JUVENILE ACCESS PILOT PROGRAM
ADVISORY BOARD

Report to the Connecticut General Assembly

December 31, 2010

ACKNOWLEDGEMENTS

The Co-Chairpersons of the Juvenile Access Pilot Program Advisory Board, the Honorable Barbara Quinn, Chief Court Administrator of the Connecticut Judicial Branch, and Attorney Sarah Eagan, Director of the Child Abuse Project from the Center for Children's Advocacy, would like to thank all of the Advisory Board members for their contributions and committed service to this pilot program. These members were selected for their expertise and dedication to protecting the rights of children and families in Connecticut:

- The Honorable Christine Keller, Chief Administrative Judge for Juvenile Matters
- Attorney Anne Louise Blanchard, Litigation Director, Connecticut Legal Services, Inc.
- Attorney Francis Carino, Supervisory Assistant State's Attorney, Division of Criminal Justice
- Stacey Gerber, Bureau Chief, Bureau of Child Welfare Services
- *Attorney Christina Ghio, Office of the Child Advocate
- Attorney David Marantz, Contract Attorney for Juvenile Matters
- Bryan Morris, Social Worker, Department of Children and Families
- **Attorney Susan Pearlman, Assistant Attorney General, Child Protection Unit
- Colin Poitras, Media Relations, University of Connecticut
- Attorney Justine Rakich-Kelly, Executive Director, Children's Law Center of Connecticut, Inc.
- Attorney Christine Rapillo, Director of Juvenile Delinquency Defense, Division of Public Defender Services
- Attorney Carolyn Signorelli, Chief Child Protection Attorney

* Attorney Ghio was subsequently replaced on the Advisory Board by Jeanne Millstein, Child Advocate.
** Attorney Pearlman was assisted by Attorney Michael Besso, Assistant Attorney General at the Child Protection Session.

The Co-Chairpersons would also like to acknowledge the members of the Advisory Board's Subcommittees and the Board consultants for their assistance.

The Advisory Board would like to thank the judges and court staff at the Child Protection Session (CPS) in Middletown for their cooperation, diligence and commitment toward the implementation of the Juvenile Access Pilot Program.

The Juvenile Access Pilot Program Advisory Board would like to acknowledge the following Judicial Branch staff for their contributions to this Program including: Attorney Deborah Fuller of the External Affairs Division, Attorney Cynthia Cunningham, Attorney Nancy Porter, Marilou Giovannucci, Attorney Michele Massores and Attorney Elizabeth Duryea from the Court Operations Division.

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EXECUTIVE SUMMARY

The issue of public access to juvenile court hearings is controversial and has been the focus of ongoing debate since the establishment of the first juvenile court in Chicago, Illinois in 1899.[1] Advocates of open access juvenile courts assert that public access to these proceedings promotes greater transparency and accountability of the court process, and raises community awareness of the problems plaguing court-involved children and families. Supporters argue that bringing light to these issues will have the long-term effect of improving outcomes for children and families in the juvenile court system. Opponents of public access maintain that permitting public scrutiny of sensitive family issues compromises the privacy of children and families. Critics contend that this scrutiny is not in the best interests of children and, therefore, this practice will ultimately result in further harm to children being served in juvenile courts.

States considering whether to provide public access to juvenile court hearings must carefully balance the competing interests of accountability and transparency of the court process against the best interests of the children and families who are the subject of the proceedings in juvenile court. In order to give consideration to these important interests, many states, including Connecticut, have established pilot programs to better inform their decision-making. Connecticut Public Act 09-194: An Act Concerning the Policies, Practices and Procedures of the Department of Children and Families and a Pilot Program to Increase Public Access to Juvenile Proceedings provided for the establishment of a pilot program in one juvenile court location to increase public access to court proceedings where a child is alleged to be uncared for, neglected, abused, or dependent or is the subject of a petition for termination of parental rights.[2] This Act also established the Juvenile Access Pilot Program Advisory Board to advise the Judicial Branch with the implementation of the pilot program. The Board was also directed to submit written recommendations concerning the pilot program to the Judicial Branch and to the Connecticut General Assembly. These recommendations are to be submitted no later than December 31, 2010.[3]

The Advisory Board met regularly from September 2009 through December 2010 to monitor the Judicial Branch's progress in the establishment of the pilot program. The Board also provided ongoing consultation to the Judicial Branch regarding policies and procedures adopted for the purpose of implementing the pilot program. As part of this process, the Judicial Branch and the Superior Court Rules Committee developed a Practice Book rule, a Standing Order and other administrative procedures necessary for implementation of the pilot program.

The pilot program was implemented on February 16, 2010 at the Child Protection Session (CPS) in the Middlesex Judicial District. Though the proceedings in the pilot location were presumptively open to the public, including the media, the hearings attracted little attention. While the media reported on the opening of the pilot program, media interest

[1] Maxwell, D., Taitano, K., & Wise, J. (2004). *To Open or Not to Open: The Issue of Public Access in Child Protection Proceedings.* National Council of Juvenile and Family Court Judges, Permanency Planning for Children Department, at 1.
[2] 2009 Conn. Acts 194 § 5(b) (Reg. Sess.). Refer to Appendix 1 for P.A. 09-194.
[3] 2009 Conn. Acts 194 § 6.

waned as time went on. The majority of individuals attending open hearings were people closely connected to the proceedings, such as foster parents and relatives. Surveys of those attending proceedings were conducted, and focus groups of all the stakeholders were held and the responses summarized. The Advisory Board also researched other states' efforts and best practices regarding public access to juvenile court proceedings. Based on Connecticut's experience with the pilot program, the Board considered many options and reached a unanimous conclusion with one recommendation. That recommendation is set forth below:

RECOMMENDATION

The Advisory Board unanimously recommends that the pilot program, as it currently exists, end on December 31, 2010. Recognizing that there is some benefit to limited expanded access, the Board further recommends amending the statute to permit the court to grant access to individuals or entities with an established legitimate interest in the proceedings.

The full Advisory Board report contains additional information on the Juvenile Access Pilot Program and the Advisory Board's methodology and work. Consistent with the requirements set forth in P.A. 09-194, the pilot program will terminate on December 31, 2010, at which time the Advisory Board will also disband.

INTRODUCTION

The purpose of this report is to carry out the legislative mandate of Public Act 09-194 by providing the written recommendations of the Juvenile Open Court Pilot Advisory Board to the Connecticut General Assembly and Judicial Branch.

I. LEGISLATION

A. PUBLIC ACT 09-194: *AN ACT CONCERNING THE POLICIES, PRACTICES AND PROCEDURES OF THE DEPARTMENT OF CHILDREN AND FAMILIES AND A PILOT PROGRAM TO INCREASE PUBLIC ACCESS TO JUVENILE PROCEEDINGS*.

Effective October 1, 2009, Public Act 09-194 amended C.G.S. § 46b-122 which provides as a general rule that juvenile matters shall be kept separate and apart from other Superior Court business. Sec. 5(b) of the Act charges the Judicial Branch with establishing a pilot program at a juvenile court location to be designated by the Chief Court Administrator, with the purpose of increasing public access to proceedings in which a child is alleged to be uncared for, neglected, abused or dependent or is the subject of a petition for termination of parental rights. In an eligible court proceeding, the judge may order on a case-by-case basis that such proceeding be kept separate and apart and heard in accordance with subsection (a) of the Act, upon motion of any party for good cause shown. In consultation with the Juvenile Access Pilot Program Advisory Board, the Judicial Branch was required to adopt policies and procedures for the operation of the pilot program.

The Public Act specifically indicated it did not affect the confidentiality of records of cases of juvenile matters as set forth in C.G.S. § 46b-124.

P.A. 09-194 § 6(a) established the Juvenile Open Court Pilot Advisory Board and defined the membership requirements for the board:

> (1) The Chief Court Administrator, or the Chief Court Administrator's designee;
>
> (2) An attorney who represents children in proceedings in which a child is alleged to be uncared for, neglected, abused or dependent, appointed by the Speaker of the House of Representatives;
>
> (3) An attorney who serves as a guardian ad litem in proceedings in the juvenile court, appointed by the president pro tempore of the Senate;
>
> (4) A member or former member of the media who has experience reporting on juvenile matters, appointed by the majority leader of the House of Representatives;
>
> (5) An attorney who represents parents in proceedings in which a child is alleged to be uncared for, neglected, abused or dependent, appointed by the majority leader of the Senate;

(6) A judge of the Superior Court assigned to hear juvenile matters, appointed by the Chief Justice of the Supreme Court;

(7) An assistant attorney general assigned to the Child Protection Unit within the Office of the Attorney General, appointed by the Attorney General;

(8) An attorney who represents children and parents under a contract with the Chief Child Protection Attorney, appointed by the minority leader of the House of Representatives;

(9) An employee of the Department of Children and Families from the division of the department that provides child welfare services, appointed by the Commissioner of Children and Families;

(10) A social worker employed by the Department of Children and Families who, at the time of appointment, has experience working directly with children and families on behalf of the department, appointed by the minority leader of the Senate;

(11) The Chief Child Protection Attorney, or the Chief Child Protection Attorney's designee;

(12) The Child Advocate, or the Child Advocate's designee;

(13) The Chief State's Attorney, or the Chief State's Attorney's designee; and

(14) The Chief Public Defender, or the Chief Public Defender's designee.

