02

THINK TANK SERIES WITH **LEAD JUDGES**

engaging parents in child abuse and neglect hearings

lessons learned from judicial leaders

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Acknowledgments: Funding for this evaluation and report was provided by the U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention through Award #2015-CT-BX-K001 to the National Council of Juvenile and Family Court Judges. Points of view or opinions expressed are those of the report contributors and do not necessarily represent the official position or policies of the funder or the National Council of Juvenile and Family Court Judges.

Suggested Citation: Gatowski, S. & Gueller, M. (2019). *Engaging Parents in Child Abuse and Neglect Hearings: Lessons Learned from Judicial Leaders*. Reno, NV: National Council of Juvenile and Family Court Judges.

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lessons learned from judicial leaders

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acknowledgments

The authors wish to express their sincere appreciation for the time and contributions of the former and current Lead Judges who offered their knowledge, experience, and strategies for engaging parents in child abuse and neglect hearings.

the ncjfcj think tank series with lead judges

The National Council of Juvenile and Family Court Judges' (NCJFCJ) think tank series brings judges together to share knowledge and provide insights on issues of relevance to court improvement and collaborative systems change. The judges invited to participate are former and current Model Court Lead Judges. These national judicial leaders have considerable experience leading system-wide collaborative stakeholder teams to design and implement program, practice and policy changes to improve outcomes for children and families involved in the child welfare system. The NCJFCJ think thank series aims to tap into the wealth of the Lead Judges knowledge base and experience to provide a lessons learned resource to other jurisdictions engaged in collaborative court improvement efforts.

This issue in the think tank series gathers and summarizes judicial leaders' knowledge, experience and strategies for engaging parents in child abuse and neglect court hearings.

A **think tank** is a body of experts providing advice and ideas on specific problems. The group's knowledge, experience, and energy is brought to bear on an issue. Think tanks identify and define issues, examine challenges and solutions to problems, and make recommendations for future actions.

Think tanks serve as a network or community of experts through which ideas are nurtured and spread and action is catalyzed.

A think tank is a group organized to study a particular subject (such as an issue, need, practice, policy, or a problem) and provide information, ideas, and advice about what should be done.

Lead Judges guide the court improvement process, establishing collaborative teams that work to assess court practice, identify challenges, set goals, and improve outcomes for children and families.

engaging parents

The National Council of Juvenile and Family Court Judges (NCJFCJ) recommends that the court should do all that it can to encourage and support the meaningful engagement of children, youth, and families in the child welfare process and proceedings.[1] Positive parental, child, and family engagement is seen as critical to successful outcomes in the case. This is particularly true at the beginning of a case, which follows almost immediately upon the trauma of the child's removal from the parents' custody. Emotions run high, the parents' ability to understand the court process and make good decisions may be compromised by substance abuse or mental illness, and the anger they may experience toward the caseworker may undermine their ability to work cooperatively toward reunification. The judge has an important role to play in gaining the confidence of the parents, children and youth and families in hearings, and reassuring them that the proceeding will be fair and that their voices will be heard.

"Ensuring that the voices of parents and children are heard at all times, pre-, during and post-hearings and reviews has clear benefits for all involved. Those benefits include a more complete understanding of family strengths, needs, and resources; increased levels of engagement by parents, children and youth; and greater depth and breadth of useful information on which a judge may base her decision."

Associate Commissioner Jerry Milner D.S.W., Children's Bureau, Administration of Children Youth and Families in the Guardian, 2018 (May/April), National Association of Counsel for Children

At the same time, the judge must accomplish a number of critical tasks, such as making procedural and substantive decisions all within a limited period of time. The judge must ensure that all parties are accorded due process of law and insist that the proceedings are conducted in a respectful manner. How the judge strikes the balance between engaging parents, children and youth and the family who are present, and conducting the business of the hearing, between informality and courtroom decorum, can set the tone for the entire case.

