Year 1 2014: Executive Summary

A project of the Children in Court Improvement Committee (CICIC), with support from the National Child Welfare Resource Center on Legal & Judicial Issues, and the American Bar Association Bar Youth Empowerment Project-Casey Family Programs
Goals

The goals of this New Jersey initiative were to increase the attendance of youth in placement and provide for meaningful participation in their permanency hearings. A Protocol was developed to implement 45 CFR 1355.20 and N.J.S.A. 30:4C-61.2. Three counties began implementing the Protocol, and surveys of adult stakeholders and youth in placement were collected to document successes and identify challenges.

Highlights: Successes and Challenges

Successes: Court participation is not upsetting for youth, but can provide an opportunity to be heard, and also provides the youth & court with better information

Concerns: Court might be upsetting for children, court is not child friendly, the court hearing will not be meaningful for the child, and the child does not want to attend court proceedings

Findings: When youth were asked before court: ‘How do you feel right now?’,

- 62% felt relaxed and only 12% felt nervous

Findings: When youth were asked after court: ‘Are you glad you came?’ and ‘Would you come to court again?’,

- 97% reported they were glad they came
- 99% reported they would come again

Findings: Youth were asked if they were able to talk about something important to them and if they thought the judge understood them

- 90% said they talked about the issue of greatest importance to them
- 89% said they felt the judge heard or understood them

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1 Adult stakeholders included judges, attorneys, caseworkers, CASA supervisors and volunteers, parents and resource parents. Resource parents are defined as “any person with whom a child in the care, custody, or guardianship of the Department of Children and Families is placed by the Department, or with its approval, for care and shall include any person with whom a child is placed by the Division of Child Protection and Permanency for the purpose of adoption until the adoption is finalized.” N.J.S.A. 30:4C-26.4
Findings: As to overall benefits/perceptions:

- 81% of youth felt court was either ‘Very Good’ (48%) or ‘Good’ (33%)
- 66% of adult stakeholders said there was a benefit to youth participating

Findings: Regarding how the child’s presence affected court hearing outcomes:

- 69% of adults said children had a better understanding of the case plan/goal
- 52% of adults said the court had better information/more information
- 41% of adults said issues were prioritized/clarified

Findings: Regarding parents:

- 38% of adult stakeholders believed parents of youth benefited from child being present

Challenges: Youth participation makes hearings longer and causes scheduling issues. Transportation to court and school schedules are barriers to youth participation.

Findings: While the child/youth’s presence only affected the court calendar 55% of the time, when it did, the most common effects were that hearings:

- were longer (76%)
- or were delayed (50%)

Findings: School schedules interfered with participation

- 41% of adults said time out of school was a barrier to youth participation

Findings: Adult stakeholders indicated that there were no barriers to getting youth to court 70% of the time according to daily post-court surveys. When there were barriers, the most common were due to:

- transportation issues (47%)
- the child/youth did not want to attend (44%)
Lessons Learned

When implementing a youth participation/engagement initiative, keep in mind the following:

- **Involving youth in placement in hearings results in better understanding of case plans and goals, and may lead to better case outcomes.** Based on the surveys, there was a consensus that having the youth in court resulted in the court, the parties, and the child having a better understanding of case plans. A number of the adults and youth seemed to believe that by having a better understanding of the child or families’ needs, the court would be able to make better decisions, and the case would have a better outcome. This pilot focused on the process, including the logistics of having youth appear, collaboration and preparation of the stakeholders, and the due process rights of the youth. Other jurisdictions might also be interested in further investigation as to how the youth’s presence and participation impacts permanency or well-being.

- **Prepared youth are satisfied with their court experiences.** The very positive experiences of youth in this Project are likely attributable in part to the high level of preparation the youth received. Attorneys, caseworkers, and others spoke with youth ahead of court at very high rates (Law Guardians 97%, caseworkers 49%). The question did not ask about the location, etc., where these conversations took place. However, with the reported frequencies, the trainings, and emphasis on the part of the Law Guardian in encouraging preparation ahead of the date of court, it can be inferred that most children were prepared outside of court.

- **Court calendars and transportation issues require adjustment and accommodation.** Having a youth participating in court will likely lead to longer hearings, and may result in delays and rescheduling of hearings. Despite this, more than half of adult stakeholders said the court obtained more information about the case when a youth participated. Transporting youth to/from hearings remains a challenge. It is suggested that Skype or other remote electronic processes be used as an alternative means for youth to participate. Participation by alternative means is preferred to no participation. It is suggested that stakeholders identify local solutions (public transportation, car service, etc.) or create a budget line-item to reimburse professionals’ use of private cars.

- **Young children up to 6 years old, especially toddlers, may require court adaptation to their special needs.** Attorneys and caseworkers reported disruptions in court hearings from toddlers and infants. New Jersey law mandates all youth of all ages be noticed of their permanency hearings and be entitled to attend. Adult stakeholders noted that seeing a young child’s demeanor in court provided information about well-being, even if the child was too young to speak to the court. It is suggested that stakeholders recognize the limitations of young children and build that into the hearing process. Possible accommodations may include splitting the hearing to allow the child or others to participate at different times (with attorneys remaining); limiting the number of people in the room; providing quiet activities and snacks.

