

Evaluation of the Sargent Shriver Civil Counsel Act (AB590) Probate Pilot Project

Submitted to:

Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102



Submitted by:

NPC Research
Portland, OR

July 2017



NPC Research
5100 SW Macadam Ave., Ste. 575
Portland, OR 97239
(503) 243-2436
www.npcresearch.com

Evaluation of the Sargent Shriver Civil Counsel Act (AB590) Probate Pilot Project

Submitted by

NPC Research

Kelly L. Jarvis, Ph.D.

Charlene E. Zil, M.P.A.

Timothy Ho, Ph.D.

Theresa Herrera Allen, Ph.D.

Lisa M. Lucas, B.A.

July 2017



*Informing policy and improving programs
to enrich people's lives*

Except as permitted under the Copyright Act of 1975 and as otherwise expressly provided herein, no part of this publication may be reproduced in any form or by any means, electronic, online or mechanical, including the use of information storage and retrieval systems, without permission in writing from the Judicial Council. Permission is hereby granted to nonprofit institutions to reproduce and distribute this publication for educational purposes if the copies are distributed at or below cost and credit the Judicial Council and NPC Research.

This document is formatted for double-sided printing.

For more information about the evaluation or this report, contact Kelly Jarvis, Ph.D., Senior Research Associate at NPC Research, at jarvis@npcresearch.com.

ACKNOWLEDGEMENTS

This report was made possible with the effort and support of many people.

We would like to thank the Shriver pilot project staff members for their considerable effort collecting and providing the program services data for the evaluation. This group includes staff from several agencies: Greater Bakersfield Legal Assistance in Kern; Inner City Law Center, Legal Aid Foundation of Los Angeles, Neighborhood Legal Services of Los Angeles, Public Counsel, Los Angeles Center for Law and Justice, and Levitt and Quinn Law Office in Los Angeles; Legal Services of Northern California and Pacific McGeorge Housing Mediation Center in Sacramento; Legal Aid Society of San Diego and the San Diego Volunteer Lawyer Program; Justice and Diversity Center of the Bar Association of San Francisco; Legal Aid Foundation of Santa Barbara County; and Legal Services of Northern California in Yolo. It also includes staff from the Superior Courts of Kern, Los Angeles, Sacramento, San Diego, Santa Barbara, San Francisco, and Yolo counties. We also thank the individual litigants (both Shriver clients and non-Shriver cases) who agreed to be interviewed and share their experiences and perspectives with us.

We are grateful to the Judicial Council staff members who coded court case files, obtained relevant data and information, reviewed versions of this report, and provided invaluable guidance for the evaluation. This group includes **Bonnie Rose Hough**, Principal Managing Attorney; **Mary Lavery Flynn**, Consultant; **Don Will**, Principal Manager; **Karen Cannata**, Supervising Research Analyst; and **Kimberly Tyda**, Research Analyst. We also appreciate the support and oversight provided by **Charlene Depner**, Acting Director of the Center for Families, Children, and the Courts; **Millicent Tidwell**, Chief Operating Officer of the Operations and Programs Division; **Martin Hoshino**, Administrative Director of the Judicial Council; and the **Honorable Tani G. Cantil-Sakauye**, Chief Justice of California and Chair of the Judicial Council.

Further, we extend our gratitude to members of the Shriver Civil Counsel Act Implementation Committee, appointed by the Chief Justice to oversee the pilot projects, for their excellent stewardship of the Shriver Program and their responsiveness to the evaluation. Committee members include **Hon. Earl Johnson, Jr. (Ret.)**, *Chair*, Associate Justice of the Court of Appeal; **Hon. Laurie D. Zelon**, *Vice Chair*, Associate Justice of the Court of Appeal Second Appellate District, Division Seven; **Mr. Kevin G. Baker**, Legislative Director of ACLU California; **Ms. Salena Copeland**, Executive Director of Legal Aid Association of California (LAAC); **Ms. Erika Frank**, General Counsel for the California Chamber of Commerce; **Hon. Terry B. Friedman (Ret.)**, JAMS; **Ms. Pauline W. Gee**, Ret. Deputy Attorney General; **Ms. Luz E. Herrera**, Professor of Law and Associate Dean for Experiential Education at Texas A&M School of Law; **Ms. Donna S. Hershkowitz**, Deputy Chief Trial Counsel and Assistant Chief Trial Counsel; **Hon. James R. Lambden (Ret.)**, ADR Services, Inc.; **Mr. John F. O'Toole**, Attorney, Ret. Director, National Center for Youth Law; **Ms. Clare Pastore**, Professor of the Practice of Law at the University of Southern California Gould School of Law; **Ms. Shirley E. Sanematsu**, Senior Health Attorney for the Western Center on Law & Poverty; **Mr. Thomas Smegal**, Administrative Patent Judge on the



Patent, Trial and Appeal Board for the United States Patent and Trademark Office; and **Ms. Julia R. Wilson**, Executive Director of OneJustice.

We also would like to thank the members of the Shriver Civil Counsel Act Evaluation Advisory Committee who provided expert guidance for the evaluation effort and helpful feedback on earlier versions of this report. Advisory committee members include **Russell Engler**, Professor of Law and Director of Clinical Programs at New England Law; **Bristow Hardin**, Senior Research Analyst for the Legal Services Corporation; **James Meeker**, Professor Emeritus of Criminology, Law, and Society at the University of California, Irvine; **Rebecca Sandefur**, Associate Professor of Sociology and Law at the University of Illinois at Urbana-Champaign; and **Hon. Earl Johnson, Jr. (Ret.)**, Associate Justice of the Court of Appeal.

Lastly, we are grateful to our colleagues—Michael Finigan, Juliette Mackin, and Charley Jaspera—who provided assistance with the study implementation and support in the compilation of this report.

This study was funded by California Assembly Bill 590 and administered through the Judicial Council of California.

TABLE OF CONTENTS

| | |
|--|-----------|
| EXECUTIVE SUMMARY | I |
| INTRODUCTION | 1 |
| OVERVIEW | 13 |
| INTRODUCTION TO GUARDIANSHIP & CONSERVATORSHIP CASES | 17 |
| Guardianships | 19 |
| Conservatorships | 20 |
| Proceedings..... | 21 |
| IMPLEMENTATION OVERVIEW & PROJECT SERVICE SUMMARY | 25 |
| Program Context..... | 27 |
| Project Implementation Model | 29 |
| Service Provision..... | 30 |
| Case Events and Outcomes for Legal Aid Services Clients | 39 |
| Summary..... | 45 |
| CASE OUTCOMES STUDY | 47 |
| Methodology and Analytic Approach..... | 49 |
| Findings for Guardianship Cases..... | 51 |
| Summary..... | 64 |
| Preliminary Findings for Conservatorship Cases | 66 |
| STAFF AND STAKEHOLDER PERCEPTIONS | 69 |
| Legal Aid Services Staff Perceptions of Project Impact | 71 |
| Superior Court Staff Perceptions of Project Impact | 73 |
| COST STUDY | 77 |
| Methodology and Analytic Approach..... | 79 |
| Cost Topic #1: What Was the Estimated Cost of the Shriver Probate Pilot Project? | 82 |
| Cost Topic #2: Does the Provision of Shriver Services Improve Court Efficiency?..... | 86 |
| SUMMARY OF FINDINGS | 91 |
| REFERENCES..... | 97 |
| APPENDIX A: SUPPLEMENTAL COST TABLES..... | 99 |



LIST OF TABLES

Table P1. Number of Probate Cases per Fiscal Year by Type 28

Table P2. Number of Legal Aid Cases and Attorney Hours Provided by Level of Service 32

Table P3. Probate Facilitator Hours Provided..... 33

Table P4. Demographic Characteristics of Shriver Legal Aid Clients 34

Table P5. Household Characteristics of Shriver Legal Aid Clients 35

Table P6. Number of Legal Aid Cases by Case Type 36

Table P7. Reason Seeking Shriver Legal Aid Services 36

Table P8. Demographic Characteristics of Litigants Served by the Shriver Probate
 Facilitator..... 37

Table P9. Number of Probate Facilitator Litigants Served by Case Type 38

Table P10. Reason for Seeking Probate Facilitator Services..... 38

Table P11. Legal Aid Client Role by Case Type..... 39

Table P12. Proposed Ward/Conservatee Demographics in Legal Aid Services Cases..... 40

Table P13. Legal Aid Cases with Objections and Additional Parties..... 41

Table P14. Petition Status at Intake and Conclusion of Shriver Legal Aid Services..... 42

Table P15. Outcome of Guardianship and Conservatorship Petitions for Legal Aid
 Cases 43

Table P16. Average Length of Case and of Shriver Legal Aid Service Provision 44

Table P17. Number of Continuances for Shriver Legal Aid Cases 45

Table P18. Sample Sizes by Case Type and Study Group..... 51

Table P19. Petitioner Reasons for Seeking Guardianship by Study Group 52

Table P20. Number of Cases with Child Welfare or Juvenile Dependency Court
 Involvement..... 53

Table P21. Number and Age of Wards by Study Group 53

Table P22. Outcomes of Permanent Petitions by Study Group 54

Table P23. Service of Notices to Mother and Father by Study Group..... 55

Table P24. ICWA Notices by Study Group 56

Table P25. Number of Objectors and Additional Parties by Study Group..... 56

Table P26. Total Number of Witnesses and Declarations by Study Group 57

Table P27. Court Investigation Completions and Recommendations by Study Group..... 58

Table P28. Number of Permanent Guardianship Appointments by Study Group 59

Table P29. Outcomes of Temporary Petitions by Study Group..... 59

Table P30. Court Investigation Results for Cases without Permanent Guardian
 Appointed 60

Table P31. Case Length (in Days) by Study Group 61

Table P32. Case Age (in Days) by Objector Involvement by Study Group..... 62

Table P33. Average Number of Hearings and Continuances by Study Group..... 63

Table P34. Legal Aid Services Program Cost Estimates in FY 2014 – Santa Barbara 82

Table P35. Average Estimated Cost to Provide Legal Aid Services per Case in FY 2014 83

Table P36. Average Cost per Case for Probate Facilitator Services in FY 2014 84

Table P37. Estimated Annual Costs to Address Total Need for Legal Aid and Probate
 Facilitator Services (based on FY 2014 data)..... 84

Table P38. Summary of Court Efficiencies and Related Savings and Improvements..... 88

Table P39. Estimated Annual Savings to Court from the Provision of Shriver Services
 (based on FY 2014 data) 89

EXECUTIVE SUMMARY

The Sargent Shriver Civil Counsel Act (AB590)¹ established pilot projects to provide legal representation for self-represented² low-income parties in civil matters involving critical livelihood issues such as housing, child custody, domestic violence, guardianship, and conservatorship. Ten pilot projects, in seven counties, were selected by the Judicial Council of California and funded in fall of 2011. Six pilot projects focused on housing cases, three projects focused on child custody cases, and one project focused on guardianship and conservatorship (probate) cases.

All ten projects involve one or more legal services agencies working in collaboration with their local superior courts. The purpose of the pilot projects is to improve court access, increase court efficiency, and improve the quality of justice. Shriver services were intended for individuals with an income at or below 200% of the federal poverty level and facing an opposing party with legal representation.

The type of services available varied across the pilot projects and depended on their local circumstances. At each project, the legal services agencies provided a range of services, including *full representation* by a Shriver attorney on all aspects of the case and a variety of limited scope legal assistance (*“unbundled” services*) for discrete legal tasks, such as brief counsel and advice, preparation of forms, educational materials for trial preparation, or representation during mediation and settlement negotiations. Some pilot projects also entailed *court-based services* and innovations, such as the creation of a Housing Settlement Master, the staffing of a Probate Facilitator, the implementation of judge-facilitated settlement conferences for custody cases, and the expansion of court-based self-help assistance.

The evaluation of the Shriver pilot projects is one of the largest access to justice studies undertaken. The study utilizes data collected over the course of 5 years from multiple sources. In total, across the ten projects, demographic and service data were collected for more than 20,000 litigants, individual court case files were reviewed for more than 700 litigants, telephone interviews were conducted with more than 150 litigants, and interviews were done with dozens of legal aid and court staff. In addition, summary data were gathered from court case management systems and cost data were gleaned from administrative sources. The totality of this information provides a comprehensive understanding of the operations, outcomes, and costs of the Shriver Program in its first 5 years of funding.

¹ Assem. Bill 590; Stats. 2009, ch. 457.

² The term “self-represented” is used to refer to litigants who appear in court or undergo their case proceedings without representation by an attorney.



Summary of Findings for the Shriver Probate Pilot Project (Guardianship/Conservatorship)

The Shriver Program funded one probate pilot project in Santa Barbara County that focused on guardianship and conservatorship cases. Given the statutory guidelines, Shriver services were provided to cases involving the physical care of a dependent adult or child and were not provided to cases regarding financial resources. Most guardianships were sought because wards' parents were unable or unavailable to care for them due to a range of complex and deleterious issues. Conservatorships were generally sought by a family member to take care of a dependent adult. Establishing legal guardianships and conservatorships helps to ensure that vulnerable children and adults are living in stable environments and have the care they need. These cases are technically complicated and involve volumes of paperwork that can be very challenging for self-represented litigants, and insurmountable for those with limited English proficiency or literacy abilities. Unlike the housing and custody pilot projects that sought to level the playing field by addressing imbalanced representation, the Shriver probate pilot project fundamentally intended to provide individuals with meaningful access to the judicial system and assistance with these complex and emotionally charged cases that have critical implications for families, even when there is no opposing party.

The Shriver probate pilot project involved legal aid services provided by attorneys at the Legal Aid Foundation of Santa Barbara County (LAFSBC) and court-based services provided by a newly established, Shriver-funded Probate Facilitator.

Data for the evaluation of the Shriver probate pilot project were collected over the course of 5 years, from multiple sources, using various methodologies such as program services data, individual court case files, and interviews with project staff from legal aid and the court.

WHO WAS SERVED BY THE SHRIVER PROBATE PILOT PROJECT?

About three-quarters of clients served by the Shriver probate pilot project were seeking guardianships. These families evidenced substantial dysfunction and considerable risk factors for the children involved. In short, guardianships were sought not because parents were deceased, but because parents were unable/unavailable to care for children due to issues such as substance abuse, incarceration, abandonment, maltreatment, and homelessness. The median monthly income among Shriver legal aid clients was \$1,600, below the 2014 Federal Poverty Level (FPL), and roughly one-fifth were reliant on food subsidies. Moreover, roughly a quarter of families were referred by the child welfare system (CWS), suggesting that CWS recognized guardianships as a way to avoid foster care in these situations that would otherwise have been untenable for children. The most common case involved individuals seeking help with a petition for guardianship (e.g., couples, such as grandparents seeking to care for grandchildren). About one-quarter of Shriver clients were seeking help with a conservatorship.

WHAT SERVICES WERE PROVIDED BY THE SHRIVER PROBATE PILOT PROJECT?

LAFSBC aimed to provide full representation to all eligible litigants, including assistance with paperwork, service of notification, and representation in court. From January 2012 to June 2015, 242 litigants sought help from Shriver legal aid attorneys, and of these, 158 met eligibility criteria. Of those eligible, 40% received full representation and 60% received unbundled

services (brief counsel and advice). Of the 84 cases that were determined to be ineligible, all received unbundled services (i.e., brief counsel and advice) during their initial consultation with an attorney, but were ultimately deemed ineligible for project services due to reasons such as living out of jurisdiction or having an income above 200% of the FPL.

The Probate Facilitator assisted all parties who presented at the court (no income requirement). The Probate Facilitator provided litigants extensive help with paperwork, including the initial petition for guardianship/conservatorship and the entire range of additional forms and documents related to the physical care of the dependent adult or child. This assistance made it possible for litigants, who otherwise lacked the resources to retain an attorney, to meaningfully access the legal system. From January 2013 to June 2015, the Probate Facilitator assisted 286 self-represented litigants.

NOTABLE IMPACTS OF THE SHRIVER PROBATE PILOT PROJECT

Findings demonstrated several beneficial impacts of the Shriver probate pilot project:

Petitions were successfully filed.

The Shriver probate project sought to stabilize families by removing barriers to filing petitions for guardianship and conservatorship and creating the opportunity for meaningful access to the judicial system. The complexity and volume of the paperwork necessary for petitions, as well as the skills and time required to locate family members for notification, present a significant barrier to successfully filing a petition. As a result, historically, many people who begin the process never successfully file. Among litigants receiving full representation by a Shriver attorney, only 6% did not file a petition or pursue other arrangements, such as power of attorney for the child or a caregiver's affidavit.

Impact of Probate Facilitator

Court staff estimated that, before the Shriver project, it would take three attempts for litigants to successfully file a petition and many would give up before succeeding. However, litigants who received help from the Probate Facilitator were generally able to file successfully on their first attempt, which eased the burden on both the litigants and court clerks charged with reviewing the documents. The Probate Facilitator also streamlined the document revision and information collection once the petition was filed. She served as a resource for litigants as they attempted to complete any of a wide range of legal forms and to prepare their case, and for court staff (e.g., investigators) who needed additional information about a family. Court staff were vocal about the efficiencies and expertise this position added to the court.

There was increased participation in the legal system by relevant parties.

Individuals who received representation by a Shriver attorney were afforded meaningful access to the legal system and employed a range of strategies to support their cases. For instance, litigants with Shriver counsel called witnesses (31%) and submitted declarations (22%) significantly more often than did litigants without Shriver services (5% and 3%, respectively). These actions supported the petitioners' cases and offered the court more complete and comprehensive information on which to base decisions.

Shriver services, both legal representation and probate facilitator services, also supported effective notification procedures, including those for relatives and tribes. Ensuring effective and

complete notification provided other relevant parties with an opportunity to participate in the case. Increasing participation tended to enhance collaboration among parties who may have been in opposition otherwise. Shriver staff educated parties about the terms of guardianships/conservatorships—e.g., parental rights are not terminated when guardianship is established—which often eased tensions and supported cooperation.

Even with the use of the additional legal strategies and support for effective notification, litigants with Shriver representation (70%) and those with assistance from the Probate Facilitator (71%) were about as likely to have their petition granted as were litigants with no Shriver service (63%).

Court proceedings were more efficient.

The provision of Shriver services made notable contributions to court efficiency. Cases with a Shriver attorney were resolved more quickly than were cases with self-represented litigants. Specifically, 53% of Shriver representation cases were resolved within 60 days, compared to just over one third of other cases. Further, these full representation cases involved fewer hearings and continuances compared to cases with self-represented litigants.

Efficiencies in proceedings translated to savings for the court.

Court staff reported that the Probate Facilitator's service resulted in more petitions filed successfully the first time, rather than after multiple attempts, as had been typical before the Shriver project. The Probate Facilitator's assistance streamlined paperwork and increased the quality of information for the court, which created substantial efficiencies for clerks and for the court's probate attorney, as well as provided more thorough information for decisions by judicial officers.

Overall, the Shriver probate pilot project created efficiencies for the court via the Shriver Probate Facilitator (e.g., reduced clerk time to process petitions) and via the Shriver legal aid attorneys (e.g., fewer hearings and continuances). Taken together, these efficiencies reduced the average court costs to process a case by approximately 30%.

Limitations

Anecdotally, it is understood that, without legal help, many individuals are never able to successfully file petitions for guardianship or conservatorship, and many would-be guardians or conservators give up due to confusion and fatigue with the process. Because these individuals never file petitions with the court, there are no court data to reflect them. Thus, the evaluation was not able to investigate this population and compare it to the cases for which data were available.

ADDITIONAL NEEDS NOTED BY PROJECT

Shriver project staff appreciated that the income requirements set by the statute were higher than those for some other programs, which expanded their service reach. However, there was concern that many additional families in difficult situations who were just above the 200% threshold were not able to access help from legal aid. Additionally, project staff saw a need in the community for assistance with adoption cases, as well as guardianship, conservatorship, and other probate cases involving small estates.

INTRODUCTION

Over the last few decades, an increasing awareness has emerged regarding the prevalence of civil justice issues in the American public and the difficulties faced by low-income Americans in the civil justice system. An often-cited study by the Consortium on Legal Services and the Public (1994) estimated that roughly half of low- and moderate-income households experienced a civil justice problem in the prior 12 months. A recent study by the Legal Services Corporation (2017) found that 71% of low-income households had experienced at least one civil legal problem within the past year. This increase is hardly surprising, given that the economic recession has generally worsened circumstances for low-income Americans.

The prevalence of civil justice problems and the broad range of livelihood issues that these problems impact is aptly described by Sandefur (2010):

“For many members of the American public, civil justice problems emerge at the intersection of civil law and everyday adversity. These problems can involve family relationships, work, money, insurance, pensions, wages, benefits, housing, and property – to name just a few areas of contemporary life. Though these different types of problems affect different aspects of people’s lives and concern different kinds of relationships, they share a certain important quality: they are problems that have civil legal aspects, raise civil legal issues and have consequences shaped by civil law.”

Despite this, few low-income people receive legal assistance to resolve these issues. The Legal Services Corporation’s recent report (2017) indicated that “86% of the civil legal problems reported by low-income Americans in the past year received inadequate or no legal help.” This “justice gap” has persisted, and been documented, for at least a decade. In 2007, the Legal Services Corporation reported that 20% or fewer of the legal problems experienced by low-income people were addressed with the assistance of an attorney (private or legal aid).

Understanding the immense risks inherent in some civil cases (e.g., housing, child custody, domestic violence) and recognizing the indisputable disadvantage of unrepresented low-income litigants in the legal system led the American Bar Association to pass a resolution supporting the right to counsel in civil “adversarial proceedings where basic human needs are at stake.” (American Bar Association, Resolution 112A, August 2006). In 2006, the California Conference of Delegates of the State Bar adopted a similar resolution.

IMPACT OF LEGAL REPRESENTATION IN CIVIL CASES

A small but growing body of literature has begun to address the question of whether and how attorney representation impacts civil case proceedings and outcomes, and some of these early studies have yielded mixed results. For example, in Sandefur’s (2010) meta-analysis of 12 studies of representation for adjudicated cases across multiple areas of civil case law (e.g., eviction, Social Security Disability Insurance reconsideration, asylum requests), the likelihood of winning a case was anywhere from 19% to 1379% higher among represented parties than among unrepresented parties—a very wide range. Most of these studies did not employ random assignment, the lack of which can complicate the interpretation of results. Specifically, without random assignment, one cannot be sure that the study groups are equivalent. For example, it could be that people who seek out attorneys are different from those who choose

to self-represent, and it could be that cases taken on by lawyers are different (e.g., have higher merit) than cases not selected. The single study in Sandefur's sample that employed random assignment had middle-range results in her analysis (i.e., litigants with representation were approximately 4 times more likely to win than were unrepresented litigants). The author points out that the magnitude of the impact of legal representation is correlated with the level of procedural complexity in the case.

Housing cases

Eviction is one of the most urgent civil law issues for low-income individuals and families. The difficulties and obstacles faced by low-income renters in eviction (unlawful detainer) cases have been well documented (Public Justice Center, 2015; NY Office of Civil Justice Annual report, 2016). In addition to a host of characteristics that reflect considerable vulnerability should they lose their housing, tenants know very little about the housing court process or their rights as defendants (Public Justice Center, 2015). Further, research has shown that tenants are rarely represented, while most landlords are (e.g., Community Training and Resource Center, 1993). The lack of knowledge regarding housing court and eviction proceedings, coupled with the lack of legal representation, puts tenants at a considerable disadvantage in this process.

A small number of studies have investigated the impact of legal representation in unlawful detainer cases using a random assignment design. In New York, Seron, Frankel, Van Ryzin, and Kovath (2001) compared litigants who were randomly assigned either to receive representation by a legal aid attorney or to not receive services. This study found a range of positive outcomes for tenants who received representation relative to those who did not. Specifically, cases with represented tenants had significantly fewer defaults, fewer judgments against tenants, fewer writs issued, and fewer post-trial motions, as compared to cases with self-represented tenants. Further, a greater proportion of cases with represented tenants ended with stipulations for rent abatement or repairs, as compared to cases with self-represented tenants.

More recently, in Boston, two studies by James Greiner and colleagues investigated the impact of legal representation in eviction cases (Boston Bar Association, 2014). In one of these studies (Greiner, Pattanayak, & Hennessy, 2013), tenants were offered limited assistance which included education on the housing court process and help filing an answer. After this limited assistance, tenants were randomly assigned either to receive representation by an attorney or no further service. The study found that, compared to self-represented tenants, tenants with an attorney were more likely to retain possession of their homes and to obtain larger waivers of rent. Although cases with representation took longer to resolve, they did not place additional burden on the court.

In the second of these studies (Greiner, Pattanayak, & Hennessy, 2012), tenants were similarly offered limited assistance in the form of education and help filing an answer. After this limited service, tenants were randomly assigned either to receive a referral for representation from an attorney or a referral to the "lawyer for the day" program which provided tenants with brief, day-of-trial assistance (usually representation at trial or in hallway negotiations at the court). The study found no significant differences between these groups with regard to possession of the property or financial outcomes.

Child custody cases

The impact of representation in child custody cases has been less studied than the impacts for housing cases. However, Engler (2010) and Poppe and Rachlinksy (2016) review studies that have examined the impacts of counsel for various types of family law cases. Generally, when these studies involved a comparison, the method involved comparing cases with balanced representation (i.e., attorneys on both sides) to cases with imbalanced representation (i.e., one parent has an attorney and one does not), but none used random assignment. One study by Maccoby and Mnookin (1992) found that balanced representation yielded higher rates of joint legal custody than did imbalanced representation. Further, in cases with imbalanced representation, having an attorney tended to increase the likelihood of custody being awarded to the represented parent, relative to being unrepresented (Maccoby & Mnookin, 1992; Women’s Law Center of Maryland, Inc., 2006). Child custody cases are as complex and diverse as the families they reflect, which presents challenges for standardization and aggregation. Despite this, there is evidence that the presence of counsel can impact whether or not parents obtain the legal or physical custody they are seeking.

Conclusion

These early studies establish a foundation, but mixed findings and the use of various methodologies preclude strong conclusions and demand that the investigation of the impact of legal assistance in civil cases remains an important research endeavor. The current evaluation contributes to this growing body of knowledge in some important ways. For housing court, the current evaluation offers a randomized design across multiple projects with larger samples than those collected previously. The current study also expands the investigation of representation to child custody and guardianship cases, two areas that have received less attention.

The Sargent Shriver Civil Counsel Act

The Sargent Shriver Civil Counsel Act (California Assembly Bill 590), passed in 2009 on a bipartisan basis, authorizes pilot projects to study the provision of legal representation to low-income families facing critical legal problems involving basic human needs, such as possible loss of housing, child custody disputes, domestic violence, or the need for a family guardianship or conservatorship. The Act also supports innovative court services designed to ensure that self-represented parties obtain meaningful access to justice and to guard against the involuntary waiver or other loss of rights.