The Honorable Barbara Quinn, Chief Court Administrator, and Attorney Sarah Eagan, Director of the Child Abuse Project from the Center for Children's Advocacy, served as chairpersons of the Advisory Board.[4] The chairpersons were responsible for scheduling the first meeting of the Advisory Board, to be held not later than sixty days after the effective date of October 1, 2009.

The Advisory Board was charged with the following directives: (1) review methods used in other states to increase public access to juvenile court proceedings of a similar nature to proceedings subject to the pilot program; (2) monitor the progress made by the Judicial Branch in implementing the pilot program pursuant to section 46b-122 of the general statutes, as amended by this act; (3) not later than December 31, 2010, submit written recommendations concerning the pilot program to the Judicial Branch and the joint standing committees of the General Assembly having cognizance of matters relating to the judiciary and human services, in accordance with section 11-4a of the general statutes, with respect to such implementation and the pilot program; and (4) provide consultation to the Judicial Branch regarding policies and procedures adopted pursuant to said section.[5]

[4] 2009 Conn. Acts 194 § 6(c).
[5] 2009 Conn. Acts 194 § 6(d).

In addition to the Juvenile Access Pilot Program Advisory Board's written recommendations related to the pilot program, the Judicial Branch was directed to conduct a comprehensive review of the pilot program and submit a separate report to the joint standing committees of the General Assembly having cognizance of matters relating to the judiciary and human services.[6]

Pursuant to the requirements set forth in Section 7 of this Act, this report includes: (1) an assessment of the pilot program's effectiveness in balancing the interest in public access to proceedings included in the pilot program against the best interests of the children who are the subject of such proceedings; and (2) the Judicial Branch's recommendation on whether, and to what extent, the pilot program should be continued at the established juvenile matters location or expanded to other juvenile matters locations in the state.

B. OVERVIEW OF FEDERAL LAW

The principals of due process, including the right to a public hearing, serve as a cornerstone of our court system. While the public has long been guaranteed access to most criminal proceedings under the First Amendment to the U.S. Constitution, those constitutional guarantees have not been extended to provide the public with access to juvenile child protection proceedings, which are civil in nature.[7] The confidentiality of juvenile court proceedings has been longstanding largely due to the traditional view that family law matters are private and courts hearing these sensitive matters must take measures to protect children and families involved and to ensure their privacy. In addition to the constitutional concerns raised by this debate, there are several key federal statutory requirements that affect the confidentiality of juvenile court proceedings that states should consider when determining whether to open child welfare proceedings.

Child Abuse Prevention and Treatment Act

The Child Abuse Prevention and Treatment Act (CAPTA) was originally passed in 1974 and initially required states to take all measures necessary to preserve the confidentiality of information and records involving abused and neglected children. These measures were vital to ensuring that the privacy rights of children and families would be protected, except under limited circumstances enumerated in the statute.[8] In 2003, Congress amended CAPTA and created a new provision which requires states to disclose confidential information to government entities that need information to carry out their responsibilities to protect children. These amendments seemingly provide the states with discretion to determine state policies involving public access to child protection proceedings provided the policies "ensure the safety and well-being of the child, parents and families".[9]

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[6] 2009 Conn. Acts 194 § 7.
[7] Trasen, J.L. (1995). Privacy v. Public Access to Juvenile Court Proceedings: Do Closed Hearings Protect the Child or the System? *Boston College, Third World Law Journal, 15*, 359.
[8] Pub. L. No. 93-247; 42 U.S.C. § 5106a(b)(2)(A)(viii) (2000 & Supp. 2004).
[9] CAPTA, as amended, Pub. L. No. 108-36; 117 Stat. 808; Sec. 114(b)(1)(C) (2003) (codified at 42 U.S.C. § 5106a(b)(2)(D) (2000 & Supp. 2004).

Title IV-E of the Social Security Act

Like CAPTA, the initial enactment of Title IV-E of the Social Security Act restricted the use or disclosure of information about children involved in child protection cases.[10] States that receive Title IV-E funding for adoption and foster care programs must protect the confidentiality of information contained in child abuse and neglect records, with limited exceptions.[11] While the Social Security Act did not expressly direct states to open or close child protection proceedings, federal policy statements advised the states that they could potentially lose federal funds if they open child abuse and neglect proceedings to the public due to the apparent conflict with federal confidentiality requirements.[12] Following amendments made to CAPTA, the Deficit Reduction Omnibus Reconciliation Act of 2005 (S.1932) added a state plan requirement under Title IV-E that required confidentiality provisions related to information about children served and provided the states with flexibility in determining their policies regarding public access to child protection proceedings provided the policies "ensure the safety and well being of the children, parents, and families."[13]

C. OVERVIEW OF CONNECTICUT LAW

Pursuant to Connecticut law, juvenile court proceedings are presumptively open but may be closed at the court's discretion. [14] In practice, Connecticut's juvenile courts have historically operated as closed to everyone except those who are directly involved in the case at hand. The Connecticut Appellate Court has held that unlike criminal courts, the denial of public access to juvenile proceedings may be warranted in the interest of protecting the juvenile's right to privacy.[15] The confidentiality of juvenile records is governed by Conn. Gen. Stat. § 46b-124 which distinguishes between records of child protection and delinquency proceedings. While the general rule for both categories of records is confidentiality, each has a list of exceptions allowing access to the records for specific purposes.[16] The Supreme Court of Connecticut held that the strong presumption of confidentiality of juvenile records established by § 46b-124 and the privacy interests implicated therein justified a narrow construction of the discretion afforded a trial court with regard to releasing information without the express written consent of the parties concerned.[17] This statutorily created confidentiality for juvenile proceedings and records "can be overcome only by a showing of compelling need."[18]

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[10] Social Security Act, 42 U.S.C. § 671(a)(8) (2000 & Supp. 2004).
[11] The most common exception pertains to disclosure of records to the public when a child in care dies or suffers a life-threatening injury. See 42 U.S.C. § 5106a(b)(2)(A)(x) (2000 & Supp. 2004).
[12] Claire Sandt, *Openness in Civil Dependency Proceedings*, Child Law Practice, Vol. 23, No. 6, p.97.
[13] *See* Child Welfare League of America, *Summary & Analysis of Final Reconciliation Bill*, available at: http://www.cwla.org/advocacy/fostercare060201.htm (last visited on Dec. 6, 2010).
[14] CONN. GEN. STAT. § 46b-122; Conn. Practice Book §§ 1-10B(b)(2), 30a-6A and 35a-1B (2010).
[15] See *In re Brianna B.*, 785 A.2d 1189, 66 Conn. App. 695 (2001).
[16] See Conn. Practice Book §§ 30a-8 and 32a-7 (2010).
[17] See *In re Sheldon G.*, 216 Conn. 563, 571, 583 A.2d 112 (1990) (The Court discusses legislative history of General Statutes § 46b-124).
[18] *Id*. at 568, 583 A.2d at 115.

The legislative history of Public Act 09-194 provides insightful commentary from the General Assembly that touches on many of the thornier points that were subsequently raised by members of the Advisory Board. Comments made by legislators during the debate on the bill in the House of Representatives reflect the divergence of opinion over opening the juvenile courts and under what conditions it may be appropriate. Legislators stated that child advocacy groups throughout Connecticut were not unified on whether opening the juvenile courts would be in the best interests of children, and acknowledged the difficulty of balancing the public policy of protecting children against public access. [19] One proponent of the Act stated "Nothing in the open court pilot will in any way disclose the confidentiality of any of the parties."[20] Taking into account the concerns about confidentiality and the conflicting views on the issue of public access, the General Assembly supported the idea of a pilot program in one court location as a prudent and measured approach to assess the benefits and any unintended consequences of open child protection courts for Connecticut. As an additional safeguard, Section 5(c) of the Act expressly stated that the Act did not affect the confidentiality of juvenile court records under § 46b-124, nor did it include provisions to open delinquency and Family with Service Needs Matters to the public.

Upon passage of Public Act 09-194, the Judicial Branch prepared to implement the Juvenile Access Pilot Program. Pursuant to Section 6, the Juvenile Access Pilot Program Advisory Board was convened to oversee the implementation of the pilot program. The Advisory Board provided the Judicial Branch with recommendations for drafting a standing order and Practice Book rule to implement the pilot program. The Judicial Branch issued the Pilot Standing Order, effective February 16, 2010 for the start of the pilot program, which largely mirrors the language that was ultimately incorporated into Practice Book Sec. 1-11D.[21] During this time frame, a new Practice Book rule governing the pilot program was endorsed by the Rules Committee of the Superior Court which included many of the Advisory Board's recommendations. It was determined by the Rules Committee that settlements and agreements would remain closed; however, trials would be open. On March 26, 2010, the judges of the Superior Court adopted an interim rule governing the pilot program pursuant to Practice Book Section 1-9(c).[22] Practice Book Section 1-11D was effective April 15, 2010.[23] This rule established a standard for closing proceedings that effectively balanced the competing interests of increased public access against the best interests of children and families.