In practice, however, judges differ in their comfort with engaging parents, children, youth and families. Some judges are at one end of the spectrum, engaging very little or not at all with parties in hearings, preferring instead to interact solely with the hearing's

1 Gatowski, S.I., Miller, N., Rubin, S., Escher, P. & Maze C. (2016). The Enhanced Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases. NCJFCJ, Reno, NV.

professional stakeholder participants. Other judges take a more participatory approach directly engaging parents, children, youth and families in dialog. Because the NCJFCJ recommends that the court do all that it can to encourage and support the meaningful engagement of children, youth, and families in court proceedings, and a growing body of research demonstrates that positive parental, child, and family engagement is linked to more timely case processing and positive permanency outcomes in cases (e.g., timely permanency and increased reunification rates), we sought judges input on the engagement strategies they employ.

As a first effort to gather judges' opinions and experiences, we focused on surveying judges about their engagement of parents in child abuse and neglect hearings (future publications in this series will focus on the engagement of children, youth and families).

This issue in the think tank series summarizes the lessons learned and engagement strategies employed by judges who lead court improvement initiatives. Our aim is to tap into their expertise to provide guidance to other judges who may struggle with how to effectively engage parents in the hearing process.

what does the research about judges engaging parents in hearings tell us?

There is a growing body of research on child abuse and neglect hearing quality that indicates that judicial engagement of parents in hearings is associated with positive case processing and child welfare case outcomes. For example, judicial engagement was found to be linked to better placements (e.g., less stranger foster care)[2] and reduced time to permanency.[3] Judicial engagement of the mother at hearings predicted mother's attendance at subsequent hearings, and these findings were also true for engagement of fathers.[4] Other research has found that judicial engagement of parents at the initial or shelter care hearing and at the adjudication hearing predicted placement with parents at both the initial hearing and adjudication hearings as well as placement with relatives.[5] Judicial engagement of parents at the initial hearing was also found to be associated with the likelihood of placement with parents at the review hearing.[6] A study of one state's court practice found that engagement of parents was significantly related to higher levels of reunification, decreased time to permanency, decreased time to adoption, and a lower percentage of youth still in care at 24 months.[7] Another study found judicial engagement, specifically addressing the mother by name, was related to decreased time to permanency.[8]

2 Macgill, S. & Summers, A. (2014). Assessing the relationship between the quality of juvenile dependency hearings and foster care placements. Family Court Review, 52, 678-685.

3 Supra note 2, Summers (2017).

4 Gonzalez, C., & Summers, A. (2014). Assessing the long-term effects of courts catalyzing change preliminary protective hearing benchcard. Reno, NV: National Council of Juvenile and Family Court Judges; Summers, A. & Gatowski, S. (2018). Nevada Hearing Quality Study: Examining the Quality of Child Welfare Court Hearing Practice in Nevada. Carson City, NV: Nevada Court Improvement Program.

5 Supra note 6, Macgill & Summers (2014).

6 Bohannan, T., Nevers, K., & Summers, A. (2015). Hawaii courts catalyzing change case file review and court observation pre and post benchcard. Reno, NV: National Council of Juvenile and Family Court Judges.

7 Supra note 2, Summers (2017).

8 Supra note 8, Summers & Gatowski (2018).

think tank survey findings

Twenty judges responded to an online survey about engaging parents from the bench, representing an overall average of 13 years of experience presiding over child abuse and neglect cases.

Should the judge directly engage parents in child abuse and neglect hearings?

The majority of judges agreed they should directly engage parents in hearings, with 71% "strongly agreeing." Asked to explain why, they noted that engaging parents was an opportunity to provide information, increase parents' understanding of the hearing and the case process, to offer support and encouragement, and demonstrate respect and civility – all of which may contribute to buy-in and increased reunifications.

