

Child Judicial Conferences: Making an Impact with Children in Dependency Court

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Abstract

The research project is an exploratory study of a court jurisdiction in Santa Rosa County, Florida that used judicial conferences to increase foster youth participation in dependency court. Data collection entailed case file reviews of 371 foster youth, and focus group interviews with case workers and Guardians Ad Litem to examine the impact of the conferences on children. Despite calls for greater involvement of foster youth in dependency proceedings, there is limited research on the of increased foster youth participation in the dependency process.

Salient themes from focus group interviews included alleviation of the child's fears of the judicial system through *Humanizing/Personalizing* the Judge, enhanced *Insight/Understanding* of the child's perspective for foster care professionals, *Empowerment* of foster youth as a result of having a voice in the dependency process, and the *Child Centered* emphasis of the conferences, encouraging the child's participation. Nearly all of the respondents identified the conferences as a means of increasing foster youth participation in dependency proceedings. The results of the study provide support for the value of enhancing greater involvement of foster youth in dependency court, and suggest implementation and policy issues for the child welfare system and dependency court.

Introduction

Children who are victims of abuse or neglect, or who witness domestic violence, are necessarily the primary focus in dependency court because of the role of the judicial system in protecting children and acting in their best interest. Interestingly though, those children, whose voices should be heard most clearly, are not routinely given the opportunity to participate actively in the court proceedings nor are they able to speak directly to the judge presiding over their fate. Family court judges, child advocates, and researchers are increasingly encouraging child participation in child abuse cases (Cashmore 2002; Jenkins 2008; Pitchal 2008), but there are few published studies regarding their effectiveness (Weisz, Wingrove and Faith-Slaker 2007).

Research regarding court participation involving children in child abuse and neglect cases has generally focused on familiarizing children with the court room, court procedures, and their participation or testifying before the court (Taylor 2009; Weisz, Wingrove and Faith-Slaker 2007). This article expands upon the limited body of research by exploring the use of judicial

conferences as a unique means of engaging children and giving them voice in the court process, explores observed outcomes from the conferences, and describes implementation and policy implications.

Review of Literature

The U.S. Department of Health and Human Services (2010) reported that as of September 30, 2009, 423,773 children and youth were in foster care for an average of 26.7 months. Upon entering the dependency system, foster youth become part of a “combined judicial and social welfare system” (Pitchal 2008, 2), that attempts to attend to both the legal interests and well-being of the child. Although the 1996 amendment to the Child Abuse and Neglect Prevention and Treatment Act (CAPTA) authorized a court-appointed advocate to protect and promote the interests of foster youth, critics of the current system contend that children lose their voice once in the system, and are systematically excluded from decisions regarding their care and placement (Jenkins 2008; Pitchal 2008; Taylor 2009; Weisz, Wingrove and Faith-Slaker, 2007).

Article 12 of the United Nations Convention on the Rights of the Child (1989) advocates that children participate “in all matters affecting the child” (4), conceptualizing youth participation as an issue of human rights and social justice. Although many European nations have adopted the United Nations’ directive, the dependency system in the United States continues to take a “paternalistic approach” to foster youth (Cashmore 2002), in which adult representatives speak and act on their behalf. Murray and Hallett (2000) argued that the need to participate in decision-making is particularly important for young people, who don’t have the options for self-determination available to adults. However, foster youth may have an even greater need to participate in decisions regarding their care, given the numerous people and systems making decisions on their behalf (Cashmore 2002). It is generally assumed that the needs and preferences of foster youth will be adequately represented by case workers and guardian ad litem (GAL). Yet interviews with young people in the system reveal that many feel their own wishes and views are not heard or valued (Cashmore 2002; Hochman, Hochman and Miller, 2004).

