

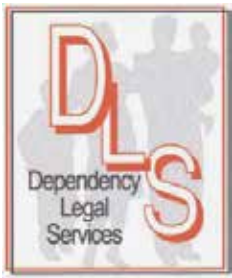
November 2021

IMPROVING THE LIVES OF CHILDREN AND FAMILIES THROUGH *HIGH-QUALITY* LAWYERING

In 2019, the Walter S. Johnson Foundation invested in three legal organizations in California who were implementing high-quality representation for children and parents separated by the foster care system: Dependency Legal Services (Marin and Solano Counties), East Bay Children's Law Offices (Alameda County) and East Bay Family Defenders (Alameda County). The presenting question was whether following certain attributes of legal representation would improve outcomes for children and families. The answer was a resounding Yes.



“ With high-quality legal representation for parents and children, studies show that outcomes for children and families improve, including timelier returns home for foster children, through reunification with parents or living with extended family members (kin), as well as increased family stability. ”



These organizations have served as demonstration sites of improving outcomes for children and families, as key participants in the national Family Justice Initiative. FJI is a collaborative of children's and parents' attorneys, educators, researchers, and national policy advocates who share a common goal: to increase access to high-quality legal representation for children and parents in child welfare cases. The initiative is coordinated by the ABA Center on Children and the Law, the Children's Law Center of California, and the Washington State Office of Public Defense.

In 2017, the Family Justice Initiative identified fundamental attributes of high-quality legal representation for parents and children. With fidelity to these attributes, studies show that outcomes for children and families improve, including timelier returns home for foster children, through reunification with parents or living with extended family members (kin), as well as increased family stability.

What follows are examples of improvements for families documented by these three demonstration sites over the course of two years, gathered from internal data sources and publicly available data produced by the California Child Welfare Indicators Project and local child welfare agencies.

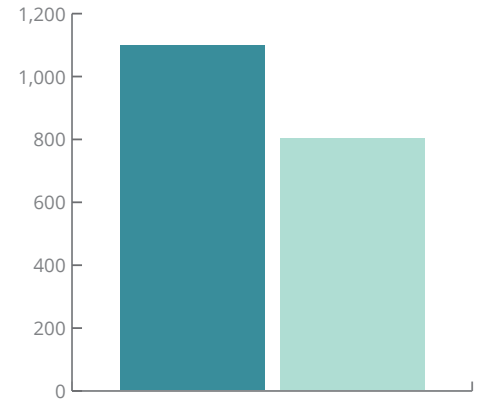


In Alameda County, consistent improvements in reuniting families came after East Bay Family Defenders (representing parents) and East Bay Children's Law Offices (representing children) partnered with the Family Justice Initiative in the fall of 2018. In Solano and Marin Counties, Dependency Legal Services brought about significant decreases in children's placement changes, increases in the numbers of children going home, and a rate of almost zero re-entries into the foster care system.

These improvements came about in the midst of the COVID-19 pandemic, attesting to the strength of organizations that provide high-quality representation.

FEWER CHILDREN IN FOSTER CARE

In the year before becoming a Family Justice Initiative demonstration site, in Alameda County Juvenile Court, 1,097 children were in foster care. That number has now dropped to 800. This decrease was significant for Black children whose rate in foster care had previously been 15 children out of 1,000 and reduced to 11 children in foster care out of 1,000 Black children in the county.



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SHORTER LENGTHS OF STAY IN FOSTER CARE

In Alameda County, 5% more children exited foster care within a year of entry, to a current rate of 40.8% of foster children going home in less than a year. Returns home for babies age 1 to 2 were most pronounced, increasing from a nominal rate to now 55-60% exiting foster care in less than a year.

In Solano County, improvements for children in foster care were seen through fewer moves to different placements. For every 1,000 days children spent in foster care, children's number of moves decreased from over 8 in June 2018 to less than 5 placement moves by June 2021.

