



Effects of Funding Changes on Legal Representation Quality in California Dependency Cases

An Assessment



AMERICAN **BAR** ASSOCIATION

Center on Children
and the Law

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Introduction

The child welfare legal community has devoted significant attention to defining what constitutes high-quality legal representation for children, parents, and agencies in child welfare proceedings. Much of that work was captured in a 2017 Information Memorandum issued by the U.S. Department of Health and Human Services, Children's Bureau. In that Memorandum, the Children's Bureau called on child welfare agencies, courts, administrative offices of the courts, and Court Improvement Program leaders to work together to ensure all three parties in child welfare proceedings—parents, children and youth, and child welfare agencies—receive high-quality legal representation at all stages of child welfare proceedings.¹

That Memorandum was also informed largely by research evaluating the impact of different models of legal representation on case outcomes for children and families throughout the country.² Other evaluations have continued to grow that body of research as recently as this year.³ By showing improved outcomes for children and families, this previous research helps answer why it is so important to invest in legal representation in child welfare cases.

Previous research also helps explain why investing in legal representation should ensure attorneys meet certain standards of practice and levels of quality.⁴ Despite increased attention on how high-quality legal representation affects child and family outcomes, few studies have examined the effect of funding on the provision of high-quality representation.

About This Assessment

This assessment begins to fill this research gap. It examines how funding for children's and parents' counsel affects factors typically associated with high-quality legal representation, including caseloads, adequate staffing, training and experience, out-of-court advocacy, and multidisciplinary models of practice.⁵

Changes in the California state budget allocation for children's and parents' counsel in 2014 provided an opportunity to assess the impact of funding on legal representation for children and parents in child welfare cases in several sites. Beginning in 2014, the state began adjusting each superior court's dependency counsel budget allocation using a workload-based formula designed to address funding inequities resulting from demographic shifts in the state and other factors. Since

2014, California has also augmented state resources for dependency counsel. This assessment examined sites that either received additional funding or lost funding for dependency counsel between 2014 and 2018.

Assessing the impact of funding changes on legal representation is especially timely because in late 2018, the Children's Bureau built on its Information Memorandum by making a policy change that opens federal funding to support children's and parents' counsel for the first time. More recently, the Children's Bureau clarified the funding also supports members of multidisciplinary legal teams such as paralegals, investigators, peer mentors, and social workers.⁶ States across the country have the opportunity to draw down these new resources to invest in dependency counsel.⁷ The California assessment analyzing the impact of funding changes can inform state decisions about how to leverage this new funding for the greatest benefit to children and families.

Key Findings

The quantitative and qualitative data from this assessment point to three key findings states and counties can look to when evaluating options for investing in high-quality legal representation.

1. **Funding changes for children's and parents' counsel had a direct impact on several factors that affect legal representation quality**, such as attorney recruitment and retention, multidisciplinary legal practice, caseloads, workload per case, and case delays.
2. **In addition to attorney funding, other child welfare system factors influenced the quality of child and parent legal representation.** These included agency policy, court funding and structure, and client access to services.
3. **Factors outside the child welfare system also affected the quality of legal representation available to children and parents in the sites studied.** For example, homelessness and poverty were regularly reported as significant challenges for effective legal representation because factors such as unstable housing, lack of access to affordable transportation, or a rural location can exacerbate challenges in meeting with clients or ensuring they appear in court.

For more detail on these findings and corresponding recommendations, see the Discussion section.

Background on Dependency Counsel Funding in California

In California, court-appointed counsel for parents and children in dependency proceedings is a statutory mandate⁸ and a state-funded budget item for the superior courts, which are part of the state judicial branch. Superior courts in each of California's 58 counties are funded through the state general fund. The Judicial Council of California (Judicial Council or Council) approves the methodology used to allocate the state judicial branch budget for dependency counsel to the local superior courts in each county. Those methodologies are informed by participation and guidance from dependency judges and court executives through the Council's committee structure.

Shifting Caseloads and Funding Needs

In 1989, court-appointed dependency counsel became a state fiscal responsibility when "court operations" were defined as including such counsel and funds were appropriated for trial court operations.⁹ Until that time, dependency counsel budgets were maintained by each local superior court. In the transition to state funding, most trial court systems maintained their respective dependency counsel service delivery models. By the early 2000s, population expansion, including the large population growth in southern California, meant these historical spending patterns no longer reflected population and court need in the state. This resulted in caseloads and funding need increasing in many courts beyond what historical dependency counsel funding patterns supported.

New Funding Methodology and Reallocation Plan

In 2007, the Judicial Council approved a methodology for calculating attorney workload and funding need for dependency counsel in each court. The Council designed this methodology to calculate the total state need, which was set at \$137 million annually. However, the base budget for court-appointed dependency counsel in the state budget at that time remained \$103.7 million.

While working with the legal community through the state's budget change proposal process to increase dependency counsel funding to the greater calculated need, the Judicial Council in fiscal year 2014-2015 began reallocating each court's dependency counsel funding to align more closely to workload and funding

needs. Some superior courts had dependency counsel budgets that met over 100% of their calculated need. Others had budgets that met less than 50% of calculated need.

This reallocation plan was noted in the Governor's budget for fiscal year 2015-2016, which also included an \$11 million augmentation for dependency counsel, bringing the statewide budget to \$114.7 million. The reallocation provided a four-year plan to bring courts to parity across all counties, meaning they would all meet the same percentage of need at the end of the four years of incremental adjustments. That percentage was determined annually by the percentage the actual state budget met of the calculated total state need and reached 77% by fiscal year 2019-2020. The reallocation also specified that any new funds provided through the budget process would be allocated to courts with a dependency counsel budget that was still below parity.

Public Comments and Review

Before approving the four-year reallocation and the revised workload and funding methodology, the Judicial Council solicited input, including public comments. During that process, commenters raised a concern that the methodology used for calculating workload and funding need was outdated because it was based on studies dating back to 2002 and local economic assumptions dating to 2007. To address this concern, the Council directed the Family and Juvenile Law Advisory Committee and the Trial Court Budget Advisory Committee to form a subcommittee to recommend updates to the workload model by April 2016. The subcommittee held five focus groups or public meetings of dependency attorneys, including attorneys who were affected by the reduced funds and attorneys working in counties where children's and parents' counsel had been disproportionately underfunded.

Several themes emerged from the Judicial Council's focus groups and meetings:

- *Time constraints:* Attorneys report spending most of their hours in court.
- *Caseload challenges:* All attorneys carry caseloads that make it very difficult to meet with clients outside of court, interview relatives and other potential placements, or assist clients actively in carrying out their case plans. Attorneys working in counties where children's and parents' counsel had been disproportionately under-resourced flagged

concerns about extremely high caseloads, ranging from 500-800 clients per attorney in some counties. Attorneys explained there is no opportunity to be proactive with clients with such a high caseload because they do not have time to reach out to clients between court dates and frequently only talk to them just before court hearings.

- *Contested hearings:* Late case reports combined with such a high proportion of in-court time leads to matters being set for contested hearings that would likely be settled if the attorneys had had more time to work with clients and prepare for hearings earlier in the process.

Focus group participants also spoke about the impact of the Judicial Council's reallocation policy. Attorneys in counties that had previously been disproportionately underfunded to meet child and parent representation needs spoke about the positive impact of new hires and reduced caseloads. Attorneys in counties that experienced budget cuts based on the reallocation spoke of the inability to recruit and retain good attorneys who wished to make a career of dependency representation.

Revised Funding Model

The Judicial Council's ultimate goal was to address the disparities in unmet funding need across the state. It addressed the funding methodology in two ways. First, the Council instituted a phased plan to reallocate funding based on workload need that would take place over four years, with the goal of bringing each court to an equivalent percentage of funding need met. Second, it undertook a review and update of the 2007 workload and funding model. The final model in use since 2016, approved through a series of Judicial Council actions, calculates each court's total dependency counsel funding need using these factors:

- Juvenile dependency court filings
- Court-supervised child welfare caseload
- Attorney maximum caseload computation
- Average of County Counsel salaries in California
- Attorney direct cost and overhead computations
- Bureau of Labor Statistics Governmental Salary Index by county.

Reallocation Impact

In the first year of the reallocation (fiscal year 2015-2016), funding decreased for 29 counties by an average of 3%, while funding increased in 28 counties by an

average of 50%. The following year the changes were steeper. In fiscal year 2016-17, the cumulative decrease since fiscal 2014-2015 was 12% for 30 counties, and the cumulative increase was 68% for 20 counties. In fiscal year 2017-2018, statewide dependency counsel funding increased by an additional \$21.9 million, allowing for larger increases or smaller decreases to bring counties to parity.

ABA Assessment Period

The ABA assessment covered activities through fiscal year 2017-2018. However, significant budget changes occurred beyond the time of the assessment through fiscal year 2019-2020, when the statewide dependency counsel budget had been augmented by \$53 million, or 51 percent more than funding in fiscal year 2014-2015. The Judicial Council anticipates the Title IV-E federal match funding will provide an additional \$57 million, bringing the total allocation to \$214 million and meeting the Council's estimated workload need in all counties.

Background on the Assessment Process

Assessment Team

The Center on Children and the Law is a grant-funded entity within the American Bar Association that manages a diverse portfolio of children's law projects across the country. All our projects are unified by two complementary goals: to improve legal representation and to improve the legal systems that impact children and families' lives. Much of the Center's work involves supporting child welfare and court systems to design reforms that improve outcomes for children and families. The Center has a long history of working with partners in the legal field to set standards of quality legal representation for children's, parents', and agency counsel in child welfare cases. The Center has also worked extensively with states and counties for over 40 years to implement state-specific legal representation standards and evaluate their application in practice.

Assessment Request

In 2016, the Walter S. Johnson Foundation asked the ABA Center on Children and the Law to assess the impact of California's budget changes and reallocation process by looking at the effects in Decreased Funding Sites (where dependency counsel budgets decreased as a result of the reallocation) and Increased Funding Sites (where budgets increased as part of the reallocation). Based on the Center's expertise in

setting and evaluating standards of practice, the Center was well-positioned to assess the impact of California's budget changes on how funding affects child and parent attorneys' ability to provide high-quality legal representation for their clients.

Methodology and Data Sources

The study team created a logic model to identify the overarching research questions and potential indicators and data sources to achieve study goals. The study team worked with each site to determine what data were available from court and case management records. Hard copy court records were not available to the study team in any of the three sites. In two of the three sites, case management systems from the contracted legal firms were used to extract study data. In one site, the court's case management system was used to extract data for the study. Several indicators needed for the study were not available in database form for analysis (e.g., race, ethnicity, date of legal appointment), which is not uncommon in child welfare or dependency court research studies and is an area of improvement that many states—including California in the past¹⁰—have targeted by encouraging the adoption of unified case management systems. In some instances, data were excluded from analysis because of issues with quality (e.g., high degree of missing data

across cases). The ABA executed data-sharing agreements with each entity before receiving case information for the study.

Research Design and Sample

Three sites were selected for the assessment. Interviews with the Judicial Council, with individual attorneys, judges, and administrative personnel from county superior courts, and data on county funding reallocations informed the site selection process. The study team also accounted for the following factors when selecting the sample, to maximize learning from the assessment:

- Community type: urban/rural/suburban
- Geographic position in the state
- Socioeconomic profile of the community
- Population demographics (e.g., race, ethnicity, language, education, income)

An independent in-depth case study design was used to assess each county site as a single case, to understand the funding allocation conditions:

- Increase in funding (Increased Funding Site)
- Decrease in funding (Decreased Funding Site)

Table 1: Logic Model

Study Goal: Assess the impact of funding reallocations to superior courts in site counties on quality of legal representation for children and parents in child welfare cases

| Research Questions | Potential Indicators | Data Sources |
|--|---|---|
| Has quality of representation changed since study sites experienced a funding reallocation? | <ul style="list-style-type: none"> ■ # of cases per attorney ■ Full/part-time status of attorneys | Interviews with stakeholders in sites |
| In sites that are receiving more state dollars now, how are these additional resources impacting representation quality? | <ul style="list-style-type: none"> ■ Average time to appoint/assign an attorney ■ % of appearances in court by attorney vs. substitute | Document review of policies, standards, and attorney contracting terms |
| In sites that are receiving fewer state dollars now, what is being done to maintain representation quality? | <ul style="list-style-type: none"> ■ % of appearances/hearings delayed due to attorney ■ # of out of court advocacy efforts ■ # of visits with client by attorney ■ # of pleadings/filings ■ # of months to permanency ■ Type of permanency outcome | Administrative data and case management systems Attorney surveys |

The resulting sample included a large, mostly urban site, a large, mostly suburban site, and a small, mostly rural site. Sites are deidentified and will be described in the following way as results are presented and discussed.

| Table 2: Study Sample | | |
|---|--|---|
| Increased Funding Site A | Decreased Funding Site B | Decreased Funding Site C |
| Large, mostly urban county with increase in funding | Large, mostly suburban county with decrease in funding | Small, mostly rural county with decrease in funding |

Data Collection

Data were collected using a mixed methods approach, containing quantitative and qualitative data sources. A step-wise process was used, beginning with the review of court-related policy documents describing the contract representation process, followed by telephonic and in-person stakeholder interviews and site visits. Insights from this work were used to request case file data extracts and design survey questions for attorneys and legal staff. The data collection periods are based on California's fiscal year:

- July 1, 2014 – June 30, 2015 (year prior to funding reallocations)
- July 1, 2015 – June 30, 2016
- July 1, 2016 – June 30, 2017
- July 1, 2017 – June 30, 2018

Case file data were collected retrospectively on a randomized sample of dependency cases, for the period July 1, 2014 to June 30, 2018. Data came from the case management systems in use within each site. Information in each data extract was anchored to a specific case or petition number that was tied to a unique child and family, with names removed before the extract was provided to the research team. These case file data extracts included information on attorney practice that prior research links to better outcomes (e.g., number of continuances, changes in attorney), as well as data to help distinguish different case types from one another (e.g., allegation type).

Surveys were collected from attorneys and legal staff involved in case management activities (e.g., investigations). An online survey system was used, and each survey was customized to capture unique aspects of a site's approach to legal representation, while maintaining core questions across sites. Law firm directors were

asked to distribute the online survey link to their staff. Survey questions can be found in Appendix B.

Individual and group interviews were conducted with court and legal counsel representatives as well as with child welfare agency leadership and staff. Interviews were performed by telephone and in-person at various locations in each site. Interview questions were based on role in the court and representation process used in each site, but a core set of questions were also asked of each interviewee group across all study sites. A copy of the interview questions can be found in Appendix B.

Data Analysis

Quantitative analyses using survey and case file data began with univariate (single variable) analyses, and then proceeded to analyses using two or more variables, where appropriate and useful for understanding study results. To answer the research questions, analyses are focused at the *site level of analysis* using aggregated data, rather than assessing individual-level case data. Data sets were reviewed for duplicate cases, completeness of data labels, and missing data. Any data that were missing or whose value was unclear (e.g., a zero for Age) were identified and resolved with the data supplier before analysis began. Resolution sometimes involved removing the variable from the analysis. Survey data were reviewed for completeness, and any surveys that were missing more than 80 percent of responses were excluded from analysis. Quantitative data were analyzed using univariate (e.g., percentages, averages) and statistical techniques (e.g., comparison of means).

Qualitative data from interviews were analyzed through thematic coding of interview notes, by individual analysts working in teams for each site so each interview was analyzed by two people. Key themes were identified by each site team, who met together to review and resolve any discrepancies between themes identified by individual analysts. Thematic summaries were created for each site and then all site teams (six people) met to identify common and unique themes across sites.

Discussion

The assessment examined the impact of funding reallocations on the quality of legal representation for children and parents in child dependency cases in California. The assessment focused on how increases or decreases in funding affected factors associated with

high-quality representation, such as staff recruitment and retention, manageable caseloads, multidisciplinary models of practice, out-of-court advocacy, time meeting with clients, and causes for case delays.¹¹ Research across the country has shown these and other factors affect the quality of legal representation an attorney can provide for a child or parent in child welfare proceedings.¹²

Changes in funding allocation for child and parent legal representation affected some legal service providers' ability to complement the attorney role with multidisciplinary partners to best serve client interests and needs.

In California, data gathered in each of the three study sites showed changes in attorney funding directly affected these factors and by extension affected attorneys' ability to provide high-quality legal representation for child and parent clients. Notably, data collected during this assessment also showed that legal representation quality is influenced by other child welfare system factors such as child welfare agency practice in filing petitions, availability of services for clients, and court funding. The assessment data likewise demonstrated that non-child welfare system variables—such as family circumstances, geography, and access to transportation—can also affect an attorney's ability to provide high-quality legal representation.

While the detailed data is included in the Results and Data section below, this section outlines the assessment's key findings and recommendations for how to use this information in future decision making about attorney funding.