Sargent Shriver

In the years leading up to passage of AB 590, there was significant discussion about the importance of legal representation in the courtroom as a key component of the continuum of service. All too often, poor people appear in court without counsel, while their opponents have lawyers. There is great concern that justice is not being served when only one side is represented. Californians lack a right to legal representation in the majority of civil cases, yet many believe that it is at least as important to provide an attorney to indigent individuals who might lose their housing or custody of their children as it is to provide representation in minor criminal matters. Legal representation is often necessary to guard

against unnecessary defaults or the involuntary waiver of rights. A fundamental goal is to have cases determined purely on the merits and not on the presence of legal representation.

In the legislative findings of the Shriver Act, it was concluded that “equal access to justice without regard to income is a fundamental right in a democratic society”... and “in many cases the state has as great a responsibility to ensure adequate counsel is available to both parties... as it does to supply judges, courthouses, and other forums for the hearing of the cases...” The Act was intended to evaluate when the state needs to provide counsel in order to ensure equal access to justice and how that can be done most cost-effectively. It authorizes the funding of several pilot programs designed to explore those possibilities. The purpose of the pilot projects is to improve court access, increase court efficiency, and improve the quality of justice.

THE PILOT PROJECTS

All pilot projects included one or more legal services agencies working in collaboration with their local superior courts. The following 10 pilot projects in seven counties were awarded funding by the Judicial Council of California in the fall of 2011:

Kern County

- Housing pilot project implemented by Greater Bakersfield Legal Assistance and the Superior Court of Kern County;

Los Angeles County

- Housing pilot project implemented by Neighborhood Legal Services of Los Angeles County (and partner agencies) and the Superior Court of Los Angeles County;
- Child custody pilot project implemented by the Los Angeles Center for Law and Justice (and a partner agency) and the Superior Court of Los Angeles County;

Sacramento County

- Housing pilot project implemented by Legal Services of Northern California—Sacramento and the Superior Court of Sacramento County;

San Diego County

- Housing pilot project implemented by the Legal Aid Society of San Diego and the Superior Court of San Diego County;
- Child custody pilot project implemented by the San Diego Volunteer Lawyer Program (via partnership with the Legal Aid Society of San Diego) and the Superior Court of San Diego County;

San Francisco County

- Child custody pilot project implemented by the Justice & Diversity Center of the Bar Association of San Francisco and the Superior Court of San Francisco County;

Santa Barbara County

- Housing pilot project implemented by the Legal Aid Foundation of Santa Barbara County and the Superior Court of Santa Barbara County;

- Probate (guardianship/conservatorship) pilot project implemented by the Legal Aid Foundation of Santa Barbara County and the Superior Court of Santa Barbara County;

Yolo County

- Housing pilot project implemented by Legal Services of Northern California—Yolo and the Superior Court of Yolo County.

PILOT PROJECT COMPONENTS

The continuum of services available at each pilot project varied and depended on the project’s local circumstances. The specific components of each pilot project are described in the Project Descriptions and Service Summaries in this report. Most projects involved a range of legal aid services and court-based services.

Legal Aid Services. Each pilot project offered a range of legal aid services specific to its local implementation model. All projects offered full representation by a Shriver attorney as well as some form(s) of limited scope legal assistance (often referred to as “unbundling”). Full representation involved an attorney providing assistance and representation for all aspects of the case from start to finish. Limited scope assistance (unbundled services) entailed legal help provided for discrete tasks, such as preparation of forms, collection of evidence for court, brief counsel and advice, representation during mediation or settlement negotiations, or day of trial representation. All Shriver pilot projects provided full representation to some clients and a range of unbundled services to some clients; the proportions depended on their unique project model. Throughout this report, the terms **full representation**³ and **unbundled services** are used to indicate these two levels of Shriver legal aid service. To be eligible for Shriver services, individuals must have an income at or below 200% of the Federal Poverty Level and be facing an opposing party with legal representation. Some projects had additional eligibility requirements.

Court-based Services: Court innovation is also a key component of the statute, which provides funds to courts to pilot innovative practices. Local superior courts are an integral part of the pilot projects, and several courts developed services or improved procedures designed to improve access and efficiency. Examples of **court-based services** included: special mediation procedures such as the creation of a Housing Settlement Master and judge-facilitated custody settlement conferences; new court staff positions such as the Probate Facilitator and dedicated judicial assistants; expanded self-help centers and litigant education efforts; and collaboration with housing inspectors.

Evaluation of the Sargent Shriver Civil Counsel Act

EVALUATION DESIGN

In 2012, the Judicial Council of California (JC) contracted with NPC Research to evaluate the recently funded Shriver pilot projects. NPC and the JC collaboratively formulated research questions that addressed the legislative mandates and the program stakeholders’ broad range

³ In the child custody pilot projects, the term **representation** is used to emphasize that Shriver attorneys provided full representation for the custody issue, but was limited in scope to custody only and did not include other family law matters.

of inquiries and worked with the pilot projects to establish parameters for data accessibility and information sharing. NPC designed an evaluation that encompassed four components:

1. *Project implementation* – This aspect of the study tracked the operation of each of the 10 pilot projects, including their project models, rates and types of service provision, and client populations. In short, this part of the study asked the question, “What services were provided and to whom?”
2. *Case outcomes* – This component of the study examined the outcomes of cases that received Shriver services, compared to similar cases that did not receive service. It addressed the question, “How did the provision of Shriver service affect the outcomes of cases?” Analyses used court case file data primarily to investigate the receipt of full representation by Shriver counsel.
3. *Project impacts* – This element of the study explored other impacts of the Shriver pilot projects that could not be reliably substantiated in the court case files. The perspectives of litigants and project staff were gathered to understand the potential impacts on the court, litigants, and the community.
4. *Cost* – This aspect of the study examined the costs to provide Shriver services, as well as any potential savings to the court as a result of this service provision.

The evaluation employed a mixed methods approach and used data from multiple sources to address the inquiries within each of these four study components. The methods and data sources are described in more detail below and are illustrated in Table 1.

METHODS AND DATA SOURCES

Project implementation

The evaluation tracked the implementation of all 10 pilot projects. Throughout the grant period, Shriver project staff recorded the services they provided and information on their clients and cases into the *Shriver Program Services Database*. Superior courts were also asked to provide *summary court statistics* to illustrate the context in which the pilot projects were operating and systemic trends over time.

Shriver Program Services Database. A uniform survey was developed to track client information in a standardized way across the pilot projects within each area (housing, custody, and probate). Collectively, these surveys are referred to as the **program services database**. The database houses the following types of information: (a) client characteristics such as age, race, disability status, and income; (b) case characteristics such as whether the opposing party is represented, filing dates, the details of the eviction notice, and the pre-existing custody arrangements; (c) types of Shriver services provided such as brief counsel and advice, mediation services, or full representation and the number of attorney hours worked; and, whenever known, (d) case outcomes such as the manner in which the case was resolved (settlement, trial, dismissal, etc.), possession of the property, custody orders, and guardianship placements. Shriver project staff recorded demographic characteristics for all clients receiving any Shriver service, but case characteristics and outcomes were recorded for clients who received full representation, because that is when attorneys knew about case disposition.

Shriver project staff entered information into the program services database in an ongoing manner throughout the duration of the grant period. Because all 10 pilot projects provided data, this database represents the largest and most complete source of information about Shriver clients. At the end of 2015, the database held information for more than 20,000 Shriver clients. The program services database does not include information for non-Shriver cases.

Court Summary Statistics. Seven superior courts—specifically, those affiliated with the six housing pilot projects and the probate pilot project—were asked to provide summary statistics from their case management systems that spanned a 5-year period from before the Shriver pilot projects (2010-2011) to the mid-point of the Shriver project implementation (2014). The summary statistics included metrics relevant to understanding the service reach of the local Shriver pilot project (e.g., the number of unlawful detainer cases filed at the court, relative to the number of those that received Shriver services) and potential systemic changes related to project implementation (e.g., the number of unlawful detainer cases that ended by default before and after the Shriver pilot project began). Three housing courts and the lone probate court provided data.

Study of case outcomes

For the evaluation to make assertions about the effectiveness of the Shriver program on the outcomes of cases, it was necessary to compare litigants receiving services from Shriver counsel with a similar group of litigants undergoing the same civil court proceedings without representation (e.g., self-represented litigants). Innumerable, and often subjective, factors can be associated with case outcomes. For example, case merit and client vulnerability can impact the outcomes of unlawful detainer cases, whereas family dynamics and determinations of the best interests of the child can impact custody case outcomes. Quantifying all of the potentially relevant attributes predictive of case outcomes is complex and, in some cases, impossible. When implemented accurately, random assignment protocols can be assumed to establish intervention and comparison groups that can be considered equivalent across most factors. Therefore, when the groups are compared, any observed differences in outcomes can be reasonably attributed to the intervention, and not to characteristics of individuals. For this reason, random assignment is typically recognized as the gold standard of comparative study designs. However, random assignment protocols can be complicated to implement and are not appropriate for all contexts.

In the current evaluation, random assignment procedures were conducted for 1 month at three of the six housing pilot projects (Kern, San Diego, and Los Angeles). Random assignment methods were not possible at the custody or probate pilot projects, primarily due to the small number of litigants presenting for service. Thus, to examine case outcomes, alternate comparative study designs were implemented at two of the three custody projects (San Diego and San Francisco) and the probate project (Santa Barbara). The methods are described below.

Random Assignment Study of Housing Cases. At the three participating pilot projects, litigants who presented for services were checked for eligibility (had an income not more than 200% the FPL and were facing an opposing party with legal representation) and, if eligible, were randomly

assigned either to receive full representation by a Shriver attorney⁴ or to receive no Shriver services (comparison). The comparison litigants were provided “business as usual” services, namely access to the respective county’s free self-help services, which typically amounted to modest help filing an answer to the unlawful detainer complaint (not legal representation).

To address ethical concerns about serving as many people as possible, a 2:1 assignment protocol⁵ was exercised, whereby two litigants were assigned to receive Shriver services for every one litigant assigned to the comparison group. One exception was made to the random assignment process. At two projects, individuals with housing subsidies (e.g., Section 8, Housing Choice Vouchers) were permitted to bypass the random assignment process and directly receive Shriver services. Shriver staff felt that the potential loss of current and future public assistance was too great a risk to justify a possible assignment to the comparison group (and non-receipt of services). Thus, these litigants were included in the program service database, but were excluded from the random assignment study.

Across the three housing pilot projects, 280 litigants were assigned to receive Shriver full representation, and 144 litigants were assigned to the comparison group. To examine the impact of Shriver representation on case outcomes, these two groups were compared using information from their individual court case files.

Court case file review. NPC Research worked with the Judicial Council to identify the data elements within case files that would best represent the events and outcomes of unlawful detainer cases. These included, for example, dates of filing and resolution; which party retained possession of the property; whether case ended by default, settlement, dismissal, or trial; and other orders involving financial and credit outcomes related to the case. A case review instrument was developed to guide the collection of information in a standardized manner. Due to issues of confidentiality and familiarity with court case file contents, the JC recruited legal experts to conduct the case file reviews using the standardized instrument. Once the review was complete, raw de-identified data files were sent to NPC for analysis.

Comparative Study of Custody Cases. At the San Diego pilot project, a sample of cases that had received representation by Shriver counsel was identified using the program services database. NPC Research worked with staff in the superior court, who selected comparison cases by querying their court case management system. The identified comparison cases met certain criteria to make them similar to Shriver cases (e.g., sole custody was at issue, at least one party had a fee waiver granted, case was seen by one of two judges handling Shriver cases), but did not receive Shriver services. Because durability of the custody orders was a key study question, all sampled cases had to have at least 2 years since the resolution of custody pleading. In total, this analysis compared 53 cases with a Shriver-represented party to 56 comparison cases.

At the San Francisco pilot project, before services began, the Shriver project staff observed court calendars and identified litigants who would be eligible for Shriver services (e.g., cases

⁴ One of the three projects did a second tier random assignment among litigants whose opposing party was not represented. These individuals were randomly assigned to receive expanded self-help services (not full legal representation) or to a control group. Because the group sizes for this component of the study were very small, the findings are not presented here.

⁵ NPC Research developed the assignment protocol and trained legal aid staff to implement it with fidelity. More detail on the assignment protocol can be obtained from the authors.

with imbalanced representation and sole custody at issue). These litigants were recruited for the comparison group. After Shriver services began, a sample of clients who received representation by a Shriver attorney was identified for analysis. These two groups—in total, 25 Shriver cases and 24 comparison cases—were compared.

Court case file review. As was done for the housing projects, NPC worked with the Judicial Council to develop a data collection instrument to standardize the reviewing and coding of the case files. Data elements of interest included dates of filings, other allegations such as domestic violence or child abuse, requests for legal and physical custody, orders for legal and physical custody, whether the case was resolved by settlement or judicial decision, number of hearings, and whether a request to modify the custody orders was filed afterward. The Judicial Council recruited experts to conduct the file review, and the data were sent to NPC for analysis.

Comparative Study of Probate (Guardianship and Conservatorship) Cases. Due to the small number of litigants presenting for service, random assignment was not possible at the probate pilot project. Instead, a group of litigants who received Shriver full representation was selected from the program services database, a group of litigants who received assistance from the probate facilitator (but not legal aid representation) was identified from the probate facilitator's database, and a group of comparison litigants who received no Shriver services was identified by superior court staff using the court case management system. All sampled cases had evidence of low-income status and had filed petitions to establish guardianships or conservatorships (i.e., not to terminate a guardianship or some other reason). In total, analyses compared 48 cases with Shriver full representation, 43 cases with probate facilitator assistance, and 47 comparison cases.

Court case file review. As was done for the other projects, NPC developed a data collection instrument to standardize the reviewing of the case files. Data elements of interest included dates of filings, number of hearings and continuances, and whether a guardianship or conservatorship was granted and to whom. The Judicial Council recruited experts to conduct the file review, and the data were sent to NPC for analysis.

Project impacts

To gauge the impacts of the pilot projects beyond those pertaining to case outcomes, interviews were conducted with litigants and with Shriver project staff.

Litigant Interviews. In 2013, litigants who were randomly assigned at two of the three projects (Kern and San Diego) were contacted for a telephone interview approximately 1 month after their housing case was closed. Interviews were primarily concerned with the outcomes of the housing case, the interviewees' perception of the case outcomes, and their experience with the legal system, including perceived fairness, procedural justice, and satisfaction with outcomes. Efforts were made to contact all litigants who were randomly assigned at the two projects. However, locating individuals after their case had closed proved difficult, as contact information was frequently invalid and voicemails were often not returned. Across the two projects, a total of 132 interviews were completed (92 Shriver clients and 40 comparison litigants).

A second round of qualitative interviews occurred in 2014, when NPC attempted to contact all litigants who had completed a case closure interview. These follow-up interviews were conducted when litigants' housing cases had been closed for approximately 1 year and they

sought to understand the circumstances of litigants' lives after their case closure, including their experience of eviction and relocation, any public services they needed and/or utilized, and their perception of the impact of the unlawful detainer case on their lives. Efforts were made to contact all 132 case closure interviewees. However, presumably due to the high mobility of the population and the age of the contact information (obtained at Shriver intake), locating these individuals proved difficult. Ultimately, 1-year follow-up interview surveys were conducted with 66 litigants (45 Shriver clients and 21 comparison litigants).

Staff and Stakeholder Interviews. Shriver project staff from both the legal aid agencies and superior courts across all pilot projects were interviewed twice during the grant period. The first interview focused on gaining a better understanding of each project's unique service model, goals, and operational context. The second interview, conducted in the fourth year of implementation, inquired about the impacts of the pilot projects, as perceived by the staff and stakeholders. This included impacts on litigants, the court, the community, and other relevant parties (e.g., landlords for housing cases, children for custody cases).

Cost information

Estimates of program costs—specifically, how much does it cost to provide legal assistance to low-income litigants?—were derived using information from the project invoices submitted to the Judicial Council and information in the program services database. These figures are used to estimate the average cost to provide representation for a housing case, a custody case, and a guardianship case at each of the projects.

In addition, staff from one court in each subject area were interviewed regarding the tasks involved in processing typical cases and the resources (e.g., staff time) required to complete those tasks. This information yielded estimated costs to process a typical case, and further analysis of the case file review data enabled a comparison of costs to process a case receiving Shriver services. This comparison helps elucidate any potential savings to the court as a result of the pilot projects.

Table 1 illustrates the range of data sources used in the evaluation and the representativeness of each.

Table 1. Data Sources and Sample Representation

| Data Source | Number of Pilot Projects Represented | Litigants Represented | |
|---|--------------------------------------|-----------------------|----------------------|
| | | Shriver Clients | Comparison Litigants |
| Housing Pilot Projects (n=6) | | | |
| <i>Implementation</i> | | | |
| Program Service Data | 6 | Yes | No |
| Court Summary Statistics | 3 | | |
| <i>Study of Case Outcomes</i> | | | |
| Court Case File Review | 3 | Yes | Yes |
| <i>Project Impacts</i> | | | |
| Litigant Interview | 2 | Yes | Yes |
| Staff/Stakeholder Interview | 6 | | |
| <i>Cost Study</i> | | | |
| Program Costs | 6 | Yes | |
| Cost Effectiveness | 1 | Yes | Yes |
| Child Custody Pilot Projects (n=3) | | | |
| <i>Implementation</i> | | | |
| Program Service Data | 3 | Yes | No |
| <i>Study of Case Outcomes</i> | | | |
| Court Case File Review | 2 | Yes | Yes |
| <i>Project Impacts</i> | | | |
| Litigant Self-Sufficiency Assessment | 1 | Yes | No |
| Litigant Interview | 1 | Yes | No |
| Staff/Stakeholder Interview | 3 | | |
| <i>Cost Study</i> | | | |
| Program Costs | 3 | Yes | |
| Cost Effectiveness | 1 | Yes | Yes |
| Probate (Guardianship) Pilot Project (n=1) | | | |
| <i>Implementation</i> | | | |
| Program Service Data | 1 | Yes | No |
| Court Summary Statistics | 1 | | |
| <i>Study of Case Outcomes</i> | | | |
| Court Case File Review | 1 | Yes | Yes |
| <i>Project Impacts</i> | | | |
| Staff/Stakeholder Interview | 1 | | |
| <i>Cost Study</i> | | | |
| Program Costs | 1 | Yes | |
| Cost Effectiveness | 1 | Yes | Yes |



THIS REPORT

The 10 Shriver pilot projects began implementation in fall 2011. All but one project (Sacramento housing pilot project) continued service provision for 6 years. The full Shriver Act evaluation report presented data and analyses on the services provided and outcomes achieved collected through the end of 2015, reflecting the first 4 years of project implementation, across all 10 pilot projects. The full report included a chapter on the housing pilot projects, a chapter on the child custody pilot projects, and a chapter on the probate (guardianship and conservatorship) pilot project. The full Shriver Act evaluation report is available on the Judicial Council's website.

This report, which presents findings for the pilot probate project, provides readers with: (a) an overview of the contents and structure, (b) an introduction to the case events and court proceedings typical for guardianship and conservatorship cases, (c) a detailed service summary for the probate pilot project, (d) results of a case outcomes study that compares court case file data for litigants who received Shriver services with those who did not, (e) a summary of the program impacts as described by pilot project staff and stakeholders, and (f) estimates of program costs and any potential cost savings to the court via the provision of Shriver services. The appendix includes supplemental cost tables.

Shriver Probate Pilot Project

Overview

Overview

The Sargent Shriver Civil Counsel Act (AB590) allocated program funding for one pilot project in probate court, focused on guardianship (caring for the physical well-being of a minor child) and conservatorship (caring for the physical well-being of adults who are unable to care for themselves) cases. For service eligibility, the statute required that the litigants be low income (i.e., at or below 200% of the Federal Poverty Level) and that the case pertain to the guardianship/conservatorship of the person (i.e., not of the estate). Because these cases are typically uncontested, opposing party representation was not an eligibility requirement. Filing for a guardianship or conservatorship is complicated and technical, and often emotional and confusing for litigants. The Shriver probate pilot project intended to provide meaningful and timely access to justice for self-represented individuals trying to care for family members. The Shriver Program funded one probate pilot project in Santa Barbara County.

This report presents data collected from the Shriver probate pilot project that was funded in fall 2011. Data were collected from multiple sources using a variety of research methodologies, including compilation of program services data, review of court case files, and interviews with project stakeholders. The report compiles and presents the findings across these evaluation activities implemented over the course of 5 years. The report is organized as follows:

Introduction to Probate (Guardianship and Conservatorship) Cases

This section provides an overview of the court processes for guardianship and conservatorship cases, including a description of the various events and proceedings related to the processing of petitions, which are essential to understanding the impact of Shriver services.

Implementation Overview and Project Service Summary

This section describes the implementation of the Shriver probate pilot project by summarizing the work done by legal aid and superior court staff to serve 242 litigants during the first 4 years of the grant period. A detailed Service Summary outlines the project context, implementation model and service structure, and goals for clients, as articulated by staff members during interviews and site visits. The summary also presents data on the numbers and characteristics of people served, services provided, and case characteristics and outcomes. Information was recorded by legal aid attorneys in an ongoing manner into the program services database, a standardized data collection platform, as they provided services.

Case Outcomes Study

A study of case outcomes was conducted by comparing the case events and outcomes for three groups of probate cases: (a) 48 cases that received full representation from a Shriver attorney, (b) 43 cases that received assistance from the court-based Shriver-funded probate facilitator, and (c) 47 cases that received no Shriver services. Random assignment of litigants to study groups was not possible due to the small number of eligible litigants. Instead, comparative samples were drawn using the program services database and the court's case management system. After cases were closed, the court files for the sampled Shriver full representation, probate facilitator, and non-Shriver comparison cases were reviewed for relevant data. Analyses then compared the events and outcomes for cases in these three groups.

Staff and Stakeholder Perceptions

Four years into the project implementation, project stakeholders were interviewed about their perceptions of the impact of the Shriver probate pilot project, including effects on litigants, the court, and the community. Perspectives were gathered from four staff members at the legal aid agency and four staff members at the superior court. A summary of responses is presented.

Cost Study

Costs to provide Shriver services for probate cases were estimated using data from invoices submitted to the Judicial Council, online cost information, and data recorded in the program services database. Potential cost savings to the court were calculated using estimates gathered from court staff and case file review data. Potential costs beyond the court, such as those to other systems and to the community, are also discussed.

Summary of Findings

Findings from the various study components and preceding sections are synthesized to offer a summary of the Shriver probate pilot project implementation and impacts.

Some key terms used throughout this report:

Throughout this report, the term ***self-represented*** is used to describe litigants who appear in court and go through their case proceedings without representation by an attorney.

The Shriver probate pilot project sought to provide full representation to all eligible litigants. However, some litigants received limited scope services (“unbundled” services) because they did not follow through on their cases or did not return for continued assistance. Full representation involved an attorney providing assistance and representation for all aspects of the case from start to finish. Unbundled services entailed legal help provided for discrete tasks, such as assistance with preparing and filing forms or brief counsel and advice. Throughout this report, the terms ***full representation*** and ***unbundled services*** are used to indicate these two levels of Shriver service provided by legal aid.

In addition, the Santa Barbara County Superior Court staffed a probate facilitator, who was an experienced probate attorney, to assist self-represented litigants with guardianship and conservatorship cases at the court. The probate facilitator offered help with paperwork, giving notice, and completion of related documents, but did not offer counsel or advice. Throughout this report, ***probate facilitator services*** refer to court-based services offered by the facilitator.

Shriver Probate Pilot Project

Introduction to Guardianship & Conservatorship Cases

Shriver client “Anita”

Anita had been the primary caretaker of her grandchildren for years because their parents had been absent. The children’s mother remained homeless, but their father had recently come back into their lives and the children went to stay with him. He left them for days without food or any way to contact him. Child Welfare Services (CWS) was called, and the father’s adult roommate subsequently threatened to kill one of the children for telling the school about the situation. That roommate was later seen loitering near the school. CWS referred Anita, the children’s grandmother, to the Shriver probate facilitator for assistance obtaining legal guardianship of the children. After meeting with Anita, the probate facilitator prepared the papers necessary for a temporary guardianship whereby the children would be urgently put into her care. The children had Indian heritage and the probate facilitator ensured that the tribe received notice under the Indian Child Welfare Act. After reviewing the petition, the judge granted the temporary guardianship and Anita was referred back to the probate facilitator to prepare the orders and letters of guardianship so that the school, doctors and law enforcement could be assured that Anita was the legal caretaker of her grandchildren.

Introduction to Guardianship and Conservatorship Cases

Probate courts are the division of the judicial system that handles wills and estates of deceased individuals, but are also responsible for the appointment and supervision of guardians and conservators. The Shriver probate project focused on guardianships (caring for the physical well-being of a minor child) and conservatorships (caring for the physical well-being of adults who are unable to care for themselves). Historically, guardianships were fairly straightforward cases that were necessary when parents passed away or were temporarily unable to care for their children, and most cases were uncontested. For these reasons, guardianships were placed under the jurisdiction of probate courts; however, the complexity of both guardianships and conservatorships has grown over the years and often involve disputes between family members, including allegations of mental illness, substance abuse, and physical abuse or neglect. As a result, the process for filing and obtaining a guardianship or conservatorship is often emotional, confusing, and drawn out. The Shriver probate pilot project was implemented to provide meaningful and timely access to justice for unrepresented parties involved in these cases. The following is an overview of the process to obtain guardianships or conservatorships.

Guardianships

Guardianship cases involve those in which the court appoints an adult who is not the child's parent to have custody of the child and/or to manage the child's estate. This need can arise when the child's parents are deceased, are no longer able to care for the child (e.g., due to serious mental or physical disorder), or will be absent for an extended period of time (e.g., military service, incarceration, residential drug treatment program).⁶ A guardian does not have to be related to the child in order to be appointed, though many guardians are family members.

A proposed guardian can self-nominate or be nominated by the child's parent, the child (under certain circumstances), or another interested party. The person making the nomination is referred to as the *petitioner*, and children in guardianship cases are referred to as *wards*. In most cases, the proposed guardian is the petitioner, and it is possible for multiple parties to submit competing petitions for guardianship of a single ward. If there is more than one minor from the same family, a single petition can be submitted for all children.

Guardianships can be of the *person*, by which the guardian has full legal and physical custody of the child and can make all the decisions about the physical care of the child that a parent would make (e.g., food, clothing, shelter, medical care, education). Guardianships can also be of the *estate* (or both person and estate), wherein the guardian manages the child's income, money, or other property until the child turns 18 (such as when a child inherits assets after a parent's

⁶ Guardianship is distinct from adoption. In guardianships, parents maintain their parental rights over the child and may have visitation with the child, and guardians can be supervised by the court. The court can end a guardianship if a parent becomes able to care for the child again. In adoption, the birth parents' rights are permanently ended and the legal relationship between the adoptive parents and the child is the same as a birth family.

death).⁷ The Shriver probate pilot project assisted litigants with only the person component of the guardianship petition.

