

University of Washington School of Law - Access to Counsel Project

Dependency Court Observation

As a part of The Clinical Law Program’s Access to Counsel Project Equal Justice Works Fellow Alicia LeVezu conducted a brief, in-depth observation of the dependency courts in King, Snohomish and Pierce Countiesⁱ.

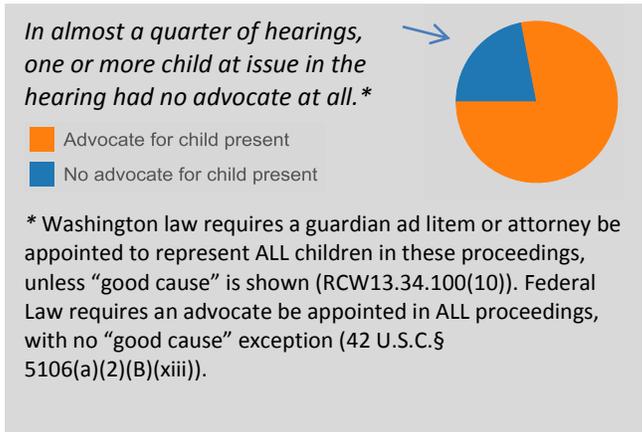
From November 2014 to February 2015, Alicia LeVezu and law student volunteers observed the regular dependency hearing calendarⁱⁱ for approximately 10% of the court scheduleⁱⁱⁱ in King, Snohomish, and Pierce counties, for a total of 341 partial or complete hearings observed. Because records in dependency proceedings are confidential court observers were not privy to the written court record and instead tracked the information observed and reported orally during the hearing. Additionally, no confidential information, such as names or case numbers, was recorded by observers. The following is a brief summary of the results of that court observation.

NO CHILD ADVOCATE PRESENT

In 22% of hearings observed, one or more child at issue in the hearing had no advocate at all.^{iv} In these situations, no Court Appointed Special Advocate, Guardian Ad Litem, or attorney for the child appeared in court to represent the child’s interest.

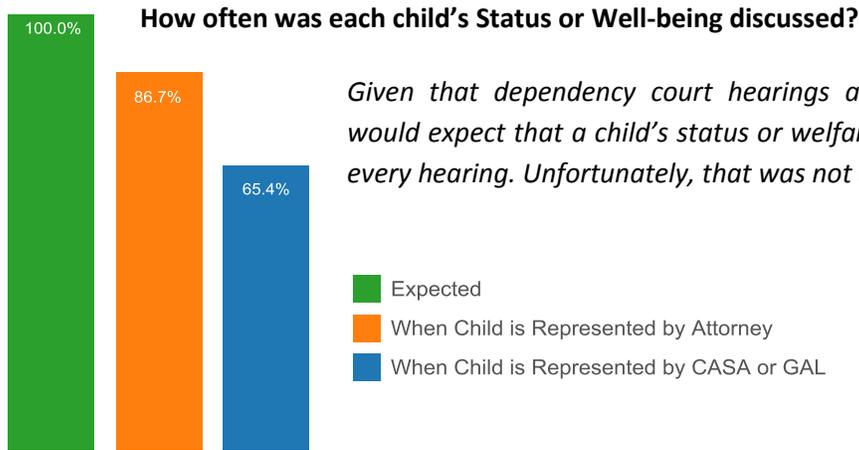
This figure was different county-by-county, with Pierce County having the highest percentage of children represented by advocates, and even there 12% of children had no advocate:

Advocate for Child Present		
County	No	Yes
Pierce	12%	88%
King	27%	73%
Snohomish	30%	70%



The percentage of hearings without advocates may be partially explained by the Court Appointed Special Advocate/ Volunteer Guardian Ad Litem assignment process, where there is a delay between the initial hearing and the programs’ ability to locate a suitable volunteer. However, a high proportion of children continue to be unrepresented even past the initial shelter care hearing. **In 13% of non-shelter care hearings observed, one or more child at issue in the hearing still had no advocate.**

CHILD'S WELL-BEING / STATUS NOT EVEN MENTIONED

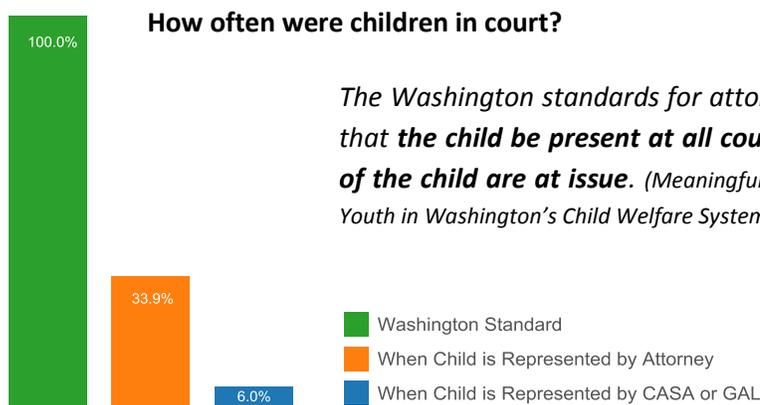


Given that dependency court hearings are about the child, we would expect that a child's status or welfare would be discussed at every hearing. Unfortunately, that was not the case.

