Arizona Open Dependency Hearing Pilot Study

Final Report

March 5, 2006

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Introduction

During the 2003 Arizona legislative session, lawmakers debated the value of opening dependency hearings to the public. Senate Bills 1304 and 2024 were passed requiring that a pilot program be established to evaluate the opening of dependency hearings to the public. The Department of Economic Security/Division of Children, Youth and Families (DES/DCYF) and the Administrative Office of the Courts (AOC) were assigned the task of monitoring and providing analysis information related to any hearing that was included in this pilot program.

The open dependency hearing legislation requires that the following questions be answered:

1. How many and what type of dependency proceedings were open to the public?
2. How many dependency proceedings occurred where a person objected to the proceeding being open to the public?
3. How many and what type of dependency proceedings were ordered closed by the court and for what reason?
4. How many and what type of dependency proceedings were ordered closed at the request of a child who was at least twelve years of age and a party to the proceedings?
5. How many dependency proceedings did a person who was not a party to the proceeding attend?
6. What were the satisfaction levels of participants in those dependency proceedings that were open to the public?
7. Did the opening of dependency proceedings results in any adverse effects upon the child or children who were the subject of the proceedings?
8. What are the operational/fiscal impacts of opening dependency proceedings throughout the state of Arizona? [1]

Following the formal passage of the Senate bills, the DES/DCYF and the AOC involved representatives from Arizona State University-School of Justice & Social Inquiry in a series of meetings related to the development of a research protocol to comply with the formal requirements of the newly passed legislation. By September 2003, a formal research protocol (with Institutional Review Board approval) was completed and a Memorandum of Understanding between Arizona State University and the DES/DCYF was finalized to support this unfunded mandate.

A Brief History of Open Dependency Hearings

Policy makers and advocates argue the need for open dependency hearings based on factors such as the need for public scrutiny of hearings/cases; the ability for media to access, evaluate and provide comment to the general public; and the ability to

[1] It was agreed that the Administrative Office of the Courts (AOC) would address the operational/fiscal impacts of opening dependency hearings to the public. Therefore, this item is excluded from this analysis report.

establish accountability and evaluate the effectiveness of child welfare officials and agencies (Bean, 2001). Conversely, legal scholars have argued that open dependency proceedings risk the privacy of children and parents, dampen the rehabilitative spirit necessary to reunite children and families, and ultimately are not in the "best interests" of the children the courts promise to serve (Bean, 2001). By 2003, 12 states had enacted legislation to open dependency hearings; they were Colorado, Florida, Illinois, Iowa, Michigan, Minnesota, Nebraska, New Mexico, New York, North Carolina, Oregon, and Texas. Only Minnesota chose to mandate a formal evaluation effort aimed at understanding and making sense of the potential impacts of opening dependency hearings to the public.

In August 2001, the Minnesota Supreme Court completed a funded, three-year pilot project aimed at evaluating the impacts of open dependency proceedings in 12 counties. Site visits, interviews, and focus groups were conducted in all 12 pilot counties during the summer of 1999. Project staff conducted face-to-face interviews with court personnel; facilitated focus groups with attorneys, public defenders, social workers, and guardian ad litems (GALs); observed courtroom proceedings; and reviewed physical court records.

In addition, the court collaborated with the National Center for State Courts in developing a survey instrument. Two waves (June 2000 and March 2001) of surveys were mailed to judges, court administrators, county attorneys, public defenders, GALs, social workers and the news media. During the first survey, 1,171 surveys were mailed and 194 (16.56%) surveys were returned. The second wave consisted of 1,050 surveys mailed with 335 (31.90%) returned surveys.

The results of this pilot project were:

- A slight, but noticeable increase, in attendance at child protection proceedings.
- Closures of hearings occurred infrequently.
- Open hearings had little effect on the content or duration of hearings.
- Open hearings did not result in any documented direct or indirect harm to any party.
- Initial media reactions waned after the introduction of open hearings.
- Privacy concerns were most noticeable among public defenders.
- Filing of dependency cases increased in 8 of the 12 counties.
- Some evidence suggested increased accountability by child protection officials. (Cheesman, 2001)

The Minnesota study cited no specific limitations within their evaluation. However, the study noted that the lack of participation from the public in open hearings reduced the probability of harmful consequences related to privacy issues of children and parents. Additionally, survey respondents from a large urban county appeared to be more favorable to open hearings than their rural counterparts. Large child protection caseloads and a more organized child protection community/media were offered as possible explanations.

