

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**
455 Golden Gate Avenue
San Francisco, California 94102-3688

Report Summary

TO: Members of the Judicial Council

FROM: Administrative Office of the Courts, Center for Families,
Children & the Courts
Diane Nunn, Division Director
Lee Morhar, Assistant Director
Leah Wilson, Supervising Court Services Analyst, 415-865-7977

DATE: October 26, 2007

SUBJECT: DRAFT Pilot Program and Court-Appointed Counsel

Issue Statement

The Judicial Council directed staff to implement the Dependency Representation, Administration, Funding, and Training (DRAFT) pilot program for a three-year period beginning July 1, 2004. The DRAFT program has recently concluded the third year of its initial pilot period, during which standards have been developed and implemented with respect to attorney caseloads, compensation, and performance. As described in the report, DRAFT has resulted in an increased quality of practice, reductions in intra court and inter court system disparities in attorney pay and quality, and long-term cost stability.

In December 2006, the council, in recognition of the pervasive nature of the challenges facing the courts in securing and funding quality appointed counsel, directed staff to present recommendations regarding modification of the court-appointed counsel funding methodology for the non-DRAFT courts, in addition to recommendations regarding the DRAFT pilot program, in the current year.¹ The recommendations presented in this report were generated by the work of the DRAFT committee and are based on lessons learned during the three-year pilot program period.

¹ The December report is provided for reference in Attachment 2.

Recommendation

AOC staff recommends that the Judicial Council:

1. Adopt court-appointed counsel caseload and compensation standards;
2. Expand the DRAFT pilot program to include up to 10 additional court systems, beginning July 1, 2008;
3. Direct staff to identify the funding needs of court systems statewide based upon those caseload and compensation standards; and
4. Direct staff to work with the Trial Court Budget Working Group (TCBWG) to develop an allocation methodology, effective in FY 2008–2009, by which State Appropriations Limit (SAL) program funding and any other new court-appointed counsel funding will be allocated according to identified funding needs.

Rationale for Recommendation

Court-appointed counsel costs in juvenile dependency proceedings have been a state fiscal responsibility since the onset of trial court funding. In the transition to state funding, trial court systems inherited the unique dependency counsel service-delivery models of their respective counties. As a result, little uniformity exists between court systems with respect to provider types (e.g., private vs. government attorneys), fee structures (e.g., per case vs. annual contract rates) and standards of practice (which, for the most part, are defined by local court rules).

Legislation (Senate Bill 2160; Stats. 2000, ch. 450)² amended section 317 of the Welfare and Institutions Code to require (1) the appointment of counsel for children in almost all dependency cases; (2) caseloads and training for appointed counsel that ensure adequate representation; and (3) Judicial Council promulgation of rules establishing caseload standards, training requirements, and guidelines for appointment of counsel for children. In 2001 the Judicial Council directed staff to undertake a study to identify caseload standards for attorneys representing both parents and children.

In fiscal year 2004–2005, in response to escalating court-appointed counsel costs, concerns regarding the quality of appointed counsel, and the legislative mandate to develop and implement dependency counsel caseload standards, the council launched the DRAFT pilot program; the program’s implementation was guided by the DRAFT Pilot Program Implementation Committee, chaired by Justice Richard D. Huffman.

Recommendation: Adopt attorney caseload standards

The AOC contracted with the American Humane Association to conduct a caseload study of trial-level dependency counsel, which included both a qualitative assessment of what constitutes “requisite tasks” in a dependency practice and a quantitative assessment of the amount of time required to perform those duties.

² The Judicial Council co-sponsored SB 2160; no opposition to the bill was filed in the Legislature.

Caseload study results indicated an *optimal practice standard* maximum caseload of 77 cases or clients per full-time dependency attorney, and a *basic practice standard* caseload of 141 clients per full-time dependency attorney;³ these recommended standards compared to a statewide average at the onset of the caseload study of 273 clients per attorney. Caseload study results were modified as part of the DRAFT pilot program, to account for the impact of non-attorney staffing on attorney case carrying capacity.

Staff recommends adoption of a modified basic practice caseload standard as follows:

- Maximum number of clients per FTE dependency attorney: 188-200; and
 - 0.5 FTE investigator staffing or contractual equivalent per FTE attorney.

Recommendation: Adopt attorney compensation standards

The committee's Compensation and Organizational Models Working Group was charged with developing attorney rates and cost models. At the onset of its work in this area, the working group made a policy decision regarding the development of regional versus statewide appointed-counsel rates. Staff used a combination of data sources to develop proposals for regional rates. These sources included (1) the Watson-Wyatt study of court employees conducted as a precursor to the transition of court staff from county to court employees; (2) county counsel salary information; (3) census data on median home value; and (4) census data on median income.

Subsequent to determining DRAFT regional rankings, staff addressed the issue of developing compensation levels for each region. Working group members made another important policy decision at this juncture, determining that court-appointed counsel salaries (not including benefits) should be pegged to those of county counsel.⁴ Additional staff work was done during the pilot period in order to finalize the DRAFT compensation model; supervising attorney and support staffing ratios, and a standardized overhead rate, were developed and applied to DRAFT contracts.

Staff recommends adoption of compensation standards based on the following:

- Regional attorney contract and hourly rates;
- Supervising attorney and support staffing levels reflecting the average of the firm and government agency ratios;⁵ and
- An overhead rate reflecting the overall average for all provider types.

Attorney performance

In addition to addressing the critical performance issues of attorney caseloads and compensation, the DRAFT committee developed several important training and technical

³ Caseload study findings suggested that each client be counted as one case, regardless of sibling group affiliation.

⁴ An average benefit rate of 25 percent has been applied in virtually all DRAFT contracts.

⁵ The respective staffing ratios would be 0.15 FTE supervisors and 0.35 FTE support staff per attorney. Staff recommends averaging firm and government agency data with respect to supervisory and support staffing, as both are almost exclusively available in these provider types.

assistance initiatives designed to improve the quality of dependency counsel representation, as well as methodologies for systematically assessing practice improvements realized.

There are two primary components of DRAFT attorney performance evaluation: qualitative measures, which include interviews, focus groups, and surveys, and quantitative measures, which comprise an analysis of child welfare outcomes data.

Qualitative Evaluation Results

The Spangenberg Group, a Boston, Massachusetts, consulting firm specializing in improving the quality of legal services provided to indigent clients, conducted pre- and post-DRAFT implementation surveys, interviews, and focus groups; judicial officers and attorneys in each DRAFT-participating court were asked to identify their concerns about attorney representation in their respective jurisdictions. The Spangenberg Group's findings identify significant improvements during the DRAFT pilot period in the areas of attorney turnover, client contact, skill and advocacy levels; challenges remain in the areas of attorney caseloads and the quality of conflict attorney representation.

Quantitative Evaluation Results

A central premise of the DRAFT pilot program has been that caseload reduction and compensation standardization will result in quantifiable, measurable outcome improvements for children and families in participating dependency courts. DRAFT attorneys convened in June 2006 to review the federal outcome measures being used to evaluate state child welfare systems and were specifically asked to identify those measures most directly affected by attorney performance. DRAFT providers selected the following measures for evaluation purposes: reunification, reentry and guardianship rates, and the frequency of placement with kin and siblings.

The analysis of the outcome impact of the DRAFT pilot program centered on a before and after comparison of DRAFT to non-DRAFT courts. At the onset of the pilot program, the DRAFT courts⁶ significantly underperformed non-DRAFT courts in *all* selected measures other than sibling placement. At the conclusion of the DRAFT pilot program period, DRAFT courts outperformed non-DRAFT courts on several measures, including kin placement and reunification rates. Most importantly, DRAFT courts have improved during the pilot period on all measures, other than sibling placement, at rates exceeding their non-DRAFT counterparts.

Non-DRAFT court-appointed counsel funding

Under reimbursement funding, courts are reimbursed retroactively for actual costs incurred; costs have exceeded the statewide appropriation for the last five fiscal years.

⁶ Los Angeles is not included in the quantitative evaluation as DRAFT contracts were not finalized in Los Angeles until January 1, 2007.

Pursuant to Trial Court Budget Working Group (TCBWG) recommendation, the Judicial Council has approved full court-appointed counsel program funding for four of the last five years. Full funding of the program area primarily has been achieved retroactively via one-time allocations from surplus funds in other program areas.

Escalating program costs, a pattern of full funding in arrears, and a lack of a workload or compensation standard basis for non-DRAFT court expenditures has resulted in a need to revise the court-appointed counsel funding process; the council directed staff to develop recommendations regarding funding reform in December 2006.

In February 2007, DRAFT staff met with the TCBWG to discuss possible recommendations for court-appointed counsel funding reform, based on DRAFT compensation and caseload standards. The TCBWG requested that staff develop a survey for non-DRAFT courts to issue to their respective providers in order to generate comprehensive workload and staffing data on which recommendations could be based. It is anticipated that the application of the DRAFT model on a statewide basis will result in an identified funding need significantly in excess of the available statewide budget; staff, as part of broader recommendations anticipated to be forthcoming from the Blue Ribbon Commission on Children in Foster Care, will be developing a proposal for state funding augmentation in the program area.

Beginning in FY 2008–2009, and in recognition of the significant underfunding in the program area, staff recommends that an allocation methodology be developed, in conjunction with the TCBWG, whereby *new* program funding is allocated based on individual court funding needs as determined by the application of the DRAFT caseload standard and compensation model.

Conclusion

The DRAFT program has made significant advances in the development and implementation of caseload and compensation standards and has resulted in proven gains in attorney performance. Program results will ultimately benefit the statewide court-appointed counsel area, with broad applicability related to the concurrent goals of ensuring quality representation and realizing program cost stability.

Prior to and concurrent with the duration of DRAFT, court-appointed counsel costs have been escalating at a pace exceeding available funding levels. While anecdotally cost increases may be attributable to important efforts, including caseload reduction or performance standards implementation, it has been impossible to analyze the basis for the cost increases in light of the complete lack of attorney workload or compensation data. The dual approach of expanding DRAFT to additional volunteer courts and applying a standards-based court-appointed counsel funding model to the non-DRAFT courts will result in significant gains in both the quality of attorney representation and the long-term fiscal stability of the program area.

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SUBJECT: DRAFT Pilot Program and Court-Appointed Counsel (Action Required)

Issue Statement

The Judicial Council directed staff to implement the Dependency Representation, Administration, Funding, and Training (DRAFT) pilot program for a three-year period beginning July 1, 2004. The DRAFT program has recently concluded the third year of its initial pilot period, during which standards have been developed and implemented with respect to attorney caseloads, compensation, and performance. As described in this report, DRAFT has resulted in an increased quality of practice, reductions in intra court and inter court system disparities in attorney pay and quality, and long-term cost stability.