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1 N.J.S.A. 30:4C-61.2
Document all reasons why youth do not want to come to court. Youth who did not come to court did not complete surveys. Law Guardians completed a survey that indicated why the youth did not appear. However, there is no first-hand understanding of why they did not participate. Reasons could include: they trusted their attorney would represent their expressed wishes in court so they did not need to come; they did not understand the benefits of participating; court hearing dates/times conflicted with academic or extracurricular activities. This information may lead to better communication with youth about their rights and roles.

Identify barriers related to academic and extracurricular activities and consider accommodations. Older youth expressed concerns in surveys about missing tests, classes, and after school activities. Some said their schools do not excuse absences for court hearings. Others may feel embarrassed to put “court appearance” as their reason for the absence. Transportation to and from school and activities is also an issue. Consider whether it feasible to schedule court hearings for after school or whether the hearing can be conducted remotely via Skype or another method.

Anticipate resistance by some stakeholders and offer technical assistance. In comparing responses across adult stakeholders and children/youth, it is clear that while all were generally positive about youth participation in court, youth were more positive. While the data show this, this might not be intuitive to everyone. Reviewing the data in the full three county summary, youth panels, and other training may help professionals gain a better understanding of this topic and improve their ability to deal with the actual challenges. Training by a psychologist, question-and-answer sessions with youth, and training on helping youth participate, can lower resistance and build capacity to address the real difficulties that arise when youth attend court.
Why Bring Youth in Placement to Court Hearings?

Current or former youth in placement share a consistent message: they want to be involved in their cases. They want to be present at court. But a national survey, released in 2006, found only 18% of youth in placement reported they always attended court. 3

Child/youth participation in the court process is considered a best practice by national organizations working on system improvement efforts. 4 The National Council of Juvenile and Family Court Judges (NCJFCJ) specifically recommends that “children of all ages be brought to court, unless the judge decides it is not safe or appropriate based on information provided by case participants.” 5

Federal law supports involvement of children and youth in certain hearings. Federal law requires that “in any permanency hearing held with respect to the child [or hearing on transition to independent living], the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child.” 6

Barriers to youth involvement still exist. Those barriers may be due to lack of resources, such as transportation to court or increased time for court hearings. They can also be emotional, in that the topics discussed in dependency hearings might seem distressing for children.

Research supports anecdotal reports of foster care alumni. A Nebraska study of 100 children/youth ages 8 to 18 considered whether and how attendance at dependency review hearings was harmful or beneficial: 7

- Anxiety levels for children were low overall
- They were even lower for children who had attended court
- Children who attended court viewed the judgments as more fair
- Children who attended had a better understanding of their case plans (especially older youth)

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4 Including the American Bar Association, the National Council of Juvenile & Family Court Judges, the National Association of Counsel for Children (NACC), & the Pew Commission. See, Seen, Heard, and Engaged, fn. 5.
5 Id.
New Jersey

Against this backdrop, New Jersey began a concerted effort to improve the engagement and experience of children and youth in their dependency cases and to collect data on implementation.

New Jersey established a Protocol in 2013 to implement N.J.S.A. 30:4C-61.2 – a statute that provides for notice and a right for children of all ages to attend and participate in their permanency hearings.

The effort was piloted in three locations, ranging from urban to more rural, including Essex, Sussex, and Burlington counties, and included the following components:

- Judges in the counties emphasized the expectation that children would attend
- Team meetings were held with leadership and selected others in each county to begin planning
- Training sessions were held with key staff including judges, court staff, child welfare agency supervisors and management, children’s attorneys, parents’ attorneys and CASA. There was also follow-up training to reach both leadership and direct service workers.
- The state Office of Law Guardian (children’s attorneys) developed training materials for their attorneys
- Each county developed an action plan to implement the Protocol

In April 2014, the state began gathering data in the three counties. This focused on perceptions of children/youth and professionals of the process, barriers, and benefits of having children/youth in court.

Data was gathered through:

- Monthly surveys of all adult stakeholders (judges, child welfare agency caseworkers, children’s attorneys, parents’ attorneys, resource parents, and CASAs)
- Surveys completed at each court hearing, including:
  - After court surveys for adult stakeholders
  - Before and after court for children/youth, and
  - Surveys completed by Law Guardians for youth who did not attend
- Modified court orders to reflect attendance

New Jersey will be implementing the Protocol statewide in 2015. Based on feedback collected during the pilot, the surveys were modified to clarify survey questions and responses. Stakeholders will collaborate with the pilot counties to assist in implementing the Protocol in each individual county. As part of the implementation of this Protocol, New Jersey’s annual Children in Court Conference, sponsored by federal Court Improvement funding, will focus on training judges, court staff, and stakeholders on the substantive issues related to youth appearing in court. As New Jersey proceeds with statewide implementation, it will continue to collect data to inform future program planning and enhancements.