Research Findings Linking Judges' Engagement of Parents to Hearing Quality and Case Process			
Judicial Engagement of Parents	Increased Attendance of Parents at Hearings	Increased Placement with Parents	Increased Placement with Relatives
	✓	✓	✓

Research Findings Linking Judges' Engagement of Parents to Case Outcomes		
Judicial Engagement of Parents	Increased Reunification	More Timely Permanency
	✓	✓

Survey Responses		
20 Judges	55% Male	45% Female
	Average of 13 years presiding over child abuse and neglect cases (ranging from <1 year to 29 years)	

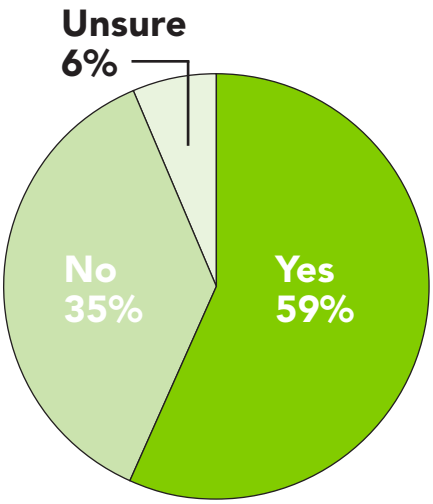
"There are more reasons than I can count … It's basic respect for the parents as parties to the lawsuit. I don't think that Judges should try to pry and override their relationship with their lawyers but speaking to parents to ensure they understand the proceedings and realize their voice matters is paramount. In short, it demonstrates that the Judge recognizes basic human dignity… It increases parents' understanding of the proceedings and their buy-in for the case plans that they are being asked to engage in… parents often have important information and questions that help everyone else both understand their situation and adjust case plans accordingly." **-Lead Judge**

"If judges engage directly with parents we can support and encourage them to actively engage in services, answer questions and respond to their concerns. In addition to providing positive support/encouragement to engage, I can also remind them of timelines, and if necessary, respond to inappropriate behaviors, for their benefit and the benefit of the others in the case and in the courtroom." **-Lead Judge**

"This is about letting parents and children know that they matter: respect, civility and dignity. Find a strength, encourage, affirm the least move in the right direction. Those in trauma do not need yet another aloof, uncaring "professional" in their lives."
-Lead Judge

"Respondents look up to the judge. If a Judge is engaging directly with parents, it resonates with them. They get a sense that the judge really cares about them and their progress. Parents can be reassured by a judge who is engaged that the judge wants what is best for them and for their children. Successes can be discussed, highlighted and even celebrated. In the same way, lack of benefit can be addressed; approaches to problems can be discussed; the danger of non-compliance can be reiterated."
-Lead Judge

Is there a specific stage of the court process or a specific hearing where it is more important for the judge to directly engage parents?



Most of the judges believed that while it is important to engage parents throughout a case (35%), it was especially important at the beginning (55%). Four judges, however, thought the post-adjudication stage of the case most appropriate for judicial engagement of parents (20%).

