

***Quality Improvement Center on the Representation of
Children in the Child Welfare System***

**Needs Assessment
Focus Groups**

September 2010

**Children's Bureau, US Department of Health and
Human Services**

University of Michigan Law School



FOCUS GROUPS AT PROFESSIONAL MEETINGS

Focus Group of Judges

In order to gather the judicial viewpoint on child representation, we held a focus group of judges in conjunction with the Permanency Planning for Children Department Advisory Meeting, National Council of Juvenile and Family Court Judges (NCJFCJ) in Pittsburgh, Pennsylvania on January 27, 2010. Because judges have detailed knowledge of how attorneys represent children, we felt it was important to gather their perceptions and opinions. Judges also typically take a leadership role in guiding changes in both practice and policy, and so we also held their recommendations on system reform as very valuable.

Consistent with other findings, the judges said that good training is key to good advocacy. Some expressed that the court should be involved in the training, to ensure it is accurate and specific to local practice. The judges also said that sometimes a separate attorney must be appointed because attorneys don't have knowledge about collateral issues, such as immigration, or navigating the educational system. Overall, judges said they feel an important role of the attorney is that of problem solver. They believed that in representing children, most attorneys try to reflect the child's wishes to the court.

Participants thought it would be worthy to explore a teamed approach to representing children, including the attorney plus CASA model. They also said organization and delivery of services affects quality of representation. Resources are an issue for paying lawyers and providing proper training. They emphasized the resource limitation they feel when they said, regarding possible best practice models, "Don't build us a Cadillac," meaning they would like to see models that are easily replicable and do not require a great deal of additional funding.

Court Appointed Special Advocates (CASA) Focus Group

We held two focus groups with CASAs, in conjunction with their national conference in Atlanta, on April 18, 2010. CASAs are heavily relied on in some jurisdictions throughout the country. They often work closely with child attorneys, so we sought their viewpoint on quality of representation and other system issues.

CASAs reported variability in attorney representation, but agreed that legal representation is necessary. They saw their role as providing information and helping balance the viewpoint presented by the child welfare agency. Participants reported the attorney role as representing the best interests of the child, and some said they work with the attorney and share information.

CASAs said that they can spend more time on their cases than any attorney, and that they have more of an opportunity to get to know the child. They reported that they receive quality training and supervisory support, unlike most attorneys for children. Their recommendation for improving child representation includes better training, especially in interacting with children, and more uniform standards and expectations.

Focus Groups with Tribal Representatives

Background, Purpose and Methodology

To gain an understanding of the tribal perspective on the representation of Native American children, discussions were held with participants in the Midwest Child Welfare Tribal Gathering

in Petoskey, Michigan on May 4&5, 2010. The conversations took place over three days, and included two judges, two attorneys, and eight child welfare professionals.

Community Solutions

Maintaining the child's connections to the tribe recurred as the major theme throughout the discussions with tribal child welfare professionals. They focus on community involvement and the tribe's ability to resolve the issues of their own families. Rather than relying on child representation to get the child's needs met, they emphasize a community approach that meets both the child's and tribe's interests. The child is seen as integral to the future of the tribe, and the tribe is considered integral to the child's identity. The two are so intertwined that decisions must be based upon both best interests of the child and the tribe.

Tribal participants did not place much emphasis on child representation. Instead, they emphasized that tribes, using their strong community traditions, can protect the child better than paid professionals. They used the example of customary adoptions, where community or family members assume the care of the child when the parents are not able. Rather than formally terminate parental rights (TPR) through legal proceedings, the court approves a "customary adoption" which is acknowledged and celebrated in a community gathering which the biological parents commonly attend. Thus the child has a permanent, adoptive family but without terminating the parental rights of the biological parents.

The Child's Voice in Problem Solving

One tribal judge noted it is empowering for the child to have their say in court, so she likes to hear from the child. But she did not feel it was important for people to be represented in tribal court. She said the process is gentle, and people feel they are treated fairly. Only one tribal participant expressed a strong view that children should have representation. Two participants said they would rather have a non-attorney GAL who is a tribal member than a non-member attorney. They said the GALs work with the social workers to problem-solve and that the child is often brought to court and is included in the problem solving process.

Cultural Competence and Valuing Family Connections

Participants stressed the need for cultural competence in tribal child welfare practice. Comments reflect that anyone who represents a child or works in child welfare must understand the tribal values and work to maintain the child's connections to his tribal community. Some said a child would trust a tribal member more than an outsider. They expressed the belief that tribal members understand the child's culture and can form a better connection with the child. One child welfare professional said they have a non-member attorney whom the children trust because he has immersed himself in the culture of the tribe. Two of the participants said it is important to have representatives who understand child development and family connections, and that state court attorneys often lack that basic knowledge.