Based on the passage of two Senate bills, Arizona is now the second state to complete some form of formalized evaluation to make sense of the impacts and practicalities associated with opening dependency hearings to the public. The following sections outline the methods, data analysis, findings and recommendations associated with the 18 month pilot project that involved all of Arizona county juvenile courts.

Data Collection Methods

Over the past 18 months, 15 Arizona county juvenile court jurisdictions have participated in the open dependency court pilot. According to Senate bill legislation, county-level court participation was based on a three-tier formula as follows:

1 = A population of more than 500,000 persons (10%)
2 = A population of more than 150,000 but less than 500,000 persons (5%).
3 = A population of 150,000 or less persons (5 – 10%)

The counties overall citizen population statistic determined the percentage of dependency hearings that should be open to the public. For example, in Maricopa County the overall 2000 census indicated a citizen population over 3 million. Therefore, it was expected that the Maricopa County juvenile court would open at least 10% of its total dependency hearing volume. Table 1 illustrates by county-level hearing requirements and the expected versus the actual open dependency hearing volumes.

Table 1 - County Hearing Volumes (Expected versus Actual)

County	Population – 2000 Census	Open Hearings – Hearing Volume Criteria (Listed above)	Total Dependency Hearings	Expected - Open Hearing Volume	Actual – Open Hearing Volume
Apache *	69,423	3	193	10	6
Cochise *	117,755	3	1,331	67	39
Coconino	116,320	3	490	25	29
Gila	51,335	3	492	25	341
Graham	8,547	3	317	16	16
Greenlee	8,547	3	128	6	6
La Paz	19,715	3	3	1	1
Maricopa *	3,072,149	1	22,932	2,293	2,251
Mohave *	155,032	2	643	32	31
Navajo *	97,470	3	699	35	11
Pima *	843,746	1	12,348	1,234	988
Pinal	179,727	2	1,871	94	233
Santa Cruz	38,381	3	152	8	12
Yavapai *	167,517	2	2,618	131	130
Yuma *	160,026	2	883	44	6
Totals			45,100	4,021	4,100

* Indicates that county did not reach expected hearing volume threshold.

Open Dependency Hearings – Who Attends and What Happens?

The Arizona open dependency hearing legislation posed eight questions to be answered as part of this analysis. Five of these questions relate to demographic data associated with actual open dependency hearings.

1. How many and what type of dependency proceedings were open to the public?
2. How many dependency proceedings occurred where a person objected to the proceeding being open to the public?
3. How many and what type of dependency proceedings were ordered closed by the court and for what reason?
4. How many and what type of dependency proceedings were ordered closed at the request of a child who was at least twelve years of age and a party to the proceedings?
5. How many dependency proceedings did a person who was not a party to the proceeding attend?

Five of the eight impact questions included in the open dependency hearing legislation required the collection of individual hearing-level demographic information. Prior to starting any open dependency pilot within a particular county, the AOC and county-level court administration determined their preferred methodology for implementing the pilot program. For example, a county may have chosen to open ALL dependency hearings while another may have selected a certain hearing type (i.e. initial dependencies versus report and review hearings). Additionally, implementation dates of county-level pilot programs varied based on completion of pre-pilot tasks (i.e. meetings with county clerk officials, judicial training, etc.)

Prior to the start of any pilot, county-level court staff were provided with a data collection form that was completed for every open dependency hearing. The data collection form summarized information related to:

- the type of hearing,
- any objections related to the opening of a hearing to the public,
- the party who provided the objection,
- the court's disposition of the objection (whether the hearing would remain open or be closed along with a reason for closure)

To simplify reporting related to the reasons for closure of a hearing, court staff selected from a list of eight possible reasons for closing a hearing, they included:

1. Not in the child's best interest;
2. Would endanger the child's physical or emotional well-being;
3. Child, age 12 or older and a party to the case requested closure;
4. Privacy rights of a child need protection;
5. Privacy rights of parent/guardian/caregiver need protection;
6. Privacy rights of child's siblings and any other person need protection;
7. Would endanger the safety of another person, and

8. All parties did not agree to case being open to the public.

The completed data collection form, along with final minute entry, was then forwarded to DES/DCYF for entry into a database. Once received by DES/DCYF, the information from the data collection form could be directly input into the database. In order to determine hearing attendance by non-parties, DES/DCYF staff reviewed the minute entry and coded/input hearing attendance by such non-parties as: relatives, current caregivers, future placement individuals, witnesses, parent advocates, members of the media, and other individuals.

Table 2 provides a recap (by county) of the demographic data in response to the first five questions posed within the Senate bill. For ease of reporting, detailed hearing types were consolidated into three reporting groups: initial protection hearings, report and reviews, and severance hearings.