Justifications for limiting the presence and involvement of foster youth in dependency proceedings range from beliefs that children are adequately represented by case workers and attorneys, concern that hearings will be emotionally “traumatic,” or simply that the logistics required to involve youth participation is “inconvenient” (Jenkins 2008, 171). Such reports suggest that youth participation is highly dependent on the attitudes of the adults involved in the process.

In a study of 98 foster youth participating in children’s hearing in Scotland many young people reported inhibitions about speaking freely in front of adults (Murray and Hallett 2000). Even when adults were familiar, such as family members, some children reported reluctance to say anything that might provoke negative reactions. Additionally, hearings were usually

dominated by adults, and youth participation was often limited to responding to, rather than asking the questions. These findings suggest that even when it is encouraged, active participation on the part of foster youth can be difficult to achieve.

Thomas and O’Kane (1999) found that social workers who valued youth participation were not only more likely to encourage their active involvement, but were also more effective in preparing them for dependency meetings. Feeling adequately prepared was a significant factor in facilitating participation and promoting positive perceptions of dependency meetings. Additionally, opportunities to participate in decision-making help promote perceptions that the process is fair, and can influence perceptions of the legal system in general (Weisz, Wingrove and Faith-Slaker 2007). While many foster youth expressed ambivalence about participating in meetings, stating they were often too long and “boring” (226) they valued the opportunity to voice their opinions and viewed this as a primary purpose of their attendance. Indeed, children reported a desire for greater preparation, stating a need to know who would be present and what would be discussed (Thomas and O’Kane 1999).

Encouraging the participation of young people in decision-making can have practical advantages. Participation can help build decision-making competencies, develop collaborative relationships, and enhance the young person’s sense of self-confidence and control over their life circumstances (Homans 2004). Yee (1987) found that children’s level of self-esteem was correlated with their level of involvement in decision-making in the home. Interviews with foster youth revealed that perceptions of being heard and having their opinions valued helped promote a sense of security (Cashmore and Paxman 2007). Additionally, the authors point out that participation helps young people establish collaborative relationships with adults within the system. These alliances can provide important resources for youth as they make the transition to independent living. This is particularly relevant to youth in the foster care system, whom may not have the practical and emotional resources provided by parents and family.

The majority of youth in foster care ultimately return to their families. However, those foster youth who remain in the system until they are older, only 54% complete high school and 51% are unemployed after being discharged from care (Cook, Fleishman and Grimes, 1991, 115). Research indicates that issues that can impact educational performance, such as problems with concentration, depression, and difficulties with peer interaction, are more likely to affect foster youth (Ayassee 1995). Sadly, one in five foster youth who age out of the system will become homeless (Pecora et al. 2003, 24).

The Pew Commission on Children in Foster Care (2004) reported that the most effective means of safeguarding children’s welfare within the foster care system is ensuring they have “a direct voice” (41). However, the commission recognized that in order for this to occur the system itself would have to be modified, shifting from the current focus on child representation by case workers and attorneys, to direct participation and active involvement of foster youth themselves. The judicial system is often confusing and overwhelming for children and adults alike. One

method of empowering foster youth in the dependency system is educating them on the judicial process (Taylor 2009). Some jurisdictions have developed educational materials designed to increase foster youths' knowledge of the system. Young people receive information explaining the court process, as well as the roles and responsibilities of court personnel. Other educational methods include courtroom tours and role plays to help prepare youth for the actual appearance in dependency court or case reviews (Weisz, Wingrove and Faith-Slaker 2007). Thus, a concerted effort on the part of the dependency system would be required to truly integrate the active participation of foster youth in the dependency process.

Methodology

This research is an exploratory study of judicial conferences conducted in Florida's Santa Rosa County 1st Judicial Court from February, 2008 to August, 2009. The judge presiding over dependency court sought to increase child involvement in their dependency cases. The children were living with foster parents or they were placed with family members. The judge allowed children age 6 and above to request a meeting in chambers to raise questions or discuss any issue of interest to them. Children were transported to the court house by the Department of Children and Families (DCF) caseworker. The DCF caseworker and assigned GAL representative were present when the child met with the judge. At the conclusion of the judicial conference, the child was offered the opportunity to select a Ring Pop candy or Beanie Baby or other small toy. The conferences lasted from five to 45 minutes, were audio recorded, and a request for conference/refusal form for each conference was entered into the child's court record. On those occasions when the judge took notes during the judicial conference, those were also included in the child's court record.

