

ATTACHMENT: Discussion Guides (including consent scripts)

ASPE Study of Exceptions to Termination of Parental Rights Timelines for Children in Foster Care

Discussion Guide for Site Visit Interviews

Instructions for interviewers

Tailor the following interview guide by (1) skipping sections or questions not relevant for the respondent; or (2) modifying questions to reflect his/her role, his/her professional perspective/knowledge, or information obtained before the interview. Use the follow-up questions or probes (dashed items below the numbered questions) as needed to obtain additional information or clarification. If you are running out of time, prioritize the most important questions.

If there are several interview participants, you will be conducting a small group interview instead of individual interviews. In this case, you may need to skip some questions in order to focus on the questions that are most relevant to the respondents.

You should be familiar with how the jurisdiction performed on the CFSR and AFCARS, so you should select and/or tailor questions, as relevant, to probe for the respondents' insight into the key factors that influenced the jurisdiction's performance.

Before you begin the interview, read the verbal consent script to describe the study to respondents, answer any questions they have about the study, and ask for their consent to participate in the study and to audio-record the interview.

SCRIPT FOR VERBAL INFORMED CONSENT

Investigator: Elizabeth Weigensberg, Mathematica

Phone Number: 312-585-3287

Sponsor: U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation

[Directions for Interviewers]: Read the script to the participant(s) and ask each participant to respond to the two requests for consent: (1) for study participation and (2) for permission to

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0990-0421. The time required to complete this information collection is estimated to average 60 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Health & Human Services, OS/OCIO/PRA, 200 Independence Ave., S.W., Suite 336-E, Washington D.C. 20201, Attention: PRA Reports Clearance Officer

record the interview. Do not start recording until after the participant consents. Do not record the interview if you do not have the participant's consent to so.]

Thank you for taking the time to speak with us today. The U.S. Department of Health and Human Services' Office of the Assistant Secretary for Planning and Evaluation, referred to as ASPE, has contracted with our company, Mathematica, to study state practices in making exceptions to the federal timelines for the termination of parental rights, referred to as TPR.

The purpose of the study is to understand state practices in making exceptions to the federal law, established by the Adoption and Safe Families Act, that requires states to file for TPR once a child has been in foster care for 15 of the previous 22 months. Although the law allows exceptions to this timeline, states and counties vary in how they use of these exceptions.

We are asking for your participation in this 60-minute interview so that we can learn about your professional perspective on [state's/county's] TPR policies and practices, exceptions to TPR timeline requirements, and challenges to achieving timely TPRs.

For this study, Mathematica researchers will conduct four virtual site visits that consist of up to five interviews with child welfare, legal, or other professionals per site. "Virtual" means that we will conduct the visits by telephone. The selection of sites was based on our review federal data sources and recommendations from experts that allowed us to identify a range of state practices with regard to TPRs. Mathematica researchers will also conduct three small group telephone interviews, one each with biological parents, foster or biological parents, and former foster youth with TPR experience to hear their perspectives.

We will analyze the information that we collect from the interviews and summarize our findings in a report for ASPE. This report will highlight the key themes that emerged from the interviews and the challenges involved in the TPR process. It will not include your name or other personally identifying information. It will include only generic professional roles.

There are no known risks to respondents in this study. Participating in the study may not provide a direct benefit to you, but the information you provide will promote a better understanding of TPRs in practice at the state and local level.

Participation in the study is completely voluntary, and you may leave the study at any time or refuse to answer specific questions. Your refusal to participate or your withdrawal from the study will not result in any penalty. There is no compensation for participating.

We would also like your consent to record the interview for transcription purposes, which will be used to ensure that we have captured your responses accurately for our analysis. If you do not agree to the recording, you can still participate in the interview. All recordings and transcriptions will be stored on Mathematica's secure network, and only the Mathematica research team will have access to them. If ASPE requests the transcriptions, the Mathematica research team will redact all identifying information before sharing any transcription files with ASPE. We will destroy the audio recording and the transcription files at the end of this study.

Do you have any questions about the study?

If you think of questions about the study after the interview, you can contact me [interviewer] at [contact email and phone number] or Elizabeth Weigensberg, the study's lead researcher at Mathematica, at 312-585-3287, at any time.