[19] H.R. Proc, 2009 Sess., 5/27/2009. *Note*: Relevant volume not bound at the time of the filing of this report.
[20] *Id*., p.7263, remarks of Representative Gail K. Hamm.
[21] See Pilot Standing Order issued by Hon. Christine E. Keller, Chief Administrative Judge for Juvenile Matters, which is available in Appendix 2.
[22] See minutes for Rules Committee of the Superior Court meetings, available *at* http://www.jud.ct.gov/Committees/rules/.
[23] Conn. Practice Book § 1-11D. Pilot Program to Increase Public Access to Child Protection Proceedings is available in Appendix 3.

II. METHODOLOGY

At the initial Advisory Board meeting held on September 17, 2009, the co-chairpersons discussed the Board's statutory charge and the Board agreed that the creation of two subcommittees would assist with the implementation of the pilot program. As a result, two subcommittees were formed to handle the first two tasks that the Advisory Board needed to accomplish:

- Looking into the experience of other states; and
- Determining what evaluation instruments would be used.

The subcommittees met in the fall of 2009 and disbanded once their work was done.[24]

A. SUBCOMMITTEE ON OVERVIEW OF OTHER STATES' EFFORTS AND BEST PRACTICES

The Subcommittee on Overview of Other States' Efforts and Best Practices focused on examining how other states provide the public with access to juvenile court proceedings and how they evaluate the effectiveness of open court proceedings in achieving the goals set forth by the legislature in those states.

The following Advisory Board members volunteered to serve on the subcommittee on Overview of Other States' Efforts and Best Practices: Judge Barbara Quinn, Co-Chairperson; Attorney Sarah Eagan, Co-Chairperson; Judge Christine Keller; Attorney Anne Louise Blanchard; Stacey Gerber; Attorney Christina Ghio; Attorney David Marantz; Brian Morris; Attorney Susan Pearlman; and Colin Poitras.

This subcommittee met on the following dates: September 29, 2009; October 13, 2009; and November 10, 2009.[25] During these meetings, the subcommittee reviewed open court models from Minnesota, New York and Arizona to identify potential options for Connecticut's implementation plan. Refer to Section III. Lessons Learned from Other States for more information on the subcommittee's conclusions related to other states' efforts and best practices.

B. SUBCOMMITTEE ON EVALUATION/ASSESSMENT OF THE PILOT PROGRAM

The Subcommittee on Evaluation/Assessment of the Pilot Program was established to examine options and tools available to assist with the evaluation and assessment of the Juvenile Access Pilot Program upon implementation and provide data and participant feedback for consideration by the Advisory Board.

The following Advisory Board members volunteered to serve on the subcommittee on Evaluation/Assessment of the Pilot Program: Judge Barbara Quinn, Co-Chairperson;

[24] Juvenile Access Pilot Program Advisory Board minutes from September 17, 2009 available *at*: http://www.jud.ct.gov/Committees/juv_access/juvacc_minutes_091709.pdf.
[25] Subcommittee on Overview of Other States' Efforts and Best Practices meeting minutes available *at*: http://www.jud.ct.gov/Committees/juv_access/overview_otherstates/default.htm.

Attorney Sarah Eagan, Co-Chairperson; Judge Christine Keller; Attorney Francis Carino; Stacey Gerber; Attorney Christina Ghio; Colin Poitras; Attorney Justine Rakich-Kelly; and Attorney Carolyn Signorelli.

This subcommittee met on the following dates: October 13, 2009; November 10, 2009; and November 23, 2009.[26] The subcommittee examined and discussed possible tools that would provide for ongoing feedback and evaluation of the pilot program by hearing participants. The options were limited by the lack of funding and short time frame under which the subcommittee had to identify the best and most effective instruments by which to evaluate the program. The subcommittee ultimately decided to focus on using three methods to solicit feedback from participants in the pilot program: participant surveys; focus groups; and hearing attendance sheets. Participant feedback gathered from these methods is provided in Section V. Experience of Open Court Pilot Program of this report.

- **PARTICIPANT SURVEYS**

The Subcommittee on Evaluation/Assessment consulted with Christine Kraus, former Associate Director of the UCONN Center for Survey Research and Analysis. Ms. Kraus provided recommendations on questionnaires and other evaluation tools. The subcommittee decided to utilize evaluation surveys because they could be tailored for the various categories of participants to solicit more objective information. Surveys were developed with a series of common questions that had relevance for all participants followed by a series of questions that were specifically tailored to the various categories of participants including: judges, attorneys, parents, Assistant Attorneys General, DCF case workers, Guardians ad Litem, court staff and media representatives.[27]

While there were concerns expressed over the ability and/or willingness of family members to complete surveys, it was decided that parents' feedback was crucial for assessing the pilot program. Survey questions for these individuals would, therefore, be written in plain language and focus on soliciting their feedback about the pilot program.

For those participants with access to email, surveys were distributed electronically using an online survey application. Surveys for parents were distributed through their attorneys. Participants could also opt to receive a survey in the mail with a self-addressed stamped envelope or, alternatively, receive a hard copy of the survey which could be filled out and returned to the clerk's office at the pilot court location, where it would be entered in the online survey application.

[26] Subcommittee on Evaluation/Assessment of the Pilot Program meeting minutes available *at*: http://www.jud.ct.gov/Committees/juv_access/eval_assessment/default.htm.
[27] Refer to Appendix 4 for survey. For survey results, please refer to Section V. of this report.

- **FOCUS GROUPS**

Focus groups were held during September and October 2010 with judges currently and previously assigned to the CPS in Middletown, judges currently assigned to other juvenile courts, CPS court staff, and psychologists who conduct court-ordered evaluations in child protection cases who are private practitioners serving children and their families.[28] For more information on these focus groups, refer to Section V. Experience of Open Court Pilot Program.

- **HEARING ATTENDANCE SHEETS**

Court administrators worked with the Presiding Judge at the CPS to establish courtroom procedures for the pilot program. These procedures included a new advisement regarding the pilot program to be read by the CPS judge to hearing participants prior to the start of any hearing subject to the pilot program. Non-party individuals attending pilot eligible court proceedings at the CPS were not asked to identify themselves for the record. Instead, participants other than parties, attorneys, DCF workers and court staff, were asked to voluntarily complete a hearing attendance sheet that would be used solely for the purpose of gathering information related to the pilot program. On this attendance sheet, participants were asked to provide limited information describing their role at the hearing. Participants could select one or more of the following general categories: Intervening Party, Interested Party, Relative, Foster Parent, Service Provider, Attorney for Service Provider, Advocate, Media Representative, Student, Other and Member of the Public.[29] Sheets could be returned to the courtroom clerk.

III. LESSONS LEARNED FROM OTHER STATES

A. INFORMATION FROM OTHER STATES

The Subcommittee on Overview of Other States' Efforts and Best Practices had the primary charge of examining how other states have approached the issue of opening the juvenile courts and gathering relevant information from other states. Members researched the legal standards for opening or closing juvenile court proceedings to the public from the other forty-nine states and the District of Columbia.[30] Approximately 20 states have passed statutes and rules that have increased public access to juvenile court proceedings; however, many states continue to admit only parties or others with a direct interest in the case. The subcommittee elected to focus more closely on two states, Minnesota and New York, which had previously been identified as successful models for Connecticut to consider.

[28] Refer to Appendix 5 for focus group questions and responses.
[29] Refer to Appendix 6 for the Hearing Attendance Sheet.
[30] See Appendix 7 for State Standards for Opening or Closing Juvenile Court Proceedings to Public, which summarizes this research.

B. MINNESOTA

Proponents of P.A. 09-194 reviewed and discussed Minnesota's open court model during legislative hearings on the Act.[31] For that reason, the Board also wanted to review the Minnesota model. Judge Christine Keller, Chief Administrative Judge for Juvenile Matters and Advisory Board member, prepared a summary of Minnesota's open court and records pilot program which she presented to the Overview of Other States' Efforts and Best Practices subcommittee.[32]

In 1998, the Minnesota Supreme Court issued an order establishing a pilot program to provide open public access to juvenile protection records and hearings. The order was in derogation of existing statutory law at that time in Minnesota, which permitted the court to "exclude the general public from hearings… [and] admit only those persons who, in the discretion of the court, have a direct interest in the case or in the work of the court".[33]

The three-year pilot operated in 12 of 87 counties in the state from 1998 through 2001. In the pilot counties, juvenile proceedings were presumably open with judicial discretion to close. The pilot order required the judge to make certain findings on the record prior to closing or partially closing a hearing. These findings included that an open hearing would not: (1) be in the best interests of the child; (2) impede the fact finding process; or (3) be contrary to the interests of justice. At pilot sites, the public was permitted to access adjudicatory, dispositional and review hearings, as well as court files and records, unless court rules specified certain records were not accessible.[34]

Following the pilot experience, Minnesota hired the National Center for State Courts (NCSC) to conduct a formal evaluation and assessment of the pilot program. The NCSC's final report focused on 5 critical areas to assess the impact of public access: (1) conduct of hearings; (2) records access; (3) potential for harm to child; (4) public awareness and professional accountability; and (5) overall impact.[35] After reviewing the findings from the NCSC report, Minnesota revised its law to provide open access to all child protection hearings.[36] The NCSC report and its findings "are now widely referenced by proponents for open hearings as supporting the view that open hearings do not produce negative effects. However, as indicated by the concluding thoughts of the NCSC report on Minnesota, the recommendations were much more cautious and neutral than later references to the report would suggest. In addition, a number of methodological and other design flaws have been

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[31] H.R. Proc, 2009 Sess., 5/27/2009, p.7282. *Note*: Relevant volume not bound at the time of the filing of this report.