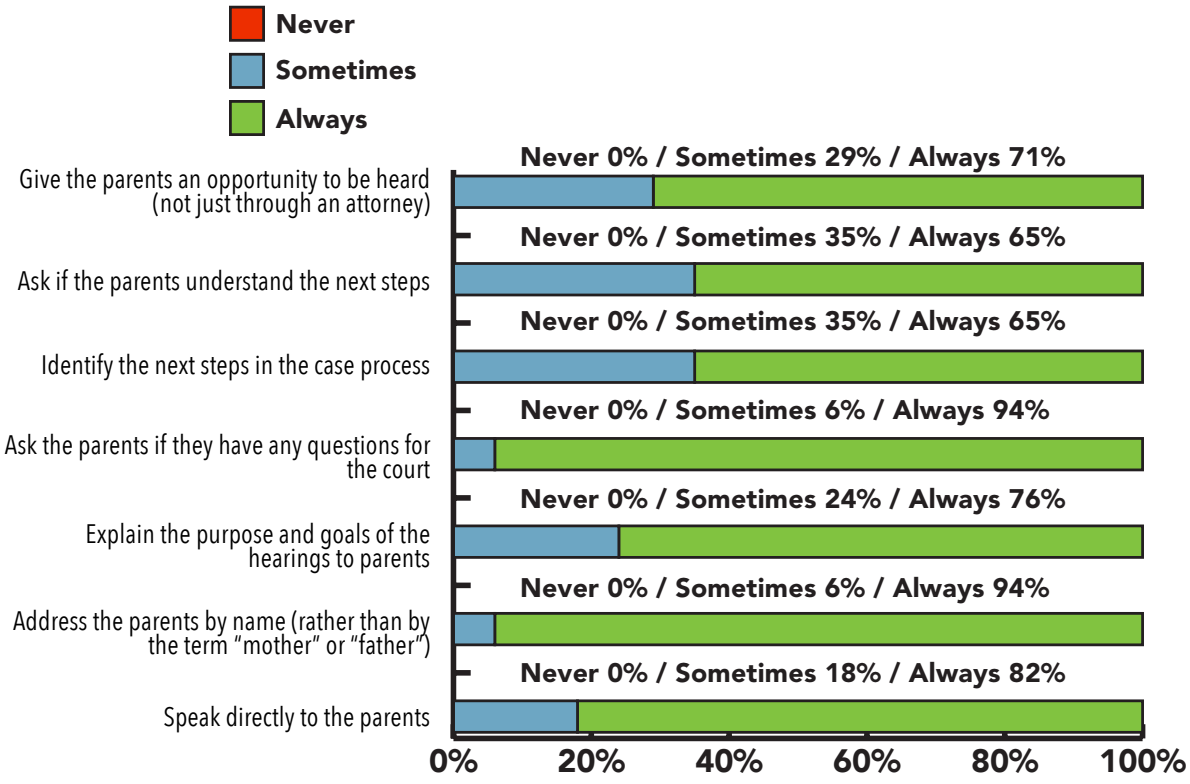
"[Engagement] should start at the very beginning and go through until the end of the case. The only time I don't engage with parents directly is when we are engaged in a contested hearing. Even in those hearings, following my ruling I again engage with the parents to make sure they understand the ruling and next steps." **-Lead Judge**

"While I believe it is always important to engage directly with parents, early in the case is more important because of timelines and the need to encourage parents to actively participate in services." **-Lead Judge**

"I believe that a judge's engagement is important throughout the process at all hearings. However, it is critical for the judge to try to connect with the respondents as early as possible, so preliminary hearing is very important for the judge to make every effort to make a first positive connection/impression with a parent. If a judge can manage to foster some trust between the parent and the court, it is much easier to communicate and effectuate positive change." **-Lead Judge**

strategies used by judges to engage parents

The most frequent engagement strategies used by the judges are addressing parents by name (rather than by status), asking if they have any questions for the court, and otherwise speaking directly to parents.



Examples of strategies for parental engagement used by the judges…

"I call them by their name not their status. I stay respectful of them despite the circumstances. Despite a parent being accused of abuse, that action does not define who that person is. Always remember that people are always more than their decisions." **-Lead Judge**

"Make eye contact; exhibit "open" body language; utilize names to refer to parties; explain the purpose for the proceedings; ask for comments, questions, concerns; attempt to use culturally competent language and dialogue; attempt to utilize trauma informed practices among others." **-Lead Judge**

"Treat them respectfully. Acknowledge that they are going through a stressful family event. Explain that the goal of child protection court is to reunify families, not divide them. Explain that we hope to assist them in becoming more competent, stable parents." **-Lead Judge**

"Ask them to tell me about the child and help me know who I am serving. I do ask if they understand what has been said, what is planned, and what to expect." **-Lead Judge**

"I always ask the parents if they understand the nature of the hearing we are having, if they understand any rulings I've made and the next steps following the hearing, and if they have any additional questions." **-Lead Judge**

"At every hearing I ask each parent directly if there is anything they wish to tell me (after I hear from their attorney). I ask if they have questions about services or anything else and inform them of the next court date. I tell them when I think they are doing things well and what they should focus on for the next hearing. If needed I remind them of timelines and the focus of the court on timely permanency." **-Lead Judge**