Table 2 – Hearing Demographics

		#1		#2	#3	#4	#5
County	**Hearing Type**	**# of Open Hearings**	**# of Closed Hearings**	**Party Objected – Open Hearing**	**Closed by the Court – Reason Closed**	**Closed/ Child's Objection**	**Hearings - Non-party Attendees**
Apache	Initial Protective Hearings	3	1	1 Parents Attorney	0	0	1 (25%)
	Report and Review	1	0	0	0	0	0 (0%)
	Severance	1	0	0	0	0	1 (100%)
Cochise	Initial Protective Hearings	21	0	0	0	0	3 (14%)
	Report and Review	13	0	0	0	0	8 (62%)
	Severance	5	0	0	0	0	1 (20%)
Coconino	Initial Protective Hearings	2	3	1 AG 2 Parents Attorney	0	0	3 (60%)
	Report and Review	12	7	1 AG 5 Parents Attorney	1 Privacy Rights/Parent	0	8 (42%)
	Severance	3	2	2 Parents Attorney	1 Privacy Rights/Parent	0	1 (20%)
Gila	Initial Protective Hearings	144	0	0	0	0	85 (59%)
	Report and Review	186	2	2 Parents Attorney	1 Privacy Rights/Parent	0	117 (62%)
	Severance	8	1	0	0	0	3 (33%)

		#1		#2	#3	#4	#5
County	**Hearing Type**	**# of Open Hearings**	**# of Closed Hearings**	**Party Objected – Open Hearing**	**Closed by the Court – Reason Closed**	**Closed/ Child's Objection**	**Hearings - Non-party Attendees**
Graham	Initial Protective Hearings	4	0	0	0	0	1 (25%)
	Report and Review	10	0	0	0	0	4 (40%)
	Severance	2	0	0	0	0	0 (0%)
Greenlee	Initial Protective Hearings	0	0	0	0	0	0 (0%)
	Report and Review	6	0	0	0	0	3 (50%)
	Severance	0	0	0	0	0	0 (0%)
La Paz	Initial Protective Hearings	0	1	1 Parents Attorney	0	0	0 (0%)
	Report and Review	0	0	0	0	0	0 (0%)
	Severance	0	0	0	0	0	0 (0%)
Maricopa	Initial Protective Hearings	1012	0	1 Parents Attorney	0	0	339 (34%)
	Report and Review	1036	1	0	1 Privacy Rights/Parent	0	412 (40%)
	Severance	202	0	0	0	0	97 (48%)
Mohave	Initial Protective Hearings	10	0	1 GAL	0	0	6 (60%)
	Report and Review	15	0	0	0	0	2 (13%)
	Severance	6	0	0	0	0	1 (17%)
Navajo	Initial Protective Hearings	3	0	0	0	0	1 (33%)
	Report and Review	8	0	0	0	0	5 (63%)
	Severance	0	0	0	0	0	0 (0%)
Pima	Initial Protective Hearings	380	3	3 GAL 4 Parents Attorney 1 Parent 1 Child	0	1	197 (51%)
	Report and Review	532	1	1 Child	0	1	256 (48%)
	Severance	72	0	0	0	0	31 (43%)

		#1		#2	#3	#4	#5
County	**Hearing Type**	**# of Open Hearings**	**# of Closed Hearings**	**Party Objected – Open Hearing**	**Closed by the Court – Reason Closed**	**Closed/ Child's Objection**	**Hearings - Non-party Attendees**
Pinal	Initial Protective Hearings	161	52	6 Parent 1 Parents Attorney	45 All parties did not agree to closure 1 Privacy Rights/Parent 1 Not in child's best interest	0	68 (32%)
	Report and Review	20	0	0	0	0	7 (35%)
	Severance	0	0	0	0	0	0 (0%)
Santa Cruz	Initial Protective Hearings	2	0	0	0	0	2 (100%)
	Report and Review	10	0	0	0	0	2 (20%)
	Severance	0	0	0	0	0	0 (0%)
Yavapai	Initial Protective Hearings	83	0	0	0	0	64 (77%)
	Report and Review	45	0	0	0	0	35 (78%)
	Severance	2	0	0	0	0	1 (50%)
Yuma	Initial Protective Hearings	5	0	0	0	0	2 (40%)
	Report and Review	1	0	0	0	0	1 (100%)
	Severance	0	0	0	0	0	0 (0%)
TOTALS		4,026	74	34	51	2	1,768

For clarification purposes it is necessary to provide further detail related to non-party attendance at hearings. Parties are defined as those individuals who have a legal right to appear in court for dependency matters (i.e., biological parents, attorneys, child protection case workers). Federal law, more specifically, the Child Abuse Prevention and Treatment Act (CAPTA) encourages local courts and child protection agencies to involve family relatives in initial dependency matters. The aim of this involvement is to offer support (potential placement, etc.) to the child / children of the dependency matter. For example, it is common practice by courts to allow foster parents into report and review hearings. Neither of these considerations was considered within the open dependency pilot legislation. Therefore, family relatives and foster parents are included within our non-party classification and final demographic data presented in Table 3.