Conservatorships

Like guardianships, conservatorship cases are those in which a judge appoints a responsible person (called the *conservator*) to care for another adult (called the *conservatee*) who cannot care for him/herself (or manage his/her own finances). There are three types of conservatorships available in California: *general*, *limited*, and *mental health* (LPS). The Shriver probate pilot project assisted litigants with both limited and general petitions for conservatorship, but did not provide assistance with mental health conservatorships, as only authorized psychiatrists can submit a referral for these types of conservatorships.⁸

General conservatorships are most often appointed for older adults (e.g., adults with dementia), but can also be for younger people who have been seriously impaired or suffered traumatic brain injury (e.g., in a car accident). *Limited* conservatorships most often apply to adults with developmental disabilities who can usually do many things that conservatees in general conservatorship cannot (e.g., be employed), but may require additional assistance with matters such as obtaining housing or consenting to medical treatment. For these reasons, the powers of the conservator are more limited than in general conservatorships, and the court must define the scope of the conservator's powers. Due to the complexity of limited conservatorship cases, the judge appoints the public defender or private counsel to represent the proposed conservatee. The court can also appoint legal counsel for proposed conservatees for general conservatorships if it determines that the appointment would be helpful to the resolution of the matter or is necessary to protect the interests of the proposed conservatee.⁹ This is distinct from Shriver counsel, which represented the potential conservator.

A conservator does not have to be related to the conservatee, but very often is. If the proposed conservatee does not nominate anyone, the law provides a list of preferences that the court generally follows when determining whether a person is qualified to serve as a conservator, including (in order): spouse or domestic partner, adult child, parent, sibling, other qualified individual, and public guardian. If the person closest to the top of the list does not want to be conservator, he or she can nominate someone else. The person making the nomination is known as the *petitioner*, which is most often the proposed conservator, and the court can appoint a conservator of the person, estate, or both, depending on the conservatee's needs. Again, the Shriver probate pilot project assisted litigants only with the person component of the petition, and did not provide assistance with conservatorships of the estate.

⁷ Cal. Govt. Code § 68650-68651

⁸ Mental health (LPS) conservatorships are a special type of case where the conservatee has a severe mental illness (e.g., schizophrenia, bipolar disorder), and often requires the administration of psychotropic drugs or commitment to a locked psychiatric facility. LPS comes from the names of the California legislators who wrote the LPS Act in the 1970s: Lanterman, Petris, and Short.

⁹ Cal. Prob. Code § 1471

Proceedings

FILING THE PETITION

The processes for petitioning the court for guardianship or conservatorship are very similar. Petitioners may ask for *general* (i.e., permanent) guardianship/conservatorship. They may also ask for *temporary* guardianship/conservatorship, if there is an emergency situation such as immediate need for medical treatment, or when the parents are deceased, absent, or otherwise incapacitated.¹⁰ For general petitions, the first step—and one of the biggest hurdles—is gathering all the necessary forms, completing them appropriately, and filing the petition with the clerk’s office. There are at least nine different forms one must file with the clerk’s office for a general petition, in addition to a variety of other attachments, such as applications for temporary guardianship/conservatorship or for fee waivers (if the party is low income).

One of the key components of the petition is a list of all family members related to the ward or conservatee (for example, parents, grandparents, siblings, adult children, spouses, or domestic partners). The petitioner must research the names and current addresses of all relatives so that they can be served with notices of the upcoming court hearing. Additionally, for guardianships, the petitioner must investigate whether the child has any possible American Indian ancestry, and if so, must list the names of the likely tribe(s), as required by the Federal Indian Child Welfare Act (ICWA).¹¹ Researching family members and their addresses for inclusion on the petition can be a daunting task. For petitioners who are self-represented, it may take multiple submissions to the clerk’s office before the petition is successfully filed.

GIVING NOTICE

Once the general petition has been accepted by the clerk’s office, the clerk sets a hearing date at least 6 weeks from the date of filing. If a temporary petition is also filed, an additional hearing date is set for approximately 2 weeks from the filing date. The court hearing date for the general petition is set several weeks out so that the petitioner has enough time to contact all the family members listed on the petition and have them officially served with notices of the hearing and the petition. Local agencies such as human and social services may also be notified. In addition, this time is needed for the court investigation to occur (described below).

To give notice, an adult (other than the petitioner) must give copies of the court forms, either in person or by mail, to relatives, tribes, and applicable agencies so that they are aware of the pending case. Parties must be personally served, and tribes must be served by certified mail and the address and accompanying information (e.g., exact names) must be correct. This process is referred to as *service of notice* and has very strict rules—which, if not followed

¹⁰ A temporary petition cannot be filed on its own and must be accompanied by a general petition.

¹¹ ICWA is a federal law that seeks to keep American Indian children with American Indian families. Congress passed ICWA in 1978 in response to the alarmingly high number of Indian children being removed from their homes by both public and private agencies. The intent of Congress under ICWA was to “protect the best interests of Indian children and to promote the stability and security of Indian tribes and families” (25 U.S.C. § 1902). ICWA sets federal requirements that apply to state child custody proceedings involving an Indian child who is a member of or eligible for membership in a federally recognized tribe. (http://www.nicwa.org/Indian_Child_Welfare_Act)

correctly, could cause delays in the case and require the petitioner to start the notice process over again. For all relatives and applicable agencies, the petitioner must either: (a) obtain *proof of service* from the person serving the notice; (b) obtain a signed *consent and waiver of notice* from the relative; or (c) file a *request to dispense with notice* with the court for those relatives who were unable to be reached. All documents must be carefully managed and submitted to the court for review at the hearing.

If any relative or agency opposes the petition for guardianship or conservatorship, they must file a written objection with the court or appear at the court hearing. Parties opposing a petition for guardianship or conservatorship are referred to as *objectors*. Some possible reasons for objections include: no guardianship/conservatorship is necessary; the objector is entitled to appointment; the proposed guardian/conservator is unfit; or the ward/conservatee has nominated someone else. Because there is no standardized form available in California for these objections, it is often difficult for self-represented litigants to know how to express their concerns to the court, and it is challenging for them to participate in the legal process.

COURT INVESTIGATION

While the petitioner is serving notice to all parties, a court investigation commences to evaluate the suitability of the guardianship or conservatorship and the capability of the proposed guardian or conservator. For guardianships, if the proposed guardian is a relative of the child, the court investigator conducts the investigation. If the proposed guardian is a non-relative, the county agency designated to investigate potential juvenile dependency conducts the investigation. In both guardianships and conservatorships, the investigation includes a formal home study to visit the home where the child or conservatee will live and to interview all individuals involved in the case (e.g., proposed guardian/conservator, proposed ward(s)/conservatee, relatives), and a background check of the proposed guardian/conservator and all other adults living in the home.

Once the investigation is complete, the investigator determines whether there is a valid need for guardianship or conservatorship (i.e., whether the parents of the ward(s) or the proposed conservatee are capable) or whether the case should be referred to another agency, like the county social services department (in cases of neglect or abuse). The investigator writes up a confidential recommendation and submits the report to the court for review by the judge. Typically, when a petition is filed with the court, a hearing date is set for approximately 2 months from the filing date, to allow time for the petitioner to complete notice and for the court investigation to be completed.

COURT HEARING

Prior to the first calendared court hearing, the probate examiner (a court research attorney specializing in probate matters) reviews the petition, notifications, attorney-prepared orders, and other forms to ensure that the proper documents are in place before the hearing occurs. If an obvious error is discovered (e.g., an improper ICWA notification), the probate examiner has the authority to continue (i.e., postpone) the calendared hearing and notifies the relevant parties of the error. Several days prior to the hearing date, the probate examiner reviews the documents again, including any corrections or amended documents, and also reviews the findings from the court investigation. The probate examiner drafts a tentative ruling and

prepares a memorandum for the judge to review during the hearing. The goal of the probate examiner is to reduce the judicial time required to hear and review probate cases.

At the hearing, the judge reviews the petition, notice documents, and the probate examiner's memorandum. The judge may also continue the hearing to a later date if it is determined that the petitioner did not sufficiently serve notice to all applicable relatives, tribes, and agencies. If the notices were sufficient, the judge also reviews the court investigator's confidential report; interviews the proposed guardian/conservator and proposed ward/conservatee; and possibly interviews other witnesses, objectors, or parties in attendance. Barring any other errors with the petition, the judge determines whether guardianship/conservatorship is necessary and whether the proposed guardian/conservator meets the qualifications.

For guardianships, if one or both of the child's parents object, a judge will order a guardianship *only if* staying with the parents (or one of the parents) will be detrimental to the child, and if the guardianship is in the best interests of the child. A similar determination will be made if the proposed conservatee or other interested person objects to the conservatorship.

If the judge decides that a guardianship or conservatorship is not necessary, the case will be dismissed. If a guardianship or conservatorship is appropriate, the judge decides who is best to be the guardian/conservator and signs an order appointing that person as such. The clerk certifies and files *letters of guardianship or conservatorship*, which is the document that gives legal power of the ward/conservatee to the guardian/conservator. When a guardianship or conservatorship is deemed necessary, but none of the proposed guardians or conservators is qualified, the case may be referred to another court (e.g., juvenile dependency court for guardianships) or a public guardian from the county may be appointed (for conservatorships).

ABANDONED PETITIONS

Due to the complexity of the filing process and all the requirements set forth by the court, many petitioners never successfully file a petition, and many end up abandoning a pending petition. As previously mentioned, the number of forms to complete can be intimidating, and the forms must be completed in English. Even without these constraints, research and expertise required to complete the forms may prevent many otherwise capable guardians/conservators from filing the petitions. Given the serious nature of these cases—removing children from the care of their parent(s), or giving a person great power over the life of a person with disabilities—all relatives and potential caregivers, including tribes, must be notified. Most parties without legal assistance are not able to complete the notice requirements, and many end up abandoning a petition over technicalities arising from improper notice.

On the other hand, an abandoned petition may not always signal distress on the part of the petitioner, as there are several alternatives to guardianship and conservatorship that are less restrictive and may not require a trip to the courthouse. Alternatives to guardianship include power of attorney for a minor child (for educational and medical care) and caregiver's authorization affidavit (which allows another adult to enroll the child in school, get medical care, and make school-related and/or healthcare decisions). Alternatives to conservatorship include power of attorney for healthcare decisions, advance healthcare directives, court authorization for medical treatment, informal personal care arrangements, and restraining



orders to protect against harassment. General guardianships and conservatorships are considered last-resort options when all other alternatives have been explored.

STABILITY FOR WARDS AND CONSERVATEES

Each probate case presents its own set of unique circumstances and most stakeholders reported that there was no “typical” type of probate case, making it difficult to determine a standard against which to measure the outcomes of each case (e.g., the number of letters granted may not be an appropriate measure of successful case outcomes). Most stakeholders reported that stability for the ward/conservatee was the ultimate goal of any probate case, and that there was usually some time-sensitive event (e.g., access to medical care, enrolling children in school, housing issues, or access to social services) that prompted the petitioner to attempt to file with the court. Thus, stability for the ward/conservatee hinges on *timely decisions* from the court (e.g., avoiding unnecessary delays due to improper notifications) and *accurate/appropriate court decisions* (i.e., compiling as much information as possible to ensure the ward/conservatee ends up in a safe environment with a responsible caregiver).

Shriver Probate Pilot Project

Implementation Overview & Project Service Summary

Shriver client “Martin”

Timothy, the father, had full custody of his two teenage children. Alicia, the mother, had supervised visitation due to substance abuse issues. When Timothy became seriously ill with cancer, his children went to live with Martin, a longtime friend of the family, and Martin’s family. Timothy subsequently died from cancer. Alicia threatened to take the children, and Martin filed for guardianship so that the children could stay in a stable home. There was also very serious child maltreatment allegations against the mother and her boyfriend that were pending investigation. The Shriver pilot project helped Martin by preparing the necessary forms related to the guardianship petition, and the judge granted the temporary guardianship, which immediately provided the children with security in Martin’s care. The judge also ordered that visits between Alicia and the children be supervised. Alicia did not attend appointments to see her children, and the court ultimately granted the letters of guardianship to Martin.

Shriver Pilot Project Service Summary: Santa Barbara

This section describes how the Shriver probate pilot project in Santa Barbara County addressed guardianship and conservatorship cases. This summary includes information on the program context, involved agencies, and service model, as well as detailed information on the services that were provided, litigants who received service, and case characteristics and outcomes. Material for this summary was collected over 3 years, from fall 2012 to summer 2015, and includes information from a series of stakeholder interviews, site visits, program forms, and data entered by the Shriver staff into the program services database.

Program Context

COMMUNITY

Recent census data indicated four “high poverty areas” in Santa Barbara County, specifically areas in Santa Maria, Lompoc, Santa Barbara, and Isla Vista.¹² Despite accounting for 24% of the county’s overall population, these areas were home to 61% of the children in poverty and 53% of the adults in poverty. A recent report by the County also found a lack of funding and service provision to low-income residents in North County and Lompoc, as compared to South County.

AGENCIES INVOLVED

The Shriver probate pilot project involves a collaboration between the Legal Aid Foundation of Santa Barbara County (LAFSBC) and the Santa Barbara County Superior Court. LAFSBC runs three Shriver service locations in the county, and Shriver litigants can file their cases at three of four county courthouses. Very few attorneys specialize in guardianship and conservatorship cases, and prior to the implementation of the Shriver pilot project, the only available resource self-represented litigants could access for assistance with probate matters was the Legal Resource Center (LRC), which was operated by Santa Barbara County Superior Court and staffed by an attorney from LAFSBC. The LRC attorney was not permitted to provide legal advice (only assistance preparing forms), and due to the high demand for assistance at the center for all types of legal matters, a probate litigant seeking help at the LRC would typically be provided access to a research computer, and a brief (e.g., 10-minute) interaction with the LRC attorney. Resource constraints at the LRC made meaningful access to the legal process virtually nonexistent for self-represented probate litigants. Prior to the Shriver project, LAFSBC did not offer representation for probate matters.

COURTHOUSES

The Santa Barbara County Superior Court is divided into four courthouses across the county: Santa Maria (the primary Shriver service location), Lompoc, the city of Santa Barbara, and Solvang (probate matters are not heard at Solvang, so Shriver services were not offered there).¹³ The city of Santa Barbara is located in the southern end of the county, while both Santa Maria and

¹² Retrieved from cosb.countyofsb.org/WorkArea/DownloadAsset.aspx?id=44136

¹³ Due to ongoing budget cuts, the Solvang Division of the Superior Court closed its doors in October 2014, and all matters previously filed at the Solvang Court are filed at the Lompoc Division.



Lompoc are located in the northern end. Due to their proximity and the small size of Lompoc, all probate cases filed in northern county are heard at the Santa Maria courthouse.

Since 2009, a series of budget cuts to the state’s judicial branch have forced many individual superior courts to reduce staffing, implement furlough days, and reduce the hours of operation for public counters. Santa Barbara County Superior Court reported particularly impactful changes to the probate division, including the elimination of three out of the existing four probate examiners, resulting in longer turnaround times to receive final orders.

Table P1 shows the number of guardianship and conservatorship cases filed across the three courthouses across five consecutive fiscal years, from 2010 (2 years prior to the start of Shriver project services) through 2014, the most recent fiscal year with available data. Prior to Shriver services, an average of 65 guardianship cases per year were filed across all three courthouses collectively, with Santa Maria representing the bulk of cases. In the 3 years after Shriver implementation, the average number of guardianship cases increased to 75 per fiscal year.

Table P1. Number of Probate Cases per Fiscal Year by Type

| | Fiscal Year (October 1 – September 30) | | | | |
|--|--|---------|---------|---------|---------|
| | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
| Guardianship | | | | | |
| Number of cases filed across courts ^a | 58 | 72 | 60 | 90 | 74 |
| Number of cases filed & fee waiver granted ^a | 33 | 36 | 25 | 36 | 41 |
| Number of cases receiving Shriver legal aid services ^b | -- | -- | 37 | 70 | 36 |
| Number of cases receiving Shriver legal aid services & filed a petition ^b | -- | -- | 13 | 17 | 13 |
| Number of cases receiving Shriver probate facilitator services ^c | -- | -- | -- | 54 | 90 |
| Number of cases receiving Shriver probate facilitator services & filed a petition ^c | -- | -- | -- | 41 | 62 |
| Conservatorship | | | | | |
| Number of cases filed across courts ^a | 42 | 47 | 53 | 43 | 65 |
| Number of cases filed & fee waiver granted ^a | 13 | 4 | 9 | 9 | 7 |
| Number of cases receiving Shriver legal aid services ^b | -- | -- | 10 | 32 | 22 |
| Number of cases receiving Shriver legal aid services & filed a petition ^b | -- | -- | 2 | 9 | 3 |
| Number of cases receiving Shriver probate facilitator services ^c | -- | -- | -- | 6 | 18 |
| Number of cases receiving Shriver probate facilitator services & filed a petition ^c | -- | -- | -- | 4 | 11 |

^aData obtained from staff at the Santa Barbara County Superior Court.

^bData from the Shriver program services database for cases served within each fiscal year and receiving any level of service. Note that these data reflect a time period through September 2014, whereas the program services data presented later in this report reflect a time period through June 2015.

^cData from the probate facilitator, who sometimes helped more than one party per case. For guardianship, the probate facilitator assisted 61 parties across 54 cases in 2012-13, and 123 parties across 90 cases in 2013-14. For conservatorship, she assisted seven parties across six cases in 2012-13, and 21 parties across 18 cases in 2013-14. *Note.* Estimates are combined for the three courthouses in Santa Barbara County. One or more parties in a case may have received services from both legal aid and the probate facilitator.

Project Implementation Model

The Shriver probate pilot project involves legal aid services offered by LAFSBC attorneys at three different locations, as well as assistance from a probate facilitator. As part of the project, the Superior Court in Santa Maria also dedicates an existing judicial assistant to work on probate matters. Shriver funding began in October 2011 and services from LAFSBC began in February 2012. Court-based services officially began in February 2013 with the addition of the probate facilitator, and the judicial assistant started work in March 2013.

LEGAL AID SERVICES

Service structure, referral sources, and eligibility requirements

LAFSBC offers a range of services on probate matters, from brief counsel and advice to full representation, but assists litigants only with guardianships and conservatorships of person (not estate). Litigants with combined person and estate cases can seek services with LAFSBC, but attorneys will only assist with the person component of the petition. LAFSBC represents most types of probate parties, including petitioners, objectors, proposed guardians, current guardians, parents, other relatives, and other interested parties. The only party not represented by LAFSBC is that of the ward or conservatee, as they would be represented by the public defender's office if the court determines representation is necessary.

Litigants can be referred to LAFSBC from the courthouse, the LRC, or the probate facilitator, or they can self-refer. To be eligible for Shriver services, litigants must have a monthly income not greater than 200% of the Federal Poverty Level, and the case must be in the Santa Barbara County jurisdiction (based on the residence of the ward or conservatee). Litigants are not required to have an open petition in order to receive services, as LAFSBC usually assists the litigant with filing the initial petition. Unlike the housing and custody projects that require opposing party representation to be eligible for services, the probate project is seen as a "pure access" project—it addresses the sheer difficulty of unsophisticated litigants who may not successfully obtain a guardianship or conservatorship, even when not faced with opposition. LAFSBC attempts to provide all eligible litigants (even those with uncontested cases) with full representation. However, some clients decide not to pursue the petition after receiving education and consultation on their cases, and thus receive unbundled services.

LAFSBC does not have a stated capacity in terms of the number of full representation probate cases it could represent at a time. Most probate cases last several months, allowing the agency flexibility in prioritizing staff time around caseloads.

COURT-BASED SERVICES

Service structure, referral sources, and eligibility requirements

The Santa Barbara County Superior Court used Shriver funds to create an innovative staff position: a court-based probate facilitator. The probate facilitator is a licensed attorney specializing in guardianship and conservatorship matters, located in the Santa Maria courthouse (30 hours per week), who provides education and information to self-represented litigants. Her services include completion of various legal forms (including a multitude of documents pertaining to guardianship/conservatorship, beyond the initial filings), preparing written declarations so that litigants can share their evidence in court, and researching relatives for service of notice. She occasionally attends court sessions and is called upon by the judge for

clarification of facts in the case. The probate facilitator does not offer attorney-client privilege, does not offer legal advice on petitions, and can assist all parties of a probate petition. Individuals assisted by the probate facilitator, unless they retained other counsel, are self-represented litigants.

As part of the Shriver project implementation, though not funded by it, the court also dedicated a part-time judicial assistant to process probate petitions. The judicial assistant is bilingual and provides Spanish interpretation services at the clerk's office, in the courtroom, and on behalf of the probate facilitator. Judicial assistants commonly provide interpretation services at the clerk's office, but interpretation services in the courtroom and for the probate facilitator is a new service specific to the Shriver project.

Unlike the services provided by legal aid, there is no income requirement to receive probate facilitator services. The probate facilitator assists all client types (petitioners, objectors, proposed guardians/conservators, parents, other relatives, interested parties, wards, and proposed conservatees) for both guardianship and conservatorship cases. Like the situation with legal aid, the probate facilitator does not provide assistance on estate cases. If LAFSBC encounters a conflict of interest, they can refer litigants to the probate facilitator for help.

The probate facilitator posts advertisements for her services in the clerk's office and has become a resource within the courthouse. Judicial assistants will refer litigants to her when they are seeking help completing forms or when it is apparent they are having trouble with their paperwork.¹⁴ The probate examiners also refer litigants to the facilitator as part of their probate notes, prepared before every hearing. The judge also refers litigants to the probate facilitator as part of their orders for help with additional paperwork or correcting errors.

GOALS FOR LITIGANTS

Both LAFSBC and the court reported similar goals for litigants: to increase the level of meaningful participation for all parties involved in the probate process and to reach an outcome that was in the best interests of the ward or conservatee. For clients who are petitioners, this first goal would be indicated by an increased number of successfully filed petitions (fewer rejections) and fewer petitioners abandoning their petition due to fatigue, confusion, or lack of time. For clients who are parents and other relatives, this first goal would be indicated by more parents signing consents, filing objections, or otherwise having their opinion voiced before the court. Because these cases involve complex family structures that will exist after the petition has been resolved, both legal aid and the court sought to reach an outcome that all family members could agree upon, as well as an outcome that provided stability and security for the ward or conservatee. A final goal of the program is to reduce the amount of court time spent on incomplete or ill-prepared petitions, as indicated by more accepted filings, fewer continuances, and shorter court cases.

Service Provision

Information regarding the types of services provided, case characteristics, and outcomes was obtained from the program services database. Data from LAFSBC were collected on all parties seeking services related to guardianship or conservatorship from January 2012 through June

¹⁴ Judicial assistants are not permitted to help litigants fill out their paperwork, other than providing translation services.

2015. The probate facilitator was not hired until February 2013, and she gathered her service data independently (court-based services were not tracked in the program services database). Thus, data from the probate facilitator were available for all parties seeking services from March 2013 through December 2014.

Some variables were missing data for a substantial number of cases. Missing values were sometimes due to inadequate data entry, but in many instances, data were missing because they were unknown to the attorneys. This gap is specifically apparent regarding case outcome data. For cases receiving Shriver full representation, attorneys had knowledge of the case progress and resolution. However, for cases receiving unbundled services, attorneys often did not know about case resolution. The manner in which missing data are handled during analysis can influence results and subsequent interpretation. Throughout this report, missing data are included in the analyses and presented in the tables in an effort to prevent overestimation and to provide the reader with as much information as possible.

This section presents data pertaining to the characteristics of the litigants who received Shriver services and the types of services provided, as well as various characteristics of the probate case, such as information about the wards and conservatees, status of petitions, and outcomes.

WHAT SERVICES WERE PROVIDED?

Legal aid services

LAFSBC offered a range of legal services to litigants, including ***full representation*** for the cases and a variety of ***unbundled services***, including referrals to other resources, self-help, education, brief counsel and advice, mediation, and limited representation (including brief services, negotiation, and serving as the attorney of record). At initial intake, after being screened by the intake coordinator, an LAFSBC attorney would sit down with the client and spend between 1 and 3 hours reviewing case information, explaining the probate process, and possibly begin filling out court forms. Sometimes during this process, the attorney discovered that the client did not meet the full eligibility criteria (e.g., over income, the case was outside the jurisdiction of Santa Barbara County, the petition was for estate, etc.), resulting in the delivery of very brief unbundled services. It was also at this time that the attorney would explain possible alternatives to guardianship or conservatorship.¹⁵

LAFSBC sought to provide each eligible client with full representation, but some litigants ultimately received unbundled services. Some reasons for less than full representation include: the client was only seeking information; after consultation, the client pursued alternative, less-restrictive arrangements (e.g., Caregiver's Authorization Affidavit or Power of Attorney); the client was informed she or he would likely not meet the eligibility requirements for a guardian

¹⁵ Guardianships and conservatorships are complicated legal actions in California and often there are solutions that can accomplish a litigant's objective without going to court. For example, if a parent needs to have someone take care of her child for a short term, the parent can execute a Caregiver's Authorization Affidavit, which can be used with schools, healthcare providers, and others for a limited time. Similarly, a durable power of attorney for healthcare may be all that is needed for a person who might think that a conservatorship is necessary. These legal documents do not need to be filed with the court, and thus the person's legal issues may be handled without the need for a formal proceeding.

or conservator (e.g., criminal history); or the client did not show up for subsequent appointments (in which case the reason is unknown).

As seen in Table P2, of the 242 litigants seen by LAFSBC, 158 met the full eligibility criteria. Of these, 40% ($n=63$) received full representation and 60% ($n=95$) received unbundled services. There were an additional 84 litigants who received some legal assistance (e.g., education, brief counsel and advice), but they were ultimately deemed ineligible for Shriver services after initial consultation. In some cases, attorneys reported having worked with the litigant for a number of hours before discovering that the case was ineligible for Shriver service (e.g., a case being out of jurisdiction is dependent on the address of the ward/conservatee, which may not be immediately apparent) or inappropriately positioned for a guardianship (i.e., a different arrangement would better suit the family). Because these clients received some Shriver service before being deemed ineligible, they are shown in the early part of this section.

Shriver attorneys tracked the total number of hours they spent working on cases in 1-hour increments. Table P2 shows the mean (and median) number of hours attorneys worked on probate cases, by the level of service. These estimates reflect just attorney time and do not reflect time worked by other staff, such as intake coordinators. Overall, Shriver clients received an average of nearly 7 hours of legal services provided by attorneys. On average, full representation clients received 17 hours and unbundled services clients received 2 hours.

