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“The Juvenile Justice Initiative of Illinois advocates for humane, equitable and sustainable reforms with full human rights for all children and young adults in conflict with the law.”

CHILDREN’S EXPERIENCE with VIRTUAL COURT

Interviews with Children in State Juvenile Prisons, Nov 30 – Dec 1, 2021

For Release: December 15, 2021

Introduction

In preparation for a summit on the impact of virtual court hearings on children’s rights, leadership from the Juvenile Justice Initiative (JJI) spoke with the Independent Ombudsperson’s office and the leadership at the Illinois Department of Juvenile Justice (IDJJ) to request access to interview children in the northern facilities who had experienced court over zoom/virtual hearing. The IDJJ leadership was immediately responsive, identified six children who had experienced virtual court hearings and were willing to be interviewed, and agreed upon a schedule for the visits. The interviews were conducted in IYC Warrenville, IYC Chicago and IYC St Charles over a two day period, from November 30 through December 1, 2021.

The JJI leadership wants to thank the IDJJ leadership and the Independent Ombudsperson’s Office for their assistance in making these interviews possible.

At all points, the identity of the children and confidentiality of their responses was protected throughout the interviews and within this report.

This is an unprecedented time with a worldwide pandemic resulting in some limited use of virtual court hearings. As we move out of the pandemic it is critical to include the views of those most impacted - the children who were at the center of the virtual court hearings - in any discussion about the impact of the hearings, and in decisions about any future role for technology in the juvenile justice system.

Methodology

This was an informal, qualitative survey of a small number (6) of children who were sentenced to juvenile prison in the IL Department of Juvenile Justice resulting from court hearings that were conducted virtually (in these cases, over Zoom). In all cases, we have striven to maintain confidentiality of both the identity of and comments from the children, so their comments are summarized in the aggregate and paraphrased to maintain confidentiality. Each child was provided with a copy of the survey at the start of the interview, and a copy was provided to facility staff. A copy of the survey is attached in the Appendix to this report. For the sake of confidentiality, all interviews were conducted individually. While not all children identified as male, in the interests of confidentiality for purposes of this report, all will be referred to with male pronouns.

SURVEY RESULTS.

The Experiences and Views of the Children

It is important to begin by setting the stage.

These were interviews with six children who were in the custody of the IL Department of Juvenile Justice. **Custody means that they were removed from their families and locked up in secure facilities during a worldwide pandemic** when congregate settings posed a high risk of disease/death. The issue of the impact of the use of virtual, rather than in person, legal visits and court hearings must be viewed in the **broader context of longstanding racial disparities and concerns over rights deprivations for children in conflict with the law**. In the case of the children who gave these interviews:

- **The well documented racial disparities in the juvenile justice system** were evident in the interview group, **as five of the six children were children of color**.
- **None of the six children had a lawyer during interrogation**.
- **All of the six children reported their confinement was the result of a plea**.

The other context critical to keep in the forefront of this debate is that these are children, all under age 18 at the time of sentencing, who have basic human rights as citizens of the world, and who represent the future in our society. Among those rights are access to a lawyer from the beginning, and deprivation of liberty as a last result (UNCRC).

It is important to note that despite the grim experience of arrest and incarceration, these young people all remained hopeful and focused on a positive future.

All of the children were respectful in their demeanor and thoughtful in their responses.

All of the children were productively engaged in education and/or training efforts.

All of the children have hopes and dreams for their future that are realistic and productive, and that will hopefully come to pass.

Arrest and questioning.

No child had the protection of a lawyer during their initial questioning by the police.

When asked if it would have made a difference to have had a lawyer during police questioning, one child was particularly vocal indicating it would have made all the difference as he would have felt less anxious and so would have been calmer and less emotional in his responses.

Another child reported he didn't even know he had a right to a lawyer during questioning.

Meeting with Lawyer

All six children reported the first meeting with a lawyer was virtual, not in person.

One child reported a guard was in the room in the detention center with him when he first spoke to his lawyer over the phone.

Another child said it was 2-3 weeks before he met his lawyer and then it was over zoom and he didn't feel it was private as the door was cracked open and detention center staff was sitting outside the door.

One child reported being rushed off a phone call with his lawyer because staff was busy.

With one exception (and that was a privately hired lawyer) all legal meetings prior to trial were virtual. ***The one child who reported that his privately retained lawyer met with him in person while he was in detention said he understood what was happening because of the in person***

meeting, and that he felt his conversation was truly private so felt safe sharing more with his lawyer.

Detention Hearing

Some children reported delayed detention hearings due to the pandemic.

In all cases, the **first court hearing on detention was virtual.**

One child reported that it was **difficult to understand** what was happening and that he had to go into a breakout room to speak with his lawyer.

