

# Lessons Learned: Listening Sessions and Feedback



*"What we thought [litigants] needed sometimes wasn't what they needed." <sup>1</sup>*

The Family Court Enhancement Project (FCEP), an initiative funded by the U.S. Department of Justice, Office on Violence Against Women (OVW), is a multi-year demonstration project designed to build the capacity of court systems and partner stakeholders to improve child custody decision-making in cases involving domestic violence. In 2013, four project sites began to assess and strengthen their responses to domestic violence in custody and child-related relief cases: Cook County, Illinois (Chicago); the State of Delaware (all three counties); Hennepin County, Minnesota (Minneapolis); and Multnomah County, Oregon (Portland).

The FCEP enabled the project sites to explore, implement, and assess new and innovative court and non-court procedures and practices designed to improve custody and parenting time decision-making and overcome existing barriers identified during the assessment phase of the project.

From the beginning of the project, courts involved in the FCEP saw the need to get information from a wide range of stakeholders, including advocates and community members, about ways in which they could improve.<sup>2</sup> Listening sessions were one of the first and most important methods they used to accomplish that goal. The courts invited community members to attend these sessions, where judges were tasked only with listening to the community's feedback. Attendees were encouraged to provide candid feedback, which the courts then used to help structure subsequent changes in court processes. This document addresses some important aspects of a listening session, including its general purpose and how to put on a successful session.

## Frequently Asked Questions

### 1. What is a listening session?

In the FCEP context, listening sessions were one method used by judicial officers and court staff to get feedback from advocates, legal professionals, and litigants about ways in which their system might improve. They were community engagement events, designed to give the public an opportunity to voice their experiences and concerns with the justice system. Sessions were facilitated by the courts and by community groups, and they were generally held at neutral, public locations, outside of the courthouse itself. Usually judges from the court were present, but they did not respond; their role was only to listen.

FCEP courts generally held listening sessions at the beginning of the project to help guide the process, although at least one FCEP site found them to be so valuable that they continued to host listening sessions throughout the project (and indeed after their funding ended).

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1. Interview with Judge Susan B. Carbon conducted by NCJFCJ staff at the NCJFCJ Annual Conference, Orlando, Florida, July 2019.  
2. For a general look at the FCEP sites' community engagement see <http://familycourtenhancementproject.org/>.

## 2. Why hold listening sessions?

The FCEP courts had many reasons for holding listening sessions, including:

### **Delaware<sup>3</sup>**

- Obtain participants' perspectives on self-represented litigants, existing protection from abuse process, and how domestic violence is considered by the Court in determining custody, placement, and visitation;
- Get feedback on court processes, including petitions, hearings, and the pro se experience.

### **Hennepin<sup>4</sup>**

- Explore concerns regarding alternative dispute resolution, guardians *ad litem*, financial relief, safety, and others;
- Help determine barriers faced by particular communities to seeking protection from the courts and law enforcement;
- Create a forum for community members to describe their experiences and discuss ideas for advancing equality, fairness, and safety.

### **Multnomah<sup>5</sup>**

- Address specific issues, including distrust of the judicial system and systemic racism;
- Improve transparency, deepen public involvement, and increase public awareness of court processes;
- Help judges and court staff to better understand issues of bias and trauma;
- Promote procedural justice.

## 3. Who should be involved in conducting listening sessions?

FCEP courts' listening sessions were initiated by the courts themselves. However, in order to better engage the community, courts enlisted others to help conduct the sessions. Courts found success reaching out to relevant community groups, especially for sessions aimed at the populations they serve. Hennepin County, for example, enlisted the help of several Native American groups to facilitate its listening session for the Native American community.<sup>6</sup> Other courts found national technical assistance providers to be helpful participants in the process.<sup>7</sup>

## 4. What is the court's role in listening sessions?

FCEP courts had success designating a moderator familiar with the court and its processes.

### **The moderator should:**<sup>8</sup>

- Set a tone of mutual respect;
- Be welcoming and make it clear that they understand the range of emotions that court involvement and court orders create for community members;
- Steer people away from questions and towards comments.

### **Leverage relationships with community groups to encourage participation;**

### **Do not respond, at least at initial sessions – “listening-only”;**

- Later sessions may be held to allow for court response;

### **Potential ground rules for judges participating in the sessions include expressing the following:**

- We are here to listen only and will not respond to questions or comments.
- We will listen respectfully without interruption or judgment, with open minds.
- We honor and respect your perspective and the reality of your experience.
- We will listen for what we can agree with or change about our system, not for what we want to rebut.

3. Battered Women's Justice Project et al., State of Delaware: Site Profile, <http://familycourtenhancementproject.org/wp-content/uploads/2016/06/profile-state-of-delaware.pdf> [hereinafter Delaware].