CHILDREN WENT HOME MORE OFTEN

In all three counties, children in foster care returned home to their parents at increasing rates. In Alameda and Solano County, family reunification rates increased by 6% over two years. The number of children returning home was even higher in Marin County, increasing by almost 25% to a rate of 7 out of 10 children – well above typical rates in California.

40.8%

Foster children go home in less than a year in Alameda County, a 5% increase.

“ These increased returns home have been safe and stable. Typically, 10% of children re-enter foster care across California.



The number of children going home to relative guardians more than doubled for Alameda County children, from a rate of 5.7% in 2017-2018 to 13% of children exiting foster care to subsidized kinship guardianships this past year.

FAMILIES REMAINED STABLE

These increased returns home have been safe and stable. For the fifth year in a row, no children re-entered foster care in Marin County. For the sixth year in a row, the number was almost null in Solano County. Typically, 10% of children re-enter foster care across California.

In Alameda County, the percentage of children re-entering foster care decreased from a high of 16% (27 children) in 2017 to less than 9% of children (14 children) re-entering in 2019.

How were these improvements achieved?

Fundamental Attributes of High-Quality Representation for Families

These improvements were achieved through each organization's fidelity to the following attributes high-quality legal representation. These are attributes that must be met by organizations and by the individual attorneys for children and parents in child welfare proceedings.

Attribute I: Caseload and Compensation

When attorneys are more equipped and supported to do the work, they will bring about better outcomes for families. Reasonable caseloads in juvenile court, by FJI standards, are no more than 60 clients per attorney at any time. DLS reduced caseloads by 20% in Solano County to a high of 140 clients per attorney, and down to a range of 78-125 clients per attorney in Marin. In Alameda County, EBCLO and EBFD were able to reduce average caseloads from 140 and 120, respectively, to below 100 clients per attorney by 2021.



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Compensation rates for children’s and parents’ counsel ought to be on par with attorneys for the child welfare agency, and pay should be structured in a way that incentivizes zealous representation, including outside of court. Although pay parity remains far out of reach, EBCLO raised salaries by 23% and DLS and EBFD raised compensation by 5-10%, with all organizations enhancing their benefits packages.

Attribute 2: Interdisciplinary Practice Model

In an interdisciplinary practice, attorneys work alongside other professionals, including social workers, peer parent/youth mentors, and investigators as part of the attorney-client team. This equips the legal team to address the root causes of system involvement, support families with healing from trauma, and address barriers to children returning home. Many outcomes are improved from this interdisciplinary teaming. In particular, lower re-entry rates into the system points to the strengthening impact that interdisciplinary staffing has with families.





EBCLO staff

Attorney Attribute: Engage with and know the clients.

During the pandemic, EBCLO visited with 73% of its clients in person in 2020-21; 30% of in person visits were performed by social work staff.

Attorney Attribute: Identify potential ancillary legal issues and assist client with resolving those, often through responsive referrals.

Within the last year, EBCLO staff delivered 323 service referrals for 155 clients. Parent advocates and social workers accompanied parents to 82 case conferences with the child welfare agency to develop plans to return children home.

DLS social workers and parent mentors engaged parents remotely and in-person. Peer mentors met weekly with parents, assessing families’ needs and referring them to resources which included housing, transportation, clothing, recovery programs, and education.

Attribute 3: Diversity/Cultural Humility

Training and skill-building around bias and cultural humility are crucial to high-quality representation, including understanding how cultural and power differences may impact the attorney-client relationship. Organizations must develop and implement strategies to create a diverse workforce that mirrors the cultural, racial, and socioeconomic background of clients and communities served. EBCLO, EBCFD, and DLS have all instituted ongoing anti-racism training, culture building groups to promote equity and inclusion, and effective strategies to increase diversity and representativeness in hiring.

Attribute 4: Timing of Appointment

High-quality representation involves clients having a meaningful opportunity to consult with their attorneys at the earliest possible moment. When child welfare authorities in California remove children from home, most families lack access to counsel until they appear in court days later. Families and their attorneys thus typically have little to no time to prepare to contest children’s removal from home.

