



Dual-Status Children: Protocols for Implementing Assembly Bill 129

Deana A. Piazza
Administrative Office of the Courts
Center for Families, Children & the Courts

Assembly Bill 129, sponsored by the Judicial Council and the Children's Law Center of Los Angeles, was intended to improve the handling of cases in which delinquency and dependency intersect and to help increase access to appropriate resources and services for children and families in a holistic and timely manner. Effective January 1, 2005, this legislation allows counties to choose to develop a local dual-jurisdiction protocol to designate certain youth as dual status—as both a dependent child and a ward of the juvenile court. This research update summarizes the results of the legislatively mandated evaluation of AB 129.

Overview of the Legislation

Before the enactment of Assembly Bill 129, Welfare and Institutions Code section 241.1(a)¹ provided that when a child appeared to fall within the description of both a dependent and a ward of the court, probation and social services were to determine which status would serve the best interests of the minor and the protection of society. The recommendations of both departments were presented to the juvenile court with the petition filed on behalf of the child, and then the court determined which status was appropriate. Courts were prevented from making a child simultaneously both a dependent and a ward of the court.

AB 129, with the addition of 241.1(e), allows each county's probation department and child welfare department, in consultation with the presiding judge of its juvenile court, to develop a written protocol permitting a child who meets specified criteria to be designated as both a dependent child and a ward of the juvenile court. The protocol must include the following:

- A description of the process used to determine whether a child is eligible to be dual status;
- A description of the procedure by which the probation department and the child welfare services department will assess the necessity of dual status;
- A provision for ensuring communication between judges in the dependency and delinquency courts when the dependency matter has been suspended;

¹ Subsequent code numbers in this research update refer to the Welfare and Institutions Code.

- A plan to collect data to facilitate the Judicial Council’s evaluation of the implementation of the protocols; and
- The adoption of either a “lead court/lead agency” or an “on-hold” model.

The lead court/lead agency model involves a joint assessment to determine the most appropriate system to be responsible for case management and all mandatory hearings and reports. However, both the dependency and the delinquency cases are still open. When dual supervision is no longer necessary or one case status ends, the system with a case still open assumes full supervision of the case. Under this model, children can enter the system with a delinquency case but then receive services under the dependency system. The on-hold model suspends the child’s dependency case as long as the delinquency case is in effect. At the time the delinquency case could be dismissed, the probation and the child welfare departments jointly assess whether dependency jurisdiction should be reinstated. AB 129 suspends dependency jurisdiction for appropriate cases, eliminating the need to file a new petition to reopen the dependency case when the child has successfully completed probation.²

AB 129 also requires the Judicial Council to prepare an evaluation of the implementation of the dual-status protocols within two years of the date the participating counties first deem a child to be a dual-status child. This research update summarizes the major findings of the final evaluation report.³

Impetus for the Legislation

The prohibition under 241.1(a) against making a child simultaneously a dependent child and ward of the juvenile court presented the court with significant challenges in serving certain youth and families. For example, when a child has successfully completed probation but does not have a safe home to return to, the court, in the absence of dual status, may retain delinquency jurisdiction in order to maintain the child in an out-of-home placement. This could result in a child being placed in a more restrictive setting than necessary and being subject to the stigma of being on probation for a longer period than a child who has a home to return to.

The single-status requirement also was viewed as hampering the ability of the courts, probation, and child welfare to address family issues in a holistic manner. In the dependency system, interventions historically have focused on the parents’ maltreatment of the child, whereas in the delinquency system, interventions have focused on the child’s criminal activity. Dual status was viewed by its supporters as a way to provide more comprehensive services to the family with multiple issues—pulling in the resources available to both the probation department and child welfare services—to allow parents who have been found to be abusive or neglectful to be held accountable at the same time that their children’s illegal behavior is addressed.

California and national research indicates that a certain population of youth and families experience problems that touch both the dependency and delinquency systems (often referred to as “crossover” youth). Stakeholders surveyed as part of the Juvenile Delinquency Court Assessment (JDCA)⁴—including probation officers, prosecuting attorneys, and defense attorneys—encountered several issues

² Personal communication from Tracy Kenny, Attorney, AOC Office of Governmental Affairs, October 6, 2005.