4. Participant Group Introductory Statement, Hennepin County, <http://familycourtenhancementproject.org/wp-content/uploads/2016/09/11.7-Introductory-Statement-Questions-for-all-groups.pdf> [hereinafter Hennepin]; Minnesota Judicial Branch, Fourth Judicial District, Fourth District Report, [http://www.mncourts.gov/mncourtsgov/media/scao\\_library/CEJ/6-16-16-Fourth-Judicial-District-Listening-Session-Report\\_1.pdf](http://www.mncourts.gov/mncourtsgov/media/scao_library/CEJ/6-16-16-Fourth-Judicial-District-Listening-Session-Report_1.pdf) [hereinafter Hennepin report].

5. The Multnomah County Judicial Listening Sessions: A Case Study (August 17, 2018), available at <https://justicesystempartners.org/wp-content/uploads/2018/10/MultCo-Judicial-Listening-Sessions-Case-Study-Final-2018-09-26-.pdf> [hereinafter Multnomah Listening Sessions Report].

6. Hennepin report.

7. Delaware at 6. National providers may not be available to help at all sites.

8. See Hennepin; Multnomah Listening Sessions Report.

*"Listening sessions [allow judges to] hear what the community has to say."<sup>9</sup>*

## 5. How is a successful listening session designed?

### Preparation

- Publicize with flyers:<sup>10</sup>
  - Flyers may be brief, or may invite feedback on specific topics from participants;
  - Place flyers in the courthouse, and distribute to relevant community organizations;
- Carefully consider the location, timing, and general environment of the sessions;
- Hold sessions in neutral, accessible locations with ample seating space and parking, e.g. a school or community building;
- Avoid having security for the events or any significant police presence;
- Consider paying participants or providing them with gift cards or other incentives for their time;
- Make free childcare available for participants;
- Provide a meal, hold the session in conjunction with and complementing another community event, and ensure no time conflict with other events drawing from the same population;
- Provide time before judicial officers arrive for the community to discuss things without them present;<sup>11</sup>
- Consider inviting the following professionals: advocacy groups, domestic violence survivors, attorneys, court staff, custody evaluators,<sup>12</sup> legal service providers, commissioners, mediators, private bar, and judicial officers.<sup>13</sup>

### Meeting structure

Assure participants of confidentiality, to the extent possible:

- Encourage participants to not use their real names;
- Encourage participants not to refer to specific cases before the court;
- Consider a round table format;<sup>14</sup>
- Consider dividing into small groups and matching judges with community leaders;
- Allow attendees to submit comment cards;
- Be clear to participants about the goal of the sessions, and be patient when facing opposition;
- Lay out in writing clear ground rules for participants each session, potentially including but not limited to the following:<sup>15</sup>
  - Encourage everyone to speak;
  - Have specific time limits for speakers;
  - There are no stupid questions;
  - Encourage different perspectives;
  - Challenge ideas and systems, not people;
  - Do not interrupt;
  - Do not ask about specific cases;
- Make options available for those who experience a triggering event, feel frustrated or angry, or need space during the listening session:<sup>16</sup>
  - Smudge room for Native communities;
  - Include an Elder from the community;
  - Floating judge available to talk one-on-one;
  - Crisis counselor and/or advocate;
- Publish official responses to concerns raised at the listening sessions, and thank the

9. Interview with Judge Susan B. Carbon conducted by NCJFCJ staff at the NCJFCJ Annual Conference, Orlando, Florida, July 2019.

10. Data Collection, <http://familycourtenhancementproject.org/multnomah-county-or/data-collection-2/>; Hennepin report: Multnomah flyers.

11. Hon. Anne K. McKeig & Hon. Mary Madden, Family Court Enhancement Project: Improving Access to Justice, 57 FAM. CT. REV. 107 (2019), available at <https://onlinelibrary.wiley.com/doi/pdf/10.1111/fcre.12388>.

12. Focus Group: Custody Evaluators, <http://familycourtenhancementproject.org/wp-content/uploads/2016/09/Custody-evaluator-focus-group-guide.pdf> (last visited Sept. 5, 2019).

13. Delaware FCEP Affinity Group Questions, <http://familycourtenhancementproject.org/wp-content/uploads/2016/09/Delaware-FCEP-Affinity-Group-Questions.pdf> (last visited Sept. 5, 2019).

14. Hennepin report.

15. AHH Ground Rules; Multnomah Listening Sessions Report.

16. See Hennepin 5/30/2018 Facilitator Agenda.

- community for its input;
- Follow up later with more in-depth community conversations, where requested and appropriate;
  - Depending on topic(s) addressed, can use a different format (e.g., presenters with relevant expertise, allow for questions and answers);

## 6. What questions can facilitators use to prompt discussion?

### Potential discussion questions for custody evaluators:<sup>17</sup>

- What parts of the system/practices work well? Please describe. (May want to probe related to what they mean by “work well.”)
- What practices/procedures/systems components do not work well? Please describe.
- What challenges do you face in working with domestic violence cases? Please describe.
- How do you assess for domestic violence? Do you have specific tools that you use? Are these tools adequate or could they be improved? How do you deal with concerns about corroboration?
- How do you assess threat of harm to children? Do you have specific tools that you use? Are these tools adequate or could they be improved?
- What sort of support would help you to provide better services (screening, working with parents and children) in cases involving domestic violence? Give details.
- When is a recommendation of no parenting time appropriate? Have you ever made a recommendation of no parenting time? Would you? Why or why not?
- Any other comments regarding working with cases involving domestic violence?

