

**BETTER INFORMATION ABOUT CHILD WELL-BEING WILL  
RESULT IN BETTER OUTCOMES FOR THE WHOLE CHILD**

*Presented By:*

**HON. ROB HOFMANN**, *Mason*  
Judge, Child Protection Court of the Hill Country

**HON. CATHY MORRIS**, *Boerne*  
Judge, Child Protection Court of South Texas

*Written By:*

**HON. ROB HOFMANN**  
Associate Judge  
Child Protection Court of the Hill Country  
P.O. Box 1580  
Mason, Texas 76856

State Bar of Texas  
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**ROB HOFMANN**

**Associate Judge**

**Child Protection Court of the Hill Country**

**P.O. Box 1580**

**Mason, Texas 76856**

**325-347-0755**

**BIOGRAPHICAL INFORMATION**

Rob Hofmann is the judge assigned to the Texas Child Protection Court of the Hill Country, a position he has held since January, 2002. The court has jurisdiction over all child abuse and neglect cases in twelve counties covering 13,000 square miles in the rural Texas Hill Country.

After receiving a B.A. in Political Science from Texas A&M University and J.D. from Texas Tech University School of Law he was the elected county attorney for Mason County and served as a director for the Texas District and County Attorneys Association and the Hill Country Children's Advocacy Center. He was a founding member of the Mason ISD Foundation and the Steady Steps Weekday Children's Ministry, an organization providing low-income day care in his home community. He was president of the Mason County Child Welfare Board and was awarded the Texas Lions Club International District Governor's President Award, the United Methodist Church District Superstar Award and the Meritorious Service Award from the San Angelo Family Shelter.

In his current position, Judge Hofmann has testified before the Texas Legislature on several occasions and frequently speaks to various bar and professional organizations on the topic of child abuse and related legal matters. He presented at the 11<sup>th</sup> Annual National Resource Center for Child Welfare Data and Technology Conference, the National Court Improvement Program Annual Conference, and the National Association of Counsel for Children's 33<sup>rd</sup> National Conference. He has served several times as faculty for the National Center for State Courts.

In 2011, Judge Hofmann was scheduled to speak at the National Child Welfare Evaluation Summit and presented at the State Bar of Texas Advanced Family Law Conference as well as the Texas CASA Conference where he was named the Texas CASA judge of the year. In November, he served as the sole judicial representative on the Texas team at the *Collaboration to Strengthen Educational Successes of Children and Youth in Foster Care* sponsored by Children's Bureau.

In 2012, Judge Hofmann presented during the Educational Outcome Measures for Courts interactive webinar sponsored by the Children's Bureau, filmed the new Texas CASA training video series and concluded his committee work for the Children's Commission with publication of *The Texas Blueprint*. In May he was one of three panelists on a nationwide web broadcast regarding well-being outcome measures for dependency courts sponsored by the National Child Welfare Resource Center. Over the summer he presented at the Texas Child Welfare Conference and the National Council of Juvenile and Family Court Judges' 75<sup>th</sup> Annual Conference.

In 2013 he will begin service as a member of the Children's Commission and as chair of *The Texas Blueprint* implementation task force.

Cathy O. Morris is the associate judge for the Child Protection Court of South Texas headquartered in Boerne, Texas, serving in that capacity since January, 2009. The court has jurisdiction over all child abuse and neglect cases in six counties surrounding Bexar County, covering approximately 265 cases involving over 500 children.

Prior to being appointed to the bench, Judge Morris served as attorney ad litem for children and parents in Child Protection cases. She previously worked for the Department of Family and Protective Services beginning as a regional attorney and finally as Chief Attorney for Field Operations, supervising all regional attorneys at the Department. She received her J.D. from S.M.U. and her B.A. from U.T.Austin.

Judge Morris has previously served as President of the Kendall County Bar Association and Secretary of the Kendall County Child Welfare Board. She currently serves as co-chair of the Legal Representation Committee of the Supreme Court Judicial Commission for Children, Youth, and Families. She serves on the State Bar Committee on Child Abuse and Neglect and the Foster Care Expert committee for the Appleseed project. She has spoken frequently before various groups, including the Advanced Family Law Seminar's Child Abuse and Neglect workshop and the State Bar Juvenile Section seminar. She has published an article for the Texas Bar Journal with Judge Camile DuBose and an article for the Harris County Bar Journal.