³ The final evaluation report is available at www.courtinfo.ca.gov/programs/cfcc/pdffiles/AB129REPORT113007-edited.pdf.

⁴ For more information on the Juvenile Delinquency Court Assessment, see www.courtinfo.ca.gov/programs/cfcc/programs/description/delprojProjects.htm.

in working with this population, including youth lacking a suitable home or family to go to while, or on completion of, probation (reported by 96 to 98 percent⁵ of respondents), youth whose parents have substance abuse problems (reported by 95 to 98 percent of respondents), and youth whose parents have mental health problems (reported by 87 to 93 percent of stakeholders).

Many professionals who work with the crossover population believe that these types of problems often exceed the ability of one system to deal with them, a notion that was reinforced by findings from JDCA. Common difficulties faced in serving these youth and their families included holding parents accountable or getting them to cooperate (reported by 83 to 93 percent of respondents) and finding suitable placement (reported by 48 to 85 percent of respondents).

A survey of judicial officers⁶ from the JDCA sheds light on the issues faced by judicial officers in handling cases involving children who are moving from one part of the juvenile court to the other. One in five judicial officers (22 percent) was either “dissatisfied” or “very dissatisfied” with information sharing between probation and child welfare. More than half (59 percent) cited services for youth not being as extensive in the delinquency system as in the dependency system as a consideration in how to handle these cases. Other common considerations were the belief that dependent youth with delinquency referrals can lose their ability to return to their placement (46 percent) and that there is an interruption in services for dependent youth who enter the delinquency system (43 percent).

Before its June 2005 Transfer of Knowledge Symposium, Center for Families, Children & the Courts (CFCC) staff distributed a questionnaire to all participants to identify the county teams’ needs and concerns related to developing a dual-status protocol. One question addressed the adequacy of the 241.1(a) protocols they had adopted before AB 129. Commonly cited problems with the protocols included the following:

- Returning children from probation to the dependency system (54 percent);
- Continuity of services for the (50 percent);
- Continuity of services for the family (50 percent);
- Lack of communication among the court, probation, and child welfare (47 percent); and
- Lack of ongoing, coordinated case assessment (45 percent).

The difficulty in addressing the needs of crossover youth and their families has been magnified by a historical lack of communication and coordination between the dependency and delinquency systems. Supporters of AB 129 believed that dual status would provide another tool to the court, probation, and child welfare to effectively deal with these youth and families.

Adoption of Dual-Status Protocols

From January 2005 to November 2007, 7 of California’s 58 counties had formally adopted a dual-status protocol: Colusa, Inyo, Placer, Riverside, San Joaquin, Sonoma, and Stanislaus. (See table 1 for a list of the counties that adopted a protocol and the dates their protocols became effective).

⁵ Ranges are provided because the issues were reported with different frequency by different categories of stakeholders.

⁶ For succinctness in writing this research update, “judicial officers” refers to judges, commissioners, and referees.

Five of the seven counties with protocols have chosen the lead court/lead agency model. The other two counties have chosen a hybrid approach that permits them to apply that model or an on-hold model on a case-by-case basis. The on-hold model may be less appealing because the statute is applicable only to cases where dependency youth cross over to delinquency, not vice versa.

Only two of the seven counties have chosen to calendar joint dependency/delinquency hearings for their dual-status cases and, in one of those, both agencies are expected to attend the hearing. In the other counties, reports generally are prepared by the lead agency and only that agency is present in court. One county has directed its dependency court to hear all dual-status cases, regardless of which agency is the lead. This approach ensures consistency in that all attorneys, probation officers, and social workers know in which court their dual-jurisdiction matters will be heard, and one judge and one clerk are responsible for handling the files and making all findings and orders.

Several of the protocols indicate a desire for one attorney to keep the case when youth cross from either system and are deemed dual status, whether it is the child's dependency attorney or defense attorney. However, the protocols also acknowledge the difficulty that this presents; a dependency attorney may not be able or willing to regularly appear in delinquency court if that court becomes the lead, and delinquency defense attorneys may not be able or willing to appear in dependency court. When assigning only one attorney is not possible, good communication between the two attorneys is essential to ensure both are kept apprised of the child's needs and progress.