[32] See Appendix 8 for the presentation to the Subcommittee on Overview of Other States' Efforts and Best Practices by Judge Christine Keller, *Summary of Minnesota Open Court/Records Pilot and Practices*, September 2009.

[33] MINN. STAT. § 260C.163, subd. 1(c) (1998). (Formerly codified as MINN. STAT. § 260.155, subd. 1(c)). *See also* Schellhast, Heidi, *Open Child Protection Proceedings in Minnesota*, 26 Wm. Mitchell L. Rev. 631 (2000).

[34] Unlike Connecticut's pilot program, the Minnesota pilot program included public access to records. The records rules were complicated and extremely burdensome for court administrators due to the time-consuming redaction practices that had to be followed by court staff.

[35] Cheesman, Fred L., *Key Findings from the Evaluation of Open Hearings and Court Records in Juvenile Protection Matters*, Final Report – Vol. 1, National Center for State Courts, August 2001, at 11.

[36] See MINN. STAT. §§ 364.07 and 353.01 (2003).

identified in the study by other researchers in this area that may further limit the scope and applicability of these findings in other jurisdictions."[37]

C. NEW YORK

The Board also considered New York's open court model.[38] Board members spoke with Peter Passidomo, Chief Clerk of the New York City Family Court, regarding New York's experience with opening juvenile court. The New York rule applies to all family court proceedings, which broadly includes matters involving child protection, child support, dissolution of marriage, custody, etc.[39] The rule expressly permits members of the public and media to have access to all common areas of the family court, including courtrooms; however, it also gives judges broad discretion to close the court if it is found to be in the best interests of the child. In practice, persons are allowed to attend hearings only if they have an "interest" in the case. New York's rule has not resulted in a significant increase in attendance by members of the public and press coverage tends to focus on high profile cases.[40] The courts are still not permitting access to members of the general public with no particular stake in following the case. For more information on the Board's conference call with Mr. Passidomo, please refer to Guest Speakers in Section IV. Meetings.

D. SUMMARY

Based on the research conducted by the Board, it was unable to find conclusive data from other states that have contemplated open courts, or have opened their court, that demonstrates open courts are effective in increasing accountability of the juvenile court system and improving services to children and families. In addition, significant concerns remained for many Board members that opening child protection proceedings could potentially harm children. These concerns were not alleviated by the experience of other states due to the lack of any reliable data from those states; however, it is noted that no state that has opened its juvenile court has since repealed their statute that provided the public with access to these proceedings.

The subcommittee ultimately provided the Advisory Board with an overview of other states' standards governing public access and recommendations for statutory and/or rules revisions to Connecticut's applicable laws affecting public access to juvenile court proceedings.[41]

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[37] *Supra* note 1, p.13.
[38] The Advisory Board reviewed New York's model largely based on the recommendations of the Connecticut Governor's Commission on Judicial Reform which suggested that the 1998 New York rule opening juvenile courts would serve as a useful model for Connecticut to consider on this issue.
[39] N.Y. COMP. CODES R. & REGS. tit. 22, § 205.4(a) – (b).
[40] Please refer to the 12/1/2009 Advisory Board minutes for complete details of the conference call with Mr. Passidomo, available at: http://www.jud.ct.gov/Committees/juv_access/juvacc_minutes_120109.pdf.
[41] Refer to Section VI. of this report for these recommendations.

IV. MEETINGS

A. DISCUSSION POINTS

The Advisory Board met regularly to effectively monitor the progress of the Judicial Branch in implementing the pilot program and to provide consultation to the Branch regarding policies and procedures needed for implementation.[42] Throughout the course of these meetings, the following areas were discussed:

➢ LOCATION OF PILOT PROGRAM

Pursuant to Section 5(b) of P.A. 09-194 and Superior Court Rule 1-11D, the Chief Court Administrator established the pilot program at the CPS in the Judicial District of Middlesex.[43] While there were concerns expressed by members of the Board that the CPS was not a truly representative cross-section of child protection matters heard throughout the state, the Chief Court Administrator ultimately concluded that the CPS was an appropriate location to implement the pilot program for the following reasons:

- The Judicial Branch was charged with implementing the pilot program with no additional funding and within an ambitious time frame;
- The age, size and accessibility of the Middlesex Judicial District courthouse facility would better accommodate public access due to available courtrooms, adequate security and the minimization of other potential costs associated with the implementation of the pilot program;
- The lower volume of cases at the CPS versus a local juvenile court;
- The judges and staff assigned to the CPS are experienced;
- The centralized proximity of the CPS within the state to the major media organizations or entities providing coverage, to Judicial Branch administrative offices and to other parts of the state;
- The manner in which proceedings are scheduled at the CPS provides adequate time for members of the media and public to receive sufficient notice to reasonably participate; and

[42] Minutes of Advisory Board meetings are available on the Judicial Branch website: http://www.jud.ct.gov/Committees/juv_access/default.htm

[43] The CPS is a separate session from the twelve district courts for Juvenile Matters in Connecticut. It serves as a specialized statewide trial court for child protection cases referred there for contested hearings and trials by local district juvenile court judges. Referral criteria for the CPS include the age of the case, the significance of the action and complexity of the case. Trials heard at the CPS typically involve termination of parental rights, orders of temporary custody, neglected or uncared for petitions and other complex child protection matters. Those matters specified in Section 5(b) of P.A. 09-194 fall squarely within the scope of matters heard at the CPS providing further justification for the designation of the CPS as the pilot court location.

- The CPS eliminated concerns related to the potential comingling of parents and children from delinquency and status offense cases with parents and children from child protection cases, which would be an issue at a local juvenile court.

Taking these reasons into account, it became evident to the Chief Court Administrator and other members of the Board that the CPS was in the best position of any of the juvenile courts to effectively implement the pilot program in a timely manner. [44]

➢ MEDIA PARTICIPATION AND OUTREACH

The Advisory Board utilized a number of methods to publicize the initiation of the pilot program.

Prior to the start-up of the pilot program, the Judicial Branch issued a press advisory which described the pilot program and the circumstances under which access to all or any portion of the proceedings may be denied or limited.[45] The Judicial Branch also created a Juvenile Access Pilot Program webpage with access to all pilot program materials including public notice of motions to close all or part of a proceeding.[46] Advisory Board members also included information about the pilot program in notices sent out to clients, and posted information and press articles about the pilot program on their websites.

Representatives of the media wishing to attend pilot program hearings were advised to contact the External Affairs Division of the Judicial Branch for more information. Several reporters were given access to judges to discuss the pilot program, though due to the complexity of child protection proceedings, most of these reporters already had some background in juvenile matters. While there was some interest at the beginning of the pilot program, media attention waned after the first few months.

While there was no formal focus group held for the media, anecdotal feedback reflected the media's frustration with their inability to review court records.[47] Media representatives also spoke about the resource challenges being experienced by many media entities, which also limited their participation in the pilot program.

➢ INTEREST FROM OUTSIDE CONNECTICUT

The Judicial Branch was contacted by William W. Patton, Professor of Law at Whittier Law School in Costa Mesa, California. Professor Patton has conducted extensive research on the impact of public access to child protection hearings and is writing a book about open juvenile court proceedings. In September 2010, he published *An Analysis of the Connecticut*

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[44] Concerns over the selection of the CPS for the pilot included: the CPS is a trial court and not a representative cross-section of child protection matters across the state; and the location presented challenges for stakeholders and service providers to attend versus local juvenile courts. For more detailed comments, please refer to the September 29, 2009 minutes for the Overview on Other States' Efforts and Best Practices Subcommittee available at: http://www.jud.ct.gov/Committees/juv_access/overview_otherstates/overview_minutes_092909.pdf.

[45] See Press Advisory on Judicial website: http://www.jud.ct.gov/external/news/Juv_Access_Pilot.pdf.

[46] Juvenile Access Pilot Program website: http://www.jud.ct.gov/juvenile/pilot/default.htm.

[47] See 2009 Conn. Acts 194 § 5(c). Pilot program did not affect the confidentiality of juvenile matters records.

Juvenile Access Pilot Program H.B. No. 6419.[48] His report also includes recommended policy changes for consideration by the Advisory Board and the Connecticut General Assembly.[49]

B. GUEST SPEAKERS

➢ ATTORNEY DANIEL KLAU

To ensure that the pilot program would comply with First Amendment requirements, the Board consulted with Attorney Daniel Klau, a legal expert in First Amendment issues. Attorney Klau provided the Board with a presentation on First Amendment case law and its application to the pilot program. He advised the Board that the U.S. Supreme Court has addressed only how the First Amendment right of access to court proceedings applies to criminal matters, and has not addressed access to juvenile proceedings. He stated that the overwhelming majority of lower federal and state courts have held the First Amendment right of access does not apply to juvenile proceedings.[50]

Attorney Klau reviewed a draft version of the proposed Practice Book Rule and provided three issues for the Board's consideration. First, there is wide latitude for the legal standard to close juvenile proceedings since there is no historical right of public access to juvenile courts. Second, notice to the public about the pilot program and eligible proceedings was not constitutionally required; however, notice was recommended for public policy reasons. Third, specific findings by a CPS judge as to why a pilot eligible proceeding should be closed were not constitutionally required, although this practice was also recommended.