Appointed dependency counsel play a critical role in bringing information before the court; in dependency proceedings, judicial officers render potentially life-altering decisions about the fundamental organizing relationship in our society, that between a parent and a child. While the magnitude of the decisions made in dependency court could not be greater, these courts are often historically and severely under resourced. With respect to appointed counsel, chronic funding shortfalls have resulted in inadequate attorney compensation, high caseloads and turnover rates, and insufficient numbers of attorneys interested in dependency representation. Escalating program costs, often unrelated to performance improvements or workload, have made the court-appointed counsel program area one of the trial court operations areas most in need of reform.

DRAFT was implemented to address critical trial court needs with respect to attorney quality, availability, and cost through the establishment of partnerships between participating courts and the AOC. Under DRAFT, courts retain responsibility for juvenile

dependency counsel selection, and the AOC has responsibility for direct attorney contracting and service administration. The partnership between DRAFT-participating courts and the AOC was formalized with the establishment of the DRAFT Pilot Program Implementation Committee (committee), a body composed of representatives from participating courts and charged with developing all major DRAFT pilot program policies.¹ Primary components of DRAFT include competitive bidding for court-appointed counsel services, execution of standardized appointed counsel contracts, and the development and promulgation of attorney performance and training standards.

In December 2006, the council, in recognition of the pervasive nature of the challenges facing the courts in securing and funding quality appointed counsel, directed staff to present recommendations regarding modification of the court-appointed counsel funding methodology for the non-DRAFT courts, in addition to recommendations regarding the DRAFT pilot program, in the current year.² The recommendations presented in this report were generated by the work of the DRAFT committee and are based on lessons learned during the three-year pilot program period.

Recommendation

AOC staff recommends that the Judicial Council:

1. Adopt court-appointed counsel caseload and compensation standards;
2. Expand the DRAFT pilot program to include up to 10 additional court systems, beginning July 1, 2008;
3. Direct staff to identify the funding needs of court systems statewide based upon those caseload and compensation standards; and
4. Direct staff to work with the Trial Court Budget Working Group (TCBWG) to develop an allocation methodology, effective in FY 2008–2009, by which State Appropriations Limit (SAL) program funding and any other new court-appointed counsel funding will be allocated according to identified funding needs.

Rationale for Recommendation

Court-appointed counsel costs in juvenile dependency proceedings have been a state fiscal responsibility since the onset of trial court funding. In the transition to state funding, trial court systems inherited the unique dependency counsel service-delivery models of their respective counties. As a result, little uniformity exists between court systems with respect to provider types (e.g., private vs. government attorneys), fee structures (e.g., per case vs. annual contract rates) and standards of practice (which, for the most part, are defined by local court rules).

The significance of the lack of uniformity and absence of practice and compensation standards has been highlighted by several factors including escalating program costs and

¹ A committee roster is provided in Attachment 1.

² The December report is provided for reference in Attachment 2.

legislative direction regarding the establishment of court-appointed counsel caseload standards.

Legislation (Senate Bill 2160; Stats. 2000, ch. 450)³ amended section 317 of the Welfare and Institutions Code to require (1) the appointment of counsel for children in almost all dependency cases; (2) caseloads and training for appointed counsel that ensure adequate representation; and (3) Judicial Council promulgation of rules establishing caseload standards, training requirements, and guidelines for appointment of counsel for children. In 2001 the Judicial Council took action regarding the effective delivery of court-appointed counsel services in juvenile dependency proceedings. In addition to adopting a rule of court that mandated the appointment of counsel for children subject to dependency proceedings in all but the rarest of circumstances, the council directed staff to undertake a study to identify caseload standards for attorneys representing both parents and children.

In 2002 the Judicial Council made a series of policy decisions regarding funding for court-appointed counsel, including transitioning the program from the aggregate Trial Court Trust Fund distribution to a reimbursable line item. The reimbursement funding mechanism results in courts being reimbursed by the AOC in *arrears* for actual court-appointed counsel costs incurred. The purpose behind reimbursement funding is to ensure the use of court-appointed counsel funding solely for that purpose and to thereby eliminate the practice extant of using it to support other court operations. While reimbursement funding has resulted in the establishment of a dedicated dependency counsel funding stream, it has not achieved another implicit objective: cost containment. In fact, statewide court-appointed counsel expenditures have increased an average of 8 percent annually since the onset of reimbursement funding, a rate that has consistently exceeded corollary increases in the statewide appropriation.

In fiscal year 2004–2005, in response to escalating court-appointed counsel costs, concerns regarding the quality of appointed counsel, and the legislative mandate to develop and implement dependency counsel caseload standards, the council launched the DRAFT pilot program; the program’s implementation was guided by the DRAFT Pilot Program Implementation Committee, chaired by Justice Richard D. Huffman. The committee included at least one judicial and one court administration representative from each participating court, as well as additional juvenile court judicial officers, court administrators, and trial and appellate court attorneys. Committee members participated in one of seven working groups; the working groups developed all major policies and standards promulgated under DRAFT.

³ The Judicial Council co-sponsored SB 2160; no opposition to the bill was filed in the Legislature.

Recommendation: Adopt attorney caseload standards

In 2002, and pursuant to legislative mandate, the council directed staff to conduct a caseload study of trial-level dependency counsel. The caseload study was designed to answer the question: what is the maximum number of cases that a full-time attorney can carry in order to competently perform all requisite representation tasks? The AOC contracted with the American Humane Association to conduct the caseload study, which included both a qualitative assessment of what constitutes “requisite tasks” in a dependency practice and a quantitative assessment of the amount of time required to perform those duties.

Caseload study results indicated an *optimal practice standard* maximum caseload of 77 cases or clients per full-time dependency attorney, and a *basic practice standard* caseload of 141 clients per full-time dependency attorney;⁴ these recommended standards compared to a statewide average at the onset of the caseload study of 273 clients per attorney. The impact of support staffing, particularly investigators or social workers, on the ability of attorneys to carry additional cases, was not addressed by the caseload study.

Because of the obvious fiscal implications of a caseload reduction this significant and the fact that the impact of non attorney support staffing on case-carrying capacity was not addressed by the caseload study, the Judicial Council did not adopt a caseload standard but instead directed staff to pilot the basic practice standard, or caseload reduction, as part of the DRAFT pilot program.⁵

At the onset of the pilot program, DRAFT staff worked with committee members and attorney providers to develop an adjusted caseload standard reflecting the impact of non attorney staffing, specifically social workers and investigators (hereinafter referred to as investigators), on attorney case-carrying capacity. This process initially involved identifying those attorney tasks most commonly performed by investigators and determining the attorney time-savings associated with the investigator activity. Initial adjusted caseload standard analysis results are provided in the table on the next page.

⁴ Caseload study findings suggested that each client be counted as one case, regardless of sibling group affiliation.

⁵ Staff recommended piloting of the basic, as opposed to the optimal, caseload standard because of concerns about the fiscal viability of optimal standard implementation. It should be noted that national standards, promulgated by the American Bar Association and the National Association of Counsel for Children, recommend caseload maximums of 100 clients per full-time practitioner. This recommendation was followed by the U.S. District Court, Northern District of Georgia in *Kenny A. ex. Rel. Winn v. Perdue*, 218 F.R.D. 277 (N.D. Ga. 2005) in a decision that mandated a 100-client caseload maximum for dependency attorneys in Georgia.

Impact of Investigator Staffing on Attorney Caseloads	
Investigator/Attorney Ratio Investigator Full-Time Equivalent (FTE)	Maximum Attorney Caseload⁶
0	141
0.5	161
0.75	188
1.0	228
1.5	299

Subsequent to the development of the adjusted caseload standard, staff analyzed workload data submitted by attorneys and investigators under DRAFT contracts.⁷ That data analysis resulted in staff modification of the model; specifically, staff found that a 0.5 investigator position more appropriately correlates with an attorney caseload of between 188-200 clients. The recommended adjusted caseload standard reflects staff's findings and is highlighted in gray in the table above. Application of the recommended model means that a 0.5 FTE investigator increases an attorney's case-carrying capacity by 33 percent. Because of the cost differential between attorney and investigator salaries, the use of investigator staffing to reduce the number of attorneys needed in any given jurisdiction is fiscally prudent. Further, many dependency attorneys feel that using investigators results in enhanced client services because of investigators' unique skill set.

The results of DRAFT caseload standard implementation as reflected in executed DRAFT contracts are provided in the table on the following page.

⁶ Adjusted caseload per FTE attorney at identified support rate.

⁷ DRAFT attorneys are required to submit detailed workload data on a quarterly basis. The workload data provides information about individual case activity and hearing outcomes.

Court System	Pre-DRAFT Caseload	Post-DRAFT FTE Investigators per Attorney	Post-DRAFT Caseload
Imperial	377	0.5	190
Los Angeles	Unavailable⁸	0.4	267
Marin	51	0.3	153
Mendocino	92	0.3	181
San Diego	363	0.5	286
San Joaquin	288	0.4	209
San Luis Obispo	180	.04	118
Santa Barbara	201	0.5	183
Santa Cruz	136	0.2	136
Stanislaus	217	0.4	182

Highlighted court systems are those where caseload levels under DRAFT contracts continue to exceed the adjusted caseload standard.

Staff recommends adoption of a modified basic caseload standard as follows:

- Maximum number of clients per FTE dependency attorney: 188-200; and
 - 0.5 FTE investigator staffing or contractual equivalent per FTE attorney.

Future caseload standard modification

Future modification of the caseload standard may be needed to reflect the optimal versus basic caseload standard. The optimal standard is almost half that of the basic; a decision regarding modification would need to assess both the incremental cost of the change and the relative benefit to be gained by further caseload reduction.

⁸ Pre-DRAFT caseload data could not be generated because parent clients in Los Angeles were represented by private solo practitioners who did not track caseload information for either their dependency or non-dependency caseloads.

Recommendation: Adopt attorney compensation standards

The committee’s Compensation and Organizational Models Working Group was charged with developing attorney rates and cost models. At the onset of its work in this area, the working group made a policy decision regarding the development of regional versus statewide appointed-counsel rates. Staff used a combination of data sources to develop proposals for regional rates. These sources included (1) the Watson-Wyatt study of court employees conducted as a precursor to the transition of court staff from county to court employees; (2) county counsel salary information; (3) census data on median home value; and (4) census data on median income. Staff began its regional rate analysis with the four regions identified by the Watson-Wyatt study; court affiliation with any particular region was then adjusted as census and county counsel salary data were taken into account. Specifically, staff averaged each court’s ranking among the data sources (Watson-Wyatt, county counsel salary, and census data) and rounded up to generate a DRAFT court regional ranking. DRAFT court affiliation by region is shown in the following table.

County	Watson-Wyatt Study	County Counsel Average Salary	Household Income	Home Value	DRAFT Region
Imperial	1	1	1	1	1
Los Angeles	3	4	2	2	3
Marin	3	4	4	4	4
Mendocino	1	1	1	2	2
San Diego	2	4	2	2	3
San Joaquin	1	2	2	1	2
San Luis Obispo	1	3	2	2	2
Santa Barbara	2	3	2	2	3
Santa Cruz	2	2	3	3	3
Stanislaus	1	2	2	1	2

For each data source, 1 is low, 4 is high. Recommended compensation rates are thus lowest in DRAFT Region 1 and highest in DRAFT Region 4.