The court provided the names and case numbers for those children scheduled for conferences on the judge's docket. From this list, researchers requested court files and scheduled a secure room to review files from the Clerk of Courts. The researchers reviewed each of the court records to gather demographic and basic case information. A copy of the court order from the judge to allow access to the researchers was entered into each file reviewed. The researchers reviewed selected audio recordings but abandoned that because of the poor quality of the recordings and limited ability to decipher the words of the child during the judicial conference. We later determined that the poor audio likely resulted from the recorder being on the judge's desk and the child being seated at the other end of the conference table.

Approval from the researchers' Institutional Review Board (IRB) was obtained to ensure protection of research participants. Additionally, IRB approval from the participants' institutions was obtained as needed. Potential participants were advised, both verbally and in writing, that their participation was voluntary. Focus group members received a consent form detailing the nature and purpose of the study; those choosing to participate signed and returned the consent form, and were given a copy to maintain for their own records. We emphasized that the participants were free to discontinue participation at any time without negative consequences. In

order to maintain anonymity, participants were instructed not to place their names or identifying information on questionnaires or reveal identifying information on audio recordings.

We conducted four focus groups to explore the impact of the judicial conferences on the children and court process. Three of the focus groups were conducted with DCF caseworkers; one was conducted with the GAL representatives. Focus groups were audio recorded. Following an explanation of the project, the researchers obtained consent to participate and distributed the questions that would be discussed during the focus group. Participants were asked to write their responses so they could formulate their thoughts before we began the discussion. The focus groups lasted from one to three hours. Twenty DCF caseworkers and four GAL representatives participated in the study.

Data from the court records was entered in SPSS 18 for analysis. The audio recordings from the focus groups were transcribed into Microsoft Word documents for qualitative identification of emergent themes and issues.

Findings and Emergent Themes

Demographics

The dependency court cases encompassed a total of 371 children (See Table 1). Of those, 48% were males, 50% were female. Court records did not always include the child's race (24% missing). The largest percentage were white (59%), followed by black (9%), and bi-racial (7%). These are reflective of county demographics where the population is predominantly white (88.8%), but reflect higher percentages of black (6%) or bi-racial (2.3%) children involved in dependency court than are represented in the population (U.S. Census Bureau 2009, People Quickfacts). Although there were numerous instances of changes in living arrangements, at the time of the review of court record, the latest placement arrangement for the child showed 54% in kinship care and 39% in foster care. GAL representatives were assigned in 85% of the cases. The largest number of children had only one judicial conference (43%), while 19% had two conferences and 8% had three conferences. Interestingly, a minimum of 21% of the children had a parent incarcerated. This warrants further study because the researchers were not looking specifically for incarceration and did not note it on all data sheets so the numbers are likely to be much higher.

Table 1.

Gender					
		Male 177 (48%)	Female 185 (50%)		Missing 9 (2%)
Race					
	Black 29 (8%)	White 217 (59%)	Bi-racial 26 (7%)	Other 9 (2%)	Missing 90 (24%)
Placement					
		Kinship care 199 (54%)	Foster Care 144 (39%)		Missing 28 (7%)
GAL Assigned					
		Yes 317 (85%)	No 185 (7%)		Missing 30 (8%)
# Conferences					
	Zero 40 (11%)	One 161 (43.4%)	Two 72 (19.4%)	Three 31 (8.4%)	Four + 9 (2%)
Parent Incarcerated					
		Yes 76 (21%)	No **		Missing 295 (79%)

Focus Group Themes

Humanizing / Personifying the Judge

A humanizing/personifying theme emerged from the respondents. Children were described by respondents as having anxious symptoms before meeting with the judge. The children seemed to conceptualize the judge as supreme and all-powerful. During the meeting with the judge, the children became relaxed and comfortable. Respondents believed that many of the children’s conceptualizations of the judge were changed and they were able to view the judge as a caring individual whom they could converse with on a personal level.