Table 3 – Non-Party Hearing Attendance by Type

County	Hearing Type	Relatives	Current Caregivers	Future Placements	Witness / Parent Advocate	Media	Other
Apache	Initial Protective Hearings	1	0	0	0	0	0
	Report and Review	2	4	1	2	0	4
	Severance	1	0	0	0	0	0
	% of Involvement	27%	27%	7%	13%	0%	27%
Cochise	Initial Protective Hearings	1	2	0	0	0	1
	Report and Review	2	4	1	2	0	4
	Severance	0	0	0	1	0	0
	% of Involvement	17%	33%	6%	17%	0%	28%
Coconino	Initial Protective Hearings	1	1	0	0	0	2
	Report and Review	4	3	0	0	0	3
	Severance	1	0	0	0	0	0
	% of Involvement	40%	27%	0%	0%	0%	33%
Gila	Initial Protective Hearings	42	32	8	3	0	43
	Report and Review	54	57	12	1	0	56
	Severance	1	1	0	0	0	1
	% of Involvement	32%	29%	6%	1%	0%	32%
Graham	Initial Protective Hearings	1	0	0	0	0	0
	Report and Review	3	2	0	1	0	1
	Severance	0	0	0	0	0	0
	% of Involvement	50%	25%	0%	13%	0%	13%
Greenlee	Initial Protective Hearings	0	0	0	0	0	0
	Report and Review	0	0	1	0	0	2
	Severance	0	0	0	0	0	0
	% of Involvement	0%	0%	33%	0%	0%	67%
La Paz	Initial Protective Hearings	0	0	0	0	0	0
	Report and Review	0	0	0	0	0	0
	Severance	0	0	0	0	0	0
	% of Involvement	0%	0%	0%	0%	0%	0%
Maricopa	Initial Protective Hearings	185	36	2	24	3	145
	Report and Review	219	117	4	24	3	173
	Severance	41	43	1	9	0	44
	% of Involvement	42%	18%	1%	5%	1%	34%
Mohave	Initial Protective Hearings	4	1	2	0	0	2
	Report and Review	1	0	0	0	0	1
	Severance	2	0	1	0	0	0
	% of Involvement	50%	7%	21%	0%	0%	21%
Navajo	Initial Protective Hearings	1	0	0	0	0	0
	Report and Review	5	3	0	0	0	1
	Severance	0	0	0	0	0	0
	% of Involvement	60%	30%	0%	0%	0%	10%
Pima	Initial Protective Hearings	109	60	18	17	1	95
	Report and Review	111	125	6	28	0	96
	Severance	11	21	1	0	0	9
	% of Involvement	33%	29%	4%	6%	>1%	28%
Pinal	Initial Protective Hearings	50	38	8	1	0	15
	Report and Review	3	5	0	1	0	1
	Severance	0	0	0	0	0	0
	% of Involvement	43%	35%	7%	2%	0%	13%
Santa Cruz	Initial Protective Hearings	2	0	0	0	0	0
	Report and Review	1	1	0	0	0	0

County	Hearing Type	Relatives	Current Caregivers	Future Placements	Witness / Parent Advocate	Media	Other
	Severance	0	0	0	0	0	0
	% of Involvement	75%	25%	0%	0%	0%	0%
Yavapai	Initial Protective Hearings	26	21	15	22	0	36
	Report and Review	9	16	5	19	0	13
	Severance	0	0	0	1	0	0
	% of Involvement	19%	20%	11%	23%	0%	27%
Yuma	Initial Protective Hearings	1	0	0	0	0	1
	Report and Review	1	0	0	0	0	0
	Severance	0	0	0	0	0	0
	% of Involvement	67%	0%	0%	0%	0%	33%
	Statewide % of Involvement	36%	24%	4%	6%	<1%	30%

* IMPORTANT: Multiple non-party attendees may be present at a single hearing. Therefore, these numbers may be higher than overall hearing counts.
** Some percentages may exceed 100% due to rounding.

The results shown in Table 3 indicate that family relatives and foster parents/current placement individuals represent 60% of the non-party participants in hearings. Due to the number of differing individuals who attend dependency hearings it was necessary to create an "Other" category. Family friends dominate this category. Probation officers, clinicians, and other agency support staff represent the remaining, smaller percentage within this category.