Cases Considered for Dual-Status

As of June 30, 2007, in six of the seven counties⁷ that submitted quarterly statistics, 560 youth⁸ had been candidates for dual status, with the vast majority (90 percent) having had active delinquency cases prior to the dual-status hearing. The data collection forms focused on the child's status immediately prior to the dual-status hearing; therefore, the statistics do not reflect the extent to which youth with active delinquency cases had been previously involved in the dependency system. According to county team members, the families of many delinquent youth considered for dual status do in fact have a prior child welfare services history. Additionally, some delinquent youth may have a current child welfare case in their family (with respect to their siblings), but because of the prior prohibition on dual status, are not themselves dependents.

Of the 560 youth who were candidates for dual status, 95 (17 percent) ultimately were declared dual status. It is important to note that although dual status was an option in those 560 cases, it may not have been actually recommended in all cases. In fact, county teams noted that they have been very careful not to recommend dual status just because it is an option; in general, they believe that dual status should be reserved for special or unique situations. They have been carefully weighing the benefits of the involvement of both systems in the case, assessing what the family can get from one system that they cannot get from the other. Although not among the most prominent considerations in developing a protocol, participants in the AB 129 symposium also commonly noted concerns

⁷ Data are not available for Colusa County.

⁸ This figure does not include a small number of cases that had been initially considered for dual status but did not have a disposition on dual status because the case was transferred or new information became available that changed the team's view of the need for dual status.

surrounding “net widening.” This term evolved in the evaluation of juvenile justice diversion programs and refers to the expansion of the numbers and types of youth brought under the supervision of the juvenile court, as well as the potential that these cases are inappropriately brought into the juvenile justice system.⁹ Based on statistics and reports from county team members, net widening is an issue that does not appear to have materialized and in some cases was consciously avoided.

Although youth with active delinquency cases were more likely to be *considered* for dual status, youth with active dependency cases were more likely to be *declared* dual status (35 percent of youth with active dependency cases were declared dual status, compared to only 15 percent of youth with active delinquency cases, see table 2). Dependent youth considered for dual status had been in the system for a long time (close to half had cases active for two or more years), whereas delinquent youth considered for dual status had been in the system a relatively short time (nearly 8 in 10 had cases active for six months or less). For dependent youth, the delinquency offenses that prompted consideration for dual status were fairly evenly distributed among felonies and misdemeanors, as well as among violent, property, and other crimes, with drug offenses being least common. For most delinquent youth (55 percent), the trigger for dual status was child neglect.

Dual-status youth were most likely to be served by the dependency court as the lead court and child welfare as the lead agency (45 percent); however, almost as frequently, the delinquency court served as lead court and probation served as lead agency (42 percent). Hybrid arrangements (e.g., delinquency as lead court and child welfare as lead agency) were much less common. Dual-status children were more likely to be male (66 percent) than female (34 percent). All were between the ages of 13 and 17. Most dual-status youth were placed in either juvenile hall or foster care at the time of the dual-status hearing (see table 3).

County Team Perspectives on Implementing Protocols

Interviews and focus groups with judicial officers, probation and child welfare staff, and other stakeholders revealed key aspects of dual-status protocol development, successes and challenges in implementing the protocol, and the benefits and drawbacks of dual status.

Protocol Development and Implementation: Process Issues

In developing and implementing the protocols, county teams found that judicial leadership was key to convening the right people to provide input on their dual-status protocols and to ensuring the continuing momentum of protocol development. Similarly, they found it beneficial to have point people in probation and child welfare who were knowledgeable about the protocol and could be a central point of contact for questions or concerns regarding it. The counties also involved a wide range of stakeholders—not just the court, probation, and child welfare—in developing their protocols, as they recognized that many other parties would be affected by implementation and that they would need to buy into the protocol and, at a minimum, have a conceptual understanding of dual status.

