

# Youth Presence in Court Proceedings

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**Issued July 2016**

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**Supreme Court of Texas  
Children's Commission Round Table Report  
on the Child's Presence in Court  
May 20, 2016**



SUPREME COURT OF TEXAS PERMANENT JUDICIAL  
COMMISSION FOR CHILDREN, YOUTH AND FAMILIES

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# Nothing About Us Without Us: Youth Voice in Child Welfare

## INTRODUCTION

The phrase “Nothing About Us Without Us” has origins that date back hundreds of years and has been used by the disability rights movement as well as many other marginalized and disenfranchised groups around the globe. It speaks for itself, and is most often used in child welfare circles in relation to older youth in foster care who face many obstacles to ensuring their voices are heard by the many who are charged with managing, assisting, representing, and caring for them while in foster care. In 2003, the Pew Charitable Trusts formed the Pew Commission on Children in Foster Care, which was composed of leading child welfare experts from across the nation. In its review of the nation’s foster care system, the Pew Commission examined the important role of courts and noted that the judicial system’s ability to make good decisions for children and families was hampered by the fact that children and parents too often lacked a strong, effective voice in court decisions.<sup>1</sup> For at least ten years, national judicial and bar associations addressing this issue have uniformly emphasized the importance of youth appearing in court in child abuse and neglect cases, including the National Council of Juvenile and Family Court Judges (NCJFCJ), The American Bar Association (ABA), and the National Association of Counsel for Children (NACC). Also, it is a condition of federal funding that the child’s view on his or her permanency or transition plan must be considered by the court during a review hearing.<sup>2</sup>

<sup>1</sup> *Fostering the Future: Safety, Permanence, and Well-Being for Children in Foster Care*, [http://www.pewtrusts.org/~media/legacy/uploadedfiles/phg/content\\_level\\_pages/reports/0012pdf.pdf](http://www.pewtrusts.org/~media/legacy/uploadedfiles/phg/content_level_pages/reports/0012pdf.pdf), at 14; <http://www.pewtrusts.org/en/archived-projects/commission-on-children-in-foster-care>. Last visited October 5, 2016.

<sup>2</sup> Social Security Act, 42 U.S.C. § 675a(a)(2)(A)

The Texas Family Code has been amended to clarify that children and youth must attend hearings, and to place additional duties on attorneys ad litem, judges, and the Department of Family and Protective Services (DFPS or “the Department”) to meet with children in advance of court hearings and provide notice of court proceedings and copies of reports filed in advance of each hearing. Despite the many improvements Texas has made over the past several years, involving youth in the court process and ensuring their voice is heard and considered continues to be a challenge. Yet, meaningful participation remains the exception not the norm, resulting in youth feeling disconnected from the process and judges not reaping the benefit of the input from youth.

In May 2016, the Children’s Commission hosted a round table to discuss how to improve involvement and consideration of our youths’ voices and views in court hearings. The discussion focused on Texas law governing the child’s appearance at and participation in hearings, the pros and cons of the child being present in court, and the physical and cultural barriers, attitudes, and practices that affect how well courts accommodate the child’s participation.

## THE LAW

Chapter 263 of the Texas Family Code mandates that all children who are in the conservatorship of DFPS attend all permanency hearings.<sup>3</sup> Specifically, Section 263.302 states that the child shall attend each permanency hearing, unless the court specifically excuses the child’s attendance, and that the court shall consult with the child in a developmentally appropriate manner regarding the child’s permanency plan, if the child is four years of age or older and the court determines it is in the best interest of the child.<sup>4</sup> Failure by the child to attend a hearing does not affect the validity of an order rendered at the hearing.<sup>5</sup>

<sup>3</sup> Tex. Fam. Code Ann. § 263.302.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

There are no comparable laws requiring the child or youth to attend an Ex Parte, Adversary or Status Hearing. Although it seems clear, many read the law to say that the child must attend each permanency hearing, unless the judge makes an individual determination excusing the child from attending a specific hearing. Issuing a blanket order excusing a child from attending permanency hearings or even more generally, for all children to be excused from all permanency hearings, is not considered a best practice. Additionally, and of note, youth who are committed to the Texas Juvenile Justice Department (TJJD) may (and should) attend permanency hearings by video, telephone, or in person.<sup>6</sup>

Although a number of Texas judges require that all children attend their permanency hearings, children and youth often report that they are rarely afforded the opportunity to attend court hearings, and when provided the opportunity, the court often does not engage the youth in a meaningful way, if at all. In 2012, the NCJFCJ adopted a best-practice recommendation that presumes children will attend court hearings.<sup>7</sup> In the end, though, whether the child attends or the judge consults with the child, any order issued by the court is still valid.