Open Dependency Hearings – Participant Satisfaction and Understanding Potential Adverse Effects

Understanding the overall satisfaction of courtroom participants and making sense of any adverse effects related to opening hearings to the public were articulated in two questions associated with the legislative mandate of open dependency hearings. They were:

6. What were the satisfaction levels of participants in those dependency proceedings that were open to the public?
7. Did the opening of dependency proceedings results in any adverse effects upon the child or children who were the subject of the proceedings?

Satisfaction Survey

Hearing demographic data answers a number of quantitative questions related to open versus closed hearings and non-party attendees. However, this type of data cannot advise us as to the attitudes of courtroom participants related to open dependency hearings. This fact must also have been on the mind of legislators since the final open dependency pilot legislation mandated a satisfaction survey of courtroom participants. Using the county-level hearing data collected over a period of 18 months, a survey of attorneys, case managers, and Court Appointed Special Advocate (CASA) volunteers who took part in the open hearing process can be accomplished to

determine overall satisfaction with open court proceedings along with any concerns related to effects of proceedings on children who are subjects of dependency matters.

One of the challenges associated with the satisfaction survey surrounded the selection of a sample of participants. Dependency cases require a longer-term commitment from court officials – especially attorneys and case managers. A typical case may exceed 18 months in duration and parties associated with a case change. Attorneys are often re-assigned to cases or have to be replaced due to caseload commitments or conflicts. Child protection case managers are frequently transferred to other positions or leave the agency. For example, during the period of January – June 2004, 104 new case managers were hired within the agency. These staffing-related nuances created deficiencies that had to be addressed within our survey sampling methodology.

In an attempt to maximize participation and access, enabling equal participation by ALL courtroom participants to our survey, the following decisions was made:

- A statewide participation notice would be sent to all Child Protective Services (CPS) caseworkers and attorneys from the Attorney General's office inviting them to participate in the satisfaction survey if they participated in an open dependency hearing.
- All Court Appointed Special Advocate (CASA) volunteers who participated in a case that was part of the open dependency pilot would be solicited for participation in the satisfaction survey.
- All court-appointed attorneys in Maricopa and Pima counties would be solicited for participation in the satisfaction survey if they participated in an open dependency hearing.
- A random sample of open dependency cases from rural counties (not Pima and Maricopa counties) would be selected and parents' attorneys on these cases would be solicited for participation in the open dependency satisfaction survey.

In making these decisions the hope was to provide equal opportunity for those who were in some way involved in the open dependency pilot. Additionally, the satisfaction survey was made available via a secure, Internet-enabled program in order to save mailing expense and make efficient use of participant time.

The Arizona legislature wanted the satisfaction survey to answer two primary questions. First, how satisfied were courtroom participants related to hearings that were open to the public? Second, were there any adverse effects related to the well-being of a child or children involved with dependency actions? While it would be efficient to ask courtroom participants these two questions, it would not be possible to extrapolate or generalize as to a particular detail that may lead to positive or negative attitudes within court processes. For example, if we asked a participant how satisfied they were with dependency hearings that are open to the public and their answer indicated some level of dissatisfaction we would be unable to provide any explanation as to the factor or facet

that may have led to the dissatisfaction. Therefore, it was necessary to develop a number of questions that when evaluated could provide a detailed understanding.

Measures

The Minnesota Open Hearings Project co-developed a survey instrument with the National Center for State Courts. DES/DCYF project staff was given the approval by the Minnesota Supreme Court to use this survey instrument. These measures included twenty-one Likert-type questions to assess attitudes regarding open court experiences. The response scale consisted of five potential responses: positive effect, negative effect, no effect, no opinion, and don't know. This survey included a number of questions related to open dependency hearings that would not be included in our final analysis. However, the project team believed that this survey provided the best overall measure based on the limited amount of time and resources available to complete the evaluation.

Using the Minnesota measures as a baseline, the project team made minor revisions to the wording of questions and eliminated one question entirely (e.g. related to the opening of court records). The final survey yielded twenty Likert-type questions with several different analysis scales based on the question being posed. A sample of this survey can be found in the Appendix of this document. Seven of the twenty questions provided input related to overall satisfaction with the open dependency program and effects of open dependency hearings on child parties.

Results

Attorneys, case managers, and Court Appointed Special Advocate (CASA) volunteers were all solicited to participate in the satisfaction survey. Table 4 indicates the demographic aspects of survey respondents.

