

## Innovation Brief

# Judicial Colloquies: Communicating with Kids in Court

Juvenile offenders are customarily required to comply with a lengthy list of rules imposed by a judge or juvenile probation counselor. Failures to comply, even those of a technical nature that result from lack of understanding, may be seen by a judge or probation counselor as willful failures and become aggravating factors at review or disposition hearings that push offenders deeper into the juvenile justice or adult court system. However, countless anecdotes describe youth coming out of court hearings confused about what had happened, unclear about the roles of the various adults in the courtroom and unsure of what was expected of them.

The Washington State Judicial Colloquies Project incorporated into the hearing process the judge's use of colloquies that employ developmentally appropriate language. Use of colloquies improved young people's comprehension of the conditions of pre-adjudication release and post-adjudication probation commonly ordered in Washington's juvenile offender proceedings. The project also increased the awareness of court and juvenile justice stakeholders of the need for more developmentally appropriate language in juvenile court.

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### **The Issue**

Any young person coming to juvenile court faces a daunting set of obstacles to understanding, making decisions and acting on their rights and responsibilities in court. Age, experience and varying degrees of normal child development will impact how any youth understands and processes information provided to him/her throughout the proceedings. Yet youth appearing in juvenile court are more likely to have additional challenges understanding and acting on information in court. Research documents the prevalence of language and linguistic delays<sup>1</sup>, special education needs<sup>2</sup>, mental health issues<sup>3</sup>, trauma, and other adverse childhood experiences<sup>4</sup> in these youth.

All of these factors impact how youth hear, process, and retain information.

The jargon, abstract language and complex terminology frequently used in the courtroom can be impossible to navigate, especially for young people<sup>5</sup>. Also, the traditional courtroom dynamics make it difficult for youth to speak up when they do not understand a question or terminology. Judges may expect and be accustomed to youth responding in agreement to questions like, "Do you understand that you are waiving your rights? Do you understand that you must follow all the conditions of my order or face additional consequences? Have you had sufficient time to review

## col•lo•quy

noun \kă-lə-kwē\

**1: conversation, dialogue**

**2: a high-level serious discussion: conference**

this plea with your attorney?” Youth may not know that answering “no” to a judge is an option.

Finally, judicial officers are hard pressed to assess the unique communication needs of each youth given the typical time constraints of court and the expertise needed to “diagnose” the challenges a youth might be experiencing.

The large and growing body of research identifying and assessing the health and developmental needs of youth in the juvenile justice system has informed strategies for prevention and intervention at many stages of a juvenile proceeding. However, there is not much if any information available about how courts can improve communication with young people.

### Innovations

The Washington Juvenile Indigent Defense Action Network (JIDAN) Colloquies Project Team set out to develop an understanding of the communication gap for youth and to develop tools for judges to better communicate rights and expectations. Improved communication between the court and the youth is a step toward ensuring that youth are meaningfully engaged and understand the court process.

Colloquies can help judges be more effective in communicating with youth because they integrate current adolescent cognitive development research relating to the ways in which children communicate and process critical information. The model colloquies developed and piloted in Benton and Franklin counties and Clark County are designed as aids for the bench in helping youth and families better understand court proceedings, restrictions placed on youth and obligations required of the youth. Better understanding of these restrictions and obligations

will hopefully lead to greater compliance and ultimately more successful outcomes for young people.

### Field Research/Establishing a Baseline

The Colloquies Project team identified first appearance and disposition hearings as the two points in juvenile court proceedings where understanding the court’s instructions is critical to a youth’s success. To determine a baseline understanding of youth attending these hearings, a researcher sat in on these hearings and logged the conditions explained by the judge. Another researcher surveyed youth as they left the courtroom. Analysis of the post-hearing survey response showed that the youth surveyed recalled only a third of the conditions that were ordered and the youth’s age had little bearing on comprehension. Most of the youth who were detained after the initial appearance did not know why they were not released. Youth were also confused about the roles of others in the courtroom. One quarter of the youth surveyed were not sure who the prosecutor was or believed that no prosecutor was present during the hearing even though a prosecutor was at every hearing. Thirty percent of the youth stated that they did not have an attorney represent them during the first appearance hearing although all of the youth interviewed had a court appointed attorney present with them during the hearing.

Evaluation of the written orders provided to youth at these proceedings found them laden with technical, legal terminology and concepts. The Washington Pattern Form *Order on Adjudication and Disposition* is commonly used by juvenile court judges as a guide in speaking to juveniles

***Standardized Orders used by Washington’s Juvenile Courts are written at a 12.9 grade reading level and have a very low readability score (i.e., difficult to read and best understood by university graduates).***

***The colloquies are written at a 6.5 grade reading level and have a high readability score.***

**Before the use of colloquies, youth understood only a third of the conditions ordered by the court. With the use of colloquies, comprehension increased to 90 percent.**

during plea hearings. Project analysis found the document to be written at a 12.9 grade reading level and having a very low readability score (i.e. difficult to read and best understood by university graduates).