## PROS OF INVOLVING CHILDREN AND YOUTH IN COURT PROCEEDINGS

Why does the law say children and youth must attend and judges must consult with them? What are we trying to accomplish? And why can't others, such as the child's lawyer, speak for the child? There have been many studies by the ABA as well as Court Improvement Programs around the country on this singular issue, and there is consensus that foster youth repeatedly express the desire to be involved in decisions about their lives.<sup>8</sup> Being involved gives the youth a sense of control, helps them understand the process, and direct contact with the court benefits the judge and the youth.

<sup>6</sup> *Id.*

<sup>7</sup> National Council of Juvenile and Family Court Judges, *Seen, Heard and Engaged: Children in Dependency Court Hearings*, 2012, <http://www.ncjfcj.org/sites/default/files/Seen%20Heard%20Children%20Dependency.pdf>. Last visited October 5, 2016.

<sup>8</sup> American Bar Association, *Engaging Youth in Court: A National Analysis*, 2015, [http://www.americanbar.org/content/dam/aba/administrative/child\\_law/youthengagement/NationalAnalysisFinal.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/child_law/youthengagement/NationalAnalysisFinal.authcheckdam.pdf). Last visited October 5, 2016.

### I. The judge makes the decisions.

There are several reasons that children and youth must be in court to speak for themselves. As one round table participant observed, the most powerful tool in healing children who have suffered abuse or neglect is listening to them. Also, children and youth are often told by parties in the case that the judge is the person who decides what will happen to them, to their parents, and to their lives. Children sometimes withhold information from other stakeholders and save it for the judge. Other children may have unrealistic expectations about what can or will happen with their cases, and talking to the judge may help provide clarity or closure.

### II. Attorneys are not always reliable and informed advocates.

Stakeholders often express that children's attorneys ad litem do not always meet with their child-clients, which means they do not have direct information about what the client wants or needs. Many attorneys also blur the line between what the client wants – the child's desire about what happens to him or her – and what the attorney thinks is in the best interest of the child. This is inconsistent with Texas law.<sup>9</sup> Not only is it a training issue for attorneys, but judges seeking best-interest advice from the child's attorney misinterpret the law as well.

However, even if the child's attorney routinely meets with the client and then expresses exactly what the child wants to the court, this may not give the child the voice he or she deserves. Although this scenario may satisfy the court, often it is not satisfactory for the child. Being heard is important to children and youth, and it's not the same if someone else speaks for them, even if that person is their attorney ad litem.

### III. Hearing quality is better.

Many judges at the round table and in other settings have stated that seeing and talking to children in court definitely made a difference in their decision-making. Some judges noted that when a child attends court, the quality of the hearing is higher because the judge tends to ask better, more in-depth questions, and the parties usually do a better job preparing for court if they know the child will be in attendance. CASA also noted that when children come to court, they see a wealth of other people involved in their cases who care and are concerned about their welfare. Also, if the child is there, the child hears directly from the judge what is happening, and it takes pressure off the lawyer, the CASA volunteer, the caseworker, and the caregivers.

<sup>9</sup> Tex. Fam. Code Ann. §§ 107.003(a)(1)(B); 107.004(a)(2).

Sometimes and perhaps even most of the time, the experience is positive for everyone. Unfortunately, this is not always the case and some visits to court produce negative experiences. However, round table participants generally agreed that a negative experience may speak as much to preparation of the child about what may happen as anything else.