Table 4 – Satisfaction Survey Participants

Classification	Gender	#	%	Avg. Years Employed within this Classification
CPS Case Manager	Male Female	2 11	15 85	3-4 years
Assistant Attorney General	Male Female	4 4	50 50	3-4 years
Parent's Attorney	Male Female	4 14	22 78	3-4 years
CASA Volunteers	Male Female	1 14	7 93	2-3 years

The overall number of survey respondents (54) is small and therefore one should consider this when reviewing results. However, while the number of survey participants is small, it is clear that most respondents have significant experience in their job classification. This high level of experience would give them an advantage in accessing the differences between traditional dependency court and the open court pilot. Additionally, this higher level of experience offsets concerns related to turnover in dependency court participants.

Seven survey questions were used to: 1) evaluate the overall satisfaction of courtroom participants related to open dependency hearings, and 2) determine the perceived effects upon children who are subjects of dependency matters. To gauge overall respondent satisfaction with open dependency court, we asked five questions. We framed satisfaction around issues of increased time in preparing for or conducting court hearings, the overall quality of court hearings, changes in courtroom documents or discussion, and impact to parent participants. Table 5 illustrates each of the survey questions and appropriate demographic statistics.

Table 5 – Satisfaction Survey – Overall Satisfaction

Survey Question	Responses	#	%
Has opening child protection hearings to the public affected the time you spend in court hearings?	1 = None 2 = 1-5 minutes 3 = 6-10 minutes 4 = 11-15 minutes 5 = 16 minutes or more Missing	28 8 7 2 6 3	55 16 14 4 12 0
Has opening child protection hearings to the public affected the amount of preparation time required for these proceedings in court? Note: Preparation time can include your time and that of any staff member/supervisor who assists with this case.	1 = None 2 = 1-5 minutes 3 = 6-10 minutes 4 = 11-15 minutes 5 = 16 minutes or more Missing	41 1 1 2 5 4	82 2 2 4 10 0
In your judgment has the quality of child protection proceedings been affected by opening child protection hearings to the public?	1 = A Lot Affected 2 = Somewhat Affected 3 = A Little Affected 4 = Not Affected Missing	1 7 8 35 3	2 14 16 69 0
Have you observed any overall changes in the **content of petitions, exhibits or courtroom statements** as a result of opening child protection proceedings to the public?	1 = Negative Change 2 = No Significant Change 3 = Positive Change Missing	7 37 6 4	14 74 12 0
In your opinion, has opening child protection proceedings to the public had an impact on the **parents** who are involved with the case?	1 = Negative Impact 2 = No Impact 3 = Positive Impact Missing	2 36 10 6	4 75 21 0

To gauge the impact of open dependency hearings on children who are the subject of a dependency matter we asked two survey questions. Table 6 illustrates each of the survey questions and appropriate demographic statistics.

Table 6 – Impact on Children

Survey Question	Responses	#	%
Have the services (such as counseling or visitation) available or offered to **children** involved in child protection proceedings been affected by opening child protection hearings to the public?	1 = A Lot Affected 2 = Somewhat Affected 3 = A Little Affected 4 = Not Affected Missing	2 4 0 45 3	4 8 0 88 0
In your opinion, has opening child protection proceedings to the public had an impact on **a child or the children** who are involved with the case?	1 = Negative Impact 2 = No Impact 3 = Positive Impact Missing	14 35 2 3	27 69 4 0

Findings

There appears to be a level of consistency among respondent attitudes in their overall satisfaction with open dependency hearings. It is clear that open hearings have not generated undue time commitments in either preparing for or carrying out hearings. Forty one (88%) of the respondents indicated that there has been no change in preparation times prior to carrying out a dependency hearing. Additionally, thirty six (71%) of respondents indicated that hearing times have increased by a maximum of 5 minutes. When asked whether overall court proceedings have been affected by open hearings, thirty five (69%) respondents indicated that there has been "no impact" within the courtroom. Parents in dependency matters also report either no impact or being positively impacted by open hearings according to forty six (96%) of the respondents. Overall it appears that many courtroom participants see open dependency hearings as uneventful.

In addition to courtroom participant satisfaction, legislators were concerned for the children who are parties to dependency matters. Children were present in 260 (6%) of the 4,100 dependency hearings that were part of this analysis. The vast majority of these children were older, dually-adjudicated youth. The small percentage of children present within the courtroom may explain why forty five (88%) of respondents indicated that open dependency hearings had not affected children who were part of these hearings. Additionally, a majority of respondents, thirty five (69%) indicated that open dependency hearings had no case-level impact on children who were the subject of dependency matters.