Findings

1. FINDING ONE: Funding changes directly affected representation quality.

The primary areas affected by funding changes fall into two categories: **staffing** and **time**. In the staffing category, funding changes affected compensation levels, attorney recruitment and retention, and the implementation of multidisciplinary legal representation. In the time category, funding changes affected caseloads, workloads, and continuances.

Attorney Staffing

Staffing is a critical factor in delivering high-quality legal representation. When a legal services office is staffed adequately it leads to fewer delays in the court process, greater consistency in representation for the client, and opportunities to improve practice through training, experience, and oversight. This is critical because attorneys need to be well trained to handle complex dependency cases to best serve their clients. They also need to develop a relationship with clients that comes from consistency in representation rather than regular rotations in personnel. Two of the largest impediments to adequate staffing are attorney recruitment and retention.

Another key component of staffing arises from use of multidisciplinary legal representation, where the attorney works with other team members such as a social worker and a peer advocate (for youth) or parent advocate (for parent clients). Multidisciplinary models also increase the legal services provider's ability to meet the out-of-court case needs of children and families. Changes in funding allocation for child and parent legal representation affected some legal service providers' ability to complement the attorney role with multidisciplinary partners to best serve client interests and needs.

Attorney Recruitment

In the data across all three sites, compensation, including salary and benefits, affected attorney recruitment. For example, Increased Funding Site A's ability to compensate attorneys at a higher level affected recruitment because fair compensation for complex dependency legal work helps attract qualified candidates. By contrast, in Decreased Funding Site C, difficulty recruiting attorneys for dependency practice was linked by interview respondents to high caseloads, inadequate pay, and lack of candidates experienced in child welfare. Furthermore, parent and child representation in Site C is split among multiple entities, including the Office of the Public Defender, so issues related to compensation and equity among attorneys representing similar clients pose additional complexities for recruitment and retention based on salary and benefit differences between governmental and nongovernmental providers.

Attorney Retention

Assessment data showed changes in compensation affected attorney retention. Retention is critical to quality representation in child welfare legal practice because high turnover creates inconsistency, delays in court proceedings, inefficiencies in the hiring and training process, and a loss of important expertise. Additionally, a lack of continuity of counsel (i.e., change in attorneys assigned to a case or substitute counsel appearing in court) and high attorney turnover can affect the perceived quality of representation. In one site, for example, when the legal services provider changed (i.e., the legal firm receiving the contract), counsel frequently changed. Interview respondents believed this turnover affected clients, particularly child clients, who may experience the change in counsel as another broken relationship with an adult. By comparison, in entities reporting little turnover, committed and experienced attorneys aided continuity.

Retention problems were a consistent theme across all sites. Interview respondents noted that qualified and trained attorneys regularly leave child or parent practice to take a government position (e.g., County Counsel, Public Defender), which provides higher compensation, better benefits, and more job stability. These retention challenges affected the quality of representation available for children and parents because often the attorneys who move to other positions are the best trained and most experienced attorneys, while others are younger attorneys seeking greater job stability and growth opportunities.

Compensation was a critical piece of the retention challenge. When asked what factors might prompt them to leave their current position, higher salary and better benefits were the most common reasons reported by attorneys. Across sites, attorneys said they believed the top reason former colleagues left their jobs was for a higher salary, followed by reduced workload or stress and a shorter commute. Similarly, in one Decreased Funding Site, parents' counsel indicated the tighter budget resulted in cuts to employee costs and office space, and children's counsel reported they are not able to pay competitive wages. Both issues resulted in retention problems.

Data in Increased Funding Site A, conversely, indicated that increased compensation improved the likelihood qualified and experienced attorneys will stay in their children's or parents' counsel positions.

Specifically, in Increased Funding Site A, attorneys noted that increased salaries with better coverage and lower caseloads contributed to greater job satisfaction. With increased funding and the ability to provide higher salaries, the children's legal services provider in Increased Funding Site A reported a decrease over the past five years in attorneys leaving for government positions. However, that provider reported movement of attorneys to the parents' counsel provider, which had increased salaries with the new funding. As a result, compensation remains a challenge for children's and parents' counsel even in the Increased Funding Site. The consistent theme is that attorney movement tends to occur in the direction of better pay and benefits.

Multidisciplinary Legal Practice and Representation in Specialized Courts

Funding allocations affected multidisciplinary legal practice in several sites. In Increased Funding Site A, for example, increased funding helped the children's legal services provider hire additional investigators (i.e., social workers for clients) and paralegals as part of the legal team, which allows for greater client contact. Even with these increases, however, a judicial respondent still noted that not enough social workers who work with attorneys are available. Another judge stated there have been improvements to get more specialized attorneys and supports for children as well as social workers to see some child clients in their homes; however, there is still not enough time to support clients and meet children's needs. In the same Increased Funding Site, parents' counsel has hired social work investigators with the increase in dependency counsel

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funding. In contrast, a legal services provider in Decreased Funding Site C indicated a desire to establish a multidisciplinary practice but was unable to do so, citing funding limitations.

Collaborative or specialized courts helped better serve specific populations in Sites A and B. These populations included non-minor dependents, victims of commercial sexual exploitation, parents with sub-

stance use disorders, and dually involved youth. A children's legal services provider in Increased Funding Site A uses a multidisciplinary model in specialized courts, including treatment teams, peer advocates, mental health professionals, and special education attorneys who work with clients. Such specialized courts can also affect staffing and caseload/workload issues, especially if attorneys in the specialized courts have lower caseloads.

Attorney Time

Changes in funding allocation affected attorney time. As part of the survey administered in each site, we asked attorneys to identify the greatest challenge they face in providing high-quality legal representation

By having a lower caseload, attorneys have more time per case, including time for out-of-court advocacy, more time to prepare for court hearings, and more time to meet with clients.

in an open-ended question. They reported the greatest challenge is a lack of time to adequately represent their child and parent clients. Changes in funding allocation affected attorney time because in some instances increased funding meant legal service providers were able to expand total staffing (in addition to improved recruitment and retention), which in turn led to reduced caseloads per attorney. By having a lower caseload, attorneys have more time per case, including time for out-of-court advocacy, more time to prepare for court hearings, and more time to meet with clients.

Attorney Caseloads

Attorney funding directly affected caseloads. High caseloads were identified by all stakeholders as influencing the quality of representation in each site. Average caseloads, and changes over time in caseloads, varied across the three sites. Note that our assessment of caseloads relies on both case management system data when available and attorney perceptions of changes in their caseloads. Although attorney perceptions of caseload changes are not as objective as case management system data, they add value to the assessment by reflecting attorneys' views of available time to perform core functions and may affect their job satisfaction. These views can provide insights for staff management.

Caseload data analysis. Increased Funding Site A is the only site with case management system caseload data

for all years of the assessment. Providers in both Decreased Funding Sites B and C changed, and early year data was therefore not available.

- In Increased Funding Site A, legal services providers' average caseload numbers reflect decreases over the assessment period for both children's and parents' counsel. Children's attorneys experienced a 44.1% decrease in caseloads, while parents' counsel experienced a 15.9% decrease over the assessment period. An additional year of data from Site A reflects even greater total decreases of 49.5% for children's attorneys and 21% for parents' counsel.
- Legal services provider data in Decreased Funding Site B indicated a 17.2% decrease in children's attorney caseloads and a much smaller 3.6% decrease for parents' attorneys. These data, however, only reflect the final two years of the assessment during which the dependency budget was augmented and funding decreases were reduced. Parents' counsel experienced a 2.2% increase in caseloads before a decrease.
- Decreased Funding Site C was also only able to provide two years of data, which showed a decrease of 1.2% in children's attorney caseloads in the final year of the assessment, corresponding with a restoration of funding. Parents counsel, however, experienced a 31.3% increase in average caseloads.

Caseload survey/interview responses.

- Sixty percent of Decreased Funding Site C survey respondents noted caseloads have increased over the study period, while 40% indicated they stayed the same, and none felt they had decreased. Attorney survey respondents in Decreased Funding Site C reported the highest average caseload at 266.
- Fifty-eight percent of attorneys in Increased Funding Site A reported caseloads have decreased and 27% reported caseloads have stayed the same. Children's counsel observed that caseloads are still too high (average reported at 172 by survey respondents) despite having decreased since the funding reallocation. Increased Funding Site A judges also observed that caseloads continue to be a challenge and attorneys lack time to do work outside of court. Interview respondents indicated that in Increased Funding Site A, children's attorneys experienced reduced caseloads while parents' counsel also experienced a reduction based on increased staffing.

As noted above, some of the funding increase in Increased Funding Site A was allocated to higher salaries to address recruitment and retention challenges. As a result, the funding increase was not solely used to expand the total number of attorneys on staff. According to child welfare agency interview respondents in Increased Funding Site A, lower parents' counsel caseloads led to more contested hearings, thereby potentially also increasing workload per case.

- In Decreased Funding Site B, 60% of attorneys reported their caseloads stayed the same, while 30% reported an increase in caseloads over the same period. In Decreased Funding Site B, children's counsel indicated increased caseloads well over standards established for caseloads.¹³ In the same site, parents' counsel caseloads vary widely based on location (120 to 170 clients).

Case length can also affect caseload numbers. According to case management system data, the average length of a case was similar across sites, between 94 and 100 months (roughly 8 to 9 years) and was fairly consistent across attorney types. Many of these cases are not currently active, however, but also have not been closed by the court, thereby adding to attorney caseloads.

Attorney Workloads

An attorney's workload is a key factor in representation quality because the workload affects the amount of time an attorney requires to best serve a client's needs in each case. Most attorneys surveyed across all three sites said they have face-to-face (90%) and phone (70%) meetings with their clients before each hearing. However, attorneys were generally not satisfied with the amount of time they had to work with their clients and meet the workload demands to perform functions associated with high-quality legal representation in each case. For example, a lack of out-of-court time available to meet with and advocate for child and parent clients also affected attorneys' abilities to perform high-quality tasks in court.

This is important in the context of child welfare legal practice because attorneys must not only address allegations about past facts but also understand and represent their client's current circumstances, including information that is continuously evolving such as engagement with services that may have a direct impact

on the case outcome. As part of that understanding, attorneys must meet with clients and collaborate with other stakeholders in the case, such as caseworkers, service providers, caregivers, and counsel for the other parties. An additional workload component in California is that children have the right to be present in court and California law prohibits going forward without a child over 10 years of age absent a finding the child did not wish to be present, in which case their attorney waives the client's presence.¹⁴

Funding changes affected attorneys' ability to perform representation tasks. Attorneys were asked if they had enough time to perform specific tasks associated with high-quality representation. These tasks included:

- Making a sound legal argument
- Making sure my client understands their legal options
- Spending time out of court learning about the case
- Having a strong relationship with agency counsel
- Having a strong relationship with the judge
- Having a strong relationship with other (non-agency) counsel on the case
- Having a strong relationship with agency or volunteer staff
- Understanding any related litigation involving my client (e.g., criminal)
- Understanding what services or assessments my client needs to complete
- Visiting with my client outside of court
- Attending case-planning meetings
- Advocating for my client's needs

Parents' counsel. Although responses varied across the sites, in general, a majority of parents' counsel reported they did not have enough time to investigate and plan for contested hearings, understand what assessments or services their clients need, understand related litigation involving their client, visit their client outside of court, develop a strong relationship with agency counsel, and attend case-planning meetings.¹⁵

Children's counsel. Children's counsel across all three sites similarly identified the following workload items as tasks for which they did not have enough time: spending time outside of court learning about the case, investigating and preparing for contested

hearings, understanding what services or assessments their clients need to complete, and attending case-planning meetings.¹⁶

Funding reallocations in California affected the frequency and nature of attorneys' out-of-court advocacy.

- In Increased Funding Site A, for example, parents' counsel were able to perform more front-end work (e.g., challenging the basis for removal; preparing more thoroughly for adjudication and disposition hearings) rather than focusing later in the case on back-end heavy representation (e.g., handling review hearings and permanency planning). Increased Funding Site A children's counsel also stated they have more time to prepare cases before the hearing day. More than 70% of children's counsel in Increased Funding Site A noted, however, that there still is not enough out-of-court time to visit with clients. Likewise, judges in Increased Funding Site A said attorneys lack time to meet with child clients outside of court, even though this has improved since the funding change. One judge observed concerns about parents' attorneys' ability to meet clients before court also persist. Other stakeholders said attorneys spend most of their time in court and do not see clients outside of court.
- In Decreased Funding Site B, agency counsel said parent and child counsel have no time for out-of-court meetings and those attorneys' inability to meet with clients out of court affects the management of in-court time. In Decreased Funding Site B, parents' counsel also report good collaboration with caseworkers, but noted that this collaboration adds to the time attorneys need to devote to the case and discovery process, putting additional constraints on time available to represent each client.
- In Decreased Funding Site C, stakeholder interview respondents stated that high attorney caseloads prevent attorneys from meeting with clients out of court. They also noted that this challenge makes it difficult to manage court time and that high caseloads affect clients' understanding of the process. For example, one stakeholder observed that some children do not always know who their lawyer is, which may be exacerbated by the change in contract firms.

Continuances

Changes in attorney funding were generally but not exclusively related to rates of continuances.

- In Increased Funding Site A, case management system data showed continuances decreased by 17% over the study period. Attorney survey responses indicated approximately 60% perceived no change in continuances, while 30-40% perceived a decrease. In Increased Funding Site A, fewer continuances were noted by children's attorneys, County Counsel (attorneys for the child welfare agency), and judges. One judge noted that continuances are avoided because supervisors now step in to cover absences when needed, minimizing the need for continuance requests based on inadequate staffing. While use of substitute counsel to prevent the need for a continuance is a benefit of increased staffing, the practice can affect the quality of representation in other ways, such as decreasing continuity in representation for individual clients and diminishing attorney-client contact, trust, and relationship-building.
- The rate of continuances in Decreased Funding Site C increased by 34% during the assessment period. The average number of continuances per year per case in Decreased Funding Site C was double that of the two larger counties and more cases overall experienced at least one continuance. In Decreased Funding Site C, interview respondents noted that high attorney caseloads, which prevent attorneys from meeting with clients outside of court, affect the court docket, increase continuances, and make it difficult to manage court time. Turnover at the legal services providers was also noted as a source of increased requests for continuances.
- Decreased Funding Site B experienced the greatest drop in continuances (a 49% decrease over the assessment period), a sign that continuance rates did not always track attorney funding. During the first year of funding decrease, however, continuances rose by 20%, followed by a decline over the next two years of 17% and 48% respectively. Other factors, such as the change in legal services providers, management decisions about office procedures and organizational structure, child welfare agency policy changes, and accuracy of data entries when certain information was not required in the case management system likely contributed to those results, based on multiple interview responses.

Given these mixed results, complexity of the organizational changes in two sites during the assessment, the lack of reliable data, and the challenges in interpreting available data, we recommend a more in-depth continuance study.

2. FINDING TWO: In addition to attorney funding, other child welfare system factors affect quality legal representation.

In addition to funding for counsel, other child welfare system factors also influenced important elements of quality child and parent legal representation. For example, changes in a child welfare agency's approach to filing petitions only in cases presenting the greatest risk to child safety can reduce total caseload numbers per attorney. Additionally, court funding and staffing have a consistent impact on factors that affect representation quality because court backlogs limit attorney time in and out of the courtroom. Both of these influences relate to attorney time by alleviating or exacerbating workload constraints related to time per case. Separately, a child or parent client's ability to access services as part of a case plan can directly affect attorney advocacy in the case.

Child Welfare Agency Policy and Practice

Filing petitions in only high-risk cases reduced case-loads but increased workloads. A specific example of how changes in other processes and procedures may affect attorney workload comes from Decreased Funding Site B, where the child welfare agency changed its policies and reduced its practice of filing petitions, implementing a focus on greater preventative services to families without court intervention. That decision to file only on the cases presenting the greatest child safety risk affected attorney practice in several ways:

- While case filings decreased, the need for attorney time increased due to the complexity of the filed cases.
- The cases that come to court tend to be difficult and more time-consuming.
- Fewer cases settle and more go to trial and a more adversarial approach now reportedly exists.

While there are fewer cases than before (i.e., a perceived decrease in caseload), several interview respondents had concerns that the decreased caseload could also lead to even greater funding cuts based on the Judicial Council's formula of assessing workload without recognizing the increasing complexity of cases

when total caseload decreased.

Dependency Court Funding and Functioning

Courtroom efficiency, availability of supervisors to cover hearings, and enough attorneys to staff the court can influence court functioning overall.

