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The Quality of Legal Representation in Dependency Cases in Nevada

An Exploratory and Baseline Assessment

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Executive Summary

Purpose

This report presents findings from an exploratory and baseline study of legal representation for parents and children in dependency cases. The goal of the study was to provide the Nevada Court Improvement Program (NVCIP) with a list of performance measures that can be used in future evaluations of the effectiveness of parents' and children's representation in dependency cases. In addition, the study provides baseline data about parents' and children's attorneys' performance that can be used in future evaluation efforts assessing interventions, trainings, or other practice improvements aimed at enhancing parent and child representation.

Methods

The study used a mixed method approach:

- Literature Review: First, we conducted a comprehensive literature review of research examining legal representation in dependency cases, as well as best practice guidelines and recommended performance measures for parents' and children's attorneys in dependency cases.
- Online Survey: Findings from the literature review were used to design an online survey of stakeholders from Nevada's Community Improvement Councils (CICs) about attorney experience handling dependency cases; the training they have received; dependency caseload and tasks/activities of parents' and children's attorneys/advocates; perspectives on appropriate performance measures; the features of high quality legal representation; and how parents' and children's attorneys/advocates might improve.
- Secondary Analysis: To establish baseline data on the presence and participation of attorneys in dependency cases and impacts on child welfare outcomes, datasets from prior research projects were re-analyzed. While these datasets were developed for other purposes (e.g., evaluation of Nevada's dependency mediation program and dependency hearing quality studies), some of the case file review data in those datasets were relevant to an assessment of legal representation (e.g., presence of attorneys in hearings).
- Court Observation: A random sample of recorded dependency hearings were obtained from five of Nevada's judicial districts. Using a structured court observation instrument, hearings were evaluated to explore the presence and advocacy of attorneys in those hearings.

Key Findings

Key findings are summarized below under each of the key measurement domains of interest to the current study (performance measures, characteristics of representation for parents and

children in dependency cases, and the quality of legal representation). Implications for the findings are also discussed.

Performance Measures for Parent and Child Representation in Dependency Cases

The literature review identified relevant performance measures for parent and child representation in dependency cases as well as case process and permanency outcomes associated with high quality legal representation (QLR) programs. Performance measures identified included a number of process measures (e.g., active participation in the case, client engagement, and case investigation), client satisfaction measures (e.g., satisfaction with representation/advocacy, satisfaction with case result) and case outcome measures (e.g., timely appointment, timely permanency, and permanency outcome). All of the performance measures have been used, to varying degrees, in research examining the quality and effectiveness of legal representation practices and model programs.

Survey respondents (N=42) were asked to consider a list of performance measures derived from the literature review and to rate the degree to which they believed they are important performance measures for determining QLR for parents and children in dependency cases in Nevada. The most important QLR performances measures (measures receiving the most overall endorsement by survey respondents) for both parents' and children's attorneys/advocates were:

- Client Satisfaction: Believe the representative helped them understand what they had to do in the case/understand the case process
- Client Satisfaction: Believe voice has been heard/concerns were listened to
- Client Satisfaction: Had regular contact with the representative
- Permanency Outcome: Increased rates of reunification

Current Representation for Parents and Children in Dependency Cases in Nevada

While the survey sample was small (a total of 42 respondents from 7 of the 11 judicial districts), responses received provide a snapshot of current representation for parents and children in dependency cases in Nevada.

Workload/Caseload: With respect to workload/caseloads, parents' attorneys (n=5) reported spending 15-80 hours on non-complex dependency cases and 30-120 hours on complex cases. Children's attorneys/advocates (n=4) reported spending 24-75 hours on non-complex dependency cases and 30-175 hours on complex dependency cases.

Continuity: Survey respondents (n=27) reported that attorney/advocates for children were the least likely to change over the duration of the case, with 30% reporting that children's attorneys/advocates "never" change in cases and 55% reporting that they "rarely" change. Although parents' attorneys were reported as changing more often in the case, their continuity was still strong with the majority of survey respondents (70%) noting that attorneys for mothers and fathers "rarely" change over the duration of the dependency case.

Appointment and Presence: Most survey respondents (63%) reported that an attorney for the parent is appointed early-on in a dependency case (prior to the 72-Hr hearing). Secondary analysis of existing data from 2014 found that it took an average of 21 days from removal for a

parent to be appointed an attorney and 13 days from removal for a child/youth to be appointed an attorney. Mother's attorney presence at hearings has ranged in the datasets from a high of 86% of all hearings in 2014 (n=105) to a low of 53% of all hearings in 2017 (n=128). In the 2020 hearing observation sample, 69% of hearings had a mother's attorney present (n=123). For father's attorneys, presence at hearings has ranged from a high of 78% of all hearings in 2014 to a low of 47% of hearings in 2017. In the 2020 hearing observation sample, 53% of all hearings had an attorney for the father present. The presence of children's attorneys has increased in each year of data collection, from 88% in 2014, to 89% in 2017, and 93% of all hearings in 2020. In the 2014 data, the presence of a mother's attorney and a child's attorney/advocate across the life of the case predicted higher rates of reunification and timelier permanency outcomes.

Tasks/Activities and Advocacy in Dependency Cases: When asked about the frequency with which specific "best practice" tasks/activities were performed, the tasks performed the most often by parents' attorneys were: attending child abuse and neglect hearings and attending settlement conferences prior to the termination of parental rights. The tasks parents' attorneys performed the least often were: attending family group conferences, conducting their own investigations in cases, debriefing with the client after hearings, and consulting with the child's representative (attorney or CASA) about the case. The tasks performed the most often by children's attorneys/advocates were: attending child abuse and neglect hearings, advocating for the child/youth at hearings, and attending mediations. The tasks children's attorney/advocates performed the least often were: meeting with the child/youth before the day of the hearing, meeting with the child/youth between hearings or outside of the court hearings, and conducting their own investigation in cases.

The random sample of recorded hearings were coded to assess the level of attorney advocacy observed in those hearings. Advocacy was defined as the attorney doing something in the hearing on behalf of their client (e.g., taking a position on an issue and arguing that position, objecting to testimony, making a motion to the court, advocating for placement, services, visitation or assessments). On the other hand, merely providing updates or general information to the court was not coded as providing advocacy. Following this coding convention, we found:

- 54% of all hearings observed had active advocacy by the mother's attorney;
- 62% of all hearings observed had active advocacy by the father's attorney; and
- 32% of all hearings had active advocacy by the children's attorney/advocate.

Training: The training topics that parent and child attorney/advocates report receiving the least amount of training on were client engagement (just 20% of parents' attorneys and 25% of children's attorneys). All of the parents' and children's attorneys reported having received training on child abuse and neglect laws (federal and state) and on alternative dispute resolution models and procedures.

Quality of Representation for Parents and Children in Dependency Cases

Features of high-quality legal representation for parents, according to survey respondents, included: being well-versed in the facts of the case and the law, frequently meeting with clients, being a strong advocate in hearings, assisting parents understand the court process, and understanding the issues faced by families involved in the child welfare system (e.g., trauma,

substance abuse, mental health and domestic violence). Similar features of high-quality representation for children were identified: being well-versed in the law, regularly meeting with children and their caregivers, advocating for the child/youth in court hearings, and having an understanding of child development and issues faced by children in dependency cases (e.g., trauma).

When asked how parents' attorneys can improve, survey respondents (n=21) suggested:

- Better communication with clients
- More frequent and meaningful contact with clients
- More training on child welfare law, topics and issues facing families in dependency cases (particularly for private attorneys)
- Better understanding of the child welfare agency's policies and practice model
- Better understanding of collaborative team/problem-solving approach in child welfare cases (e.g., the need balance being collaborative and advocating an adversarial position for parents if required).

When asked how children's attorneys/advocates can improve, survey respondents (n=22) suggested:

- Meeting with the child/youth they represent more frequently
- More training on trauma (e.g., how to engage children/youth who have been the victims of trauma and the services needed to overcome trauma)
- Better understanding of available community resources
- Reduced caseloads in order to facilitate more frequent and meaningful engagement with the child/youth

Implications for Findings

The findings of this study can be used to inform the development of a more robust evaluation to better assess the quality of legal representation in dependency cases in Nevada. Unfortunately, due to practice and policy changes put in place in response to the COVID-19 global pandemic, a more in-depth study became impractical. The survey, for example, was launched just prior to COVID-19 practice and policy changes, and although reminders were sent out to encourage responses, response rates may have been negatively impacted. Future evaluation efforts examining the quality of legal representation in Nevada should expand upon the survey conducted in this study to include the voices of more court stakeholders, including more CASA (as their response rate was particularly low) as well as ensuring respondents from all of the judicial districts participate.

