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RESEARCH REPORT
ASSESSING A PARENT REPRESENTATION
PROGRAM IN TEXAS



National Council of Juvenile and
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For more information about the NCJFCJ or this report, please contact:

National Council of Juvenile and Family Court Judges
Juvenile Law Programs
University of Nevada
P.O. Box 8970
Reno, Nevada 89507
(775) 327-5300
www.ncjfcj.org
caninfo@ncjfcj.org

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Mari Kay Bickett, J.D., Chief Executive Officer, NCJFCJ

Report Contributors

Steve Wood, M.S., Research Assistant, Juvenile Law Programs

Crystal Duarte, MPA, Senior Program Manager, Juvenile Law Programs

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Introduction

A study released by the Supreme Court of Texas Permanent Judicial Commission for Children, Youth and Families in 2011 recognized that although state statute provides the right to court-appointed representation for indigent parents, “the representation is perfunctory and so deficient as not to amount to representation at all.”¹ The state statute that provides for appointment of counsel for indigent parents does not specify at what point in the case an appointment must be made and because of this practice varies widely across Texas with appointments happening at any time between the Adversary Hearing (within 14 days of filing) to the first Permanency Hearing (180 days after filing) and later. The National Council of Juvenile and Family Court Judges (NCJFCJ), however, considers the appointment of early legal representation for indigent parents as a “best practice” in juvenile dependency proceedings. In support of this recommendation, prior research has found that having a parent attorney present at early hearings (e.g., preliminary protective and adjudication) is related to an increased likelihood of reunification over the life of the case².

The Travis County Model Court has made several efforts to improve the quality of representation for parents and children, including supporting the opening of county-based offices of representation that are staffed with attorneys and social workers specializing in child protection cases. Beginning in 2009 the Travis County Model Court began a parent representation pilot project (pilot project), appointing attorneys at the time of the filing of a petition, with the goals of improving informed decision making, improving parent understanding and involvement in cases, identifying family members early in cases, and reducing costs for legal fees paid for indigent representation. In 2013 staff from the National Council of Juvenile and Family Court Judges designed a data collection instrument and conducted case file review to determine the pilot project’s impact on outcomes, attorney and parent presence at court hearings, and timing of key court events.

Study Overview

A memo developed by Lead Judge Darlene Byrne and Staff Attorney Katy Gallagher Parker and sent to the pilot project attorneys in September of 2009 provided key stakeholders with detail on the project including the timeline, pilot requirements and exclusions, and implementation steps.³ According to the memo, the parent representation pilot project was “an effort to assign pilot project attorneys to all parents named in a CPS petition as quickly as possible after the signing of the *ex parte* or show cause order.” Pilot project attorney appointments were limited in scope to allow only for consultation with the

¹ Supreme Court of Texas Permanent Judicial Commission for Children, Youth and Families. (2011). Legal Representation Study.

² Wood, S. M., & Russell, J. R. (2011). Effects of parental and attorney involvement on reunification in juvenile dependency cases. *Children and Youth Services Review*, 33, 1730-1741.

³ See Parent Representation Pilot Project memo dated September 11, 2009.

parent client regarding their eligibility for appointed counsel under Texas Family Code §107.013. If the parent then desires to request full court-appointed counsel under that section to represent them in their case, the pilot attorney was authorized to assist the parent in completing an “Affidavit of Indigence and Request for Court-Appointed Attorney.” If the parent was determined to be eligible, the Court would reappoint the pilot project attorney as the parent’s attorney for the purpose of representing the parent at the 262 Hearing and for the pendency of the lawsuit.

The purpose of this study was to assess the effects of Travis County’s early representation pilot parent project on juvenile dependency outcomes. NCJFCJ staff collected data during an on-site visit to the 126th District Court in Austin, Texas (Travis County Model Court) in January 2013. Data collected included the date of the *ex parte* removal order and subsequent hearings, date of attorney appointment, appearances at hearings by parents and attorneys, number of times the full adversary hearing was continued, final order date, and final outcome. Researchers were provided with access to the court’s Petition Tracking System (PTS). Data from this system was recorded in an Excel spreadsheet and analyzed by NCJFCJ research staff.