Judges from multiple sites said changes in dependency counsel funding do not necessarily align with the court's needs and resources. Therefore, increases in

Attorneys in several sites also noted the effect of court functioning on their workload. Lack of time-certain hearings arose during interviews in several sites, implicating the need for both attorneys and families to be at court all day.

funding for counsel did not necessarily improve the court's ability to move cases forward, while a decrease in dependency counsel funding combined with insufficient court resources can have a negative impact. For instance, the average case length—reportedly between eight to nine years in two of the assessment sites—was partly attributed by attorneys to cases that were not currently active but had not yet been closed by the court.

- Attorneys in several sites also noted the effect of court functioning on their workload. Lack of time-certain hearings arose during interviews in several sites, implicating the need for both attorneys and families to be at court all day. Judges' experience and ability to manage their calendars can also affect attorney workload and time management.
- In Increased Funding Site A, interview respondents noted that despite additional funding for attorneys, there are still not enough courtrooms to handle the court's dependency caseload, and the courts remain backlogged. This court congestion can also lead to an increased need for continuances. Specifically, a judge noted that increased funding for dependency attorneys has not increased funding for the court and its essential functions. Decreased Funding Site C also experiences high judicial caseloads and does not have the court resources to address a significant increase in filings.
- In Decreased Funding Site B, several courtrooms

closed in a move only partly related to the dependency counsel funding changes, resulting in additional workload challenges for attorneys, including increased travel time to and from courtrooms that remain open. Decreased Funding Site B judicial and court administration described how the lack of dedicated meeting space affects attorneys' ability to

Overall data show that the quality of legal representation attorneys provide to child and parent clients improved with increases in funding and became more constrained with decreased funding.

meet with clients to prepare for hearings. In addition, lawyers are now assigned to specific courtrooms, which has become a more efficient process. However, one court respondent said the decrease in funding has had a negative impact on the court itself because attorney staffing is limited. Children's counsel also reported, however, on the benefits of a new court process unrelated to the funding reallocation that schedules attorneys to be out of court for one day, freeing up time to visit clients and go to family team meetings. Children's counsel report visiting children in their homes when possible but also have interview space at their firm.

Availability of Services for Clients

Service-related challenges affected attorneys' ability to advocate for their clients' needs and increased their workloads. Interview respondents reported the following challenges:

- Services that are not paid for by the child welfare agency and are not otherwise affordable or accessible for clients (Increased Funding Site A)
- Lack of co-located services and limited facilities at the courthouse (Decreased Funding Site B)
- Difficulty meeting mental health, education, and trauma-related service needs of children and families (Decreased Funding Site B)
- Not having enough services within the county and often needing to place children out of county so that higher-need services can be provided, which has implications for attorneys' ability to see clients and perform out-of-court work (Decreased Funding Site C)

As explained above, unlike other legal systems in which attorney advocacy hinges on representing a client relating to allegations about prior facts, in child welfare cases attorney advocacy also requires understanding how clients (child and parent) are doing in real time. For parent clients specifically, it requires knowing how well the parent is doing following the case plan and accessing required services. Unavailable or inaccessible services for clients directly affect the representation the attorney can provide in court.

3. FINDING THREE: Additional factors such as family circumstances and site geography can affect legal representation quality.

Family Circumstances

Homelessness, poverty for youth and their families, and immigration status were reported as significant challenges in all three sites. Poverty affects clients' ability to pay for housing, services, and transportation. With dependency counsel funding cut in Decreased Funding Site B, for instance, one legal services provider eliminated money for transporting clients to court.¹⁷ In Decreased Funding Site C, homelessness was raised as an obstacle to parents' counsel meeting with or communicating with their clients. Likewise, stakeholders in each site identified immigration status as an issue they are addressing; however, this issue did not arise in the context of the impact of funding reallocations.

Site Geography

Courthouse location, court accessibility for attorneys and families, and time for attorneys to meet clients before hearings are challenges in each site. In Increased Funding Site A, the location of the courthouse is expensive for families to reach and is not sufficiently accessible by public transportation. This transportation difficulty for clients was also reported in Decreased Funding Site C, and its rural location was identified as an attorney recruitment obstacle. In Decreased Funding Site B, the distances between several courthouses presents a problem for attorney travel and leads to thin staffing of courtrooms.

Conclusion and Recommendations

This assessment of the impact of attorney funding changes in several California sites presents important considerations for stakeholders interested in investing in legal representation to better support children and families in the child welfare system. Overall data

show that the quality of legal representation attorneys provide to child and parent clients improved with increases in funding and became more constrained with decreased funding. To complement existing research on the impact that high-quality representation can have on improved outcomes for children and families, this study provides an opportunity for individual jurisdictions to carefully consider how to invest and allocate attorney funding to increase the quality of legal representation available to best serve children and parents.¹⁸

Policymakers looking to improve child and family outcomes by investing in high-quality representation should consider the following recommendations:

Ensure attorney funding adequately addresses staffing and time requirements to meet the demands of each case.

In the staffing category, this means reaching a funding level to sufficiently recruit quality attorneys to enter the field and retain them for the long term.

This also means looking at the positive outcomes a legal services provider can achieve for children and families by investing in multidisciplinary models of practice that include social workers and peer or parent mentors as part of the legal team.

In the time category, this means reaching a funding level that allows for manageable caseloads¹⁹ and sufficient time to meet the workload demands of each case (including prioritizing client contact), as well as reducing delays in court hearings.

Understand and address potential influences on representation quality that exist outside attorney funding.

These influences include agency petition-filing practices, court funding and structures to reduce constraints on case processing and inefficient use of attorney and client time waiting for hearings, and availability and accessibility of services for clients.

Understand and address potential influences on representation quality that exist outside the context of child welfare.

These influences include transportation limitations for meeting with clients or for them to arrive at the courthouse, housing access and stability for clients, and challenges in cases that involve immigration and child welfare law.

Improve and refine data management systems to track important variables to better assess the quality of legal representation and case functioning generally.

Although this recommendation does not derive from the specific findings, it does derive from the assessment process. The process of data collection for this assessment revealed the need for more robust data in each site to track the quality of representation. By improving data management systems and increasing use of continuous quality improvement driven by data, the quality of legal representation can be better measured and linked with outcomes for children and families.

Research Results and Data

Case Management Data

Case Characteristics

Sites were asked to provide case management data of a random set of cases active within one or more of the four years within the study period. The number of cases and level of case detail provided by each site was determined by court or legal provider technology staff based on time available and database capacities. The two larger sites, Increased Funding Site A and Decreased Funding Site B, provided a random sub sample of cases open or closed in each of the study years, while the smaller site, Decreased Funding Site C, provided all cases active in each of the study years. Across the three counties, data on 7,563 cases were used for analysis (Exhibit 1).

| Exhibit 1. Total cases per site and distribution across years | | | | |
|---|-----------|-----------|-----------|-----------|
| | 2014-2015 | 2015-2016 | 2016-2017 | 2017-2018 |
| Increased Funding Site A | 200 | 200 | 200 | 200 |
| Decreased Funding Site B | 200 | 200 | 200 | 199 |
| Decreased Funding Site C | 1,338 | 1,288 | 1,502 | 1,829 |

In Sites A and B the oldest cases in the dataset were first opened in 2002. Across all years, case types were fairly similar across both sites according to child age, gender, and presence of siblings (Exhibit 2).²⁰ There was no statistically significant difference between the distribution of child characteristics across years in any site (Exhibit 2).

| Exhibit 2. Child characteristics across sites over time ¹ | | | | | |
|--|------------------|-----------|-----------|-----------|-----------|
| | | 2014-2015 | 2015-2016 | 2016-2017 | 2017-2018 |
| Increased Funding Site A | Females | 53% | 53% | 47% | 43% |
| | Males | 47% | 47% | 53% | 57% |
| | Average Age | 6 years | 5 years | 6 years | 5 years |
| | Siblings present | 95% | 94% | 96% | 99% |
| Decreased Funding Site B | Females | 45.5% | 49% | 45.5% | 54% |
| | Males | 54.5% | 51% | 54.5% | 46% |
| | Average Age | 6 years | 5 years | 6 years | 6 years |
| | Siblings present | 98% | 97% | 96% | 98% |

¹Data not provided for Decreased Funding Site C.

Allegation Type across Sites

Data from Increased Funding Site A and Decreased Funding Site B show similarities between the nature of allegations for cases in the sample, with general neglect and abuse or neglect of a sibling the most common offending allegations. These results are consistent with historical data from these sites and many other counties more generally in California.²¹ (Exhibit 3)

| Exhibit 3. Allegation types across sites ¹ | | | | | | |
|---|----------------|--------------|-----------------|---------------|---------|---------------------------|
| | Physical Abuse | Sexual Abuse | Emotional Abuse | Sibling Abuse | Neglect | Nonoffending ² |
| Site A | 2% | 1% | 10% | 11% | 25% | 50% |
| Site B | 2% | 2% | 14% | 10% | 29% | 42% |

¹Data not provided for Decreased Funding Site C.
²Nonoffending may include cases of domestic violence, substance use, or other primary allegation when a case is opened due to a parent's "failure to protect." Actual description of the nonoffending behavior was not provided by any of the three sites.

Caseloads

Caseload data was not included in the initial data extracts but was obtained through a direct request to legal services providers in each jurisdiction. Increased Funding Site A was the only site with case management system

caseload data for all years of the assessment because legal services providers in both Decreased Funding Sites B and C changed and early year data was therefore not available.

In Increased Funding Site A, legal services providers' average caseload numbers reflect decreases over the assessment period for both children's and parents' counsel. Children's attorneys experienced a 44.1% decrease in caseloads, while parents' counsel experienced a 15.9% decrease. Legal services provider data in Decreased Funding Site B indicated a 17.2% decrease in children's attorney caseloads and a much smaller 3.6% decrease for parents' attorneys. These data, however, only reflect the final two years of the assessment and show that parents' counsel experienced a 2.2% increase in caseloads prior to a decrease. Decreased Funding Site C was also only able to provide two years of data, which showed a decrease of 1.2% in children's attorney caseloads in the final year of the assessment. Parents' counsel experienced a 31.3% increase in average caseloads. (Exhibit 4)

| Exhibit 4. Average Caseloads ¹ | | | | | | |
|---|----------|-----|-----|-----|-----|--------|
| Site A | Children | 222 | 217 | 146 | 124 | -44.1% |
| | Parents | 232 | 228 | 206 | 195 | -15.9% |
| Site B | Children | | | 215 | 178 | -17.2% |
| | Parents | | 138 | 141 | 133 | -3.6% |
| Site C | Children | | | 326 | 322 | -1.2% |
| | Parents | | | 144 | 189 | +31.3% |

¹Caseload data was obtained directly from legal services providers. Decreased Funding Sites B and C experienced a change in providers and early year data was therefore not available.

Continuances

Continuances were only counted in cases when they occurred during the assessment period (2014 to 2018) to avoid overestimating the number of continuances due to very old (but still open) cases in Increased Funding Site A and Decreased Funding Site B. According to the case management data received, continuances were uncommon in Sites A and B during the study period and the majority of these were originated by the County Counsel, the court, or all counsel in agreement rather than by minor or parents' counsel on their own (Exhibit 5). The average number of continuances per year per case in Decreased Funding Site C was double that of the two larger sites and more cases overall experienced at least one continuance.

| Exhibit 5. Continuances According to Requestor Type, 2014 to 2018 ¹ | | | | | | | | | | | | |
|--|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| | 2014-2015 | | | 2015-2016 | | | 2016-2017 | | | 2017-2018 | | |
| SITE | A | B | C | A | B | C | A | B | C | A | B | C |
| Court | 35 | 41 | - | 36 | 78 | - | 59 | 85 | - | 59 | 35 | - |
| Agency | 12 | 15 | - | 12 | 24 | - | 14 | 22 | - | 15 | 10 | - |
| Parents' Counsel | 53 | 64 | - | 35 | 74 | - | 38 | 54 | - | 20 | 12 | - |
| Minor's Counsel | 32 | 40 | - | 16 | 34 | - | 20 | 30 | - | 14 | 9 | - |
| County Counsel | 15 | 39 | | 27 | 58 | | 24 | 34 | | 22 | 13 | |
| All Counsel | 100 | 102 | | 45 | 94 | | 53 | 74 | | 77 | 75 | |
| Total Number | 247 | 301 | 329 | 171 | 362 | 470 | 208 | 299 | 498 | 207 | 154 | 492 |

¹Raw number of continuances (total) reflect a larger number in Site C, which provided data on all cases. Site C also did not provide data on the continuance requestor.

The number of continuances declined dramatically across both Increased Funding Site A and Decreased Funding Site B from 2014 to 2018. The rate of change in continuances in Decreased Funding Site C increased markedly from 2014 to 2018. There were no data available in any site to measure the number of continuances requested but not granted. (Exhibit 6)

| Exhibit 6. Change in Continuances Granted from 2014 to 2018 | |
|---|--------------|
| ■ Increased Funding Site A: | 17% decrease |
| ■ Decreased Funding Site B: | 49% decrease |
| ■ Decreased Funding Site C: | 34% increase |

Survey Data

In each site, the prevailing contract firms for children and parents sent their employees a link to complete the survey. The study team did not receive information on the total number of attorneys who received the survey link from their employer. Survey response rates were calculated as the number of surveys completed once a respondent opened the online survey link. Using this definition, response rates were very high across the three counties (>90%), with a total of 230 surveys completed for the study, broken down by site as:

| | | |
|---------------|--------------|-------------|
| ■ Site A: 194 | ■ Site B: 31 | ■ Site C: 5 |
|---------------|--------------|-------------|

Although Decreased Funding Site C's sample size is small, it represents more than half of all appointed children's and parents' attorneys in that site. Results from Site C are shown as frequencies (counts) because the overall sample is only five persons. Totals do not always add to 100 percent due to missing data from refusals to answer or nonresponses.

Attorney Demographics

The demographic characteristics of attorneys varied a bit across the three sites (Exhibit 6). In the smallest site, attorney respondents were evenly split across genders, age groups, and client types. A majority of attorneys in this site had a minimum of five (5) years of experience in dependency practice. By contrast, attorney respondents in the largest site were predominately parents' counsel (PC), female, younger, and less seasoned in their dependency practice, with 60 percent reporting four or fewer years of experience. In the medium-sized site, a majority were minor's counsel (MC), three-quarters had at least five (5) years of experience and 30 percent of these attorneys reported more than ten (10) years in the field and were evenly split across age groups (Exhibit 7).

| Exhibit 7. Attorney Demographics | | | | | | | |
|-------------------------------------|------|--------|----------------------|--|-----|-----|---------|
| | Male | Female | Age | Experience | MC | PC | MC & PC |
| Site A (n=194) | 22% | 60% | >50: 20% <50: 53% | <1y: 21% 1-3y: 27% 3-4y: 12% >4y: 40% | 37% | 60% | 2% |
| Site B (n=31) | 23% | 77% | <50: 51% >50: 49% | 1-3y: 16% 5-10y: 42% >10y: 30% | 59% | 39% | 2% |
| Site C (n=5) ¹ | 2 | 2 | >50: 2 <50: 2 | <1y: 1 1-3y: 1 5-10y: 3 | 1 | 1 | 3 |

¹Results from Site C are shown as frequencies (counts) because the overall sample is only five persons.

Caseloads

Attorneys were asked to report on the number of cases they were currently managing, how their caseloads have changed over time, and the average number of months current cases have been active or open. Average caseloads, and changes over time in caseloads, varied a great deal across the three sites, with Decreased Funding Site C having the highest average caseload and 60% of respondents saying their caseloads have increased since 2014-2015. Attorneys in Increased Funding Site A reported their caseloads have either decreased (58%) or stayed the same (27%) since 2014-2015. In Decreased Funding Site B, 60% of attorneys reported their caseloads had stayed the same since 2014-15, while 30% reported an increase in their caseloads over the same period (Exhibit 8).

| Exhibit 8. Perceived Average Current Caseloads and Changes Over Time | | | | |
|--|-------------------|------------------|------------------|------------------|
| | Average Caseloads | Percent Increase | Percent Decrease | Percent Constant |
| Increased Funding Site A | 172 | 14% | 58% | 27% |
| Decreased Funding Site B | 121 | 30% | 10% | 60% |
| Decreased Funding Site C | 266 | 40% | - | 60% |

Caseload Estimates by Counsel Type

When analyzing caseload estimates and perceptions according to counsel type, there was no consistent pattern of one type of counsel having more or fewer clients. A high caseload cited by one minor's counsel (MC) in Site C was also cited during interviews, and many of these cases have reportedly been open for a number of years and are not currently active but also have not been closed by the court (Exhibit 9).

| Exhibit 9. Caseload Estimates and Perceptions According to Counsel Type ¹ | | | | |
|--|-------------------|--------------------------|--------------------------|--------------------------------|
| | Average Caseloads | Caseloads have Increased | Caseloads have Decreased | Caseloads have Stayed the Same |
| Site A (n=194) | | | | |
| MC | 173 | 7.2% | 65% | 28% |
| PC | 170 | 27% | 46% | 27% |
| Both MC & PC | 173 | 0 | 67% | 33% |
| Site B (n=31) ¹ | | | | |
| MC | 93 | 28% | 15% | 57% |
| PC | 175 | 24% | 10% | 66% |
| Both MC & PC | 122 | 0 | 50% | 50% |

¹Results from Site C are not presented because the overall sample is too small to preserve confidentiality.