**Table P2. Number of Legal Aid Cases
 and Attorney Hours Provided by Level of Service**

| | Level of Service | | | Total |
|--------------------------------|---------------------|--------------------|---------------------------------|------------|
| | Eligible | | Ineligible | |
| | Full Representation | Unbundled Services | Unbundled Services ^a | |
| Number (%) of Cases | 63 (40%) | 95 (60%) | 84 (100%) | 242 (100%) |
| Attorney Hours Provided | | | | |
| Mean (<i>SD</i>) | 16.8 (15.0) | 2.4 (1.6) | 1.8 (3.5) | 6.6 (11.0) |
| Median | 15.0 | 2.0 | 1.0 | 2.0 |
| Range | 0.5 to 73 | 0.5 to 7.5 | 0.5 to 20 | 0.5 to 73 |

Note. Data from the program services database (as of 06/29/2015). A total of 49 cases were missing attorney hour information (20% of all cases), four in the full representation group and 45 in the unbundled services group.

^a Of those litigants deemed ineligible, 28 were over income, 18 involved a stance not taken by Shriver funding (e.g., estate cases), 13 were outside Santa Barbara County, eight were not an LAFSBC priority, seven were conflict of interest, five were not probate matters, and five were otherwise ineligible.

Court-based services

Court-based Shriver services included those of the probate facilitator and the dedicated judicial assistant staffed at the clerk’s office. These two entities worked in tandem with one another to process guardianship and conservatorship petitions. The judicial assistant estimated that it takes approximately 45 minutes to review and process a probate petition each time it is submitted to the clerk’s office. Prior to Shriver implementation, court staff estimated it took an average of three attempted submissions before a probate petition was accepted as complete and successfully filed with the clerk’s office. After Shriver implementation, court staff reported that probate petitions were rarely rejected and usually accepted on the first attempt.

Additionally, whenever the probate facilitator helped a litigant file paperwork, she stamped the form so that the judicial assistant knew it was filed by the facilitator. If the judicial assistant discovered an error in a form submitted by the facilitator, instead of rejecting the petition and returning it to the petitioner, the judicial assistant submitted the form directly back to the probate facilitator for corrections or addendums and quickly reprocessed the paperwork.

From February 2013 through June 2015, the probate facilitator assisted 286 litigants. Specific data on services provided and litigant and case characteristics were available for the 203 parties (across 188 cases) served through December 2014. (In 15 cases, the probate facilitator assisted multiple parties to the case.) The remainder of this section presents data for these 203 parties.

The probate facilitator tracked the number of hours spent working with each party in as little as 15-minute increments. Table P3 shows the mean (and median) number of hours spent per case and per party. On average, a party received a total of 5 hours of direct contact from the probate facilitator, ranging from 15 minutes up to 23 hours. These estimates include direct communication and appointments. They do not include time spent by the probate facilitator preparing or reviewing documents, handling notifications, corresponding with the clerk or research attorneys, etc.

Table P3. Probate Facilitator Hours Provided

| Statistic | Number of Hours | |
|----------------------|-----------------|--------------|
| | Per Party | Per Case |
| Mean (<i>SD</i>) | 4.9 (4.3) | 5.3 (4.4) |
| Median | 4.0 | 4.5 |
| Range | 0.25 to 23 | 0.25 to 27.5 |
| Missing <i>N</i> (%) | 3 (2%) | 2 (1%) |

Note. Data obtained from the probate facilitator (as of 12/31/14).
N=203 parties. *N*=188 cases.

Litigants receiving probate facilitator help were asked how they learned about these services. Nearly half (43%) were referred from the clerk's office; 11% were referred by a court staff member (e.g., judge, court investigator); 23% were referred by Child Welfare Services, the Department of Social Services, or another government agency; and the remaining 23% came from a variety of word-of-mouth sources (e.g., previous customers, public defender's office, private attorneys, family law). In nearly all cases, the probate facilitator began helping a litigant prior to the case paperwork being filed.

Both legal aid attorneys and the probate facilitator believed there was little overlap in terms of services provided, except in the instance of conflicts of interest at legal aid. In those very few circumstances, the legal aid agency would refer the litigant to the probate facilitator.

WHO RECEIVED LEGAL AID SERVICES?

Client characteristics

Two thirds (66%) of cases involved multiple individuals seeking assistance (e.g., couples, such as grandparents seeking guardianship of grandchildren). Demographics below reflect one "primary" client per case (i.e., the person with whom the attorney had the most interaction). Across primary clients, the average age was 49 years (median = 50, range = 18 to 81), most (56%) were Hispanic or Latino, one quarter (28%) had some post-secondary education, one fifth

(21%) could not effectively communicate in English without the assistance of an interpreter (limited English proficiency), and one fifth (21%) had known or observable disabilities. Table P4 shows these characteristics of the 242 litigants served by LAFSBC.

Table P4. Demographic Characteristics of Shriver Legal Aid Clients

| Client Characteristics | Level of Service | | | Total N (%) |
|--|------------------------------|--|--|-------------------|
| | Full Representation N (%) | Unbundled Services (Eligible) N (%) | Unbundled Services (Ineligible) N (%) | |
| Petitioners were a couple | 35 (56%) | 63 (66%) | 62 (74%) | 160 (66%) |
| Petitioner was an individual | 28 (44%) | 32 (34%) | 21 (25%) | 81 (33%) |
| Missing/unknown | 0 (0%) | 0 (0%) | 1 (1%) | 1 (<1%) |
| Characteristics of "Primary" Client | | | | |
| Age (years) | | | | |
| 18 to 24 | 3 (5%) | 7 (7%) | 2 (2%) | 12 (5%) |
| 25 to 44 | 23 (37%) | 30 (32%) | 30 (36%) | 83 (34%) |
| 45 to 61 | 23 (37%) | 42 (44%) | 36 (43%) | 101 (42%) |
| 62 or older | 14 (22%) | 16 (17%) | 16 (19%) | 46 (19%) |
| Race/Ethnicity^a | | | | |
| Black or African American | 1 (2%) | 4 (4%) | 2 (2%) | 7 (3%) |
| Hispanic/Latino | 47 (75%) | 43 (45%) | 45 (54%) | 135 (56%) |
| White | 11 (18%) | 35 (37%) | 33 (39%) | 79 (33%) |
| Other | 3 (5%) | 8 (8%) | 4 (5%) | 15 (6%) |
| Unknown/declined | 1 (2%) | 5 (5%) | 0 (0%) | 6 (3%) |
| Education | | | | |
| High school degree or less | 24 (38%) | 21 (22%) | 25 (30%) | 70 (29%) |
| Any post-secondary | 14 (22%) | 29 (31%) | 24 (29%) | 67 (28%) |
| Unknown/not collected | 25 (40%) | 45 (47%) | 35 (42%) | 105 (43%) |
| Limited English Proficiency | | | | |
| Yes | 23 (37%) | 17 (18%) | 10 (12%) | 50 (21%) |
| No | 40 (64%) | 78 (82%) | 74 (88%) | 192 (79%) |
| Disability | | | | |
| Yes | 12 (19%) | 27 (28%) | 12 (14%) | 51 (21%) |
| No | 48 (76%) | 55 (58%) | 62 (74%) | 165 (68%) |
| Unknown/not collected | 3 (5%) | 13 (14%) | 10 (12%) | 26 (10%) |
| Total | 63 (100%) | 95 (100%) | 84 (100%) | 242 (100%) |

Note. Data from the program services database (as of 06/29/2015). Demographic data describe the primary client (one litigant) per case.

^a Litigants who identified as Hispanic/Latino and another race are included in the Hispanic/Latino row.

Table P5 details the household characteristics for litigants who presented at LAFSBC, by level of service and eligibility. Among the eligible clients, three quarters (75%; $n=118$) of households had at least one minor living in the home, the median monthly income was \$1,600 (mean = \$1,756),¹⁶ and about one of six (17%; $n=27$) received CalFresh benefits.¹⁷

Table P5. Household Characteristics of Shriver Legal Aid Clients

| Household Characteristics | Level of Service | | | Total N (%) |
|-----------------------------------|---------------------------------|---|---|-------------------|
| | Full Representation N (%) | Unbundled Services (Eligible) N (%) | Unbundled Services (Ineligible) N (%) | |
| Minor(s) in Household | | | | |
| Yes | 52 (83%) | 66 (70%) | 53 (63%) | 171 (71%) |
| No | 8 (13%) | 19 (20%) | 23 (27%) | 50 (21%) |
| Missing | 3 (5%) | 10 (10%) | 8 (10%) | 21 (9%) |
| Monthly Income | | | | |
| None | 0 (0%) | 11 (12%) | 9 (11%) | 20 (8%) |
| \$1 to \$1,000 | 15 (24%) | 25 (26%) | 12 (14%) | 52 (22%) |
| \$1,001 to \$2,000 | 19 (30%) | 31 (33%) | 12 (14%) | 62 (26%) |
| \$2,001 to \$3,000 | 19 (30%) | 14 (15%) | 25 (30%) | 58 (24%) |
| \$3,001 to \$4,000 | 7 (11%) | 9 (10%) | 11 (13%) | 27 (11%) |
| \$4,001 to \$5,000 | 3 (5%) | 4 (4%) | 7 (8%) | 14 (6%) |
| \$5,001 or more | 0 (0%) | 1 (1%) | 8 (10%) | 9 (4%) |
| Received CalFresh Benefits | | | | |
| Yes | 15 (24%) | 12 (13%) | 7 (8%) | 34 (14%) |
| No | 47 (75%) | 71 (75%) | 75 (89%) | 193 (80%) |
| Missing | 1 (2%) | 12 (13%) | 2 (2%) | 15 (6%) |
| Total | 63 (100%) | 95 (100%) | 84 (100%) | 242 (100%) |

Note. Data obtained from the Shriver program services database (as of 06/29/2015).

There were some demographic differences between the litigants seeking guardianships ($n=161$) and those seeking conservatorships ($n=81$). Generally, when compared to those seeking conservatorships, litigants seeking guardianships were younger (an average age of 48 years vs. 53 years), less likely to be White (28% vs. 44%), less likely to have post-secondary education (28% vs. 47%), more likely to receive CalFresh benefits (19% vs. 4%), and more likely to have minors living in the household (89% vs. 33%).

Case characteristics

Table P6 shows the number of people who presented to LAFSBC for help with guardianships and conservatorships, by level of service received. Overall, of the 242 cases that received any legal assistance from LAFSBC, the majority were for guardianships (75% of full representation cases and 67% of unbundled services cases). In about one of every eight cases (13%; $n=32$), temporary orders for guardianship or conservatorship were requested in addition to general

¹⁶ The median monthly income for the ineligible clients was \$2,500 (mean = \$2,669).

¹⁷ The CalFresh Program, federally known as the Supplemental Nutrition Assistance Program (SNAP; formerly "food stamps"), provides qualified, low-income households with monthly electronic benefits that can be used to buy most foods at many markets and food stores.

orders. In the full representation group, this ratio was higher, with roughly one in three cases (37%; $n=23$) requesting temporary orders for guardianship or conservatorship. Temporary orders are typically requested when there is an emergency situation and require additional forms to be completed as well as more complex factual declarations.

Of the 16 conservatorship cases that received full representation, 25% ($n=4$) were seeking help with limited conservatorships, which are typically sought for adults with developmental disabilities and have a more restricted role for the conservator than general conservatorships do. Of the eligible and ineligible conservatorship cases receiving unbundled services, 12% ($n=8$) sought assistance with limited conservatorships, although 29% ($n=19$) of cases were missing this level of detail (likely due to the brief interaction legal services had with the clients).

Table P6. Number of Legal Aid Cases by Case Type

| Case Type | Level of Service | | | Total <i>N</i> (%) |
|-----------------|-------------------------------------|---|---|-----------------------|
| | Full Representation <i>N</i> (%) | Unbundled Services (Eligible) <i>N</i> (%) | Unbundled Services (Ineligible) <i>N</i> (%) | |
| Guardianship | 47 (75%) | 64 (67%) | 50 (60%) | 161 (67%) |
| Conservatorship | 16 (25%) | 31 (33%) | 34 (40%) | 81 (33%) |
| Total | 63 (100%) | 95 (100%) | 84 (100%) | 242 (100%) |

Note. Data obtained from the Shriver program services database (as of 06/29/2015).

Table P7 illustrates the reason litigants sought legal services from LAFSBC. Across all eligible parties, the majority (64%) sought help filing a new petition for guardianship or conservatorship (86% of full representation clients and 48% of unbundled services clients). Some litigants also sought help with matters related to terminating a current guardianship or conservatorship (5% of all parties), or obtaining alternatives to guardianship or conservatorship (2% of all parties). Very few parties were seeking to object to a guardianship or conservatorship (1% of all parties).

Table P7. Reason Seeking Shriver Legal Aid Services

| Reason | Level of Service | | | Total <i>N</i> (%) |
|--|-------------------------------------|---|---|-----------------------|
| | Full Representation <i>N</i> (%) | Unbundled Services (Eligible) <i>N</i> (%) | Unbundled Services (Ineligible) <i>N</i> (%) | |
| Help filing new petitions | 54 (86%) | 46 (48%) | 55 (66%) | 155 (64%) |
| Objecting to a new petition | 1 (2%) | 1 (1%) | 1 (1%) | 3 (1%) |
| Seeking alternative to guardianship/conservatorship | 1 (2%) | 3 (3%) | 1 (1%) | 5 (2%) |
| Terminating an existing guardianship/conservatorship | 1 (2%) | 6 (6%) | 5 (6%) | 12 (5%) |
| Change of guardian/conservator | 0 (0%) | 3 (3%) | 1 (1%) | 4 (2%) |
| Other | 2 (3%) | 0 (0%) | 0 (0%) | 2 (1%) |
| Missing | 4 (6%) | 36 (38%) | 21 (25%) | 61 (35%) |
| Total | 63 (100%) | 95 (100%) | 84 (100%) | 242 (100%) |

Note. Data obtained from the Shriver program services database (as of 06/29/2015).

WHO RECEIVED COURT-BASED SERVICES?

Litigant characteristics

Table P8 illustrates the demographic characteristics for 203 parties receiving services from the probate facilitator. Overall, more than two thirds (70%) of litigants were female, most (56%) were Hispanic/Latino, the majority (88%) communicated primarily in English, over one third (40%) had a combined household income of less than \$2,000 per month,¹⁸ and one quarter (25%) received some form of public assistance. Though court-based services were offered to all litigants regardless of income level, many parties were below 200% of the Federal Poverty Level, as indicated by their household income or by their receipt of public assistance.

Table P8. Demographic Characteristics of Litigants Served by the Shriver Probate Facilitator

| Characteristic | N (%) |
|-----------------------------------|-----------|
| Gender | |
| Male | 35 (17%) |
| Female | 141 (70%) |
| Both (couple/multiple) | 27 (13%) |
| Race/Ethnicity | |
| Black or African American | 10 (5%) |
| Hispanic/Latino | 114 (56%) |
| White | 75 (37%) |
| Other | 4 (2%) |
| Primary Language | |
| English | 178 (88%) |
| Spanish | 23 (11%) |
| Other | 2 (1%) |
| Monthly Household Income | |
| None | 19 (9%) |
| \$1 to \$1,000 | 37 (18%) |
| \$1,001 to \$2,000 | 25 (12%) |
| \$2,001 to \$3,000 | 13 (6%) |
| \$3,001 to \$4,000 | 16 (8%) |
| \$4,001 to \$5,000 | 8 (4%) |
| \$5,001 or more | 13 (6%) |
| Unknown/missing | 72 (36%) |
| Received Public Assistance | |
| Yes | 50 (25%) |
| No | 69 (34%) |
| Unknown/missing | 84 (41%) |

Note. Data from the probate facilitator (as of 12/31/14).
N=203.

¹⁸ The mean/median income for litigants receiving services from the probate facilitator is not available, as household income was collected using the category ranges listed in Table P8.

Case characteristics

Of the 203 parties served by the probate facilitator, the majority (83%; $n=169$) were seeking assistance with guardianship cases. Tables P9 and P10 show the number of parties seeking assistance from the probate facilitator and the type of assistance sought.

Table P9. Number of Probate Facilitator Litigants Served by Case Type

| Case Type | N (%) |
|-----------------|-----------|
| Guardianship | 169 (83%) |
| Conservatorship | 32 (16%) |
| Other | 1 (1%) |

Note. Data obtained from the probate facilitator (as of 12/31/14). $N=203$; missing $n=1$. “Other” includes one juvenile dependency case.

The majority of parties (67%; $n=135$) sought assistance with filing a new petition for guardianship or conservatorship, followed by assistance with terminations of existing guardianships/conservatorships (12%; $n=24$). Few parties (4%; $n=8$) sought help filing an objection to a petition for guardianship or conservatorship. In approximately 97% of cases, the party seeking help was a relative of the proposed ward or conservatee. In 16% of guardianship cases ($n=27$), the probate facilitator assisted the party with filing ICWA notifications.

Table P10. Reason for Seeking Probate Facilitator Services

| Reason | N (%) |
|---|-------------------|
| Assistance filling out forms for a new petition | 135 (67%) |
| Terminations | 24 (12%) |
| Education about probate process | 9 (4%) |
| Objections | 8 (4%) |
| Visitation orders | 8 (4%) |
| Annual status reports | 6 (3%) |
| Other | 12 (6%) |
| Unknown/missing | 1 (1%) |
| Total | 203 (100%) |

Note. Data from the probate facilitator (as of 12/31/14). The “other” category includes help updating information with the court ($n=3$), filing a change of venue ($n=3$), and transferring a case to a different court ($n=2$).

Case Events and Outcomes for Legal Aid Services Clients

Because many unbundled services clients decided not to pursue services with the Legal Aid Foundation of Santa Barbara County (LAFSBC) after their initial consultations, many of the characteristics and outcomes for the unbundled services cases were unknown to legal aid staff. Similarly, the probate facilitator generally had no knowledge of the case outcomes and was not able to track outcomes for the litigants receiving court-based services. Therefore, the information presented in the remainder of this section reflects **legal aid full representation clients only**, because these cases had complete data entered into the program services database by legal aid staff. In total, the sample for these analyses included 47 guardianship cases and 16 conservatorship cases. (Data regarding outcomes for a subset of cases served by legal aid, cases served by the probate facilitator, and cases receiving no Shriver services were gathered from a review of individual court case files. Those analyses are presented in the next section of this report.)

Table P11 presents the role of the LAFSBC client in the probate case. Overall, the large majority of clients (87%; $n=55$) were petitioners (either the sole petitioner or submitting a competing petition for guardianship or conservatorship). Temporary orders were also sought in about half (47%; $n=22$) of the guardianship cases and very few (2%) conservatorship cases.

Table P11. Legal Aid Client Role by Case Type

| Client Role | Case Type | | |
|-------------------------|------------------------------|---------------------------------|-----------------------|
| | Guardianship <i>N</i> (%) | Conservatorship <i>N</i> (%) | Total <i>N</i> (%) |
| Petitioner ^a | 44 (94%) | 11 (69%) | 55 (87%) |
| Objector | 2 (4%) | 0 (0%) | 2 (3%) |
| Other interested party | 1 (2%) | 5 (31%) | 6 (10%) |
| Total | 47 (100%) | 16 (100%) | 63 (100%) |

Note. Data from the Shriver program services database (as of 06/29/2015).

^aThe petitioner group includes one person who was seeking to terminate a guardianship, one person seeking help with an annual status review, and one person seeking help obtaining a passport.

Table P12 shows the demographic characteristics of the proposed wards and conservatees at subject in the Shriver case. Two thirds of guardianship cases involved a single ward, and the average age of all wards was 8 years old (median = 8 years; range = 0 to 17). The average age of proposed conservatees was 34 years old (median = 26; range = 17 to 91). About one in 10 wards (9%; $n=4$) and all proposed conservatees (100%; $n=16$) had known or observable disabilities. Every proposed guardian or conservator who received Shriver full representation was a relative of the ward or conservatee.

Table P12. Proposed Ward/Conservatee Demographics in Legal Aid Services Cases

| | Case Type | | |
|---|------------------------------|---------------------------------|-----------------------|
| | Guardianship <i>N</i> (%) | Conservatorship <i>N</i> (%) | Total <i>N</i> (%) |
| Characteristic of Case | <i>N</i> = 47 | <i>N</i> = 16 | <i>N</i> = 63 |
| Cases with 1 ward/conservatee | 31 (66%) | 16 (100%) | 47 (75%) |
| Cases with >1 ward/conservatee | 16 (34%) | 0 (0%) | 16 (25%) |
| Does Case Involve a Ward with a Disability? | | | |
| Yes | 4 (9%) | 16 (100%) | 20 (32%) |
| No | 34 (72%) | 0 (0%) | 34 (54%) |
| Unknown/not collected | 9 (19%) | 0 (0%) | 9 (14%) |
| Is Proposed Guardian/Conservator a Relative of the Ward/Conservatee? | | | |
| Yes (e.g., grandchild, niece/nephew, adult child, parent, sibling) | 47 (100%) | 16 (100%) | 63 (100%) |
| Characteristic of Ward/Conservatee | <i>N</i> = 69 ^a | <i>N</i> = 16 | <i>N</i> = 85 |
| Age (years) | | | |
| 0 to 4 | 19 (28%) | 0 (0%) | 19 (22%) |
| 5 to 9 | 25 (36%) | 0 (0%) | 25 (29%) |
| 10 to 19 | 25 (36%) | 5 (31%) | 30 (35%) |
| 20 to 39 | 0 (0%) | 8 (50%) | 8 (9%) |
| 40 to 59 | 0 (0%) | 1 (6%) | 1 (1%) |
| 60 to 91 | 0 (0%) | 2 (13%) | 2 (2%) |

Note. Data obtained from the Shriver program services database (as of 06/29/2015).

^a One guardianship case was missing data for child age.

At the time of Shriver intake, of the 47 guardianship cases receiving representation, most (89%; $n=42$) involved wards who were living with relatives (usually the proposed guardian) that was not the parent. Of these 42 cases, three proposed guardians intended to adopt the wards (39 did not). Several cases also had other open cases related to the wards, including child custody (13%; $n=6$), child welfare (13%; $n=6$), domestic violence (9%; $n=4$), other criminal investigations (6%; $n=3$), juvenile court (4%; $n=2$), juvenile dependency (2%; $n=1$), and eviction (2%; $n=1$). None of the wards were appointed minor's counsel or were represented by an attorney.

At Shriver intake, of the 16 conservatorship cases that received full representation, most conservatees (75%; $n=12$) had previously received some informal assistance related to daily functioning, and about two thirds (63%; $n=10$) were currently accepting informal or formal assistance. In two cases, special or general powers of attorney had already been granted. Due to

the complexity of limited conservatorships and determining which powers should be appointed to a conservator and which remain under the conservatee's control, every proposed conservatee in limited conservatorship cases is automatically appointed counsel from the public defender's office. Of the cases receiving full representation, three (19%) of the proposed conservatees had representation, and all were public defenders appointed in limited conservatorship cases.

Table P13 illustrates the number of cases with objections and additional parties. Objections can take the form of written opposition, and objectors do not have to become formal parties to the case in order to voice their dissent. Therefore, the number of petitions with objections may be larger than the number of petitions with additional parties. Overall, about one third of all cases (30%; $n=19$) had at least one known objection to the petition, and 10% of cases ($n=6$) had at least one additional party in the case—both of which predominantly occurred in guardianship cases. Of the six guardianship cases with additional parties, most (67%; $n=4$) were parents. Five of the six cases with additional parties (83%) had at least one party represented by legal counsel, usually by a private bar attorney (67%; $n=4$). In these six cases with an additional party, all parties were objecting to the proposed guardianship, and the primary reason was that no guardianship was necessary (i.e., at least one parent was capable of caring for the ward; 83%; $n=5$), followed next by a competing petition for guardianship (17%; $n=1$).

Table P13. Legal Aid Cases with Objections and Additional Parties

| Characteristic | Case Type | | |
|---|------------------------------|---------------------------------|-----------------------|
| | Guardianship <i>N</i> (%) | Conservatorship <i>N</i> (%) | Total <i>N</i> (%) |
| Total Petitions | 47 (100%) | 16 (100%) | 63 (100%) |
| With known objections | 17 (36%) | 2 (13%) | 19 (30%) |
| With additional parties | 6 (13%) | 0 (0%) | 6 (10%) |
| Information about Cases with Additional Parties ($n=6$) | | | |
| Additional Party Relationship | | | |
| Parent of ward | 4 (67%) | -- | 4 (67%) |
| Other family member | 1 (17%) | -- | 1 (17%) |
| Multiple individuals | 1 (17%) | -- | 1 (17%) |
| Total | 6 (100%) | -- | 6 (100%) |
| Additional Party Representation | | | |
| Rep. by legal aid | 1 (17%) | -- | 1 (17%) |
| Rep. by private bar | 4 (67%) | -- | 4 (67%) |
| None | 1 (17%) | -- | 1 (17%) |
| Total | 6 (100%) | -- | 6 (100%) |

Note. Data obtained from the Shriver program services database (as of 06/29/2015).

PARTICIPATION IN THE JUSTICE SYSTEM

Petitions filed

As previously mentioned, one of the primary goals for the Shriver probate program was increased levels of meaningful participation in the court process by all involved parties, in an effort to serve the best interests of the proposed ward or conservatee. To represent the number of litigants participating in the justice system as a result of service receipt, analyses examined the petition status at Shriver legal aid intake and at the conclusion of services. Table P14 shows that 16% of Shriver legal aid clients (21% of guardianship and no conservatorship) had filed petitions for guardianship or conservatorship at the time they sought Shriver services. At the conclusion of Shriver services, 87% had filed petitions, although 14% of litigants subsequently withdrew theirs.

Table P14. Petition Status at Intake and Conclusion of Shriver Legal Aid Services

| Petition Status | Case Type | | |
|--|-----------------------|--------------------------|----------------|
| | Guardianship N (%) | Conservatorship N (%) | Total N (%) |
| At Shriver Intake | | | |
| No petition filed | 34 (72%) | 15 (94%) | 49 (78%) |
| Petition filed | 10 (21%) | 0 (0%) | 10 (16%) |
| N/A (other needs) ^a | 3 (6%) | 1 (6%) | 4 (6%) |
| Total | 47 (100%) | 16 (100%) | 63 (100%) |
| At Conclusion of Shriver Services | | | |
| Petition never filed | 1 (2%) | 3 (19%) | 4 (6%) |
| Petition filed | 34 (72%) | 12 (75%) | 46 (73%) |
| Petition filed, but withdrawn | 9 (19%) | 0 (0%) | 9 (14%) |
| N/A (other needs) ^a | 3 (6%) | 1 (6%) | 4 (6%) |
| Total | 47 (100%) | 16 (100%) | 63 (100%) |

Note. Data from the Shriver program services database (as of 06/29/2015).