Children were reported by respondents to be “anxious” and “nervous” before meeting with the judge. Respondents indicated that prior to meeting, “ the kids definitely view(ed) the judge as God, omnipotent” . One respondent stated “I will never forget my 8 year old describing what the judge is going to look like [be]cause I ask[ed] her what do you think? [The child

responded] its going to be this gigantic person, in a black robe sitting way high”. These children appeared to conceptualize the judge as larger than life.

After the child entered the judge’s chambers, and the judicial conference began, respondents reported the children to be “comfortable”, and the meetings not to be “intimidating for the child”. One respondent called the opportunity “huge – most kids don’t get a chance to sit down one-on-one and talk to a judge”. Another respondent stated “I mean the judge was always really good with the children, and the children enjoyed that contact with judge”. This contact with the judge appeared to have a personalizing effect on the children with a respondent stating “and then they get in there and within a couple of minutes of talking to her they realize that she’s a person”. Soon after the meetings with the judge began, children were reported to be relieved of the anxious symptoms, “there was relief ... [from] getting answered questions”.

Many of the children were reported to be relieved, happy, and prideful after meeting with the judge. Afterwards, respondents reported that the children “were relieved to meet the judge”. It appears that younger children were especially glad with a respondent remarking “she understood and younger kids ... they were happy”. Happiness wasn’t the only feeling these children had, many were also hopeful and prideful with one respondent stating “That’s the feeling I got from my kid, kind of hopefulness, level of pride, I have been heard”. Another respondent stated “for having just sat down and talked to a judge. I mean, that’s something”. Lastly, a respondent stated of the process, “I mean in the sense that the judge is actual person ... I guess that brings a sense of comfort in a way”.

Empowerment

A further theme to emerge for the focus groups was that of empowerment. It appeared that the judicial conferences gave children confidence to voice their views. One respondent noted that “they want to talk to the person whose decision it is”. Another respondent said of the judicial conferences “it’s the child’s’ chance to verbalize and it’s their forum”. These children were reported to be empowered to express themselves at the judicial conferences with the judge by respondents stating “they would speak their mind ... that’s important, you know” and “they need to say what they want to say, so someone important hears it ... get it out”. This was further demonstrated by a respondent who stated, “it gave them the opportunity to express, you know, what they wanted out of the case”.

Our findings are consistent with literature regarding increased child participation in the legal process (Cashmore 2002; Murray and Hallett 2000) wherein the respondents reported immediate benefit to the children after the judicial conferences. As one respondent stated “most of my kids just felt that they were empowered by it just by having that direct influence” and that “they feel like that have gotten to say what they want to the judge”. This was reflected in the children’s affect as another respondent reported “you could see that on their faces—that they, you know—hey somebody is listening to me, and it’s somebody who is important. And I know

this person is important because my caseworker's been telling me that. And I felt like that was a big boost to the kids." Another respondent described her child who would "finally get to meet this judge who's been determining my life for the past however many years". Still another respondent reported "it was really good for the kids to feel like they were having direct input to the person who was meeting and making rulings on their case. And I think that was encouraging."

This theme of empowerment seemed to carry over to the court proceedings. One respondent noted that the judicial conferences "encouraged them to be present for whatever may or may not happen". Another respondent noted of a child "once she got in she was able to disclose some of the things about the case to the judge, you know. And it helped her when she had to go to court and testify". It appeared that these judicial conferences met the children's need for empowerment.