#### **IV. Opportunity for visitation.**

Although there was agreement that bringing children to their hearings could serve as a motivator for parents to attend hearings because visitation with family members was likely to occur, most round table participants expressed a strong opinion that visitation should occur outside of the court setting. Visitation at court should not be a substitute for meaningful, quality visitation between children and their parents and siblings.

#### **V. Foster parents and caregivers attend.**

Another potential by-product of children attending court is that the caregiver will likely attend if they are providing transportation to the courthouse. However, some providers who attended the round table reported they are often asked to transport the child to court, then drop off the child with the caseworker at the courthouse. Other times, caregivers drive hundreds of miles and wait a number of hours for a few minutes of the court's time. While some round table participants reported that judges in Harris and Tarrant Counties are doing a good job of engaging foster parents, a more persistent problem voiced by providers is that foster parents often cannot attend because they do not receive timely notice of the hearings, even though they are statutorily entitled to it at least 10 days in advance of the hearing.<sup>10</sup>

Over 90% of children in care live in homes verified by private providers. Notice to caregivers must be better and timelier. And when children and caregivers attend hearings, judges must give them the time, attention and thanks for ensuring children are in court, ready to participate in the important decisions affecting their lives. Judges benefit from engaging the caregiver, as well, because caregivers often know crucial information about the child, and whether the child's caseworker, CASA volunteer, and attorney ad litem are seeing the child.

## **CONS OF INVOLVING CHILDREN AND YOUTH IN COURT PROCEEDINGS**

### **I. Perception that it's a waste of time.**

Many participants voiced concern that bringing children to court can be a waste of time, but as discussed, this is primarily due to how the child's attendance is handled and valued by the court. It's certainly a waste of time if the judge does not speak or meet with the child or the child's caregiver or only spends a few minutes doing so. This may also speak to the type and amount of preparation by the caseworker, the foster parent or relative caregiver, and the child's advocates. No preparation generally leads to a less satisfactory experience.

### **II. Children miss school and important events.**

The Texas Education Code provides that attending court when in foster care is an excused absence,<sup>11</sup> but even if the absence is excused, it may impact the child's credit for coursework that is not completed. At the Status Hearing, courts should consider discussing school matters and the scheduling of the initial Permanency Hearing Before Final Order so that parties can plan around the child's school schedule. These same matters should be discussed at the initial Permanency Hearing in preparation for any subsequent permanency hearings. Participation through technology should also be considered. Generally children or youth should not miss important school events to attend court.

### **III. Court is emotionally damaging for kids.**

Round table participants noted safety reasons that may preclude attendance of children and youth in court. Some youth in foster care may react to upsetting information heard in court in a way that is dangerous or threatening to themselves or others. Often, there's no place for children to wait for their cases to be heard, and at times, where children must wait can be uncomfortable, if not potentially dangerous. One judge commented that putting children and parents in close proximity can lead to unforeseen consequences, such as the child's recantation of allegations of abuse or neglect.

<sup>10</sup> Tex. Fam. Code Ann. § 263.0021.

<sup>11</sup> Texas Education Code § 28.075(b)(1)(F).

A common objection to children attending court is the concern that children hear information about their parents that is damaging or hurtful. For example, children in court may see or hear the court and others denigrating their parents, which can be emotionally damaging. One judge noted that in approving or reviewing the permanency plan, there is generally a frank discussion of the reasons for the child's removal. Also, the parent may not be doing much to set things right. This can be difficult for children to hear and to process. On the other hand, most participants acknowledged that children lived through many of the experiences described and generally know more about their families than they are credited with knowing.

Generally, all these problems can be handled by how children participate. Roundtable participants acknowledged that children should not always be in court listening to everything taking place during the hearing, but that they should be at court and available to the judge and others.