The regional ranking of court systems statewide is provided in Attachment 3.

Subsequent to determining DRAFT regional rankings, staff addressed the issue of developing compensation levels for each region. Working group members made another important policy decision at this juncture, determining that court-appointed counsel salaries (not including benefits) should be pegged to those of county counsel.⁹ This decision reflects equity and recognition principles underlying the DRAFT pilot program’s goal of improving the quality of court-appointed counsel practice.

⁹ An average benefit rate of 25 percent has been applied in virtually all DRAFT contracts.

County counsel salary data for entry-, mid- and high-level positions were analyzed to create regional court-appointed counsel rates; tiers have been developed to reflect these three salary levels.

Very few providers in DRAFT-participating courts are compensated on an hourly basis; those that remain are paid at rates that reflect the hourly equivalent of regional salary rates. Hourly rate tiers also have been developed for each region; local presiding juvenile court judges are asked to set the appropriate payment tier for individual appointed counsel based on experience and skill level.

DRAFT regional salary and hourly rates are provided below:

DRAFT Region	Tier	Annual Salary	Hourly Rate
Region 1	1	\$49,049	\$59
	2	\$67,143	\$65
	3	\$85,237	\$70
Region 2	1	\$59,047	\$70
	2	\$79,539	\$75
	3	\$100,031	\$81
Region 3	1	\$60,451	\$81
	2	\$95,892	\$86
	3	\$131,333	\$92
Region 4	1	\$74,658	\$92
	2	\$114,800	\$97
	3	\$154,942	\$102

Attorney salaries and benefits are only one portion of the compensation model. The other primary components are supervisory and support staffing and overhead (indirect) rates. For this component of the compensation model, data was analyzed according to provider type; provider types are administered panel, firm (nonprofit or private), government agency, and solo practitioner. These provider types derive from a fiscal analysis of the cost structure of DRAFT providers, and reflect the most important distinctions between organizational structures as related to cost; data regarding supervisory and support staffing ratios and organizational overhead costs is provided in the tables on the following page.

Supervisory and Support Staffing Ratios		
	Supervising Attorneys to Line Attorneys	Support Staff to Line Attorneys
Administered Panel	0.01	0.5
Firm (Nonprofit or Private)	0.2	0.4
Government Agency	0.1	0.3
Solo Practitioner	0	0.2

Overhead by Provider Type¹⁰				
Provider Type	Average by Provider Type		Overall Average	
	Direct	Indirect	Direct	Indirect
Administered Panel	79%	21%	76%	24%
Firm	72%	28%		
Government Agency	75%	25%		
Nonprofit	67%	34%		
Solo Practitioner	82%	18%		

Staff recommends adoption of compensation standards based on the following:

- Regional attorney contract and hourly rates;
- Supervising attorney and support staffing levels reflecting the average of the firm and government agency ratios;¹¹ and
- An overhead rate reflecting the overall average for all providers, as reflected in the table above (24 percent).

A detailed example of the fully implemented compensation model is provided in the table on the following page.

¹⁰ For the purpose of the compensation model, overhead costs include supervising attorneys, support staff, and all operating and facility costs. Direct costs include case-carrying attorneys (staff or contract), investigators (staff or contract), bar dues, attorney training costs, interpreters, travel costs associated with client visitation, and experts.

¹¹ The respective staffing ratios would be 0.15 FTE supervisors and 0.35 FTE support staff per attorney. Staff recommends averaging firm and government agency data with respect to supervisory and support staffing, as both are almost exclusively available in these provider types.

Applied Compensation Model DRAFT Region: 3 Number of Clients: 800			
Required Staffing	Number of Positions (FTEs)	Annual Salary per FTE	Total Annual Cost
Attorneys	4.3	\$95,892	\$408,051
Supervising Attorneys	0.6	\$131,333	\$83,830
Social Workers/Investigator	2.1	\$55,000	\$117,021
Support	1.5	\$30,000	\$44,681
Net Salaries			\$653,583
Benefits @ 25%			\$163,396
Total Core Staff Costs			\$816,978
Overhead Costs¹²			\$57,826
Grand Total			\$874,804
Cost per Client			\$1,094

While caseload and compensation standards form the basis of aggregate negotiated contract amounts, once under contract, providers are free to allocate the contracted budget internally as they see fit.¹³ The impact of this internal allocation flexibility is that organizational providers can offer a broad salary range to current and prospective employees so long as the *average* of all attorney salaries is equivalent to the funded regional salary levels.

Attorney performance

In addition to addressing the critical performance issues of attorney caseloads and compensation, the DRAFT committee developed several important training and technical assistance initiatives designed to improve the quality of dependency counsel representation, as well as methodologies for systematically assessing practice improvements realized.

The committee’s Attorney Performance Working Group was charged with reviewing existing attorney training and experience requirements, assessing the sufficiency of those existing standards, and developing new protocols if necessary. The performance working group determined that the existing state rule, California Rules of Court rule 5.660, was insufficient in light of the quality of practice concerns raised by DRAFT-participating courts and the pilot program’s goal of both raising and standardizing the level of practice.

¹² This figure does not include supervising attorney or support staff salaries and benefits, which are overhead costs but are separated out in the table for illustrative purposes.

¹³ Contractors have budgetary discretion within certain parameters; DRAFT contracts stipulate a minimum number of full-time-equivalent attorneys and investigators; contractually specified staffing levels must be met.

As a result, the working group developed comprehensive training and experience requirements exceeding those mandated by the state rule. The requirements include an initial eight hour training module that must be completed prior to an attorney's first appointment; the training is accessible entirely via distance learning. Selections from the initial eight hour training module are provided as an enclosure to this report.

With respect to ongoing training needs, staff has partnered with the State Department of Social Services to access federal Title IVE training dollars to support interdisciplinary local trainings for court-appointed counsel and social workers. This innovative training program has resulted in the creation of local county training teams composed of attorney, court, and child welfare agency representatives. These teams meet annually to identify local obstacles to permanency and related training and technical assistance needs. Staff then develops and implements individualized training programs based on these identified needs. The trainings have been extremely well received not just for the quality of the substantive content presented, but also for their role in strengthening critical inter system relationships within each participating court system.

Beyond the provision of training, staff continuously evaluates the efficacy of all performance improvement measures undertaken as part of DRAFT. There are two primary components of DRAFT attorney performance evaluation: qualitative measures, which include interviews, focus groups, and surveys, and quantitative measures, which comprise an analysis of child welfare outcomes data.

Qualitative Evaluation Results

The Spangenberg Group, a Boston, Massachusetts, consulting firm specializing in improving the quality of legal services provided to indigent clients, conducted pre- and post-DRAFT implementation surveys, interviews, and focus groups; judicial officers and attorneys in each DRAFT-participating court were asked to identify their concerns about attorney representation in their respective jurisdictions. The Spangenberg Group's findings are summarized in the table on the next page and are provided in detail in Attachment 4.

Pre-DRAFT Court Opinions	Post-DRAFT Court Opinions	Pre-DRAFT Attorney Opinions	Post-DRAFT Attorney Opinions
<p><i>Challenges</i></p> <ul style="list-style-type: none"> • Inadequate funding • Lack of attorney preparation • Inconsistent attorney availability • Insufficient child client visitation; • Insufficient identification of WIC §317(e) issues • Frequent continuances • High attorney turnover • Insufficiently trained lawyers 	<p><i>Improvements</i></p> <ul style="list-style-type: none"> • Resolution of funding issues • Increased attorney preparedness and knowledge of the law • Reduced continuances • Decreased turnover • Increase in dedicated children’s attorneys • Increased client contact • Improved attorney communication • Reduced caseloads 	<p><i>Challenges</i></p> <ul style="list-style-type: none"> • High caseloads • Disparity in pay between court-appointed and county counsel • Lack of dedicated dependency assignments • Inadequate time to meet with clients • Lack of available training 	<p><i>Improvements</i></p> <ul style="list-style-type: none"> • Increased ability to visit child clients in placement settings • Increased client contact • Increased availability of high-quality training
	<p><i>Continued Challenges</i></p> <ul style="list-style-type: none"> • Training still insufficient in some areas • Caseloads remain high in some courts • Quality of conflict attorney representation 		<p><i>Continued Challenges</i></p> <ul style="list-style-type: none"> • Caseloads remain high • Compensation insufficient in some instances

Qualitative interview and focus group data suggest that DRAFT has resulted in several important improvements from participating courts’ perspectives, and universally perceived improvement in the area of client contact, including increased frequency of in-placement child client visitation. The practice improvements realized tie directly to areas of focus for DRAFT training and technical assistance activities; DRAFT practice guidelines and training have particularly emphasized the importance of client contact as the most critical component of advocacy.

This qualitative finding regarding client contact is supported by an analysis of DRAFT workload data. An analysis of attorney workload data reflects significant increases in the amount of time spent by DRAFT attorneys on specific activities including: client communication (in-person and other), investigation, legal research, and trial preparation. The baseline measure for task time is the attorney workload data submitted by hundreds

of practitioners statewide as part of the caseload study; the following table illustrates the impact of DRAFT on client communication:

Activity	Average Time per Hearing:¹⁴ Caseload Study	Average Time per Hearing: DRAFT
In Person Client Communication	28 minutes	75 minutes
Other Client Communication	23 minutes	37 minutes

Quantitative Evaluation Results

A central premise of the DRAFT pilot program has been that caseload reduction and compensation standardization will result in quantifiable, measurable outcome improvements for children and families in participating dependency courts. DRAFT attorneys convened in June 2006 to review the federal outcome measures being used to evaluate state child welfare systems and were specifically asked to identify those measures most directly affected by attorney performance. The following outcome measures were selected by DRAFT providers for evaluation purposes:

- Time to reunification¹⁵
- Rentry¹⁶
- Time to guardianship¹⁷
- Placement with kin
- Placement with some or all siblings

The analysis of the outcome impact of the DRAFT pilot program centered on a before and after comparison of DRAFT to non-DRAFT courts. At the onset of the pilot program, the DRAFT courts¹⁸ significantly underperformed non-DRAFT courts in *all* selected measures other than sibling placement. At the conclusion of the DRAFT pilot program period, DRAFT courts outperformed non-DRAFT courts on several measures, including kin placement and reunification rates. Most importantly, DRAFT courts have improved during the pilot period on all measures, other than sibling placement, at rates exceeding their non-DRAFT counterparts.

¹⁴ Time spent per statutory hearing; this includes time associated with hearing preparation, the hearing itself, immediate post hearing activity, and travel time to visit child clients in their placement settings.

¹⁵ Of children who entered foster care during a specified 12-month period, the percent that were reunified within 12 months of entry into care.

¹⁶ Of children who entered foster care during the specified 12-month period and were reunified within 12 months of entry, the percent that reentered care within 12 months of reunification.

¹⁷ Of children who entered foster care during a specified 12-month period, the percent who exited to guardianship within 24 months of entry into care.