Despite this limitation, the current study provides valuable information to use in future evaluations of the quality of representation for parents and children in Nevada's dependency cases.

- Performance measures were identified that can be used in future evaluations of parent and child representation practice. Some of these performance measures were also strongly endorsed by both parents' attorneys and children's attorneys/advocates as relevant and important measures to determine the quality and effectiveness of their representation practice. These included three specific measures of client satisfaction,

indicating that future evaluation efforts should examine client satisfaction through surveys or focus groups with parents and children/youth.

- Secondary analyses revealed current strengths of representation, such as early appointment and strong continuity for parents' and children's attorneys/advocates that should continue to be tracked -particularly as timely appointment and presence of attorneys for mothers and children across the life of the case were found to be associated with improved case processing timelines and permanency outcomes in prior research.

- Findings of the current study can be considered baseline information for future evaluations examining the quality of legal representation. For example, while limited due to the small sample size, the survey provides baseline about the frequency with which tasks are self-reported by attorneys as being performed in dependency cases. Baseline data about timely appointment and presence of attorneys in hearings (from the secondary analysis of previous case file reviews) are provided in the current study, as well as baseline data about the presence and advocacy level of attorneys in hearings (from court observation).

- The definitions of high-quality representation for parents and children described by the survey respondents, as well as the practice areas identified as in "need of improvement," can be used to inform training and curricula development. The survey found that client engagement, for example, was an area where attorneys reported having little training. This information may be used to audit current training to determine if trainings do (or do not) include sufficient attention to client engagement strategies. New training opportunities can also be developed to help attorneys actively engage with their clients whether those clients be parents or youth.

- Not explored in the current study, but worthy of future research, is the quality of district attorney/attorney general representation in dependency cases. This is an understudied area of legal practice nationally and would be important to undertake in Nevada. Adding a focus on district attorney/attorney general representation practice would provide a more complete picture of the quality and effectiveness of legal representation in dependency cases. Similarly, the quality of CASA representation should be considered in future evaluation efforts.

The Quality of Legal Representation in Dependency Cases in Nevada: An Exploratory and Baseline Assessment

Introduction

Quality representation and due process for all parties in the child welfare system is essential, but not always achieved. The Nevada Court Improvement Program (NVCIP), funded by the federal Children's Bureau contracted with Data Savvy Consulting to design and implement a study that would provide descriptive information and baseline data to the Nevada CIP about current representation models and quality of legal representation (hereinafter QLR) in dependency cases in Nevada. This report integrates findings from a literature review, online survey findings, secondary analysis of existing data, and court hearing observation to create a baseline report of QLR in Nevada. The report includes suggestions for next steps and ways to enhance data collection of QLR in Nevada, including providing information about appropriate performance measures to assess legal representation in dependency cases in future evaluation efforts.

Methods

Literature Review. A comprehensive review of the literature examining legal representation in dependency cases was undertaken to determine what has been done to assess representation practice, refine the current study's research questions, and to identify performance measures that have been proposed in the field. As part of this review, the research team also engaged in discussions with Nevada's Community Improvement Councils (CICs) to better understand how they would define QLR and to solicit their input on appropriate performance measures for parent and child representation in dependency cases. In addition, discussions with the CICs helped to identify current models for appointing representation for children and parents in Nevada's dependency court system.

Online Survey. An online survey was conducted to inform the overall project's research design and to obtain input from legal and other court stakeholders about QLR in dependency cases in Nevada. Findings from the literature review of QLR in dependency cases were used in the development of survey questions. This included identifying a list of performance measures for legal representation in dependency cases found in the literature that survey respondents could reflect upon and assess the degree to which they believed they were important performance measures for future evaluations of parents' and children's attorney practice in Nevada. In addition, at the request of the NVCIP, survey questions were included about the practice changes made by judicial districts in light of the COVID-19 pandemic and any challenges faced as a result (findings from that component of the survey are presented in a separate report focused on virtual hearing practice post COVID-19 entitled: *Nevada Court Improvement Program Remote Hearings Study).*

The final QLR online survey topics were:

- Stakeholder Role, Judicial District and Years of experience
- Caseloads/Workload
- Tasks/Activities in Dependency Cases
- Attorney Continuity, Appointment Practice and Representation Model Followed
- Training Undertaken
- Appropriate Performance Measures for Parents' and Children's Attorneys
- Definitions of Quality Legal Representation
- Assessments of Legal Representation and Suggestions for how Parents' and Children's Attorneys can Improve their Practice
- COVID-19 Practice and Challenges

Secondary Analysis. To establish baseline data on the presence and participation of attorneys in dependency cases and its impact on child welfare outcomes, datasets from prior projects were re-analyzed. While these datasets were developed for other purposes (e.g., evaluation of Nevada's dependency mediation program and dependency hearing quality), some of the case file review data in those datasets were relevant to an assessment of QLR (e.g., presence of attorneys in hearings).

Court Observation. A random sample of recorded dependency hearings were obtained from five of Nevada's judicial districts. The hearing sample in each judicial district included in-person hearings conducted prior to COVID-19 and virtual hearings conducted post COVID-19. Using a structured court observation instrument, pre and post COVID-19 hearings were evaluated to explore the presence and advocacy of attorneys in those hearings.

FINDINGS: LITERATURE REVIEW

Performance Measures for Parents' and Children's Attorneys in Dependency Cases

Our review of the research literature examining quality legal representation in dependency cases, as well as our review of best practice standards for parent and child representation such as those developed by the American Bar Association and the National Association of Counsel for Children, identified a number of relevant performance measures for attorneys who represent parents and children in dependency cases. These performance measures, which include process measures (e.g., active participation in the case, client engagement, and investigation), client satisfaction measures and case outcomes are outlined in Table 1 and 2 below.

Table 1: Child/Youth Attorney Performance Measures[1]
Process Measures – Quality Legal Representation Tasks

Actively Participate in A/N Case	• Participate in depositions, negotiations, discovery, pre-trial conferences and court hearings • Attend and participate in all hearings • Make appropriate motions, including objections • Present evidence (e.g., present and cross examine witnesses, offer exhibits, etc.) • Post-hearing, review court's order and communicate order to child • Monitor implementation of court's order • File pleadings: file petitions, motions, responses, or objections
Client Engagement • **At Court Hearings** • **Meeting with Child/Youth** • **Counsel**	• Visit with child prior to court hearings • At Court Hearings: explain what is expected to happen before, during and after hearings; prepare child to be witness • Visit with child when apprised of emergencies or significant events impacting on child • Counsel child about subject matter of litigation, child's rights, the court system, the proceedings, the lawyer's role, what to expect from legal process
Investigate	• Conduct thorough, continuing and independent investigations and discovery (e.g., review child's social services, treatment records, school records, etc.) • Reviewing court files of child and siblings and case-related social services records • Contacting lawyers for other parties and non-lawyer GALs or CASA for background info • Contacting and meeting with parents/legal guardians of the child with permission of their lawyer • Interviewing individuals involved with the child (including school personnel, caseworkers, foster parents, etc.). • Reviewing relevant evidence • Attending treatment, placement, administrative hearings and other proceedings involving legal issues
Services/Resource Identification	• Identify appropriate services for the child • Identify appropriate family resources for child placement

	• Request services consistent with the child's wishes (e.g., sibling and family visitation, drug and alcohol treatment, etc.)
Delay Reduction	• Attempt to reduce case delays (i.e., request continuances only when absolutely necessary) • Negotiate settlements to seek expeditious resolution of the case
Client Satisfaction Measures	
Satisfaction with permanency outcome achieved	
Satisfaction with overall representation from beginning to end of case	
Belief voice has been heard/concerns were listened too	
Belief representative helped them access services, family time or treatment	
Belief representative helped them understand what they had to do in the case/understand the process	
Belief representative advocated for their position, interests or goals	
Satisfaction they had regular contact with representative	
Belief representative treated them with respect	
Outcome Measures	
Permanency	
Timely appointment	• Percent of cases with counsel appointed prior to filing of petition • Percent of cases with counsel appointed at or prior to 72-hour hearing
Timely Permanency	• Reduction in the median/mean days to achieve permanency (case closure) • Percent of cases achieving permanency within 12 months or 24 months of original petition filing • Percent of cases in which the child re-entered within 6 months and 12 months of case closure
Permanency Outcome	• Increased rates of permanency outcomes (e.g., reunification, placement with relative or guardianship with relative, adoption) • Reduced rate of "aging-out"/APPLA case outcome