Case Duration

The average duration of a case was fairly similar across counties, between 94 and 100 months (roughly 8 to 9 years) and was fairly consistent across attorney types (Exhibit 10).

| Exhibit 10. Perceived Average Time Current Cases Have been Open According to Client Type | | Average in Months |
|--|--|--|
| Site A (n=194) | | |
| MC | | 94 (7 yrs., 8 mos.) |
| PC | | 94 (7 yrs., 8mos.) |
| MC & PC | | 100 (8 yrs., 3 mos.) |
| Site B (n=31) | | |
| MC | | Question not answered by any respondents |
| PC | | |
| MC & PC | | |
| Site C (n=5) | | |
| MC ¹ | | 94 (7yrs., 8 mos.) |
| PC ² | | 100 (8 yrs., 3 mos.) |
| MC & PC | | 97 (8 years, 1 mo.) |

¹ Only one attorney representing only minors from Site C responded to the survey, so the average for all MC responses represents one person.

² Only one attorney from Site C representing only parents responded to the survey, so the average for all PC responses represents one person.

Use of Continuances

Attorneys working as minor's counsel (MC) or parents' counsel (PC) reported on the number of continuances they requested over the past 30 days, as well as their perception of how the number of continuances has changed since they became a dependency attorney (Exhibit 11).

| Exhibit 11. Attorney Use of Continuances | | | | |
|--|--|--|---|---|
| | Average Number of Continuances Granted in Past 30 Days | Fewer Continuances Since Beginning Dependency Practice | More Continuances Since Beginning Dependency Practice | No Change in Continuances Since Beginning Dependency Practice |
| Site A (n=194) | | | | |
| MC | 3 | 30% | 10% | 60% |
| PC | 5 | 39% | 7.4% | 63% |
| MC & PC | 3 | 0 | 0 | 20% |
| Site B (n=31) | | | | |
| MC | 3 | 5% | 36% | 58% |
| PC | 5 | 9% | 29% | 62% |
| MC & PC | 2 | 41% | 0 | 59% |
| Site C (n=5)¹ | | | | |
| MC | 7 | 0 | 1 | 0 |
| PC | 3 | 0 | 0 | 1 |
| MC & PC | 1 | 1 | 1 | 1 |

¹Results from Site C are shown as frequencies (counts) because the overall sample is only five persons.

Use of Substitute Counsel

Substitute counsel was used frequently in the two larger sites, where more attorneys are available (Exhibit 12). Substitute counsel were identified as counsel who appeared at a hearing in the attorney's place.

| Exhibit 12. Use of Substitute Counsel in Past Three Months | | | |
|--|----------------------------------|---------------------------------|---|
| | Increased Funding Site A (n=194) | Decreased Funding Site B (n=31) | Decreased Funding Site C (n=5) ¹ |
| Not at all | | | |
| MC | 15.3% | 18% | 1 |
| PC | 33% | 27% | 0 |
| MC & PC | 22.2% | 50% | 1 |
| Less than three times | | | |
| MC | 18.1% | 53% | 0 |
| PC | 18% | 64% | 0 |
| MC & PC | 22.2% | 0 | 1 |
| More than three times | | | |
| MC | 27% | 29.4% | 0 |
| PC | 13.4% | 9% | 1 |
| MC & PC | 22.2% | 50% | 0 |

¹Results from Site C are shown as frequencies (counts) because the overall sample is only five persons.

Seriousness of Case Issues

Counsel reported stark differences describing the seriousness of issues they handle in their cases, with minor's counsel much more likely to report more serious issues than their parents' counsel peers. The relationship between being a minor's counsel and holding this view on seriousness was statistically significant and cannot be explained by chance alone. Increased Funding Site A asked that the voluntary agreements question be removed from the survey, because they felt it did not apply in their site. Decreased Funding Site C results are presented as frequencies, rather than percentages, due to small sample size (Exhibit 13).

| Exhibit 13. Seriousness of Issues in Most Cases | | | | | | | | | |
|--|-------------------------------------|-----|-------|------------------------------------|-----|-------|--|----|-------|
| | Increased Funding Site A (n=194) | | | Decreased Funding Site B (n=31) | | | Decreased Funding Site C ² (n=5) | | |
| | MC | PC | MC&PC | MC | PC | MC&PC | MC | PC | MC&PC |
| Most cases present serious abuse or neglect issues | 79%** | 10% | 10% | 79% ¹ | 16% | 5% | 0 | 0 | 1 |
| Previous voluntary agreements that failed | Not Asked | | | 63% | 31% | 6% | 0 | 1 | 2 |

¹ Significant at the .000 level, meaning the relationship cannot be explained by chance alone.

² Results from Site C are shown as frequencies (counts) because the overall sample is only five persons.

Time to Serve Clients

Most attorneys across all three sites said they have face-to-face (90%) and phone meetings (70%) with their clients before each hearing and almost all (96%) were somewhat satisfied or very satisfied with the quality of representation they provide clients. However, attorneys were generally not satisfied with the amount of time they had to work with their clients (Exhibit 14).

| Exhibit 14. Satisfaction with Amount of Time Available to Serve Clients | | | | |
|---|---------------------|---|---|--|
| | | Spend too Much Time in Court | Spend too Much Time Driving to See Clients | Not Enough Time to Visit Clients Outside of Court |
| Site A | MC (n=111) | 67% | 20% | 70.2% |
| | PC (n=67) | 46.2% | 4.4% | 50% |
| | MC & PC (n=9) | 56% | 22.2% | 20% |
| | | | | |
| Site B (n=31) | MC PC MC & PC | All respondents in Site B skipped these questions | | |
| Site C (n=5) ¹ | | | | |
| | MC | 0 | 1 | 0 |
| | PC | 0 | 1 | 0 |
| | MC & PC | 2 | 1 | 1 |
| ¹ Results from Site C are shown as frequencies (counts) because the overall sample is only five persons. | | | | |

Representation Duties Affected by Time

The representation duties that are affected the most by having limited time are shown in Exhibits 15A, B, C. There were few similarities across the sites, but within sites A and B, areas of concerns were often similar across different counsel types.

| Exhibit 15A. Representation Duties Affected by Time in Increased Funding Site A – Not Enough Time (%) | | | |
|---|-----|-----|---------|
| Increased Funding Site A (n=194) | MC | PC | MC & PC |
| Making a sound legal argument | 2% | 9% | 1% |
| Making sure my client understands their legal options | 26% | 45% | 50% |
| Spending time out of court learning about the case | 32% | 29% | 33% |
| Investigating and preparing for contested hearings ¹ | 64% | 75% | 70% |
| Having a strong relationship with agency counsel | 58% | 65% | 70% |
| Having a strong relationship with the judge | 24% | 30% | 1% |
| Having a strong relationship with other (non-agency) counsel on the case | 24% | 33% | 33% |
| Having a strong relationship with agency or volunteer staff | 32% | 30% | 33% |
| Understanding any related litigation involving my client (e.g., criminal) | 46% | 68% | 50% |
| Understanding what services or assessments my client needs to complete | 81% | 83% | 70% |
| Visiting with my client outside of court | 68% | 30% | 33% |
| Attending case planning meetings | 94% | 97% | 80% |
| Advocating for client's needs | 99% | 61% | 9% |

¹ This question is unique to Site A and was not asked of Sites B or C.

| Exhibit 15B. Representation Duties Affected by Time in Decreased Funding Site B—Not Enough Time (%) | | | |
|---|-----|-----|---------|
| Decreased Funding Site B (n=31) | MC | PC | MC & PC |
| Making a sound legal argument | 33% | 40% | 50% |
| Making sure my clients understand their legal options | 41% | 20% | 100% |
| Spending time out of court learning about the case | 53% | 18% | 50% |
| Having a strong relationship with agency counsel | 31% | 40% | 0 |
| Having a strong relationship with the judge | 24% | 22% | 0 |

| Exhibit 15B. Representation Duties Affected by Time in Decreased Funding Site B—Not Enough Time (%) | | | |
|--|-----|-----|------|
| Having a strong relationship with other (non-agency) counsel on the case | 32% | 33% | 0 |
| Having a strong relationship with agency or volunteer staff | 55% | 77% | 0 |
| Understanding any related litigation involving my client (e.g., criminal) | 94% | 77% | 100% |
| Understanding what services or assessments my client needs to complete | 65% | 55% | 50% |
| Visiting with my client outside of court | 59% | 90% | 100% |
| Attending case-planning meetings | 82% | 88% | 100% |
| Advocating for client's needs | 47% | 22% | 50% |

| Exhibit 15C. Representation Duties Impacted by Time in Decreased Funding Site C – Not Enough Time (#) | | | |
|--|-----------|-----------|--------------------|
| Decreased Funding Site C (n=5)¹ | MC | PC | MC & PC |
| Making a sound legal argument | 0 | 0 | 3 |
| Making sure my clients understand their legal options | 0 | 0 | 1 |
| Spending time out of court learning about the case | 1 | 1 | 3 |
| Having a strong relationship with agency counsel | 0 | 0 | 1 |
| Having a strong relationship with the judge | 0 | 0 | 1 |
| Having a strong relationship with other (non-agency) counsel on the case | 0 | 1 | 1 |
| Having a strong relationship with agency or volunteer staff | 0 | 0 | 1 |
| Understanding any related litigation involving my client (e.g., criminal) | 0 | 0 | 3 |
| Understanding what services or assessments my client needs to complete | 0 | 0 | 1 |
| Visiting with my client outside of court | 0 | 0 | 2 |
| Attending case-planning meetings | 0 | 1 | 2 |
| Advocating for client's needs | 0 | 0 | 2 |

¹Results from Site C are shown as frequencies (counts) because the overall sample is only five persons.

Satisfaction with Position and Employer

Satisfaction with their current position and employer varied among sites, with minor's counsel generally being more satisfied with their position than parents' counsel (Exhibit 16).

| Exhibit 16. Satisfaction with Current Position and Employer (% Satisfied) | | | | | |
|---|--------|----------|-----------------------|---------------------------------|-------------------|
| | Salary | Benefits | Support from Employer | Relationship with Other Counsel | Work-Life Balance |
| Site A (n=194) | | | | | |
| MC | 80% | 68% | 85% | 97% | 80% |
| PC | 57% | 46.2% | 70% | 89% | 57% |
| MC & PC | 89% | 78% | 78% | 100% | 89% |
| Site B (n=31) | | | | | |
| MC | 40% | 65% | 90.3% | 94% | 65% |
| PC | 25% | 64% | 88% | 90.2% | 73% |
| MC & PC | 24.4% | 68% | 85% | 96% | 0% |
| Site C (n=5)¹ | | | | | |
| MC | 1 | 1 | 1 | 1 | 1 |
| PC | 1 | 0 | 1 | 1 | 1 |
| MC & PC | 2 | 1 | 2 | 2 | 3 |

¹Results from Site C are shown as frequencies (counts) because the overall sample is only five persons.

Reasons for Leaving Position

When asking what factors might prompt them to leave their current position, higher salary and better benefits were the most common reasons reported by attorneys. Difficulty of cases was the least likely reason attorneys cited for considering a job change (Exhibit 17).

| Exhibit 17. How Likely Attorneys are to Leave their Current Position for These Reasons | | | | | | | | | | | | |
|--|-------------------|----|----|-----------------------|----|----|---------------------|----|---|-----------------|----|----|
| SITE | Very unlikely (%) | | | Somewhat unlikely (%) | | | Somewhat likely (%) | | | Very likely (%) | | |
| | A | B | C | A | B | C | A | B | C | A | B | C |
| Higher Salary | 9 | 0 | 20 | 17 | 7 | 40 | 34 | 36 | - | 37 | 58 | 20 |
| Better Benefits | 14 | 7 | 40 | 24 | 16 | 20 | 33 | 32 | - | 26 | 45 | 40 |
| Reduced Workload | 21 | 17 | 40 | 28 | 39 | 20 | 28 | 26 | - | 20 | 19 | 40 |
| Reduced Stress | 17 | 16 | 20 | 25 | 19 | 40 | 29 | 29 | - | 25 | 36 | 40 |
| Reduced Commute/Travel | 38 | 19 | 20 | 25 | 52 | 20 | 15 | 13 | - | 18 | 16 | 60 |
| More Support Managing Cases | 34 | 26 | 40 | 34 | 36 | 40 | 22 | 23 | - | 8 | 16 | 20 |
| Less Difficult Cases | 45 | 42 | 40 | 36 | 29 | 40 | 11 | 10 | - | 4 | 13 | 20 |

When asked to speculate why former colleagues left their positions, there were a variety of responses, but the most common reason given was to receive a higher salary (Exhibit 18).

| Exhibit 18. Reasons why Former Colleagues Left their Positions | | | |
|--|-------------------|------------------|-----------------|
| | Site A (n=194) | Site B (n=31) | Site C (n=5) |
| Higher Salary | 91% | 90% | 80% |
| Reduced Workload or Stress | 46% | 61% | 60% |
| Reduced Commute/Travel | 40% | 13% | 40% |
| More Support Managing from Firm | 14% | 32% | 0 |
| To Reduce Conflict with Other Counsel or Staff | 5% | 23% | 0 |
| To Practice a Different Type of Law | 50% | 65% | 60% |
| To Spend More Time with Family | 33% | 39% | 0 |
| Health Reasons | 13% | 10% | 60% |
| Retired | 37% | 7% | 20% |
| Fired | 8% | 10% | 0 |

Challenges to Providing Quality Legal Representation

Attorneys were asked to comment on 1) the greatest challenge they face in providing quality legal representation, and 2) suggestions for improving the quality of representation clients receive. When answering the first question, which was open-ended, attorneys reported their greatest challenge is a lack of time (Exhibit 19).

| Exhibit 19. Greatest Challenges Providing Quality Legal Representation Across Sites | | | |
|---|-----------------|----------------|----------------------|
| | Not enough time | High Caseloads | Insufficient Funding |
| Increased Funding Site A (n=194) | | | |
| MC | 69% | 36% | 24% |
| PC | 82% | 59% | 22% |
| MC&PC | 70.2% | 60% | 36.1% |
| Decreased Funding Site B (n=31) | | | |
| MC | 74% | 39% | 40% |
| PC | 60% | 30% | 24% |
| MC&PC | 62% | 42% | 22% |
| Decreased Funding Site C¹ (n=5) | | | |
| MC | 1 | 1 | 1 |
| PC | 1 | 1 | 1 |
| MC&PC | 3 | 3 | 3 |

¹Results from Site C are shown as frequencies (counts) because the overall sample is only five persons.

Suggestions for Improving Legal Representation Quality

Suggestions for improving legal representation were wide-ranging, from increasing attorney salaries to reducing caseloads and building trust with clients (Exhibit 20).

| Exhibit 20. Suggestions for Improving the Quality of Legal Representation |
|--|
| More investigators |
| More time per case to build trust with clients |
| More money to hire experts |
| Access to panel attorneys for civil claims |
| A faster-moving court calendar |
| Floater attorneys to provide more office time with clients |
| Balanced caseloads by issue complexity, not just according to quantity of cases |
| Comparable salary and benefits to County Counsel |
| Consistent budgetary support for the office to create a real career path for attorneys |
| More funding to keep courtrooms open (not shutting down locations) |
| More transparency around the contract approval process |
| Access to Westlaw or Lexis Nexis |
| Lower caseloads |
| More support staff to file minute orders and manage paperwork |
| Better case management system to track case needs |
| Ability of County Counsel to settle more cases |
| More lawyers to share the workload |
| Means to bring children to court |

Interview Data

Stakeholder interviews in each site included many disciplines. Every effort was made to interview at minimum parents' attorneys, children's attorneys, County Counsel (attorneys for the child welfare agency), child welfare agency leadership, and judges or judicial officers in each site. When possible, additional stakeholders included Court Appointed Special Advocates, county officials, and chief executive officers of the superior court. While the interviews covered a range of topics depending on responses from interviewees, four basic questions for attorneys and four for judges were asked. (See Appendix B for the questions.)

Key themes that emerged across sites can be grouped as:

- *Attorney or position-related*, including recruitment, retention, salary and benefits issues;
- *Case-related*, including caseloads, continuances, case complexity, or services;
- *Population-related*, including demographic issues as well as homelessness, location of the courthouse, or availability of transportation; and
- *Court-related*, including judicial resources and stability, courtroom efficiency, and specialized courts.