Before we can begin, I need to confirm your participation by asking you two questions:

[Consent Question 1] Do you agree to participate in the study? [yes/no]

[If yes, Consent Question 2] Do you agree to the audio recording of the interview? [yes/no]

DISCUSSION GUIDE

A. Roles, responsibilities, and experience

Can you please tell us about your position, role, and responsibilities with [*employer name*]?

How long have you been in this role? (If less than two years, what was your previous role?)

Please tell me about your knowledge and experience with TPR proceedings and adoption decisions?

B. TPR laws, policy, and practice

What is the decision-making process regarding whether to file for a TPR and whether to seek an exception to timeline requirements?

- At what point are discussions about TPR typically begun?
- What triggers discussion about TPR (time, case circumstances, or some combination)?
- Who initiates the TPR process?
- Who is involved in the decision?
- Who holds the final decision-making authority?
- Do caseworkers receive reminders when a child is approaching the 15 of 22 month point?
- If a child reaches 15/22 and no TPR petition is filed, does the issue get raised at the next administrative review or hearing?

What is the process for obtaining TPR exceptions?

- Who initiates TPR exceptions?
- Who is involved in the decision?
- Who holds the final decision-making authority?
- How are exceptions documented?
- If the child remains in care beyond 15 of 22 months and no exception has been documented, what happens (are there reminders or consequences)?

- Are exceptions revisited periodically? If so, please describe how.

What are the TPR laws and policies in [state/local site]?

- What does your [state/county] law stipulate in terms of when a TPR must be filed based on the length of time a child has been in foster care? Is this time shorter or the same as the ASFA requirements (15/22 month)?
- What conditions are considered exceptions to the TPR timeline?
- What are the [state/local] policies in terms of filing TPRs based on the length of time a child has been in foster care?

How are the TPR statutes and policies implemented in practice? Do they differ from what is stated in law/policy? If so, please describe.

Do the TPR policies and/or practices vary across your state/county? If so, please describe.

During the past few years, have there been any changes to statutes, policies, and/or practices regarding TPR timelines?

- If so, please describe the changes and the motivation for the changes (*change in values/perceptions, change in agency leadership, court rulings, etc.*)

C. Experience with TPR timelines and exceptions

Based on your knowledge and experience, in what percentage of cases, roughly speaking, has an exception been made to the ASFA timeline requirements?

- Have you been able to process TPRs in accordance with the case planning timelines?
- Can you describe how often cases meet the TPR timelines?
- Can you estimate how long it takes, on average, to file for TPR after a child enters foster care?
- Can you estimate, on average, how often it happens that a case will extend beyond 15/22 without either the filing of a TPR or an exception being documented?

Which exceptions are most common? (failure to provide reasonable efforts, compelling reason that it is not in the best interest of the child, child in relative placement)

How relevant are the TPR timelines to the decision to file for TPR?

- Is there a focus on the ASFA TPR timeline requirements?
- Is there accountability within the state and/or within the court for not filing a TPR in accordance with the timeline requirements?

Is there anything about the community context or the characteristics of families you serve that affects the timing and/or the decision to file for TPR or to seek an exception?

Many child welfare agencies struggle to get access to the full range of services needed to help families and meet the requirements for reasonable efforts. In your jurisdiction, are there often waiting lists or delays in families accessing services?

- If so, what types of services have waiting lists or delays?

Are there other factors that influence the decision to make an exception to the TPR timeline requirements?

D. Child welfare caseload, policies, and practice

We would like to get a sense of your caseload with respect to TPR. For example, out of 100 children who enter foster care (entry cohort), can you estimate what percentage experience TPR? [*Note to interviewer: Review AFCARS data from ASPE before interview.*]

- Can you estimate what percentage is pending TPR?
- Can you estimate what percentage has TPR but is awaiting permanency?

Of children for whom a TPR timeline exception is made, what percentage experience reunification? What percentage experience other forms of permanency?

- Does this vary by the type of exception, particularly for children for whom an exception is made for reasons other than living with relatives?
- If they cannot give a numeric estimate, can they characterize how many (for instance, is it most, some, or a few)?

To what extent are children and kinship families involved in determining whether a TPR is filed and which permanency options are pursued (adoption or guardianship)?

Next, I'd like to ask you about how [state/county's] child welfare policies/practices influence decisions about and the timing of filing for a TPR. I'll ask about a range of policies.