Information Flow

Another theme to emerge was that of information flow. Respondents noted that the child spoke directly to decision-maker stating "they always had questions for her, and she gave them good answers". The children were noted by respondents to talk specifically about their cases or generally about their lives with a respondent reporting "If they had a question about the case then they needed to go and talk to her about it. Or they just wanted to talk to her about how they were doing. Or school or whatever they wanted to that was fine". Sometimes this information flow took a written form with a respondent noting "they wrote letters and everything concerning some of the things they wanted to say to the judge". Children often conveyed their desires, for example, reunification in the case, to the judge such as when one respondent stated "they would speak their mind. And a lot of them just want to go in there and say, "I want to be with my mom," or "I want to be with my dad". Or I had one that said, "I don't want to be with my mom". The judge sometimes used information from the judicial conferences in a summary fashion later when she addressed parents in court. As was reported by one respondent, "so then what the Judge ... did in court ... she put a fire under him in front of everybody".

Other respondents commented that information sometimes differed from the case plan. One respondent noted "I had a real problem with the judge sitting there telling my kid they were okay we will expand the visitation". Veering from the case plan appeared to put the respondents in a difficult position or changed their relationship with the child because "children who got permission from the judge who said they we going back to a specific parent. And um that wasn't necessarily the case so anytime I would try to talk with the children about or even the parent because the parent had been reported to them by the children it was blamed on me." Respondents reported having to assist children with the impressions resulting from the judicial conferences. For example, "some of it is frustration on getting an impression from the judge and then things not happening" while another respondent stated a child "wanted to go back and confront the judge because didn't stuff happen like she said and she wanted to know why".

It appeared that at least one child was given more information about family system than may have been appropriate to know. This respondent reported “The judge sat there and told her, you know your mom and cut herself and she tried to hurt herself ... And I am sure that will forever be in that child’s mind you know to find out something that extreme from someone like, from the judge.”

Respondents reported having to become more familiar with case details while noting the judge was at times less familiar with the day to day case progression. One respondent noted “You had to really be real up on your cases that you were in, too” while another stated “another thing that you’re not familiar with cases, I just know that something might come up. You’re much more aware of [the case]”. It seemed that on occasion the judge was less familiar with case details with a respondent reporting “Mom went to AA [Alcoholic Anonymous] Meetings as a part of her aftercare plan and so but the moms deal was prescription drugs, but the judge was like ya’ll know if your mom starts drinking again you know the consequences, we were all kind of looking around like mom didn’t have a drinking problem. But I think the judge just kind of read AA Meetings and just so that was kind of weird.”

Many of the participants had concerns about ex parte communications during the judicial process. Ex parte communication prohibitions include discussing a case with the judge while the case is ongoing without legal counsel for all parties in the case being present (Florida Department of Community Affairs 1999). This concern was expressed by one respondent who stated “the minute you start explaining , it’s ex parte, and there are times where you are asked for explanation and I know I was put on the spot by the Guardian ad Litem and the child and you are before the judge right there and you are doing it right there without an attorney present”.” Another respondent observed “from a legal perspective, a lot of the attorneys were considering an communication. It never happened, but I could see that being a huge deal possibly on a TPR [Termination of Parental Rights] case if it ever went to appellate court, possibly being overturned because of the fact we’re having ex parte communication.” In fact, another respondent was so concerned that they stated “I think there should have definitely been a hearing and a court ruling about whether or not it was going to be considered ex parte communication”.

Emotional Impact

The emotional impact of the judicial conferences was another theme to arise. As described in the humanizing / personifying theme, it appears that the children were immediately nervous, anxious or excited about the conference. One respondent noted that “they were very excited to go meet the judge”. The respondents indicated that although they knew their children, they were not consistently able to predict how a child would react following the judicial conference.