#### **IV. Children don't want to attend.**

What about kids who don't want to go to court? Some participants were of the opinion that children should have a right to say they don't want to attend their court hearings. One problem is that other people are reporting what the child wants to the judge, and it may not be accurate. And one former foster youth opined that even if true, statements about not wanting to attend court should be carefully considered given the circumstances of the child. For example, an 8-year old in a residential treatment center may say he does not want to attend court, but others involved in the child's case must consider whether to make the effort to take the child to court because the child is very young and in a serious and restrictive placement. Judges may want to employ the practice of requiring the youth to come to court for the initial Permanency Hearing Before Final Order and if they choose not to come to additional hearings, the judge can decide to excuse the child. If the experience is positive and meaningful, children likely will want to continue attending hearings.

thus transportation to court, are generally considered the biggest and most intractable barriers to children and youth attending permanency hearings. With 30,000 children in care on any given day, and at least two permanency hearings for each child per year, the number of man-hours needed to accomplish the transportation effort is quite large and the expense is in the millions of dollars. When a caseworker transports a child to court, that caseworker is unable to accomplish other very important job duties, such as meeting with other children and parents on his or her caseload, helping develop family plans of service, or preparing for other court hearings. This, coupled with the requirement to appear in court several days each week, helps explain why caseworkers often struggle to accomplish all their job responsibilities.

Every Child Placing Agency (CPA) is contractually required to arrange for and ensure children attend their court hearings. Of course, this is made harder because children live predominantly outside their home community and often the CPA may not know about the hearing. CPAs verify foster homes and pass through to foster parents a daily rate of compensation for care per child. Whether the pass through rate includes costs to transport children to court, school, doctors' appointments, and other activities varies from CPA to CPA. One judge commented that CPAs in his jurisdiction are refusing placements because of transportation requirements and costs.

#### **II. Court dockets are not accommodating.**

Docketing practices pose a significant barrier to child, family, and caregiver participation. Docketing practices also affect CASA volunteer retention, attorney ad litem schedules and expenses, and caseworker turnover. The most troublesome docketing practice appears to be when all hearings are scheduled for a singular time such as 8:00 or 9:00 am. This docketing practice requires parties, including children, to show up to court at that time and then wait for their case to be called, whether it is right away or at 4:00 pm. Half-day or hourly docketing is used by several jurisdictions, and parties report that this practice is preferable and makes attending and bringing children to court much easier. However, even if the court dockets by the half-day or on the hour, there still may not be enough time to deal properly with the legal complexity of a child protection case during the Temporary Managing

## **OBSTACLES**

### **I. Transportation is a big problem.**

Texas is a huge state that is currently experiencing a foster care placement capacity crisis. Distance from home, and

Conservatorship (TMC) phase and with the permanency issues at play in a case in the Permanent Managing Conservatorship (PMC) phase. In either phase, the court is required to consult with each child four years and older about the permanency plan, if the court determines it is in the best interest of the child to do so. Unfortunately, it is difficult to know how long that consultation will take as it varies from child to child. Also, hourly docketing likely cannot address the problem of multiple courts within one jurisdiction with responsibility for handling child protection cases. For example, Harris County has 12 different family and juvenile courts, each of which has an associate judge, plus a dedicated PMC court that hears only cases of children and youth who are in the PMC of DFPS. Tarrant County has seven different family and juvenile courts that share duties of handling child protective services cases. Cooperation and coordination between courts is essential.

### III. Courts are not designed for children.

The round table participants were in general agreement that Texas courthouses are not designed in a way that is safe and welcoming for children. Bexar County has a Children’s Court that utilizes a safe room, a visitation room, and conference and mediation rooms, as well as video technology, but this is the exception, not the rule.

The NCJFCJ has recently developed a trauma audit for courts. Texas has spent significant resources learning about how child abuse and neglect is traumatic for children, but its courts are not designed in a way that is safe and secure for children to attend court, starting with the simplest and most basic requirement: a safe place to wait for their cases to be called.

### IV. Notice to children and other interested parties is inadequate.

Children age 10 and older are entitled to receive notice of each Permanency Hearing After Final Order, as well as a copy of the court report required by Sections 263.303 and 263.502.12 Although email notice is now authorized by Family Code Section 263.0021, notice is usually accomplished by the Department sending a letter via the U.S. mail service to each child age 10 and older, the child’s caregiver, and other parties. Paper notice sent

through the U.S. Postal Service is not only expensive, it is inefficient in light of the technology available. Also, because children move frequently, paper notice is often returned as undeliverable.

