



Child Protection in Time of Crisis

Trauma-Responsive Practices for Children, Families and Elders

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Issue Brief 2 of 4

The purpose of this brief is to help courts manage child protection cases in a timely and trauma-responsive manner during and after the pandemic.

Stressors & Vulnerabilities Occasioned by the Pandemic

Children and families in the child welfare system have almost universally experienced trauma, especially when they have been separated from loved ones. Child welfare system activities are increasingly focused on recognizing and ameliorating the effects of damaging life events described in [the Adverse Childhood Experiences Study \(ACES\)](#). The pandemic has exacerbated stressful circumstances for many families, including social isolation, unemployment, and food insecurity. Moreover, abuse or neglect may be going unreported due to reduced contact with mandated reporters such as teachers, physicians, and day care providers.

The [National Traumatic Stress Network's COVID-19 page](#) is a good resource for information on pandemic-related trauma. The American Academy of Pediatrics issued [Guidance for Children and Families Involved with the Child Welfare System During the COVID-19 Pandemic](#), describing principles and recommendations for maximizing families' and children's well-being during the pandemic.

Caseload Implications Occasioned by the Pandemic

Many courts have a backlog of cases due to court closures and capacity reductions due to COVID-19. Triage and caseload management techniques are vitally important court management tools for case processing during these difficult times. The previous brief, [Children, Family and Elders Overview: Addressing Backlog and New Filings.](#), describes a number of case management techniques for children, family, and elder case types with links to further resources.

Attending to state and federal timelines for findings and judicial decisions in child protection cases is particularly important to achieve permanency and reduce trauma to children. Meeting these mandates also ensures that federal funds to support children in foster care continue to flow to the state. Early in the pandemic, the Children's Bureau issued [a letter to court leaders](#) containing reminders of continuing statutory requirements for hearings and findings in child welfare cases and creative recommendations for meeting them. The Children's Bureau subsequently issued a [letter to Chief Justices and State Court Administrators](#) advising them of resources available through the Court Improvement

Program to facilitate children and families' access to justice during the pandemic.

Adoption is the primary permanency goal to be considered for children in out of home care who cannot be reunified with parents. See the issue brief, [Permanency and Adoption in the Time of COVID](#) for guidance and resources for child welfare adoptions.

Trauma-Responsive Case Management

Trauma-responsiveness means to "acknowledge[] the prevalence and impact of trauma and attempt to create a sense of safety for all participants, whether or not they have a trauma-related diagnosis."¹ The impact of trauma is an important consideration in every child protection case.²

Case Management Out of Court

The pandemic has a global impact on every aspect of the child welfare system. Many juvenile court judges lead multidisciplinary collaborations to address policy and practice issues. Regular

convenings of these collaborations may have been disrupted by the pandemic; however, they may be a valuable resource in developing and implementing effective policies and practices during times of crisis.³ The juvenile court judge may also gain important information about the changing landscape for his or her findings and orders regarding the safety, permanency, and well-being of children and families, such as how access to services and assistance of counsel has been affected.

Judges should ensure that services continue to be available within the court system to the greatest extent possible. For example, dependency mediation has been a vital dispute resolution tool in many courts for decades, and it is one of the most well-studied dependency court programs.

In Arkansas, mediators have been conducting sessions remotely. The child welfare agency has provided tablets to parents who need them, which can be used for remote family time with their children as well as participating in the mediation.⁴ The mediation sessions have engaged parents, and the

¹https://www.nasmhpd.org/sites/default/files/JudgesEssential_5%201%202013finaldraft.pdf

² The fact sheet, [Trauma and Its Implication for Justice Systems](#), provides a useful introduction to trauma-informed thinking for the courts as a whole. Also, the [National Traumatic Stress Network's justice resources](#) page contains a wealth of information related to trauma-informed approaches in the courts.

³ Judge Leonard Edwards has written extensively on the role of the juvenile court judge in multidisciplinary collaboration. See, for example, [The Role of the Juvenile Court Judge Revisited](#).

⁴ The Children's Bureau has issued [guidance on CARES Act funding](#) that can be used to purchase tablets and other devices for families to enable participation in court hearings, virtual visits, etc. The Court Improvement Program may be helpful in connecting courts with agency resources. See also, Children's Bureau [guidance on agency use of federal funds for cell phone purchases](#).

tablets have allowed parents in residential treatment to participate in mediation, court hearings, and family time remotely.

Risks for contagion are obviously enhanced for residents in all congregate facilities, including institutional placements for children. This risk adds a significant additional rationale for the legal and policy preference for family-based placements whenever possible. For further information, see the [Every Kid Needs a Family](#) website.

Communications with the Public

In addition to any statewide guidance provided through the Supreme Court and/or the state court administrative office, courts should consider the need to clarify expectations for court hearings and processes through administrative orders or other public guidance. For example, King County, Washington maintains a comprehensive [Dependency Operations document](#) on its website that is updated as frequently as necessary.

Preparing to Hold Trauma-Informed Hearings

The court can take specific actions to lower anxiety and increase engagement by parties. Parties should know how to participate in the hearing, who will participate, when they will be asked to speak, and what decisions will be made.

Access to equipment and/or the internet may be a barrier to participation for some families and children. Some courts provide access to remote hearings from the courthouse for those who need it.

