

December 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.

We found encouraging trends that, while we recognize could not be linked specifically to our programs without a rigorous evaluation, nonetheless confirm the overwhelmingly positive impact that our practitioners noted from their engagement with families.



“ Every child deserves for their family to have the best lawyers in town when Child Protective Services is involved.”





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 three years, gathered from internal data sources and publicly available data produced by the California Child Welfare Indicators Project and local child welfare agencies.

Dependency Legal Services (DLS), East Bay Children’s Law Offices (EBCLO) and East Bay Family Defenders (EBFD) 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 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 partnered with FJI and contributed to more stability for foster children, 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 to system-involved families.

LESS USE OF FOSTER CARE

In July 2018, before becoming a Family Justice Initiative demonstration site, Alameda County had 1,097 children in foster care. That number dropped to 867 by July 2021.¹ This decrease was pronounced for Black children whose rate in foster care had previously been 14.5 children out of 1,000 and reduced to 11 children in foster care out of 1,000 Black children in the county.²

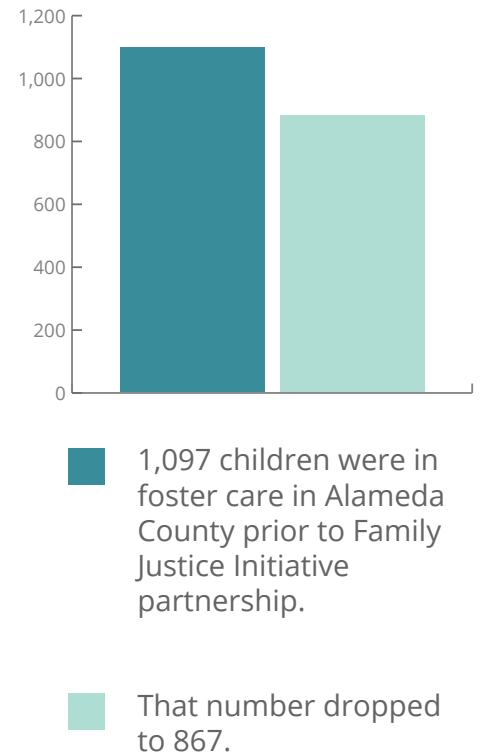
Each county saw fluctuations in the proportion of children exiting foster care within a year of initial entry, with Marin and Alameda County exit rates remaining well above the California rate.³ Alameda County saw potentially stronger rates of exits for infants ages 1 to 11 months, increasing over the past several years to nearly 60% exiting foster care within a year by June 2019.⁴

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 moved less than 5 times in the most recent timeframe, down from over 8 moves per 1,000 foster care days three years ago.⁵

MORE CHILDREN WENT HOME TO PARENTS OR RELATIVES

In Marin and Solano counties, exits from foster care to family reunification increased from June 2018 to June 2021.⁶ The percentage of foster children returning home to their parents was highest in Marin County, increasing from 40.5% of exits to reunification to 66.7% in the most recent year – well above California proportions which hover around 50%.⁷

While reunifications stayed similar in Alameda County, the proportion of foster children going home to relative guardians increased, from a proportion of 5.7% in 2017-2018 to 13% of children exiting foster care to subsidized kinship guardianships this past year.⁸



60%
of infants (age 1 to 11 mos.)
went home from foster care
in less than a year.



FAMILIES REMAINED STABLE

These increased returns home have been safe and stable. No children re-entered foster care in Marin County in the most recent reporting periods.⁹ The re-entry number remained nominal in Solano County as well.¹⁰ Typically, just above 10% of children re-enter foster care across California.¹¹

“ These increased returns home have been safe and stable. Typically, 10% of children re-enter foster care across California. The rate was lower in these demonstration sites.

In Alameda County, the percentage of children re-entering foster care has fluctuated greatly, to most recently dropping from 10% (17 children) in July 2017-June 2018 to just under 9% of children (14 children) re-entering in the most recent year July 2018-June 2019.¹²

What contributed to these improvements?

Fundamental Attributes of High-Quality Representation for Families

These improvements occurred in conjunction with each organization following attributes of high-quality legal representation. These are attributes that must be met by organizations and by the individual attorneys for children and parents to achieve improved outcomes.

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.

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.





EBFD staff, including attorneys, parent advocates, social worker, administrators, and a volunteer

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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.

Attorney Attribute: Engage with and know the clients.

During the pandemic, EBFD 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, EBFD 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.



EBFD Senior Defense Parent Advocates Carmen Hidalgo and Brejea Colthirst

EBCLO staff of lawyers, social workers, case managers and their Canine Companion, Aubrey



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, EBF, 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

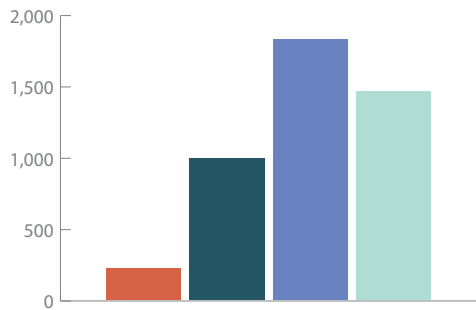
Another important aspect of high-quality legal representation is having clear expectations, training, education and supervision of attorneys and interdisciplinary teams.

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.



“ Court attendance is an indicator of a family’s trust in the court system to deliver justice, and an indicator of how much clients are engaging with their legal team.”