Table 2: Parents' Attorney Performance Measures[2]	
Process Measures – Quality Legal Representation Tasks	
Actively Participate in A/N Case	• Review petition and all child welfare agency case files; Obtain all necessary documents including all copies of pleadings and notices filed by other parties and information from caseworkers and providers; When needed use formal discovery methods to obtain information • Take diligent steps to locate and communicate with missing parent • Cooperate and communicate regularly with other professionals in the case • Develop a case theory/strategy to follow at hearings and negotiations • Timely filing of all pleadings, motions and briefs • Identify, locate and prepare witnesses including expert witnesses • Attend and prepare for all hearings including pre-trial conferences and mediations • Prepare and make all appropriate motions and evidentiary objections • Present and cross-examine witnesses • Prepare proposed findings of fact, conclusions of law and orders • Post-hearing review court orders • Take reasonable steps to ensure client compiles with court orders
Client Engagement • **At Court Hearings** • **Meeting with Client** • **Counsel**	• Explain hearing process, goals and purpose to client • Prepare client to testify in hearings • Advocate for client goals and empower client to direct the representation • Meet and communicate regularly with client before court hearings • Counsel client about all legal matters, including specific allegations, service plan, client's rights, any orders, potential consequences of non-compliance
Investigate	• Conduct thorough and independent investigation at every stage of case • Interview client well before each hearing in time to use information for case investigation
Services/Resource Identification	• Engage in case planning and advocate for appropriate social services

	• Advocate for visitation in family-friendly setting
Delay Reduction	• Attempt to reduce case delays (i.e., request continuances only when absolutely necessary) • Negotiate settlements to seek expeditious resolution of the case when appropriate with client's permission
Client Satisfaction Measures	
Satisfaction with permanency outcome achieved	
Satisfaction with overall representation from beginning to end of case	
Belief that voice has been heard/concerns were listened too	
Belief representative helped them access services, family time or treatment	
Belief representative helped them understand what they had to do in the case/understand the process	
Belief representative advocated for their position, interests or goals	
Satisfaction they had regular contact with representative	
Belief representative treated them with respect	
Outcome Measures	
Permanency	
Timely appointment	• Percent of cases with counsel appointed prior to filing of petition • Percent of cases with counsel appointed at or prior to 72-hour hearing
Timely Permanency	• Reduction in the median/mean days to achieve permanency (case closure) • Percent of cases achieving permanency within 12 months or 24 months of original petition filing • Percent of cases in which the child re-entered within 6 months and 12 months of case closure
Permanency Outcome	• Increased rates of permanency outcomes (e.g., reunification and/or permanent placement with relative) • Reduced rate of "aging-out"/APPLA case outcome

The Features of High-Quality Legal Representation in Dependency Cases

Although a large scale and reliable national study on the impact of parent and child/youth representation in dependency cases has yet to be completed, data from several evaluations of model legal representation programs uncovered in our literature show the potential benefits that quality parent and child representation can provide. In fact, a growing body of evaluation research has demonstrated that high quality parent and child representation significantly improves case processing and outcomes for families. "High quality" in these studies has been defined as representation programs with lower caseloads, early appointment of counsel (e.g., by the initial hearing), sufficient interdisciplinary support such as social work and investigatory services, and ongoing specialized training in child abuse and neglect case practice.[1] These features of parent and child representation programs have been associated in evaluation studies with the following positive outcomes:

High-Quality/Model Parents' Representation

- Improved hearing timeliness;[3]
- Improved time to permanency;[4]
- Increased reunification;[5]
- Increased relative placement/guardianships;[6]
- Increased dismissal of the petition;[7]
- Improved parent engagement;[8]
- Increased services, visitation, assessments;[9] and
- Child safety.[10]

High-Quality/Model Children's Representation

- Improved time to achieve permanency for children who had an attorney from a model program assigned within the first six months of coming into care.[11]
- Reduced case processing timelines;[12]
- Increased rates of reunification;[13]
- Increased adoption or guardianship;[14]
- Increased placement with relatives;[15] and
- Increased orders for services, assessment, visitation.[16]

[1] See for example, American Bar Association (2006). *Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases*. Available online at https://www.americanbar.org/content/dam/aba/administrative/child_law/aba-parent-rep-stds.pdf

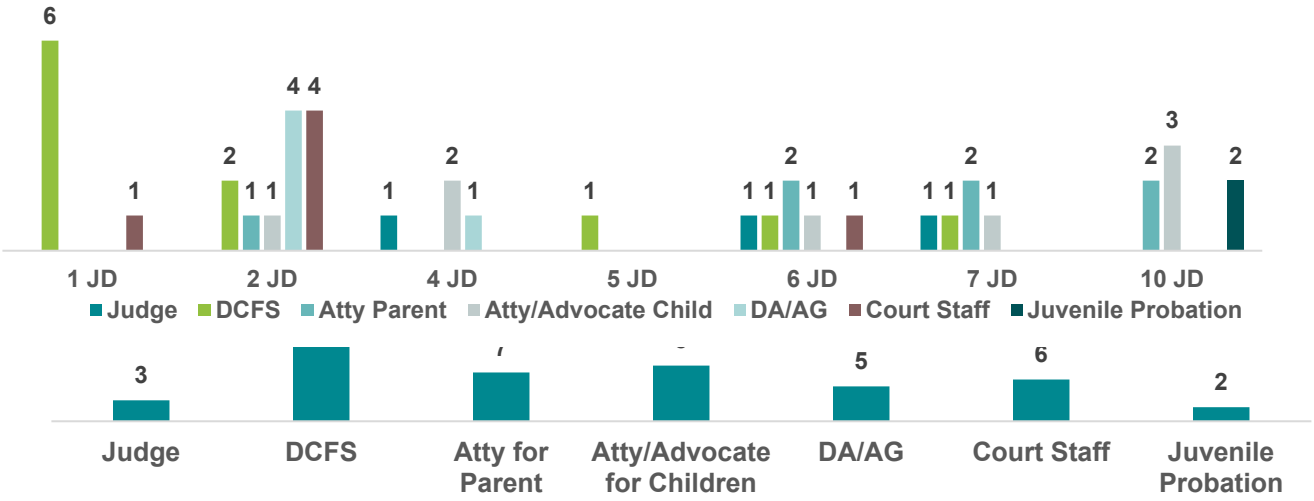
FINDINGS: STAKEHOLDER SURVEY

Stakeholders from each of the CICs were invited to participate in an online survey. Although the NVCIP encouraged participation and reminders were sent out to each CIC to complete the survey, the total number of completed surveys received was low (N=42) and not all judicial districts ended up being represented. In addition, a number of respondents dropped out and did not complete all of the survey. This small sample and survey drop out pattern may be due, in part, to the fact that the survey was released just prior to the significant court-based practice changes put in place because of the COVID-19 pandemic. Despite the small final sample size, however, responses to the survey provide an informative snapshot of stakeholders' perceptions of parent and child attorney practice in Nevada and perspectives on appropriate performance measures for future evaluation efforts.

Survey Sample

A total of 42 court stakeholders completed the online survey. Most respondents were from the 2nd Judicial District (28%; n=12 of 42), followed by the 1st Judicial District (17%; n=7 of 42) and 10th Judicial District (17%; n=7 of 42). Looking at survey respondents by role, most survey respondents were from DCFS (26%; n=11 of 42), followed by attorneys and/or advocates for children 19%; n=8 of 42), attorneys for parents (17%; n=7 of 42), court staff (14%; n=6 of 42) and District Attorneys/Attorney Generals (12%; n=5 of 42).

Figure 3: Survey Respondents by Judicial District and Role (N=42)



Respondents were asked to report the years of experience they had practicing in their role in their judicial district. Responses ranged from a low of less than 1 year to a high of more than 20 years. The entire survey sample reflects an average of 8.67 years of practice experience.

Caseload and Workload Estimates

Parents' Attorneys

Parents' attorneys responding to the survey were asked to estimate their overall and child abuse and neglect caseload, as well as the time they spent on both straightforward (non-complex) or complex child abuse and neglect cases.[2] Responses are summarized in Table 3.