### V. The age of the child is a significant factor.

At what age is a child too young to attend court? The NCJFCJ assumes there is no age too young and most round table participants felt it important for children of all ages to attend court. Some participants were of the opinion that the court system may not benefit greatly from seeing an infant or a toddler. Older youth, the participants noted, can act and take matters into their own hands – and they don’t always agree to the Department’s permanency plan, which is important for judges to know. Of course, concerns about the child’s age also may differ depending on the legal posture of the case. For example, most stakeholders agree that involving youth who are in the PMC of the Department is extremely critical and beneficial to the youth.

There is also a question of when is it useful to talk to children. The Texas Family Code says the judge must consult with a child age four and older in a developmentally appropriate manner, if it’s in the child’s best interest.<sup>13</sup> Other states draw the line at 8 and some at 12. Some judges require all children to attend their permanency hearings, whether they talk to the children or not. It would be difficult to determine a bright line for the age at which a child should attend hearings; where to draw the line is unclear. Older youth feel a sense of urgency to attend hearings, but younger children may feel less urgency and may not know they have a right to be involved.

Many judges at the round table were of the opinion that seeing babies and toddlers helped them tremendously in their decision-making. One judge at the round table felt it was inappropriate to make life decisions for a child if she never saw the child, but also acknowledged that she did not expect to get much information from a young child. As noted in the 2009 publication entitled *Healthy Beginnings, Healthy Futures: A Judge’s Guide*, developed by the ABA, the NCJFCJ, and Zero to Three, tremendous insight can be gained from seeing a young child interact with his or her parent and caregivers.<sup>14</sup> Also, having a child

<sup>13</sup> Tex. Fam. Code Ann. §§ 263.302; 263.501(f).

<sup>14</sup> *Healthy Beginnings, Healthy Futures: A Judge’s Guide*, 2009, [http://www.americanbar.org/content/dam/aba/administrative/child\\_law/healthy\\_beginnings.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/child_law/healthy_beginnings.authcheckdam.pdf). Last visited October 5, 2016.

<sup>12</sup> Tex. Fam. Code Ann. § 263.502



present in the courtroom highlights how quickly he or she is growing and how important speedy, decisive action toward permanency is.<sup>15</sup> However, other judges at the round table were quite firm that the Family Code often designates the age of 12 as the point at which children are legally able to make key decisions about their lives, such as the person with whom they want to live.<sup>16</sup> Those judges opined that only older youth should participate in court.

Youth presence benefits the judge charged with making significant life-altering decisions about the child. That said, each child has different needs and there is a reasonable argument that whether a child should attend is a decision best made on a case-by-case basis. Perhaps courts should presume that all children will attend, but should also make a personalized decision about the attendance of each child before the next hearing. This presumption is also important because children do not have the ability to notify or get in touch with the court or its coordinator.

There are certain children who should never be excused from court, for example, children who run away from their placements. Texas has made strides in recognizing that behavior of a child says a lot about how the child is being treated in a placement. So, if a child exhibits certain behaviors, it may be an indicator of mistreatment and coming to court and speaking to the judge could be very important.

with those plans, information in the court report is not that surprising or damaging. Others said that damaging and detailed information is often found in court reports. Unfortunately children in foster care are not strangers to heartache and grief, and in some ways, hearing in court that a parent is not making efforts to ameliorate the conditions that brought the child into care in the first place may enable the child to realize that the system isn't necessarily out to get them; rather, their parents may be unwilling or unable to comply with services. Conversely, there was also discussion about whether caseworkers should utilize more care when writing court reports and whether attorneys should be tasked with doing a better job in assisting their clients in reading and understanding what is written in reports. Unflattering or clinical terms to describe a child can be traumatic, especially if no one takes the time to explain or help the child understand the report. On the other hand, court reports may omit information that the child is conveying to others, such as incidents of abuse or neglect. This is information that may be reported to a judge while at court or in chambers.<sup>18</sup>

## II. Interviewing and engaging the child and other parties.

Engagement represents the most important part of a child attending court. Failure to engage a child after requiring children and caregivers to attend court is disappointing and frustrating for the child and the caregivers. Most judges strive to be effective, but may ask simplistic questions that do not elicit valuable information or may lecture teens, which can further isolate or negatively impact youth. Reading court reports ahead of time to become familiar with the child's strengths and challenges, placement stability, and school progress helps with engagement. Court reports and verbal interactions with children may indicate that things are not going well, but it takes a skilled judge to read between the lines and observe things that are not necessarily spoken. Communicating with children should be done privately, if possible, but children should also be made to feel they are part of the entire experience.