Research Questions

The current study poses four research questions:

- 1) Does assigning attorneys early (i.e., at the *ex parte* hearing) relate to differences in the timeliness to the final order date?
- 2) Does assigning attorneys early relate to differences in the appearance of parents and parent attorneys at hearings across the life of the case?
- 3) Does assigning attorneys early relate to differences in placement outcomes for children?
- 4) Does the presence of parents and/or parent attorneys across the life of the case relate to placement outcomes for children?

Method

Sample

Data were collected from 172 mothers and fathers involved in the juvenile dependency system in Travis County. In the event that a mother and father (sometimes multiple fathers) were listed on the same case, one parent was randomly selected to be included in the final sample. Using only one parent eliminates the possibility of erroneous results based on duplication of case information. Using this criterion, the final sample consisted of data from 113 cases.

Pilot vs. Control

The main purpose of this study was to examine case-level differences between parents that were involved in the attorney representation pilot program (hereafter pilot cases) and parents that were not involved in the attorney representation pilot program (hereafter control cases). Parents in the pilot cases were initially assigned legal counsel on a limited-purpose basis as outlined in the September, 2009 memo described above at the *ex parte* hearing. The *ex parte* hearing is the initial hearing in which a judge makes a determination whether an immediate threat to the health or safety of the child exists to justify CPS removing the child from the home or whether other judicial orders can be made to keep the child safe. The judge will also make a determination whether CPS has made reasonable efforts to prevent the child's removal (Texas Family Code §262.101; §262.106).

As a further stipulation, after being initially appointed at the *ex parte* hearing, the assigned attorney may or may not represent the parent throughout the life of the case. After the *ex parte* order is made, the attorney is required to attempt to contact the parent and assist them in executing an "Affidavit of Indigence and Request for Court-Appointed Attorney" (a document indicating that the parent does not have the fiscal means to afford an attorney) prior to the next hearing. If the attorney does both of these things (contact the parent and assist in the completion of the affidavit of indigence) and the parent is determined to be eligible for court appointed counsel, he or she is appointed to represent the parent for the remainder of the case. If the attorney makes contact with the parent and the parent does not wish to request court-appointed counsel, the attorney is no longer appointed to the parent. If the attorney is unable to make contact with the parent, the attorney is no longer appointed to the parent.

Outcome Measures

Several sets of outcome measures were collected. The first set involved the final case outcome for the child: (1) return to the parent or dismissal of the juvenile dependency petition; (2) permanent management conservatorship (PMC) to the department; (3) relative or guardianship care; and (4) reaching the age of majority (i.e., "aging out"). Each outcome was coded as 1 = yes and 0 = no. The second set involved the presence of the parent and/or the parent's attorney at various hearings: (1) 14-day, (2) status, (3) first permanency, (4) second permanency, and (5) final. Each outcome was coded as 1 = yes and 0 = no. The third set involved timeliness measures: (1) days from *ex parte* order to full appointment, (2) days from full appointment to final order, (3) days from *ex parte* order to final order, and (4) number of case continuances for the 14-day hearing.

Results

The following analyses used data from 52 pilot cases and 61 control cases. In 83.6% (N = 51) of control cases, a parent was represented by an attorney (i.e., the attorney was fully appointed) at some point in the case. In 88.5% (N = 46) of pilot cases, a parent was represented by an attorney for the majority of

hearings. This shows that Travis County differs from the rest of the state in that attorneys are more frequently appointed and often appointed during the early phases of a case. The current study examines the impact of early appointment.

Timeliness

A set of analyses was conducted to examine the relationship between pilot and control cases on the timeliness measures. Independent t-tests indicated that the pilot program was related to time from *ex parte* hearing to full appointment. On average, control cases took 25.48 days to reach full appointment, while pilot cases took 7.65 days⁴.