¹⁸ Los Angeles is not included in the quantitative evaluation as DRAFT contracts were not finalized in Los Angeles until January 1, 2007.

Because the outcomes analysis is based on complex data, and given variances in the timing of DRAFT contract implementation, the full impact of DRAFT on system outcomes will not be realized for another 12–24 months; the preliminary outcomes findings present a compelling argument for sustaining and expanding DRAFT. In reality, caseload reduction, compensation standardization, and enhanced training and technical assistance are simply important *inputs*. The evaluation of DRAFT suggests that these inputs are having a quantifiable, positive impact on system *outcomes* - outcomes for children and families under the jurisdiction of our juvenile courts. Future work will focus on sustaining momentum on improving measures, and addressing challenges in the areas of sibling placement and guardianship.

Recommendation: Expand the DRAFT program

Caseload and compensation standards developed under the auspices of DRAFT could be implemented absent DRAFT expansion; the following section of this report addresses the adoption of these standards on a statewide basis. However, reduced caseloads and standardized pay rates alone do not ensure increased quality; tangible performance improvements in the DRAFT courts have been realized not simply because of the implementation of standards, but most directly as a result of the program's increased performance requirements, training and technical assistance resources, and institutionalized evaluation processes. Many courts have expressed an interest in joining the program during the pilot period in recognition of the benefits of participation from both an administrative and fiscal perspective and as a proven way to increase the quality of attorney representation.

Non-DRAFT court-appointed counsel funding

This report includes a recommendation regarding DRAFT expansion, to include up to 10 additional courts. Council approval of this recommendation will result in 20 court systems being included in DRAFT and 38 court systems remaining under the reimbursement funding mechanism.

Under reimbursement funding, courts are reimbursed retroactively for actual costs incurred; costs have exceeded the statewide appropriation for the last five fiscal years. Pursuant to Trial Court Budget Working Group (TCBWG) recommendation, the Judicial Council has approved full court-appointed counsel program funding for four of the last five years. Full funding of the program area primarily has been achieved retroactively via one-time allocations from surplus funds in other program areas.

The use of *postfacto* allocations to fund court-appointed counsel cost overruns on an annual basis has resulted in key structural problems including the following:

- Courts cannot accurately plan for court-appointed counsel costs each fiscal year;
- There is no incentive for courts to implement cost-control measures;
- There is an incentive for courts to increase expenditures prior to receipt of additional funding as new funding is provided only in arrears of actual cost increases; and

- Court-appointed counsel consumes an unpredictable and increasing share of surplus funding in other program areas.

Escalating program costs, a pattern of full funding in arrears, and a lack of a workload or compensation standard basis for non-DRAFT court expenditures has resulted in a need to revise the court-appointed counsel funding process; the council directed staff to develop recommendations regarding funding reform in December 2006.

In February 2007, DRAFT staff met with the TCBWG to discuss possible recommendations for court-appointed counsel funding reform, based on DRAFT compensation and caseload standards. The TCBWG requested that staff develop a survey for non-DRAFT courts to issue to their respective providers in order to generate comprehensive workload and staffing data on which recommendations could be based. Surveys were issued and the data is currently being analyzed by staff. The data will be used to determine the appropriate funding level for each court system based on application of the DRAFT caseload standard and compensation model.

It is anticipated that the application of the DRAFT model on a statewide basis will result in an identified funding need significantly in excess of the available statewide budget; staff, as part of broader recommendations anticipated to be forthcoming from the Blue Ribbon Commission on Children in Foster Care, will be developing a proposal for state funding augmentation in the program area. In the short term however the gap between identified funding needs and available funding will likely remain unmet.

Beginning in FY 2008–2009, and in recognition of the significant underfunding in the program area, staff recommends that an allocation methodology be developed, in conjunction with the TCBWG, whereby *new* program funding is allocated based on individual court funding needs as determined by the application of the DRAFT caseload standard and compensation model. Implementation of a standards-based approach to the allocation of new funding will move the branch toward the goal of rationalizing the court-appointed counsel funding process, while recognizing the fact that courts have existing contract obligations that cannot be jeopardized by a radical restructuring of the program baseline budget.

Conclusion

The DRAFT program has made significant advances in the development and implementation of caseload and compensation standards and has resulted in proven gains in attorney performance. Program results will ultimately benefit the statewide court-appointed counsel area, with broad applicability related to the concurrent goals of ensuring quality representation and realizing program cost stability.

Prior to and concurrent with the duration of DRAFT, court-appointed counsel costs have been escalating at a pace exceeding available funding levels. While the program's growth

has not surpassed that of other trial court operations areas, such as security and interpreter services, little data is available to help determine the reason for the growth in non-DRAFT courts. While anecdotally cost increases may be attributable to important efforts, including caseload reduction or performance standards implementation, it has been impossible to analyze the basis for the cost increases in light of the complete lack of attorney workload or compensation data. The dual approach of expanding DRAFT to additional volunteer courts and applying a standards-based court-appointed counsel funding model to the non-DRAFT courts will result in significant gains in both the quality of attorney representation and the long-term fiscal stability of the program area.

Alternative Actions Considered

The alternative action considered was maintaining the status quo; DRAFT would not be expanded, and non-DRAFT courts would continue under the reimbursement funding mechanism. Maintaining the status quo is not a viable option, particularly the process of reimbursement funding absent the implementation of workload and compensation standards. Further, maintenance of the status quo would mean that no additional courts could benefit from the DRAFT program; a number of courts have already expressed interest in joining. Given the program's success, both in terms of caseload and compensation standardization and attorney performance improvement, expansion is recommended.

Comments from Interested Parties

This proposal was not circulated for comment because the comment process is not applicable.

Implementation Requirements and Costs

The costs associated with initial DRAFT contract implementation have been significant, as outlined in the table on the following page. However, average annual cost increases subsequent to the initial contract year have been *less* than SAL. Further, DRAFT contracts are structured so that costs are directly tied to fluctuations in workload that occur within a given contract period; contracts can be opened for downwards or upwards adjustment based on sustained workload changes. This feature of the contracts has been used to increase contracts in two court systems and decrease contracts in three court systems over the course of the pilot period.

	Average Funding Level per Child	Range in Funding Level Per Child	Average Annual Cost Increases
Non-DRAFT	\$1,182	\$200-\$4,500	8 %
DRAFT	\$2,189	\$1,200-\$3,500	3 % ¹⁹

A decision to expand DRAFT would most likely result in initial cost increases, with corollary reductions in annual expenditure growth.

Attachments

Enclosure

¹⁹ SAL increases have averaged between 4 and 5 percent; the average annual cost increases do not include one-time adjustments (positive or negative) addressing significant caseload growth or decline.

DRAFT PILOT PROGRAM IMPLEMENTATION COMMITTEE

Hon. Richard D. Huffman, Chair
 Associate Justice of the Court of Appeal
 Fourth Appellate District, Division One
 750 B Street, Suite 300
 San Diego, CA 92101
 619-645-2754
 619-645-2969 fax
richard.huffman@jud.ca.gov

Leah Wilson, Project Manager
 Administrative Office of the Courts
 Center for Families, Children & the
 Courts
 455 Golden Gate Avenue, 6th Floor
 San Francisco, CA 94102
 415-865-7977
 415-865-7217 fax
leah.wilson@jud.ca.gov

Court System	Contact
Alameda	Tom Slocumb Attorney at Law P.O. Box 27433 Oakland, CA 94602-0933 510-412-4123 tslocumb@yahoo.com
Imperial¹	Hon. Juan Ulloa Supervising Family and Juvenile Court Judge 939 West Main Street El Centro, CA 92243 760-482-4374 juan.ulloa@imperial.courts.ca.gov Jose Octavio Guillen Executive Officer 760-482-4360 jose.guillen@imperial.courts.ca.gov Kristi Kussman Assistant Executive Officer 760-482-4255 kristi.kussman@imperial.courts.ca.gov Mona Gieck Senior Administrative Assistant 760-482-4374 mona.gieck@imperial.courts.ca.gov

¹ Boldface indicates participating court systems.

Los Angeles	<p>Hon. Michael Nash Presiding Juvenile Court Judge 201 Centre Plaza Drive, Dept. 400 Monterey Park, CA 91754-2158 323-526-6377 mnash@lasuperiorcourt.org</p> <p>Randy Henderson Dependency Court Administrator 201 Centre Plaza Drive, Suite 3 Monterey Park, CA 91754-2158 323-526-6602 rhenders@lasuperiorcourt.org</p> <p>Sue Shackelford Budget Administrator 111 North Hill Street, Room 105-K Los Angeles, CA 90012 213-974-1296 sshackel@lasuperiorcourt.org</p>
Marin	<p>Hon. Randolph Heubach Juvenile Court Commissioner P.O. Box 4988 San Rafael, CA 94913-4988 415-473-6766 randolph_heubach@marincourt.org</p> <p>Kim Turner Executive Officer Marin County Civic Center 3501 Civic Center Drive San Rafael, CA 94903 415-473-6237 kim_turner@marincourt.org</p>
Mendocino	<p>Hon. Cindee F. Mayfield Presiding Judge of the Superior Court 707-467-6437 ciryjema@mendocino.courts.ca.gov</p> <p>Hon. Leonard LaCasse Presiding Juvenile Court Judge P.O. Box 996 Ukiah, CA 95482 707-463-4515</p>

	<p>luv2fish@mendocino.courts.ca.gov</p> <p>Benjamin D. Stough Executive Officer 707-467-6437 benjamin.stough@mendocino.courts.ca.gov</p>
Orange	<p>Beverly MacLaren Executive Assistant to the Presiding Judge 341 The City Drive, Room 200 Orange, CA 92868 714-935-6600 bmaclaren@occourts.org</p>
San Diego	<p>Hon. Janis Sammartino Presiding Judge of the Superior Court 220 West Broadway San Diego, CA 92101 619-531-3434 janis.sammartino@sdcourt.ca.gov</p> <p>Hon. Susan D. Huguenor Presiding Juvenile Court Judge 220 West Broadway San Diego, CA 92101 619-531-3434 susan.huguenor@sdcourt.ca.gov</p> <p>Hon. Cynthia Bashant Juvenile Court Judge – Dependency 858-694-4222 cynthia.bashant@sdcourt.ca.gov</p> <p>Marilyn James Chief Evaluation & Planning Officer 619-615-6499 marilyn.james@sdcourt.ca.gov</p> <p>Robert C. Bradley Director, Finance and Contracts 619-531-3128 robert.bradley@sdcourt.ca.gov</p> <p>Nancy Eberhardt Director, Juvenile Court Operations 619-531-4176</p>

	nancy.eberhardt@sdcourt.ca.gov
San Francisco	<p>Margaret Pendergast Attorney at Law 1630 Union Street San Francisco, CA 94123 415-749-3200 fnp@pafmap.com</p> <p>Kathleen Richards Attorney at Law 155 Montgomery Street, Suite 1400 San Francisco, CA 94104-4119 415-399-8313 kathy@kjr-jd.com</p>
San Joaquin	<p>Hon. John W. Parker Presiding Juvenile Court Judge 222 East Weber Ave, Room 303 Stockton, CA 95202 209-468-8121 jparker@courts.san-joaquin.ca.us</p> <p>Rosa Junqueiro Executive Officer 209-468-2539 junqueiro@courts.san-joaquin.ca.us</p>
San Luis Obispo	<p>Hon. Roger T. Picquet Presiding Judge of the Superior Court County Government Center 1035 Palm Street, Room 355 San Luis Obispo, CA 93408 805-781-5936 roger.picquet@slo.courts.ca.gov</p> <p>Wayne Hall Executive Officer County Government Center 1035 Palm Street San Luis Obispo, CA 93408 805-781-5421 wayne.hall@slo.courts.ca.gov</p>