### Potential discussion questions for advocates:<sup>18</sup>

- When have you felt most respected by the people involved in the courts? When have you felt least respected?
- What opportunities or recommendations do you have for promoting victim safety and batterer accountability?
- What concerns or barriers exist to accessing family court by victim/survivors? What are some ideas as to ways in which court access can be improved?
- What ideas do you have that would help make family court more culturally responsive?
- Do you have any concerns regarding the safety of victims or advocates during court proceedings?
- Are you noticing any common trends that concern you regarding judicial officers?
- Do you have any concerns regarding the monitoring room/waiting areas? Suggestions for improvement?
- What things are working well that help to make victim/survivors feel heard and comfortable? What isn't working?
- What do you think the staff or judge could have done differently in these situations?
- Have you had any issues with your requests for relief not being addressed, not necessarily whether or not the relief was granted?
- Are there any other concerns or thoughts that you came here to share with us today related to the courts? How do you think your concerns might be addressed?

### Other discussion prompts:

- Thinking about your experience as someone who was dealing with domestic violence, what worked well? What didn't work well?
- What advice do you have for judges, other court staff, evaluators, mediators, advocates who assist with restraining orders, advocates who assist with other court proceedings, staff, etc.? What can they do to improve services for those who are dealing with domestic violence?
- Is there anything else you'd like to tell me about your experiences with the family court system?

17. See CE Focus Group Guide.

18. Minneapolis FJC Agenda 5/3/2019.

## 7. How should courts obtain feedback on the changes they make?

Listening sessions are only one form of feedback courts can seek. Some FCEP courts did more than solicit community input at listening sessions—they looked for feedback at every step of the process, both before and after changes were implemented. Courts also sought feedback from judges themselves, incorporating their perspective into the work.

The purpose of ongoing feedback is similar to that of the listening sessions. Some courts highlighted particular purposes for feedback: assessing the information made available to judges in orders of protection;<sup>19</sup> improving courts' awareness of beliefs and biases affecting decision-making; and helping courts understand the difficulties litigants face in protecting their physical and emotional safety, and that of their children, in family court litigation and related processes.<sup>20</sup>

Unlike the listening sessions, feedback was generally targeted to a particular topic of interest. Multnomah County, for example, developed a survey on the topic of procedural fairness,<sup>21</sup> while Delaware created separate surveys for separate groups about domestic violence and custody.<sup>22</sup> Courts specifically sought feedback from litigants, witnesses, victims, support people, and jurors (Multnomah)<sup>23</sup>, as well as domestic violence judges themselves (Cook).<sup>24</sup>

The most studied method of feedback among FCEP courts is the survey. Survey design is a complex topic. Courts suggest examining surveys from other courts as part of the design process.<sup>25</sup> Questions should be specific to experiences of interest, such as attending a court hearing. Questions should present Likert scale responses in order to best obtain useful feedback. Surveys should be distributed in multiple languages, depending on the populations served. The surveys themselves should be distributed at different locations in the courthouse, with survey assistants available for questions. Drop boxes should be displayed prominently near building entrances and exits, with both judges and court staff encouraging participation.

Besides surveys, courts should also consider conducting courthouse “audits”—having personnel walk through the process a litigant would follow to file a petition.<sup>26</sup>

Through these processes and others, courts can solicit feedback to help them be responsive to the needs of the communities they serve.

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19. Domestic Violence Court Judges Survey, <http://familycourtenhancementproject.org/wp-content/uploads/2016/08/Domestic-Violence-Judges-survey-instrument.pdf> (last visited Sept. 5, 2019).

20. Multnomah County Circuit Court, Report on Survey on Procedural Fairness, <http://familycourtenhancementproject.org/wp-content/uploads/2016/09/PF-Survey-Report-2016-06-03-FINAL.pdf> at 1 (May 2016) [hereinafter Multnomah].

21. See Multnomah.

22. Delaware FCEP Affinity Group Questions, <http://familycourtenhancementproject.org/wp-content/uploads/2016/09/Delaware-FCEP-Affinity-Group-Questions.pdf> (last visited Sept. 5, 2019).

23. Multnomah at 2.

24. Domestic Violence Court Judges Survey, available at <http://familycourtenhancementproject.org/wp-content/uploads/2016/08/Domestic-Violence-Judges-survey-instrument.pdf> (last visited Sept. 5, 2019).

25. Multnomah at 2.

26. Interview with Judge Janice M. Rosa (retired) conducted by NCJFCJ staff at the NCJFCJ Annual Conference, Orlando, Florida, July 2019, (discussing Delaware's process). See the FCEP website for more information <http://familycourtenhancementproject.org/delaware/comprehensive-data-collection/>