Further examination of the time from *ex parte* hearing to full appointment reveals additional findings. For control cases, the time from *ex parte* hearing to full appointment ranges from 0 to 496 days. For pilot cases, the range is 0 to 17 days. In addition, the standard deviation for control cases is 98.63 days, compared to 3.91 days for pilot cases. Standard deviation indicates how much variation there is from the average value and small standard deviations indicate that the data points are close to the average. Conversely, high standard deviations indicate that the data points are spread across a large range of numbers. A smaller standard deviation in this instance means that there was less variation in the time it took to appoint an attorney in the pilot cases. Overall, these findings suggest that pilot cases were receiving attorneys in a more consistent manner than control cases.

The median (middle value) number of days from *ex parte* hearing to full appointment was also examined. Using the median, rather than the mean, reduces the influence of any outliers. Using the median number of days across all cases (10 days), the time variable was split into a dichotomous high/low variable. Cases that took 10 days or more were considered “high.” Cases that took less than 10 days were considered “low.” Separating the cases based upon this criterion resulted in 51 “high” and 46 “low” cases. This helped create a new variable, essentially a reference point, for researchers to analyze the relationship between a given number of days and an outcome.

After separating these values, a chi-square test was conducted to examine the relationship between pilot and control cases on the high/low classification. A chi-square test determines if there is an association between variables and the direction of this association. Participation in the pilot program was significantly related to a “low” classification. In 71.7% (N = 33) of pilot cases, it took less than 10 days from *ex parte* hearing to full appointment, compared to 25.5% (N = 13) of control cases.

Additional independent t-tests were conducted, but did not indicate any significant relationship between pilot and control cases on the timeliness measures. On average, it took 383.36 days (*SD* = 159.36) from the *ex parte* order to the final order. Although not statistically significant, pilot cases took less time (*M* = 367.52, *SD* = 141.01) than control cases (*M* = 397.32, *SD* = 173.95) from *ex parte* to final order date. Pilot and control cases only differed by three days with regard to the time from full appointment to final order—367.02 vs. 364.18, respectively. Of those full adversary hearings that were

⁴ Three cases were removed due to extreme values of 268, 386, and 496 days.

continued (N = 37), the average number of continuances did not significantly vary between pilot and control cases—1.28 vs. 1.53, respectively.

Appearance of Parties

Prior research indicates that the presence of parents and parent attorneys at hearings is related to an increase in the likelihood of reunification across the life of the case⁵. Therefore, we conducted several analyses using two variables indicative of party presence. The first variable was a dichotomous present/not present measure for each hearing (14-day, status, first permanency, second permanency, and final) and each party (parent and attorney). The second variable was a continuous measure of the percentage of presence at hearings across the life of the case for parents and attorneys. The percentage was calculated by recording the number of hearings each party was present at and dividing by the number of possible hearings that each party could have attended. For example, if a mother had three possible hearings across the life of the case and she appeared at two of them, her percentage of appearance would be 66.7.

Several chi-square tests of independence were conducted to examine the relationship between pilot and control cases on the presence of parties across the life of the case. Participation in the pilot program was related to the number of attorney appearances at the 14-day hearing. Attorneys for pilot cases appeared at 90.4% (N = 47) of 14-day hearings, compared to 56.7% (N = 34) of attorneys for control cases. Participation in the pilot program was related to the number of attorney appearances at the second permanency hearing. Attorneys for pilot cases appeared at 92.5% (N = 37) of the second permanency hearings, while 77.1% (N = 37) of attorneys for control cases appeared at the second permanency hearing. Participation in the pilot program was also related to the number of attorney appearances at the final hearing. Attorneys for pilot cases appeared at 88.6% (N = 39) of the final hearings, while 73.1% (N = 38) of attorneys for control cases appeared at the final hearing. Participation in the pilot program was not related to the presence of a parent or parent's attorney at any other hearing. See Table 1 for percentages of each party at each hearing for both pilot and control cases.