^a "Other needs" include those that were seeking annual status reviews, Caregiver's Authorization Affidavits, or passports for proposed conservatee.

CASE OUTCOMES

Obtaining letters of guardianship/conservatorship

As depicted in Table P15, of the 63 cases receiving full representation, 65% ($n=41$) had letters granted, with all but two petitions granted to the Shriver client. Nineteen percent of petitions ($n=12$) were either withdrawn or never filed; it is unclear from the program services database what proportions were due to fatigue with the filing process versus reaching alternative arrangements (e.g., obtaining a Caregiver's Affidavit or Power of Attorney). One case resulted in the guardianship being terminated, which was at the request of the parties.

Table P15. Outcome of Guardianship and Conservatorship Petitions for Legal Aid Cases

| Case Disposition | Case Type | | |
|--|-----------------------|--------------------------|------------------|
| | Guardianship N (%) | Conservatorship N (%) | Total N (%) |
| Petition withdrawn or never filed | 9 (19%) | 3 (19%) | 12 (19%) |
| Letters granted to client | 28 (60%) | 11 (69%) | 39 (62%) |
| Letters granted to opposing party | 2 (4%) | 0 (0%) | 2 (3%) |
| Guardianship/conservatorship terminated | 1 (2%) | 0 (0%) | 1 (2%) |
| Letters not granted (by judge's order) | 1 (2%) | 0 (0%) | 1 (2%) |
| Other outcome (e.g., visitation orders granted, case dismissed, case moved to another court) | 4 (9%) | 0 (0%) | 4 (6%) |
| Unknown/missing | 2 (4%) | 2 (12%) | 4 (6%) |
| Total | 47 (100%) | 16 (100%) | 63 (100%) |

Note. Data obtained from the Shriver program services database (as of 06/29/2015).

Of the 23 full representation cases in which temporary orders were requested, 13 (57%) were granted. For the remaining 10 cases, five petitioners (22%) withdrew their petitions, three (13%) had unknown temporary order outcomes, one client was appointed as the permanent guardian (and possibly the temporary guardian), and in one case the judge did not appoint a guardian (4%).

COURT EFFICIENCY

Case length and continuances

Providing legal services to otherwise self-represented litigants could have an impact on court efficiency. As previously mentioned, stakeholders reported that most families involved in petitions for guardianship or conservatorship are operating in a time-sensitive context, where the ward or conservatee may be facing a delay in care or access to services and/or stress, fear, and instability. The speed with which the court can process the paperwork, review the case, and make a final determination on guardianship or conservatorship has an immediate impact on the individuals at the focus of the case. Further, when cases have hearings continued multiple times, it contributes to court congestion and impedes overall court functioning.

One potential indicator of court efficiency is the age of the case, as measured by the number of days from petition filing to court disposition or case closure. Measuring court efficiency may not be as straightforward as looking for an overall reduction in case age, as there are several goals of the Shriver probate pilot project, some of which may have competing impacts on average case length. For example, providing legal assistance to otherwise self-represented litigants may shorten case age by reducing unnecessary delays due to missed deadlines or ill-prepared forms. However, legal assistance could also reduce the number of petitions that are withdrawn or abandoned early in the process, which could increase the overall average length of cases. Once petitions are successfully filed, a hearing date is set for at least 45 days from the date of filing, to allow sufficient time for notifications, research by the probate examiner, and the court investigation. If all paperwork and processes are completed successfully the first time, general petitions can be resolved within as little as 60 days (2 months). However, even one continuance can lengthen the time to resolution.

Table P16 illustrates the average case age for Shriver representation clients. Of all cases that were successfully filed with the court (i.e., have a valid filing date) and all cases that were pursued by the petitioner (i.e., not withdrawn), the average time from filing to disposition was 4.3 months for guardianship cases and 3.2 months for conservatorship cases (ranging from 0 to 40 months for all cases).¹⁹ However, more than half of all cases were resolved within 2 months.

On average, Shriver services for guardianship cases lasted for 4.7 months, about 2 weeks longer than the average length of the court cases. Shriver services for conservatorship cases lasted, on average, for 11 months, about 8 months longer than the average case length. This extended duration is because the attorneys remained on conservatorship cases through the first follow-up hearing, typically scheduled for 6 months post-resolution. (Follow-up hearings for guardianship cases happen annually, and the attorneys did not remain on the cases that long.)

Table P16. Average Length of Case and of Shriver Legal Aid Service Provision

| Case and Shriver Length | Case Type | | |
|--|--------------|-----------------|-------------|
| | Guardianship | Conservatorship | Total |
| Case Length^b | | | |
| Mean number of months (<i>SD</i>) | 4.3 (7.4) | 3.2 (2.1) | 4.1 (6.6) |
| Median number of months | 2.0 | 2.0 | 2.0 |
| Range | 0.0 to 40.0 | 1.0 to 8.0 | 0.0 to 40.0 |
| Missing (%) | 4 (11%) | 2 (17%) | 6 (12%) |
| Number of cases (%) resolved within... | | | |
| 2 months (60 days) | 21 (55%) | 6 (50%) | 27 (54%) |
| Between 2 and 3 months (61-90 days) | 5 (13%) | 1 (8%) | 6 (12%) |
| Between 3 and 6 months (91-180 days) | 3 (8%) | 2 (17%) | 5 (10%) |
| Between 6 and 12 months (181-365 days) | 1 (3%) | 1 (8%) | 2 (4%) |
| 12 months or more (more than 365 days) | 4 (11%) | 0 (0%) | 4 (8%) |
| Missing | 4 (11%) | 2 (17%) | 6 (12%) |
| Length of Shriver Service Provision^a | | | |
| Mean number of months (<i>SD</i>) | 4.7 (3.9) | 11.0 (2.3) | 6.1 (4.5) |
| Median number of months | 4.0 | 10.0 | 5.0 |
| Range | 0.0 to 15.0 | 8.0 to 16.0 | 0.0 to 16.0 |
| Missing (%) | 0 (0%) | 1 (8%) | 1 (2%) |

N=50. Guardianship cases *n*=38; Conservatorship cases *n*=12.

Note. Data obtained from the Shriver program services database (as of 06/29/2015).

^a Length of Shriver legal aid service provision was measured from the date of intake at the legal aid agency to the date the case was closed by the Shriver legal aid attorney.

^b Case age was measure from the date of case filing to the date of court disposition. Only those cases that were successfully filed with the clerk's office and pursued by the client were included in these calculations. Thirteen cases (nine guardianship, four conservatorship) were omitted from this analysis: seven cases in which the petition was filed, but withdrawn; four cases in which the petition was never filed; one case in which the program services database indicates an alternative to guardianship was pursued; and one case that was missing data on continuances and case outcome.

¹⁹ Most cases were resolved within 16 months of case filing. The one guardianship case extending to 40 months was to terminate an existing guardianship.

As shown in Table P17, more than half (56%; $n=28$) of all Shriver full representation cases had zero continuances. Of those cases with a continuance (36%; $n=18$), the average number of continuances was about two, for both guardianships and conservatorships (range = 1 to 5).

Table P17. Number of Continuances for Shriver Legal Aid Cases

| Continuances | Case Type | | |
|---|------------------|-----------------|------------------|
| | Guardianship | Conservatorship | Total |
| Number of continuances (%) per case | | | |
| 0 continuances | 22 (58%) | 6 (50%) | 28 (56%) |
| 1 or more continuances | 14 (37%) | 4 (33%) | 18 (36%) |
| Missing (%) | 2 (5%) | 6 (17%) | 4 (8%) |
| <i>Of those cases with a continuance, average number (SD) of continuances</i> | <i>2.1 (1.5)</i> | <i>2.0 (0)</i> | <i>2.1 (1.3)</i> |

N=50. Guardianship cases $n=38$; Conservatorship cases $n=12$.

Note. Data from the Shriver program services database (as of 06/29/2015).

Only those cases that were successfully filed with the clerk's office and pursued by the client were included in these calculations. Thirteen cases (nine guardianship, four conservatorship) were omitted from this analysis: seven cases in which the petition was filed, but withdrawn; four cases in which the petition was never filed; one case in which the program services database indicates an alternative to guardianship was pursued; and one case that was missing data on continuances and case outcome.

Summary

The Shriver probate pilot project involves a collaboration between Legal Aid Foundation of Santa Barbara County (LAFSBC) and the Santa Barbara County Superior Court. LAFSBC runs three Shriver service locations in the county, and Shriver litigants can file their cases at three of four county courthouses. LAFSBC offered a range of services on probate matters, from brief counsel and advice to full representation, but only assisted litigants with guardianships and conservatorships of persons (not estates).

The Santa Barbara County Superior Court used Shriver funds to create an innovative staff position: a court-based probate facilitator, who was a licensed attorney specializing in guardianship and conservatorship matters. Her services included assistance filling out forms, preparing written declarations, and researching relatives for service of notice (she did not offer attorney-client privilege or offer legal advice).

From January 2012 through June 2015, LAFSBC helped 242 litigants with probate matters:

- 158 parties met the full eligibility criteria. Of these, 40% received full representation and 60% received unbundled services. An additional 84 litigants received some unbundled services, but were ultimately deemed ineligible (e.g., did not meet income requirement, case out of jurisdiction).
- 66% of cases involved multiple individuals seeking assistance (e.g., couples, such as grandparents seeking guardianship of grandchildren).
- 56% of clients were Hispanic/Latino, 21% had limited proficiency with English, and 21% had known or observable disabilities.

- 17% of eligible clients received CalFresh benefits, and their median monthly income was \$1,600 (mean = \$1,756).

Among the 242 cases that received Shriver legal aid services from LAFSBC:

- The majority pertained to guardianships--75% of full representation cases and 67% of unbundled services cases.
- Most sought help filing a new petition for guardianship or conservatorship-- 86% of full representation cases and 48% of eligible unbundled services cases.
- On average, full representation clients received 17 hours of attorney time and unbundled services clients received 2 hours.

From February 2013 to December 2014, the probate facilitator helped 203 parties in 188 cases:

- 70% were female and 56% were Hispanic/Latino.
- 40% had a household income of less than \$2,000 per month, and 25% received some form of public assistance.

Of the 203 parties served by the Shriver probate facilitator:

- 83% sought assistance with guardianship cases.
- 67% sought assistance with filing new petitions for guardianship or conservatorship.
- On average, a party received a total of 5 hours of direct contact from the probate facilitator.

Among the 47 guardianship cases and 16 conservatorship cases that received **full representation** from LAFSBC:

- Average age of wards was 8 years, and the average age of proposed conservatees was 34 years. 66% of guardianship cases involved a single ward. Every proposed guardian or conservator was a relative of the ward or conservatee.
- At Shriver intake, 16% of clients (21% of guardianship and 0% of conservatorship) had filed petitions. At the conclusion of Shriver services, 87% had filed petitions.
- 56% of cases resolved with zero continuances.
- Average time from filing to disposition was 4.3 months for guardianship cases and 3.2 months for conservatorship cases.
 - However, 54% of cases were resolved within 2 months of filing.
- 65% of cases had letters of guardianship/conservatorship granted, with all but two granted to the Shriver client.

Shriver Probate Pilot Project

Case Outcomes Study

Shriver clients, “Mr. and Mrs. Navarro”

Mr. and Mrs. Navarro, the maternal grandparents of a 14-year old boy and an 11-year old girl, presented at the probate facilitator office for help with obtaining guardianship of their grandchildren. The mother and the children had lived with the Navarros until about 1 year earlier, when the mother moved in with her new boyfriend, who was a convicted rapist. At that point, the boy remained with the grandparents and the girl went to live with her mother. During the next year, the mother started abusing drugs and faced criminal charges. The 11-year old girl subsequently moved back in with her grandparents, but one day she went for a visit with her mother and was not returned. Mr. and Mrs. Navarro reported that Child Welfare Services (CWS) had stated the intention to file a juvenile dependency case and place the children in foster care if they (the grandparents) did not obtain legal guardianship. The probate facilitator assisted Mr. and Mrs. Navarro with the papers for a temporary guardianship. The children’s father agreed to the arrangement, as did the children, but the mother objected in court. The court granted the Navarros guardianship of their grandchildren and granted the mother visitation as long as there was no disruption. The judge set another hearing to follow up on the children’s progress in school and the mother’s criminal court case. He also directed the grandparents to the probate facilitator to prepare the orders and letters for signature.

Case Outcomes Study

Methodology and Analytic Approach

The Case Outcomes Study sought to assess the impact of Shriver services by comparing the case events and outcomes across different client groups. Case outcomes were investigated using data gleaned from individual court files for three study groups: (a) cases that received full representation by a Shriver attorney from the Legal Aid Foundation of Santa Barbara County (LAFSBC), (b) cases that received assistance from the court-based probate facilitator, and (c) cases that received no Shriver service. As mentioned earlier in this report, the evaluation sought to explore whether the Shriver probate pilot project impacted three key areas: litigants' access to justice and participation in the justice system, outcomes of guardianship and conservatorship cases, and court efficiency.

Outcome area #1: Participation in the justice system

Analyses examined the relationship between Shriver service receipt and litigants' engagement with the justice system, such as the number of cases filed and completed (versus the number that were withdrawn or abandoned), the rate of participation in the system by relevant parties (e.g., parents and relatives actively consenting, successful tribal notifications), and the rate of activities that supported the case, such as calling witnesses and entering declarations.

Outcome area #2: Case events and outcomes

The study assessed the rate of key case outcomes, such as letters of guardianship and conservatorship being granted (including temporary orders), as well as to whom and under what conditions letters were granted.

Outcome area #3: Court efficiency

Analyses examined the association between Shriver services and indicators of court efficiency, such as case age, the number of continuances, and the number of hearings.

SAMPLE SELECTION AND DATA AVAILABILITY

To examine the impact of Shriver services on key outcomes of interest, the evaluation compared three groups of litigants: (a) those who received full representation by a Shriver attorney from LAFSBC, (b) those who received court-based services from the Shriver-funded probate facilitator (and no service from LAFSBC), and (c) those who did not receive any Shriver service. Data on key outcomes were collected from a review of individual court case files. For a case file to exist, a petition had to be successfully filed with the court. As indicated by analysis of the program services data presented earlier in this report, many litigants who presented to LAFSBC for assistance did not end up filing petitions. Thus, to obtain a sample of litigants who had court case files and whose cases reflected the receipt of Shriver service, the group of Shriver legal aid cases was limited to those receiving full representation.²⁰ Next, a group of litigants served by the probate facilitator who met Shriver criteria was identified. Then, a group

²⁰ As noted in the previous section, many of the litigants who presented at LAFSBC did not end up filing a petition, and many of those received unbundled services as a result. Full representation clients all filed petitions and therefore had case files to be reviewed for data collection purposes.

of cases that were disposed prior to the start of the Shriver project were selected (i.e., received no Shriver service). To establish groups that were as similar as possible and to minimize variability that could cause difference in outcomes (and, therefore, to increase the likelihood that any difference could be attributed to service receipt), additional sample selection criteria were employed:

1. **Shriver legal aid services cases** were identified from the program services database, and the clients selected for this part of the evaluation:
 - received full representation,
 - successfully filed a petition (so there is a case file to review),
 - were petitioners (there was only one objector who received full representation and the desired outcomes for that client would be different), and
 - sought to establish guardianship or conservatorship (i.e., no petitions to terminate guardianship/conservatorship were included in the sample).
2. **Probate facilitator cases** were identified from the facilitator's database, and the litigants selected for this part of the evaluation:
 - had evidence of low-income status (fee waivers, income, etc.),
 - were petitioners (no objectors), and
 - sought to establish guardianship or conservatorship (no terminations).
3. **Comparison cases** were identified by Santa Barbara County Superior Court staff via a query to their court case management system, and the cases selected for the evaluation:
 - had a fee waiver granted to a petitioner (to more closely match the low-income population served by Shriver),
 - involved petitions to establish guardianship or conservatorship (no terminations),
 - involved guardianship and/or conservatorship of person (not just estate), and
 - were filed on or before March 2011 and were not open at the time of the case file review.

Using an historical comparison group was deemed the most feasible approach to identifying a sufficient number of cases that were likely eligible for Shriver services but did not receive them. This method was optimal because the Shriver probate pilot project sought to serve all eligible litigants (i.e., random assignment was not implemented) and the number of guardianship and conservatorship cases was small. Although historical comparison groups can introduce cohort effects, such bias seems improbable given the short amount of time between the comparison group selection period (2009–2011) and the Shriver case selection period (2011–2013), during which significant population changes are unlikely. Further, interviews with key stakeholders indicated no major changes to the court during this time. That is, the judge and the overall court operations (aside from the Shriver services) remained consistent over this time period.

Once the cases were identified as part of the study sample, the individual court case files were pulled. Staff from the Judicial Council (JC) and LAFSBC reviewed each file²¹ and coded the data using an instrument developed by the evaluation team. As shown in Table P18, a total of 138 case files were located and reviewed: 48 in the LAFSBC full representation group, 43 in the probate facilitator group, and 47 in the comparison group. The ratio of guardianship to conservatorship cases mirrored the larger population requesting services (roughly 4 to 1), except for the probate facilitator, who helped few conservatorship litigants who met the sample selection criteria.

Table P18. Sample Sizes by Case Type and Study Group

| Case Type | Full Representation | Probate Facilitator | Comparison | Total |
|-----------------|---------------------|---------------------|------------------|-------------------|
| Guardianship | 38 (79%) | 41 (95%) | 37 (79%) | 116 (84%) |
| Conservatorship | 10 (21%) | 2 (5%) | 10 (21%) | 22 (16%) |
| Total | 48 (100%) | 43 (100%) | 47 (100%) | 138 (100%) |

Note. Three full representation cases also received probate facilitator assistance with their paperwork.

ANALYTIC APPROACH

Throughout this section, descriptive information is presented about case characteristics and outcomes of interest across the three study groups. In addition, where possible, differences between the study groups were tested for statistical significance.²² A statistically significant difference represents a real difference between groups, one that is not likely due to chance. For guardianship cases, differences between the three study groups were analyzed using one-way analysis of variance (ANOVA) and chi-squared analyses. The one-way ANOVA is appropriate for studying differences between groups on continuous or numerically scaled variables (e.g., number of continuances) and a chi-squared test is appropriate for testing for differences on categorical variables (e.g., whether letters were granted). For some continuous variables that were not normally distributed, such as case length, nonparametric tests were used to test for differences between groups. Due to the very small number of conservatorship cases, only descriptive analyses were performed and data were not analyzed for statistical significance.

Findings for Guardianship Cases

CASE CHARACTERISTICS

In all cases, the primary petitioner was the proposed guardian. Across all cases, nearly one third of cases (30%; $n=35$) involved joint petitioners (e.g., grandparents, siblings), and just three cases

²¹ Judicial Council staff conducted the case file reviews for all programs involved in the Shriver evaluation. Due to issues relating to client confidentiality, LAFSBC did not release the case numbers of their clients for the Judicial Council staff to pull the files. Instead, LAFSBC staff coded the case files of their clients and submitted the de-identified data. LAFSBC staff were trained on the coding protocol and the data collection instrument by an experienced Judicial Council staff person who was present throughout the review to provide technical assistance as necessary. Coders were blind to the study questions.

²² When a result has less than a 5% probability of occurring by chance (i.e., $p < .05$), the result is said to be statistically significant.

involved competing petitions. In two of these cases, both in the comparison group, the second petitioner was the ward’s legal parent nominating someone else.

Across all three study groups, most petitions included a request for temporary guardianship. This was true for 53% ($n=20$) of the full representation group, 68% ($n=28$) of the probate facilitator group, and 59% ($n=22$) of the comparison group. Just one case from each group involved a petitioner also seeking guardianship of the ward’s estate.

Guardianship cases are heard in probate court because, traditionally, guardianships were needed when parents were deceased. A review of the petitions in the study sample, however, shows that only about 10% of cases involved a deceased parent (Table P19). In most instances, guardianships were sought because wards’ parents were unable/unavailable to care for them. Overall, the most common reasons for filing a petition included: the parent had abandoned the ward (46%), parent had a drug or alcohol abuse problem (42%), or parent was going to prison or jail (41%). Other reasons for seeking guardianship included indication of an absent parent (22%), a history of abuse or neglect (16%) or current involvement with child welfare (14%), and homelessness or unstable housing (14%). There was notable variability across the study groups. However, of those cases with data, at least three quarters of each group had multiple reasons endorsed on the guardianship petition, indicating that these are families facing myriad, complex issues. Notably, this information was unknown for a large proportion of the full representation group, which makes the direct comparison of percentages in the table difficult.

Table P19. Petitioner Reasons for Seeking Guardianship by Study Group

| Current Parent/Guardian ... | Full Representation | Probate Facilitator | Comparison | Total |
|--|---------------------|---------------------|------------|----------|
| Had a serious physical or mental illness | 5 (13%) | 4 (10%) | 4 (11%) | 13 (11%) |
| Had to go to a rehabilitation program | 1 (3%) | 2 (5%) | 3 (8%) | 6 (5%) |
| Had a drug or alcohol abuse problem | 11 (29%) | 22 (54%) | 16 (43%) | 49 (42%) |
| Was in the military and had to go overseas | 3 (8%) | 1 (2%) | 5 (14%) | 9 (8%) |
| Was going to jail/prison long term | 7 (18%) | 19 (46%) | 21 (57%) | 47 (41%) |
| Had a history of abuse | 9 (24%) | 8 (20%) | 1 (3%) | 18 (16%) |
| Abandoned/not cared for ward | 14 (37%) | 21 (51%) | 18 (49%) | 53 (46%) |
| Became deceased | 2 (5%) | 7 (17%) | 2 (5%) | 11 (10%) |
| Had unstable housing/became homeless | 2 (5%) | 8 (20%) | 6 (16%) | 16 (14%) |
| Became involved with Child Welfare Svcs. | 3 (8%) | 9 (22%) | 4 (11%) | 16 (14%) |
| Questionable or uncertain paternity | 0 (0.0%) | 5 (12%) | 3 (8%) | 8 (7%) |
| Other indication of absent parent | 11 (29%) | 6 (15%) | 8 (22%) | 25 (22%) |
| Other | 3 (8%) | 2 (5%) | 3 (8%) | 8 (7%) |
| Unknown | 17 (45%) | 13 (32%) | 6 (16%) | 36 (31%) |

$N=116$. Full representation ($n=38$), probate facilitator ($n=41$), comparison group ($n=37$).

Note. Petitioners may indicate more than one reason for seeking guardianship, so column percentages will sum to more than 100.

The severity of family issues was further evidenced by the overlap between the guardianship case and the child welfare and dependency court systems in all groups (Table P20). A notable minority of families were referred to probate court by the child welfare system: 26% of the full representation group and about 17% of the other two groups. A small number of cases in each group involved open juvenile dependency court cases.

Table P20. Number of Cases with Child Welfare or Juvenile Dependency Court Involvement

| Interaction with Child Welfare and Dependency Court Systems | Full Representation | Probate Facilitator | Comparison | Total |
|---|---------------------|---------------------|------------|------------|
| Case Referred by Child Welfare | | | | |
| Yes | 10 (26%) | 7 (17%) | 6 (16%) | 23 (20%) |
| No | 14 (37%) | 28 (68%) | 23 (62%) | 65 (56%) |
| Unknown/Missing | 14 (37%) | 6 (15%) | 8 (22%) | 28 (24%) |
| Total | 38 (100%) | 41 (100%) | 37 (100%) | 116 (100%) |
| Open Juvenile Dependency Case | | | | |
| Yes | 2 (5%) | 2 (5%) | 4 (11%) | 8 (7%) |
| No | 26 (68%) | 32 (78%) | 26 (70%) | 84 (75%) |
| Unknown/Missing | 10 (26%) | 7 (17%) | 7 (19%) | 24 (21%) |
| Total | 38 (100%) | 41 (100%) | 37 (100%) | 116 (100%) |

As seen in Table P21, the majority of cases (63%; $n=73$) involved guardianship over one ward. There were no differences across study groups in the average number of wards per petition.²³ However, there was a significant difference in the average age of the wards across the groups.²⁴ Specifically, cases receiving full representation had the oldest wards with an average age of 9 years, and the probate facilitator group had the youngest wards with an average age of 6 years.

Table P21. Number and Age of Wards by Study Group

| | Full Representation | Probate Facilitator | Comparison | Total |
|------------------------------------|---------------------|---------------------|------------|-----------|
| Number of wards per case | | | | |
| 1 | 24 (63%) | 28 (68%) | 21 (57%) | 73 (63%) |
| 2 | 9 (24%) | 11 (27%) | 10 (27%) | 30 (26%) |
| 3 | 5 (13%) | 1 (2%) | 4 (11%) | 10 (9%) |
| 4 | 0 (0%) | 1 (2%) | 2 (5%) | 3 (3%) |
| Total number of wards [ns] | 57 | 57 | 61 | 175 |
| Average age of wards [sig.] | 9.0 (4.8) | 6.4 (4.9) | 8.1 (4.9) | 7.8 (5.0) |

$N=116$. Full representation ($n=38$), probate facilitator ($n=41$), comparison group ($n=37$).

Note. *ns* = not significantly different across groups; *sig.* = significant difference between groups; noted in bold.

²³ $\chi^2(2, n = 116) = 1.11, p = .574$. Cases with multiple wards were combined into a single category for this analysis.

²⁴ $F(2, 172) = 4.25, p < .05, \eta^2 = .047$

OUTCOME AREA #1: PARTICIPATION IN THE JUSTICE SYSTEM

Did more litigants complete their cases?

A primary goal of Shriver service providers—both LAFSBC attorneys and the probate facilitator—was to offer services that would support the successful filing and following of petitions, and to ultimately reduce the number of petitioners who withdrew or abandoned their cases from fatigue and confusion with the process. Case review data show that cases were seen to completion—and petitions granted—for the majority of cases in each of the study groups. However, a sizable minority of petitioners in all three groups either withdrew their petitions or otherwise abandoned their cases (20% of all cases; see Table P22). In the full representation group, 24% of litigants withdrew their petitions and none abandoned their cases, as compared to 13% and 3%, respectively, of the probate facilitator group, and 14% and 5% of comparison cases. Analysis indicated that the proportion of cases withdrawn/abandoned versus resolved through other methods did not differ statistically among the study groups.²⁵

Table P22. Outcomes of Permanent Petitions by Study Group

| | Full Representation | Probate Facilitator | Comparison | Total |
|-----------------------------------|---------------------|---------------------|------------------|-------------------|
| Petitioner withdrew | 9 (24%) | 5 (13%) | 5 (14%) | 19 (17%) |
| Petitioner abandoned case | 0 (0%) | 1 (3%) | 2 (5%) | 3 (3%) |
| Petitioner saw case to resolution | 29 (76%) | 34 (84%) | 30 (81%) | 93 (80%) |
| Total | 38 (100%) | 40 (100%) | 37 (100%) | 115 (100%) |

Note. One probate facilitator case was not resolved at the time of the case file review. Thus, with regard to analyses pertaining to case events and outcomes, the number of probate facilitator cases is 40 (instead of 41) and the total number of cases is 115 (instead of 116). There were no statistically significant differences between the groups in the proportion of petitions withdrawn or abandoned.