Table 3: Child Abuse and Neglect Caseload and Workload Estimates: Attorneys for Parents (n=5)	
Caseload	
Overall (regardless of case type) Range = 30-120 cases Average = 65 cases	Percent of Caseload is Child Abuse and Neglect Cases Range = 5% to 100% Average =27%
Child Abuse and Neglect Workload	
Hours Spent in Straightforward (Non-Complex) Child Abuse and Neglect Cases Range = 15 -80 hours Average = 32.4 hours	Hours Spent in Complex Child Abuse and Neglect Cases Range =30-120 hours Average = 47.2 hours

When asked to describe what they think of as "straightforward" vs. "complex" child abuse and neglect cases, parents' attorneys offered the following descriptions:

Straightforward or non-complex child abuse and neglect case:

- *"A parent who will work to sobriety to regain their child."*
- *"Client is working case plan. Agency recognizes their progress and is moving them forward accordingly. No TPR action pending; no other actions pending"*
- *"Smaller family, consistent engagement"*
- *"Removal w/ simple issues and swift closure after a few months (less than 6)"*
- *"Parent acknowledges issues, cooperates with DCFS, etc."*

Complex child abuse and neglect cases:

- *"A parent who cannot overcome addiction."*
- *"TPR pending, client is not working case plan or doesn't agree with case plan, Agency is openly against client reunifying; other actions or motions pending."*
- *"Multiple parents in different areas, different levels of engagement, in consistent participation."*
- *"Generally, ones that last a year or more, and sometimes require mediation and/or involve possible termination."*
- *"Parent does not acknowledge issues, or recognize issues with DCFS reports, case is more contested than cooperative."*

Children's Attorneys/Advocates

[2] Two parents' attorneys did not provide answers to this section of the survey.

Children's attorneys/advocates responding to the survey were asked to estimate their overall and child abuse and neglect caseload, as well as the time they spent on both straightforward (non-complex) or complex child abuse and neglect cases.[3] Responses are summarized in Table 4.

Table 4: Child Abuse and Neglect Caseload and Workload Estimates: Attorneys/Advocates for Children (n=4)	
Caseload	
Overall (regardless of case type) Range =25-80 Average = 53 cases	Percent of Caseload is Child Abuse and Neglect Cases Range = 8% to 95% Average =34%
Child Abuse and Neglect Workload	
Hours Spent in a Straightforward (Non-Complex) Child Abuse and Neglect Case Range = 24 -75 hours Average = 38.5 hours	Hours Spent in a Complex Child Abuse and Neglect Case Range =30-175 hours Average = 85.2 hours

When asked to describe what they think of as "straightforward" vs. "complex" child abuse and neglect cases, some of the children's attorneys offered the following descriptions:

Straightforward or non-complex child abuse and neglect case:

- *"Uncontested."*
- *"The parents immediately begin working to have the children returned, and there are no additional issues that arise during the representation, other than what brought the children into the system in the first place"*
- *"A standard process."*

Complex child abuse and neglect cases:

- *"Highly contested with numerous court hearings and meetings."*
- *"This is a parent/parents who are not immediately responsive to the case or there is complex family dynamics that make placement and safety for the children unique or extraordinary."*
- *"Litigation."*

Attorney Continuity, Appointment Practice and Child Representation Model Followed

Attorney Continuity

[3] Four children's attorneys/advocates did not complete this section of the survey.

Respondents reported that attorney/advocates for children were the least likely to change over the duration of the case, with 30% reporting that children's attorneys/advocates "never" change in cases and 55% reported that they "rarely" change. Although parents' attorneys were reported as changing more often in case, the continuity of parents attorneys was also reported as being strong, with the majority of respondents (70%) reporting that attorneys for mothers and fathers "rarely" change over the duration of the case. In addition, when asked if the same parent's attorney represented the parent at the termination of parental rights phase of the case in their juridical district, most (59%) responded that "yes, mostly." See Figures 4 and 5.

Figure 4: Frequency Counsel Changes Over the Duration of the Case (n=27)

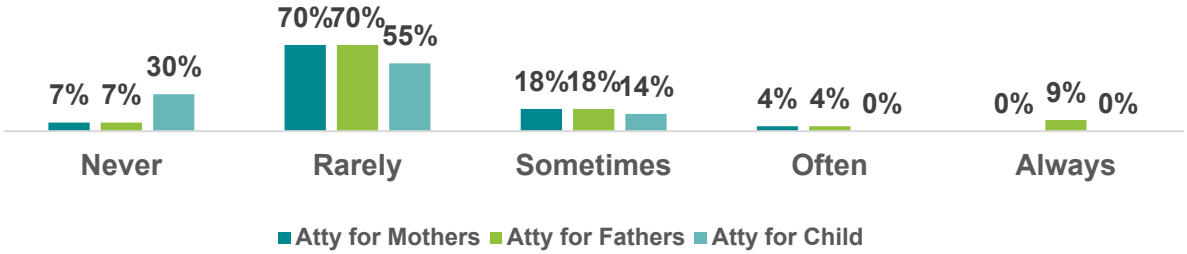
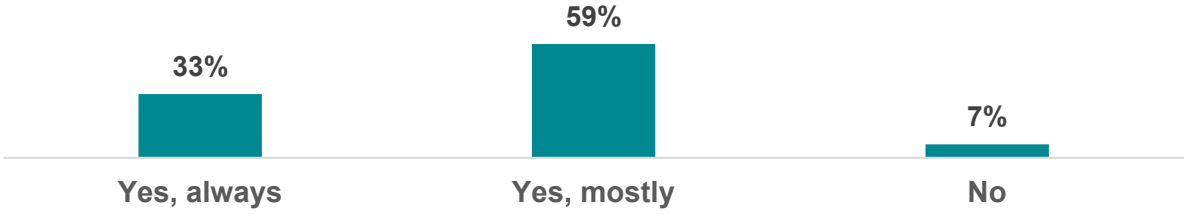
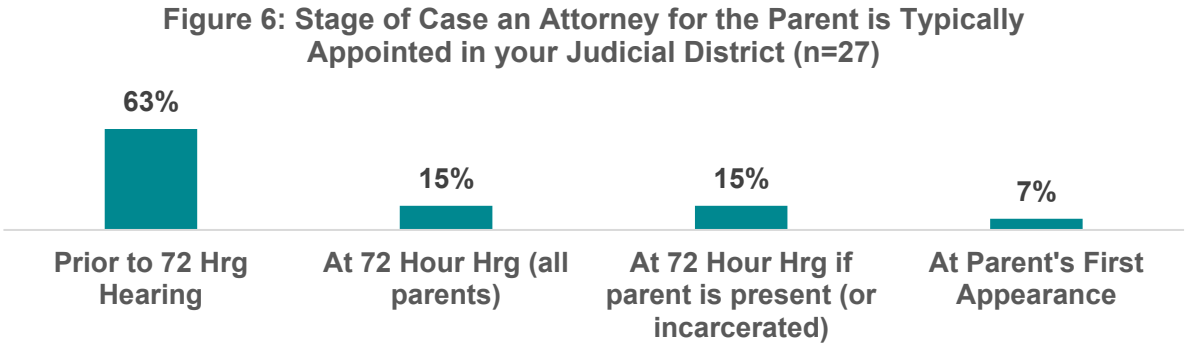


Figure 5: Does the Same Attorney Represent the Parent at the TPR Phase of the Case? (n=27)



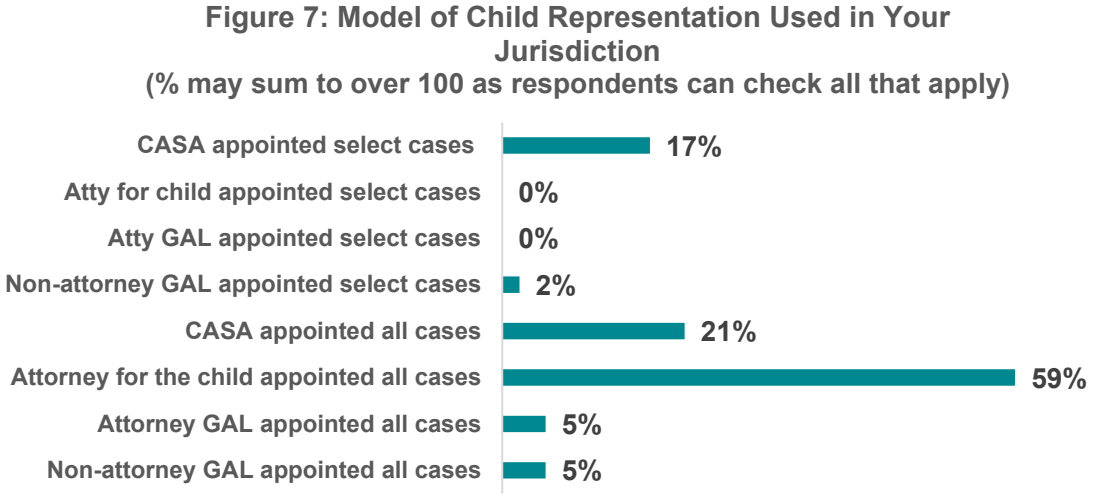
Parent Attorney Appointments

Most survey respondents (63%) reported that an attorney for the parent is typically appointed prior to the 72-Hr Hearing in child abuse and neglect cases. Respondents also noted that mothers and fathers are typically provided their own attorney in the majority (95-100%) of cases. See Figure 6.



