is dismissed and the child is returned home (if removed). For dismissed cases in particular, delays at the adjudication hearing may result in lengthening the time the child is in care.

This study found that where there is judicial continuity, the average number of case continuances is reduced. Every two judicial officers on the case added an additional continuance. When only one judge had the case from beginning to end, most cases had

no continuances, which means that they progressed in a more timely fashion. The increase in continuances may occur because new judicial officers are not familiar with the case. New judicial officers may not have enough information to make decisions on the case, particularly if parties, such as parents or attorneys, are absent, which is a common cause of continuances. A judicial officer who has been on the case from the beginning may feel more comfortable in progressing without all the parties, thereby reducing the need for a continuance. Fidelity to an OFOJ model of oversight may increase the efficiency of case processing by eliminating a source of delay.

Of the analysis related to implementation of the one family, one judge model, it is important to note that the effect on continuances was not from the implementation of the model itself, but due to fidelity of the model. When there were fewer judicial officers on the case, the case had fewer continuances. These results should be interpreted within the context of the juvenile dependency systems. Judicial officers are not always available every day to hear every case; sick leave and vacation time may in fact require the use of another judicial officer to oversee a hearing. Future research should identify if the importance is in having *only one* judicial officer across the life of the case or if having one judicial officer for the majority of the case is sufficient to improve efficiency. It may be that one substitution of judicial officers at one point in the case has little to no effect, or it may be that it depends largely on the point in the case that this substitution occurs. Either way, it will be important to examine these questions more thoroughly in future work.

The current study did not support prior research on the effects of continuances on delaying case processing to permanency, yet continuances may have other negative effects on the case. If the court starts a hearing and then continues it, the delay means that the judicial officer, all parties, and system stakeholders must attend an additional hearing. This delay can increase the workload of all parties, overtaxing the state's resources. A continuance may also discourage parents from attending future hearings, which may decrease the probability of successful and timely reunification (Wood & Russell, 2011). Thus, efficient continuance practice could decrease workload demands and increase parent engagement.

This study represents a first step in expanding the literature on the effects of continuances and the role that OFOJ might play in reducing them. Unlike the Washington study (Washington State Institute for Public Policy, 2004), the current research had a small sample size that may have hampered the ability to detect significant results. Future research should seek to replicate these findings with a larger sample in a different jurisdiction.

The small sample size also limited the number and types of analyses that could be conducted. After preliminary analyses, researchers were curious about the effects of continuances on timeliness related to specific permanency outcomes. For example, are continuances more likely to delay case processing for cases that result in reunification compared to cases that end with adoption? Also, do delays at the adjudication hearing result in longer stays in foster care for children whose cases are dismissed? These questions were of interest, but it was not feasible to address them with the given data because the numbers of each distinct permanency outcome were small. We know that continuances can cause delay and that adherence to an OFOJ model can reduce continuances. Future research

should replicate and expand upon these findings to provide a clearer picture of the interactive role that continuances and the OFOJ model could play in case processing and outcomes.

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