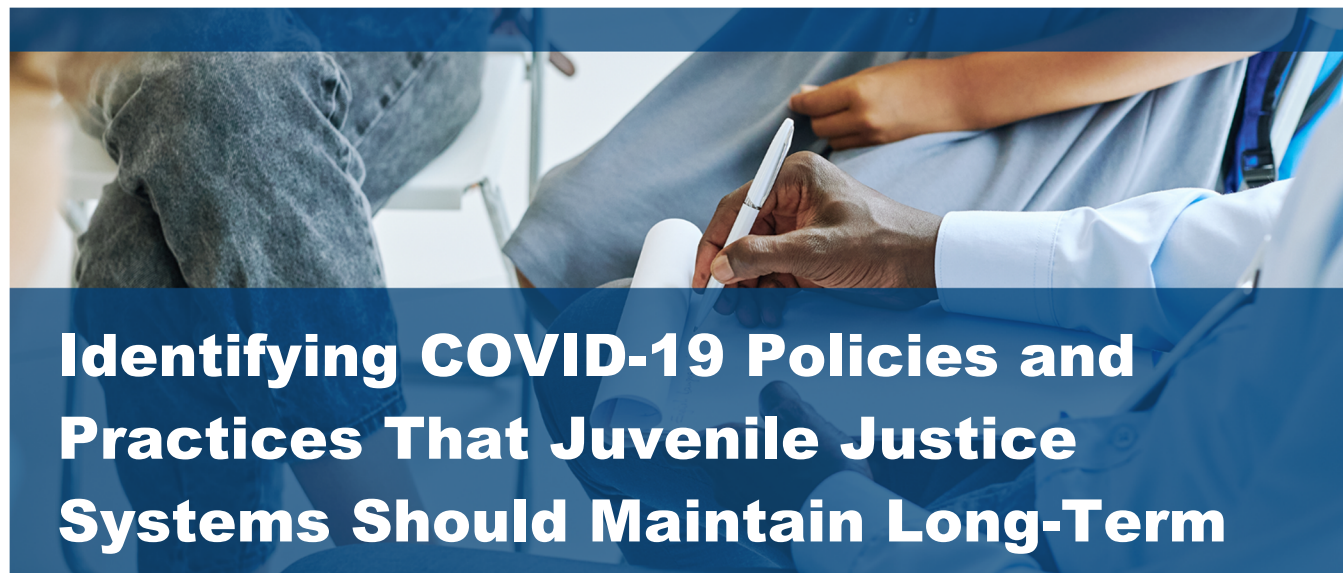




JULY 2023

LISTENING SESSION 6: Juvenile Court Judges¹



Identifying COVID-19 Policies and Practices That Juvenile Justice Systems Should Maintain Long-Term

Introduction

This report—focused on juvenile court judges—is the sixth in a series describing findings from listening sessions with juvenile justice practitioners about the effects of the COVID-19 pandemic on the juvenile justice system.

The COVID-19 pandemic **dramatically interrupted** the full spectrum of juvenile justice system activities, processes, and structures in the United States, from intakes to reentry. Across the country, juvenile justice practitioners responded to this public health crisis by implementing emergency policies to **mitigate** disease spread and maintain programming to the extent possible given public health orders and staff absenteeism. As the upheaval created by the pandemic subsides and the country **“returns to normal,”** the juvenile justice field will benefit from a comprehensive assessment of the policies implemented and changed during the pandemic, with a specific eye toward what worked well, what did not, and the root causes for successes and challenges. It is clear that juvenile justice practice will not fully return to its pre-pandemic status, and in many cases will **integrate changes** in policy and practice brought about by the pandemic. Because decisions about

the COVID-19 response have typically been made at the state level, aggregating and analyzing information across states and across practitioners within the juvenile justice continuum is a difficult but important undertaking.

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Our 2021 National Institute of Justice (NIJ)-funded project—Juvenile Justice Responses to the COVID-19 Pandemic—involves several research activities, including listening sessions, a systematic literature review, policy scan, and case studies.

THROUGH THESE RESEARCH ACTIVITIES, WE AIMED TO ANSWER THREE QUESTIONS:

1.

How have juvenile justice systems **responded** to the COVID-19 pandemic?

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How have juvenile justice systems changed policies related to **transfers between and releases from** juvenile residential place facilities?

2.

How are different policy responses associated with **youth and public safety outcomes** (e.g., educational attainment, mental and physical wellbeing, recidivism, intakes, releases)?

3.

For policies associated with positive outcomes for youth or improved public safety, **what resources are needed** to sustain these policy changes in the long term?

Our team conducted **listening sessions** with a broad range of juvenile justice system practitioners to learn from their experiences during the pandemic and **to identify policies and practices** that juvenile justice systems can and should maintain in the long term (even as COVID-19 is now endemic). The goal of these listening sessions was to discuss policies and practices related to juvenile intakes, transfers, and early releases from juvenile residential placement facilities, as well as those intended to protect public safety and ensure the safety, health, appropriate supervision, and long-term success of youth. We also asked practitioners to identify possible best practices for rapidly responding to similar threats that may emerge in the future—such as other public health emergencies and natural disasters—to ensure juvenile justice systems have an experience-based guide that reflects important lessons learned for making difficult but effective decisions in emergency situations.

Setting, Participants, and Focus

Our **sixth listening session** took place in July 2023 with six **juvenile court judges**. The focus of this session was to get a perspective on the pandemic from the bench. Most of the judges indicated they worked on both delinquency and dependency cases, including cases in which the youth is involved in both systems. We asked judges to discuss the questions within the context of their juvenile justice work and hearings, but participants often indicated they were discussing changes they have had to make for all types of cases. Commentary is not included in this report if

the judge was clearly speaking on dependency or child welfare cases only. However, commentary is included if they were speaking broadly about their court's operations and may therefore include some elements that apply to the dependency court as well.