Attorney Klau stated the draft rule included many good policy provisions that exceeded the requirements of the First Amendment. He also recommended that the Board avoid trying to limit what the press may publish, as this could be deemed a prior restraint. He suggested that pilot court judges should use the least restrictive alternatives when possible to minimize disclosure in court if there is sensitive information in a particular hearing.

➢ PETER PASSIDOMO

Board members consulted via conference call with Peter Passidomo, Chief Clerk of the New York City Family Court, regarding New York's experience with opening juvenile court. For more information on the discussions with Mr. Passidomo, refer to Section III. Lessons Learned from Other States. [51]

➢ CHRISTINE KRAUS

The Board consulted Christine Kraus, former Associate Director of the UCONN Center for Survey Research and Analysis, for her recommendations on questionnaires and other evaluation tools. Refer to Section II. Methodology for more information on the Participant Surveys.

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[48] *See* Patton, William W., *An Analysis of the Connecticut Juvenile Access Pilot Program H.B. No. 6419* (Sept 2010) available in Appendix 9.
[49] *Id*. at 44-46.
[50] See Advisory Board minutes from October 29, 2010 available at: http://www.jud.ct.gov/Committees/juv_access/default.htm.
[51] See Advisory Board minutes from December 1, 2009 for complete details of the conference call with Mr. Passidomo, available at: http://www.jud.ct.gov/Committees/juv_access/juvacc_minutes_120109.pdf.

- **RHONDA STEARLEY-HEBERT**

Following implementation of the pilot program, Rhonda Stearley-Hebert, Manager of Communications, Media Relations for the Judicial Branch, provided the Board with a summary of the media's response to the pilot program. Ms. Stearley-Hebert noted that due to the complexity of juvenile court proceedings, most of the reporters that have written articles about the pilot are those with more experience and/or background of the juvenile court process. It was clear, however, that some members of the media needed more education on juvenile court jurisdiction and procedures.

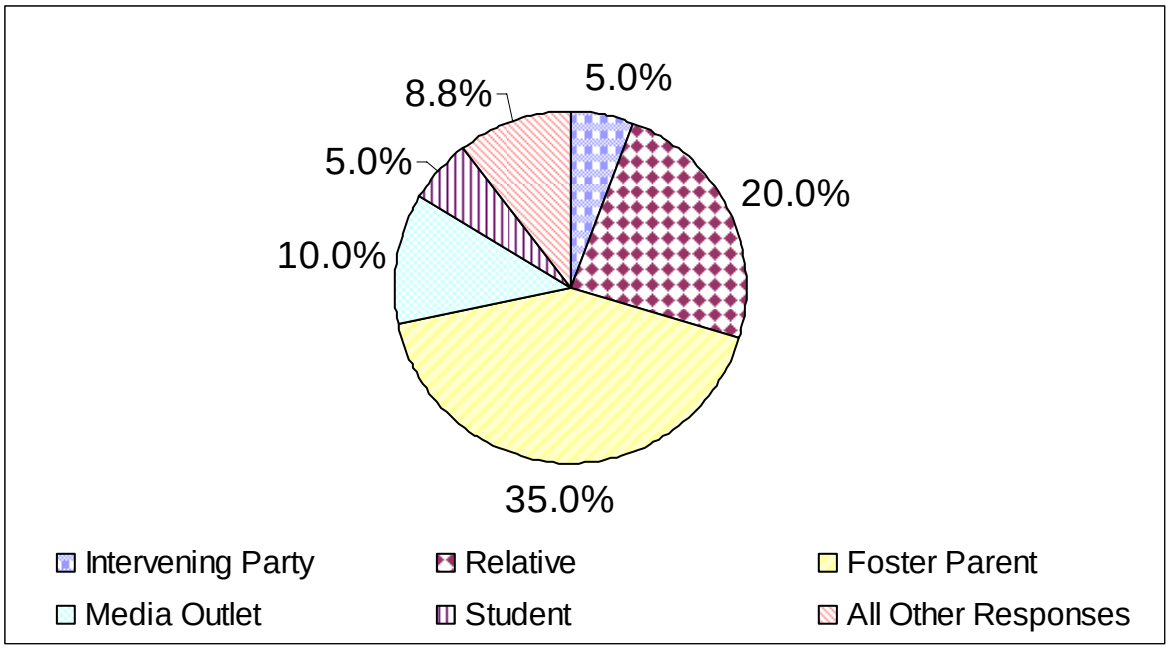
V. EXPERIENCE OF OPEN COURT PILOT PROGRAM

The Subcommittee on Evaluation and Assessment of the Pilot Program developed a number of methods for gathering information and impressions about the pilot program. Options were limited because funding was unavailable to conduct a formal evaluation of the program, therefore the methodology and evaluation instruments developed were informal in nature and would not meet strict research guidelines for statistical reliability. Nonetheless, the Board utilized several approaches to gather information that would provide insight into participants' experiences and assist in a general evaluation of the pilot program.

A. PUBLIC PARTICIPATION

Chart 1 depicts the type of individual who attended a particular hearing based on responses to paper surveys distributed during pilot court proceedings at the CPS.

CHART 1



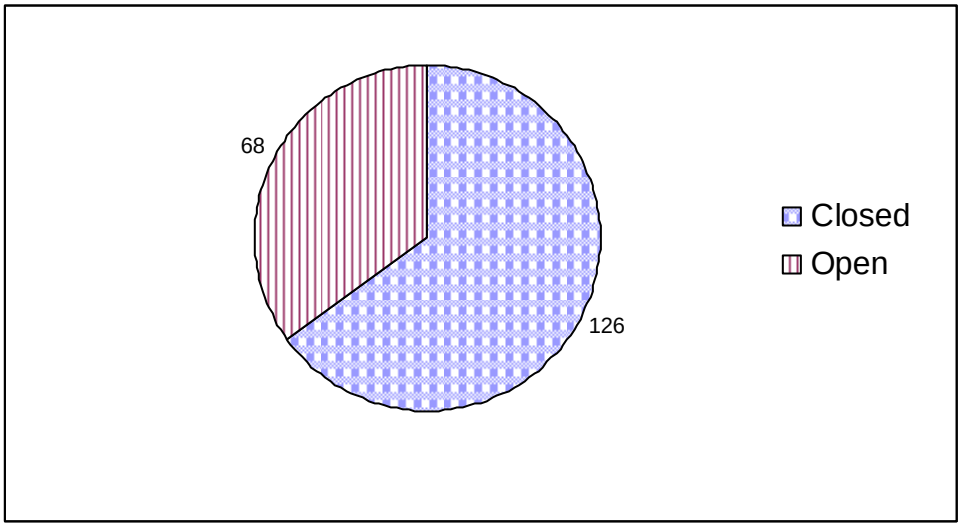
B. COURT DATA

In accordance with Practice Book Rule § 1-11D and the Pilot Program Standing Order, attorneys were required to file Motions to Limit or Deny access to proceedings at CPS to seek relief from the court for a hearing to be partially or entirely closed to the public. Due to the short time frame for implementation of the pilot program, the Judicial Branch could only make limited changes to the Child Protection System for the purpose of gathering data about the pilot program.[52] To assist in data collection, court staff maintained records of motions filed, court rulings on those motions and records of open and closed hearings for pilot eligible cases.

The pilot program was implemented at the CPS on February 16, 2010. Data was collected for reporting purposes through November 30, 2010.

During this time frame, there were 194 hearings conducted at the CPS. **Chart 2** displays court data comparing the number of hearings which were open with the number of hearings which were closed during the pilot program time frame.

CHART 2



[52] The Child Protection System is an automated system maintained by the Judicial Branch for the purpose of case processing and reporting on child protection matters statewide.