<sup>18</sup> Reports of abuse or neglect reported for the first time to a judge during an interview, in chambers or in the courtroom, must be reported to Child Protective Services for investigation.

## ENGAGING THE CHILD AT THE HEARING

### I. Preparing the child.

The Family Code requirement that mandates notice of the Permanency Hearing After Final Order under Section 263.502 to children age 10 and older also triggers the requirement that children age 10 and over receive a copy of the court report.<sup>17</sup> Some participants believe that children should receive the court reports, while others thought that it was better for the child's lawyer, CASA, or caseworker to share information from the court report with the child, as appropriate. Some pointed out that, as children are routinely involved in developing and updating permanency plans and the progress concomitant

<sup>15</sup> *Id.*

<sup>16</sup> Tex. Fam. Code Ann. §§ 153.009; 153.134.

<sup>17</sup> Tex. Fam. Code Ann. § 263.502(a).

In 2007, the ABA published an excellent article in the November edition of the *Child Law Practice* newsletter entitled “With Me, Not Without Me: How to Involve Children in Court.”<sup>19</sup> The article provided advice from judges on how to interview and question children in court. In 2008, the ABA National Child Welfare Resource Center on Legal and Judicial Issues produced five judicial bench cards to assist judges in preparing, accommodating, and interviewing children who attend court. The judicial bench cards are broken down by age: Ages 0-12 months, 3-5 years, 5-11 years, 12-15 years, and 16 years and over.<sup>20</sup>

### III. Asking good questions.

Even young children have the competence to tell adults what they want and need when they are questioned in age-appropriate ways; responsibility of getting at what children know rests with the adult.<sup>21</sup> Judges have access to high-quality training and judicial resources to help acquire the skills needed to interview children and obtain information. The NCJFCJ issued a technical assistance brief in 2012 entitled *Seen, Heard and Engaged*, which is designed to provide information, guidance, and aspirational practice recommendations to judges with regard to bringing children and youth to court.<sup>22</sup> It is the policy of the NCJFCJ 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. The technical assistance brief includes information on best practice support for bringing children to court, the legal framework supporting children’s attendance at and participation in hearings, and the appendices provide concrete tools, designed to enable courts to successfully engage children of all ages in the hearing process.

### IV. Youth court reports.

A few states have adopted the use of youth court reports as a way to empower children and to motivate children to

think about what might be useful for the judge to read or hear. Tarrant County tried to adopt and even held a training session on how to write and use a youth court report, but the project fizzled after the courts received only one or two. In Gregg County, when the judge instituted a requirement that youth who did not wish to attend court had to write a court report, the youth started opting to attend their hearings. In some jurisdictions, CASA assists children in writing youth court reports. One round table participant suggested encouraging use of the youth court report when the youth will not attend court and requiring the child’s attorney ad litem to file the youth court report in conjunction with the statement required under Section 107.004 regarding whether the attorney has visited his or her client prior to the hearing.<sup>23</sup> Most participants did not see youth court reports as generally helpful, though they might be in a specific situation.

## MAKING COURT A GOOD EXPERIENCE

### I. Accommodate the child as much as possible.

A big concern about children attending court hearings is missing school: some judges address this by scheduling interviews in the early morning before school starts or late in the day after school ends. This works best when the child resides in close proximity, but even if the child is not physically close, the video conferencing option discussed later in this report may provide a solution. Many judges have books and toys, speak to children off the bench, take off their robe and sit on the floor with children, and even offer treats. If invoked, Section 153.009 of the Texas Family Code sets out a process that courts must follow when interviewing children in chambers.<sup>24</sup> Otherwise, more informal processes may be used.