Model of Child Representation

When asked to indicate which model of child representation was used in their judicial district, most responses (59%) indicated that "an attorney for the child is appointed in all cases." An additional 17% of responses indicated that "a CASA was appointed to represent the child in all cases." See Figure 7.



When asked about the type of child representation model followed in their judicial district (e.g., best interests, child wishes, or other) most respondents (44%) noted that an "other" model of child representation was followed. Comments provided explaining what an "other" model was, indicated that the child's representative represents best interests and child wishes depending on the child's age and needs, availability, as well as the specific case circumstances. See Figure 8.

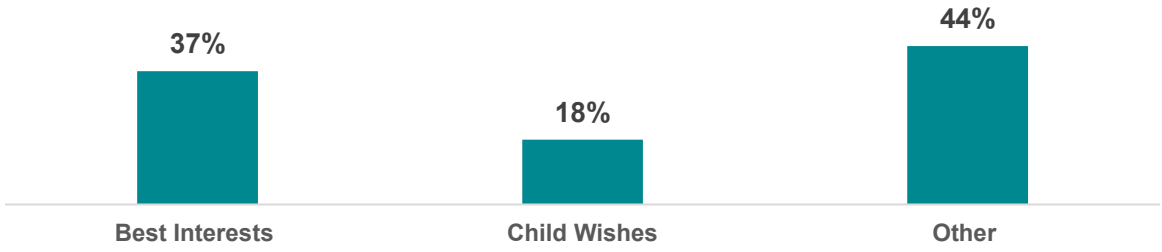
Comments on child representation models included:

- *"Attorney appointed for all; CASA appointed when children remain in local area and when a CASA is available (5th JD.")*
- *"An attorney for the child is appointed when parent client is incapacitated in some way*

(2nd JD.")

- *"Higher needs cases are provided GAL's because there isn't enough volunteers for all cases (1st JD)."*
- *"Depends on availability whether an attorney will be appointed (1st JD)."*

Figure 8: Model of Child Representation Followed (n=27)



Attorney Tasks/ Activities in Dependency Cases

Parents' Attorneys

Parents' attorneys were provided with a list of specific tasks and activities associated with high-quality legal representation practice (derived from the review of the literature on best practices in parents representation) and asked to rate the degree to which they performed those tasks on a scale from "never" to "almost always/always." The tasks parents' attorneys reported doing the most often were attending child abuse and neglect hearings and attending settlement conferences prior to termination of parental rights hearings. The tasks parents' attorneys reported doing the least often were attending family group conferences or similar family engagement meetings, conducting their own investigations on the case, debriefing with the client after the court hearing, and consulting with the child's representation (e.g., attorney or CASA) about the case. See Table 6 below.

Table 5: Frequency Parent Attorneys Self-Report Performing Specific Tasks in Child Abuse and Neglect Cases (n=5).

Tasks	Never	Rarely	Sometimes	Often	Always/ Almost Always	Weighted Average
Attend Family Group Conferences or Similar Family Engagement Meetings	0%	20%	40%	20%	20%	3.40
Attend Pre-Hearing Conferences	0%	0%	40%	20%	40%	4.00
Attend A/N hearings	**0%**	**0%**	**0%**	**0%**	**100%**	**5.00**
Consult with social worker about case	0%	0%	0%	40%	60%	4.60
Consult with Child Rep (e.g., attorney or CASA) about case	0%	20%	20%	40%	0%	3.80

Conduct your own investigation on the case	0%	0%	40%	60%	0%	3.60
Meet with client before day of hearing	0%	0%	0%	40%	60%	4.60
Meet with client between/outside of court hearings	0%	0%	0%	40%	60%	4.60
Prepare client for the court hearing	0%	0%	0%	20%	80%	4.80
Debrief with the client after the court hearing	0%	0%	40%	40%	20%	3.80
Receive timely agency reports prior to disposition hearing	0%	0%	20%	20%	60%	4.40
Receive timely agency reports prior to permanency hearing	0%	0%	20%	20%	60%	4.40
Have opportunity to provide input into your clients' family time (visitation)	0%	20%	0%	0%	80%	4.40
Have opportunity to provide input regarding your clients' treatment plan or services	0%	0%	20%	0%	80%	4.60
Attend mediations	0%	0%	20%	20%	60%	4.40
Attend settlement conferences prior to adjudication	0%	0%	40%	0%	60%	4.20
Attend settlement conference prior to TPR	**0%**	**0%**	**0%**	**0%**	**100%**	**5.00**

Children's Attorneys

Children's attorneys were provided with a list of specific tasks and activities associated with high-quality legal representation practice (derived from the review of the literature on best practices in child representation) and asked to rate the degree to which they performed those tasks on a scale from "never" to "almost always/always." The tasks children's attorneys reported doing the most often were attending child abuse and neglect hearings, advocate for the child/youth at hearings (e.g., provide testimony or be heard on an issue), and attend mediations. The tasks children's attorneys reported doing the least often were meeting with the child/youth before the day of the hearing, meeting with the child/youth between hearings or outside of court hearings and conducting their own investigations in the case. See Table 6 below.

Table 6: Frequency Children's Attorneys Self-Report Performing Specific Tasks in Child Abuse and Neglect Cases (n=4).

Tasks	Never	Rarely	Sometimes	Often	Always/ Almost Always	Weighted Average
Attend Family Group Conferences or Similar Family Engagement Meetings	0%	25%	0%	0%	75%	4.25

Attend Pre-Hearing Conferences	0%	0%	25%	0%	75%	4.50
Prepare and Submit a Report to the Court Prior to Hearings	0%	0%	25%	50%	25%	4.00
Attend A/N hearings	**0%**	**0%**	**0%**	**0%**	**100%**	**5.00**
Advocate for the Child/Youth at A/N Hearings (e.g., provide testimony or be heard on an issue)	**0%**	**0%**	**0%**	**0%**	**100%**	**5.00**
Consult with social worker about case	0%	0%	0%	50%	50%	4.50
Consult with other Child Rep (e.g., attorney or CASA) on the case about case	0%	0%	25%	0%	75%	4.50
Conduct your own investigation on the case	0%	0%	50%	0%	50%	4.00
Meet with child/youth before day of hearing	0%	50%	25%	25%	0%	2.75
Meet with client between/outside of court hearings	0%	0%	25%	50%	25%	4.00
Receive timely agency reports prior to disposition hearing	0%	25%	0%	25%	50%	4.00
Receive timely agency reports prior to permanency hearing	0%	25%	0%	25%	50%	4.00
Have opportunity to provide input into your child/youth's family time (visitation)	0%	25%	0%	25%	50%	4.00
Have opportunity to provide input regarding the child/youth's treatment plan or services	0%	0%	25%	0%	75%	4.50
Attend mediations	**0%**	**0%**	**0%**	**0%**	**100%**	**5.00**
Attend settlement conferences prior to adjudication	0%	25%	0%	25%	50%	4.00
Attend settlement conference prior to TPR	0%	25%	0%	0%	75%	4.50

In addition to the tasks above, children's attorneys/advocates were asked, on average, how often they visited the children they represent.

- 50% (n=2) reported they visited once every other month.
- One children's attorney noted that visits occurred on an *"as needed"* basis.
- One children's attorney noted that *"it actually depends on the age and location of the child. Generally, I have at least monthly contact with the child and/or foster/placement. There are times have daily contact and other times it is bi-monthly*."