- Does your state/county's use of relative foster care placements influence TPR decisions?
 - o Are children remaining in foster care past TPR timelines likely to be in relative placements?
- Does your state/county's adoption policy influence TPR decisions?
 - o Are there adoption subsidies? Are there post-adoption supports?
- Does your state/county's guardianship policy influence TPR decisions?
 - o Is there subsidized guardianship? Is the amount different from adoption subsidies?
 - o Are there noteworthy differences in benefits to the child or family between the subsidized guardianship and adoption options?
- Does your state/county's permanency policy influence TPR decisions?
 - o Is there extended foster care?
 - o What is the preferred permanency outcome for children living in relative foster homes, if they cannot be reunified (adoption or guardianship; whatever the child/family prefers, etc.)?

Does your state also have an expedited adoption track?

- How frequently is this used?

E. Legal process and decision-making

What role does the court play in monitoring and/or enforcing TPR timelines?

Can you describe the legal process for TPR?

- Are there standing hearings at or near the threshold time in which the TPR timeline requirements apply?

- How easily are the courts able to schedule hearings? Are hearings timely, or are there typically delays?
- Is the state required to file a petition for TPR or to cite an exception to file at a particular time in a case?
- Are court-appointed attorneys compensated for their work with TPR proceedings? Does this differ for TPR compared with other types of proceedings?

What discretion do judges have/exercise with respect to the TPR timeline requirements?

- What variation is there among judges (if there are multiple in the jurisdiction)?
- How do judges examine whether *reasonable efforts* have been made to reunify the child with his or her parents?
- How do judges make decisions about whether there is a *compelling reason* to not file TPR? Is this based on what the petitioner recommends, or do judges use their discretion?

How does judicial discretion/practice influence the variation in the timeliness of TPR?

How does attorney discretion/practice influence the variation in the timeliness of TPR?

How do other legal representatives or stakeholders [(guardian ad litem (GAL)/Court Appointed Special Advocate (CASA)] influence variation in the timeliness of TPR?

F. Perceptions of Permanency and TPR

We would like to shift the discussion in order to learn more about your personal perceptions of TPRs policies and practice. What are your personal perceptions of the TPR requirement and the consequences of delaying TPR?

Does current practice provide TPR timeline exceptions as often as you think is good practice?

- Are there too many or too few TPR timeline exceptions?

What are your perceptions of the likelihood of reunification following TPR exceptions?

Among your colleagues or others in the system, what beliefs/attitudes regarding permanency and TPR, underlie decisions about whether exceptions are made to the ASFA TPR timelines?

- What perceptions are there among those in your role with the [child welfare agency/court/etc.] regarding permanency and the TPR process, timelines, and exceptions?
- What is the general perception about moving to TPR more quickly in order to more quickly establish permanency? What is the general perception about allowing more time for reunification in order to preserve family relationships?

How much and in what ways do these perceptions vary within the site/state or between different stakeholders (staff in a child welfare agency, the parents' counsel, the children's counsel, judges, etc.)?

How do these perceptions influence TPR decision-making and practices?

Does the child welfare agency provide the right level of scrutiny to requests for TPR timeline exceptions (too much or too little)?

Do judges provide the right level of scrutiny for requests for TPR timeline exceptions?

G. Challenges and supports

What are the challenges/barriers in the TPR process (legal process, child welfare policies, others)?

- How do these influence TPR timelines?
- Do caseload sizes or other factors influence the ability to meet TPR timelines?

What policies or practices do you view as most supportive of appropriate and timely TPRs? Please describe.

What policies or practices do you regard as successful in terms of permanency and TPR practices? Why are they successful?

What policies or practices do you regard as harmful in terms of permanency and TPR practices? Why are they harmful?

H. Identifying sites and other respondents

[For state agency interviews] Can you recommend a local site for our study within your state that can help us to learn more about TPR policies and practices at a local level?

Can you recommend specific individuals at [site] whom we can interview as part of our study? *[If so, request contact information for follow up.]*

Closing remarks: Thank participants for their input and provide contact information for future questions or concerns.

Discussion Guide for Small Group Discussions with Parents and Former Foster Youth

Instructions for interviewers

This guide details the objectives of the interviews and offers sample questions for each objective. Interviewers should tailor the interview by (1) selecting and prioritizing questions most relevant for the group and (2) modifying questions to reflect the role of group members. Use the follow-up questions or probes (such as the dashed bullets below the numbered questions) as needed to obtain additional information or clarification.