County teams found that stakeholders in the dependency and delinquency systems lacked knowledge of or had misconceptions about one another’s systems. Joint training—especially for probation officers

⁹ D. Oldenettel and M. Wordes, (2000). The Community Assessment Center Concept. OJJDP Juvenile Justice Bulletin, March 2000, www.ncjrs.gov/html/ojjdp/jjbul2000_03_6/pag5.html (accessed October 10, 2007).

and social workers, those most involved in serving dual-status youth and families—was viewed as a way to enhance collaboration between the systems and generally improve implementation of their dual-status protocols. In addition to joint trainings, collaborative meetings among the various stakeholders from both systems are important to identify and troubleshoot problems and have other questions answered. Because of staff turnover and the potential for new issues to arise over time, training and collaborative meetings should occur regularly or frequently.

Successes and Benefits

Participating counties reported that having a dual-status protocol has enhanced the courts' and agencies' ability to treat family problems more holistically and to provide a fuller range of services to address problems throughout the family, not just for the child or the parent. Probation historically has been viewed as weak in providing reunification services; having the opportunity to partner with the child welfare department means that family reunification can be better addressed. When child welfare is able to provide services to the family of a delinquent child, it may also help prevent future delinquency among younger siblings by working with parents to provide consequences for their children's behavior. On the other hand, for a dependent whose criminal behavior is escalating, probation may be better equipped than child welfare to provide the youth with needed structure and accountability. Dual status allows the courts to draw on the strengths of each agency to address the family situation.

Although probation and child welfare services have access to many of the same placements, the extent to which each agency has knowledge of all of those placements, as well as their comfort level working with particular placements, may vary. Probation officers and social workers noted that dual status has expanded their knowledge of the range of placement options available for these youth. Additionally, there are occasions where different types of placements become available because of a youth's dual status. More broadly, having both agencies involved places an extra set of eyes and ears on the youth and family, meaning that the court and agencies have more complete information and can make better decisions on the case.

Increased interagency communication and a greater understanding by probation and child welfare of one another's roles, mandates, philosophies, and limitations also have been consistently emphasized as key collateral effects of dual status. The agencies have been able to educate one another about the services they provide and resources they have access to, which can help them coordinate case plans much more effectively. Furthermore, county team members have noted that increased communication and collaboration—the fact that workers have someone knowledgeable who they can call at the other agency—has enhanced their ability to serve non-dual-status youth as well.

Obstacles and Challenges

The difficulties of implementing dual-status protocols center around a few major themes. One theme is a lack of clarity regarding the specific responsibilities of and procedures to be followed by agency workers, judicial officers, attorneys, and other key players. For example, probation officers and social workers may have difficulty finding out who their counterpart is in the other agency or how to contact that person; agency staff may not be notified, may be notified late, or may find out indirectly about key events in the case, such as changes in placement, court hearings, or the assignment of a new probation officer or social worker; others may have difficulty obtaining important documents, such as review

reports and minute orders; and agencies may not engage in ongoing communication about cases. Additionally, judicial officers need to ensure that they are making the proper findings on both sides of the case, which may be especially challenging for those without experience in both dependency and delinquency. Clerks need to ensure that the appropriate findings make it into the minute orders and that the minute orders and other relevant documents are included in the case files—files that they may not normally manage.

Another theme is a lack of knowledge or misunderstanding among delinquency stakeholders about the dependency system, and vice versa. For example, when one agency takes the lead in writing court reports, they often lack the depth of information that the nonlead agency provides based on its expertise; social workers noted that probation officers may be quicker than they would be to try to reunify children with their parents or may not understand why a family could have so many child abuse reports without anything being founded; and probation officers note that social workers may want to put children in juvenile hall or charge them with a probation violation when probation might not think it's appropriate and would not otherwise do so for a non-dual-status case.

A final theme related to the challenges of implementing a dual-status protocol is a lack of guidance at the state level about how dual status should be implemented—particularly around the issues of responsibilities for visitation, payment for services, and eligibility for title IV-E funding, all of which have been obstacles for the counties, and also with respect to some of the procedural and logistical challenges mentioned above.