Types of Training Received by Attorneys

When asked to report the types of training that they had received (see Table 7), the training topics that received the **least** amount of responses (by respondent role) were:

- Parent Attorney: client engagement (20% of parents' attorneys)
- Child's Attorney: client engagement (25% of children's attorneys)

Table 7: Types of Training Received by Attorneys (Self-Reported)

Training Type	Parent Attorney (n=5)	Atty/Advocate for the Child (n=4)
Child abuse and neglect laws (federal)	60%	75%
Child abuse and neglect laws (state)	**100%**	**100%**
Mediation/alternative dispute resolution	**100%**	**100%**
Client engagement	20%	25%
Effective court hearing practice/advocacy	40%	75%
Child attachment/bonding	40%	50%
Child resiliency and effects of foster care on children	40%	75%
Parent-child contact needs/visitation or family time best practices	40%	75%
How substance abuse affects parenting	60%	75%
Trauma	40%	75%

Defining High Quality Representation

Parent Attorneys

All survey respondents (N=42) were asked for how they would define **high quality parent representation in child abuse and neglect cases** (e.g., what practices would they associate with high quality representation). Responses (n=21) were analyzed to determine themes related to high-quality parent representation. The analysis also produced a "word cloud" or weighted list to represent the most commonly used phrases or words from respondent answers. The word cloud highlights important words from the survey responses, with the most common word displayed with the largest text.

Respondents identified the following as features of high-quality parent representation in child abuse and neglect cases:

- Well-versed in the facts of the case
- Well-versed in the law
- Meets regularly/frequently with their clients
- Strong advocate for parents' in court hearings

WORD CLOUD: HIGH QLR FOR PARENTS

- Assists parents in understanding the court process
- Understands the impact of trauma on parents and children
- Understands issues faced by parents such as substance abuse, mental health concerns
- Remains the parent's attorney throughout the duration of the case
- Work collaboratively as part of a team but can also advocate an adversarial position for parents as needed

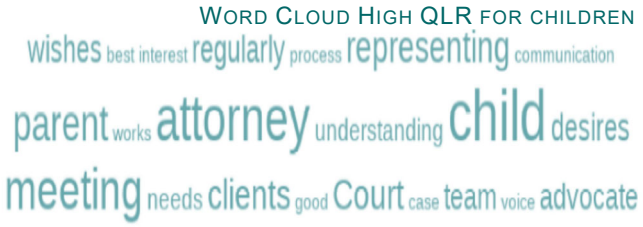
Sample responses describing high quality parent representation:

- *"Frequent communication, independent investigation, significant experience in this area of law, zealous advocacy, strong negotiation skills, specialized training for this case type."*
- *"Meeting with the parent regularly during the life of the case to ensure parents understand their legal rights and obligations and that the attorney knows the parties involved and any barriers/strengths to meet the case plan goals. Maintaining consistency through one attorney during the life of the case."*
- *"Availability, preparedness, empathy, honesty."*
- *"Strong advocacy, taking the time to be educated on current Agency practice so as to not take language out of context, and realistic understanding of the parental situation."*
- *"Ensuring that the parent's voice is heard and understood at each court hearing -- Ensuring that the requirements placed on the parent by DCFS are practical and effective opportunities for the parent to demonstrate behavior change -Ensuring that the parent is receiving adequate visitation with the child, and that visitation is constantly being reviewed and updated - Ensuring that the team is constantly assessing if the child can return safely home (not waiting for Court) -Has a working relationship with all of the team, but can when needed, advocate an adversarial position on the parents behalf and will actually bring things before the Court for decision if the team is not in agreement."*

Attorney/Advocate for the Child

All survey respondents (N=42) were asked for how they would define **high quality child representation in child abuse and neglect cases** (e.g., what practices would they associate with high quality representation). Responses (n=23) were analyzed and the following features of high-quality children's representation emerged:

- Well-versed in child welfare law
- Understands child development
- Understands child trauma
- Regularly meets with children and their caregiver
- Advocates for the child in court hearings



- Remains the child's attorney throughout the duration of the case
- Works towards child's best interests or wishes as appropriate

Sample responses describing high quality children's representation:

- *"Attorneys are trained in child welfare law with additional training about child development; interviewing child clients; understanding special needs of children, knowledgeable about education and other services for children."*
- *"An attorney that works towards the child's best interest, has communication/knows the child they are representing, attends CFT's & other team meetings regarding updates/decisions for the case."*
- *"Meeting with the child regularly during the life of the case to ensure they know the child, their wishes, barriers/strengths, and all the legal obligations of the parents. Maintaining consistency through one attorney during the life of the case."*
- *"An attorney who is involved, has met with the child and does a good job representing not only what the wishes of the child are, but also what is truly in the child's best interest. The attorney should be familiar with the child and what is important to them."*
- *"Advocate for a consistent and "normal" visitation schedule with the parent, assuming safety is managed -- Voice the child's desires and concerns to the Court -- Form working relationships with the child's providers, foster family, and team to be able to receive a comprehensive understanding of what is occurring for the child -- Ensuring that the team is constantly assessing if the child can return safely home (not waiting for Court) -- Has a working relationship with all of the team, but can when needed, advocate an adversarial position on the child's behalf and will actually bring things before the Court for decision if the team is not in agreement -- if the attorney represents more than one child in the same family, acknowledging that each child may have different wants/desires -- not imposing what the attorney thinks is best, but counseling the (as age appropriate) on what options are available for the child during the process."*
- *"A good understanding of trauma and its impacts on children. Taking the time to understand all impacts of their advocacy not just on the child but foster parents, biological parents, and prospective adoptive parents. Being honest with the children."*
- *"Constant communication; listening to the child's desires; being the child's voice in court; advocating for the child; working with the other attorneys, WCHSA, and Court."*

Judges' Assessment of the Quality of Legal Representation in their Judicial District

Judges were asked: Consider how you would define high quality legal representation –what percentage of attorneys meet your definition in your judicial district? Only 3 judges provided responses to this question. Their responses indicate, however, that the percentage of parents' attorneys meeting judicial definitions of high-quality parents' representation ranged from 60%-100%, the percentage of children's attorneys meeting judicial definitions of high-quality representation ranged from 80-100%, and the percentage of district attorneys or attorney generals meeting judicial definitions of high quality representation ranged from 90%-100%. Only one judge provided an assessment of CASA, noting that 100% of CASA met the definition of high-quality representation. See Table 8.

Table 8: Percentage of Attorneys and CASA Meeting Judicial Definitions of High-Quality Representation (n=3)

Judge (n=3)	% Parents' Attys Meeting Judge's Definition of High-Quality Rep	% Children's Attys Meeting Judge's Definition of High-Quality Rep	% of DAs/AGs Meeting Judge's Definition of High-Quality Rep	% of CASA Meeting Judge's Definition of High-Quality Rep
Judge number 1	100%	100%	100%	100%
Judge number 2	60%	80%	90%	-
Judge number 3	75%	100%	100%	-

When judges were asked what percentage of the time attorneys came prepared for hearings, the following responses were received:

- 100% of the judges (n=3) reported that **parents' attorneys** come prepared for hearings between 75-100% of the time.
- 100% of the judges (n=3) reported that **children's attorneys** come prepared for hearings between 75-100% of the time.
- 100% of the judges (n=3) reported that **District Attorneys/Attorneys General** come prepared for hearings between 75-100% of the time.
- 1 judge reported that **CASA** come prepared for hearings between 75-100% of the time (the other two judges did not provide a response to this question).