The emotional impact varied according to the degree of false expectations, raised hope, or happiness. Some children, as reported by respondents, felt the burden of parental problems

and issues again. Others were reported to be devastated by the belief that the judicial conference would change the course of action. “I only had one case that went that way, where it was like, the kid was devastated”. There were also issues around denial when the children were told information by the judge that conflicted with the child’s impressions of their situation. “I think I had one as young as seven that went great. She was told specific reasons why she was there. And she went in tow weeks later and the same questions would arise. “ In another instance, “kids got really upset hearing some stuff they didn’t want to hear” “ and “there were some that were physically upset”.

Tearfulness was reported to be a physical manifestation of the judicial conferences. One respondent noted “the child, you know got emotional and she cried” and another “he cried all the way home”. In fact one respondent reported a child as being “close to being inconsolable on the way home. [We needed] a lot of milk shakes and ice creams on the way home”. The emotional impact also appeared to last beyond the ride home with one respondent stating “her grandmother called me and said that she had told her and how upset she was to hear it like that”. Because of the possibility of emotional break downs following the judicial conferences, respondents suggested “mental support or emotional support’ be immediately available from a parent, or for a counselor be able to meet with the judge briefly to provide context, or access to the child’s therapist if treatment is ongoing.

Insight / Understanding

Another theme that emerged from the respondent focus groups was that of insight / understanding. This understanding flowed from several different areas and was often unexpected. First, respondents indicated that the children frequently left the judicial conferences with greater understanding about their case because the judge either gave them new information, was very direct in explaining the reasons for removal and the goals in the case, or clearly discussed issues involved in reunification. Similarly, respondents indicated the judge always answered the child’s questions. For example, one respondent said “they would come over with some really good questions for her... and just having that interaction, they left with of course a whole different notion, who she was, she wasn’t against them, she wasn’t trying to get their parents that she was really trying to help their family. Even in that young age group, I think they understood that.” Because the judge readily answered questions from the children, respondents said “it was good, especially for teenagers, to understand more of the process” and “the meeting itself ... answered questions specifically about removal and why decisions were made”.

Second, in some instances, respondents indicated that the child brought further insight to the judge and caseworkers or GAL representatives. “We had children that go in and brought up information that nobody knew about before we got there which was alarming because we are all looking at each other like, oh my gosh, why have we never found this out before?” Even though the child wrote down questions or information that they wanted to discuss on the judicial conference form, “that wasn’t necessarily something they were going to follow, they would

come up with something in between the time they wrote it and when they saw her. We could be caught off-guard.” On the other hand, respondents also indicated that the child’s input during the judicial conference helped inform the judge in her decision making. “A lot of them go in there and they would speak their mind... I had one that said ‘I don’t want to be with my mom’...And that’s important for ... the way she decides a case”.

Third, insight and understanding was reported by the caseworkers and GAL representatives from listening to the child during the judicial conference. One respondent stated “it helped give me better insight into the child’s thinking in the view of the case from listening to them talking with the judge and the questions that they would ask the judge. It allowed me to really get a good grip- a good handle- on what their concerns were”.

Child-centered

Most of the respondents were complimentary of how the judge interacted with the children who met with her for a judicial conference and indicated the meetings were child-centered. Respondents also recognized that the judge created a safe environment for the judicial conferences in which a child was typically nervous but then would normally open up and feel valued when the judge listened to them. In one instance, a respondent indicated a child “was able to disclose some of the things about the case to the judge ... and it helped her when she had to go to court and testify”.