The meeting was co-facilitated by Dr. Kristan Russell and Marly Zeigler from the National Center for Juvenile Justice (NCJJ).

Findings

POLICY CHANGES DURING THE PANDEMIC

Keeping justice going

We asked judges about their top priorities during the pandemic. Like respondents from previous listening sessions, they stated that ensuring **everyone's safety was a key concern**. In addition to safety, judges also stated that they had to quickly determine which hearings to prioritize or delay as they waited for alternative options for resumption. Participants noted that once they figured out which types of hearings and which court functions could not be delayed, meetings quickly began to address policies and procedures to continue court operations.

The judges also reflected on their own approaches, many acknowledging their personal efforts during this time to ensure the court system continued to operate and serve youth and families. Participants also acknowledged their own need to embrace new approaches to adapt to the changing environment. When possible, judges held hearings via conference calls until jurisdictions were able to switch to virtual hearings. Often, more complex hearings involving multiple stakeholders and extensive paperwork could not be held remotely, even after the switch to virtual hearings.

Participants noted that some duties required in-person work, and thus, **staff were divided into rotating teams**. Reduction in crossover between the teams helped prevent the spread of COVID-19 throughout the court. Participants noted that although most staff could work in a virtual capacity temporarily, some positions (e.g., court clerks) had to continue to work in-person. To address this issue, several jurisdictions created flexible schedules to allow clerks time out of the building.

"I think we learned a lot about our ability to do things virtually and appropriately that maybe has convinced us to do some things we would have previously refused to do."

Remote hearings: successes and challenges

Consistent with our policy scan—which found that 39 states implemented virtual or phone systems for juvenile justice intake hearings—all participants indicated the use of some form of virtual or telephonic hearing processes during the pandemic. Though most participants noted the utility of these systems, one participant explained that their area’s remote location and poor network coverage resulted in a decline in court appearances during the shift to telephonic hearings. This jurisdiction had to develop alternative ways to hold in-person hearings safely. They also noted that the pandemic highlighted the need for their state to invest in technology and improved communication infrastructure.

Other participants noted that they witnessed a notable **increase in participation for families and youth with the shift to remote hearings**. Attorneys were also uniquely impacted; eliminating the travel time between courts allowed them to switch between hearings more quickly and manage fuller caseloads. Several participants also mentioned finding opportunities to be creative during this time and the unique ways they worked around the challenges introduced by the pandemic.

Participants in this session also emphasized the complexity of embracing virtual hearing processes, including the following additional advantages and disadvantages:

- It was more difficult to ensure the child appearing virtually was not being influenced by someone unseen in the room.
- They were often unable to fully assess and ensure child safety.
- It allowed for creative ways to keep in contact with youth and increase the frequency of that contact.
- They learned to be much more patient with youth and their families, being more considerate of their circumstances and factors that could be contributing to behavior (e.g., missing a hearing) that they previously would have not excused.

In turn, many of the judges in this session said that they took these pros and cons into consideration when determining whether to move forward with in-person, virtual, or hybrid hearing options. Interestingly, these decision processes also created **increased opportunities for self-reflection**, with several participants noting that the pandemic spurred them to consider what their judicial philosophy will be when things “return to normal.”

Although most participants reported that their courts retained some in-person elements throughout the pandemic and have increased in-person activities as the pandemic has waned, one jurisdiction has remained fully remote.

“I think [the pandemic] made us all realize that we really are frontline workers, and we can’t sit it out.”

Impact of virtual hearings on youth and families

We asked judges about the impact of virtual hearing processes on the youth and their families. The participants described a mix of positive and negative impacts. One prominent example was a lessened disruption in the lives of the families. When they could simply log in and attend a hearing on the phone or laptop instead of spending their entire day at the courthouse, they were more likely to be able to continue their workday and not have to arrange child care and transportation. This transition allowed households to continue running without interruption.

Participants also noted that visitation became more difficult for the youth, as they were no longer given a break from the facility and were not provided with the same level of privacy to communicate with their families. Communication among youth and their attorneys was also affected, as much of the communication took place virtually and may not have had the same level of quality and depth as it could have had in person.

Staff retention

When asked about staff retention, all participants responded similarly, stating that most of their staff remained employed with the court throughout the pandemic. Some staff had issues with coming back into the office after working remotely for a period of time, but most jurisdictions did not experience the staffing losses frequently experienced by other juvenile justice system practitioners.

The judges also agreed that while they had few staffing issues within their courts, they witnessed agencies experiencing significant issues with staff retention. During the pandemic, there also were fewer foster families willing to take children and a lot of Guardian Ad Litem quit. Most participants agreed that agencies continue to struggle with staff retention.

Conclusions

To better understand the nature and effects of policy changes that occurred in response to the pandemic, the NIJ-funded Juvenile Justice Responses to the COVID-19 Pandemic project is undertaking a range of research activities, including a systematic literature review, a policy scan, case studies, and listening sessions. During our sixth listening session, we spoke with juvenile court judges. Juvenile court judges hold a good deal of influence over youth cases at an individual level, and some have power to set policies such as remote hearings for their courts. Similar to our conversations with juvenile defenders, judges raised concerns about the impact of remote hearings on equity and fairness for young people. Judges in this listening session noted that many juvenile hearings were held virtually to accommodate physical distancing and prevent the spread of COVID-19. Although remote hearings can protect the physical health of involved parties, they make it harder to assess factors related to youth safety and wellbeing. As judges reflect on policies that can be sustained coming out of the pandemic, they continue to weigh these and other factors, with many returning to a hybrid approach that allows remote hearings for some circumstances.