As noted above, the child welfare agency may be able to access federal funds to secure the technology for parties' access to remote hearings. Consider what modality will best serve the parties and the interest of justice: in-person, virtual or a hybrid with some parties in the courtroom and others appearing remotely. Depending on the type of hearing and participants' circumstances, allowing an option for some to attend the hearing virtually may allow for both an effective process and social distancing. Many courts conducting remote hearings during the pandemic have found "silver linings" in the form of increased participation by parties, often due to decreased conflicts between court and school or work schedules.

Holding Trauma-Informed Hearings

- Schedule time-certain hearings. They lower the anxiety of waiting for a hearing and are respectful of people's time.
- Identify everyone's name and role in the hearing.
- State clearly the purpose of the hearing and what participants can expect.
- Acknowledge the challenges of the current situation.
- Maintain procedural justice principles - voice, respect, understanding, and neutrality.
- Understand and watch for triggers such as direct eye contact, raised voices, sudden noises or approach from behind.
- Allow time and space for response – don't rush.

- Check for understanding during the hearing.
- Provide real-time documentation of the outcome and next steps, if any.

Special Tip for Child Protection Cases

Providing an option for some or all parties to appear for a hearing remotely may reduce stress and anxiety in dependency cases where parties often have high levels of post-traumatic stress. Regardless of the modality, hearings should follow the guidelines below.

Considerations for Remote Hearings

Remote hearings can remove barriers to attendance, such as transportation and access to the courthouse. Courts are continuing to improve remote hearing practices. NCSC has produced a [Bench Guide for Judges](#) on meeting the core elements of procedural fairness in a remote hearing context.

Special Tips for Child Protection Cases

- Refer to parents and other adults by name – not "Mom" and "Dad"
- Establishing a courtroom culture that values parent, child, and family engagement can reduce trauma and increase the chances for successful outcomes. See [NCJFCJ Enhanced Resource Guidelines](#), p.p. 68-70; 78-79

Considerations of procedural fairness overlap considerably with elements of trauma-informed hearings. Practices to consider specific to remote hearings include:

- Use the “waiting room” function of many virtual platforms to give participants time to log in.
- Explain how the remote hearing will work in plain language in writing ahead of the hearing, with a video on the court’s website, and at the beginning of the hearing.
- Know that respondents who may have experienced abuse or exploitation may be susceptible to coaching or pressure by someone in the room with them.
- Check in to make sure people are still connected, especially participants who are connected by phone or only by audio. Do not assume that silence is assent.
- Do not treat an inability to connect as a failure to appear.
- Ask everyone in the room with the respondent to identify themselves.
- Ask someone at a remote location to pan the camera around the room to see who is present if it is a video hearing.
- Provide real-time documentation of the outcome and next steps, if any, at the conclusion of the hearing.

In-Person Hearings

Consider social distancing in the courtroom as well as in security, hallways, elevators, and restrooms. See NCSC's pandemic resource paper, [Considerations for Reopening the Courthouse](#). Social distancing requirements, such as space between seats and time-certain hearings are trauma-responsive practices too.

Hybrid Hearings

Hybrid hearings are hearings in which some individuals are in the courtroom and others are participating remotely. Tips from remote and face-to-face hearings apply, though these tips may be particularly useful:

- Everyone in the courtroom should speak into a microphone to be clearly heard by remote participants.
- Some courts are using “[meeting owls](#)” that automatically focus in on the participant speaking in the hearing.
- Check in to make sure remote participants can hear clearly at the beginning, and periodically during, the hearing, and prior to making a ruling.

Special Tips for Child Protection Cases

- The federal Capacity Building Center for Courts released recommendations for [Conducting Effective Remote Hearings in Child Welfare Cases](#), including tips for clerks, attorneys, and parties, as well as judges.
- The ABA Children's Rights Litigation Committee posted [Confidentiality and Privacy Tips for Virtual Hearings](#) that cover specific features of the major remote hearing platforms.
- Explaining the need for privacy and attempting to ensure that all attendees are accounted for is especially important in jurisdictions where child protection proceedings are presumed to be confidential.
- The breakout room feature in most remote platforms can be used for private attorney-client consultations or for in camera conferences between the judge and children.

Court Staff & Secondary Trauma

No development of a trauma-informed approach should neglect the effects of trauma on court professionals and service providers themselves; what is sometimes termed "secondary trauma." The court environment can be especially challenging in courts dealing with child welfare cases. A 2017 NCSC article, [Secondary or Vicarious Trauma Among and Court Personnel](#) provides a general introduction to the concept and symptoms, and some approaches to mitigation. . The NCSC webinar [Addressing Court Workplace Mental Health and Well-being in Tense Times](#) is a useful resource for court staff working with the public.

Special Tip for Child Protection Cases

[The Cost of Caring: Secondary Traumatic Stress and the Impact of Working with High-Risk Children and Families](#), by Dr. Bruce D. Perry, provides valuable tips for all professionals in the child welfare system, including judges, attorneys, and court staff.

Additional Resources

These child welfare legal sites have collected numerous resources related to court operations in child welfare cases during the pandemic:

- [The National Association of Counsel for Children COVID-19 Resource Hub](#)
- [The National Council of Juvenile and Family Court Judges COVID-19 Resources and Updates Page](#)