<p>Santa Barbara</p>	<p>Hon. Arthur A. Garcia Presiding Judge 4285 California Blvd., Suite B Santa Maria, CA 93455 805-934-6279 agarcia@sbcourts.org</p> <p>Hon. Clifford (Kip) R. Anderson III Superior Court Judge 118 E. Figueroa Street Santa Barbara, CA 93101 805-568-2718 kanderson@sbcourts.org</p> <p>Hon. Thomas R. Adams Juvenile Court Judge 1100 Anacapa Street, Department 2 Santa Barbara, CA 93101 805-568-3180 tadams@sbcourts.org</p> <p>Gary M. Blair Executive Officer 1100 Anacapa Street Santa Barbara, CA 93101 805-568-3150 gblair@sbcourts.org</p>
<p>Santa Cruz</p>	<p>Hon. Heather D. Morse Presiding Judge of the Superior Court Main Courthouse 701 Ocean Street, Room 101-C Santa Cruz, CA 95060 831-454-3536 heather.morse@santacruzcourt.org</p> <p>Alex Calvo Executive Officer 831-454-3301 alex.calvo@santacruzcourt.org</p>
<p>Stanislaus</p>	<p>Hon. Linda A. McFadden Presiding Juvenile Court Judge 800 Eleventh Street, Room 100 Modesto, CA 95353 (209) 525-</p>

	<p>linda.mcfadden@stanct.org</p> <p>Hon. Nancy B. Williamsen Juvenile Court Commissioner 209-558-6000 nancy.williamsen@stanct.org</p> <p>Michael A. Tozzi Executive Officer 209-525-6348 michael.tozzi@stanct.org</p> <p>Rebecca Fleming Chief Financial Officer 209-525-6338 rebecca.fleming@stanct.org</p> <p>Donald H. Lundy Court Administrator don.lundy@stanct.org</p>
<p>Appellate Attorneys</p>	<p>Carole Greeley Attorney at Law 521 Americano Way Fairfield, CA 94533 707-427-8178 cgreeley@aol.com</p> <p>Alan Siraco Attorney at Law 2777 Yulupa Avenue, PMB 169 Santa Rosa, CA 95405 707-525-8222</p> <p>Harry Zimmerman Attorney at Law 12231 Academy Road, NE #301-129 Albuquerque, NM 87111 505-293-6859 hzlaw@comcast.net</p>

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: AOC Center for Families, Children & the Courts
Diane Nunn, Division Director
Lee Morhar, Assistant Director
Leah Wilson, Supervising Court Services Analyst, 415-865-7977

DATE: October 25, 2006

SUBJECT: Juvenile Dependency: DRAFT Pilot Program and Court-Appointed
Counsel

Issue Statement

Costs for court-appointed counsel representing children and indigent parents in juvenile dependency proceedings are included as “trial court operations” under the Trial Court Funding Act. As such, the Judicial Council has overseen expenditures of these funds since the onset of trial court funding¹. In the last five years, the council has been particularly active in the court-appointed counsel program area, with respect to both quality of practice and fiscal considerations. As this report describes, a number of factors, including escalating program costs and legislative direction for the development of caseload standards for court-appointed counsel, led the council to direct staff to implement the Dependency Representation, Administration, Funding, and Training (DRAFT) pilot program for a three-year period beginning in July 2004. The goal of the DRAFT pilot program is to improve the quality of attorney representation for parents and children in dependency cases in as cost-effective manner as possible.

DRAFT comprises a partnership between 10 volunteer court systems and the Administrative Office of the Courts.² Escalating costs in non-DRAFT courts during the first two years of the program’s existence have rendered the results of the pilot

¹ Lockyer-Isenberg Trial Court Funding Act of 1997 (Stats. 1997, ch.850).

² A request for letters of interest (LOIs) regarding DRAFT program participation was sent to the courts in April 2004. Sixteen courts submitted letters of interest in DRAFT program participation. Of these courts, the following 10 were selected: Imperial, Los Angeles, Marin, Mendocino, San Diego, San Joaquin, San Luis Obispo, Santa Barbara, Santa Cruz, and Stanislaus. Courts were selected based upon criteria including dependency population size, geography, service-delivery model mix, fiscal implications of existing contractual obligations, and an assessment of AOC staff’s ability to provide comprehensive DRAFT program services to each selected court.

particularly critical; standards developed under DRAFT address the concomitant goals of ensuring quality court-appointed counsel representation and realizing program cost containment.

Recommendation

AOC staff recommends that the Judicial Council request the DRAFT Pilot Program Implementation Committee to provide a final DRAFT pilot program report in August 2007 with recommendations therein regarding: (1) proposed court-appointed counsel caseload, compensation, and performance standards for statewide implementation; and (2) cost-containment approaches that account for both the limited funding available and the importance of quality representation in the state's juvenile dependency courts.

Rationale for Recommendation

Court-appointed counsel costs in juvenile dependency proceedings have been a state fiscal responsibility since the onset of trial court funding. In the transition to state funding, trial court systems inherited the unique dependency counsel service-delivery models of their respective counties. As a result, little uniformity exists between court systems with respect to provider types (e.g. private vs. government attorneys), fee structures (e.g. per case vs. annual contract rates) and standards of practice (which, for the most part, are defined by local court rules).

The significance of the lack of uniformity and absence of practice and compensation standards has been highlighted by several factors including escalating program costs and legislative direction regarding the establishment of court-appointed counsel caseload standards.

Legislation³ (Sen. Bill 2160, Stats. 2000, ch. 450) amended section 317 of the Welfare and Institutions Code to require (1) the appointment of counsel for children in almost all dependency cases; (2) caseloads and training for appointed counsel that ensure adequate representation; and (3) Judicial Council promulgation of rules establishing caseload standards, training requirements, and guidelines for appointment of counsel for children. In 2001 the Judicial Council took action regarding the effective delivery of court-appointed counsel services in juvenile dependency proceedings. In addition to adopting a rule of court that mandated the appointment of counsel for children subject to dependency proceedings in all but the rarest of circumstances, the council directed staff to undertake a study to identify caseload standards for attorneys representing both parents and children.

In 2002 the Judicial Council made a series of policy decisions regarding funding for court-appointed counsel, including transitioning the program from the aggregate Trial Court Trust Fund distribution to a reimbursable line-item. The reimbursement funding

³ The Judicial Council co sponsored Senate Bill 2160; no opposition to the bill was filed in the Legislature.

mechanism results in courts being reimbursed by the AOC in *arrears* for actual court-appointed counsel costs incurred. The purpose behind reimbursement funding is to ensure the use of court-appointed counsel funding solely for that purpose, and to thereby eliminate the practice extant at the onset of the policy by which dependency counsel funding was used to support other court operations. While reimbursement funding has resulted in the establishment of a dedicated dependency counsel funding stream, it has not achieved another implicit objective — cost containment. In fact, statewide court-appointed counsel expenditures have increased an average of 8 percent annually since the onset of reimbursement funding, a rate which has consistently exceeded corollary increases in the statewide appropriation.

In fiscal year 2004–2005, in response to both escalating program costs and the legislative mandate to develop and implement dependency counsel caseload standards, the council launched the DRAFT pilot program.

DRAFT shifted responsibility for administering dependency counsel contracts from participating courts to the AOC; DRAFT is a partnership in which the courts retain responsibility for attorney selection and the AOC has responsibility for direct attorney payment. Primary components of DRAFT include competitive bidding for court-appointed counsel services, execution of standardized appointed counsel contracts, and the development and promulgation of attorney performance and training standards.

The partnership between DRAFT-participating courts and the AOC was formalized with the establishment of the DRAFT Pilot Program Implementation Committee (committee). The committee, which is chaired by Justice Richard D. Huffman, includes at least one judicial and one court administration representative from each participating court, as well as additional juvenile court judicial officers, court administrators, and trial and appellate court attorneys.

The committee has seven working groups charged with overseeing the development of policies and standards addressing DRAFT attorney performance, compensation, and reporting requirements. The efforts of three of these working groups are described below.

Attorney Performance Working Group: Caseload and performance standards

The Court-Appointed Counsel Caseload Study (caseload study) report received by the council in June 2004 was premised on work that began pursuant to council direction in 2002. At that time, the AOC contracted with the American Humane Association for a quantitative caseload study of trial-level court-appointed dependency counsel based upon an assessment of the duties required as part of the representation and the amount of time required to perform those tasks.

The caseload study comprised four distinct components, including the identification of a standardized set of attorney “tasks” and a two-week workload study, during which approximately 600 attorneys statewide reported time spent on identified tasks.

The results of each caseload study component indicated a recommended maximum caseload figure of *141 cases, or clients*, per full-time dependency attorney⁴. The proposed maximum caseload of 141 clients compared to a statewide average at the onset of the caseload study of 273 clients per attorney.

Because of the obvious fiscal implications of caseload reduction this significant and the fact that important issues, such as the impact of non-attorney support staffing on requisite caseloads, were not addressed in the report, the Judicial Council did not adopt the caseload standard as identified but instead directed staff to pilot the standard, or caseload reduction, as part of the DRAFT pilot program.

One of the challenges faced in attempting to pilot caseload reduction as part of DRAFT implementation has been a lack of accurate data on current attorney caseloads. Requests for Proposals (RFPs) and contract specifications under DRAFT have been designed to address the ongoing need for attorney workload data via the inclusion of consistent mandatory data collection and reporting requirements.

The results of DRAFT caseload standard implementation, as reflected in executed DRAFT contracts, are provided in the following table.

⁴ Caseload Study findings suggested that each client be counted as one case, regardless of sibling group affiliation.

Court System	Pre-DRAFT Caseload	Post-DRAFT Caseload
Imperial	377	205
Los Angeles	unavailable⁵	267
Marin	51	110
Mendocino	92	168
San Diego	363	286
San Joaquin	288	205
San Luis Obispo	180	118
Santa Barbara	201	118
Santa Cruz	136	136
Stanislaus	217	177

As shown in the table, the implementation of DRAFT reduced caseloads in the majority of participating courts; exceptions can be attributed to factors such as inordinately low caseloads at the onset of DRAFT (Marin and Mendocino) and pre-DRAFT attorney caseloads approximating recommended caseload standards (Santa Cruz).