Trial/Plea and Sentencing

All of the children reported that their current commitment to IDJJ was the result of a plea, although one child said he had a trial in an earlier case.

- At least two of the children had at least one in person court hearing where they could meet in person with their lawyer, and they reported they had a better understanding of what was happening as a result.
- One child said that in court he could hear more clearly.
- Another noted that in person he could speak with his lawyer with more privacy.
- The children who went to court virtually (over zoom) reported a lack of privacy. One child said the computer was in an office and a staff person was in the office with him during the hearing. Another said a caseworker was in the room with him.
- A child reported he didn't know how to speak with his lawyer during the virtual court hearing.
- Another said he could have asked more questions if court had been in person.
- One child reported that the court seemed rushed for time and that he couldn't speak privately with a lawyer because the court was so rushed.

Appeal

Only one of the six children reported going through an appeal.

One child said he didn't understand his right to appeal at all.

Lack of Privacy During Virtual Proceedings/Meetings

The lack of privacy during phone/zoom meetings with their lawyers was a common theme.

- Children reported staff in the room with them, or sitting outside an open door,
- Children also reported a lack of confidence in privacy in zoom breakout rooms,
- Children reported feeling rushed by court and by staff, and
- Children reported they were unsure of how to initiate private communications with their lawyers.

As a result, all the children who had occasion to meet in person with their lawyers reported more privacy when they had in person conversations.

CONCLUSION - In Person vs Virtual

While two of the children indicated there might be a place for some virtual proceedings during the height of a pandemic or given great distance to travel, all the children stated that the exceptions should be limited. **All the children concluded it was *better to be in person when speaking with their lawyer and to be in person in court – as the children said:***

- *I understand more in person*
- *The judge understands me better in person – 100% better*
- *I could hear better in court*
- *I had more privacy when I met with my lawyer in person so I could share more information with my lawyer*
- *It was easier to ask questions in person*
- *The technical glitches during virtual hearings caused me anxiety*
- *Virtual court hearings were very rushed so I had no time to talk to my lawyer*
- *The judge didn't talk to me as much as to my lawyer especially through zoom*

It is always extraordinary to remove a child from his home and lock him up, but this extraordinary loss of liberty is particularly sobering when made during a worldwide pandemic when congregate settings posed an extra risk of disease and death.

Particularly where liberty is at stake, we should ensure all our children have the full range of legal protections throughout their case. Yet, the children in this survey were removed from their home without the protection of immediate access to a lawyer.....they were questioned by police without a lawyer....some never had in person meeting with their lawyer.....and they ended up pleading guilty, many over zoom, and then were locked up in state facilities where programming was limited due to the pandemic, and where the pandemic meant quarantine upon arrival which meant isolation without the break/benefit of programming.

As Ricky Watson Director of the National Juvenile Justice Network, stated during a recent North American Plenary at a Global Congress on Juvenile Justice:

During the pandemic, there was a grave] emotional and psychological burden on children left inside [prisons] where family visitation was ended [due to pandemic] and where families were often without the technology & internet access necessary to visit virtually.

We can – and we must – do better for all our children.

Appendix

Questionnaire

Children Who Experienced Virtual Court Hearings during Pandemic

November 30 – December 1, 2021

Background - JJI is hosting a summit on Dec 15, 2021 on the impact of virtual court hearings on children's rights. This Summit will feature Douglas Keith, Counsel in the Democracy Program of the Brennan Center, who will present research on the use of remote technology in courts and impact on access to justice. It will also include speaker(s) from the National Juvenile Defender Center highlighting the impact of virtual court on children's rights, particularly where liberty is at stake.

We would like to include some information on the experience of children in Illinois - a small survey of 11 children in the only juvenile facility in Ireland found that the majority had no idea what was happening and were concerned that their lawyer was not physically present with them. We are curious if children in Illinois had similar experiences.

Here is a list of questions we would like to ask:

1. When did they first meet their lawyer - right upon arrest, at the first court hearing, or another time?
2. Did they meet with their lawyer in person, over the phone or by technology like zoom?
3. Did they understand what their lawyer told them about their case?
4. Did they go to court over the computer?
5. Was their lawyer physically present with them, or was their lawyer on the computer too?
6. Was there a way to speak privately with their lawyer?
7. Did they understand what happened in court?
8. If not - what would have helped them understand better?
9. Was anyone in the room with them while they were in "computer" court? Who was in the room with them?
10. Was there a family member physically present with them when they were in "computer" court?
11. Did their lawyer speak with them privately after court?
12. What would make the process fairer/better for them?
13. Should court be held over a computer? When should court be held in person?
14. When should a child meet with their lawyer in person?
15. Anything else to add?

ALSO:

- What county are you from?
- Did you enter a plea or have a trial?
- Were you advised of your right to appeal?

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