Although the differences across the groups were not statistically significant, the rate of withdrawals among Shriver full representation clients appears slightly higher than the other two groups. This may be because, upon receiving consultation from the Shriver attorney about the likelihood of their petition being granted and/or the activities required during the case (e.g., court investigations), Shriver legal aid clients may have decided to withdraw their petitions and seek alternatives (e.g., Caregiver Affidavits). This type of consultation might not have been available to self-represented litigants in the other two groups.

Was there more participation in the system by relevant parties?

Guardianship cases can elicit participation in the justice system by multiple parties relevant to the ward. For example, relatives of wards are notified about the case, as are tribal authorities for wards of Native American heritage, and thus have an opportunity to voice their opinions to the court about the best placement for the child. In particular, parents are contacted and asked to provide signed consent for the guardianship.

Notification and Consent. Case files indicated whether mothers and fathers were served notifications and whether they provided signed consent (Table P23). Overall, the majority of mothers were notified, and half of those who were notified provided signed consent. For cases

²⁵ $\chi^2 (2, n = 115) = 0.95, p = .621$

receiving full representation, 83% ($n=29$) of mothers were served a notification (48% of whom consented). In the probate facilitator group, 85% ($n=29$) of mothers were served notification (55% of whom consented). In the comparison group, 70% ($n=23$) of mothers were notified (48% of whom consented). Across the study groups, there were 21 cases for which notification was unable to be substantiated. In these cases, 10 mothers were described as having abandoned child and whereabouts unknown, three were deceased, three were incarcerated, one had been deported, one was severely ill, one was using substances, and 2 were missing data. Although it was not possible to substantiate notification from the case file documentation, it is likely that the court waived notification, given the circumstances, so that the case could proceed.

Across the groups, roughly two thirds of fathers were notified, and of those who were notified, most provided signed consent. In the full representation cases, 65% ($n=24$) of fathers were served notifications (54% of whom consented). In the probate facilitator group, 69% ($n=22$) of fathers were served notifications (50% of whom consented). In comparison cases, 68% ($n=21$) of fathers were served notifications (76% of whom consented). Of the 33 fathers for whom notification could not be substantiated in the case files, nine could not be located, four were incarcerated, three were deceased, three were deported or had left the country, and 14 had no mention at all in the case file. As mentioned above, it is likely that the court waived the requirement so that the case could proceed. The differences in the rates of notifications served to parents across the three study groups were not statistically significant.²⁶

Table P23. Service of Notices to Mother and Father by Study Group

| | Full Representation | Probate Facilitator | Comparison | Total |
|-----------------------------|---------------------|---------------------|------------|------------|
| Mother | | | | |
| Notification complete | 29 (83%) | 29 (85%) | 23 (70%) | 81 (79%) |
| Notification not documented | 6 (17%) | 5 (15%) | 10 (30%) | 21 (21%) |
| Total | 35 (100%) | 34 (100%) | 33 (100%) | 102 (100%) |
| Father | | | | |
| Notification complete | 24 (65%) | 22 (69%) | 21 (68%) | 67 (67%) |
| Notification not documented | 13 (35%) | 10 (31%) | 10 (32%) | 33 (33%) |
| Total | 37 (100%) | 32 (100%) | 31 (100%) | 110 (100%) |

Note. Information on mother's notification was not available or applicable for three full representation cases, seven probate facilitator cases, and four comparison cases. Information on father's notification were not available or applicable for one full representation case, nine probate facilitator cases, and six comparison cases. Rates of notifications served to parents were not statistically significant across the study groups.

Overall, as shown in Table P24, ICWA notification was deemed necessary for 10% of all cases ($n=11$). The probate facilitator identified a greater proportion of cases that required ICWA notification (20%; $n=8$), as compared to the other two study groups (both < 5%), and this difference was statistically significant.²⁷ It is possible, though unlikely, that the probate facilitator had a higher number of Native American clients; it is also possible, and perhaps more likely, that she actively employed a protocol for detecting Native American heritage among her clients. In cases where ICWA notices were deemed necessary, they were completed in all cases

²⁶ For mothers: $\chi^2(2, n = 102) = 2.88, p = .237$; For fathers: $\chi^2(2, n = 100) = 0.13, p = .938$

²⁷ $\chi^2(2, n = 115) = 7.42, p < .05$, Cramer's V = .254

except one in each study group. In these three cases with incomplete ICWA notification, there was no indication of a court waiver; one petition was ultimately withdrawn, one case was dismissed, and one ended with a guardianship placed.

Table P24. ICWA Notices by Study Group

| | Full Representation | Probate Facilitator | Comparison | Total |
|-------------------------------------|---------------------|---------------------|-----------------|------------|
| ICWA deemed not necessary | 36 (95%) | 33 (81%) | 35 (95%) | 103 (90%) |
| ICWA deemed necessary <i>[sig.]</i> | 2 (5%) | 8 (20%) | 1 (3%) | 11 (10%) |
| ICWA completed (of those needed) | 1 (50%) | 7 (88%) | 0 (0%) | 8 (73%) |
| Total | 38 (100%) | 41 (100%) | 36 (100%) | 115 (100%) |

Note. Data missing for one comparison case.

Sig. = ICWA notification necessity was statistically significant across study groups as noted in bold.

Objectors and Additional Parties. A possible result of more effective notification practices could be that relatives become more involved in the probate court proceedings, for example, by becoming an objector or additional party to the case. As shown in Table P25, objections were on record for 29% ($n=11$) of cases receiving full representation, 22% ($n=9$) of cases helped by the probate facilitator, and 30% ($n=11$) of comparison cases. In all groups, objectors were most often parents. Anecdotally, project staff relayed that parents often objected out of fear that their parental rights would be terminated if a guardianship were established, but consented once they learned that their rights would remain intact. Analysis showed that the percentages of cases with objections did not differ significantly across the three study groups.²⁸

Table P25. Number of Objectors and Additional Parties by Study Group

| | Full Representation | Probate Facilitator | Comparison | Total |
|---|---------------------|---------------------|------------|----------|
| Number (%) of cases with an objection <i>[ns]</i> | 11 (29%) | 9 (22%) | 11 (30%) | 31 (27%) |
| Total number of objectors | 14 | 13 | 13 | 40 |
| Parent | 11 (79%) | 9 (69%) | 8 (62%) | 28 (70%) |
| Other family member | 1 (7%) | 0 (0%) | 0 (0%) | 1 (3%) |
| Proposed ward | 0 (0%) | 1 (8%) | 1 (8%) | 2 (5%) |
| Tribe | 1 (7%) | 0 (0%) | 0 (0%) | 1 (3%) |
| Other interested party | 1 (7%) | 3 (23%) | 4 (31%) | 8 (20%) |
| Number (%) of cases with an additional party <i>[ns]</i> | 12 (32%) | 15 (37%) | 8 (22%) | 35 (30%) |
| Total number of additional parties | 14 | 21 | 12 | 47 |
| Parent | 12 (86%) | 15 (71%) | 8 (67%) | 35 (75%) |
| Other family member | 0 (0%) | 0 (0%) | 2 (17%) | 2 (4%) |
| Proposed ward | 0 (0%) | 3 (14%) | 1 (8%) | 4 (9%) |
| Tribe | 0 (0%) | 0 (0%) | 0 (0%) | 0 (0%) |
| Other interested party | 2 (14%) | 3 (14%) | 1 (8%) | 6 (13%) |

Note. Percent of cases with an objection or an additional party were not statistically different (*ns*) across groups. Also shown in Table P25 above, at least one additional party was on record for 32% ($n=12$) of full representation cases, 37% ($n=15$) of probate facilitator cases, and 22% ($n=8$) of comparison cases. Analysis shows that the percentages of cases with an additional party did not

²⁸ $\chi^2 (2, n = 116) = 0.74, p = .690$

significantly differ across the three groups.²⁹ Additional parties were most often parents, and reasons for their involvement as additional parties were generally missing from the case files. However, of the 14 cases with data, parents were advocating for the proposed guardianship in two cases, working out visiting/custody arrangements in four cases, attending hearings in three cases, signing consent in two cases, and objecting to the petitions in three cases.

Witnesses and Declarations. Another possible result of having legal assistance could be that litigants more effectively navigate the judicial system. For example, petitioners can support their cases by calling witnesses or entering written declarations. Self-represented litigants may not maneuver through the legal system as adeptly or know that these kinds of actions can help their cases. Case file review data were analyzed to determine the number of witnesses called and declarations entered for each case. Overall, a minority of cases involved witnesses or declarations; however, there were noticeable differences across study groups (Table P26).

Witnesses were called in 31% ($n=11$) of full representation cases, 12% ($n=5$) of probate facilitator cases, and 5% ($n=2$) of comparison group cases. A statistically significant difference existed across study groups.³⁰ Specifically, cases with representation by a Shriver attorney were significantly more likely to include a witness, as compared to cases in the other two groups.

Declarations were entered in 22% ($n=8$) of full representation cases, 7% ($n=3$) of probate facilitator cases, and 3% ($n=1$) of comparison cases. Analysis revealed a statistically significant difference across the three study groups.³¹ Specifically, cases with full representation by a Shriver attorney were significantly more likely to have declarations entered, compared to cases in other groups.

Table P26. Total Number of Witnesses and Declarations by Study Group

| | Full Representation | Probate Facilitator | Comparison | Total |
|---|---------------------|---------------------|-----------------|----------|
| Number (%) of cases with witnesses [<i>sig.</i>] | 11 (31%) | 5 (12%) | 2 (5%) | 18 (16%) |
| Total number of witnesses | 31 | 16 | 9 | 56 |
| Number (%) of cases with declarations [<i>sig.</i>] | 8 (22%) | 3 (7%) | 1 (3%) | 14 (12%) |
| Total number of declarations | 13 | 4 | 1 | 18 |

$N=114$. Full representation ($n=36$), probate facilitator ($n=41$), comparison group ($n=37$). Information on witnesses and declarations was not available for two full representation cases.

Note. *sig.* = significant difference between groups; noted in bold.

²⁹ $\chi^2(2, n = 115) = 1.90, p = .386$

³⁰ $\chi^2(2, n = 114) = 9.30, p < .01, \text{Cramer's } V = .28$

³¹ $\chi^2(2, n = 114) = 8.80, p < .05, \text{Cramer's } V = .27$

OUTCOME AREA #2: CASE EVENTS AND OUTCOMES

Court investigations

Most case files (81% to 95% across groups) indicated that a court investigation was completed to determine whether the proposed guardian was suitable. This was expected, as investigations are a required part of the probate process. Data on the recommendations from the investigations were available only for the probate facilitator and comparison groups (Table P27). For these two groups, the majority of investigation results deemed the proposed guardian to be a good fit: 62% ($n=24$) of probate facilitator cases and 70% ($n=21$) of comparison cases. The difference between these groups was not statistically significant.³²

Table P27. Court Investigation Completions and Recommendations by Study Group

| | Full Representation | Probate Facilitator | Comparison | Total ^a |
|---|---------------------|---------------------|------------|--------------------|
| Court investigation was completed [<i>ns</i>] | 34 (90%) | 39 (95%) | 30 (81%) | 103 (89%) |
| Proposed guardian deemed good fit [<i>ns</i>] | X | 24 (62%) | 21 (70%) | 45 (65%) |
| Proposed guardian not qualified | X | 9 (23%) | 7 (23%) | 16 (23%) |
| Guardian not needed | X | 3 (8%) | 3 (10%) | 6 (9%) |
| Case should be referred to CWS | X | 3 (8%) | 2 (7%) | 5 (7%) |
| Other investigation result | X | 5 (13%) | 5 (17%) | 10 (15%) |
| Court investigation not completed | 4 (11%) | 2 (5%) | 7 (19%) | 13 (11%) |

Note. There may be multiple results to court investigations; percentages do not add to 100%.

ns = Rate of court investigation completed did not differ significantly across study groups.

^a Court investigation results percentages are calculated from the total of probate facilitator cases and comparison group cases ($n=69$), because these data were unavailable for full representation cases.

Were more guardianships granted?

Overall, the majority of cases resulted in the appointment of a permanent guardian (Table P28). Letters were granted in 67% ($n=25$) of full representation cases, 63% ($n=25$) of probate facilitator cases, and 57% ($n=21$) of comparison cases. Analyses show that the percentages across the study groups were not statistically different.³³ In all but one case, the proposed guardian was appointed; the remaining case had the tribe appointed as permanent guardian.

Of those cases in which a permanent guardian was not appointed, slightly greater proportion of full representation clients withdrew their petitions than had them denied (24% vs. 11%). The opposite was true for the probate facilitator group (15% withdrawn, 23% denied) and the comparison group (19% withdrawn, 24% denied). As noted earlier, this result may be due to Shriver full representation clients receiving consultation about the viability of their petitions and/or the other options available to them (e.g., Caregiver Affidavit) that do not require court filing that the other two groups of litigants did not have. (Recall that the probate facilitator did not provide legal advice about the viability of a petition.) This is a possible explanation, but the court case files do not contain data for it to be empirically evaluated.

³² $\chi^2(1, n = 68) = 0.88, p = .349$

³³ $\chi^2(2, n = 114) = 0.92, p = .631$

Table P28. Number of Permanent Guardianship Appointments by Study Group

| Petitions with... | Full Representation | Probate Facilitator | Comparison | Total |
|---|---------------------|---------------------|------------|------------|
| Permanent guardian appointed [<i>ns</i>] | 25 (67%) | 25 (63%) | 21 (57%) | 71 (62%) |
| Proposed guardian | 24 (96%) | 25 (100%) | 21 (100%) | 70 (99%) |
| Tribe | 1 (4%) | 0 (0%) | 0 (0%) | 1 (1%) |
| State/Child Welfare Services | 0 (0%) | 0 (0%) | 0 (0%) | 0 (0%) |
| No permanent guardian appointed | 4 (11%) | 9 (23%) | 9 (24%) | 22 (19%) |
| Petition denied | 4 (100%) | 4 (44%) | 4 (44%) | 12 (55%) |
| Dismissed pending juv. dependency case | 0 (0%) | 2 (22%) | 3 (33%) | 5 (23%) |
| Other dismissal | 0 (0%) | 3 (33%) | 2 (22%) | 5 (23%) |
| Petition Withdrawn/Abandoned | 9 (24%) | 6 (15%) | 7 (19%) | 22 (19%) |
| Total | 38 (100%) | 40 (100%) | 37 (100%) | 115 (100%) |

Note. One probate facilitator case was not resolved at the time of the case file review.

ns = Rate of permanent guardian appointment did not differ significantly across study groups.

Across all three study groups, over half (54%; $n=63$) of the petitions involved a corresponding petition for temporary guardianship, and a majority of these petitions were granted in all three groups (Table P29).

Table P29. Outcomes of Temporary Petitions by Study Group

| | Full Representation | Probate Facilitator | Comparison | Total |
|---------------------------------------|---------------------|---------------------|------------|-----------|
| Petition granted | 14 (70%) | 20 (71%) | 10 (63%) | 44 (69%) |
| Petition denied | 3 (15%) | 3 (11%) | 3 (19%) | 9 (14%) |
| Petition withdrawn | 3 (15%) | 3 (11%) | 3 (19%) | 9 (14%) |
| Dismissed pending juvenile court case | 0 (0%) | 1 (4%) | 0 (0%) | 1 (2%) |
| Other dismissal | 0 (0%) | 1 (4%) | 0 (0%) | 1 (2%) |
| Total | 20 (100%) | 28 (100%) | 16 (100%) | 63 (100%) |

Note. Temporary petition outcomes were not available for six cases in the comparison group.

What characteristics were associated with whether guardianships were appointed?

Permanent guardianships were not granted in roughly one quarter of cases. Table P30 shows the court investigation results for cases that did not result in the appointment of a guardian. For the 10 probate facilitator cases with no guardian appointed, court investigations concluded that the proposed guardian was not qualified in five cases, a guardian was not needed in two cases, and a referral to child welfare services was necessary in two cases. In two cases, the investigation deemed the guardian a good fit, but the court decided against the appointment. For the 11 comparison group cases that did not have a permanent guardian appointed, court investigation results were available for six (55%) of cases. Of these six cases, the investigation concluded that the guardian was not qualified in four cases, that a guardian was not needed in three cases, and that a referral to child welfare was warranted in one case. Data reflecting the court investigation results were not available for the full representation cases.

Table P30. Court Investigation Results for Cases without Permanent Guardian Appointed

| Court Investigation Outcome | Full Representation | Probate Facilitator | Comparison | Total |
|--|---------------------|---------------------|------------|----------|
| Court investigation completed | 4 (100%) | 10 (100%) | 6 (55%) | 20 (80%) |
| Proposed guardian deemed good fit | X | 2 (20%) | 0 | 2 (8%) |
| Proposed guardian not qualified | X | 5 (50%) | 4 (36%) | 9 (36%) |
| Guardian not needed | X | 2 (20%) | 3 (27%) | 5 (20%) |
| Case should be referred to CWS | X | 2 (20%) | 1 (9%) | 3 (12%) |
| Other investigation result | X | 3 (30%) | 3 (27%) | 6 (24%) |
| Court investigation not completed | 0 | 0 | 5 (45%) | 5 (20%) |

N=25. Full representation (n=4), probate facilitator (n=10), comparison group (n=11).

Note. There may be multiple results to court investigations; percentages do not add to 100%.

Other case characteristics were examined for any association with whether a permanent guardian was appointed. Ward age was not found to be significantly associated with whether a permanent guardianship was established.³⁴ The provision of signed consent from parents was not found to be significantly associated with whether a permanent guardian was appointed.³⁵ Whether witnesses were called³⁶ or declarations were entered³⁷ were also not found to be significantly associated with the appointment of a permanent guardian.

OUTCOME AREA #3: COURT EFFICIENCY

Were cases resolved faster with Shriver services?

Case length was defined as the number of days between the petition filing and the date of disposition. Lengths of cases in which the petitioner withdrew were inspected and were not demonstrably different than cases that were disposed (i.e., litigants did not always withdraw the case early in the process). Therefore, all cases remained in these calculations. Table P31 displays average length of all cases within each study group, regardless of outcome. Cases receiving full representation lasted, on average, for 3 months (mean = 92 days; median = 56 days), compared with an average length of 4 months (mean = 119 days; median = 72) among probate facilitator cases and 3.5 months (mean = 103 days; median = 84) among comparison cases. These differences, though notable, did not reach statistical significance.³⁸

Table P31 also shows the percentage of cases in each study group that were resolved within 60, 90, 180, and 365 days. Notably, just over half of the cases that received Shriver representation (53%) resolved within 60 days, versus just over one third of probate facilitator cases (38%) and comparison cases (35%). At 90 days, roughly two thirds of cases in the full representation and probate facilitator groups were closed, as compared to half of the comparison cases.

Most cases were resolved within 180 days; however, four cases took over a year to resolve. In calculating the average case length, these outlying values were retained and included in the

³⁴ $F(1,167) = 0.04, p = .837$

³⁵ $\chi^2(1, n = 100) = 0.34, p = .558$ for mothers; $\chi^2(1, n = 98) = 1.59, p = .207$ for fathers

³⁶ $\chi^2(1, n = 94) = 0.84, p = .372$

³⁷ $\chi^2(1, n = 94) = 1.96, p = .162$

³⁸ Given the skewed distribution, a nonparametric test was used. Kruskal-Wallis $\chi^2(2) = 2.54, p = .281$

computation in an effort to encompass the true range of case lengths (especially in light of the small sample size and potentially limited generalizability). Additional measures of central tendency (e.g., median) and variability (e.g., range) are shown in Table P31 to address concerns about the potential impact of outliers on mean values. Statistical tests examining whether differences in case length were significantly different across study groups did not substantively differ when case lengths over 1 year were excluded. As such, the full sample is included when statistical tests involving case length are reported.

Table P31. Case Length (in Days) by Study Group

| Case Length | Full Representation | Probate Facilitator | Comparison | Total |
|---|----------------------------|----------------------------|-------------------|--------------|
| Mean number of days (SD) | 92.4 (96.1) | 118.5 (108.9) | 103.2 (78.0) | 105.2 (95.3) |
| Median number of days [<i>ns</i>] | 55.5 | 71.5 | 84 | 67 |
| Range | 7 – 431 | 15 – 472 | 8 – 269 | 7 – 472 |
| Number of cases (%) resolved within... | | | | |
| 60 days or less | 19 (53%) | 15 (38%) | 13 (35%) | 47 (42%) |
| Between 61 and 90 days | 6 (17%) | 10 (25%) | 6 (16%) | 22 (20%) |
| Between 91 and 180 days | 6 (17%) | 7 (18%) | 9 (24%) | 22 (20%) |
| Between 181 and 365 days | 3 (8%) | 6 (15%) | 9 (24%) | 18 (16%) |
| Over 365 days | 2 (6%) | 2 (5%) | 0 (0%) | 4 (4%) |

N=113. Full representation (*n*=36), probate facilitator (*n*=40), comparison group (*n*=37). Case length could not be calculated for two full representation cases and one probate facilitator case due to incomplete data in case file.

Note. *ns* = there was not a statistically significant difference between groups

A potentially important influence on the length of probate cases is the presence of an objector. If there is a party objecting to the guardianship, the proceedings may take more time. Across cases in all three study groups combined, the 29 cases with an objector had an average length of 146 days (median = 148), whereas the 84 cases without an objector had an average case length of 91 days (median = 59). This difference was statistically significant.³⁹ The involvement of an objector appeared to lengthen the time to case resolution, regardless of study group. Analyses showed that there were no significant differences in case length by study group among cases with an objector⁴⁰ and those without an objector.⁴¹ See Table P32 below.

Table P32. Case Age (in Days) by Objector Involvement by Study Group

| Case Status | Full Representation | Probate Facilitator | Comparison | Total |
|----------------------------------|---------------------|---------------------|--------------|---------------------|
| Cases with an Objector | | | | |
| Number of cases | 9 | 9 | 11 | 29 |
| Mean number of days (SD) | 102.9 (62.4) | 173.1 (95.1) | 159.7 (79.1) | 146.2 (82.7) |
| Median number of days | 87 | 162 | 181 | 148 |
| Range | 43 - 216 | 50 - 343 | 19 - 269 | 19 - 343 |
| Cases without an Objector | | | | |
| Number of cases | 27 | 31 | 26 | 84 |
| Mean number of days (SD) | 88.9 (105.8) | 102.6 (108.8) | 79.3 (65.2) | 91.0 (95.7) |
| Median number of days | 52 | 63 | 61 | 59 |
| Range | 7 - 431 | 15 - 472 | 8 - 227 | 7 - 472 |

Note. Number of days is statistically significantly different between cases with an objector and cases without (highlighted in bold). Differences between study groups were not significant.

Were there fewer hearings or continuances?

Across the study groups, there were a total of five cases in which no hearings were held before the case was dismissed, due to the petitioner withdrawing the petition or the court lacking jurisdiction. These cases were removed from the analysis. The rest of the cases were expected to have at least one hearing to resolve the petition. Under the most efficient of circumstances, a case would be resolved with one hearing and no continuances.

As shown in Table P33, the large majority of the probate facilitator (88%) and the comparison (75%) cases required more than one hearing to be resolved, as compared to 61% of the full representation group. This difference was statistically significant across the groups—that is, cases receiving Shriver full representation were significantly more likely to entail just one hearing, as compared to those without a Shriver attorney.⁴² Across the cases with at least one hearing (i.e., omitting those that were dismissed without a hearing), the average number of

³⁹ Mann Whitney U = 364, $p < .001$

⁴⁰ Kruskal Wallis $\chi^2(2) = 3.33, p = .189$

⁴¹ Kruskal Wallis $\chi^2(2) = 1.75, p = .416$

⁴² $\chi^2(2, n = 114) = 8.47, p < .05, \text{Cramer's } V = .273$

hearings per case was 2.4 for full representation cases, 3.4 for probate facilitator cases, and 3.1 for comparison cases. These means were not statistically different.⁴³

Continuances occurred in 52% of full representation cases, 70% of probate facilitator cases, and 80% of comparison cases (see Table P33). Differences across groups in the percentage of cases with at least one continuance were statistically significant.⁴⁴ Specifically, full representation cases were significantly less likely than the comparison cases to involve a continuance; the probate facilitator group fell in between and did not significantly differ from either of the other two groups. Of those cases that involved a continuance, the average number of continuances per case did not vary significantly across the study groups.⁴⁵

The lower rate of continuances in the full representation group could be expected, as the attention and expertise of an attorney can ensure that common causes of continuance (e.g., not following proper notification procedures) are avoided. Self-represented litigants in the probate facilitator and comparison groups did not have this level of assistance. Indeed, when case file data indicated a reason for the continuance, common reasons included incomplete notifications (ICWA and non-ICWA) and missing pleadings or other paperwork. The skill of an attorney cannot mitigate all continuances, though. Often, cases were continued because the court investigations were not yet complete.

Table P33. Average Number of Hearings and Continuances by Study Group

| Hearings and Continuances | Full Representation | Probate Facilitator | Comparison | Total |
|--|---------------------|---------------------|-------------------|-----------|
| Hearings | | | | |
| Cases with one hearing | 13 (39%) | 5 (12%) | 9 (25%) | 27 (25%) |
| Cases with more than one hearing [<i>sig.</i>] | 20 (61%) | 35 (88%) | 27 (75%) | 82 (75%) |
| <i>Of those cases with at least one hearing, average number of hearings [ns]</i> | 2.4 (1.8) | 3.4 (2.3) | 3.1 (1.9) | 3.0 (2.1) |
| Continuances | | | | |
| Cases with no continuances | 16 (48%) | 12 (30%) | 7 (20%) | 35 (32%) |
| Cases with at least one continuance [<i>sig.</i>] | 17 (52%) | 28 (70%) | 28 (80%) | 73 (68%) |
| <i>Of those cases with a continuance, average number of continuances [ns]</i> | 2.0 (1.5) | 2.7 (1.6) | 2.7 (1.6) | 2.5 (1.8) |

N=109. Full representation (n=33), probate facilitator (n=40), comparison group (n=36). Five cases were dismissed before a hearing occurred: three full representation cases, one probate facilitator case, and one comparison case. Further, data for number of hearings and continuances were missing for two full representation cases, and data for number of continuances were missing for one comparison case.