DRAFT's Attorney Performance Working Group (APWG) is charged with identifying and evaluating the relationship between caseload standard implementation and attorney performance. To that end, the APWG has developed and promulgated practice standards which serve as the basis for all performance expectations delineated in DRAFT RFPs and contracts, experience and training requirements for attorneys seeking new dependency appointments, enhanced annual training requirements for all dependency counsel, and an attorney performance review process, whereby court-appointed counsel will be evaluated by their peers, clients, and judicial officers, to be implemented January 1, 2007.

⁵ Pre-DRAFT caseload data could not be generated because parent clients in Los Angeles were represented by private solo practitioners who did not track caseload information for either their dependency or non dependency caseloads.

Compensation and Organizational Models Working Group: Compensation standards

The Compensation and Organizational Models Working Group of the DRAFT Pilot Program Implementation Committee is charged with developing attorney rates and cost models. At the onset of its work in this area, the working group made a policy decision regarding the development of *regional*, versus statewide, appointed-counsel rates. Staff utilized a combination of data sources to develop proposals for regional rates. These sources included (1) the Watson-Wyatt study of court employees conducted as a precursor to the transition of court staff from county to court employees; (2) county counsel salary information; (3) census data on median home value; and (4) census data on median income. Staff began its regional rate analysis with the four regions identified by the Watson-Wyatt study; court affiliation with any particular region was then adjusted as census and county counsel salary data were taken into account. Specifically, staff averaged each court’s ranking among the data sources (Watson-Wyatt, county counsel salary, and census data) and “rounded” up to generate a DRAFT-court regional ranking. DRAFT court affiliation by region is shown in the following table:

County	Watson-Wyatt Study	County Counsel Average Salary	Household Income	Home Value	DRAFT Region⁶
Imperial	1	1	1	1	1
Los Angeles	3	4	2	2	3
Marin	3	4	4	4	4
Mendocino	1	1	1	2	2
San Diego	2	4	2	2	3
San Joaquin	1	2	2	1	2
San Luis Obispo	1	3	2	2	2
Santa Barbara	2	3	2	2	3
Santa Cruz	2	2	3	3	3
Stanislaus	1	2	2	1	2

⁶ For each data source, 1 is low, 4 is high. Recommended compensation rates are thus lowest in DRAFT Region 1 and highest in DRAFT Region 4.

Subsequent to determining DRAFT regional rankings staff addressed the issue of developing compensation levels for each region. Working group members made another important policy decision at this juncture, determining that court-appointed counsel salaries (not including benefit packages) should be pegged to those of county counsel. This decision reflects equity and recognition principles at the heart of the DRAFT pilot program's goal of improving the quality of court-appointed counsel practice.

County counsel salary data for entry-level, mid- and high-range positions were analyzed to create regional court-appointed counsel rates; these rates essentially reflect the regional average of midrange county counsel salaries. Regional rates are used in conjunction with caseload data in DRAFT contract negotiations to identify the total expected cost of direct attorney services. Court caseload determines the number of full-time attorneys required, and the regional rate dictates the marginal cost of those attorneys. It is important to note that while caseload and compensation standards form the basis of aggregate negotiated contract amounts, providers, once under contract, are free to allocate that budget internally as they see fit.⁷ The impact of this internal allocation flexibility is that organizational providers can offer a broad salary range to current and prospective employees so long as the *average* of all attorney salaries is equivalent to the funded regional rate.

There are very few providers in DRAFT-participating courts that are compensated on an hourly basis; those that remain are paid at rates that reflect variations on the hourly equivalent of each regional contractual rate. Three hourly rate tiers have been established for each region; local presiding juvenile court judges are asked to set the appropriate payment tier for individual appointed counsel based on experience and skill level.

⁷ Contractors have budgetary discretion within certain parameters; DRAFT contracts stipulate a minimum number of full-time-equivalent attorneys and investigators/social workers if applicable.

DRAFT regional salary and hourly rates are provided below:

		Annual Salary	Hourly Rate
DRAFT Region 1	Tier 1	\$43,908	\$55
	Tier 2	\$65,592	\$60
	Tier 3	\$87,276	\$65
DRAFT Region 2	Tier 1	\$51,251	\$65
	Tier 2	\$76,622	\$70
	Tier 3	\$101,993	\$75
DRAFT Region 3	Tier 1	\$52,304	\$75
	Tier 2	\$88,568	\$80
	Tier 3	\$124,833	\$85
DRAFT Region 4	Tier 1	\$70,637	\$85
	Tier 2	\$102,170	\$90
	Tier 3	\$133,703	\$95

While the process of developing regional rates for direct attorney services has been finalized under DRAFT, additional work remains with respect to developing a comprehensive cost model for appointed counsel services. Remaining factors to consider include supervisory attorney staff, non attorney staffing, and overhead costs. Data collected from non-DRAFT providers via survey and analysis of DRAFT contracts will serve as the starting point for the development of staffing and overhead ratios. The data are provided in the tables that follow:

Provider Type	Staffing Ratios		
	Supervising Attorneys to Line Attorneys	Investigators/Social Workers to Line Attorneys	Support Staff to Line Attorneys
Administered Panel	0.1	0	0.1
Firm (Non Profit or Private)	0.1	0.5	0.6
Government Agency	0.1	0.4	0.5
Solo Practitioner	0	0.2	0.3

Overhead by Provider Type				
Provider Type	Average by Provider Type		Overall Average	
	Direct	Indirect	Direct	Indirect
Administered Panel	75%	25%	74%	26%
Firm	65%	35%		
Government Agency	75%	25%		
Solo Practitioner	81%	19%		

It is important to emphasize that the data above regarding staffing ratios and average overhead costs reflects current patterns only. No analysis has been done to determine whether or not these averages are in fact consistent with optimal practice from either a performance or fiscal perspective. Finalization of staffing ratios and overhead rates will ultimately account for not only current practice but also “best” practice as related to both quality of attorney performance and cost efficacy. The development of a ratio with respect to investigator/social worker staffing will have particularly significant implications. It is anticipated that there will be a direct relationship between such staffing and attorney caseload, with the caseload standard being adjusted upwards as the level of available investigator/social worker support increases.

DRAF implementation costs

The preceding background regarding DRAFT regional rates informs an analysis of the following table, which outlines the implementation costs of DRAFT-negotiated contracts.

Court System	Pre-DRAFT Costs⁸	Post-DRAFT Costs
Imperial	\$420,074	\$785,864
Los Angeles	\$23,658,326	\$28,445,562
Marin	\$449,892	\$405,320
Mendocino	\$493,298	\$775,713
San Diego	\$11,459,720	\$11,044,069
San Joaquin	\$1,329,998	\$3,379,505
San Luis Obispo	\$455,722	\$583,188
Santa Barbara	\$457,343	\$1,523,100
Santa Cruz	\$674,689	\$944,807
Stanislaus	\$132,115	\$1,258,367

The table shows implementation cost increases in all DRAFT courts other than Marin and San Diego; these increases can be attributed to the following factors:

- Inclusion of county costs not previously charged to the courts (underreporting):
 - Imperial: \$136,800
 - Santa Barbara: \$705,500
 - Stanislaus: \$816,092
- Historical underfunding rendered pre-DRAFT average costs per child in foster care unreasonably low; pre-DRAFT costs averaged \$1,896 annually for all parties associated with a given child in foster care (e.g., child and all parents) and post-DRAFT costs average \$2,312.
- Pre-DRAFT funding level was artificially low, reflecting the impact of implementation of reimbursement funding and a related “penalty” for failure to spend entire allocation on court-appointed counsel services (Los Angeles).
- Caseload reduction averaging 28 percent among affected courts:
 - Imperial: 46 percent reduction
 - San Diego: 21 percent
 - San Joaquin: 29 percent
 - San Luis Obispo: 11 percent
 - Santa Barbara: 41 percent
 - Stanislaus: 18 percent
- Implementation of compensation standards for all providers in each court system
- Lack of sufficient competition

⁸ Pre-DRAFT costs reflect fiscal year 2003–2004 costs; post-DRAFT reflect current year costs for all courts other than Los Angeles. Los Angeles post-DRAFT costs reflect fiscal year 2007–2008 as a transition from pre- to post-DRAFT providers is currently taking place in Los Angeles.

Outcome and Process Evaluation Working Group: Outcome analysis

The far-reaching implications of DRAFT for both participating and non participating court systems renders a systemic analysis of the effort critical. At a most basic level that analysis must address the question, what outcomes can reasonably be expected as a result of the implementation of caseload and compensation standards? The Outcome and Process Evaluation Working Group of the DRAFT Pilot Program Implementation Committee has tackled this question and identified *measurable* expected outcomes of the DRAFT pilot program as follows:

- Compensation and workload parity among court-appointed counsel providers;
 - Improvement in judicial, peer, and client satisfaction with court-appointed counsel services; and
 - Improvement in specified child welfare permanency and well-being outcomes for children in foster care as identified by the state Department of Social Services.⁹
- These child welfare outcomes include:
- Reduced time to reunification;
 - Reduced time to guardianship;
 - Increased placements with kin; and
 - Increased frequency of placement with some or all siblings.

DRAFT program benefits realized by courts not participating in the pilot program

Standard RFP and contract templates have been created for utilization in DRAFT courts. These documents contain detailed performance and data collection requirements that enable a correlation of compensation and workload. A number of courts that are not participating in DRAFT as pilot courts have requested technical assistance from the AOC with respect to competitive bidding for court-appointed counsel services and subsequent contract negotiations; pilot program staff have provided these courts with the DRAFT templates. Courts' current interest in obtaining tools to more effectively manage this program area is another factor emphasizing the need for a comprehensive approach to the administration of court-appointed counsel services.

Conclusion

As highlighted in this report, court-appointed counsel costs statewide have escalated significantly in the last several fiscal years, and at a pace exceeding available funding levels. While the program's growth has not surpassed that of other trial court operations areas such as security and interpreter services, there is little to no available data that can be used to determine the reason for the growth in non-DRAFT courts. While anecdotally cost increases may be attributable to important efforts, including caseload reduction or

⁹ All 50 states' child welfare agencies were audited by the federal government between 2001 and 2004; California's review was conducted in 2002. Those reviews were premised on federally identified child welfare outcomes. In response to its review, California modified those outcomes. The DRAFT analysis utilizes the state-modified child welfare outcomes.

performance standards implementation, it is virtually impossible to advocate for additional resources absent additional data upon which requests can be justified.

The DRAFT program has made significant strides toward identifying and implementing standardized reporting and caseload and compensation standards. Results of these efforts will ultimately benefit the statewide court-appointed counsel area, with broad applicability as related to the concurrent goals of ensuring quality representation and program cost stability.

Alternative Actions Considered

Not applicable.

Comments from Interested Parties

Not applicable.

Implementation Requirements and Costs

Not applicable.