As noted in the methodology, the child-centered theme was reinforced because each child who attended a judicial conference was offered a Ring Pop candy or a toy from a small closet. This was viewed by respondents in a mixed manner. Some saw it positively, “all of mine were excited to go in there and were fine when they came out. They were excited about the Ring Pops and the prize afterwards”. They recognized that the goodies helped soothe the child’s feelings from what could be an emotionally charged meeting. “The toy room was a very helpful part of the conference... it showed the judge isn’t some big, bad, scary person”. One respondent was concerned about the child who had just heard devastating news about his parent who was then sent to the closet to get a Ring Pop and toy. The respondent shared those concerns and then had the following reaction “I was surprised. I was like ‘Oh, my God’. But even afterwards, he felt better because of the toys and stuff”. Interestingly, another view that emerged regarding the child-centered atmosphere around the candy and toys came from respondents about some of the children who requested to see the judge who seemingly only wanted to go for the candy. There were negative connotations associated with this which provided an interesting contrast to respondent statements suggesting “if we are giving a child a chance to meet with the judge, all children should be given a chance to meet with the judge. It shouldn’t be up to [the respondent] to determine whether or not it is going to benefit that child. It should be the child’s choice”.

Respondents indicated the judge was almost always age appropriate and careful in her conversations with the child during the judicial conference. They indicated she took notes about

what the child said and then would use them in a summary fashion during court. Giving “voice to what the kids say is important...the next time she’s in court she is reading what the kid’s have told her... it was more of a summary... she was very good about making sure it would not negatively impact the children”.

Conference Structure

Several concerns arose from the respondents regarding the structure and purpose of the judicial conferences. As the respondents initially understood the judicial conferences when they were first proposed, the judge was looking for a means to talk with children under her jurisdiction and solicit their opinions and increase their involvement in the process. One respondent said “the purpose of the conferences when we first talked about them, when we first set them up, was we could give the children an opportunity to give input, but ... you can’t tell them what the outcome of what a hearing is going to be before you’ve had the hearing”. Another respondent had a similar perception of the structure and purpose, “I think it started out that way, but I can’t think of any particular [time] when and how it changed. I think a lot of the kids sometimes wanted the concrete answer, ‘when am I going home, when can I see my mom, when can I see my dad?’

The structure and purpose of the judicial conferences also emerged as a theme from the respondents regarding whether these were legal or therapeutic in nature. As noted earlier, children were free to ask whatever questions they desired, the judge provided a safe environment and directly responded to their queries. This posed difficulties for some respondents because the parameters of the judicial conferences seemed to change over time and drew questions about the appropriateness of the process. “The judge would ask for more information about something, and frankly, the judicial conference is not the appropriate place to do it. And, we didn’t have counsel present. It was something that could have been damaging... I could explain things further in court, but ... I’m not going to jeopardize the case by talking out of turn”. Respondents suggested that they had more day to day contact with the child, so were more familiar with details and updated case information. As discussed regard ex parte communication, because the judicial conferences did not occur with legal counsel present, the respondents could not reveal this information to the judge. Respondents also reported that the children were not familiar with the difference between what occurred in judicial conferences and in the court. Confusion about where decisions were made in their cases was compounded for some of the children because they knew that they had expressed their concerns to the judge who made decisions in their case. In turn, one respondent said that by doing so “the child felt agreement and walked out thinking things had changed and I had to still make sure the child understood where the case stood”.

Implementation and Policy Implications

The literature on foster youths’ participation in dependency proceedings reflects that adults within the system have a significant influence over the degree of involvement young people have

within the process. Case workers who valued foster youth participation were more likely to facilitate their involvement (Thomas and O’Kane 1999). The responses from focus group interviews with case workers and guardian ad litem representatives indicated that while most recognized the value of providing a voice to foster youth through the judicial conferences, the lack of precedent led to concerns about the potential for breaching legal standards. Such concerns led one case worker to suggest that the conferences be subject to a “hearing and a court ruling” before proceeding. However, Murray and Hallett (2000) suggested that the informal model of the Scottish Children’s Hearings, which does not include legal counsel in hearings, offers greater opportunities for “direct and active participation of children and young people” (13).