### Developing the Colloquy Tool

Based on the results of the survey, a review of the court orders and consultation with youth advisors, the Colloquies Project Team developed model colloquies and supporting tools for the courtroom. The colloquies are written at a 6.5 grade reading level and have a high readability score on the Flesch Reading Ease test.

Judicial leadership was a critical key to success in introducing the colloquies to the local juvenile court teams that would ultimately refine and implement the tool. A retired judge who worked on the Colloquies Project Team helped to pave the way for dialogue with court leadership in the two counties where the colloquies were piloted. The colloquies and companion products were given to judges in the pilot sites. The judges reviewed the forms and convened meetings with all of the local stakeholders to get support for the project. The Colloquy Project Team

also held meetings with defense attorneys, prosecutors, court clerks, probation officers, court administrators, commissioners and judges to discuss the administration and implementation of the project in their courtrooms. These meetings were necessary to create awareness and agreement on the goals of the colloquies project. Everyone agreed that improvements could be made on the baseline established by the initial surveys.

The Colloquies Project Team worked closely with the pilot sites to develop and tailor the tools to each court's local practices. In one jurisdiction, the tools and their implementation were adapted to accommodate the court's daily rotation of judicial officers. In the other pilot site, the Team worked with court personnel to tailor the colloquies to match the unique conditions of release and supervision typically ordered in the courtroom.

### Results and Lessons

The pilot sites implemented and utilized the colloquies and the accompanying forms for three months before the Team returned to repeat the youth survey and court observations. The Team found that the colloquies, written at a 6th grade level, remarkably improved the youths' understanding of the conditions set by the court. In one court, the youth interviewed reported understanding 90% of the conditions of release and probation ordered by the judge. This is a marked improvement over the previous level of understanding (only 30% of conditions understood).

RELEASE DO'S		RELEASE DONT'S	
<input type="checkbox"/> 1	I will come to court and go to all hearings scheduled by the court for my case(s). My next hearing is: _____ at _____ a.m./p.m. and will take place at the Juvenile Court, 1212 W. 1 <sup>st</sup> Place Street, Suite 100, Thistown, WA 99111.	<input type="checkbox"/> 8	<b>Immediate Supervision:</b> I will <b>NOT</b> leave my house unless a court-approved adult listed in # 4 is able to go along and see me all the time. <input type="checkbox"/> 8A I am allowed to attend school, work, or other activities approved by my probation counselor. But, I will <b>NOT</b> go anywhere else without my court-approved adult. <input type="checkbox"/> 8B I will <b>NOT</b> leave the house by myself. I will have an approved adult drive me to and from school or work.
<input type="checkbox"/> 2	I will call my lawyer _____ Phone # _____.	<input type="checkbox"/> 9	I will <b>NOT</b> travel outside of Thistown County without permission from my probation counselor.
<input type="checkbox"/> 3	I will attend all meetings scheduled by my probation counselor and call as directed. My probation counselor is _____ and the phone # is (000) 555-1212.	<input type="checkbox"/> 10	I will <b>NOT</b> drink or have alcohol. I will <b>NOT</b> use or have drugs unless they have been given to me by my doctor.
<input type="checkbox"/> 4	I will live with _____ at the following address: _____ Phone #: _____. I will obey all their rules. Other adults the court has approved to supervise me are: _____	<input type="checkbox"/> 11	I will <b>NOT</b> commit any crimes or get arrested. I will not do anything illegal that will get me arrested.
<input type="checkbox"/> 5	<b>House Arrest:</b> I will stay home. I am only allowed to leave the house to come to court. <input type="checkbox"/> 5A I will always have one of the court-approved adults referenced in item # 4 with me at home. <input type="checkbox"/> 5B I will get permission from my probation counselor each time I want to leave the house.	<input type="checkbox"/> 12	I will have <b>NO CONTACT</b> with the people listed here: a. _____ DOB: _____ b. _____ DOB: _____ c. _____ DOB: _____ This means I will <b>NOT</b> talk to or send messages by mail, phone, email, text messages, or through the internet, other persons, or by any other way.
<input type="checkbox"/> 6	I will follow <b>Curfew</b> and be home and stay there: <input type="checkbox"/> Every night from _____ pm until _____ am. <input type="checkbox"/> Sunday to Thursday from _____ pm until _____ am. <input type="checkbox"/> Saturday and Sunday from _____ pm until _____ am.	<input type="checkbox"/> 13	I will <b>NOT</b> be alone with children 3 or more years younger than me. If I am around children I <b>MUST</b> have a parent or approved adult who knows about what I have been accused of. The parent or adult must know the rules the judge gave me. The parent or adult must be able to see me at all times when children are around me.
<input type="checkbox"/> 7	Other: _____	<input type="checkbox"/> 14	I will <b>NOT</b> have, look at or listen to anything that shows or describes any sexual acts. I will <b>NOT</b> have or look at anything that shows or describes the uncovered private parts of the human body.
		<input type="checkbox"/> 15	I will <b>NOT</b> have or use any guns, knives, or other weapons.
		<input type="checkbox"/> 16	Other: _____
I understand that if I break any of the rules that the Judge reviewed with me, I may have to return to Detention and will have a Court hearing to address the violations.			
Signature: _____		Date: _____	