### II. Use video conferencing.

The Office of Court Administration (OCA), in partnership with the Children’s Commission, developed a video conferencing project that enables children involved in child abuse and neglect cases to participate in permanency hearings without being physically present in the courtroom. OCA hosts and supports the hardware and software required to facilitate video conferencing between courts and

<sup>19</sup> American Bar Association Child Law Practice: *With Me, Not Without Me: How to Involve Children in Court*, 2007, [http://www.strongandsafe.org/SiteAssets/volunteer/gal-training/With%20Me%20Not%20Without%20Me\\_How%20to%20Involve%20Children%20in%20Court.pdf](http://www.strongandsafe.org/SiteAssets/volunteer/gal-training/With%20Me%20Not%20Without%20Me_How%20to%20Involve%20Children%20in%20Court.pdf). Last visited October 5, 2016.

<sup>20</sup> American Bar Association National Child Welfare Resource Center on Legal and Judicial Issues, 2008, [http://www.courts.ca.gov/documents/BTB\\_XXII\\_VA\\_1.pdf](http://www.courts.ca.gov/documents/BTB_XXII_VA_1.pdf). Last visited October 5, 2016.

<sup>21</sup> Walker, Anne Graffam. *Handbook on Questioning Children: A Linguistic Perspective*, 2d edition (1999) at 22.

<sup>22</sup> <http://www.ncjfcj.org/sites/default/files/Seen%20Heard%20Children%20Dependency.pdf>. Last visited October 5, 2016.

<sup>23</sup> Tex. Fam. Code Ann. § 107.004(d)(2).

<sup>24</sup> Tex. Fam. Code Ann. § 153.009.

residential placements. OCA maintains a list of courts, Residential Treatment Centers, and local CASA offices with video conferencing capability, as well as a log of all hearings conducted, including the date, time, participating court, type of hearing, participating placement, length of hearing, any problems with the transmission quality, and technical difficulties. In the first quarter of fiscal year 2016, OCA upgraded the software to include video capability from mobile devices, multiparty video conferencing, and email and calendar invitation systems. The video conferencing equipment can accommodate up to 25 concurrent point-to-point transmissions or one call with up to 50 participants. One judge at the round table noted that she has successfully used the service many times; except when children move shortly before the hearing. The judge also offered that the quality of the hearing is usually better when residential staff is available for questions by the court. OCA also has experience setting up video conferencing with juvenile probation and juvenile courts, which can help courts ensure youth committed to the TJJD can participate in permanency hearings. Providers commented that the video conferencing option has saved them thousands of hours in transportation. Privacy is less of an issue because, with the new hand-held capability, the child or youth can move to a more private setting to confer, as can the judge.

### III. Restructure Dockets.

Consider structuring dockets at least into half-day dockets, and ideally, into hourly dockets. This makes attending and bringing children to court much easier. Although challenging, with collaboration, courts can coordinate hourly docketing in a way that will not conflict with other courts' dockets. For any jurisdiction that is interested, the National Center for State Courts (NCSC) offers technical assistance with docketing practices.

## RECOMMENDATIONS

At the conclusion of the round table, most participants thought that generally every child should appear at every permanency hearing. The statute presumes that all children will attend their permanency hearings, but also accommodates the occasion when children should be excused from attending by the judge. The expectation is that the court will excuse a child on a case-by-case basis and not operate under a blanket order or rule.

### Training Issues

1. Texas must ensure judges, attorneys, guardians, caseworkers, foster parents, parents, and caregivers

understand what the current law requires, as well as each person's role in ensuring the law is followed.

2. The Children's Commission will develop a Jurist in Residence Letter and an Attorney Resource Letter highlighting the recommendations from the Youth Voice Round Table, and will consider producing a webinar explaining the different roles and expectations.

### Practice / Court Changes

3. Courts should make an individual decision, per child, per hearing before excusing a child from a permanency review hearing.

4. Courts should adopt hourly or half-day docketing practices to help reduce the time spent waiting for a case to be called.