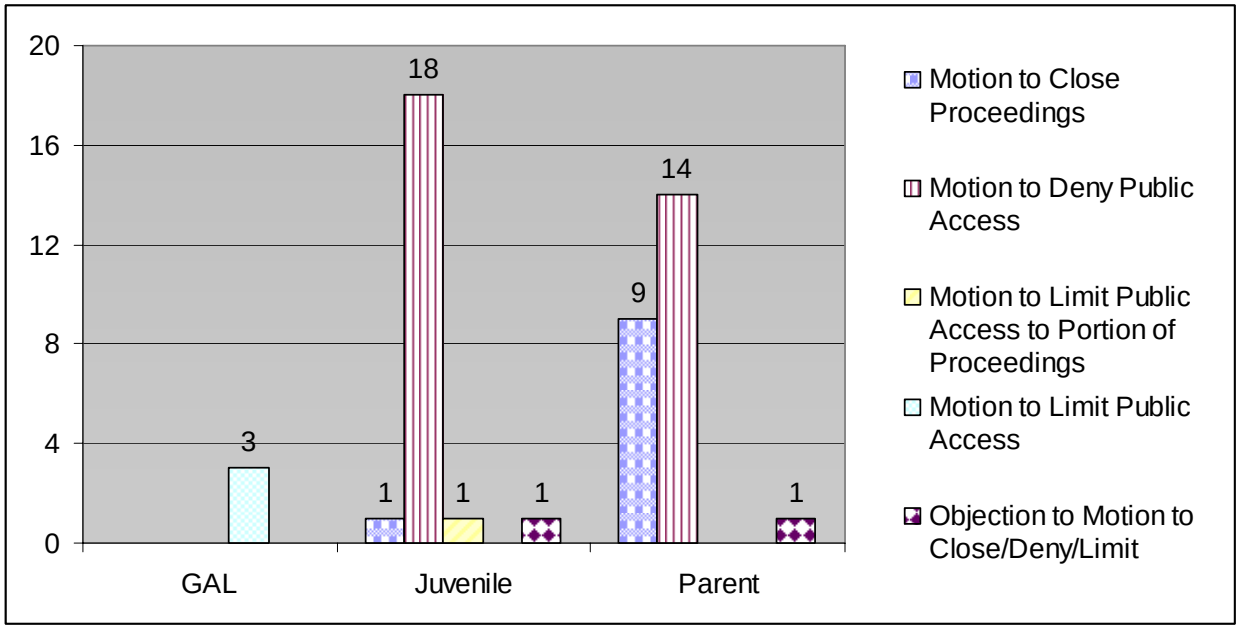
Table 1 displays court data on motions for the period from February 16, 2010 through November 30, 2010.

TABLE 1

Motion Type	Number Filed	Granted	Denied	Moot	With-drawn	Pending
Motion to Close Proceedings	10	1	2	3	2	2
Motion to Deny Public Access	32	18	11	2	0	1
Motion to Limit Public Access to Portion of Proceedings	1	0	0	1	0	0
Motion to Limit Public Access	3	0	0	3	0	0
Objection to Motion to Close/Deny/Limit	2	0	0	1	1	0
Total	48	19	13	10	3	3

Chart 3 displays court data on who filed the motions from February 16, 2010 through November 30, 2010.

CHART 3



C. SUMMARY OF PARTICIPANT EVALUATIONS

➢ FOCUS GROUPS

During September and October 2010, a series of focus groups were held with various stakeholder groups.[53] Some noteworthy comments are set forth below:

Comments from Judges assigned to the CPS:

> "Juvenile court has a unique mission and confidentiality should be honored. The focus is on rehabilitation, and confidentiality is needed to ensure that people feel free to discuss the information needed to allow them to be rehabilitated."
>
> "….Very difficult system for kids already. The possibility of information coming out makes it even worse."

Responses from Judges assigned to local juvenile courts on whether Judges allow people who are not parties to a case to attend child protection proceedings under the current statute:

> "All the time – Family members, service providers, boyfriends, other supporters, foster parents, relatives."

Focus group responses from Judges assigned to local juvenile courts also reflect that fifteen of twenty-one juvenile judges surveyed were not in favor of public access to juvenile court proceedings. Judges commented:

> "Such personal and intimate details come out – it could be harmful to the child."
>
> "Judges must engage parents and kids, and allowing the public in will limit the ability to effectively engage them."

Six of twenty-one juvenile judges surveyed were in favor of public access to juvenile court proceedings. Judges supporting open access commented:

> "[*I*] would like the public to be more aware of the difficult issues confronted in juvenile court."
>
> "[*The*] public should be aware of the reasons people are there – poverty and social issues."
>
> "Enhances trust and confidence in the court system."

[53] Refer to Appendix 5 for the complete responses from each focus group.

Comments from the court staff assigned to the CPS:

> "Judges at CPS generally let other non parties come into proceedings, such as foster parents, etc. but exclude people who are not related to the case or the parties."
>
> "Access to *(court)* records would cause a great deal of additional work, as the records would have to be redacted."

Judges and court staff assigned to the CPS also responded to what their perceived impact would be if the pilot program were expanded to local juvenile courts:

> "That would be a significant burden on the [*local juvenile*] courts."
>
> "The Board should take into consideration the physical layout of the [*local juvenile*] courts – the lack of space…there is not even enough room for parents."

Psychologists were unanimously opposed to public access and commented:

> "Opening child protection matters to the public ignores the harm it will cause to individuals, for questionable greater good."
>
> "It is rough surgery – using a crowbar instead of a scalpel."
>
> "The families involved in child protection proceedings are extremely vulnerable…public dissemination of the information affects the entire family…lots of highly confidential, highly damaging information will come out."

- **SURVEY RESULTS**

The online survey instrument was used to gather information from attorneys, DCF staff, media representatives and court staff that attended or participated in eligible court proceedings during the pilot program.

A total of forty (40) online surveys were completed between February 16, 2010 and November 30, 2010. The Advisory Board determined that the survey sample was too small to provide statistically reliable results; however, the data from these online surveys provides some information about the participants' responses to the pilot program, therefore, the Board has included these survey results.

The following charts display the results from these online surveys.

In **Chart 4**, online survey responders report their perception of who attended a particular pilot court hearing, other than attorneys, DCF staff and court staff.

CHART 4

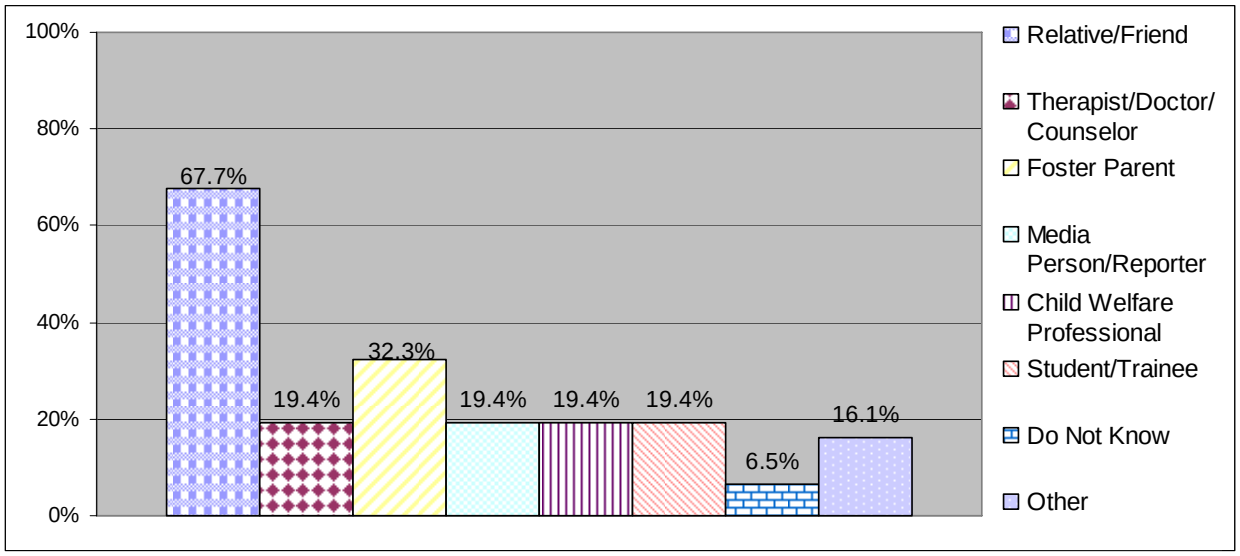


Chart 5 displays online survey responses to whether someone requested to close a hearing.

CHART 5

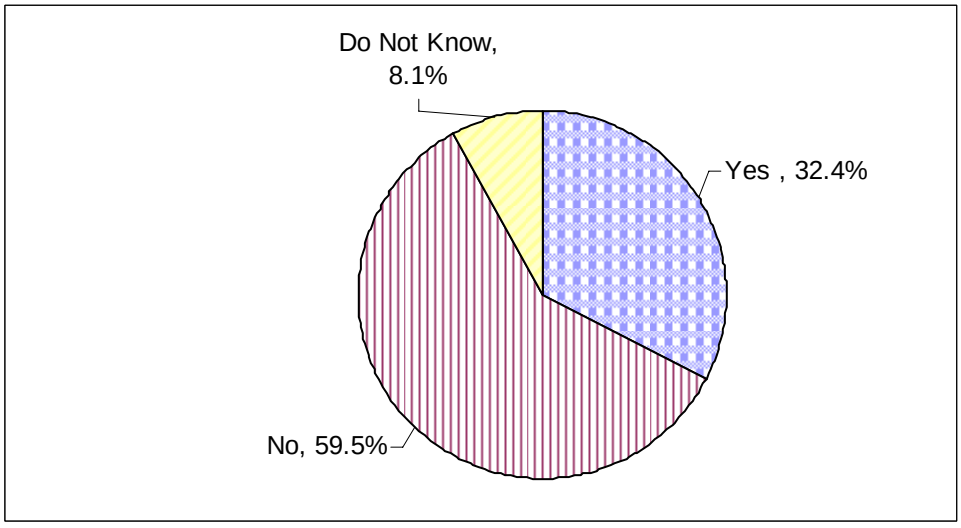


Chart 6 depicts reasons hearings were closed based on responses to the online survey.