Discussion

The goals of this report were to evaluate the number of court hearings that were opened or closed to the public and to survey courtroom participants on their attitudes surrounding the open hearing process. Unlike the Minnesota study, all data collection, analysis and reporting functions were carried out as an unfunded mandate. Hearing data were summarized and a satisfaction survey was conducted for the purpose of assessing the open dependency process. So what can we glean from these descriptive data? First, it appears that courtroom participants are noncommittal about the impacts of allowing the public into dependency court. While not dissatisfied with various aspects of the open dependency process, the vast majority of respondents appear to indicate that there has been no change. Unfortunately, the developed survey did not provide for extensive "additional responses" from respondents. However, one respondent made it a point to send additional feedback via an electronic message. The message provides more descriptive feedback regarding one possible pitfall to the existing open hearings process.

> "If more members of the public knew that hearings were open, more people might come, and then CPS would be more accountable. Parents generally don't want the hearings open, but in the cases where parents would want the press or other members of the public present, in the spirit of the open hearing law's purpose, they might opt for it, but because CPS can object, there is no way to ever get members of the press or the public into a hearing!
>
> The open hearing law has no teeth!" (EMAIL note from an attorney representing parents)

Clearly, this respondent feels that more work should be done to educate the general public about the availability of open hearings. Additionally, the respondent is concerned about quick reactions to “close” hearings based on single party objections. While this is the opinion of one, it may indicate that additional thought and research may be necessary when considering future statutory language or judicial procedures.

As part of my responsibilities for this project, I reviewed many of the paper records that were submitted by county courts. Based upon this review, I identified several issues indicating a lack of consistency in opening or closing hearings. While few hearings were officially closed, demographic data indicates that some counties did so more often than other counties. Within the counties with a higher number of “closed” hearings, judges were unnecessarily closing hearings in situations where only parties were present. The following electronic correspondence from a representative from the Attorney General’s office who represents child protective services social workers illustrates a view of this situation.

> “The main point I want to make is that very few of our hearings ARE open. Our judges are very good about asking participants what their wishes are in this regard at the first hearing. Almost always, the attorneys for either the parents or children or both, want privacy and request closed hearings.”

Court records did not always indicate whether the closure affected the current hearing only or all hearings (current and future). Failure to do so leaves open for interpretation whether future non-party attendance should be allowed.

The fact that a large percentage of hearings associated with this report were “open” is deceptive. The original thought surrounding the open dependency hearing legislation was that there was a strong desire by the public to be present in dependency hearings. However, the data within this report demonstrates that open dependency hearings (i.e., hearings with members of the public present) are a rare exception rather than the rule. Data also confirms that a large percentage of hearings that are “open” are simply represented by the same individuals (legal parties) who came to court before the open dependency pilot began.

So is there something to be said with regards to future action related to open dependency hearings? Our study indicates that impacts have been minimal, though caution must be exercised in assuming too much into this fact based on the low volume of non-party courtroom attendance. Several courtroom parties provide some qualitative evidence that additional work may be necessary to understand hearing closure procedures and statutory provisions.

References

Bean, K. S. (2001). Changing the rules: Public access to dependency court. *Denver University Law Review*. Retrieved on August, 14 2003, from www.lexis-nexis.com.

Cheesman, F. L. (2001). *Key findings from the evaluation of open hearings and court records in juvenile protection matters*. Minnesota Supreme Court State Court Administrator's Office.

Appendix

YOUR INPUT IS VERY IMPORTANT!

August 1, 2005

I am a graduate student under the direction of Dr. Vera Lopez in the College of Liberal Arts & Science at Arizona State University. I am conducting a research study on behalf of the Arizona Department of Economic Security/Division of Children, Youth and Families to evaluate your recent experiences in Juvenile Court.

I am requesting your participation in this survey, which will involve approximately 20 minutes of your time. Your participation in this study is voluntary, there is no penalty if you decide not to participate, and this will not affect your case with Child Protective Services.

No names or identifying information will be provided as a part of this analysis, and all information will be kept confidential. The results of the research study may be published, but your name will not be used.

If you have any questions concerning the research study, please call me at (480) 326-6432 or Dr. Vera Lopez at (480) 965-7681.