The reports of some respondents seemed to exemplify the dependency system’s emphasis on adult representation, rather than the active participation of foster youth themselves. This was illustrated in the response of one respondent who stated, “I said [to the foster youth], you tell me what you’re thinking, what you’re feeling, what you want to say, and I can do it for you.” Respondents voiced genuine concerns that foster children might hear information that might be emotionally traumatic during the conferences. As noted in the emotional impact theme, such concerns led to the suggestion of a pre-conference meeting between the judge and the counselor. Again, while clearly motivated by concern for the foster youth, the suggestion seems to focus more on adult communication than encouraging the participation of foster youth.

Interestingly, some respondents verbalized feeling that their own voices were marginalized in the process of judicial conferences, stating, “We have no power,” despite their belief that “...we know our kids better than [the judge] does.” Foster youth’s perceptions of the differences in power and authority between case workers and the judge also appeared to influence respondents’ impressions of the judicial conferences. One respondent stated, “You know a lot of time it doesn’t matter how many times you tell them what was going to happen. They wanted to hear it from [the judge].” Some respondents reported feeling scapegoated when foster youth received conflicting information. An apparent shift in the purpose of the judicial conferences over time and the lack of clarity about legal boundaries compounded some respondents’ alienation from the process. When foster youth assumed their input during conferences would result in a particular outcome that case workers knew would not occur this could be particularly difficult for the case worker to repair or continue the relationship.

Research Limitations

This is exploratory research of an innovative approach to increasing foster youth participation in the dependency process. The researchers recognize the limitations of the research and the generalizability of the findings because the judicial conferences occurred in only one jurisdiction, there was no comparison group, the children self-selected to participate in the conferences, the homogeneity of the demographics of the community, and the small number of respondents who work in close proximity to each other and the court. It is possible that

respondent reports were influenced by the presence of co-workers, supervisors and researchers who are known to each other in the community. Another limitation was that the children who were selected for participation in a focus group did not do so because of systemic barriers in getting the children to the focus group. They are necessarily the subject of future study regarding the impact of judicial conferences. Despite the limitations noted, but it is important not to dismiss the findings presented here because we were unable to locate any published reports of similar efforts in other dependency courts.

Recommendations

In this court jurisdiction, there is some uncertainty about whether the judicial conferences will continue because of a change in judges who handle dependency cases. Given the overall positive nature of the findings, should this court decide to resume judicial conferences or other courts desiring to increase child involvement in the judicial process decide to replicate judicial conferences, several suggestions arise from the findings presented here. Most importantly, clear definitions of the legal parameters and the roles of each of the professionals present during the judicial conferences are needed. Similarly, the purpose of the judicial conference needs to be preserved; if the purpose is to give the children a voice and input into the process, then they should be allowed to do so without the caseworker or GAL having to violate ex parte communications. Capitalizing on the empowerment and child-centered themes within the focus groups, implementing judicial conferences would enable the courts within the U.S. judicial system to move towards a more child-centered system as occurs in European countries (Murray and Hallett 2000; Thomas and O’Kane 1999). It is also important that due to the emotional nature of the judicial conferences that caseworkers and GAL’s have instant access to therapists who may need to deal with the immediacy of the situation.

One area needing further study if judicial conferences are implemented is regarding the associated costs to the child welfare and judicial systems. During economic conditions that require difficult funding and program decisions, policy makers must consider the financial implications of implementing judicial conferences. For jurisdictions with larger populations or fewer resources, at a minimum, the expenses associated with judicial, child welfare, and guardian ad litem representatives time in transporting and attending the judicial conferences must be considered.

Conclusion

By the very nature of being involved in a dependency court case, children have experienced little control in their environment. They are then moved into a judicial system where they have even less control. As demonstrated here, a concerted effort by one judge, in one Florida County, can advance the understanding and participation of children in dependency court proceedings and give them an opportunity to directly voice their views. Expanding opportunities like those in judicial conferences for children’s direct and active involvement provides a mechanism for

integrating children into the system as an equal participant. The use of judicial conferences to increase child involvement and give them a voice in dependency court proceedings adds to a worldwide movement to allow children to have more of a say in critical decisions that affect their lives.

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