Judges were asked what they believe they can do to encourage quality legal representation for parents and children in child abuse and neglect cases, and the following responses were received:

<u>Parents' Attorneys:</u>

- *"Have attys meet frequently with parents."*
- *"More training and understanding of this unique case type."*

- *"Provide regular training."*

Children's Attorneys:

- *"Have attys always be fully versed on their needs."*
- *"Work with my CIC to get more education to attorneys."*
- *"Provide opportunities for training, but we use a contract for child representation and the attorney attends regular training."*

Ways Nevada Attorneys Can Improve

Parents' Attorneys

Survey respondents were asked how parents' attorneys in their jurisdiction could improve. The 22 responses received were analyzed and the following themes emerged about ways parents' attorneys could improve:

- Better communication with clients
- More frequent contact with clients
- More training on child welfare law topics and issues
- Better understanding of the child welfare agency's policies and practice model
- More training for private attorneys on child welfare laws and the child abuse and neglect process
- Better understanding of collaborative team approach in child welfare cases

WORD CLOUD: PARENT ATTY IMPROVEMENT

Sample responses describing how parents' representation can improve:

- *"Continuing to learn child welfare specific topics; understanding the federal statutes and regulations; reading beyond just NRS Chapter 432B; being educated on social work practice and policies."*
- *"Investing in training and a better understanding of the Agencies practice model so they can best represent the parents and understand what is needed to make the needed behavior change. Working with Agency staff to achieve the same goal and not approaching their defense in an adversarial way."*
- *"It is so important that the attorneys keep in contact with the parents. I think if a parent knows they have an advocate constantly, they are willing to work harder. If the attorney only speaks to the parent around court hearings or meetings, the parent may feel frustrated and not progress in their case."*
- *"To make meaningful contact with parents on a regular basis instead of one time the day of the court hearing."*

- *"I think the court appointed attorneys do a fantastic job! I feel private council should really become familiar with our process before agreeing to take a case. They should be familiar with the laws, required burden of proof and what is in their client's best interest. Often, we see private attorneys who want to make it a fight and they cost their client precious time of working the case and truly accepting the change to improve their situation for themselves and their children. They really need to understand the time constraints of a 432B Case and what they are doing to their clients by dragging it out."*

- *"Remembering that all parties should work collaboratively to help make possible the reunification of the children with parents. We occasionally get parents attorneys who want to rehash the underlying allegations and the children's attorneys and CASA believing parents cannot change and passively aggressively making it difficult to reunify."*

Children's Attorneys/Advocates

Survey respondents were asked how children's attorneys/advocates in their jurisdiction could improve. The 22 responses received were analyzed and the following themes emerged about ways children's attorneys/advocates could improve:

- Meet with children more often
- More training on trauma
- Better understanding of available community resources
- Reduced caseloads

WORD CLOUD: CHILD ATTY IMPROVEMENT

Sample responses describing how children's representation can improve:

- *"Meeting with the children they represent more than just at the hearing."*

- *"I would like to see them meet with the children more often. Some are very good at this, and others do not meet with them as often."*

- *"Receiving trauma training, i.e. how to best engage a child who has suffered trauma, training on what services should be ensured for the child to reduce trauma and create a healthy life going forward."*

- *"Having more than one child's attorney might be beneficial so our one is not so overworked. He also waits until a court hearing comes up and checks on the kids a day or two before to ask what they want, but I feel that's due to overload in cases."*

Appropriate Performance Measures for Parent and Child Attorneys in Dependency Cases

Survey respondents were presented with a list of QLR performance measures derived from the literature review that have been used in evaluations of legal representation for parent's and children's attorneys in dependency cases Respondents were asked to rate the importance of

each of these performance measures as measures of effective legal representation in dependency cases using the following scale: “not at all important,” “a little important,” “somewhat important,” “very important,” to “critical.” Results indicate that the most important performance measures included three measures of client satisfaction and one permanency outcome measure. See Table 9.

The top 4 QLR performance measures receiving the most overall endorsement (highest weighted average ratings of importance and greatest percentage of “critical” ratings of importance):

- Client satisfaction: believe representative helped them understand what they had to do in the cae understand the case process [4.48; 55.56% rate as critical]
- Client satisfaction: believe voice has been heard/concerns were listened too [4.44; [51.85%; n=14]
- Client satisfaction: had regular contact with representative [4.37; 48.15; n=13]
- Permanency outcome: Increased rates of reunification [4.41;48.15%; n=13]

Table 9: Respondents Ratings of Performance Measure Importance for Evaluating Legal Representation in Child Welfare Cases (n=27)

	Not Important	A Little Important	Somewhat Important	Very Important	Critical	Weighted Average
Timely appointment: percent of cases with representation for parent or child prior to filing of a petition	0.00% 0	0.00% 0	11.11% 3	59.26% 16	29.63% 8	**4.19**
Timely appointment: percent of cases with representation of parent or child prior at or prior to initial shelter care hearing	0.00% 0	0.00% 0	18.52% 5	55.56% 15	25.93% 7	**4.07**
Decreased time to achieve safe permanency: reduction in the median/mean days to achieve permanency (case closure)	0.00% 0	0.00% 0	7.41% 2	66.67% 18	25.93% 7	**4.19**
Decreased time to achieve safe permanency: percent of cases achieving permanency within 12 months or 24 months of original petition filing	0.00% 0	0.00% 0	11.11% 3	51.85% 14	37.04% 10	**4.26**
Decreased time to achieve safe permanency: percent of cases in which the child re-entered within 6 months and 12 months of case closure	0.00% 0	3.70% 1	7.41% 2	59.26% 16	29.63% 8	**4.15**
Permanency outcome: Increased rates of reunification	0.00% 0	0.00% 0	7.41% 2	44.44% 12	48.15% 13	**4.41**
Permanency outcome: Increased rates of placement with relative or guardianship with relative	0.00% 0	0.00% 0	18.52% 5	59.26% 16	22.22% 6	**4.04**
Permanency outcome: Increased rates of adoption	0.00% 0	14.81% 4	33.33% 9	37.04% 10	14.81% 4	**3.52**
Permanency outcome: Decreased rates of "Aging-Out" or APPLA outcomes	0.00% 0	3.85% 1	30.77% 8	46.15% 12	19.23% 5	**3.81**
Client satisfaction: satisfaction with permanency outcome achieved	0.00% 0	3.70% 1	25.93% 7	48.15% 13	22.22% 6	**3.89**
Client satisfaction: satisfaction with overall representation from beginning to end of case	0.00% 0	3.70% 1	18.52% 5	48.15% 13	29.63% 8	**4.04**
Client satisfaction: believe voice has been heard/concerns were listened too	0.00% 0	0.00% 0	7.41% 2	40.74% 11	51.85% 14	**4.44**
Client satisfaction: believe representative helped them access services, family time or treatment	0.00% 0	3.70% 1	7.41% 2	51.85% 14	37.04% 10	**4.22**
Client satisfaction: believe representative helped them understand what they had to do in the case understand the case process	0.00% 0	0.00% 0	7.41% 2	37.04% 10	55.56% 15	**4.48**
Client satisfaction: believe representative advocated for their position, interests or goals	0.00% 0	7.41% 2	0.00% 0	51.85% 14	40.74% 11	**4.26**
Client satisfaction: had regular contact with representative	0.00% 0	0.00% 0	11.11% 3	40.74% 11	48.15% 13	**4.37**
Client satisfaction: believe representative treated them with respect	0.00% 0	0.00% 0	14.81% 4	40.74% 11	44.44% 12	**4.30**

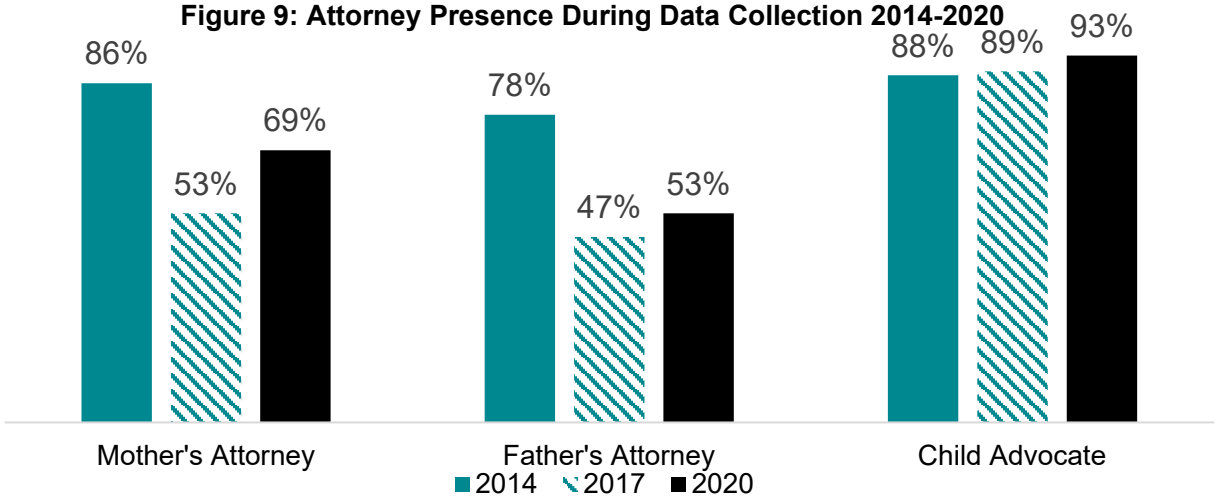
FINDINGS: SECONDARY ANALYSIS AND HEARING OBSERVATION

Data from case file reviews in previous evaluations conducted in 2014 and 2017 in Nevada (i.e., dependency mediation and hearing quality evaluations) were analyzed to provide baseline data about attorney practice that can be used in future evaluation efforts aimed at assessing the quality of legal representation in Nevada. In addition, a random sample of recorded hearings from five judicial districts was obtained. A total of 123 hearings (58 remote or virtual hearings and 65 in-person hearings were coded using a structured code sheet to determine the percentage of hearings in which attorneys were present and the level of attorney advocacy observed. Relevant findings from these three datasets (2014 and 2017 case file review and the 2020 court observations) are presented below.