There were also unique, site-specific issues (Exhibit 21).

| Exhibit 21. Key Themes Across Sites | |
|-------------------------------------|---|
| Attorney/position related | <ul style="list-style-type: none"> ■ Compensation/salaries and benefits ■ Other factors affecting recruitment and retention, including growth and opportunity for advancement (career track), stability and security within the position, job satisfaction, sufficient staffing and supervision, and training ■ Loss of experienced attorneys to government positions (County Counsel or Public Defender) ■ Out-of-court advocacy ■ Experienced and committed attorneys and judges |
| Case-related | <ul style="list-style-type: none"> ■ Caseloads ■ Continuances ■ Case complexity ■ Services |
| Population-related | <ul style="list-style-type: none"> ■ Homelessness ■ Immigration ■ Geography |
| Court-related | <ul style="list-style-type: none"> ■ Judicial resources and court budget ■ Judicial stability ■ Courtroom efficiency; time-certain hearings ■ Specialized courts ■ Collaboration among stakeholders |
| Site-Specific | <ul style="list-style-type: none"> ■ Site A: request for more engagement of parents' attorneys in policy work; lack of adequately funded services ■ Site B: lack of participation of children and youth in court; effect on clients when legal provider changed; courtroom closure unrelated to dependency counsel funding changes; and transportation costs for clients ■ Site C: out-of-county placements resulting from lack of services and placements in-county |

Interview Questions

What are the greatest challenges for providing high-quality representation to child welfare clients? How have changes in funding helped or hindered attorney practice?

Compensation ►



Salary and benefits emerged as a cross-site theme affecting both attorney recruitment and retention. In Increased Funding Site A, attorneys noted that increased salaries with better coverage and lower caseloads contributed to greater job satisfaction. However, despite increased funding for dependency attorneys overall, children's counsel indicated they have lost attorneys to the parents' counsel provider, which increased salaries to stem the departure of attorneys to government positions. Overall, attorney movement occurred in the direction of better pay and benefits.

In Decreased Funding Site B, attorneys said employee costs, office space, and salaries were affected by budget cuts; however, they report they have retained committed attorneys despite these challenges. Stakeholders generally agreed that salaries are not competitive. In Decreased Funding Site C, respondents said it is difficult to recruit attorneys for dependency practice because caseloads are too high, pay is inadequate, and many attorneys lack experience in this field of law and may require a level of supervision complicated by budget cuts.

Attorney Movement ►



The loss of qualified and trained attorneys to government positions was a consistent theme across the sites. In all three sites, counsel for parents and children struggled with the loss of experienced attorneys to government positions with higher salaries, better benefits, and more stability. Many experienced attorneys advancing in their careers move to County Counsel or the Public Defender where the pay and benefits are better. Often, these are the best trained and most experienced attorneys, but some are also younger attorneys seeking greater job stability and growth opportunities. With increased funding, however, and the ability to provide higher salaries, the children's legal provider in Site A reported a decrease over the past five years in attorneys leaving for government positions. While the loss of experienced counsel to government positions decreased in Increased Funding Site A, there was still reported movement in the direction of better compensation. As a result, compensation remains a challenge for children's and parents' counsel even in Increased Funding Site A.

Caseloads ►



Caseloads that are too high were identified by all stakeholders as affecting the quality of representation in each site. In Site A, for example, counsel observed that caseloads are still too high despite having decreased since the funding reallocation, while judicial stakeholders observed that caseloads continue to be a challenge and attorneys still do not have enough time to do work outside of court. According to some stakeholder respondents, more contested hearings resulted from lower parents' counsel caseloads because parents' attorneys have time to more fully address the issues in their cases.

In the Decreased Funding sites, increased caseloads are well over acceptable rates and vary widely based on courthouse location (120 to 170 clients). Numerous stakeholders noted that high attorney caseloads prevent attorneys from meeting

with clients out of court. They also noted that this makes it difficult to manage court time. County Counsel and agency staff also observed that high caseloads can affect clients' understanding of the process.

Workload ►



Time management, including both attorney preparation time and time for out-of-court advocacy presented challenges beyond caseload numbers. The frequency and nature of out-of-court advocacy changed with funding levels. Parents' counsel indicated a need to shift to front-end work (e.g., challenging the need for removal; preparing more thoroughly for adjudication and disposition hearings) rather than the current back-end heavy focus (e.g., review hearings and permanency planning). In one Decreased Funding site, children's counsel reported using a new court process unrelated to the funding reallocation that schedules attorneys to be out of court for one day per week, freeing up time to visit clients and go to family team meetings. Children's counsel visit children in their homes when possible but also have interview space at their firm. Other counsel in the same site said parent and child counsel have no time for out-of-court meetings and those attorneys' inability to meet with clients out of court affects the management of in-court time. Court stakeholders observed that decreased funding has led to a decreased ability to provide high-quality representation.

In Increased Funding Site A, children's counsel stated that since the funding change they have more time to prepare cases before the hearing day. But, there still is not enough time for out-of-court work and they spend most of their time at court. Judicial stakeholders also indicated that concerns about attorneys meeting with clients before court persist, but this has improved since the funding change. Other stakeholders also observed that attorneys spend most of their time in court and do not see clients outside of court. However, it was also noted that through the multidisciplinary legal representation model, client contact is often made by a social worker or investigator.

Continuances ►



Frequency of delays and reasons for continuance requests varied by site. In Decreased Funding Site B, court stakeholders noted that frequent continuances and delays resulted from the decrease in funding. In that same site, County Counsel indicated that most continuances are requested by children's counsel, who often lack time to meet with their clients before the hearing. In the other Decreased Funding site, many stakeholders noted that high attorney caseloads, which prevent attorneys from meeting with clients outside court, affect the court docket, increase continuances, and make it hard to manage court time. Legal services provider turnover was also noted as a source of increased requests for continuances. By contrast, in Increased Funding Site A, fewer continuances were noted by children's attorneys, County Counsel, and judges. One judge noted that continuances are avoided because now supervisors can step in to cover absences.

Services ►



Respondents reported challenges related to services in each site, which in turn affects their ability to advocate for their clients' needs and increases their workload. One site struggles with services that are not paid for by the child welfare agency and are not otherwise affordable or accessible. Respondents in another site said lack of co-located services and limited facilities were concerns. Meeting mental health, education, and trauma-related service needs of children and families is especially challenging. One Decreased Funding Site lacks enough services within the county and often places children out of county so higher-need services can be provided.

Judicial Resources ►



Responses in multiple sites noted the disconnect between funding changes for dependency counsel and funding for the court itself. In the Increased Funding Site, respondents noted that despite additional funding for attorneys, there are still not enough courtrooms and the courts remain backlogged. Specifically, they noted that increased funding for dependency attorneys has not increased funding for the court and its essential functions. In one Decreased Funding Site, several courtrooms closed in a move unrelated to the dependency counsel funding changes, resulting in additional workload challenges for attorneys. The other Decreased Funding Site also experiences high judicial caseloads and lacks court resources to address a significant increase in filings.

Judicial Stability ►



Court stakeholders reported that many judges are experienced and committed across the sites. In Decreased Funding Site B, judges assigned to the court want to be there and commit to at least three-year terms, often taking on an extra year. In many cases, judges are former parents' or children's counsel and are therefore knowledgeable about child dependency cases and do not require as much training as judges with other backgrounds. However, prior child welfare experience was not universal and one stakeholder in Increased Funding Site A noted frequent judicial turnover and many judges new to child welfare law.

Courtroom Efficiency ►



A common theme focused on judicial resources and the ability to efficiently run courtrooms arose in each site. Lack of time-certain hearings also arose in several sites, implicating the need for both attorneys and families to be at court all day. Attorneys in several sites also noted the relationship to court functioning. In one site, judicial and court administration described how the lack of dedicated meeting space for attorneys affects their ability to meet with clients to prepare for hearings.

What advantages exist for providing high-quality representation to child dependency clients?

Multidisciplinary Legal Practice ►



Multidisciplinary legal teams (including investigators, social workers, paralegals, parent partners or peer mentors, etc., as part of the team) exist in several study sites. In Increased Funding Site A, children's counsel stated that with the funding increase they hired more investigators, lawyers, and paralegals. This provider also employs peer advocates, a psychologist, a special education attorney, and an immigration attorney, and uses a multidisciplinary model in specialized courts. In the same site, parents' counsel has hired social work investigators. In addition, County Counsel noted parents' attorneys now have funds to hire experts. Even with these increases, a judicial respondent still felt that not enough social workers who work with attorneys are available. Another judge stated there have been improvements to get more specialized attorneys and supports for children as well as social workers to see some child clients in their homes; however, there is still not optimal time to support clients and meet children's needs. Attorneys in Decreased Funding Site C do not have social worker support. A legal services provider shared a desire to implement a multidisciplinary practice model but said they lack funding to do so.

Experienced Attorneys & Judges ►



In Decreased Funding Site B, respondents said experienced and committed attorneys and judges strengthened the team assigned to a court. Strong Court Appointed Special Advocate (CASA) programs also exist in several sites. However, lack of continuity of counsel (i.e., change in attorneys assigned to a case or substitute counsel appearing in court) and high attorney turnover affected the perceived

quality of representation. In areas reporting little turnover, committed and experienced attorneys aided continuity. When the legal services provider (i.e., legal firm receiving the contract) changed in one Decreased Funding site, counsel changed frequently, which affected clients and especially child clients who may experience the change in counsel as another broken relationship with an adult.

Specialized Courts ►



Respondents in both Sites A and B reported several collaborative or specialized courts helped better serve specific populations, including non-minor dependents, victims of commercial sexual exploitation, parents with substance use disorders, and dually involved youth. A legal services provider in Site A uses a multidisciplinary model in specialized courts that use treatment teams and employs peer advocates, trafficking survivors, and Master of Social Work interns to work with clients.

Collaboration ►



Strong collaboration was reported across sites. In Decreased Funding Site B, parents' counsel reported good collaboration with caseworkers, but this adds to the time attorneys need to devote to the case and the discovery process. Site B is also described by children's counsel as very collaborative and the local CASA program is reportedly strong in the site and involved in most cases. The CASA program in Increased Funding Site A as well as other stakeholders described their system as collaborative, with counsel having strong relationships with many stakeholders. Agency staff and County Counsel in Decreased Funding Site C also described their system as collaborative.

Do child welfare clients present any unique opportunities or challenges to the way attorneys are able to represent their interests?

Homelessness & Poverty ►



Homelessness and poverty for youth and their families were reported as significant challenges in all three sites. Poverty affects clients' ability to pay for housing, services, and transportation. With the funding cuts in Decreased Funding Site B, for instance, money for transporting clients to court has been eliminated. While it is the responsibility of the child welfare agency to transport minor clients to court, the previous provider representing both parents and children had included transportation in its budget. Homelessness was also raised as an obstacle to parents' counsel meeting with or communicating with their clients in multiple sites.

Immigration ►



While stakeholders in each site identified immigration and clients' documentation status as issues they are addressing, these issues did not arise in the context of the impact of funding reallocation.

Geography ►



Courthouse location and the ability of attorneys and families to get to court, and for attorneys to visit clients before hearings, arose in each site. Either the location of the courthouse was expensive for families to reach or was hard to access by public transportation. Distances between courthouses also presented a problem for attorney travel and led to thin courtroom staffing.

Across the system, have there been any substantial changes in the handling of child welfare cases since 2015?

Filing Decisions ➤



In Decreased Funding Site B, the child welfare agency reportedly focused on providing greater preventative services to families before court intervention, which reduced its practice of filing petitions. The decision to file only cases presenting the greatest child safety risk affected attorney practice. While case filings reportedly decreased, attorney time increased due to the complexity of the filed cases. Cases that went to court tended to be difficult and more time-consuming. Fewer cases settled and a more adversarial approach existed. While there were fewer cases than before (i.e., a perceived decrease in caseload), several respondents had concerns that the decreased caseload could also lead to even greater funding cuts based on the Judicial Council's formula of assessing workload without recognizing the increasing complexity of cases when total caseload decreased.

Courtroom Efficiency ➤



In Decreased Funding Site B, lawyers are assigned to specific courtrooms but because of the funding decrease, fewer attorneys are now assigned per courtroom so one attorney can no longer be on the record while their colleague is counseling a client outside of court or otherwise preparing for the next hearing. One interview respondent indicated the decrease in funding has had a negative impact on court functioning by reducing attorney staffing and increasing delays. Judges' ability to manage their calendars was also noted as a potential cause for delays.

New Representation Contracts ➤



In both Sites B and C, new providers received contracts to provide dependency legal services for parents and children during the assessment period. These changes in Decreased Funding Site B appear to have resulted in more efficient and streamlined provision of services. Notably, providers for children and parents are now separate entities focusing exclusively on those clients. In Decreased Funding Site C, representation is split among multiple entities, including the Public Defender. Issues related to compensation and equity among attorneys representing similar clients have challenged efforts to recruit and retain attorneys due to salary and benefit differences between governmental and nongovernmental providers.

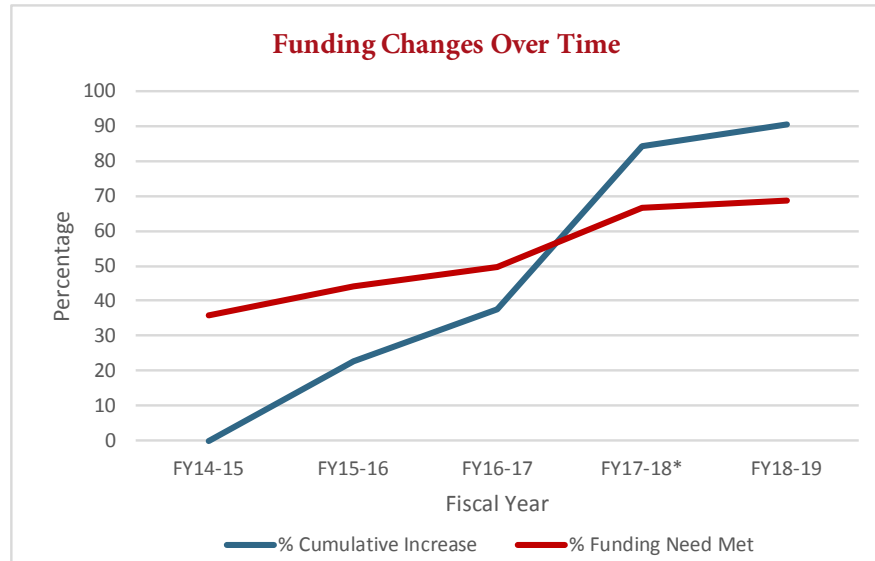
Appendix A

Assessment Site Snapshots

Summary: Increased Funding Site A

Description: Large, mostly urban county with increase in funding

Funding Changes ➤



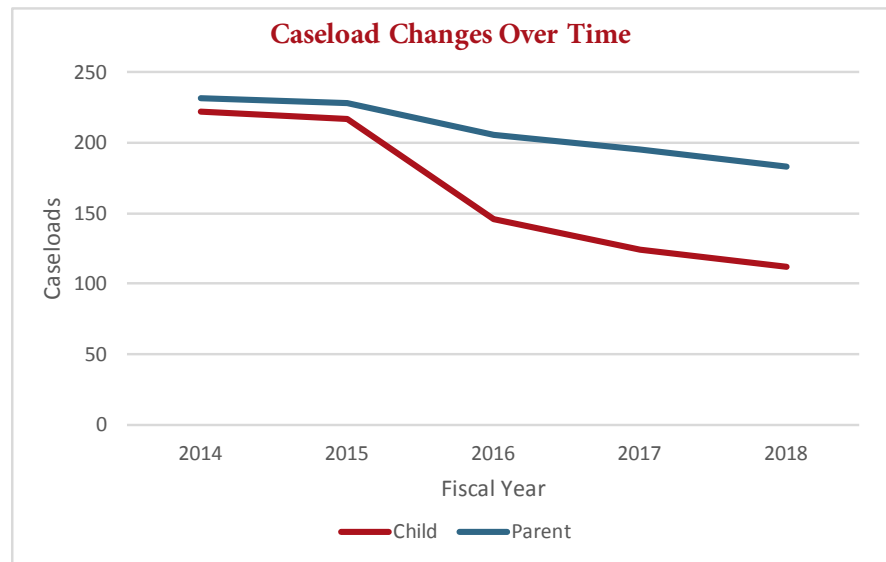
- FY14-15 funding met 36% of need (baseline year).
- FY15-16 funding increased by 22.7%, meeting 44% of need established in the baseline year.
- FY16-17 funding increased by 37.7% cumulatively from the baseline year, or 12.2% from the previous year, meeting 49.6% of need established in the baseline year.
- FY17-18 funding increased by 84.7% cumulatively from the baseline year, or 34.1% from the previous year, meeting 66.5% of need established in the baseline year.
- FY18-19 funding increased by 90.4% cumulatively from the baseline year, or 3% from the previous year, meeting 68.54% of need established in the baseline year.