The dramatic increase in understanding and retention suggests an improvement in the court's communication with youth. Contact with the court system can be intimidating for adults and even more so for youth. Understanding the process and expectations can decrease the inherent anxiety associated with the risk of incarceration and other unknown consequences. By increasing the level of understanding of the court process for youth and their families, youth may experience higher levels of compliance and lower rates of detention, which could ultimately prevent further penetration into the juvenile court system. These outcomes include not only societal and familial benefits, but may also result in significantly lower costs of adjudication.

While the colloquies are directed to judicial officers, by engaging other stakeholders in the implementation, defense attorneys, juvenile court staff, and others also adapted their language and approach to the individual communication needs of youth.

Another important benefit of the colloquies project was the process of bringing juvenile court stakeholders together to understand and address the gaps in understanding that youth may be experiencing in court. This collaborative approach between judicial officers,

juvenile court staff, prosecutors, defense attorneys and others is a good foundation for other improvements.

## Looking Forward

Since the conclusion of the Colloquies pilot project, a toolkit for project replication has been published: *Washington Judicial Colloquies Project, A Guide for Improving Communication and Understanding in Juvenile Court*. To advance program replication, copies of the publication have been provided to all Superior Court judicial officers (judges and court commissioners) in Washington State, and Colloquies presentations were offered at the 2012 Washington State Juvenile Justice Conference and the 2013 Washington State Superior Court Spring Judicial Conference. Currently, TeamChild is partnering with the University of Washington's Division of Public Behavioral Health & Justice Policy in seeking support for creating a learning community of courts that are interested in implementing colloquies and building partnerships with families.

## Resources

Ambrose, K., Peralta, R., Walker, S. C., Yeannakis, G., Yule, D. (October 2012) *Washington Judicial Colloquies Project, A Guide for Improving Communication and Understanding in Juvenile Court*, October 2012, TeamChild  
<http://www.modelsforchange.net/publications/343>

<sup>1</sup> LaVigne M. and Van Rybroek, G.J., (2011) Breakdown in the Language Zone: The Prevalence of Language Impairments Among Juvenile and Adult Offenders and Why It Matters, 15 UC Davis J. Juv. L. & Pol'y 37

<sup>2</sup> Quinn MM, RB Rutherford, PE Leone (2005), Youth with Disabilities in Juvenile Corrections: A National Survey, Council for Exceptional Children, Vol. 71, No. 3, pp. 339-345 ALSO SEE: Leone, P. E., Meisel, S. M., & Drakeford, W., (2002), Special education programs for youth with disabilities in juvenile corrections, Journal of Correctional Education, 53, 46-50.

<sup>3</sup> Shufelt, J.L. and Coccozza, J., (2006). Youth with Mental Health Disorders in the Juvenile Justice System: Results from a Multi-State Prevalence Study, National Center for Mental Health and Juvenile Justice.

<sup>4</sup> Ireland, T., Smith, C, Thornberry, T., (2002), Developmental issues in the impact of child maltreatment on later delinquency and drug use. Criminology, 40(2), 359-400.

<sup>5</sup> Snow, P., & Powell, M., (2002), The language processing and production skills of young offenders: implications for enhancing prevention and intervention strategies. Criminology Research Council grant; 23/00-01 ALSO SEE: Kaban, B., (2004), Rethinking a "knowing, intelligent, and voluntary waiver" in Massachusetts, Journal of the Center for Families, Children and the Court.

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This brief is one in a series describing new knowledge and innovations emerging from *Models for Change*, a multi-state juvenile justice reform initiative. *Models for Change* is accelerating movement toward a more effective, fair, and developmentally sound juvenile justice system by creating replicable models that protect community safety, use resources wisely, and improve outcomes for youths. The briefs are intended to inform professionals in juvenile justice and related fields, and to contribute to a new national wave of juvenile justice reform.