In examining the content of the hearing, there was a notable difference in whether or not the child's well-being and/or status was discussed on the record based on what form of advocate the child had.

When children were represented by an attorney, each child's status or well-being^v was discussed in the hearing 86.7% of the time. However, **when children were represented only by a CASA or GAL and not an attorney, each child's status or well-being was discussed less than^{vi} 65.4% of the time.^{vii}** As noted above: the CASA, GAL or attorney may have included details about the child in paperwork filed with the court, but at the time of the hearing itself often neither the child's status nor well-being was mentioned.

CHILDREN AREN'T PRESENT AT HEARINGS



*The Washington standards for attorney representation recommend that **the child be present at all court hearings where the interests of the child are at issue.** (Meaningful Legal Representation for Children and Youth in Washington's Child Welfare System, Standard 5.3).*

Court monitoring also revealed that **children are rarely present for their hearings**, though a child who is represented by an attorney is more likely to be present. When children were represented by attorneys, one or more represented children appeared in court 33.9% of the time, while when children were represented by CASAs or GALs, one or more represented children only appeared 6% of the time.

ⁱ The Access to Counsel Project would like to thank Jared Gibson and Azam Khan at Intellectual Ventures for their support in analyzing the data presented in this report; Elena Erosheva with the the Center for Statistics and the Social Sciences at the University of Washington Department of Statistics for consultation regarding methodology and design and the data presented in this report; Lee Bradley at Intellectual Ventures for her help in graphically presenting this report; and the following University of Washington School of Law students for their contributions as volunteer court observers both during both the active monitoring phase and the pilot phase: Lindsay Donahue, Christopher Gerard, Mark Giuliano, Anna Rae Goethe, Michael Huggins, Taylor Knight, Kendra Miller, Daniel O'Brien, Crys O'Grady, Brittany Tri, and Amy Wang.

ⁱⁱ "Regular dependency hearings" refers to shelter care hearings, review hearings, permanency plan hearings, contested motion hearings and status conferences. Dependency fact findings and Termination of Parental Rights proceedings were not observed. Family Treatment Court was not included in this review, nor were special calendars where the hearings were held outside of the regular hearing schedule, such as the adoption calendar in Snohomish County.

ⁱⁱⁱ The court calendars was divided into morning and afternoon 'sessions', accounting for the number of court rooms open in a county during that time. [For example, on a given Monday morning in King County there were two possible calendars running (one in Kent and one in Seattle), in Pierce County there were two calendars running in two separate courtrooms in Tacoma, and in Snohomish County there was generally only one dependency court calendar running. Conversely on Tuesday afternoons, while King County again had two calendars, there was not a regular dependency calendar in Pierce County and there was one calendar in Snohomish County.] Volunteers observed approximately 10% of these sessions on a randomized schedule between November and February. This totaled 28 sessions in King County (approximately 10.6% of the total sessions), 12 sessions in Pierce County (totaling approximately 9.4% of total sessions), and 12 sessions in Snohomish County (totally approximately 11% of total sessions).

^{iv} If a hearing pertained to multiple children and any of those children were without an advocate (i.e. one child at issue in the hearing had an attorney, but another child at issue in the hearing was without any advocate), that hearing was counted in this figure.

^v Discussion of either the status of the child OR their well-being, counted as a 'yes' for this measure.

^{vi} This figure reflects that often one CASA/GAL represented multiple children, this figure includes both instances where no child's well-being or status was discussed and instances where some, but not all, of the children in the hearing had either their well-being or status discussed.

^{vii} Additionally, there were 23 hearings that were not observed in their entirety, in situations when the observer did not witness a discussion of the child's well-being or status; those hearings were excluded from this percentage as it is unknowable whether the child's well-being or status was discussed in the missed portion of the hearing. Assuming all of the excluded hearings eventually included a discussion of the children, the values would have changed to reflect a discussion of each child: 87.2% of the time when an attorney was and 67% of the time a CASA was appointed. Assuming all of the excluded hearings did not eventually include discussions of the children, the values would have changed to reflect a discussion of each child: 83.5% of the time with an attorney and 62.5% of the time with a CASA. This sensitivity analysis suggests the actual percentage of cases where the child's status or well-being was discussed is somewhere between 83.5 – 87.2% when an attorney was appointed and 62.5 – 67% of the time when the child had a CASA and no attorney.