Caseloads ➤



Legal services providers' average caseload numbers reflect decreases over the study period for children's and parents' counsel. Caseload averages as identified by the legal services providers appear below. Children's attorneys experienced a 49.5% decrease in caseloads, while parents' counsel experienced a 21% decrease in caseloads. These changes reflect what the legal services providers identified as their priorities with the increase in funding. Site A is the only site for which five years of caseload data were available.

| Caseload Changes | | |
|------------------|----------|---------|
| Fiscal Year | Children | Parents |
| FY 14-15 | 222 | 232 |
| FY 15-16 | 217 | 228 |
| FY 16-17 | 146 | 206 |
| FY 17-18 | 124 | 195 |
| FY 18-19 | 112 | 183 |



The attorney survey also provided insight into attorneys' perceived caseload changes over time. The average caseload as indicated by survey respondents was 172 cases per attorney (this reflects an estimate by survey respondents, not the caseload number provided by the providers). Fourteen percent of respondents perceived their caseloads had increased over time, while 58% felt they had decreased and 27% indicated caseloads had stayed the same.

Thematic analysis of interview data identified caseloads as a significant issue. Children's counsel observed that caseloads are still too high despite having decreased since the funding reallocation. Judicial stakeholders observed that caseloads continue to be a challenge and attorneys lack time to do work outside of court. Interview respondents said children's attorneys experienced reduced caseloads while parents' counsel experienced a smaller reduction. In addition, according to child welfare agency respondents, more contested hearings resulted from lower parents' counsel caseloads, potentially affecting workload.

Workload ►



Interview data revealed time management, including both attorney preparation time and time for out-of-court advocacy, presented challenges beyond caseload numbers. Parents' counsel indicated a need to shift to front-end work (e.g., challenging the need for removal; preparing more thoroughly for adjudication and disposition hearings) rather than the current back-end heavy focus (e.g., review hearings and permanency planning). Children's counsel stated that since the funding change they have more time to prepare cases before the hearing day, but there still is not enough time for out-of-court work. Likewise, judges said attorneys still lack time to meet with clients outside court, but this has improved since the funding increase. Other stakeholders also observed that attorneys spend most of their time in court and do not see clients outside of court, although members of their multidisciplinary legal teams may.

Representation Duties ➤



The attorney survey provided data about their views on the amount of time attorneys have available to perform certain duties. The chart below shows how representation duties were affected by time.

| Representation Duties Affected by Time – Not Enough Time (%) | | | |
|---|-----|-----|---------|
| Increased Funding Site A | MC | PC | MC & PC |
| Making a sound legal argument | 2% | 9% | 1% |
| Making sure my client understands their legal options | 26% | 45% | 50% |
| Spending time out of court learning about the case | 32% | 29% | 33% |
| Investigating and preparing for contested hearings | 64% | 75% | 70% |
| Having a strong relationship with agency counsel | 58% | 65% | 70% |
| Having a strong relationship with judge | 24% | 30% | 1% |
| Having a strong relationship with other (non-agency) counsel on the case | 24% | 33% | 33% |
| Having a strong relationship with agency/volunteer staff | 32% | 30% | 33% |
| Understanding any related litigation involving my client (e.g., criminal) | 46% | 68% | 50% |
| Understanding what services or assessments my client needs to complete | 81% | 83% | 70% |
| Visiting with my client outside of court | 68% | 30% | 33% |
| Attending case-planning meetings | 94% | 97% | 80% |
| Advocating for client's needs | 99% | 61% | 9% |

The duties that a large percentage (i.e., over 50%) of **children's counsel** (MC = minor's counsel) said they lacked time to adequately perform are:

- Investigating and preparing for contested hearings (64%)
- Having a strong relationship with agency counsel (58%)
- Understanding what services or assessments my client needs to complete (81%)
- Visiting with my clients outside of court (68%)
- Attending case-planning meetings (94%)

- Advocating for client's needs (99%)

For **parents' counsel (PC)**, those duties are:

- Investigating and preparing for contested hearings (75%)
- Having a strong relationship with agency counsel (65%)
- Understanding any related litigation involving my client (e.g., criminal) (68%)
- Understanding what services or assessments my client needs to complete (83%)
- Attending case-planning meetings (97%)
- Advocating for client's needs (61%)

For those who identified as **children's and parents' counsel**:

- Investigating and preparing for contested hearings (70%)
- Having a strong relationship with agency counsel (70%)
- Understanding any related litigation involving my client (e.g., criminal) (50%)
- Understanding what services or assessments my client needs to complete (70%)
- Attending case-planning meetings (80%)

Continuances ►



The change in continuances granted in Site A from 2014 to 2018 reflected a 17% decrease overall. While continuances decreased over the study period, a decrease of 30% was noted in the first year of funding increase with an increase in continuances the following year but not to previous levels, and then holding steady for the last year of the study period.

| Continuances According to Requestor Type | | | | |
|--|-----------|-----------|-----------|-----------|
| | 2014-2015 | 2015-2016 | 2016-2017 | 2017-2018 |
| Court | 35 | 36 | 59 | 59 |
| Agency | 12 | 12 | 14 | 15 |
| Parents' Counsel | 53 | 35 | 38 | 20 |
| Minor's Counsel | 32 | 16 | 20 | 14 |
| County Counsel | 15 | 27 | 24 | 22 |
| All Counsel | 100 | 45 | 53 | 77 |
| Total Number | 247 | 171 | 208 | 207 |

Thematic analysis of survey data revealed that fewer continuances were noted by children's attorneys, County Counsel, and judges. One judge noted that continuances are avoided because now supervisors can step in to cover absences.

Compensation ►



Thematic analysis of interview data revealed that attorneys noted increased salaries with better coverage and lower caseloads contributed to greater job satisfaction. Despite increased funding for dependency attorneys overall, children's counsel indicated they have lost attorneys to the parents' counsel provider because parents' counsel increased salaries with the new funding to stem the departure of attorneys to government positions. Overall, attorney movement occurred in the direction of better pay and benefits.

Attorney Movement ►



With increased funding and the ability to provide higher salaries, the children's legal provider reported a decrease over the past five years in attorneys leaving for government positions. However, they did report movement of attorneys to the parents' counsel provider as that firm raised its salaries. As a result, the children's legal provider lost seasoned attorneys and expanded their pool of newer attorneys with less experience.

Services ►



Interview respondents reported challenges related to services that affect their ability to advocate for their clients' needs and increased their workload. Site A struggles with services that are not paid for by the child welfare agency and are not otherwise affordable or accessible.

Judicial Resources ►



Interview responses noted the disconnect between funding changes for dependency counsel and funding for the court itself. Respondents noted that despite additional funding for attorneys, there are still not enough courtrooms to hear dependency cases, and the courts remain backlogged. Specifically, a judge noted that increased funding for dependency attorneys has not increased funding for the court and its essential functions.

Courtroom Efficiency ►



A common theme related to judicial resources and the ability to efficiently run courtrooms arose in Site A, specifically around the lack of time-certain hearings resulting in the need for both attorneys and families to be at the courthouse all day. In addition, attorney workloads and time management were affected by judges' ability to manage their calendars.

Multidisciplinary Legal Practice ►



Multidisciplinary legal teams (including investigators, social workers, paralegals, parent mentors or peer advocates, etc., as part of the team) exist in Site A. Children's counsel stated that with the funding increase they hired more investigators, lawyers, and paralegals. This provider also employs peer advocates, a psychologist, a special education attorney, and an immigration attorney, who work with clients and uses a multidisciplinary model in specialized courts. Parents' counsel has hired social work investigators. Even with these increases, a judicial respondent still felt that not enough social workers to team with attorneys are available. Another judge cited improvements in getting more specialized attorneys and supports for children as well as social workers to see some child clients in their homes; however, there is still not optimal time to support clients and meet children's needs.

Interview respondents reported challenges related to services that affect their ability to advocate for their clients' needs and increased their workload.

Specialized Courts ►



Interview respondents reported several collaborative or specialized courts helped better serve specific populations, including non-minor dependents, victims of commercial sexual exploitation, parents with substance use disorders, and dually involved youth. The children's legal services provider uses a multidisciplinary model in specialized courts that use treatment teams and employs peer advocates, trafficking survivors, and Master of Social Work interns to work with clients.

Collaboration ►



The CASA program and others described the site as collaborative, with children's counsel having strong relationships with many stakeholders. Some stakeholders believe parents' counsel collaborate well on the case level but would like to see more collaboration on the system level.

Homelessness & Poverty ►



Homelessness and poverty for youth and their families were reported as significant challenges in Site A.

Courthouse location and the ability of attorneys and families to get to court, and for attorneys to visit with clients before hearings, arose during interviews.

Geography ►

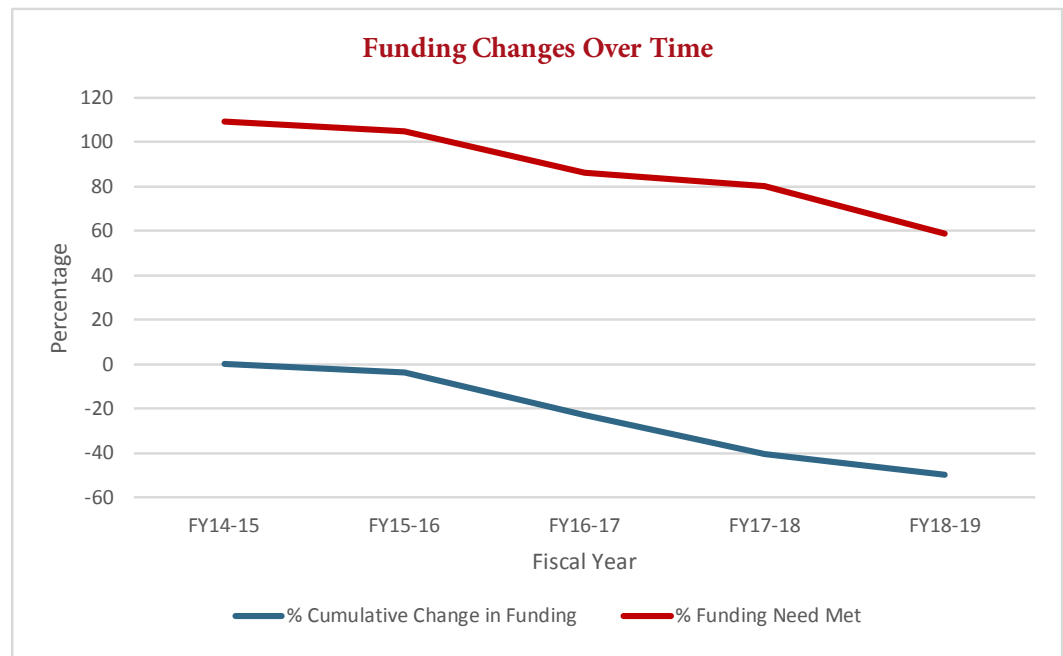


Courthouse location and the ability of attorneys and families to get to court, and for attorneys to visit with clients before hearings, arose during interviews. The location of the courthouse is expensive for families to reach and is not sufficiently accessible by public transportation.

Summary: Decreased Funding Site B

Description. Large, mostly suburban county with decrease in funding.

Funding Changes ►



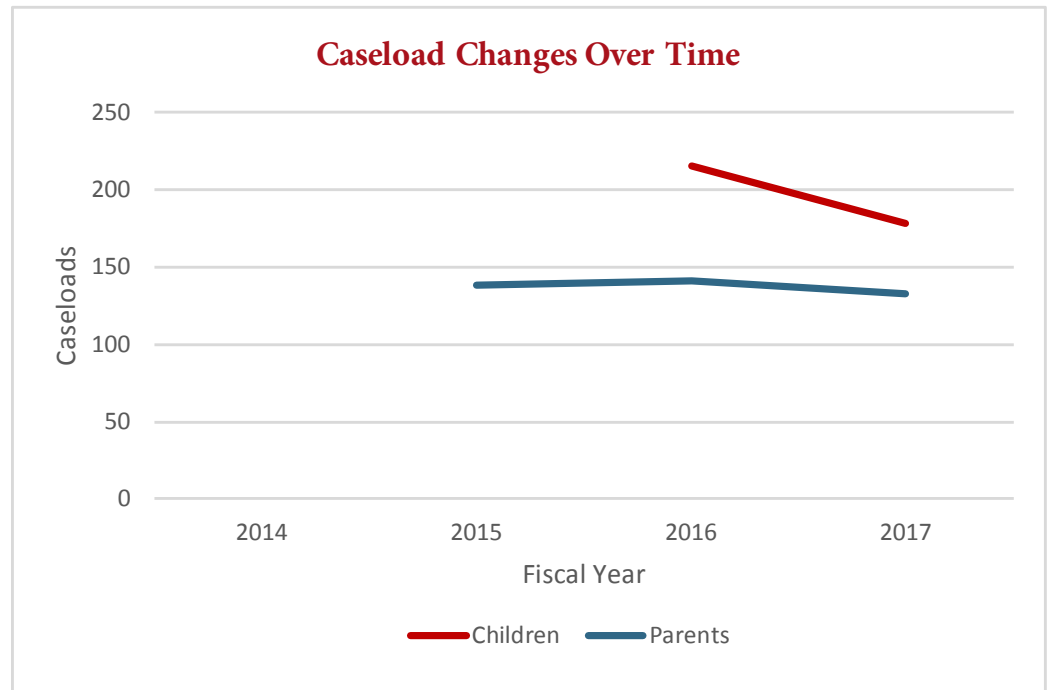
- FY14-15 funding met 109% of need (baseline year).
- FY15-16 funding decreased by 3.8%, meeting 105% of need established in the baseline year FY14-15.
- FY16-17 funding decreased by 22.8% cumulatively from the baseline year, meeting 86.3% of need established in the baseline year.
- FY17-18 funding decreased by 40.5% cumulatively from the baseline year, meeting 80% of need established in the baseline year.
- FY18-19 funding decreased by 49.4% cumulatively from the baseline year, meeting 59% of need established in the baseline year.

Caseloads ►



Thematic analysis of interview data identified caseloads as a significant issue. High caseloads were identified by all stakeholders as affecting the quality of representation. Children's counsel indicated increased caseloads well over what they considered acceptable rates, while parents' counsel caseloads vary widely based on location (120 to 170 clients).

| Caseload Changes | | |
|------------------|----------|---------|
| Fiscal Year | Children | Parents |
| FY 14-15 | — | — |
| FY 15-16 | — | 148 |
| FY 16-17 | 215 | 141 |
| FY 17-18 | 178 | 133 |



This chart was created with data provided by the legal services providers. The current providers do not have access to caseload information before the start of the current contract.

The attorney survey also provided insight into attorneys' perceived caseload changes over time. The average caseload as indicated by survey respondents was 121 cases per attorney (this reflects an estimate by survey respondents, not the caseload number provided by the providers). Thirty percent of respondents indicated their caseloads had increased over time, while 10% felt they had decreased and 60% said caseloads stayed the same.

Workload ►



Interview data also revealed that managing limited time, including attorney preparation time and out-of-court advocacy time presented challenges beyond caseload numbers. Parents' counsel indicated a need to shift to front-end work (e.g., challenging the need for removal; preparing more thoroughly for adjudication and disposition hearings) rather than the current back-end heavy focus (e.g., review hearings and permanency planning). Also, children's counsel reported using a new court process that schedules attorneys to be out of court for one day, freeing up time to visit clients and go to family team meetings. Children's counsel visit children in their homes when possible but also have interview space at their firm. Agency counsel said parent and child counsel have no time for out-of-court meetings and those attorneys' inability to meet clients out of court affects their in-court time.