Overall, the tribal discussion revealed that Native Americans place more emphasis on the community response to child protection than the legal process. Moreover, the hearings are generally not adversarial. Thus, child representation does not seem to be a focus. Their main concern is focused on ensuring that the child maintains his connections to the tribe, and they feel the tribal courts effectively protect both the child's and tribal interest.

Foster Care Alumni Focus Group

Background, Purpose and Methodology

Members from Minnesota attending a statewide Youth Council Meeting at the University of Minnesota-Duluth responded to a listserv request to participate in a focus group of foster care alumni. The Focus Group was conducted via conference call. Five Youth Council Members (ranging in age from 19-20 years old) and an Independent Living Services Coordinator participated in the 90 minute call. The participants were asked to discuss their experiences with their child representative while in foster care.

Participants reported their lengths of time in foster care varied between 4 and 18 years; the average length of time was 15 years.

Initial Contact

Most of the youth reported having attorney representation; some participants also reported being represented by a volunteer GAL prior to an attorney representing them. The participants typically first met with an attorney in their mid- to late- teens. For three participants, the first meeting with an attorney was at the court prior to the hearing. Two participants met an attorney outside of court, either in their home or at a coffee shop. Due to differing circumstances, the focus of conversation during the first meeting with their attorney varied, but included examples such as eliciting the youth's input on where they wanted to live, what would happen during the hearing, current challenges, and plans and goals for the future.

Frequency of Contact and Relationship Building

Their frequency of contact with their representatives varied. However, most participants recalled having limited contact with their GALs and attorneys, ranging from recalling just 1-3 times, although only one participant reported having frequent telephone contact with the representative. Participants said they were provided the representatives telephone information. Some participants indicated they felt the representative listened to them and provided a great deal of support while others were less certain that their concerns were heard. Participants reporting more frequent contact with their representative were more likely to indicate they felt supported.

Conversations with attorneys centered around placement and planning for the future. The youth said they did not believe someone who didn't know them could speak accurately about their best interests in court. They also said they would not confide in someone they felt they hardly knew.

Support in Court

All participants attended hearings at least a few times; several indicated that they decided when they would attend. Participants generally indicated they felt heard in court, although several indicated they did not feel their representative advocated for them. In response to what was perceived as disorganized representation, the youth described that writing a letter to the judge proved to be an effective means of direct communication with the court that helped their advocacy. Another youth reported feeling more supported by the agency counsel than their appointed representative.

Recommendations

Focus group participants offered a number of recommendations for improving child representation. Two themes emerged: 1) the importance of representative/ client relationship and 2) the need for problem solving with others involved in the child's case.

Participants indicated that establishing a relationship with clients and collaterals was essential. The following suggestions were made:

- The representative should take time to get to know them as individuals.
- Those hiring attorneys should look for people who understand children.
- Representatives need to know that youth are in complicated situations and that no two situations are alike. As part of their training, attorneys should hear from foster youth. And they need to hear from those who are struggling, not just those who are excelling.
- The representative should ask the youth about what the youth wants and take that into consideration in the representation.
- More frequent contact should occur, although it is not always necessary that this occur in-person. Specifically, “popping in once in a blue moon is not a good situation.” Though they could not put a number on the ideal amount of contact, participants noted that attorneys should be checking in with them regularly. Telephone contact initiated by the representative could be used for this purpose.
- Representatives (including agency counsel) should attend important meetings. As an example, the participants described the youth in transition conferences conducted for foster youth ages 16 and over as important meetings where significant persons in the youth’s life meet to discuss plans and goals. At these meetings, tasks are assigned and everyone is held accountable for working on the tasks. Youth indicated that their representatives were invited, but did not attend these meetings.
- The youth recommended that less formal group meetings with everyone should occur for younger children in foster care.

The Independent Living Services Coordinator recommended that child representatives help others feel more like a team. She reported that outside of court there was a team effort to work with youth. However, perhaps because court is adversarial, this same team spirit does not always prevail. She expressed concern that when in court she “must sit across the table,” making the youth feel as if she is not working with them.

Discussions with American Humane Association Conference Attendees

Background, Purpose and Methodology

We conducted focused conversations with attendees at the American Humane Association’s Family Group Decision Making Conference. We spoke to one judge from Indiana and four Virginia state agency employees, all working in various capacities.

Findings

The most common themes are consistent with those raised through the other stakeholder discussions:

- **Improved client interaction:** Participants would like to see attorneys get to know their clients better. Specialized training in how to communicate with children was suggested.
- **Attorneys as problem solvers:** Agency workers said attorneys should attend meeting and family group conferences which would give them a better perspective on their cases and sometimes softens their attitudes toward relative placements. The judge called his court a “problem solving court,” and he said he encourages attorneys to find out of court solutions.
- **Oversight and supervision:** In response to an open-ended question asking about any other issues they would like to raise, attendees said attorneys need clearer expectations coupled with some form of oversight.