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## BETTER INFORMATION ABOUT CHILD WELL-BEING WILL RESULT IN BETTER OUTCOMES FOR THE WHOLE CHILD

***“What is right is often forgotten by what is convenient.” Bodie Thoene***

Judges want to make good decisions. Nowhere is this truer than in child welfare. The awesome responsibility and ripple effects of removing children from their families, schools and communities are not lost on judges. Often judges are not presented with adequate information; all too often, the convenient decision is wrapped in a package as the right one. Good judging is the art of making perfect decisions with imperfect evidence. Information is power. Good information provides judges the power to make good decisions in individual cases. Can good aggregate information about entire caseloads help judges make better decisions as well?

Judges tend to be averse to aggregate court data; the accumulation and comparison of court performance measures. With nuances in individual cases and jurisdictions, they argue that data is more appropriate for the business world than for the judiciary. A judge may well have coined the term “case-by-case basis”. Ask any judge, if ethics allowed, and they can rightly justify each individual decision. But we may have a superficial high, thinking our decisions are better than they are, better than the average judge. It’s the old argument of anecdotes vs. statistics. Stories are sexier than stats, but the aggregation of stories can paint a picture as well. Unattractive aggregate permanency data caused Texas child protection court judges to place less children in permanent foster care. Can this work with child well-being?

***“It’s not hard to make decisions when you know what your values are.” Roy Disney***

The Adoption and Safe Families Act<sup>1</sup> (ASFA) identified three goals for children in foster care systems: safety, permanency and well-being. The combined work of the *Toolkit for Court Performance Measures in Child Abuse and Neglect Cases*<sup>2</sup> and the federal Child and Family Services Reviews<sup>3</sup> has been overwhelmingly successful in improving outcomes in the areas of safety and permanency. Now we must ask whether these improvements in safety and permanency affect child well-being?

If so, can aggregate well-being performance measures help give well-being the prominent attention it deserves? With the more amorphous nature of well-being, is there even a way to measure outcomes? These are hard questions. In answering them, it is critical to remember that ASFA also identifies a well-being dimension of performance measures and that these well-being measures are an accepted part of the federal review process for child welfare agencies<sup>4</sup>.

***“Wait” has almost always meant “Never.” We must come to see, with one of our distinguished jurists, that “justice too long delayed is justice denied.” Martin Luther King, Jr.***

Although we often associate Dr. King’s quote with permanency, it may be even more appropriate for children’s well-being. The justice we afford children by keeping them “safe” may well be diminishing their welfare. How many more school changes, over-immunizations, missed visits and separated sibling placements must occur before courts begin to base their decisions on well-being?

These outcomes may be easier to measure than presumed. We can count how many parental visits a child enjoys or how many days pass before a child receives a developmental or physiological evaluation. ASFA has been with us for 15 years, but well-being court performance measures for foster children are a new trend. The importance of well-being is begging to receive its due place in court advocacy. We are beginning to see it happen. Perhaps the best way to solidify this importance is with improvements resulting from performance measures.

Challenges exist. Data exchange will be critical, but as so often is the case today, technology outpaces practice and policy. With education, the “devil-in-the-details” is privacy. Forget about legislating from the bench;

should judges medicate from the bench by over analyzing psychotropic prescriptions? Fortunately, these challenges are being addressed head-on. Whether it's the local broad-spectrum measures developed by California, the state-wide *Texas Blueprint*<sup>5</sup> for transforming educational outcomes for foster youth, or the national measures developed by the National Center for State Courts and their partners<sup>6</sup>, the work is crucial and ongoing.