Representation

Duties ➤



The attorney survey provided data about attorneys' views on the time they have available to perform certain duties. The chart below shows how representation duties were affected by time.

| Representation Duties Affected by Time – Not Enough Time (%) | | | |
|---|-----|-----|---------|
| Site B | MC | PC | MC & PC |
| Making a sound legal argument | 33% | 40% | 50% |
| Making sure my client understands their legal options | 41% | 20% | 100% |
| Spending time out of court learning about the case | 53% | 18% | 50% |
| Having a strong relationship with agency counsel | 31% | 40% | 0 |
| Having a strong relationship with the judge | 24% | 22% | 0 |
| Having a strong relationship with other (non-agency) counsel on the case | 32% | 33% | 0 |
| Having a strong relationship with agency or volunteer staff | 55% | 77% | 0 |
| Understanding any related litigation involving my client (e.g., criminal) | 94% | 77% | 100% |
| Understanding what services or assessments my client needs to complete | 65% | 55% | 50% |
| Visiting with my client outside of court | 59% | 90% | 100% |
| Attending case-planning meetings | 82% | 88% | 100% |
| Advocating for client's needs | 47% | 22% | 50% |

The duties that a large percentage (i.e., over 50%) of **children's counsel (MC = minor's counsel)** identified they did not have enough time to adequately perform are:

- Spending time out of court learning about a case (53%)
- Having a strong relationship with agency or volunteer staff (55%)
- Understanding any related litigation involving my client (e.g., criminal) (94%)
- Understanding what services or assessments my client needs to complete (65%)
- Visiting with my clients outside of court (59%)
- Attending case-planning meetings (82%)

For **parents' counsel (PC)**, those duties are:

- Having a strong relationship with agency or volunteer staff (77%)
- Understanding any related litigation involving my client (e.g., criminal) (77%)
- Understanding what services or assessments my client needs to complete (55%)
- Visiting with my clients outside of court (90%)
- Attending case-planning meetings (88%)

For those who identified as both **children's and parents' counsel**, those duties are:

- Making sure my client understands their legal options (100%)
- Understanding any related litigation involving my client (e.g., criminal) (100%)
- Visiting with my clients outside of court (100%)

- Attending case-planning meetings (100%)

Continuances ►



The change in continuances granted in Site B from 2014 to 2018 reflected a 49% decrease overall, the greatest decrease among the study sites. During the first year of funding decrease, however, continuances rose by 20%, followed by a decline over the next two years of 17% and 48% respectively.

| Continuances According to Requestor Type | | | | |
|--|------------|------------|------------|------------|
| | 2014-2015 | 2015-2016 | 2016-2017 | 2017-2018 |
| Court | 41 | 78 | 85 | 35 |
| Agency | 15 | 24 | 22 | 10 |
| Parents' Counsel | 64 | 74 | 54 | 12 |
| Minor's Counsel | 40 | 34 | 30 | 9 |
| County Counsel | 39 | 58 | 34 | 13 |
| All Counsel | 102 | 94 | 74 | 75 |
| Total Number | 301 | 362 | 299 | 154 |

Continuances were only counted in cases when they occurred during the study period (2014 to 2018) to avoid overestimating the number of continuances due to very old (but still open) cases. According to the case management data received from the legal services providers in Site B, the majority of continuances were originated by County Counsel, the court, or all counsel rather than by minor or parents' counsel on their own.

Compensation ►



Thematic analysis of interview data revealed that parents' counsel indicated the tighter budget resulted in cuts to employee costs and office space. They said salaries were not competitive and were affected by budget cuts; however, they have retained committed attorneys despite low salaries. Children's counsel indicated that with the budget issues, they are not able to pay competitive wages. Court administration agreed that salaries are not competitive.

Attorney Movement ►



The loss of qualified and trained attorneys to government positions was a theme in Site B. Counsel for both parents and children struggled with losing experienced attorneys to government positions with higher salaries, better benefits, and more stability; however, the thematic analysis also revealed the county has committed attorneys who often stay in their positions despite lower salaries.

Services ►



Respondents reported challenges related to services, which affects their ability to advocate for their clients' needs and increases their workload. Interview respondents cited the lack of co-located services and limited facilities as concerns. Meeting mental health, education, and trauma-related service needs of children and families was identified as a challenge.

Judicial Resources ►



Interview responses noted the disconnect between funding changes for dependency counsel and funding for the court itself. Several courtrooms closed in a move unrelated to the dependency counsel funding changes, resulting in additional workload challenges for attorneys.

Courtroom Efficiency ►



A common theme related to judicial resources and the ability to efficiently run courtrooms was raised by interview respondents, including lack of time-certain hearings, implicating the need for attorneys and families to be at court all day. Judicial and court administration respondents described how the lack of dedicated meeting space for attorneys affects their ability to meet with clients to prepare for hearings.

Multidisciplinary Legal Practice ►



Multidisciplinary legal teams (including investigators, paralegals, etc., as part of the team) exist in several study sites; however, this issue did not arise in interviews from Site B.

A common theme related to judicial resources and the ability to efficiently run courtrooms was raised by interview respondents, including lack of time-certain hearings, implicating the need for attorneys and families to be at court all day.

Experienced Attorneys & Judges ►



Interview respondents said experienced and committed attorneys and judges strengthened the team assigned to a court. Court administration reported that judges are experienced and committed. Judges who are assigned to the court want to be there and commit to at least three-year terms, often taking on an extra year. In many cases, judges are former parents' or children's counsel and are therefore knowledgeable about child dependency cases and do not require as much training as judges with other backgrounds.

Specialized Courts ►



Interview respondents reported that several collaborative or specialized courts helped better serve specific populations.

Specialty or problem-solving courts provide programming designed to address underlying issues or populations that bring certain parties to court in the first place. Examples include family drug courts, infant and toddler courts, mental health courts, or specialized courts for victims of sex trafficking.

Collaboration ►



Interviews with parents' counsel revealed good collaboration with caseworkers, but this added to the time attorneys need to devote to the case and the discovery process. Children's counsel also described the site as collaborative and the local Court Appointed Special Advocate (CASA) program as strong in the county and involved in most cases.

Homelessness & Poverty ►



Homelessness and poverty for youth and their families were reported as significant challenges. Poverty affects clients' ability to pay for housing, services, and transportation. With the funding cut in Site B, money for transporting clients to court has been eliminated from at least one legal service provider's budget. (The responsibility to transport minor clients to court remains with the child welfare agency.)

Immigration ►



While stakeholders identified immigration and clients' documentation status as issues they are addressing, these issues did not arise in the context of the impact of funding reallocation.

Geography ►



The location of the courthouse and the ability of attorneys and families to get to court, and for attorneys to visit with clients before hearings, arose in Site B. The distances between several courthouses presents a problem for attorney travel and leads to thin courtroom staffing.

Filing Decisions ►



In Site B, the child welfare agency reportedly changed its policies and reduced its petition-filing practice, focusing on greater preventative services to families without court intervention. The decision to file only in cases presenting the greatest child safety risk affected attorney practice in several ways. While case filings decreased, the need for attorney time increased due to the complexity of the filed cases. The cases that come to court tend to be difficult and more time-consuming. Fewer cases settle and more go to trial and a more adversarial approach reportedly now exists. While there are fewer cases than before (i.e., a perceived decrease in caseload), several respondents had concerns that the decreased caseload could also lead to greater funding cuts based on the Judicial Council's formula of assessing workload without recognizing the increasing complexity of cases when total caseload decreased.

Courtroom Efficiency ►



Lawyers are now assigned to specific departments, which has become a more efficient process. However, one court respondent said the decrease in funding has increased delays and created staffing issues. There are not enough attorneys to staff the court, causing a negative impact on how the court functions.

New Representation Contracts ►

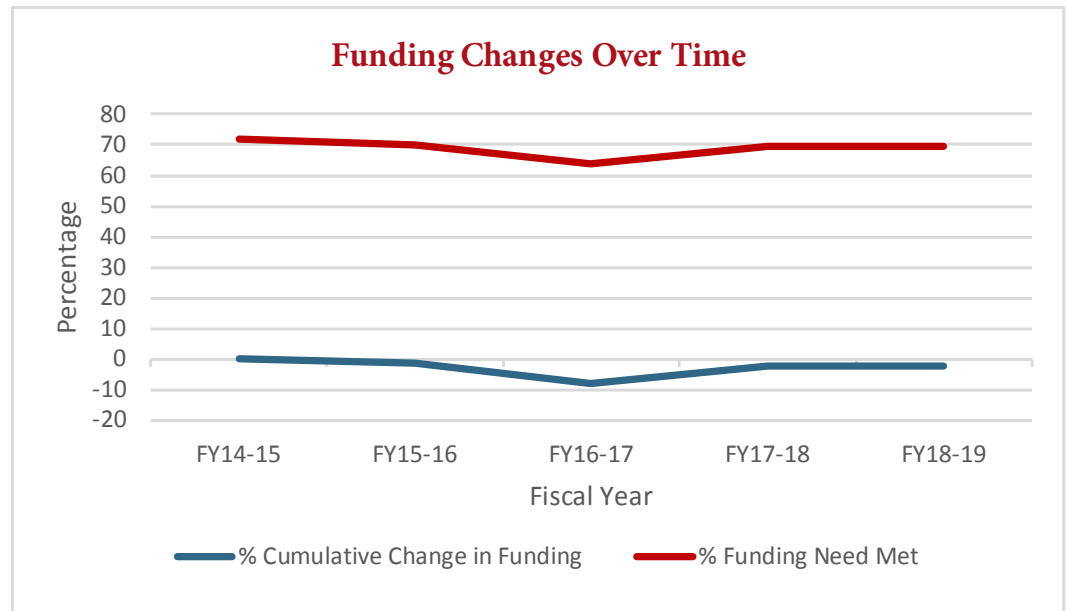


In Decreased Funding Site B, new providers received the contracts to provide dependency legal services for parents and children. These changes appear to have resulted in more efficient and streamlined provision of services. Notably, the providers for children and parents are now separate entities and focus exclusively on those clients. The budget decrease caused the previous legal services provider to close and a new entity was created to fill the gap in representation of children.

Summary: Decreased Funding Site C

Description. Small, mostly rural county with decrease in funding

Funding Changes ➤



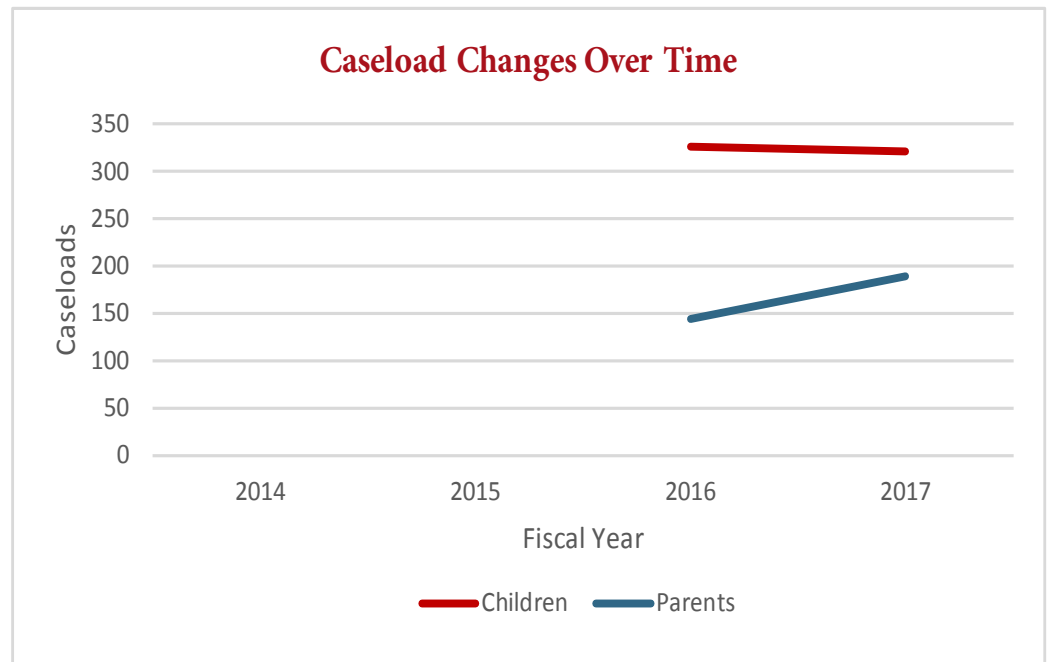
- FY14-15 funding met 72% of need (baseline year).
- FY15-16 funding decreased by 1.5%, meeting 70% of need established in the baseline year FY14-15.
- FY16-17 funding decreased by 8% cumulatively from the baseline year, or 6.53% from the previous year, meeting 63.8% of need established in the baseline year.
- FY17-18 funding increased with the total statewide budget augmentation so that the cumulative decrease was only 2.4% from the baseline year, or an increase of 5.59% from the previous year, meeting 69.41% of need established in the baseline year.
- FY18-19 funding decreased by 2.5% cumulatively from the baseline year, or .05% from the previous year, meeting 69.36% of need established in the baseline year.

Caseloads ➤



Legal services providers' average caseloads reflect increases over the study period for children's and parents' counsel. Caseload averages as identified by the legal services providers are reflected below. The assessment of caseloads relies on case management system data when available and attorney perceptions of changes in their caseloads. Legal services providers for children and parents in Site C changed during the assessment, and early year data was not available. After the change in legal services providers, children's attorneys experienced a slight 1.2% decrease in caseloads after the FY17-18 budget augmentation. Parents' counsel experienced a 31% increase after the FY17-18 budget augmentation, which could relate to a perceived increase in the number of filings.

| Caseload Changes | | |
|------------------|----------|---------|
| Fiscal Year | Children | Parents |
| FY 14-15 | — | — |
| FY 15-16 | — | — |
| FY 16-17 | 326 | 144 |
| FY 17-18 | 322 | 189 |



This chart was created with data provided by the legal services providers and calculated by the ABA assessment team. The current providers do not have access to prior caseload information.

The attorney survey also provided insight into attorneys' perceived caseload changes over time. The average caseload as indicated by survey respondents was 266 cases per attorney (this reflects an estimate by survey respondents, not the caseload number provided by the provider entities). Sixty percent of respondents (n=3) indicated their caseloads had increased over time, while 40% (n=2) felt caseloads stayed the same.

Thematic analysis of interview data showed caseloads that are too high were identified by all stakeholders as affecting representation quality. Site C judicial stakeholders, County Counsel, and child welfare agency staff indicated that high parent and child attorney caseloads prevent those attorneys from meeting with clients out of court. They also noted that this makes it difficult to manage court time. County Counsel and agency staff observed that high caseloads affect clients' understanding of the process and the attorney-client relationship.

Workload ►



Interview data also revealed that managing limited time, including attorney preparation time and out-of-court advocacy time, presented challenges beyond caseload numbers. The frequency and nature of out-of-court advocacy changed with funding levels.

Representation

Duties ➤



The attorney survey provided data about attorneys' views on the amount of time they have available to perform certain duties. The chart below shows how representation duties were affected by time.

| Representation Duties Affected by Time – Not Enough Time (#) | | | |
|--|----|----|---------|
| Site C | MC | PC | MC & PC |
| Making a sound legal argument | 0 | 0 | 3 |
| Making sure my client understands their legal options | 0 | 0 | 1 |
| Spending time out of court learning about the case | 1 | 1 | 3 |
| Having a strong relationship with agency counsel | 0 | 0 | 1 |
| Having a strong relationship with the judge | 0 | 0 | 1 |
| Having a strong relationship with other (non-agency) counsel on the case | 0 | 1 | 1 |
| Having a strong relationship with agency or volunteer staff | 0 | 0 | 1 |
| Understanding any related litigation involving my client (e.g., criminal) | 0 | 0 | 3 |
| Understanding what services or assessments my client needs to complete | 0 | 0 | 1 |
| Visiting with my client outside of court | 0 | 0 | 2 |
| Attending case-planning meetings | 0 | 1 | 2 |
| Advocating for client's needs | 0 | 0 | 2 |
| Results from Site C are shown as frequencies (counts) because the overall sample is only five persons. | | | |

The duty identified by the survey respondent identifying as children's counsel only (MC = minor's counsel) that there was not enough time to adequately perform is:

- Spending time out of court learning about the case (1)

For those identifying as parents' counsel only, those duties are:

- Spending time out of court learning about the case
- Having a strong relationship with other (non-agency) counsel on the case
- Attending case-planning meetings

For those who identified as both children's and parents' counsel, all listed duties were identified as those they did not have enough time to adequately perform, however, the highest number of respondents identified:

- Making a sound legal argument (3)
- Spending time out of court learning about the case (3)
- Understanding any related litigation involving my client (e.g., criminal) (3)
- Visiting with my client outside of court (2)
- Attending case-planning meetings (2)
- Advocating for client's needs (2)

Continuances ►



The rate of change in continuances increased markedly from 2014 to 2018 and reflected a 34% increase overall. Information about requestor type for continuances was not available in this site. Thematic analysis of survey data revealed that judicial stakeholders, County Counsel, and child welfare agency staff noted high attorney caseloads, which prevent attorneys from meeting with clients outside of court, affect the court docket, increase continuances, and make it difficult to manage court time. Turnover at the legal services providers was also perceived as a source of increased requests for continuances.

Compensation ►



Thematic analysis of interview data revealed that compensation, salary, and benefits affected attorney recruitment and retention. Inadequate pay was cited as a reason it is difficult to recruit attorneys for dependency practice, along with high caseloads and inexperience in this field of law. The decrease in funding was also viewed as a barrier to adequate training and supervision. The loss of qualified and trained attorneys to government positions was a consistent theme, and counsel for parents and children reported a loss of experienced attorneys to government positions with higher salaries, better benefits, and more stability.

Services ►



Interview respondents reported challenges related to services, which in turn affected their ability to advocate for their clients' needs and increased their workload. Attorneys in this site noted insufficient services within the county and a frequent need to place children out of county to provide higher-need services.