Note. *Sig.* = Full representation cases were statistically significantly more likely to be resolved with one hearing, and less likely to have continuances, than the other groups (noted in bold).

ns = study group differences were not statistically significant.

⁴³ $F(2,111) = 1.96, p = .145.$

⁴⁴ $\chi^2(2, n = 112) = 6.98, p < .05.$

⁴⁵ $F(2,70111) = 0.942.76, p = .07.$

Summary

The Case Outcomes Study sought to assess the impact of Shriver services by comparing the case events and outcomes for three groups: (a) cases that received full representation by a Shriver attorney from the Legal Aid Foundation of Santa Barbara County (LAFSBC); (b) cases that received assistance from the court-based Shriver probate facilitator; and (c) cases that received no Shriver service. Data were gleaned from individual court files. A total of 138 case files were reviewed: 48 in the LAFSBC full representation group, 43 in the probate facilitator group, and 47 in the comparison group.

Guardianship case characteristics

Guardianships were sought because wards' parents were unable/unavailable to care for them. The dysfunction and complex issues faced by these families and the need for safe placements for children were evident:

- 46% of petitions indicated the parent had abandoned the ward, 42% the parent had a drug or alcohol abuse problem, 41% the parent was going to prison or jail, 22% an absent parent, 16% a history of abuse/neglect, and 14% homelessness.
- 26% of families represented by LAFSBC were referred by the child welfare system, suggesting that CWS recognizes guardianships as a way to avoid foster care.

Outcome area #1: Participation in the justice system

The Shriver probate pilot project sought to support the successful filing of petitions and to reduce the number of petitioners who withdrew their petitions or abandoned their cases from fatigue and confusion with the process.

- 76% of full representation clients saw their cases to resolution, versus 84% of probate facilitator cases and 81% of comparison cases.
- 24% of full representation cases withdrew their petitions, versus 13% and 14% (respectively) of the other study groups.
- No full representation clients abandoned their petitions, whereas a couple cases in the other groups did.

Shriver services sought to support the conduct of effective and timely notification practices.

- ICWA notification was necessary for 10% of all cases. The probate facilitator identified a greater proportion of cases that required ICWA notification (20%), as compared to the other groups (both < 5%).

Shriver legal assistance helped litigants to more effectively participate in the judicial system and to employ a range of strategies to support their cases.

- Shriver full representation cases (31%) were significantly more likely to call witnesses, as compared to the other groups (12% of probate facilitator and 5% of comparison cases).
- Shriver full representation cases (22%) were significantly more likely to have declarations entered, compared to cases in the other groups (7% and 3%, respectively).

Outcome area #2: Case events and outcomes

- Letters of guardianship were granted in 67% of full representation cases, 63% of probate facilitator cases, and 57% of comparison cases.
- Of those cases where no guardian was appointed, more full representation clients withdrew their petitions than had them denied (24% vs. 11%). The opposite was true for the probate facilitator group (15% withdrawn, 23% denied) and the comparison group (19% withdrawn, 24% denied). This may be due to Shriver attorneys providing consultation about the viability of petition and/or the other options (e.g., Caregiver Affidavits).

Outcome area #3: Court efficiency

Shriver attorneys facilitated quicker resolution and more efficient case processing.

- 53% of full representation cases resolved within 60 days, versus 38% of probate facilitator cases and 35% of comparison cases.

Cases with a Shriver attorney were more likely to resolve with just one hearing.

- 61% of full representation cases required more than one hearing to be resolved, versus 88% of probate facilitator cases and 75% of comparison cases.

Cases with a Shriver attorney were less likely to involve continuances.

- Continuances occurred in 52% of full representation cases, 70% of probate facilitator cases, and 80% of comparison cases.

Limitations

Data on key outcomes were collected from a review of individual court case files. For a case file to exist, a petition had to be successfully filed with the court. As indicated by analysis of the program services data presented earlier in this report, many litigants who presented to LAFSBC for assistance did not end up filing a petition, so it is possible that this sample does not adequately reflect the broader population of families seeking guardianship arrangements.

Preliminary Findings for Conservatorship Cases

Few conservatorship cases were able to be reviewed—22 cases in total across groups. Due to the small sample size, statistical analyses were not conducted. Findings are presented here for descriptive purposes only. Interpretations of findings should be taken with caution, as the sample size does not ensure representativeness.

Description of conservatorship cases

- Most full representation cases (80%; $n=8$) and both probate facilitator cases were seeking general conservatorship, as compared to 40% ($n=4$) of comparison cases.
- Proposed conservatees were, on average, 34 years old (median = 32) in the full representation cases (age was missing for half of this group), 61 years old (median = 61) in the probate facilitator cases, and 47 years old (median = 42) in the comparison cases.
- In all 10 of the full representation cases and both probate facilitator cases, the petitioner was the proposed conservator (and a family member in every case but one). In the comparison group, 70% of petitioners ($n=7$) were the proposed conservators and 30% ($n=3$) were the public guardians.
- It is possible for conservatorship cases to be referred by Adult Protective Services. Of the 22 cases, four cases (18%) had referrals by Adult Protective Services, all of which were in the comparison group.

Did more individuals access the judicial system?

- Nearly all cases had letters of conservatorship granted to the petitioners. Only one case in the probate facilitator group had a petition denied. No petitions were withdrawn.
- Two cases involved the petitioners also seeking temporary conservatorship. One case in the comparison group had the temporary petition granted, while one case in the probate facilitator group had the petition denied.
- Regarding the probate facilitator case with the denied petition, the court investigation determined that a conservator was not needed.

Was there more participation in the system by relevant parties?

- Regarding notifications, when parents were accessible, mothers and fathers were served notifications 100% of the time in all three groups.
- The number of petitions with objections was zero in the full representation group, one (50%) in the probate facilitator group, and two (20%) in the comparison group. Two of the three objectors were tribal entities, and one was the parent of the conservatee.
- Additional parties were involved in 50% of full representation cases, 100% of probate facilitator cases, and 80% of comparison cases. The additional party was most often the child of the conservatee: 80% of the additional parties in the full representation group, 100% in the probate facilitator group, and 88% in the comparison group. The remaining two additional parties were the parents of the conservatee.
- Few cases involved witnesses or declarations, and all of those did receive LAFSCB full representation. One full representation case involved two witnesses; no probate

facilitator or comparison cases had witnesses. Five full representation cases had at least one declaration entered; no probate facilitator or comparison cases had declarations.

Were cases resolved faster?

- The average case age was 104 days (median = 65) for the full representation group, 176 days (median = 176) for the probate facilitator group, and 52 days (median = 42) for the comparison group. Each of the Shriver groups had at least one lengthy case (almost a year) that increased the groups' averages.⁴⁶ All other cases in all groups had resolutions within 180 days.

Were there fewer hearings and/or continuances?

- All cases had at least one hearing. Full representation cases had an average of 1.7 hearings, as compared to an average of 3.5 among probate facilitator cases and 1.5 hearings among comparison cases.
- In the full representation and comparison groups, 40% of cases had at least one continuance. Across these cases, there was an average of 1.8 continuances in the full representation group and 2.3 in the comparison group. One of the two probate facilitator cases had a total of four continuances. Where information was available, the most commonly cited reasons for continuances were missing pleadings or paperwork, incomplete notifications, and requests either from counsel or from the petitioner.

⁴⁶ If the one case with an age of 356 days is removed from the full representation group, the average case length for that group drops to 76 days.

Shriver Probate Pilot Project

Staff and Stakeholder Perceptions

Shriver client “Jasmine”

Beverly, an elderly woman with dementia, had been living in a residential care facility for a few years after suffering a series of strokes. A doctor’s report indicated that she had severe impairments with her memory. Beverly’s husband had been handling her health and financial decisions, but he had recently died. Beverly’s son had a history of substance abuse and altercations with the law. He had also been previously reported to the police for elder abuse of another family member and there were concerns about his ability to make good decisions for his mother. Beverly’s granddaughter, Jasmine, sought to establish a conservatorship, whereby she could manage decisions related to Beverly’s care, health, and finances. The probate facilitator helped Jasmine prepare the conservatorship petition and file it with the court. Because of her health condition, Beverly could not attend the hearing to voice her wishes. The court reviewed the evidence and granted Jasmine’s request to become her grandmother’s conservator and make decisions on her behalf.

Staff and Stakeholder Perceptions

To better understand the broader effects of Shriver services beyond what was in the court case files, project stakeholders were interviewed about their perceptions of the Shriver pilot project's impact on various aspects of probate cases. Four staff members from the Legal Aid Foundation of Santa Barbara County (LAFSBC) and four staff members from the Santa Barbara County Superior Court (including judicial officers) were interviewed in fall 2015. The responses from legal aid staff and court-based staff were analyzed for common themes and summarized separately, to reflect the collective impressions of stakeholders within and outside of the court.

Legal Aid Services Staff Perceptions of Project Impact

Legal aid interviewees included attorneys and paralegals. Interviewees were asked about their perceptions of the Shriver project's impact on litigants, court processes, and the community. Most responses from legal aid focused on the assistance and representation provided by LAFSBC, as staff members were more directly familiar with these services than with those offered by the probate facilitator or the dedicated clerk.

IMPACT OF SHRIVER PROJECT GENERALLY

Nearly every interviewee thought that probate litigants—both petitioners and objectors—had better access to the court system and more meaningful participation in the process as a result of Shriver legal aid services. Interviewees perceived that, in light of the assistance from the probate facilitator and the legal aid staff, litigants had multiple resources available to them, which led to more petitions being attempted and filed, and more letters of guardianship and conservatorship being granted. As a result, more children and adults were in stable homes, and provided more security, peace of mind, and quicker access to services.

IMPACT ON PARTIES

Many interviewees reflected that, before the Shriver project, the complexity and volume of the paperwork, as well as the research skills required to locate family members, presented a significant barrier to merely filing a guardianship or conservatorship petition. This barrier was exacerbated for those with limited English proficiency or literacy challenges, as many litigants would have been unable to read the forms, which were available only in English. Additionally, many Shriver clients would have been unable to successfully serve notice to all applicable parties or to present evidence and call witnesses in the courtroom. All of these factors made the probate process virtually insurmountable for anyone without professional assistance.

On the other hand, legal aid attorneys perceived that their services also reduced the number of unnecessary petitions filed with the court. Sometimes, the attorney was able to determine that a would-be petitioner actually needed an alternative to guardianship or conservatorship (e.g., Caregiver Affidavit) that did not require a court filing, or was able to inform a would-be petitioner that s/he would probably not be found by the court to be a suitable guardian or conservator, given aspects of his/her background (e.g., criminality, child welfare involvement). For those litigants who ultimately filed petitions, attorneys perceived that they almost always were able to help the petitioner obtain guardianship or conservatorship.

Though most petitioners were successful in obtaining guardianships and conservatorships, the majority of legal aid interviewees did not consider this a negative outcome for parents or others who may have opposed the petitions. Oftentimes, it seemed to legal aid attorneys that parents opposed guardianships because they did not understand the process, and were primarily terrified that it meant their parental rights were being terminated (as in adoption) and that they would permanently lose their children. After being provided with education about the process and learning that a guardianship could be a short-term solution, legal aid attorneys felt that parents were more likely to consent, allowing the case to move through the court process more quickly. In cases where child welfare services (CWS) referred a family member to file for guardianship, agreement and consent from the parents also meant parents and families could avoid going through the child welfare system.

Several interviewees noted that probate cases are different from other types of litigation because the family relationships continue to exist long after the case is decided in court. The goal of the Shriver attorney was not to simply advocate for their client, but to help the entire family come to an agreement or, at a minimum, to help all voices be included in the process. Legal aid attorneys believed that parents and/or objectors were more satisfied with the decision from the judge because they had an opportunity to be a part of the process, usually appearing or speaking before the court. This more inclusive process reduced family tension and stress and brought family members closer together to care for children and adults in need.

IMPACT ON COMMUNITY

The consensus among legal aid staff was that the most important impact of all was that more children and conservatees were in safer homes, being cared for by loving, more capable and responsible family members. In addition to a more nurturing environment, interviewees noted that Shriver assistance made it possible for guardians and conservators to enroll children in school, obtain public benefits (such as housing vouchers or SNAP benefits), and to connect children and adults to the medical services they needed.

Although difficult to verify, there was also a common perception among legal aid staff that the Shriver probate pilot project reduced the workload on CWS and on the public guardian (for adults), allowing them to focus on more serious cases of abuse or neglect, keeping more families out of the system, and avoiding more children being placed in foster care. Over the life of the Shriver probate pilot project, attorneys recalled that a growing number of clients were being referred from CWS, as well as cases that would have otherwise been submitted to CWS for investigation, if a family member or friend had not been able to take care of the children. From legal aid's perspective, if not for Shriver services, many children would have continued to live in dire conditions, been put into foster care, or faced returning to a home where one or more parents was dealing with severe mental health or substance abuse problems, usually resulting in neglect and/or physical and emotional abuse.

IMPACT ON COURT

Legal aid staff members surmised that there were more petitions and better paperwork filed with the clerk's office than before the Shriver project began, resulting in fewer rejected filings. Despite the concomitant increase in cases, legal aid staff perceived that the impact on court staff and the court process was still overwhelmingly positive because clerks, research attorneys,

and court investigators had the information they required to process the cases and did not have to spend additional time tracking down details or reviewing repeated filings. Complete and accurate paperwork was also thought to reduce the likelihood of continuances (thus reducing unnecessary court time), which also meant litigants did not have to make as many trips to the courthouse to get their cases resolved. Interviewees reported that court staff often thanked Shriver legal aid staff for their services, even though it meant that the occasional case would take longer to come to a decision.

UNMET NEEDS

Interviewees from legal aid perceived that many people in the community remained unaware of the Shriver services available to them. Staff appreciated that the income requirements for the Shriver project (200% of the Federal Poverty Level [FPL]) were set to a higher threshold than for other programs (typically 100% to 125% of the FPL) because it allowed them to serve many more people than they would have otherwise been able to. However, several interviewees thought that there were many people in difficult situations who were just above the 200% threshold and needed legal assistance. Additionally, legal aid staff would like to see the statute changed to allow funding for cases involving small estates (e.g., up to \$20,000 to \$30,000) and adoptions. Finally, interviewees expressed a need for increased availability of interpreters at the courthouse, especially for courtroom proceedings.

Superior Court Staff Perceptions of Project Impact

Interviewees from the court included staff from the Legal Resource Center (the self-help center), judges, a judicial assistant (clerk), and the probate facilitator. Most responses focused on the services provided by the probate facilitator, as that was the Shriver service/position with which most court-based staff had interacted.

IMPACT OF SHRIVER PROJECT GENERALLY

Similar to legal aid interviewees, court staff members noted that the complexity of the probate process makes it almost impossible for a layperson to navigate alone, and commented that even attorneys often fail to complete the paperwork correctly—that it takes specialization. By offering services to everyone, the Shriver probate facilitator made it possible for litigants, who otherwise lacked the means to hire attorneys, to have meaningful access to the legal system. Court personnel noted that many litigants had literacy barriers and, without help, would have never attempted to complete the packet they received from the clerk's office. With the implementation of the probate facilitator, litigants received one-on-one attention and support to complete the paperwork, and they were able to tell their stories before the court and have their cases processed more efficiently, resulting in reduced emotional tensions and better outcomes for families.

IMPACT ON PARTIES

Court staff interviewees perceived an increase in the number of petitions filed with the clerk's office after Shriver project implementation and a dramatic shift in the quality of the paperwork filed. Court staff were used to seeing petitioners get frustrated with the technicalities and often give up in the middle of the process, but with Shriver services (i.e., the probate facilitator and legal aid attorneys) in place, they perceived that more litigants persisted with the process.

Generally, litigants were more educated about the probate court process, and proposed guardians/conservators were more familiar with their roles and responsibilities, such as how to comply with the court's investigation and being prepared for completing future status reports to the court. Because of this information, interviewed judges perceived that fewer guardians and conservators were removed from their positions at annual status reviews, leaving more wards and conservatees in stable environments.

Parallel to legal aid services staff's perceptions, court staff considered Shriver services to be beneficial to parents and opposing parties, as the process seemed to improve family relationships. Interviewees reported that parents of children were often existing in a state of chaos and that the guardianship gave them certainty and structure, such as having visitation orders and knowing when they were able to see their children. Many parents directed to the probate facilitator did not even know they had a right to file an objection, or did not know where to begin. Interviewees perceived that parents often seemed to get emotional closure after participating in court and were more satisfied knowing their parental rights remained intact. No interviewee mentioned any negative impact on parents or opposing parties as a result of the provision of Shriver services.

IMPACT ON THE COMMUNITY

The general perception described by court interviewees was that the Shriver probate pilot project solicited increased family cooperation and satisfaction from litigants, which ultimately helped wards and conservatees. Some reported family teamwork such as arranging schedules to alternately care for children—something that would not have happened without the intervention of the probate facilitator. Moreover, interviewees noted that when cases resolve more quickly, and the guardian or conservator has the certainty of legal documentation, they can focus more of their resources on caring for the child or conservatee. Schools and medical professionals have a better idea of what is going on in the child's or conservatee's life, and can make sure they are contacting the correct family members.

Court staff perceived an increasing number of guardianship cases referred from CWS, but also perceived that the increased petitions and subsequent monitoring from the court made information more readily accessible about current guardians who were abusing or neglecting their children, and these cases were referred back to CWS. Judges noted that Shriver litigants and their families were a vulnerable and underserved population and that the court's ultimate goal was to rule in the best interests of wards and conservatees. Judgments for guardianship or conservatorship impact individuals for years to come; thus, reaching the right decision is critical and having accurate and complete information on which to base decisions is invaluable.

IMPACT ON THE COURT

The vast majority of court staff interviewees perceived that the entire probate filing process was quicker, more accurate, and less stressful than before Shriver services existed. For judicial assistants reviewing petitions, the overall process remained relatively unchanged, but the internal workload changed substantially. Prior to Shriver services, judicial assistants estimated it took an average of three attempted filings before a petitioner could successfully file case paperwork, but after Shriver service implementation, paperwork was usually accepted on the first attempt. With an average of 45 minutes required to review a petition each time it is

submitted, this change represented a substantial time savings for court staff. All paperwork processed with the assistance of the probate facilitator had a special stamp, and in the event that the judicial assistant noticed an error, she submitted a memo directly to the probate facilitator, and the error could usually be resolved without the petitioner needing to return to the courthouse to resubmit the paperwork. This ability to streamline the paperwork completion reduced the burden on everyone involved.

Most court staff acknowledged that some hearings may actually be more time-consuming in court, because more people were participating in the process (e.g., parents and other family members with successfully filed objections) and more questions were being raised. However, the additional time generally resulted in better information provided to the court and, thus, fewer continuances. One example is the impact on research attorneys and court investigators. Although the increase in filings meant that research attorneys and court investigators had larger caseloads, court staff felt that the cases were processed more efficiently because research attorneys and court investigators could contact the probate facilitator directly with questions. Prior to the Shriver probate pilot project, if a research attorney or court investigator had a question about a petition, a continuance would occur to allow time for the facts to be substantiated. Court staff thought that many continuances were avoided because the probate facilitator could amend petitions or provide additional information to the other court staff (e.g., investigators) directly, which would have otherwise delayed the case.

Prior to the Shriver project, court staff mentioned that it was not uncommon to have a dozen continuances to decide a conservatorship case. However, since Shriver services began, cases with this many continuances are extremely rare. Having fewer continuances allows more cases to be scheduled on the calendar and cases to be resolved more quickly. Interviewees reported that most general petitions were able to be scheduled within 45 to 50 days of filing, when it would have taken much longer than that to appear before a judge prior to the Shriver project; temporary petitions were scheduled within seven to 15 days and usually resolved at the first scheduled hearing.

Most court staff reported that the quality of information provided to the court was vastly improved, due to more people participating in the process, more evidence presented (e.g., declarations filed, witnesses called), and clearer documentation. This quality improvement allowed judges to make fewer decisions in the “gray area,” thus better serving children and adults. Ultimately, court staff perceived that more letters of guardianship and conservatorship were granted, largely because of avoided rejections and continuances.

Judges reported that the direct impact of the Shriver project was minimal, as they still reported spending the same amount of time in the courtroom. However, all three judges interviewed reported greater satisfaction in their roles. Since judges and other court staff cannot offer advice on how to fill out forms, prior to the Shriver project, judges were frustrated that they had no resource to which they could refer self-represented probate litigants. With the addition of the probate facilitator to the courthouse, they could refer litigants directly to her office and usually saw litigants returning to court with corrected paperwork. Judges felt that they spent less time in the courtroom educating litigants about the probate process, and that most litigants seemed to have a good understanding of what was required of them.



Court staff also reported feeling less frustrated with self-represented litigants due to their increased education and understanding of the court process. Many court staff were used to interacting directly with attorneys and found it difficult to speak to laypeople about legal technicalities. Interviewees perceived that, with the addition of Shriver services and better prepared litigants, the courtroom process was smoother, emotional tensions lower, and frustrations fewer from all sides as the cases progressed through the system.

UNMET NEEDS

Court staff perceptions mirrored those of legal services staff. They saw a definite need for an expansion of current services (in particular, the probate facilitator was functioning at capacity with the current number of cases) and more interpreters in the court. They would also like to see funding allow for services to extend to adoption cases and cases involving guardianship and conservatorship of the estate. Adoptions and cases involving small estates are often more emotional and contentious and take up a lot of court time to resolve. Court staff felt strongly that these cases could benefit from services similar to those offered by the probate facilitator.

Shriver Probate Pilot Project

Cost Study

Cost Study

Cost analysis is used to determine the **investment** that has been made in a particular program or service and whether the program has had an economic **impact** on the communities, systems, and agencies involved directly or indirectly with the services provided and populations served. In other words, what did the program cost and did the program result in any efficiencies or savings due to the services provided? This cost analysis sought to ascertain the likely costs and savings related to providing legal representation and court-based probate facilitator services to litigants in guardianship and conservatorship cases. Unlike some other studies, funds used to provide services were counted as costs (rather than as benefits to the state or staff who were employed), while savings constituted any reduction in taxpayer costs attributable to the outcomes associated with attorney representation or probate facilitator assistance. Information was gathered to ascertain whether Shriver services led to any differences in short-term outcomes related to court efficiency or longer term outcomes related to broader system costs.

The cost study estimates the **annual costs** and savings related to Shriver service provision. The reader may extrapolate longer term costs and savings as appropriate. Cost analyses focused on the fiscal year spanning 10/1/2013 to 9/30/2014 (FY 2014). This year was chosen because Shriver legal aid and probate facilitator services were fully operational during this time.

Methodology and Analytic Approach

The cost study seeks to address the following questions:

Cost topic #1: What was the estimated cost of the Shriver probate pilot project?

This question was addressed by reviewing the invoices submitted to the Judicial Council (JC) as part of Shriver project implementation and the services reported by the Legal Aid Foundation of Santa Barbara County (LAFSBC) and the Santa Barbara County Superior Court staff. This information was used to calculate an estimate of the cost per litigant served by each entity.

Analytic Approach: Program costs for Shriver probate services were estimated in two ways, using the available information sources (representing the cost for 1 fiscal year):

- **Total Program Costs.** Total program costs were calculated as the total amount invoiced to the JC for FY 2014⁴⁷ and are delineated for different levels of Shriver-funded staff.
- **Per Case Costs.** Estimates of the cost per case were derived two ways: (a) dividing the total invoiced amount for FY 2014 by the number of cases served in FY 2014, recorded in the program services database; and (b) multiplying the average⁴⁸ number of attorney hours per case, from the program services database, by the loaded attorney rates.⁴⁹
- **Per Case Program Costs by Level of Service.** Estimates of the costs per case by level of service (representation versus unbundled services) were derived two ways: (a) dividing

⁴⁷ The total amount invoiced was compared to the total contracted amount in the project proposal. These amounts were the same in nearly every case; differences are noted in the text when found.

⁴⁸ Calculations were conducted using mean and median values.

⁴⁹ The loaded rate included non-attorney staff time and other external costs. This rate was established in the contract between legal aid services agencies and the Judicial Council and is lower than a typical hourly rate.

the FY 2014 invoiced amount by the number of cases served in FY 2014, as reported in the program services database, adjusted to account for the level of effort (i.e., relative number of attorney hours) for each level of service (see Appendix A for detailed calculations); and (b) multiplying the average⁵⁰ number of attorney hours for each service level in the program services database by the loaded attorney rates.

Note on the calculations for cost per case: Across all projects, there was a range between these two calculations. This is likely because the first estimate, derived from the invoiced amount, included hours worked by supervising attorneys and hours spent by staff attorneys doing background and supportive work, in addition to their direct case work. The second estimate, derived from the program services database, pertains only to the hours that the staff attorney worked directly on cases.

Cost topic #2: Does the provision of Shriver services improve court efficiency? Do these efficiencies result in cost savings for the court?

Analyses examined the costs (e.g., amount of staff time spent on tasks, staff salaries) associated with various court activities involved in processing a guardianship or conservatorship case and compared the frequency of these activities between cases that received Shriver services and those that did not. The intent was to understand whether the provision of Shriver services resulted in increased efficiencies in case processing or in other areas of court functioning, and thereby in potential cost savings to the court.

Sometimes cost benefits can be understood in terms of *opportunity resources*. The concept of opportunity cost from the economic literature suggests that system resources are available to be used in other contexts if they are not spent on a particular transaction. The term *opportunity resource* describes the resources that become available for different use. For instance, if legal services available to clients increase the number of custody pleadings that end in pre-trial settlement, thus reducing the number of trials, an opportunity resource is afforded to the court in the form of clerk and judge time available for other cases.

Analytic Approach: These cost analyses compared cases that received Shriver services (attorney representation and probate facilitator services) with cases that did not receive Shriver services. Indicators of court efficiency, such as relative rates of continuances and hearings, were calculated for the groups (based on case file data presented in the Case Outcome Study section) and the associated costs were estimated.

Cost topic #3: Are Shriver services related to potential cost savings beyond the court? What costs to the system may be avoided or reduced as a result of Shriver services?

This question pertains to the potential savings as a result of the provision of Shriver services, to the broader social service system or in the longer term. As an example, for guardianship cases, savings to the system could include fewer children ending up in the dependency system or as wards of the state, and longer term savings could include the societal costs avoided in terms of delinquency and other negative outcomes when children grow up in tumultuous and unsafe environments. In most cases, these potential savings could not be verified empirically, because the relevant data were not available. This limitation existed because either the current samples were not large enough to reflect these low-frequency but costly events (e.g., no children in the

⁵⁰ Calculations were conducted using mean and median values.

current samples ended up as wards of the state) or the longer term outcomes had not yet occurred (e.g., the impact of family instability on longer term child adjustment outcomes). Therefore, this line of inquiry is addressed through a review of the literature.