Attorney Appointment and Presence at Hearings

In 2014, it took an average of 21 days from removal for a parent to be appointed an attorney and 13 days from removal for a child/youth to be appointed an attorney. Presence of attorneys in hearings was tracked in each of the previous studies' datasets, as well as in the current hearing observation study (See Figure 9). Mother's attorney presence has ranged from a high of 86% of all hearings in 2014 (n=105) to a low of 53% of all hearings in 2017 (n=128). In the 2020 hearing observation sample, 69% of hearings had a mother's attorney present (n=123). Father's attorney presence has ranged from a high of 78% of hearings in 2014 to a low of 47% of hearings in 2017. In the 2020 hearing observation sample, 53% of hearings had a father's attorney present. The presence of a children's attorney or advocate in hearings has increased in each year of data collection, from 88% in 2014, to 89% in 2017, and 93% of hearings in 2020. It is also important to note that (in the 2014 data) the presence of mother's attorney at the presence of the child's advocate across the life of the case predicted higher rates of reunification and timelier permanency.

Figure 9: Attorney Presence During Data Collection 2014-2020



Attorney Advocacy

The random sample of recorded hearings (N=123) were coded to assess the level of attorney advocacy observed. Advocacy was defined as the attorney doing something in the hearing on behalf of their client (e.g., taking a position on an issue and arguing that position; objecting to testimony; making/presenting a motion to the court; advocating for placement, services or assessments). On the other hand, merely providing updates or general information to the court was not coded as "advocacy."

- 54% of hearings had active advocacy by the mother's attorney
- 62% of hearings had active advocacy by the father's attorney
- 32% of hearings had active advocacy by the children's attorney/advocate

DISCUSSION AND CONSIDERATIONS FOR USING THIS REPORT

The literature review, survey, and secondary analysis were all intended to be used to inform the development of a more robust evaluation plan to better assess the quality of legal representation in Nevada. Unfortunately, complications due to practice and priority changes because of COVID-19 made a more in-depth study impractical. The results of these efforts do indicate that quality legal representation is important, with multiple studies showing the impact of quality legal representation for both parents and youth. Studies suggest that both early appointment and presence of attorneys across the life of the case may be important predictors of better outcomes for children and families and the presence of attorneys is supported by local Nevada data. Stakeholders believe the most important measures of quality legal representation included client satisfaction with their attorney and increased reunification for families. These will be important factors to consider for future efforts.

Using This Report

This report includes information from multiple sources. It can be used in several ways to progress Court Improvement Program efforts. These are identified below with some considerations for using the information.

Baseline Data. Consider these findings as baseline information for future efforts that focus on quality of legal representation. These data can be used to demonstrate any changes over time in practice (such as changes in timely appointment of attorneys or presence of attorneys at key hearings). The data can be used as a starting point from which to gather additional information and make some comparisons. While this isn't a perfect sample, it does give an idea of current practices both from the survey (self-reports of frequency of behavior) and from case file review (presence of parties) and court observation (level of advocacy and presence at hearings).

To Inform Future Trainings. The information collected can help to inform identification of needs and development of future training efforts. The survey identified the client engagement as an area where attorneys reported having little training. This information may be useful in auditing current training efforts to determine if they do (or do not) include information on client engagement or designing/creating new training opportunities to help attorneys actively engage with their clients,

whether they be parents or youth. The research clearly shows the importance of engaging clients in the process and attorneys may be successful at engaging parents by giving them a voice in the process and ensuring they feel heard. It may be worthwhile to consider trainings opportunities that identify what he best practices are for attorneys representing parents, attorneys representing youth, attorneys representing the state, and lay advocates working with youth. The data may also reveal other practices that could uses enhanced training, such as general best practices, or strategies to engage challenging clients.

To Inform Future Evaluations. This report is also useful in informing future evaluation efforts if or when quality legal representation is a priority for the Court Improvement Program. Data collection from this study was designed to be used to inform future efforts. Multiple performance measures were identified and prioritized by professional stakeholders and should be considered in future efforts (including client perspectives). Based on the findings and questions that arose from professional stakeholders at the CIC Summit, potential areas of consideration for future efforts could include:

- Refinement of tools and measures to gather additional data about quality of legal representation. This could include
    - Considering how to refine the measure of advocacy. What does active advocacy mean? Would it be better to explore attorney's contributions to the discussion rather than advocacy?
    - Consider what additional data needs to inform baseline and what other data points should be collected.
    - Make sure attorneys and judges have an opportunity to vet any performance measures prioritized to determine if they feel they are most applicable to their work.
- Increased efforts to determine what models of attorney representation are used across the state for parents, youth, and agency.
- Assessing the quality of CASA/GAL programs.
- Surveying parents, children, and agency workers to gather their perspective about the quality of representation and their experiences of attorney practices.
- Consider studying the quality of the district attorney/attorney general, an understudied area nationally to better understand who they represent and the challenges that they perceive.

[1] Adapted from *American Bar Association Standards of Practice for Lawyers Who Represent Children in child Abuse and Neglect Cases,* ABA, Washington, DC, 1996; and National Association for Counsel for Children, "Red Book" – *Child Welfare Practice: Representing Children, Parents and Agencies in Abuse, Neglect and Dependency Cases*, 3rd Edition, 2016.
[2] Adapted from *American Bar Association Standards of Practice for Attorneys Representing Parents in Child Abuse and Neglect Cases,* ABA, Washington, DC, 2006.
[3] Oetjen, J.A. (2003*). Improving Parent's Representation in Dependency Cases: A Washington State Pilot Program Evaluation.* Technical Assistance Brief, National Council of Juvenile and Family Court Judges; Wood, S.M., Summers, A., & Soderman-Duarte, C. (2016). "Legal representation in the juvenile dependency system: Travis County, Texas' parent representation pilot project," *Family Court Review*, Vol 54(2), pp. 277-287; Wood, S.M & Russell, J.R. (2011). "Effects of parental and attorney involvement on reunification in juvenile dependency cases," *Children and Youth Services Review*, Vol. 33, pp. 1730-1741.
[4] Courtney, M., Hook, J., and Orme, M. (2012). *Evaluation of the Impact of Enhanced Parental Representation on the Timing of Permanency Outcomes for Children in Foster Care*. *Partners for Children, Seattle, WA;* Oetjen (2003), supra note 3.
[5] Courtney & Hook (2012), supra note 4; Oetjen (2003), supra note 3; Wood et al. (2016), supra note 3.
[6] Courtney & Hook (2012), supra note 4; Wood et al. (2016), supra note 3.
[7] Wood et al (2016), supra note 3.
[8] Harper, C., Brennan, K, and Szolonki, J. (2005). *Dependency and Termination Parents' Representation Program Evaluation Report*, *available at www.opd.wa.gov/Reports/Dependency; New York's Center for Family Representation: Our Results* (2012). Available at www.cfrny.org/new%5Flegal.asp
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[10] Harper et al (2005), supra note 8.
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[12] Duquette, D.N & Ramsay, S.H. (1987). "Representation of children in child abuse and neglect cases: An empirical look at what constitutes effective representation," *Journal of Law Reform*, Vol. 20 (2), pp. 341-408; From disposition to permanency: Zinn & Peters (2015), supra note 15; Zinn, A. & Slowriver, J. (2008). Expediting Permanency: Legal Representation for Foster Children in Palm Beach County. Chicago: Chapin Hall Center for Children at the University of Chicago.
[13] Judicial Council of California (2008). Dependency Counsel Caseload Standards. Report to the Legislature, April 2008.
[14] Duquette & Ramsay (1987), supra note 16; Zinn & Peters (2015), supra note 15.
[15] Judicial Council of California (2008), supra note 17.
[16] Duquette & Ramsay (1987), supra note 16.