Judicial Resources ►



Interview responses revealed the disconnect between funding changes for dependency counsel and funding for the court itself. Respondents said this site experiences high judicial caseloads and does not have the court resources to address the significant increase in filings. Although funding levels and percentage of need met were restored over time in Site C, the rise in the number of cases means the court and other system providers report higher caseloads and difficulty processing cases.

Multidisciplinary Legal Practice ►



Multidisciplinary legal teams (including investigators, paralegals, etc., as part of the team) do not currently exist in this site. Interview data from judicial stakeholders noted attorneys lack social worker support, while a legal services provider indicated a desire to implement a multidisciplinary practice model but as a Decreased Funding Site lacked funding to do so.

Collaboration ►



Agency staff and County Counsel in this site described their system as collaborative.

Thematic analysis of interview data revealed that compensation, salary, and benefits affected attorney recruitment and retention.

Homelessness & Poverty ►



Homelessness and poverty for youth and their families were reported as significant challenges. Poverty affects clients' ability to pay for housing, services, and transportation, and homelessness was raised as an obstacle to parents' counsel meeting or communicating with their clients.

Immigration ►



While stakeholders identified immigration and clients' documentation status as issues they are addressing, these issues did not arise in the context of the impact of funding reallocation.

Geography ►



Difficulties with transportation for clients was reported in this site, and its rural location was identified as an attorney recruitment obstacle.

Representation is split among both governmental and non-governmental entities in Site C, so issues related to compensation and equity among attorneys representing similar clients can challenge recruitment and retention.

New Representation Contracts ►



New entities received the contracts to provide dependency legal services for both parents and children during the time of this assessment. Representation is split among multiple entities, including the Public Defender, so issues related to compensation and equity among attorneys representing similar clients can challenge recruitment and retention.

Dependency Counsel Survey

The American Bar Association Center on Children and the Law is conducting a study on the way that changes in state funding have affected the quality of legal representation in this county. We are asking child welfare agency attorneys, parents' attorneys, and children's attorneys to share their perspectives on funding-related factors that affect the quality of legal representation in child dependency cases. All questions relate to your work in dependency court only. Your answers are anonymous and confidential and will only be reported in aggregate with those of other survey respondents. This survey is voluntary.

Are you currently practicing in dependency court?

☐ No ☐ Yes

What organization do you currently work for? _____

Who do you represent in dependency court?

☐ Child Welfare Agency ☐ Parents ☐ Children ☐ Parents and Children

Approximately how long have you been representing dependency clients in your county?

☐ Less than 1 year ☐ One year to less than 2 years ☐ Two years to less than 3 years

☐ Three years to less than 4 years ☐ Four years or more

Thinking back to when you first began representing dependency clients in your county, how has your average caseload changed?

☐ My caseload is less ☐ My caseload is the same ☐ My caseload is greater

How many dependency clients do you have right now? Please respond according to whatever way you count your clients. _____

Thinking back to when you first started representing dependency clients in your county, how has the average number of continuances changed?

☐ Fewer continuances now ☐ About the same continuances as previously ☐ More continuances now

About how many continuances have you asked for that were granted in your dependency cases during the past 30 days? _____

In the past 3 months, how often did substitute counsel appear in a dependency hearing for you?

☐ Not at all ☐ Once ☐ Twice ☐ Three or more times

For dependency cases you received over the past year, when were you most commonly appointed to these cases?

- | | | |
|---|---|--|
| <input type="checkbox"/> When Petition is Filed | <input type="checkbox"/> Before Detention Hearing | <input type="checkbox"/> At Detention Hearing |
| <input type="checkbox"/> At Jurisdiction Hearing | <input type="checkbox"/> At Disposition Hearing | <input type="checkbox"/> At 6-month Review Hearing |
| <input type="checkbox"/> At 12-month Review Hearing | <input type="checkbox"/> At 18-month Review Hearing | <input type="checkbox"/> At Implementation Hearing |
| <input type="checkbox"/> When TPR Petition is Filed | <input type="checkbox"/> At TPR Hearing | <input type="checkbox"/> None of these |

| | Disagree | Neither Agree nor Disagree | Agree |
|---|--------------------------|-------------------------------|--------------------------|
| I have enough time to visit clients outside of court | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| I have to spend a lot of time driving to see clients | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| I spend too much time waiting at court for my case to be called | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Most cases present serious abuse/neglect issues | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

☐ Never ☐ Before every hearing ☐ After every hearing ☐ Before AND after every hearing
☐ Monthly ☐ Weekly

[illegible]

☐ Never ☐ Only when returning a call ☐ Only to schedule a meeting ☐ Before every hearing
☐ After every hearing ☐ Monthly ☐ Weekly

☐ Investigator ☐ Paralegal who is not an investigator ☐ Social worker or Case Manager who is not an investigator ☐ Other ☐ None

Thinking about your current dependency case load, what is the average number of months that cases are active or open? (Place a mark on the scale below)

Less than one month 6 months More than 12 months

Thinking about your current dependency case load, what is the average number of months that cases are active or open?

| | Very Dissatisfied | Somewhat Dissatisfied | Somewhat Satisfied | Very Satisfied |
|---|--------------------------|--------------------------|--------------------------|--------------------------|
| Current Salary | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Current Benefits | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Support you Receive from your Firm/Office | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Relationship with Other Counsel Involved in Case | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Work-Life Balance | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Relationship with Child Welfare Agency | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Judicial Practices | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Quality of Representation you Provide to Clients | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Quality of Representation others Provide to Other Dependency Clients in Your County | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Professional Development through Your Office | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Do you feel you have enough time to pursue the following activities when representing dependency clients in your current caseload?

| | Not as much time as I need | As much time as I need |
|---|----------------------------|--------------------------|
| Making a sound legal argument | <input type="checkbox"/> | <input type="checkbox"/> |
| Making sure my client understands their legal options | <input type="checkbox"/> | <input type="checkbox"/> |
| Spending time out of court learning about the case | <input type="checkbox"/> | <input type="checkbox"/> |
| Investigating and preparing for contested hearings | <input type="checkbox"/> | <input type="checkbox"/> |
| Having a strong relationship with agency counsel | <input type="checkbox"/> | <input type="checkbox"/> |
| Having a strong relationship with the judge | <input type="checkbox"/> | <input type="checkbox"/> |
| Having a strong relationship with other (non-agency) counsel on the case | <input type="checkbox"/> | <input type="checkbox"/> |
| Having a strong relationship with agency or volunteer staff | <input type="checkbox"/> | <input type="checkbox"/> |
| Understanding any related litigation involving my client (e.g., criminal) | <input type="checkbox"/> | <input type="checkbox"/> |

Do you feel you have enough time to pursue the following activities when representing dependency clients in your current caseload?

| | | |
|--|--------------------------|--------------------------|
| Understanding what services or assessments my client needs to complete | <input type="checkbox"/> | <input type="checkbox"/> |
| Visiting with my client outside of court | <input type="checkbox"/> | <input type="checkbox"/> |
| Attending case planning meetings | <input type="checkbox"/> | <input type="checkbox"/> |
| Amdevoctinagtisng for services for my client | <input type="checkbox"/> | <input type="checkbox"/> |
| Advocating for client's desired placement | <input type="checkbox"/> | <input type="checkbox"/> |

How likely are you to leave your current position for any of these reasons?

| | Very unlikely | Somewhat unlikely | Somewhat likely | Very likely |
|-----------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Higher Salary | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Better Benefits | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Reduced Workload | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Reduced Stress | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Reduced Commute/Travel | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| More Support Managing Cases | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Less Difficult Cases | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

When thinking of other attorneys who left the firm since you have been there, to the best of your knowledge why do you think they left (select all that apply)?

- ☐ For better salary or benefits
 ☐ To reduce stress or workload
 ☐ To reduce commute or travel time
☐ To receive more support from firm
 ☐ To reduce conflict with other counsel, court, or agency personnel
☐ To practice a different type of law
 ☐ To spend more time with family
 ☐ Health reasons
☐ Retired
 ☐ Fired
 ☐ Other
 ☐ Don't know

What is the greatest challenge you face when providing high quality representation to your current dependency clients in your county? _____

What would help to improve the quality of legal representation you provide to current dependency clients in your county? _____

What is your gender?

- ☐ Male
 ☐ Female
 ☐ Transgender, male to female
 ☐ Transgender, female to male
 ☐ Decline to answer

When were you born (year)? _____

What is your employment status?

- ☐ Full-Time
 ☐ Part-Time

Attorney Interview Questions

The American Bar Association is conducting a study in California to understand the impact of changes in state funding strategies on the quality of legal representation in California child welfare cases. Your county court is one of ___ courts in the state that has been invited to participate in the study, which involves interviews and surveys with child welfare, legal, and court staff as well as a review of de-identified, or anonymous, case files over a four-year period, from 2014-2018. Results from the study will be analyzed and reported as a group, combining all counties together, and will not identify counties by name or compare one county to another. Do you mind if we ask you a few questions to learn more about legal representation in this county?

1. What are the greatest challenges for providing high quality representation to child welfare clients in this county?

- For parents
- For children

2. Do child welfare clients in this county present any unique opportunities or challenges to the way attorneys are able to represent their interests?

- For parents
- For children

3. How have changes in funding helped or hindered attorney practice on behalf of child welfare clients in this county?

- For parents
- For children

Judicial Interview Questions

The American Bar Association is conducting a study in California to understand the impact of changes in state funding strategies on the quality of legal representation in child welfare cases. Your county court is one of ___ courts in the state that has been invited to participate in the study, which involves interviews and surveys with child welfare, legal, and court staff as well as a review of de-identified, or anonymous, case files over a four-year period, from 2014-2018. Results from the study will be analyzed and reported as a group, combining all counties together, and will not identify counties by name or compare one county to another. Do you mind if we ask you a few questions to learn more about legal representation in this county?

1. What are the greatest challenges you see attorneys face as they try to represent child welfare clients in this county?

- For parents
- For children

2. What advantages does this county have for providing high quality legal representation to child welfare clients?

- For parents
- For children

3. How have changes in funding helped or hindered the court's ability to provide high quality legal representation on behalf of child welfare clients in this county?

- For parents
- For children

| | | |
|------|---|--|
| 2014 | ■ | Baseline Year in FY14-15 |
| 2015 | ■ | First Year of Reallocation in FY15-16 |
| 2016 | ■ | Beginning of Assessment Second Year of Reallocation in FY16-17 |
| 2017 | ■ | Site Selection Screening Interviews Development of Data Matrix and Instruments Third Year of Reallocation in FY17-18 |
| 2018 | ■ | Data Access Agreements signed with each entity June Visit to Site C and Initial Onsite Interviews Fourth Year of Reallocation in FY18-19 September Visit to Site B and Onsite Interviews October Site B Follow-up Interviews December Visit to Site A and Onsite Interviews |
| 2019 | ■ | January Site B Attorney Survey March Site A Follow-up Interviews May Site A Attorney Survey June Site C Follow-up Interviews Site C Attorney Survey |

Endnotes

1. U.S. Dep't of Health & Human Servs., Admin. on Children, Youth & Families. *High Quality Legal Representation for All Parties in Child Welfare Proceedings*. ACYF-CB-IM-17-02. Available at <https://www.acf.hhs.gov/sites/default/files/cb/im1702.pdf>.
2. *Id.*
3. Gerber, Lucas A., et al. "Understanding the Effects of an Interdisciplinary Approach to Parental Representation in Child Welfare." *Children and Youth Services Review* 116, 2020, 1-11; Gerber, Lucas A., et al. "Effects of an Interdisciplinary Approach to Parental Representation in Child Welfare." *Children and Youth Services Review* 102, 2019, 42-55 (multidisciplinary representation leads to decreased time to reunification, increased use of kinship care, and significant financial savings).
4. *High Quality Representation* IM, *supra* note 1; Gerber, *supra* note 3. Duquette, D. N. & S.H. Ramsey. "Representation of Children in Child Abuse and Neglect Cases: An Empirical Look at What Constitutes Effective Representation." *University of Michigan Journal of Law Reform* 20, 1987, 341-392. Available at: <http://www.improvechildrep.org/StateofChildRepresentation/EvaluationsofChildRepresentation.aspx>.
5. American Bar Association House of Delegates. *ABA Standards for Lawyers who Represent Children in Abuse and Neglect Cases* (1996), *ABA Standards for Lawyers Representing Child Welfare Agencies* (2004), and *ABA Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases* (2006), available at https://www.americanbar.org/groups/public_interest/child_law/resources/practice-standards/; Family Justice Initiative. *Attributes of High-Quality Legal Representation for Children and Parents in Child Welfare Proceedings*, 2019. Available at <https://15ucklg5c-821brpl4dycpk15-wpengine.netdna-ssl.com/wp-content/uploads/sites/48/2019/05/fji-attributes-MAY2019.pdf>.
6. Child Welfare Policy Manual, 8.1B TITLE IV-E, Administrative Functions/Costs, Allowable Costs - Foster Care Maintenance Payments Program, Questions 30 and 32. Available at https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=36.
7. California's Budget Act of 2019 includes provisions to make these new resources available to superior courts in the state to the fullest extent possible.
8. See Cal. Welf. & Inst. Code § 317.
9. Brown-Presley Trial Court Funding Act, SB 612/AB 1197, Stats. 1988, ch. 945 (adding section 77003 to the Government Code). In 1997, the Lockyer-Isenberg Trial Court Funding Act (AB 233; Stats. 1997, ch. 850) was passed.
10. Green B.L., Ayoub C., Dym Bartlett J., et al. "It's Not as Simple as it Sounds: Problems and Solutions in Accessing and Using Administrative Child Welfare Data for Evaluating the Impact of Early Childhood Interventions." *Child Youth Services Review* 57, 2015, 40-49; California Administrative Office of the Courts. *Implementation Guide to Juvenile Dependency Court Performance Measures*, 2008. Available at: <https://www.courts.ca.gov/documents/Combined-impguide010709.pdf>
11. Attorney practice as it affects child and family outcomes such as permanency, safety, and well-being was not examined because too many intervening variables exist to directly link the effects of funding changes to those outcomes.
12. *High Quality Representation* IM, *supra* note 1; *ABA Standards of Practice*, *supra* note 5; *FJI Attributes*, *supra* note 5.
13. See *ABA Standards*, *supra* note 5. In 2008, the California Judicial Council recommended a maximum caseload of 141 clients per full-time dependency attorney as the base-level standard of performance, with a maximum caseload of 77 clients as necessary for an optimal, or best practice, standard of performance. *Dependency Council Caseload Standards: A Report to the California Legislature*, April 2008, available at <http://www.courts.ca.gov/documents/DependencyCounselCaseloadStandards2008.pdf>. The Family Justice Initiative has also established caseload standards of no more than 60 clients for a full-time attorney, assuming a caseload that includes clients at various stages of the case. *FJI Attributes*, *supra* note 5.
14. See *Youth Engagement in Court Resources*, ABA Center on Children and the Law, available at https://www.americanbar.org/groups/public_interest/child_law/project-areas/youth-engagement-project/resources/.
15. See *infra*, Exhibits 14A-C.
16. *Id.*
17. While it is the responsibility of the child welfare agency to transport minor clients to court, the previous provider representing both parents and children had included transportation in its budget.
18. See Thornton, Elizabeth. "High-Quality Legal Representation for Parents in Child Welfare Cases Results in Improved Outcomes for Families and Potential Cost Savings," *Family Law Quarterly* 46, 2012, 139-154; Center for Family Representation. *The Center for Family Representation 2014 Report to the Community*, 2014. Available at: <https://www.cfrny.org/about-us/annual-report/>; Detroit Center for Family Advocacy, University of Michigan Law School. *Detroit Center for Family Advocacy Pilot Evaluation Report 7/2009-6/2012*, 2014. Available at: <https://www.law.umich.edu/centersandprograms/pcl/cfa/Documents/evaluation.pdf>; Courtney, M. E., & J.L. Hook. "Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing of Permanency Outcomes for Children in Foster Care." *Children and Youth Services Review* 34, 2012, 1337-1343; Wood, S.M., & J.R. Russell. "Effects of Parental and Attorney Involvement on Reunification in Juvenile Dependency Cases." *Children and Youth Services Review* 33, 2011, 1730-1741. Available at: <http://www.ncjfcj.org/sites/default/files/Parental%20and%20Attorney%20Involvement%202011.pdf>; Gerber, et al, *supra* note 3; Duquette & Ramsey, *supra* note 4.
19. See *California Dependency Counsel Caseload Standards*, *supra* note 14; *FJI Attributes*, *supra* note 5.
20. Gender and age data were not available in Site C.
21. Packard Foundation. *Reports of Child Abuse and Neglect*, 2019. Available at: <https://www.kidsdata.org>.



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