CHART 6

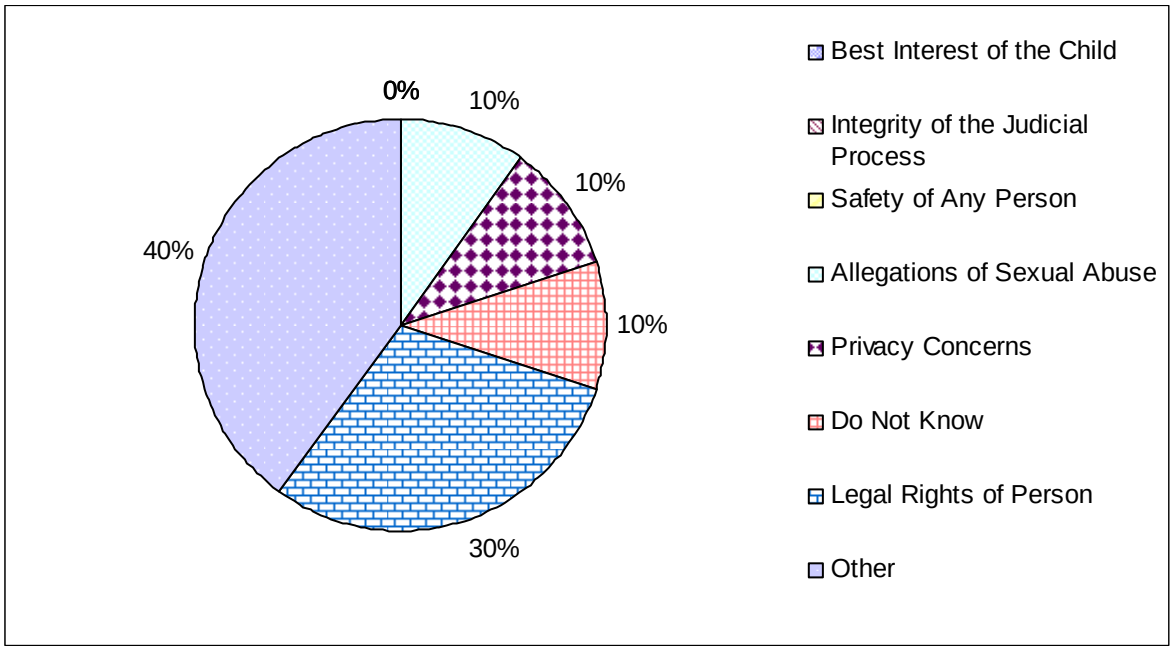


Chart 7 displays who requested to close the hearing based on the online survey.

CHART 7

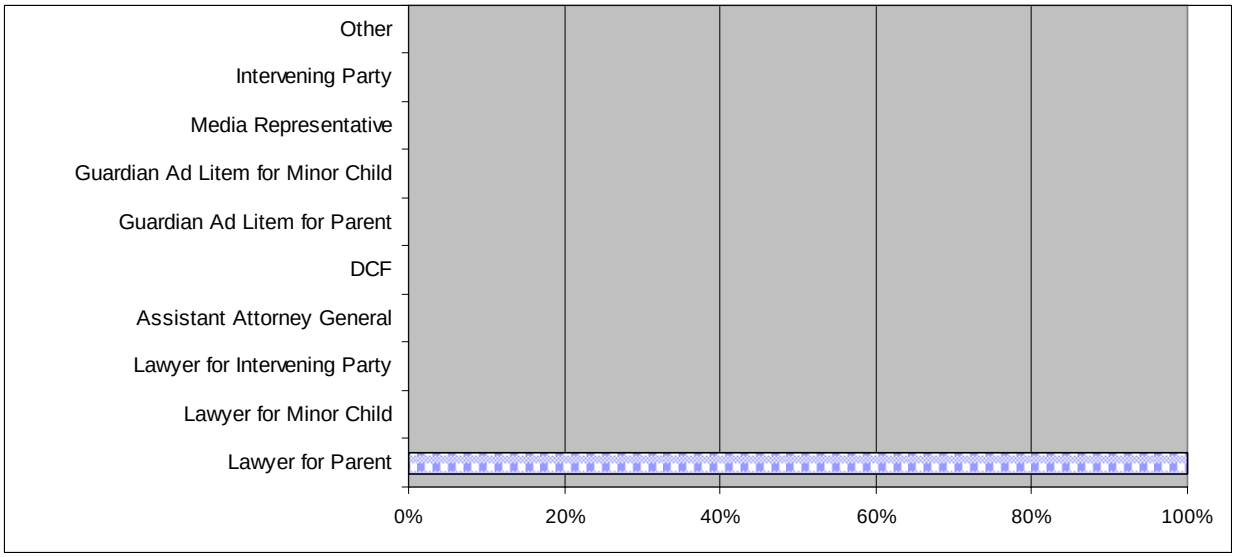
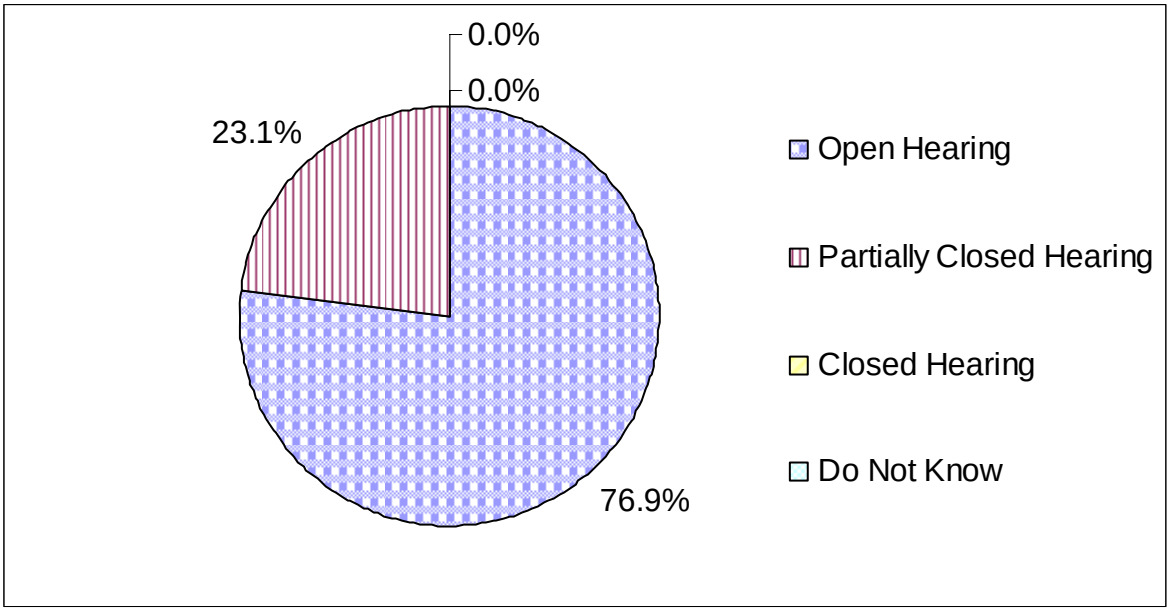


Chart 8 displays the number of hearings closed pursuant to a motion to limit or deny access based on the online survey.

CHART 8



- **OTHER RESPONSES**

1) HEARING ATTENDANCE SHEETS

Twenty (20) hearing participant sheets were completed. The results obtained from these voluntary reporting forms were inconclusive for purposes of evaluating the pilot program.

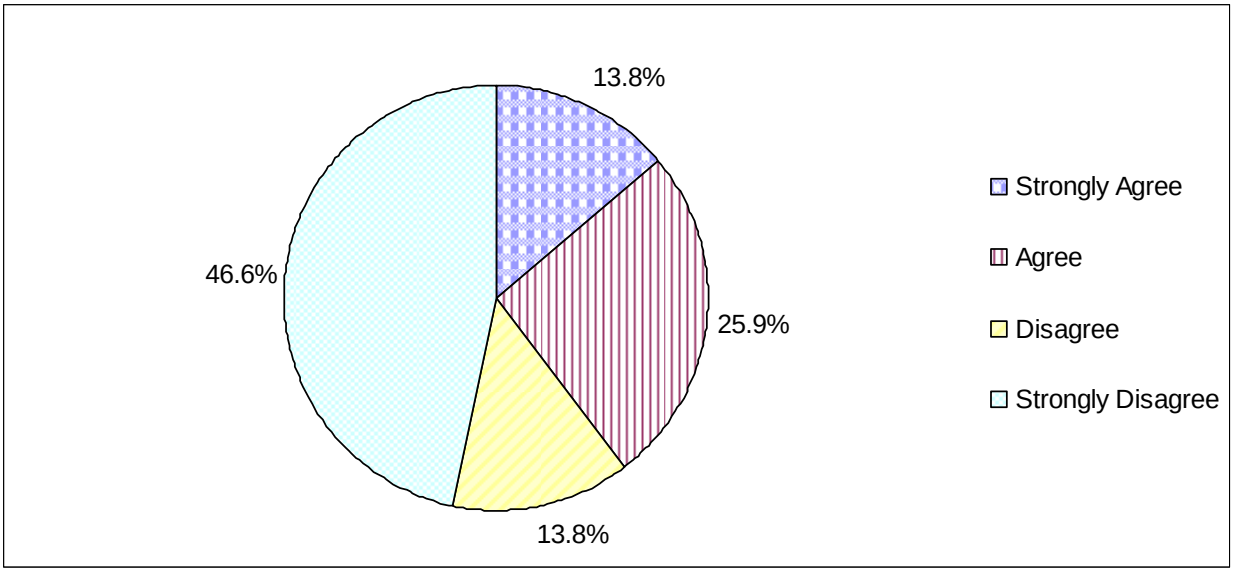
2) CHILD AND YOUTH LAW FORUM SURVEYS

In addition to the online survey for individuals directly involved with the pilot program, a survey about the pilot program was developed and distributed to attendees at the Annual Child and Youth Law Forum held in June 2010. [54] This multidisciplinary forum was attended by over 200 attorneys who practice child protection law, judges assigned to juvenile matters, DCF legal staff, assistant attorneys general and court staff.