Two independent t-tests were conducted to compare pilot and control cases on the overall percentage of hearings that parents and attorneys attended. Across the life of the case, attorneys for pilot and control cases significantly differed in their percentage of hearings attended. On average, attorneys for pilot cases were present at 89.4% of hearings, compared to 69.7% of attorneys for control cases. The overall percentage of parents' presence at hearings did not significantly differ between pilot and control cases. However, they were trending in the right direction. Parents in the pilot cases were present at 72.0% of hearings across the life of the case, compared to 65.0% of parents in control cases.

⁵ Wood, S. M., & Russell, J. R. (2011). Effects of parental and attorney involvement on reunification in Juvenile dependency cases. *Children and Youth Services Review*, 33, 1730-1741.

Table 1. Percentage of Parents and Attorneys Present at Each Hearing						
		14-Day	Status	1st Permanency	2nd Permanency	Final
Parent	Control	78.3	71.4	63.6	63.8	49.1
	Pilot	82.7	82.2	77.1	65.0	43.2
Attorney	Control	56.7	73.2	78.2	77.1	73.1
	Pilot	90.4	84.4	89.6	92.5	88.6

Placement Outcomes

Of the 113 cases, 59 (53.2%) resulted in children being returned to the parents or having the juvenile dependency petition dismissed. Thirty-nine cases (35.1%) resulted in PMC to the department. Eleven cases (9.9%) resulted in the child being placed with a relative or guardian. In only two cases, the child reached the age of majority and subsequently “aged out” of the juvenile dependency system. The final outcome for the child was not recorded in two cases.

Chi-square tests of independence were conducted between pilot and control cases on each of the placement outcomes. No comparisons reached statistical significance. The numbers were all trending in the correct direction, though. Specifically, higher percentages of pilot cases resulted in children returned to their parents or case dismissals, and relative or guardianship placements, compared to control cases. In addition, there was a lower percentage PMCs to the department and aging out for pilot versus control cases. See Figure 1 for a graphic comparison between the pilot and control cases on the outcome measures.

Three binary logistic regressions were also conducted to examine whether the presence of parties at hearings—namely, the percentage of hearings a parent or attorney attended—was related to the outcome measures⁶. A binary logistic regression examines the relationship of one or more variables on a dichotomous (e.g., yes or no) outcome measure.

The percentage of hearings that parents were present at was a significant predictor of the child being returned to the parents or the juvenile dependency petition being dismissed. For each percentage point increase in a parent’s overall presence at hearings, the likelihood that the final case outcome resulted in

⁶ A logistic regression was not conducted on cases in which the child aged out because there were only two cases.

the child being returned to the parents or the juvenile dependency petition being dismissed increased. This effect held regardless of whether the case was in the pilot or control group.