- 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:

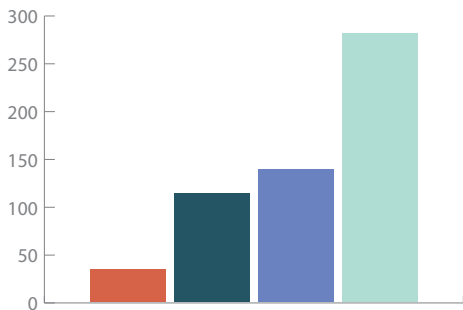
- DLS Marin (221 active clients): 34 motions filed
- DLS Solano (991 active clients): 113 motions filed
- EBCLO (1827 active clients): 139 motions filed
- EBFD (1461 active clients): 281 motions filed

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, "Virtual parent-child visitation in support of family reunification in the time of COVID-19," available at <https://journals.sagepub.com/doi/10.1177/2516103220960154>.¹³

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/>



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Endnotes:

1. See CCWIP (CWS/CMS 2021 Quarter 2 extract used for all CCWIP citations below -- in future extracts, updated data points may differ slightly from those noted below) "In Care-Point in Time Count" report by age group for Alameda County, count of children in foster care under age 18 at July 1, 2018 and July 1, 2021 (<https://ccwip.berkeley.edu/childwelfare/reports/PIT/MTSG/r/ab636/s>). An earlier version of this document stated that 800 children are now in foster care in Alameda County, based on the Monthly Agency Report from November 2021 (https://www.alamedacountysocialservices.org/acssa-assets/PDF/agency-reports/2021/202111_Agency_Monthly_Report_Final.pdf).
2. See CCWIP "In Care Rates" report by ethnic group for Alameda County, prevalence of children in foster care per 1,000 children in population (<https://ccwip.berkeley.edu/childwelfare/reports/InCareRates/MTSG/r/rts/s>). These prevalence rates were 15.8 on July 1, 2017; 14.5 on July 1, 2018; and dropped to 11.1 on July 1, 2021.
3. See CCWIP "3-P1: Permanency In 12 Months for Children Entering Foster Care" report of permanency by 12 months (%) of first entries for children (<https://ccwip.berkeley.edu/childwelfare/reports/P1/MTSG/r/Fed/s>). Exit rates within a year for the most recent reporting period July 2019-June 2020 were 32.3% in California, 53.1% in Marin County, 40.8% in Alameda County, and 25% in Solano County.
4. See CCWIP "3-P1: Permanency In 12 Months for Children Entering Foster Care" report of permanency by 12 months (%) of first entries for children in Alameda County by age group (<https://ccwip.berkeley.edu/childwelfare/reports/P1/MTSG/r/Fed/s>).
5. See CCWIP "3-P5: Placement Stability" report of placement moves per 1,000 days for Solano County (<https://ccwip.berkeley.edu/childwelfare/reports/P5/MTSG/r/Fed/s>).
6. See CCWIP "Exits From Foster Care" report by percent of all exits for children in foster care 8 days or more (<https://ccwip.berkeley.edu/childwelfare/reports/Exits/MTSG/r/ab636/s>). For the year July 2017-June 2018, reunifications as a percent of all exits were 40.5% in Marin County and 39.6% in Solano County, increasing to 66.7% in Marin and 43.1% in Solano during the year July 2020-June 2021.
7. See CCWIP "Exits From Foster Care" report by percent of all exits for children in foster care 8 days or more in California (<https://ccwip.berkeley.edu/childwelfare/reports/Exits/MTSG/r/ab636/s>). Starting with 49.4% in the period July 2017-June 2018, exits from foster care to reunification with parents have been at 48.6%, 51.3%, and 53.3% each following year through July 2020-June 2021.
8. See CCWIP "Exits From Foster Care" report by percent of all exits for children in foster care 8 days or more in Alameda County (<https://ccwip.berkeley.edu/childwelfare/reports/Exits/MTSG/r/ab636/s>). Starting with the period July 2017-June 2018, exits from foster care to reunification with parents were at 48.5%, 38.3%, 45.7%, and 44.9%. In the same four years, exits to Kin-GAP (subsidized kinship guardianship) started at 5.7%, increasing to 7.1%, 8.8%, and 13.1% in the most recent year July 2020-June 2021.
9. See CCWIP "3-P4: Re-Entry To Foster Care" reports of number and percent of all children re-entering foster care in less than 12 months in Marin County (<https://ccwip.berkeley.edu/childwelfare/reports/P4/MTSG/r/Fed/s>). Since 11 re-entries in the year July 2012-June 2013, the re-entry number has been zero each year with the exception of a masked nominal number of children age 3-5 years old in July 2014-June 2015, and a masked nominal number of children age 1-2 years old in July 2016-June 2017.
10. See CCWIP "3-P4: Re-Entry To Foster Care" reports of number and percent of all children re-entering foster care in less than 12 months in Solano County (<https://ccwip.berkeley.edu/childwelfare/reports/P4/MTSG/r/Fed/s>). Since 15 re-entries in the year July 2012-June 2013, the re-entry number has been a masked nominal number of children through the most recent reporting period of July 2018-June 2019.
11. See CCWIP "3-P4: Re-Entry To Foster Care" report of percent of all children re-entering foster care in less than 12 months in California (<https://ccwip.berkeley.edu/childwelfare/reports/P4/MTSG/r/Fed/s>). Starting with 11.6% during the period July 2012-June 2013, re-entry rates for all children have been 11.4%, 10.7%, 10.4%, 10.7%, 11.2%, and 10.3% each following year in California.
12. See CCWIP "3-P4: Re-Entry To Foster Care" reports of number and percent of all children re-entering foster care in less than 12 months in Alameda County (<https://ccwip.berkeley.edu/childwelfare/reports/P4/MTSG/r/Fed/s>). Starting with 12.2% during the period July 2012-June 2013, re-entry rates were 18%, 11.8%, 8.4%, 16.1%, 10%, and 8.9% each following year in Alameda County.
13. 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 (<https://doi.org/10.1177/2516103220960154>).