In all three demonstration sites, counsel for children and parents obtain court filings the day before the hearing, affording slightly more time to connect with clients to prepare for the initial court appearance and to bring children home when possible.

Attorney Attribute: Meet and communicate regularly with client, well before any and all court hearings. Each demonstration site now documents every point of contact with parents and children, ensuring that staff are communicating often with clients, continuing to reach out to those who are homeless, and staying up to date with families on all developments to move their cases forward.

Attorney Attribute: Explain to clients their right to attend court hearings and advocate for clients who want to attend court proceedings to attend in person. Court attendance is an indicator of a family's trust in the court system to deliver justice, and also an indicator of how much clients are engaging with their legal team. For both children and parents, each demonstration site documents attendance at court to assess levels of family engagement, and these rates of family engagement increased during the reporting period even during the COVID-19 pandemic.

Attribute 5: Support & Oversight

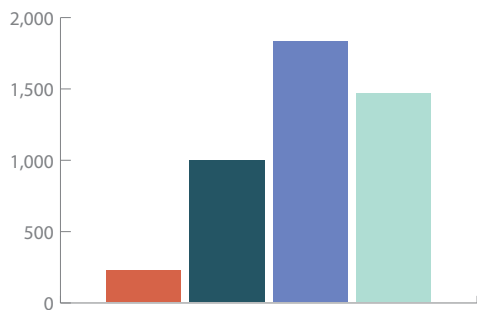
Another important aspect of high-quality legal representation is having clear expectations, training, education and supervision of attorneys and interdisciplinary teams.

Each demonstration site enhanced its training curriculum, attentiveness of supervision, and ongoing professional development of all staff – further equipping legal teams to deliver improved outcomes for families.

Attorney Attribute: Diligently pursue clients' case goals and proactively drive the case forward. High-quality lawyering involves litigating issues and utilizing experts as needed, to achieve clients' case goals. Active motion practice, throughout a case, is key to this attribute.

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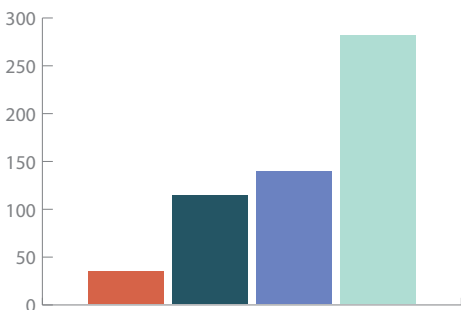


- DLS Marin: 221 active clients
- DLS Solano: 991 active clients
- EBCLO: 1827 active clients
- EBFDF: 1461 active clients

Over the course of the last year, the demonstration sites delivered active motion practice, including:

- DLS Marin (221 active clients): 34 motions filed
- DLS Solano (991 active clients): 113 motions filed
- EBCLO (1827 active clients): 139 motions filed
- EBFDF (1461 active clients): 281 motions filed

DLS worked with two licensed clinical psychologists to deliver expert opinions on the limitations of virtual contact in dependency cases, during the COVID-19 pandemic. This declaration became the subject of a published article. (Singer, J. & Brodzinsky, D. (2020). Virtual parent-child visitation in support of family reunification in the time of COVID-19. *Developmental Child Welfare*, 2(3) 153-171, available at <https://doi.org/10.1177/2516103220960154>)



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Attribute 6: Accountability/Use of Data

FJI is keenly aware that continuous evaluation of programs through data analysis is key to developing and maintaining high-quality representation. Participating as a demonstration site involved each organization collecting data in a comprehensive way – which has now made this report possible, and has provided a way for organizations to reflect internally on staff fidelity to the attributes of high-quality representation.

For more information about the Family Justice Initiative and standards for high-quality lawyering for families involved in child welfare courts, please see: <https://familyjusticeinitiative.org/>