Courts by DRAFT Region

Region 1	Region 2	Region 3	Region 4
Butte	Alpine	Alameda	Contra Costa
Colusa	Amador	Los Angeles	Marin
Del Norte	Calaveras	Monterey	San Francisco
Fresno	El Dorado	Napa	San Mateo
Humboldt	Glenn	Orange	Santa Clara
Imperial	Inyo	Placer	
Kings	Kern	Riverside	
Lassen	Lake	San Diego	
Mariposa	Madera	Santa Barbara	
Merced	Mendocino	Santa Cruz	
Modoc	Mono	Solano	
Plumas	Nevada	Sonoma	
Shasta	Sacramento	Ventura	
Sierra	San Benito		
Siskiyou	San Bernardino		
Tehama	San Joaquin		
Trinity	San Luis Obispo		
Tulare	Stanislaus		
	Sutter		
	Tuolumne		
	Yolo		
	Yuba		

Imperial County

		Judicial Officers	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Judicial Officers Interviewed		1	1
Issues	Compensation	Underfunded	Compensation now adequate
	Continuances	In addition to late social worker reports, it was believed that scheduling issues led to the unavailability of contract and panel attorneys more frequently than was acceptable	<ul style="list-style-type: none"> ▪ Dedicated child’s counsel has resulted in fewer continuances ▪ Parents’ counsel are required to be available for detention hearings, resulting in fewer continuances
	Practice Factors	<ul style="list-style-type: none"> ▪ Preparedness ▪ Punctuality ▪ Availability ▪ Client contact: attorneys do not view child client contact as being as important as parent client contact ▪ Need for improved motion practice 	<ul style="list-style-type: none"> ▪ Attorneys are better prepared for hearings ▪ Dedicated child’s counsel (public defender) has improved contact with child clients ▪ Motion practice has improved

		Attorneys	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Attorneys Interviewed		7	5
No. of Surveys Completed		7	4
Issues	Compensation	Inadequate compensation relative to caseload and performance expectations	Compensation is improved and considered adequate, leading to reduced caseloads which allow attorneys to provide better representation
	Practice Factors	<p>Client contact:</p> <ul style="list-style-type: none"> ▪ Attorneys do not have time to meet with their clients before every hearing ▪ Parent clients do not call or come to attorneys’ offices; as a result, attorneys often do not meet their clients ▪ Attorneys do not have time to travel to meet child clients in their placements if they are placed far away ▪ Attorneys often do not receive notice about children’s placement changes ▪ Social workers are difficult to reach ▪ Attorneys rely on DSS and CASA reports, rather than first-hand observation of interactions between parents and children 	<ul style="list-style-type: none"> ▪ Attorneys meet with 75 percent of their clients at the courthouse prior to the hearing ▪ Child clients are visited in each new placement, and throughout the case
	Training	<ul style="list-style-type: none"> ▪ Lack of access to training ▪ Lack of resources to attend training 	<ul style="list-style-type: none"> ▪ Increased compensation allows for attendance at more trainings

Los Angeles County

		Judicial Officers	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Judicial Officers Interviewed		14	
Issues	Compensation	Disparity between parents' counsel and children's counsel compensation	
	Practice Factors	<ul style="list-style-type: none"> ▪ Parents' attorneys not meeting with clients prior to hearing—often attributed to lack of office and support staff ▪ Minors' counsel have insufficient client contact and are unprepared for hearings ▪ Courtrooms are not sufficiently staffed with minors' counsel ▪ In general, court is more satisfied with children's counsel than parents' counsel, specifically citing the areas of motion practice, conferring with clients, and demonstrating knowledge of their clients' cases and interests ▪ Lack of clear expectations and performance standards for parents' counsel ▪ Improvement needed in motion practice 	
	Training	<ul style="list-style-type: none"> ▪ More training needed for attorneys to stay abreast of changes in the law 	
		Follow-up site visit to be completed in fall 2007	

		Attorneys	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Attorneys Interviewed		38	
No. of Surveys Completed		25	
Issues	Compensation	<ul style="list-style-type: none"> ▪ Parents' and minors' counsel dissatisfied with level of compensation ▪ Panel attorneys report lack of funding for investigation and support services ▪ Minors' counsel report low salaries 	
	Practice Factors	<p>Client contact:</p> <ul style="list-style-type: none"> ▪ Parents' counsel has difficulty locating clients ▪ Parents' counsel has inadequate time to meet with clients at court prior to hearing ▪ Parents' and minors' counsel both have inadequate time to spend on cases, because of high caseloads ▪ Minors' counsel unable to meet with clients outside court prior to each hearing, because of high caseloads ▪ Panel attorneys who are appointed to represent minors are not well equipped to do so 	
	Training	<ul style="list-style-type: none"> ▪ Unmet training needs, especially in the area of litigation and trial practice 	
		Follow-up site visit to be completed in fall 2007	

Marin County

		Judicial Officers	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Judicial Officers Interviewed		2	1
Issues	Compensation	Compensation for panel attorneys too expensive and unpredictable	Contracts with conflict attorneys have solved pre-DRAFT compensation concerns
	Practice Factors	<ul style="list-style-type: none"> ▪ Improvement needed in litigation skills, particularly in the area of cross-examination ▪ Panel attorneys not collaborative, contest cases too often 	<ul style="list-style-type: none"> ▪ Litigation skills vary; some improvement needed in direct- and cross-examination skills ▪ Improvement most needed in knowledge of evidentiary rules ▪ Continuances are too frequently requested, although not for lack of preparedness but for case delay ▪ Attorneys are knowledgeable on applicable case law, and those who were not a year ago have shown improvement ▪ Contract attorneys have improved their practice

		Attorneys	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Attorneys Interviewed		4	4
No. of Surveys Completed		4	6
Issues	Compensation	Compensation inadequate and not sufficient to retain experienced attorneys	<ul style="list-style-type: none"> ▪ Compensation inadequate and not sufficient to retain experienced attorneys in the agencies ▪ Adequacy of compensation for contract attorneys fluctuates depending on the case and volume of contested hearings
	Practice Factors	Reasonable caseloads allow attorneys to provide adequate representation	<ul style="list-style-type: none"> ▪ Caseloads remain reasonable and allow attorneys to provide adequate representation ▪ Lack of court time devoted to dependency cases
	Training		Post-DRAFT annual collaborative trainings are useful

Mendocino County

		Judicial Officers	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Judicial Officers Interviewed		1	2
Issues	Compensation	<ul style="list-style-type: none"> Unpredictability of compensation to the county for the public defender and alternate public defender Low compensation contributes to the court's need for more available panel attorneys 	<ul style="list-style-type: none"> Still struggling to find attorneys willing to take cases at the rate of compensation available
	Practice Factors	<ul style="list-style-type: none"> Staffing and levels of coverage from the public defender and alternate public defender inadequate Large caseloads for the public defender and alternate public defender Panel attorneys often unavailable because of non-dependency work, causing excessive number of continuances Lack of legal arguments made by panel attorneys <p>Improvement needed in the following areas:</p> <ul style="list-style-type: none"> Conferring with parent clients Visiting child clients in placements Being present and prepared for hearings Motion practice Litigation skills Trial briefs Informing the court of the child's interests beyond the dependency proceedings 	<ul style="list-style-type: none"> Sufficient number of minors' counsel Additional parents' counsel needed Contract attorneys have a significant dependency practice and are available for hearings Quality of parent representation has improved Attorneys' caseloads are too large <p>Satisfaction with attorneys in the following areas:</p> <ul style="list-style-type: none"> Conferring with clients (parents and minors) Being present and prepared for hearings Knowledge of the law and use of legal arguments Litigation skills Ability to work cooperatively
	Training	Improved training necessary	

		Attorneys	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Attorneys Interviewed		5	4
No. of Surveys Completed		5	4
Issues	Compensation	Inadequate compensation relative to caseload and cost of living leads to high turnover, difficulty attracting experienced counsel	Some disagreement over adequacy of compensation
	Practice Factors	<ul style="list-style-type: none"> Lack of contact with parent clients because of difficulty locating and contacting parents; this problem is exacerbated by the geographic size of the county High caseloads limit ability to provide adequate representation 	<ul style="list-style-type: none"> Contact with parent clients continues to be a challenge because of the geographic size of the county, transportation problems, and caseloads High caseload of minors' counsel limits ability to provide adequate representation Disagreement among parents' counsel as to whether caseloads allow them to spend adequate time on cases
	Training	More training necessary	Increased attendance at trainings

San Diego County

		Judicial Officers	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Judicial Officers Interviewed		6	8
Issues	Compensation	Increasing costs because of use of public defender (PD) and alternate public defender (APD); court obligated to pay for enhanced benefits negotiated between attorneys and the county	AOC negotiated with the county, which agreed to absorb some of the cost of enhanced benefits and agreed to a three-year, fixed-cost contract for approximately 10 percent less than the court had been paying
	Caseloads	Caseloads approximately 363 clients per attorney	AOC contracts increased attorney staffing, reducing caseloads by 26 percent
	Practice Factors	Improvement needed in these areas: <ul style="list-style-type: none"> ▪ Preparation and filing of motions ▪ Legal research ▪ Litigation skills of conflict panel attorneys ▪ Motion practice ▪ Training and mentoring for APD attorneys ▪ Insufficient contact with clients, because of high caseloads 	High caseloads continue to have a negative impact on <ul style="list-style-type: none"> ▪ Client contact ▪ Attorney preparation ▪ Motion practice Litigation skills of APD and panel attorneys continue to be a concern
	Attorney Availability	Courtrooms not staffed to contract levels, resulting in delays	Better staffing in most courts, but still insufficient in some
	Training	While training is extensive and, for the most part adequate, more training is needed because of high turnover	No change in concerns

		Attorneys	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Attorneys Interviewed		40	25
No. of Surveys Completed		36	26
Issues	Compensation	Disparity in pay between PD/APD attorneys and County Counsel	Disparity in pay between PD and APD attorneys; high turnover of APD because of low salaries and lack of promotions; independent contract office attorneys' compensation is worse than both
	Practice Factors	Impact of high caseloads: <ul style="list-style-type: none"> ▪ Lack of time to meet with clients ▪ Insufficient time to review records and conduct investigation ▪ Lack of private settings to meet with clients 	High caseloads continue to have a negative impact on time to meet with clients and conduct investigations and record reviews

San Joaquin County

		Judicial Officers	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Judicial Officers Interviewed		1	1
Issues	Compensation	Undercompensation leads to attorney turnover	
	Practice Factors	<ul style="list-style-type: none"> ▪ Staffing levels, competence, and performance requirements not specified in MOUs with either the public defender or the Bar Association ▪ Public defender clients appear to be less satisfied with their attorneys than panel attorney clients ▪ Court is satisfied with the attorneys' preparation and litigation skills ▪ Motion practice needs improvement 	<ul style="list-style-type: none"> ▪ Having full-time, dedicated dependency practitioners results in fewer delays ▪ Regular monthly meetings between attorneys and the court have been instituted, where innovations are being developed that benefit clients ▪ Court's satisfaction with counsels' knowledge of cases and clients' interest is higher than pre-DRAFT ▪ Public defender's high caseloads continue to lead to less satisfaction among their clients
	Continuances	<ul style="list-style-type: none"> ▪ Frequent continuances because of late social worker reports 	<ul style="list-style-type: none"> ▪ Late social worker reports still an issue, leading to a high rate of continuances

