

A Few Questions That Can Change Everything

The shelter care (detention) hearing in a juvenile dependency case is the most important hearing facing a juvenile court judge. The judge is being asked to approve a recommendation from the department to remove the child from parental care. No matter what the situation in the child's home, a removal will be a traumatic event, one that will likely have long term impact on the child. The recommendation from the social worker for removal will be based on compelling facts and will usually result in a court order approving removal and out of home placement.

However, it is true that once a child is removed, it becomes logistically and practically more difficult to help a family resolve its problems.

Years ago, the National Council of Juvenile and Family Court Judges (NCJFCJ) sponsored a project to determine whether judges could ask questions at the shelter care hearing that would result in fewer children being removed from home and reduce disproportionality. Three sites were selected to try this approach at the hearing, Multnomah County (Portland), Oregon, Douglas County (Omaha), Nebraska, and Los Angeles County, California. At the shelter care hearing the dependency judges were instructed to ask several questions to the parties. Below is a summary of the questions printed on the benchcard.

1. What is the current and immediate safety threat? Has the threat diminished? How do you know that? Specifically, how can the risk be ameliorated or removed?
2. What is preventing the child from returning home today? What specifically prevents the parents from being able to provide the minimally adequate standard of care to protect the child? Will the removal or addition of any person from or in the home allow the child to be safe and be placed back in the home?
3. If the safety threat is too high to return the child home, how have the conditions for return been conveyed to the parents, family and child, and are satisfied that they understand these conditions?

You can see that these questions will take some time. There is no reason to rush – the Resource Guidelines published by the NCJFCJ recommend taking 60 minutes for this hearing.

Judge Zeke Zeidler of the Los Angeles Juvenile Court participated in the project. He found that the benchcard served as a concrete reminder to consider and verbalize required findings, such as the services available to leave the child in the home without risk and efforts made to place the child with relatives. It also provided valuable prompts to solicit the input of those family members present in court and to ascertain at the end of the hearing that the parents understood what happened in the hearing. It has the potential to equalize treatment of parties of diverse backgrounds by ensuring that the same considerations are made in every case and by making sure that all participants have an understanding of the court process.

An online copy of the NCJFCJ benchcard is available here: <https://www.ncjfcj.org/wp-content/uploads/2021/03/NCJFCJ-Enhanced-Resource-Guidelines-05-2016.pdf>



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