A total of fifty-nine (59) surveys were returned. **Chart 9** displays survey responses when asked how they would rate the following statement: "There should be public access to Child Protection Proceedings."

[54] Refer to Appendix 10 for a copy of this survey.

CHART 9



While 60.4% of responses disagreed or strongly disagreed with providing public access to child protection proceedings, 39.7% agreed or strongly agreed there should be public access. These results reflect the divergence of opinion over opening the juvenile courts.

Survey responders were given the opportunity to provide additional comments regarding public access to child protection proceedings. Responses revealed a range of opinions on both sides of the public access debate:

"Children's privacy should be the highest priority for the state. They did not ask for any of this and we should protect them."

"I feel it is important for the public to have an awareness of the extent of abuse and neglect that exists in their own community."

"I think confidentiality is sacrosanct."

"…Extremely disturbing that these children be further abused by public scrutiny."

"Provided there is always the opportunity to limit public access by way of a motion to the court, I think the public, ordinarily, should be allowed access."

"Totally unnecessary, only benefits the media, not the children."

VI. ADVISORY BOARD RECOMMENDATIONS

Pursuant to the Advisory Board's statutory charge under the Act, the Board discussed a wide range of options prior to voting on final recommendations to the Judicial Branch and General Assembly. Please refer to Appendix 11 for a complete list of the options considered and voted on by the Advisory Board.[55] The Advisory Board unanimously supported the following recommendation:

> **The Advisory Board unanimously recommends that the pilot program, as it currently exists, end on December 31, 2010. Recognizing that there is some benefit to limited expanded access, the Board further recommends amending the statute to permit the court to grant access to individuals or entities with an established legitimate interest in the proceedings.**

In making this recommendation, the Advisory Board gave careful consideration to the extensive research conducted by the Overview of Other States' Efforts and Best Practices Subcommittee and identified ideal legal standards for statutory and rule language from other states. The Board respectfully recommends that policy makers consider revising Connecticut's applicable statutes and rules governing public access to juvenile court proceedings to include a legitimate interest standard.[56] To assist in this effort, the Board submits for further consideration the applicable laws from the following states which strike an appropriate balance between openness and court discretion:

- **Illinois:** 705 ILL. COMP. STAT. § 405/1-8. Confidentiality and accessibility of juvenile court records.

  705 Ill. Comp. Stat § 405/1-8 excludes the general public from any hearing except representatives of the news media, representatives of agencies and/or associations who, in the opinion of the court, have a direct interest in the case or in the work of the court. However, the court may, for the child's safety and protection, and for good cause shown, prohibit any person or agency present in court from further disclosing the child's identity.

- **District of Columbia**: D.C. CODE ANN. § 16-2316. Conduct of hearings; evidence.

  D.C. Code Ann. § 16-2316(e) excludes the general public from hearings except in hearings to declare an adult in contempt of court. Only persons necessary to the proceedings shall be admitted but the Division may, pursuant to court rule, admit such other persons, including members of the press, as have a proper interest in the case or the work of the court on condition that they refrain from disclosing information identifying the child or members of the child's family involved in the proceedings. Attendees shall be bound by the confidentiality

[55] The November 16, 2010 meeting minutes include the results of the Advisory Board vote on recommendations for the General Assembly, available at: http://www.jud.ct.gov/Committees/juv_access/default.htm.

[56] The issue of unfettered access by the press under a legitimate interest standard was of great concern and not unanimously supported by the Board. See November 16, 2010 Advisory Board meeting minutes.

requirements of the law and shall be informed of said requirements and the penalties for their violation.

- **California**: CAL. WELF. & INST. CODE § 346. Admission of public and persons having interest in case.

Cal. Welf. & Inst. Code § 346 provides that unless requested by the parent, guardian or minor and consented to by the minor, the public is not admitted. The court may, nevertheless, admit relatives and anyone the court deems to have a "direct and legitimate" interest in a particular case or work of the court. By case law, the press has been recognized as a person with a "direct and legitimate" interest.[57] The media can attend on a condition that it does not publish the name of the child, any likeness of the child, interview any child without an attorney present, interview the child's caretakers in the presence of the child, interview any mental health professional to whom the minor had been referred, and does not do any act which might interfere in the future with reunification or have a negative impact on the provision of reunification services. While the last set of requirements is not in the statute, it is presumably, in a rule of court.

- **Colorado**: COLO. REV. STAT. § 19-1-106. Hearings-procedure-record.

Pursuant to Colo. Rev. Stat. Ann. §19-1-106(2), the general public shall not be excluded unless the court determines that doing so is in the best interest of the child or community, and in such an event, court shall admit only those with an interest in the case or the work of the court including those persons the attorney for the state, the child or the parents or guardian wish to be present.

- **Georgia**: GA. CODE ANN. § 15-11-78. Exclusion of public from hearings; exceptions.

Ga. Code Ann. § 15-11-78 establishes that the general public shall be excluded and only the parties, their attorneys, witnesses and persons accompanying a party for his/her assistance or any person who the court finds has proper interest in the proceedings or work of the court may be admitted. Court has discretion to open any dispositional hearing to the general public.

- **New York**: N.Y. COMP. CODES R. & REGS. tit. 22, § 205.4. Access to Family Court proceedings.

N.Y. Comp. Codes R. & Regs. tit. 22, § 205.4(a) – (b) provides that members of the public, including the news media, shall have access to all courtroom, lobbies, waiting areas and other common areas of the family court. The general public or any person may be excluded from the courtroom only if the judge determines, on a case-by-case basis based upon supporting evidence, that such exclusion is warranted. The court

[57] See *San Bernardino County Dept. of Public Social Services* v. *Superior Court of San Bernardino County,* 232 Cal. App. 3d 188, 283 Cal. Rptr. 332 (Cal. App. 4th Dist.1991).

may consider whether (1) the person is causing or is likely to cause a disruption in the proceedings; (2) the presence of the person is objected to by a party for a compelling reason; (3) the orderly and sound administration of justice, including the nature of the proceedings, the privacy interests of individuals before the court, and the need for protection of the litigants, in particular, children, from harm, requires that some or all observers by excluded from the courtroom; and (4) less restrictive alternatives to exclusion are unavailable or inappropriate to the circumstances of the case. The judge must make such findings prior to ordering the exclusion. When necessary to preserve the decorum of the proceedings, the judge shall instruct representatives of the news media and others regarding the permissible use of the courtroom and other facilities of the court, the assignment of seats to media representatives on an equitable basis and any other matters that may affect the conduct of the proceedings and the well-being and safety of the litigants.

VII. CONCLUSION

Providing the public with access to child protection proceedings requires a delicate balance of the public's right to information with the best interests of the children involved in these proceedings. The Board respectfully requests that further consideration be given to the work of the Advisory Board and the concerns that have been identified in this report before continuing or expanding public access. It is recommended that Connecticut carefully control access to the juvenile courts considering the potential for harm that may result should broad public access to these matters be permitted. A legitimate interest rule will provide for the best expression of responsible access which balances both sides of the public access debate. This standard will permit Connecticut to put the requisite safeguards in place to protect children and families served in the juvenile courts, and minimize the damage that could result from public scrutiny in such emotional, personal, and sensitive matters.

VIII. APPENDICES

Appendix 1: Public Act 09-194

Appendix 2: Pilot Standing Order

Appendix 3: Conn. Practice Book § 1-11D. Pilot Program to Increase Public Access to Child Protection Proceedings.

Appendix 4: Online Survey

Appendix 5: Focus Group Questions

Appendix 6: Hearing Attendance Sheet

Appendix 7: State Standards for Opening or Closing Juvenile Court Proceedings to Public

Appendix 8: Presentation: Summary of Minnesota Open Court/Records Pilot and Practices

Appendix 9: An Analysis of the Connecticut Juvenile Access Pilot Program H.B. No. 6419

Appendix 10: Child & Youth Law Forum Survey

Appendix 11: Options Considered & Voted on by the Advisory Board