Sincerely,

Gregory B. Broberg
Graduate Student

THE SURVEY BEGINS ON THE REVERSE SIDE OF THIS PAGE

Please identify yourself for the survey:

- O Assistant Attorney General
- O CPS Caseworker
- O Attorney
- O Guardian Ad Litem
- O Court Appointed Special Advocate

1	Has opening child protection hearings to the public affected the time you spend in court hearings?	O **No** O **Yes (How much?)** O 1-5 min. more O 6-10 min. more O 11-15 min. more O 16 min. or more
2	In your judgment has the quality of child protection proceedings been affected by opening child protection hearings to the public?	O Not Affected O A Little Affected O Somewhat Affected O A Lot Affected
3	Have the services (such as counseling or visitation) available or offered to **children** involved in child protection proceedings been affected by opening child protection hearings to the public?	O Not Affected O A Little Affected O Somewhat Affected O A Lot Affected
4	Have the services (such as counseling or visitation) available or offered to **parents** involved in child protection proceedings been affected by opening child protection hearings to the public?	O Not Affected O A Little Affected O Somewhat Affected O A Lot Affected
5	I believe that greater efforts should be made to inform the general public of the open child protection hearings policy?	O Strongly Agree O Agree O Disagree O Strongly Disagree

THE REMAINING SECTION OF THIS SURVEY SHOULD BE COMPLETED IF YOU ARE:

A JUDGE,
AN ASSISTANT ATTORNEY GENERAL REPRESENTATIVE,
AN ATTORNEY,
A CASEWORKER,
A GUARDIAN AD LITEM OR
A COURT APPOINTED SPECIAL ADVOCATE

6	Has opening child protection hearings to the public affected the amount of preparation time required for these proceedings in court? Note: Preparation time can include your time and that of any staff member/supervisor who assists with this case.	O **No** O **Yes (How much?)** O 1-5 minutes O 6-10 minutes O 11-15 minutes O 16 minutes or more
7	To what extent are the **parents** with whom you work aware that child protection hearings are open to the public?	O Very Aware O Aware O Somewhat Aware O Not At All Aware

8	Do you inform the **parents** that child protection hearings are open to the public prior to a courtroom proceeding?	O Never O Some of the Time O Most of the Time O All The Time
9	To what extent are the **children** with whom you work aware that child protection hearings are open to the public?	O Very Aware O Aware O Somewhat Aware O Not At All Aware
10	Do you inform the **children** that child protection hearings are open to the public prior to a courtroom proceeding?	O All The Time O Most of the Time O Some of the Time O Never
11	How has opening child protection proceedings to the public affected your ability to work with children, parents, judges, public defenders, case managers, county attorneys, and GALs or the overall administration of the juvenile court?	O No Effect O Negative Effect O Positive Effect
12	Have you observed any overall changes in the **content of petitions, exhibits or courtroom statements** as a result of opening child protection proceedings to the public?	O Positive Change O Negative Change O No Significant Change
13	In your opinion, has opening child protection proceedings to the public had an impact on the **public's ongoing awareness of the need for development of community standards** regarding what constitutes child abuse and neglect?	O Positive Impact O Negative Impact O No Impact
14	In your opinion, has opening child protection proceedings to the public had an impact on the **public's ongoing awareness of the cost of services and the availability of funding** for these services?	O Positive Impact O Negative Impact O No Impact
15	In your opinion, has opening child protection proceedings to the public had an impact on the **public's ongoing awareness of the nature, scope, and/or purpose** of child protection matters?	O Positive Impact O Negative Impact O No Impact
16	In your opinion, has increased access by the public to child protection proceedings had an **effect on the accountability of child protection system professionals**?	O Positive Effect O Negative Effect O No Effect
17	In your opinion, has opening child protection proceedings to the public had an impact on **a child or the children** who are involved with the case?	O Positive Impact O Negative Impact O No Impact
18	In your opinion, has opening child protection proceedings to the public had an impact on the **parents** who are involved with the case?	O Positive Impact O Negative Impact O No Impact
	*The following questions relate to the **public's** participation in the courtroom.*	
19a	How often do you see more people in the courtroom than before hearings were open to the public?	O Always O Sometimes O Almost Never O Never If your answer is **NEVER** then you have completed this survey.
19b	How often are ALL members present in the courtroom asked to identify themselves?	O Always O Sometimes O Almost Never O Never
19c	How often was it clear why these people were attending the hearings in court?	O Always O Sometimes O Almost Never O Never

The following questions ask you to identify how often specific participants were in the courtroom during your most recent court case/hearing.

20a How often were **relatives** in the courtroom?

- O Always
- O Sometimes
- O Almost Never
- O Never

20b How often were **family friends** in the courtroom?

- O Always
- O Sometimes
- O Almost Never
- O Never

20c How often were members of the **media** in the courtroom?

- O Always
- O Sometimes
- O Almost Never
- O Never

20d How often were **other members** of the public in the courtroom?

- O Always
- O Sometimes
- O Almost Never
- O Never

THANK YOU FOR TAKING THE TIME TO COMPLETE THIS SURVEY!

YOUR PARTICIPATION IS APPRECIATED.