		Attorneys	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Attorneys Interviewed		10	16
No. of Surveys Completed		10	16
Issues	Compensation	<ul style="list-style-type: none"> ▪ Panel attorneys bill hourly but are sometimes not fully compensated for their work when funding runs out ▪ Lack of compensation requires panel attorneys to do nondependency work, leading to an inability to provide adequate services, as described in "Practice Factors," below ▪ Inadequate funding has led to attorney turnover ▪ Funds paid to Bar Association for redundant, unnecessary administrative work; these funds could be used to more adequately compensate panel attorneys ▪ Some attorneys were dissatisfied because payments were not timely ▪ Public defender is underfunded, resulting in high caseloads 	<ul style="list-style-type: none"> ▪ Bar Association no longer administers panel, resulting in increased compensation to attorneys ▪ Panel attorneys are fully compensated for their work, based on contract amounts ▪ Attorneys are able to do dependency work full time ▪ Increased funding to panel has allowed for additional panel attorneys, leading to reasonable caseloads ▪ Attorney turnover is nearly nonexistent ▪ Continued concerns about timing of payments to panel attorneys ▪ Public defender still inadequately funded, resulting in continuing high caseloads

	Practice Factors	<p>Client contact:</p> <ul style="list-style-type: none"> ▪ Attorneys do not have time to meet with their clients before every hearing ▪ Attorneys do not have time to travel to meet child clients in their placements ▪ Caseloads are too high to provide adequate representation 	<ul style="list-style-type: none"> ▪ Panel attorneys' reduced caseloads allow them to meet with their child clients in each new placement and provide better representation to their clients ▪ Panel attorneys are now available to attend nondependency hearings, including drug court, delinquency proceedings, individualized education plans, etc. ▪ Attorneys' dedicated dependency practice has provided time for them to work with other system partners to improve services, e.g., pressuring DSS to timely advise attorneys when a child is moved to a new placement ▪ Public defender caseloads still too high, and PDs are unable to meet with clients
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San Luis Obispo County

		Judicial Officers	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Judicial Officers Interviewed		1	1
Issues	Compensation	<ul style="list-style-type: none"> ▪ Unclear about how subcontracted attorneys were paid ▪ Desire to reduce administrative costs and thereby increase compensation and reduce caseloads for subcontracted attorneys 	Increase in the number of attorneys, increased compensation and reduced caseloads for subcontracted attorneys
	Practice Factors	<ul style="list-style-type: none"> ▪ Attorneys not always prepared to proceed at detention ▪ Attorneys do not always meet with child clients prior to jurisdiction/disposition hearings ▪ Cases are settled on day of contested hearings, rather than before 	Improvement noted in the following areas: <ul style="list-style-type: none"> ▪ Preparedness for detention hearings Improvement still needed in the following areas: <ul style="list-style-type: none"> ▪ Meeting with child clients prior to jurisdiction/disposition hearings ▪ Conferring with child clients ▪ Demonstrating knowledge of child clients' cases and interests ▪ Litigation skills ▪ Motion practice
	Continuances	Attorneys continue cases because of scheduling conflicts	

		Attorneys	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Attorneys Interviewed		3	2
No. of Surveys Completed		3	5
Issues	Compensation	Satisfied with compensation	Continued satisfaction with compensation
	Practice Factors	Attorneys not always able to meet with their clients prior to hearings Children's counsel do not always have time to visit child clients in new placements	Able to visit with child clients in new placement settings, because of change to DSS procedures

Santa Barbara County

		Judicial Officers	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Judicial Officers Interviewed		2	2
Issues	County Services	County has notified court that service provided by district attorney (DA) and public defender would be discontinued	AOC staff has worked with court to issue a request for proposals (RFP), select new providers, and negotiate contracts
	Practice Factors	<p>The following concerns pertain to providers prior to DRAFT contracts:</p> <ul style="list-style-type: none"> ▪ Quality of representation for minors inconsistent ▪ Potential conflict with DAs office representing minors ▪ Some deputy DAs seem to dislike working with children <p>The following concerns pertain to providers under new DRAFT contracts (shortly after contracts were executed):</p> <ul style="list-style-type: none"> ▪ Not enough client contact ▪ Inadequate litigation skills because of high turnover of parents' counsel in North County ▪ Poor notice to court regarding interests of children beyond the scope of dependency proceedings 	<ul style="list-style-type: none"> ▪ Minors' counsel work well with children ▪ Client contact improved ▪ Decreased turnover of North County parents' counsel expected to lead to improved quality of representation
	Continuances	<p>The following concern pertains to providers under new DRAFT contracts (shortly after contracts were executed):</p> <ul style="list-style-type: none"> ▪ Continuances because of high turnover of parents' counsel in North County 	<ul style="list-style-type: none"> ▪ Continuances because of parents' counsels' lack of preparedness have decreased
	Training	More training needed, particularly in litigation skills	AOC training well regarded

		Attorneys	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Attorneys Interviewed		6	5
No. of Surveys Completed		6	8
Issues	Compensation	Pre-DRAFT compensation inadequate. DAs have high dependency caseloads in addition to nondependency responsibilities	Compensation has improved
	Practice Factors	<p>Minors' counsel in DAs office not assigned to dependency full time</p> <p>The following concerns were expressed by providers under new DRAFT contracts:</p> <ul style="list-style-type: none"> ▪ High caseloads limit client contact ▪ Difficulty finding investigators for part-time work ▪ Inadequate communication between parents' and minors' counsel 	<ul style="list-style-type: none"> ▪ Dedicated minors' counsel ▪ Increased client contact for both parents' and minors' counsel ▪ Improved communication between parents' and minors' counsel
	Training	More training necessary	More training necessary

Santa Cruz County

		Judicial Officers	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Judicial Officers Interviewed		1	1
Issues	Compensation	<ul style="list-style-type: none"> ▪ Disparity between compensation for parents' and minors' counsel ▪ Attorney turnover as a result of inadequate compensation ▪ More parents' counsel and support staff for parents' counsel are needed 	<ul style="list-style-type: none"> ▪ Parents' counsel still need more support staff
	Practice Factors	<p>Improvement needed for parents' counsel with regard to:</p> <ul style="list-style-type: none"> ▪ Client contact ▪ Demonstrating knowledge of clients' cases and interests ▪ Independent investigation ▪ Litigation skills ▪ Motion practice ▪ Advocacy toward reunification 	<ul style="list-style-type: none"> ▪ Satisfaction with all attorneys with regard to: <ul style="list-style-type: none"> ▪ Preparedness for hearings ▪ Client contact, although this can be more difficult for parents' counsel ▪ Motion practice ▪ Knowledge of the law and use of legal arguments ▪ Advocacy and cooperation ▪ Improvement needed with regard to litigation skills ▪ Caseloads are heavy ▪ Overall, the practice has improved
	Training		<ul style="list-style-type: none"> ▪ Trainings have improved attorneys' knowledge ▪ Training on mediation's benefits sparked efforts to promote more mediation

		Attorneys	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Attorneys Interviewed		9	7
No. of Surveys Completed		9	5 (including one by 3 attorneys)
Issues	Compensation	<ul style="list-style-type: none"> ▪ Inadequate compensation relative to caseload, which has led to attorney turnover 	<ul style="list-style-type: none"> ▪ Adequate compensation for minors' counsel ▪ While improved, compensation still inadequate for parents' counsel and not comparable to county counsel ▪ Improvement needed in timeliness of payments to minors' counsel
	Practice Factors	<ul style="list-style-type: none"> ▪ Parents' attorneys not meeting with clients prior to hearing—attributed to difficulty contacting clients and lack of support staff ▪ Parents' and minors' counsel both have inadequate time to spend on cases, because of high caseloads 	<ul style="list-style-type: none"> ▪ Parents' attorneys do not always have sufficient contact with clients prior to hearing—depends on the nature of the hearing, ability to contact the client, and scheduling ▪ Caseload of minors' counsel, although close to their limit, allows them to spend adequate time on cases ▪ Caseload of parents' counsel does not allow them to spend adequate time on cases

	Training	More practical training needed	<ul style="list-style-type: none">▪ More in-county trainings are available▪ Quality of trainings is exceedingly high▪ Training topics are timely
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Stanislaus County

		Judicial Officers	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Judicial Officers Interviewed		1	1
Issues	Compensation	<ul style="list-style-type: none"> ▪ Inadequate compensation paid to county has led to lack of dedicated dependency staff at the public defender and alternate public defender offices ▪ Dependency representation contracts don't specify standards for staffing levels, attorney performance, or training 	Dedicated dependency counsel with specified staffing and performance requirements
	Practice Factors	<p>Court dissatisfied with child counsel in the areas of:</p> <ul style="list-style-type: none"> ▪ Client contact ▪ Demonstrating knowledge of clients' cases and interests ▪ Client advocacy, particularly regarding sibling placement ▪ Notifying court of child's interests beyond the scope of dependency proceedings ▪ General involvement in clients' cases <p>Parents' counsel need improvement in the areas of:</p> <ul style="list-style-type: none"> ▪ Being present and prepared at jurisdiction/disposition hearings and 6-,12-, and 18-month reviews ▪ Trial skills ▪ Motion practice ▪ Filing of trial briefs <p>Improvement needed from all counsel in the area of motion practice</p>	<p>Improvements have been noted in the following areas:</p> <ul style="list-style-type: none"> ▪ Children's counsel are more involved with clients' cases ▪ Parents' counsel are present and prepared for hearings ▪ Trial skills ▪ Motion practice (although further improvement is needed) <p>Improvements are still needed in the following areas:</p> <ul style="list-style-type: none"> ▪ Notifying the court of the child's interests beyond the scope of dependency proceedings ▪ Filing of trial briefs
	Training	More training necessary	Additional training has been provided, resulting in improved trial practice of parents' counsel

		Attorneys	
		Pre-DRAFT Concerns Baseline Interviews	Post-DRAFT Opinions One-Year Follow-up Interviews
No. of Attorneys Interviewed		12	6
No. of Surveys Completed		11	10
Issues	Compensation	Inadequate compensation resulted in lack of dedicated dependency staffing from the public defender and alternate public defender offices	Current compensation is adequate and allows for dedicated dependency staffing
	Practice Factors	<p>Improvement needed in the following areas:</p> <ul style="list-style-type: none"> ▪ Client contact ▪ Visiting child clients in new placements ▪ Litigation ▪ Investigation ▪ Attending nondependency hearings ▪ Obtaining funding for expert witnesses 	<p>Improvements have been noted in the following areas:</p> <ul style="list-style-type: none"> ▪ Visiting child clients in each new placement setting ▪ Attending nondependency hearings ▪ Meeting with other service providers <p>Improvements are still needed in obtaining funding for expert witnesses</p>

	Training	More training necessary	More training necessary, particularly in more advanced topics
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