Promising Practices and Future Directions

The county teams believe that their dual-status protocols can work more effectively and achieve more successful outcomes for youth and families if they were given additional time and training, an opportunity to build on their protocols, and further direction at the state level,.

They are exploring additional policies and procedures that can greatly enhance their ability to handle dual-status cases. Because such cases are unique and require some degree of specialized knowledge, probation and child welfare have considered developing dual-status units or designating specific staff to work on these cases. Similarly, some courts have designated, or are considering designating, a specific judicial officer or officers to hear all dual-status cases. Courts may wish to consider establishing a specialized dual-status calendar, which would likely facilitate the appearance in court of players from both the dependency and delinquency systems who have an interest in the case. Having specialized positions or courts would also help to better institutionalize dual status.

County teams have been addressing ways to enhance communication and collaboration between probation officers and social workers. Holding family team meetings regularly will not only ensure ongoing, face-to-face contact between the probation officer and the social worker, but will also allow them to meet with the family together to jointly assess its needs, which may help them develop more responsive and comprehensive case plans. County teams also have been developing joint report templates, which, in addition to providing a consistent format for dual-status reports, lay out the nature and extent of information that should be included in the report. By clarifying expectations about each agency's contributions to the report and incorporating details such as employing "we" language, county teams hope that using the templates will reinforce the notion of collaboration among agency staff and improve the quality of reports from the judicial officer perspective.

Table 1. Counties With Dual-Status Protocols

County	Effective Date
Colusa County	3/23/2006
Inyo County	12/13/2005
Placer County	12/14/2005
Riverside County	10/5/2005
San Joaquin County	12/19/2005
Sonoma County	9/7/2006
Stanislaus County	12/23/2005

Table 2. Dispositions for Cases Considered for Dual Status

	Original Jurisdiction: Dependency		Original Jurisdiction: Delinquency		All Cases	
	N	Percent	N	Percent	N	Percent
Original court retained jurisdiction	19	33%	381	76%	400	71%
Other court assumed jurisdiction	17	30%	39	8%	56	10%
Declared dual status	20	35%	75	15%	95	17%
Status not yet determined	1	2%	8	2%	9	2%
Total	57	100%	503	100%	560	100%

Note: Percentages may not sum to 100 due to rounding.

Table 3. Characteristics of Dual-Status Youth

	N	Percent
Gender		
Male	63	66%
Female	32	34%
Age		
13 to 15	47	49%
16 to 17	48	51%
Race/ethnicity		
White, non-Hispanic	31	33%
Hispanic or Latino	38	40%
Black or African-American	17	18%
Native American	1	1%
More than one race/ethnicity	5	5%
Other	3	3%
Living situation at time of contact with other system		
Home with parents	10	11%
Relative foster care	6	6%
Nonrelative foster care	13	14%
Group home/residential treatment	12	13%
Shelter	4	4%
County juvenile detention	45	47%
Other	5	5%
Total	95	100%

Note: Age and race/ethnicity categories listed are limited to those applicable to at least one dual-status youth. No dual-status youth were less than 13 or more than 17 years old and none were Asian or Pacific Islander.

**Judicial Council of California
Administrative Office of the Courts**

Chief Justice Ronald M. George
Chair of the Judicial Council

William C. Vickrey
Administrative Director of the Courts

Ronald G. Overholt
Chief Deputy Director

Primary Author

Deana Piazza
*Senior Research Analyst
Center for Families, Children & the Courts*

Center for Families, Children & the Courts Staff

Diane Nunn, Attorney
Division Director

Charlene Depner, Ph.D.
Assistant Director

Don Will
Manager

Audrey Fancy
Supervising Attorney

Amy J. Bacharach, Ph.D.
Research Analyst

Judicial Council of California
Administrative Office of the Courts
Center for Families, Children & the Courts
455 Golden Gate Avenue, 6th Floor
San Francisco, CA 94102-3688

*The preparation of this report was financially assisted by a grant from the
Judicial Council of California, Administrative Office of the Courts,
Center for Families, Children & the Courts. The opinions, findings, and conclusions in the report are
those of the authors and not necessarily those of the Judicial Council.*