5. Courts should consider conducting a trauma audit to assess whether the court is functioning under operating principles that guarantee a healing environment for families and children; connection and engagement of stakeholders; and an understanding that court practice, environment, and policy impacts everyone.<sup>25</sup>

### Technology

6. The Department should develop an automated notice solution for all parties involved in a case so that hearing notice, and possibly other messages, can be delivered to interested persons in a timely and consistent manner. This would not only save time, it would save the state money.

7. The Department should ensure caseworkers and providers are familiar with the video conferencing options provided by OCA and the Children's Commission.

### Resources / Tools

8. Children's Commission will incorporate into the CPS Judges Bench Book the ABA Bench Cards on interviewing children.

9. The Children's Commission will work with the Department to develop a message or communicate for caseworkers, providers, parents, and relatives on how to use the notice system available in counties covered by Child Protection Courts as well as the video conferencing options provided by OCA.

10. The Children's Commission will work directly with OCA to ensure judges and attorneys have the necessary information to access the notice and alert systems as well as the video conferencing services provided by OCA.

<sup>25</sup> National Council of Juvenile and Family Court Judges, *Preparing for a Trauma Consultation in Your Juvenile or Family Court*, 2015 [http://www.ncjfcj.org/sites/default/files/NCJFCJ\\_Trauma\\_Manual\\_04.03.15.pdf](http://www.ncjfcj.org/sites/default/files/NCJFCJ_Trauma_Manual_04.03.15.pdf). Last visited October 5, 2016.

## Roundtable Participants

Name	Organization	City	State
Belseth, Tym	Department of Family and Protective Services	Austin	TX
Billodeau, Allison	Office of the Governor	Austin	TX
Blackstone, Kristene	Department of Family and Protective Services	Austin	TX
Boyd, Jean	Senior District Judge	Ft. Worth	TX
Britt, Dewey	Department of Family and Protective Services	Lubbock	TX
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Carmical, Audrey	Department of Family and Protective Services	Austin	TX
Chamberlin, M. Lynn	Harris County Attorney's Office	Houston	TX
Cockerham, Cathy	Texas CASA	Austin	TX
Craig, Sheila	Center for Elimination of Disproportionality and Disparities	Austin	TX
Duck, Kristi	Helping Hand Home	Austin	TX
Emerson, Debra	Department of Family and Protective Services	Austin	TX
Ford, Anna Saldaña	Department of Family and Protective Services	Austin	TX
Francis, Will	National Association of Social Workers – Texas	Austin	TX
Gibbons, Kim	Department of Family and Protective Services	Austin	TX
Griffin, Charles	Brazos County District Attorney's Office	Bryan	TX
Griffith, Katrina	Child Protection Court	Houston	TX
Harris, Ashley	Center for Elimination of Disproportionality and Disparities	Austin	TX
Hinson, Jenny	Department of Family and Protective Services	Austin	TX
Kennedy, Tim	Office of Court Administration	Austin	TX
Marrs, Cynthia	Hill Country Youth Ranch	Ingram	TX
Metteauer, Maureen	Office of State Representative James Frank	Austin	TX
McCown, F. Scott	The University of Texas School of Law	Austin	TX
McDonald, Gabriella	Texas Appleseed	Austin	TX
Murphy, Kate	Texans Care for Children	Austin	TX
Naylor, Kris	Our Community Our Kids	Ft. Worth	TX
Olse, Katie	Department of Family and Protective Services	Austin	TX
Patel, Dimple	TexProtects	Dallas	TX
Powell, Judy	Parent Guidance Center	Austin	TX
Pratt, Laverne	Helping Hand Home	Midland	TX
Redden, Michael	New Horizons	Abilene	TX
Rollins, Tanya	Department of Family and Protective Services	Austin	TX
Rubin, Stephanie	Texans Care for Children	Austin	TX
Rucker, Dean	Jurist in Residence	Midland	TX
Sage, Robin	Jurist in Residence	Longview	TX
Schnarr, Virginia	Child Protection Court – Northeast Texas	Daingerfield	TX
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Self, Carol	Department of Family and Protective Services	Austin	TX
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Wilson, Frianita	Department of Family and Protective Services	Austin	TX
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Woodruff, Trevor	Dept. of Family & Protective Services	Austin	TX