***“Choices are the hinges of destiny.” Pythagoras***

Best practice for courts is to discuss all aspects of ASFA. Agencies, CASAs and guardians must consistently provide ample and reliable information for courts to make the right decisions. This constant stream of trustworthy information is especially critical regarding children's education, mental and physical health, and connections to their families and communities. These advocates should relentlessly report to courts, in writing and through testimony, the ever-changing welfare needs of the children they serve. This consistency in individual cases, combined with the resulting improvement shown by analysis of aggregate data, will ultimately result in the elevation of children's well-being to its proper place before courts.

CASA volunteers are uniquely qualified to gather, analyze and present this essential information. Who better has their finger on the pulse of children's needs? Fortunately, it is a role they are familiar with and a responsibility they assume passionately. Working together, our courts can improve outcomes in all aspects of child welfare.

<sup>1</sup> Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, 111 Stat. 2115 (1997).

<sup>2</sup> *Toolkit for Court Performance Measurement in Child Abuse and Neglect Cases*. U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (2009), available at: <http://www.ojjdp.gov/publications/courttoolkit.html>

<sup>3</sup> For more information on the Children's Bureau and the CFSR process, follow this link: <http://www.childwelfare.gov/management/reform/cfsr/>

<sup>4</sup> Nora E. Sydow and Victor E. Flango "Education Well-Being: Court Outcome Measures for Children in Foster Care," (with Nora E. Sydow) 90 Family Court Review (July) 2012: 455-466, available at: <http://www.ncsc.org/sitecore/content/microsites/future-trends/home/Special-Programs/~media/Microsites/Files/Future%20Trends/Author%20PDFs/Flango%20and%20Sydow.ashx>

<sup>5</sup> *The Texas Blueprint: Transforming Education Outcomes For Children & Youth in Foster Care*. Supreme Court of Texas Permanent Judicial Commission for Children, Youth and Families (2012), available at: <http://texaschildrenscommission.gov/PDF/TheTexasBlueprint.pdf>

<sup>6</sup> Nora E. Sydow and Victor E. Flango, "Physical and Emotional Well-Being: Court Performance Measures for Children in Foster Care," 63 Juvenile and Family Court Journal (Fall) 2012.

#### Additional Materials:

The National Resource Center on Legal and Judicial Issues hosted a live video webcast on May 17, 2012 that included a panel of experts discussing new court performance measures for well-being. An archive of the webcast can be viewed here: <http://icmelearning.com/well-being-webcast/>

The National Resource Center on Legal and Judicial Issues hosted a live webinar on January 19, 2012 that included a panel of experts discussing new court performance measures for education. An archive of the webinar can be viewed here: [http://www.americanbar.org/groups/child\\_law/what\\_we\\_do/projects/rcjji/education0.html](http://www.americanbar.org/groups/child_law/what_we_do/projects/rcjji/education0.html)

The Children's Bureau, in partnership with the Department of Education, held a two-day meeting entitled Child Welfare, Education and the Courts: A Collaboration to Strengthen Educational Successes of Children and Youth in Foster Care, setting forth a call to action that convened leaders in the child welfare, education and juvenile court systems for every State, the District of Columbia and Puerto Rico. With a focus on children and youth in foster care, the purpose of this meeting was to: encourage participation in enhancing existing cross-system efforts to address educational stability and continuity issues; showcase collaborative projects and initiatives at State and local levels that support educational well-being outcomes; and facilitate development of action plans by each State that set forth strategies for improving educational outcomes. A link to the website can be viewed here: [http://www.nrcpfc.org/education\\_summit/](http://www.nrcpfc.org/education_summit/)

The Fostering Connections to Success and Increasing Adoptions Act of 2008 includes provisions relating to well-being outcomes of children in foster care. A link to the website can be viewed here: [http://www.nrcpfc.org/fostering\\_connections/education.html](http://www.nrcpfc.org/fostering_connections/education.html)

The National Resource Center for Permanency and Family Connections also maintains a website relating to child welfare and education issues. A link to the website can be viewed here: [http://www.hunter.cuny.edu/socwork/nrcfcpp/info\\_services/education-and-child-welfare.html](http://www.hunter.cuny.edu/socwork/nrcfcpp/info_services/education-and-child-welfare.html)