"1. LISTEN! Being heard is rare. Ask: What do you think? Will this be helpful? Do you have suggestions? You know your child better than anyone else–are we missing something that would be helpful? What are we missing? What do you need? How can we help you be the mother you want to be? I know you love your child. 2. Accountability with affirmation. We must respond to the real issues but with grace." **-Lead Judge**

"Ask them if they understand what is going on, what is required. Explain they must begin to address the issues by engaging in services and showing a benefit in order to reunify with their children. Ask if they have questions for me. Tell them if they have questions between hearings not to hesitate to contact their attorney for help and advice. I ask if they understand how important it is to maintain contact with [the child welfare agency]." **-Lead Judge**

"Praising them when they are doing well in areas. When scheduling hearings, asking days off/times good for them and trying to work around employment hours outside the Court. Giving other ways to handle an issue, especially contact with caseworker. Help them understand their [caseworkers] workloads; if they are gone from the office they are working on other cases. Please leave numbers and names … and asking caseworker, why if they left number no one has contacted them." **-Lead Judge**

"Welcome them. Try to put them at ease. Answer any questions. Thank them for being present. Assure them that although the process may be difficult it is intended to help them through difficult times." **-Lead Judge**

The judges were asked about the barriers or challenges to judicial engagement of parents they have faced, and to identify some strategies to address those challenges.

Most of the challenges offered were related to "parents' counsel disapproval" of judges' directly engaging with parents and that parents "may go beyond what was asked." In addition, a few judges expressed concern that dialogues with parents can sometimes devolve into an unproductive "back and forth" and that they needed to be skilled at ending the engagement in a respectful way. Busy dockets with time constraints on the available time for hearings were also identified as an obstacle to judicial engagement of parents.

To address barriers or challenges to judicial engagement of parents, the judges offered the following strategies/advice:

"Sometimes when a parent wishes to speak while represented by counsel they can make statements that might prejudice their case. I always tell a parent to be careful, when speaking because what they say can affect their case." **-Lead Judge**

"There is a point sometimes at which communication with parents in Court becomes counterproductive (i.e. the Judge ends up in a back and forth with the parents, arguing

or trying to explain their position over and over--and I mean both sides). Judges have to be careful to make sure that they don't get pulled into a dysfunctional relationship or get embroiled in heated arguments (we have to keep a certain distance in order to maintain our neutrality and to enforce the importance of our orders). We also have to make sure we don't invade the attorney client relationship overtly by inserting ourselves into the proceedings." **-Lead Judge**

"Parents' counsel need to be on-board with it … I let parents' counsel know that they can object." **-Lead Judge**

"I talk to them and treat them with respect, but at the same time I respect it when their lawyers object if we are getting into potentially attorney/client privileged information or something else that might be improper." **-Lead Judge**

"Not all engagements [among parents and others in court] are respectful and appropriate so being able to handle difficult conversations without escalating into an angry confrontation is critical. Once a judge is witness to such escalation and engages in escalation, there is very little likelihood of being effective particularly regarding efforts to reunify." **-Lead Judge**

Final Thoughts

Provided with an opportunity to make any additional comments or recommendations, the judges reiterated the value of engaging parents in child abuse and neglect hearings and suggested that some judges would benefit from training and mentorship to appropriately, and more effectively, engage parents.

"Judges need training, case scenarios, feedback, video taping, feedback, encouragement and excellent mentorship and examples of how to do it within our judicial code of ethics." **-Lead Judge**

"Engagement has made all the difference in my judgeship to better serve children & parents." **-Lead Judge**

"I see no concerns about judicial engagement of parents and in fact believe it is my responsibility." **-Lead Judge**

"Just remember that they are human beings that make mistakes. We all make mistakes. See their mistake for what it is and remember that mistake does not define the human in front of you." **-Lead Judge**

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