Before you begin the interview, read the verbal consent script to describe the study to respondents, answer any questions they have about the study, and ask for their consent to participate in the study and to audio-record the interview.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0990-0421. The time required to complete this information collection is estimated to average 90 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Health & Human Services, OS/OCIO/PRA, 200 Independence Ave., S.W., Suite 336-E, Washington D.C. 20201, Attention: PRA Reports Clearance Officer

SCRIPT FOR VERBAL INFORMED CONSENT

Investigator: Elizabeth Weigensberg, Mathematica

Phone Number: 312-585-3287

Sponsor: U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation

[Directions for Interviewers]: *Read the script to the participant(s) and ask each participant to respond to the two requests for consent: (1) for study participation and (2) for permission to record the discussion. Do not start recording until after the participant consents. Do not record the interview if you do not have the participant's consent to do so.]*

Thank you for taking the time to speak with us today. The U.S. Department of Health and Human Services' Office of the Assistant Secretary for Planning and Evaluation, referred to as ASPE, has contracted with our company, Mathematica, to study state practices in making exceptions to the timelines for the federal termination of parental rights, referred to as TPRs.

The purpose of this study is to understand state practices in making exceptions to the federal law, established by the Adoption and Safe Families Act, that requires states to file a TPR once a child has been in foster care for 15 of the previous 22 months. While the law allows exceptions to this timeline, states and counties vary in how they use these exceptions.

We are asking for your participation in a 90-minute small group interview with other [biological, foster/adoptive parents, or former foster youth] so that we can learn about your perceptions of TPR policies and practices and exceptions to TPR timelines.

For this study, Mathematica researchers will conduct interviews with child welfare, legal, or other professionals in 4 sites. Mathematica researchers will also conduct 3 small group telephone interviews with biological parents, foster or biological parents, and former foster youth with TPR experience to hear their perspectives.

We will analyze the information that we collect from the interviews and summarize our findings in a report for ASPE. This report will highlight the key themes that emerged from the interviews and the challenges involved in the TPR process. The report to ASPE will not include your name or other personally identifying information, only generic roles (such as biological, foster/adoptive parents, or former foster youth) will be referenced when reporting study findings. We ask that you and the other participants keep the names of all participants confidential.

There are no known risks to participants in this study. Mathematica will provide a \$50 gift card for your participation in this study.

Participation in the study is completely voluntary, and you may stop participating at any time or refuse to answer specific questions. Your refusal to participate or your withdrawal from the study will not result in any penalty. If you do not answer certain questions or if you decide to end your participation before the interview ends, you will still receive the \$50 gift card.

We would also like your consent to record the discussion for transcription purposes. We will use the transcriptions to ensure that we have captured your responses accurately for our analysis. If you do not agree to the recording, you can still participate in the interview. All recordings and transcriptions will be stored on Mathematica's secure network, and only the Mathematica research team will have access to them. If ASPE requests the transcriptions, we will redact all identifying information before sharing the transcription files with ASPE. We will also destroy the audio recording and the transcription files at the end of this study.

Do you have any questions about the study?

If you think of questions about the study after the interview, you can contact me [interviewer] at [contact email and phone number] or Elizabeth Weigensberg, the study's lead researcher at Mathematica, at 312-585-3287, at any time.

Before we can begin, I need to confirm your participation by asking you two questions:

[Consent Question 1] Do you agree to participate in the study? [yes/no]

[If yes, Consent Question 2] Do you agree to the audio recording of the interview? [yes/no]

DISCUSSION GUIDE

A. Introductions

Today we are going to talk about the termination of parental rights in the child welfare system. This is often referred to as TPR. We know that talking about issues like this one may be difficult, so please remember that participation is voluntary, and if you choose to leave the interview or to not respond to particular questions, that is fine. Please be respectful of one another and allow time for others to speak. Also, we wanted to remind everyone that all of your names and the information shared during the interview are confidential.

1. Can you please tell us your name (first name only)?

Can you confirm the role in which you experienced TPR (biological parent, foster/adoptive parent, former foster youth)?

For foster/adoptive parents and guardians, we ask you to describe whether you were/are relatives or non-kin, licensed, and matched by agency.

B. TPR experience

Can you briefly describe your experience with TPR proceedings and adoptions?