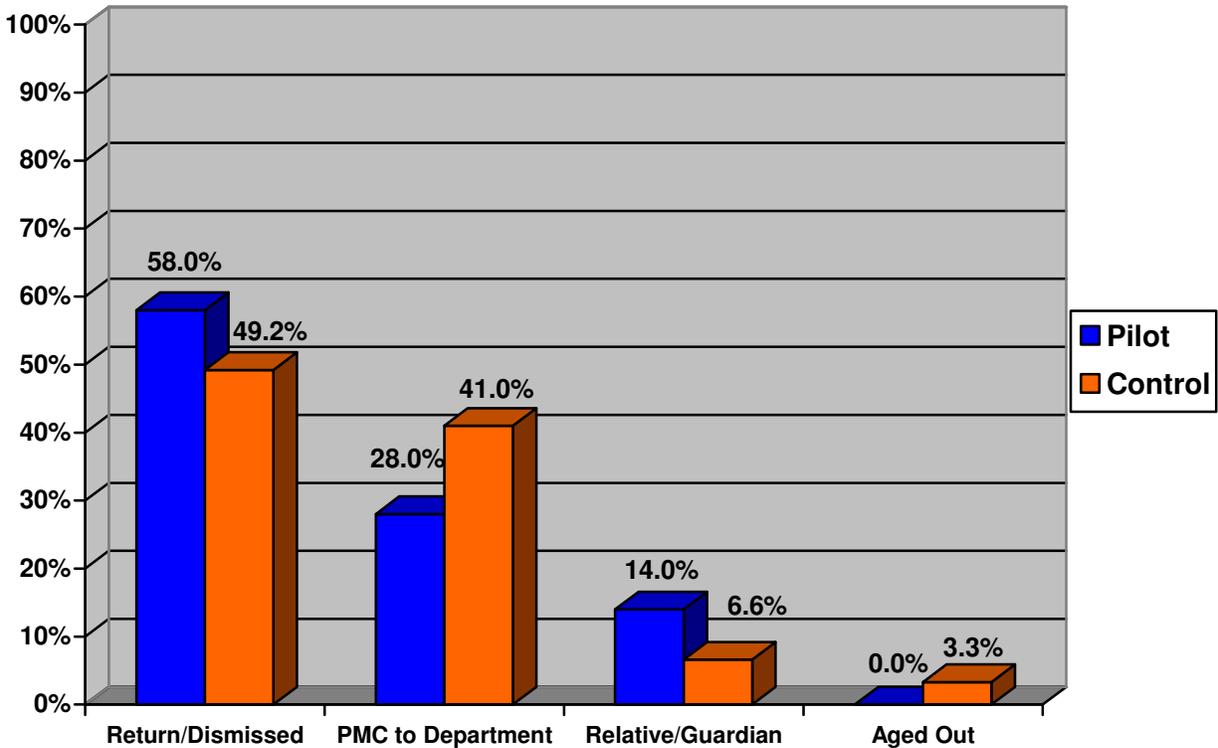


Figure 1. Percent of Placement Outcomes across Pilot and Control Cases

The percentage of hearings that parents were present at was also a significant predictor of PMCs to the department. For each percentage point increase in a parent’s overall presence at hearings, the likelihood that the final case outcome resulted in a PMC to the department *decreased*. Once again, this effect held regardless of whether the case was in the pilot or control group. The percentage of hearings a parent attorney attended was not related to any of the outcomes.

To further examine the relationship between the pilot program and outcomes, the four possible placements (return/dismissed, PMC to department, relative/guardianship, and aging out) were collapsed into a dichotomous positive/negative variable. Cases that ended with a return/dismissal or a relative/guardianship placement were considered “positive.” Cases that ended with PMC to the department or aging out were considered “negative.” This re-classification resulted in 70 positive and 41 negative outcomes.

A chi-square test was then conducted between pilot and control cases for the positive/negative outcomes. Unlike the prior analyses, participation in the pilot program was significantly related to positive outcomes. Pilot cases ended in a positive outcome 72.0% (N = 36) of the time, compared to 55.7% (N = 34) of the time in control cases.

As a final analysis, the high/low classification variable (less than 10 days from *ex parte* hearing to full appointment) was once again used to examine positive/negative outcomes. The classification variable was significantly related to positive outcomes. For cases that took less than 10 days, a positive outcome was achieved 77.3% (N = 34) of the time, compared to 55.0% (N = 28) of the time for cases that took more than 10 days. This effect held regardless of whether the parent participated in the pilot program. Although there was no difference between the pilot and control cases, it should be noted that participation in the pilot program was related to a “low” classification. The overall finding from this analysis is that getting attorneys early (i.e., within 10 days of the *ex parte* hearing) is related to positive outcomes.

Conclusion

From this research, we can conclude that parents in the pilot project received representation sooner than control cases, a process evaluation measure showing that the intervention had the intended effect. Attorneys appointed earlier in cases were more likely to be present at key hearings throughout the case. Parents who received counsel early in their cases were more likely to have their cases dismissed or their children returned. Children involved in the pilot cases were placed with relatives more frequently and their cases reached final orders without being transferred to PMC. We cannot conclude that this was *because* of the pilot intervention because the findings did not reach significance. Parent presence at hearings was a key indicator of reunification or dismissal. While this finding cut across pilot and control cases, it should affirm the court’s efforts to get parents to attend hearings and to engage parents who are present at hearings. This report includes findings from a small data set of pilot and control cases. While significant findings were limited, the findings reflect fidelity to the model outlined in the pilot project and the outcomes trend toward positive outcomes for children.