What was the permanency plan and the permanency outcome. That is, were you or was your child reunified, adopted, placed in guardianship, or living in foster care until you/your child reached adulthood?

How long were you/was the child(ren) in foster care before being discharged to permanency?

From your perspective, can you describe the decision-making process associated with whether to file for a TPR?

Do you recall the timing of when the TPR petition was filed (before or after being in foster care 15 months)?

Federal guidelines from the Adoption and Safe Families Act (ASFA) have a timeline requirement to file for TPR. If a child is in care for 15 months during a 22-month period, the child welfare agency is required to seek TPR unless there are exceptions, such as the agency did not do its due diligence in attempting reunification or children are placed with relatives.

Before we contacted you about this study, were you aware of these federal requirements?

When you or your child was foster care, did you know if there were TPR timeline requirements affecting your case?

- If so, how did you know about them (who informed you)?
- How relevant were the timeline requirements in the decisions to file for TPR?

In your particular case, was there a request for an extension or for an exception to these timeline requirements?

If so, what reason were you given for the exception (that is, what were there compelling reasons, did the agency not provide reasonable efforts to reunify you/your child, needed more time for services, not in best interest of child, etc.)?

When you think back on your situation, do you believe that the child welfare agency provided reasonable efforts and services to reunify you with your child/parent?

Were the services you needed to support reunification available in your county or local area?

To what extent were you (children, biological parents, relatives, foster/adoptive parents) involved in the decision of whether to file a TPR, and were you aware of which permanency options were pursued (adoption or guardianship)?

If TPR was delayed, was the child/were you in relative care, with a non-relative foster parent, or in some other setting?

If TPR was delayed/extended, what was the ultimate outcome for you/your child (reunification, adoption, guardianship)?

In your opinion, to what extent did the state/county child welfare policies regarding adoption and guardianship—specifically the availability of subsidies and post-permanence support—influence the decisions surrounding TPR and permanency?

[For foster/adoptive parents, former foster youth] Were you consulted about whether to pursue adoption versus guardianship?

Did the case worker discuss with you the full range of permanency options, that is guardianship, adoption, and/or other permanency options? How were these options presented to you?

Did you know about any subsidies or post-permanency supports?

How did this information or lack of information influence decisions about your case?

Did the agency or did your attorney indicate any preference for permanency options? What was this preference, and how did the agency or your attorney explain the reasoning for this preference?

Can you describe your experience with the legal/court process for TPR with respect to the following: scheduling hearings for TPR (that is, were the hearings timely, or where there delays?), attorney engagement, and decisions made by the judge?

Did you attend hearings?

Was an attorney involved to assist you?

In your opinion, what were the key factors in making permanency decisions (that is, what was the permanency goal and timing)?

How much did the child welfare agency dictate the permanency goal and timing?

How relevant was your/your child's perspective about the permanency goal and timing?

How relevant was the perspective of the adoptive parent/guardian?

Was the ASFA timeline relevant/how did that play into/not play into the decision and timing?

What was the role of the parent's attorney, the child's attorney, guardian ad litem (GAL), Court Appointed Special Advocates (CASA), or others?

What was the role of the Judge?

C. Perceptions of permanency and TPR

From your perspective, do you feel TPR was helpful or harmful to your/your child's/children's safety, permanency and well-being? How so?

From your perspective, what do you think of the TPR timeline requirement (15/22 months) and the consequences of delaying TPR (is 15 months too short or too long)?

From your perspective, what do you think is the likelihood of reunification after a TPR exception has been made, particularly for children who receive a TPR exception for reasons other than living with relatives?

From your perspective, what beliefs/attitudes regarding permanency and TPR underlie the decisions about whether exceptions are made to TPR timelines?

Thinking about other families like yours that experience TPR in your state or county, how much and in what ways do these beliefs/attitudes regarding permanency and TPR vary within the state/county or between different stakeholders, such as the staff at child welfare agencies, a parent's attorney, the children's attorney, judges, etc.?

How do these perceptions influence TPR decision-making and practices?

D. Challenges and supports

From your experience, what did you find most challenging about the TPR process?

From your experience, what supports were most helpful with the TPR process (any services or other supports)?

Is there anything we didn't cover that you think is important to share?

Closing remarks: Thank participants for their input and provide contact information for future questions or concerns.