INFORMATION AND DATA SOURCES

Information used to develop cost estimates was gathered from the Judicial Council, the legal aid services agency, Superior Court staff, and online resources. Data sources included:

- The Judicial Council provided program invoices for the fiscal year spanning 10/1/2013 to 9/30/2014 (FY 2014) for both the legal aid service agency and the Superior Court.
- Superior Court staff in Santa Barbara County provided staff titles and related tasks for guardianship and conservatorship cases. Salaries, benefits, indirect support rates, and jurisdictional overhead rates used to calculate the cost per hour for each staff person were located via online budget resources.
- Superior Court staff provided time estimates for the average number of litigants seen in a day and the activities related to guardianship and conservatorship case processing.

Additional data were used to calculate the frequencies of various indicators for the two comparative study groups. These included:

- The program services database provided the number of cases receiving legal aid services in FY 2014, total number of attorney hours, and average number of hours per case.
- The probate facilitator provided data on the number of parties assisted at the court and the average time spent per litigant.
- Court case file review data provided case characteristics and outcomes for cases that received Shriver legal aid services, probate facilitator services, and no Shriver services (i.e., a comparison group of cases from before Shriver services were offered).
- Court summary statistics were provided by the Santa Barbara County Superior Court administrative staff, which indicated the frequency of various case characteristics and events across all guardianship and conservatorship cases in the court (e.g., filings, fee waivers, hearings, dismissals, etc.).

Cost Topic #1: What Was the Estimated Cost of the Shriver Probate Pilot Project?

COSTS FOR SERVICES AT THE SANTA BARBARA PROBATE PILOT PROJECT IN FY 2014

Legal aid services program costs

Total Program Cost. The Legal Aid Foundation of Santa Barbara County (LAFSBC) operated two Shriver pilot projects, one for housing and one for probate. LAFSBC’s contract with the Judicial Council (JC) involved a lump sum allocation for both projects, totaling \$578,307 for FY 2014. The total amount invoiced for this period was \$578,307. Of this, \$15,750 was spent on contract services to programs, \$4,391 on community outreach/education, and \$485,604 on legal aid services for housing cases. The remaining \$72,562 was spent on legal aid services for probate cases. This amount includes costs for casework by staff attorneys. According to the program services database, during FY 2014, LAFSBC attorneys worked a total of 328 hours on Shriver probate cases. This breakdown is shown in Table P34.

Table P34. Legal Aid Services Program Cost Estimates in FY 2014 – Santa Barbara

| Invoice Components | Amount |
|--|------------------|
| Community outreach/education | \$4,391 |
| Contract services to programs | \$15,750 |
| Housing invoice total (LAFSBC) | \$485,604 |
| Direct services to clients ^a | \$72,562 |
| Probate invoice total (LAFSBC) | \$72,562 |
| Santa Barbara Pilot Project invoice total (Housing and Probate; LAFSBC) | \$578,307 |
| Santa Barbara Pilot Project allocation | \$578,307 |

^aDirect services costs included estimated costs for attorney time listed on project invoices. For Santa Barbara probate, this included staff attorneys (no supervising attorney costs were indicated).

Overall Per Case Cost. As shown in Table P35 (bottom row), the average cost per probate case by LAFSBC was between \$138 and \$1,251. The total invoiced amount (\$72,562) for legal aid services divided by the number of cases (58) yielded an overall average cost of \$1,251 per case. When the cost per case was calculated by multiplying the mean number of attorney hours per case by the loaded attorney hourly rate, this yielded an estimated per case cost of \$515. When this calculation was done using the median number of attorney hours per case, it yielded an estimated per case cost of \$138.

Per Case Cost by Level of Service. Table P35 (first and second rows) shows the average cost per case taking into account the level of service provided. The average cost per full representation case was between \$1,380 and \$3,389 and the average cost per unbundled services case was between \$184 and \$437. The total legal aid services invoiced amount (\$72,562) divided by the number of cases at each service level yielded an average cost of \$3,389 per full representation case and \$437 per unbundled services case. For full representation cases, when the cost per case was calculated by multiplying the mean number of attorney hours by the loaded attorney hourly rate, this yielded an estimated per case cost of \$1,499; when this calculation was done using the median number of attorney hours per case, it yielded an estimated per case cost of

\$1,380. For unbundled services cases, when the cost per case was calculated using the mean number of attorney hours, this yielded an estimated per case cost of \$193; when this calculation was done with the median number of attorney hours, the cost per case was \$184.

Note on the calculations for cost per case: Estimates derived from the invoiced amount (left side of the table) included hours worked by supervising attorneys and hours spent by staff attorneys doing background and supportive work, in addition to their direct case work. Estimates derived from the program services database (right side of the table) pertain only to time spent by staff attorneys working on cases.

Table P35. Average Estimated Cost to Provide Legal Aid Services per Case in FY 2014

| Invoice | | | Program Services Data and Contracted Hourly Rate | | | |
|------------------|------------------------------|------------------------------------|--|------|-------------------------------|-------------------------|
| Level of Service | Number of Cases ^a | Average Cost per Case ^b | Average Hours per Case ^c | x | Atty Hourly Rate ^d | = Average Cost per Case |
| Full reprstn. | 16 | \$3,389 | Mean | 16.3 | \$91.97 | \$1,499 |
| | | | Median | 15.0 | \$91.97 | \$1,380 |
| Unbundled svcs. | 42 | \$437 | Mean | 2.1 | \$91.97 | \$193 |
| | | | Median | 2.0 | \$91.97 | \$184 |
| All Cases | 58 | \$1,251 | Mean | 5.6 | \$91.97 | \$515 |
| | | | Median | 1.5 | \$91.97 | \$138 |

^a Number of cases opened in FY 2014, receiving each service, as recorded in the program services database.

^b See Probate Appendix A for full calculations.

^c Mean and median number of attorney hours spent on cases opened in FY 2014, by service level, as recorded in program services database.

^d Loaded hourly rate established in contract with Judicial Council.

Court-based services (Shriver probate facilitator) program costs

Shriver funding supported a probate facilitator at the Santa Maria location. The probate facilitator is an experienced attorney employed by the court to provide neutral services for self-represented litigants in guardianship and conservatorship cases. Program costs for this position were calculated using information from invoices submitted to the JC and from the probate facilitator's database. The probate facilitator position was staffed at 30 hours per week at a rate of \$53.00 per hour. During an interview, the probate facilitator estimated that approximately 75% to 80% of her time each week was spent on tasks directly associated with a specific probate case, and approximately 20% to 25% of her time each week was spent on other activities, such as creating and conducting classes, educating court staff (clerks, investigators) about probate law and policy, attending court, reviewing tentative rulings for potential cases needing service, and various administrative duties. The probate facilitator independently tracked the parties she assisted, and her records indicated that 139 parties were served during FY 2014.

Total Program Cost. The annual cost for court-based services for the pilot project was between \$81,406 and \$82,680. The total amount invoiced for probate facilitator services, which would include costs for attorney time, was \$81,406. According to the probate facilitator's database, she worked a total of 1,560 hours on probate cases and other project-related tasks in FY 2014. When multiplied by her hourly rate (\$53.00), it yielded a total cost of \$82,680.

Per Case Cost. The average cost per case for probate facilitator services was between \$445 and \$586. The total amount invoiced for FY 2014 (\$81,406) divided by the number of litigants served (139) yielded an overall average cost of \$586 per case. The average number of hours that the probate facilitator worked per case (8.4 hours⁵¹) was multiplied by the hourly rate in FY 2014 (\$53.00). Multiplying the mean number of hours per case by the loaded hourly rate yielded an estimated per case cost of \$445.

Table P36. Average Cost per Case for Probate Facilitator Services in FY 2014

| Invoice | | | Probate Facilitator Service Data and Contracted Rate | | |
|-----------------|-----------------------------|-------------------------|--|---------------|-------------------------|
| Program Invoice | Total # Served ^a | = Average Cost per Case | Average Hours per Case ^b | x Hourly Rate | = Average Cost per Case |
| \$81,406 | 139 | \$586 | 8.4 | \$53.00 | \$445 |

Note. Data source: Probate facilitator database, invoice amounts, staff estimates.

^aThe probate facilitator’s database indicated that she served 139 parties in FY 2014. ^bAverage amount of time spent per party was calculated by averaging the number of hours worked by the number of litigants served.

WHAT ARE THE ESTIMATED COSTS TO ADDRESS THE UNMET NEED?

Annual resources necessary to address the unmet need for legal services in probate cases were estimated by multiplying the cost per case figures (above) by the number of cases filed at the court. Costs to address the unmet need for legal aid services among low-income litigants were calculated by the number of cases granted a fee waiver. Because the eligibility requirements for a court fee waiver (income not greater than 150% of the Federal Poverty Level) are stricter than the Shriver eligibility requirements (200% of the FPL), and there are additional low-income litigants who need and would benefit from legal assistance, this cost should be considered an underestimate. Table P37 shows the number of guardianship and conservatorship petitions filed in FY 2014 with a fee waiver granted to a party and the range of costs to provide legal aid services (both full representation and unbundled services) to this broader population. Because the probate facilitator assisted litigants in all probate cases, regardless of income, the estimated costs for this service were calculated using the total number of petitions filed.

Table P37. Estimated Annual Costs to Address Total Need for Legal Aid and Probate Facilitator Services (based on FY 2014 data)

| | Guardianship | Conservatorship | Total |
|--|--------------------|-------------------|--------------------|
| Total Number of Petitions Filed with Fee Waiver | 41 | 7 | 48 |
| Cost to provide full representation to all cases (\$1,380-\$3,389 per case) | \$56,580-\$138,949 | \$9,660-\$23,723 | \$66,240-\$162,672 |
| Cost to provide unbundled services to all cases (\$184-\$437 per case) | \$7,544-\$17,917 | \$1,288-\$3,059 | \$8,832-\$20,976 |
| Total Number of Petitions Filed | 74 | 65 | 139 |
| Cost to provide probate facilitator services to all cases (\$445-\$586 per case) | \$32,930-\$43,364 | \$28,925-\$38,090 | \$61,855-\$81,454 |

Note. Data sources: Program service data, probate facilitator data, court data for FY 2014, and invoice amounts.

⁵¹ The average number of hours per case by the probate facilitator was calculated by taking 75% (time she reported was on direct case work) of 1,560 work hours (30 hours per week for 52 weeks). This yielded 1,170 hours, which was then divided by the number of parties assisted ($n=139$), yielding an average of 8.4 hours.

The costs associated with addressing the *unmet need* for legal and court-based services among low-income litigants in guardianship and conservatorship cases are very difficult to estimate. In large part, this is due to:

- As project stakeholders have repeatedly described, the paperwork necessary for these cases is so complex and cumbersome that many litigants are never able to successfully file the petitions. Also, there are currently no standard forms to complete for persons who wish to dispute a guardianship or conservatorship, so they must create their own legal pleadings. These would-be guardians and conservators or objectors who are unable to start their cases are critical to count in the estimates for unmet need. However, there is no data source that tracks these individuals. Therefore, the numbers in Table P37 above should be considered an underestimate of the true need.
- Of the cases that are successfully filed, it is not possible to determine the proportion that is low income as per the Shriver Act requirements. Litigants are eligible for Shriver legal aid services if their incomes do not exceed 200% of the Federal Poverty Level. Litigant income is not tracked by court administrative data systems. The closest proxy available is whether the litigant applied for and was granted a fee waiver from the court. However, the eligibility requirement for a fee waiver is 150% of the Federal Poverty Level. Thus, the estimated number of low-income litigants as evidenced by a granted fee waiver may also underestimate the actual number of low-income litigants who are eligible for and would benefit from Shriver services.

The estimates of unmet need presented here are based on the available court administrative data that most closely approximated the population targeted by the Shriver Act, but are likely underestimates of the actual need.

Because the probate facilitator was already assisting all litigants who presented for service, there is no unmet need to document in this area. Indeed, the estimated cost of providing probate facilitator services to all litigants in guardianship and conservatorship cases is approximately equal to the salaries of the staff positions involved. However, if the number of litigants seeking to file petitions grows, need for additional service may arise.

Cost Topic #2: Does the Provision of Shriver Services Improve Court Efficiency?

Court efficiency is conceptualized as either reduced court activities (e.g., fewer hearings) or reduced time spent by staff on an activity (e.g., quicker processing of paperwork). These efficiencies result in savings that can be financial (i.e., money saved) or opportunity resources (i.e., staff time conserved and then available for other tasks). Court efficiency cost analyses utilized information from the court case file reviews, which provided data for comparison, and information from interviews with court staff, during which they described the time and resources needed for each court activity involved in processing a typical guardianship or conservatorship case.

AVERAGE COST TO PROCESS A TYPICAL GUARDIANSHIP/CONSERVATORSHIP CASE

Court staff described five primary activities associated with processing a guardianship or conservatorship case: (a) a front counter clerk provides the paperwork and referrals to the litigants, (b) a judicial assistant receives and processes the petition, (c) the probate attorney reviews the case, (d) hearing(s), and (e) continuances. For each activity, court staff estimated the amount of time spent preparing and conducting the activity by the relevant staff members (e.g., clerk/judicial assistant, probate attorney, judge). Salaries, benefits, indirect support rates, and jurisdictional overhead rates for each position were located online⁵² (for FY 2014) and used to calculate hourly rates, which were multiplied by the time spent for each activity.

Table P38 compares the amounts of time court staff reported spending on these activities, for cases with and without Shriver services (by either legal aid or the probate facilitator), and the associated costs. Results include:

- Time spent by front counter clerks did not change with the provision of Shriver services, although the available resource referrals did. After the Shriver probate pilot project began, these clerks were able to refer litigants to legal aid and the probate facilitator to receive direct assistance, whereas before the Shriver project, they had only the resource center and a reference book.
- Regarding the time spent reviewing and processing petitions, clerks estimated that this task took an average of 2.5 hours (150 minutes) per petition before the Shriver probate pilot project, and that litigants returned to the clerk's office approximately three times before successfully filing their paperwork. However, after the implementation of the probate facilitator, staff estimated that reviewing and processing a petition took an average of 25 minutes and that most litigants filed successfully on their first attempt. This time difference yielded a cost savings of \$81 per case.

In addition to these savings, there are potential opportunity resources associated with this finding. In particular, because clerks saved nearly 2 hours on processing each case, they can spend that time in other ways that would maximize efficiency for the court. For example, this change may increase the overall number of petitions they are able to process in one day and it may free up their time to address and complete other tasks.

⁵² Retrieved from <http://publicpay.ca.gov/Reports/PositionDetail.aspx?employeeid=15199249>

- Time spent by the probate attorney preparing cases was estimated to be an average of 3.5 hours (210 minutes) per petition before the Shriver probate pilot project. However, after the implementation of the probate facilitator, staff estimated that these tasks took an average of 150 minutes per petition. This time difference yielded a cost savings of \$92 per case.
- Court staff estimated that a typical evidentiary hearing lasted, on average, 3 hours and required the presence of the judicial assistant, court reporter, bailiff, and judge, in addition to preparations or post-hearing processes by the judicial assistant, judge, and probate attorney. The average cost per hearing was \$1,034 (see Probate Appendix A, Table PA2).

The case file review data showed that guardianship cases that received Shriver full representation had an average of 2.2 hearings, whereas cases without Shriver services had an average of 3.1 hearings. The reduction in the number of hearings among Shriver cases resulted in a cost savings of approximately \$930 per case.

- Court staff estimated that a typical continuance required staff time from the probate attorney and judicial assistant in preparation, and from the judicial assistant, court reporter, bailiff, and judge for the courtroom time and processing. The average cost of a continuance was \$198 (see Probate Appendix A, Table PA3 for calculations).

The case file review data showed that guardianship cases with Shriver full representation had an average of 1.0 continuances and cases without Shriver services had an average of 2.1 continuances. The reduction in the number of continuances among Shriver cases resulted in a cost savings of approximately \$218 per case.

As shown in Table P38, the average cost to process a typical guardianship case before the Shriver probate pilot project was estimated to be \$4,041. The average cost to process a typical guardianship case that received both Shriver representation and probate facilitator services was estimated to be \$2,720. This represents an average savings of \$1,321 per case (or 33%).



Table P38. Summary of Court Efficiencies and Related Savings and Improvements for Combined Shriver Probate Services

| Court Activity | Estimated Time to Complete Activity ^a and Related Cost | | Savings and Improvements |
|--|--|---|--|
| | Before Shriver Project | During Shriver Project | |
| Front counter clerk provides paperwork and referrals | 2 minutes (referrals include resource center and "the book") -- | 2 minutes (referrals now also include LAFSBC and PF) -- | Clerks are able to refer litigants to LAFSBC and probate facilitator |
| Judicial assistant receives and processes petition ^b (includes calendaring and providing court investigator with paperwork) | 150 minutes (petitioners return an average of 3 times) 2.5 hrs x \$39/hr = \$98 | 25 minutes (petitioner submits on first attempt) .42 hr x \$39/hr = \$17 | Quicker processing by clerks, due to probate facilitator assistance, yields savings of \$81 per petition |
| Probate attorney review and preparation of case | 210 minutes 3.5 hrs x \$92/hr = \$322 | 150 minutes 2.5 hrs x \$92/hr = \$230 | Quicker processing by probate attorney, due to probate facilitator assistance, yields savings of \$92 per petition |
| Hearing(s) | Average of 3.1 per case 3.1 x \$1,034 = \$3,205 | Average of 2.2 per case 2.2 x \$1,034 = \$2,275 | Fewer hearings, due to Shriver full representation, yields savings of \$930 per case |
| Continuance(s) | Average of 2.1 per case 2.1 x \$198 = \$416 | Average of 1.0 per case 1.0 x \$198 = \$198 | Fewer continuances, due to Shriver full representation, yields savings of \$218 per case |
| Average Total Cost^c | \$4,041 | \$2,720 | \$1,321 saved per case |

Data source: Court case file review data, staff time estimates, SBSC and online budget information.

^a Estimates provided by court judicial assistants.

^b Clerk processes petition after litigant prepares and submits petition, notices, consents, proposed order, proposed letters.

^c This table does not include all costs associated with a guardianship/conservatorship case. For example, the costs of the court investigation are not included here. This table lists only those case activities that were potentially impacted by Shriver services.

Estimated annual costs savings based on court efficiencies

To estimate the potential broader savings to the court as a result of the per case savings shown above, these figures were multiplied by the number of cases filed in FY 2014, as indicated by the court summary data. As shown in Table P39, the reduced time needed for clerks to process petitions and reduced probate attorney time (a savings of \$173 per case). If applied to the total number of guardianship and conservatorship petitions filed in FY 2014 ($n=139$), this reduction would amount to a savings of approximately \$24,047 annually. The reduction in the average number of hearings and continuances associated with full representation from a Shriver attorney would also yield a savings for the court (a savings of \$1,148 per case). If this figure is applied to all petitions filed at the court, the approximate annual savings would be \$159,572; if it is applied to all fee-waivered petitions, the estimated annual savings would be \$55,104.

A comparison of the amount saved per case by legal aid services (\$1,148) to the amount spent per case (\$2,102 for full representation) yields a revised cost of about \$954 per case. Probate facilitator services created an average savings of \$173 per case, while \$586 was spent per case (for a revised cost of \$413).

Table P39. Estimated Annual Savings to Court from the Provision of Shriver Services (based on FY 2014 data)

| | Guardianship | Conservatorship | Total |
|--|--------------|-----------------|-----------|
| Total Number of Petitions Filed | 74 | 65 | 139 |
| Cost savings due to reduced time to process petitions (\$173 per case) | \$12,802 | \$11,245 | \$24,047 |
| Cost savings from fewer hearings and continuances (\$1,148 per case) | \$84,952 | \$74,620 | \$159,572 |
| Total Number of Petitions Filed with Fee Waiver | 41 | 7 | 48 |
| Cost savings due to reduced time to process petitions (\$173 per case) | \$7,093 | \$1,211 | \$8,304 |
| Cost savings from fewer hearings and continuances (\$1,148 per case) | \$47,068 | \$8,036 | \$55,104 |

Note. Data source: Program administrative data, court data for FY 2014, invoice amounts

Cost Topic #3: Are Shriver Services Related to Potential Cost Savings Beyond the Court?

Guardianship

Recall that most of the guardianship cases involved parents with severe issues (e.g., substance use, mental health) that impeded their abilities to care for their children. Thus, for most of the wards in these cases, if a guardianship was not established, foster care was the likely alternative outcome. Indeed, as shown in the Case Outcomes Study, the case file review data suggest that several families were referred to the probate court by the child welfare system. That is, it seems that the child welfare system encouraged some families to seek a guardianship arrangement in order to avoid the initiation of a dependency case and/or the child being taken into foster care. Both dependency court and foster care carry significant stressors for families and children, as well as costs to the taxpayer. In the data for the current sample, no children ended up as wards of the state, so there was no possibility to compare the rates of foster care placements across Shriver and non-Shriver cases. However, if Shriver services are providing the

child welfare system with an avenue to help families avert dependency court, and if Shriver services are facilitating guardianship placements, the potential cost savings are notable.

Conservatorship

Similar to guardianship cases, if conservatorships are not established, proposed conservatees are cared for by the Public Guardian, a taxpayer-funded service. In the data for the current sample, very few adults ended up in the care of the Public Guardian, so there was not the possibility to compare the rates across Shriver and non-Shriver cases. However, if Shriver services are facilitating conservatorship arrangements, the potential cost savings are notable.

Summary

At the Santa Barbara probate pilot project, the average cost to provide full representation to a litigant in a guardianship or conservatorship case ranged from \$1,380 to \$3,389, and the average cost to provide unbundled services ranged from \$184 to \$437. The average cost to provide probate facilitator services to a litigant fell between \$445 and \$586. There were notable efficiencies created by the Shriver probate facilitator (e.g., reduced clerk time to process petitions) and by the Shriver legal aid attorneys (e.g., fewer hearings and continuances). Taken together, these services yielded a savings to the court. The average cost to process a typical guardianship case before the Shriver probate pilot project was estimated to be \$4,041. The average cost to process a typical guardianship case that received both Shriver representation and probate facilitator services was estimated to be \$2,720—an average savings of approximately \$1,321 per case (or 33% reduction in cost).

Shriver Probate Pilot Project

Summary of Findings

Summary of Findings for the Shriver Probate Pilot Project

Establishing legal guardianships and conservatorships help to ensure that vulnerable children and adults are living in stable environments and have the care they need. These cases are technically complicated and involve volumes of paperwork that can be very challenging for most laypeople, and insurmountable for those with limited English proficiency or literacy abilities. The Shriver probate pilot project was intended to provide individuals with meaningful access to the judicial system and assistance with these complex and emotionally charged cases that have critical implications for families.

Data for the evaluation of the Shriver probate pilot project were collected over the course of 5 years, from multiple sources, using various methodologies. Program services data were recorded by Shriver legal aid services staff as they worked with clients, and were also recorded by the Shriver probate facilitator. Court case files were reviewed for cases that received Shriver services and those that did not, and project staff were interviewed about their perceptions of the program's impact. Together, these data help shed light on the impact of providing legal assistance to low-income individuals in probate court.

WHO WAS SERVED BY THE SHRIVER PROBATE PILOT PROJECT?

From the start of services in January 2012 through June 2015, the probate pilot project provided legal aid services to 242 low-income litigants. The most common case involved multiple individuals seeking assistance with a petition for guardianship (e.g., couples, such as grandparents, seeking to care for grandchildren). Most clients were Hispanic or Latino, and many had limited proficiency with English, or a disability. The median monthly income of those eligible for service was \$1,600, below the 2014 Federal Poverty Level, and about one-fifth was reliant on food subsidies.

From the start of services in March 2013 through June 2015, the court-based Shriver probate facilitator served 286 parties across more than 200 cases (mostly guardianships). Most of these parties were female, more than half were Hispanic/Latino, over one third had a household income of less than \$2,000 per month, and many received some form of public assistance.

Families served by the Shriver project evidenced substantial dysfunction and considerable risk factors to the children involved. In short, guardianships were sought, not because parents were deceased, but because parents were unable/unavailable to care for children due to issues such as substance abuse, incarceration, abandonment, maltreatment, and homelessness. Moreover, roughly a quarter of families were referred by the child welfare system (CWS), suggesting that CWS recognized guardianships as a way to avoid foster care in these situations that would otherwise have been untenable for children.

WHAT SERVICES WERE PROVIDED BY THE SHRIVER PROBATE PILOT PROJECT?

The Shriver probate pilot project endeavored to provide full representation to all eligible litigants presenting for service. However, some litigants received unbundled services (brief counsel and advice) if, after the initial consultation, they did not return for subsequent

appointments, decided not to file a petition, or were deemed ineligible. In total, of the 242 litigants who sought help, 158 met Shriver eligibility criteria, of whom 40% received full representation and 60% received unbundled services. The remaining 84 cases received unbundled services, but were ultimately deemed ineligible for project services.

The probate facilitator assisted all parties who presented at the court (no income requirement) and aimed to support the completion of all necessary forms so that the petition could be successfully filed. The probate facilitator also assisted litigants with various documents to proceed with their case, including service of notice and declarations. She made it possible for litigants, who otherwise lacked the resources to retain attorneys, to have meaningful access to the legal system, thereby ensuring access to justice for these at-risk families.

WHAT WERE THE IMPACTS OF THE SHRIVER PROBATE PILOT PROJECT?

Findings demonstrated several beneficial impacts of the Shriver probate pilot project:

Petitions were successfully filed.

As a “pure access” project, the Shriver probate pilot project sought to stabilize families by removing barriers to filing petitions for guardianship and conservatorship. The complexity and volume of the paperwork necessary for petitions, as well as the skills and time required to locate family members for notification, present significant barriers to successfully filing a petition. As a result, historically, many people never successfully file and abandon the process due to confusion and fatigue. Among those litigants provided full representation by a Shriver attorney, only 6% never filed a petition.

Nearly one quarter of full representation clients in guardianship cases subsequently withdrew their petitions. This may have been due to families pursuing a different arrangement (e.g., Caregiver’s Affidavit), after learning about their options from their attorneys. None of these clients abandoned their petitions.

Impact of probate facilitator

The Shriver probate facilitator had a substantial impact on litigants’ abilities to successfully file their petitions. Court staff estimated that, before the Shriver project, it would take three attempts for litigants to successfully file a petition, and many would give up before succeeding. However, those who received help from the probate facilitator were generally able to file successfully on their first attempt, which eased the burden on both the litigants and court clerks.

There was increased participation in the legal system by relevant parties.

Individuals who received representation by a Shriver attorney were afforded more meaningful access to the legal system. The help of an attorney was critical to navigating the system and employing a range of strategies to support their cases. In particular, 31% of Shriver full representation clients called witnesses and 22% submitted declarations during their proceedings, versus 12% and 7% (respectively) of probate facilitator cases and 5% and 3% (respectively) of litigants without any Shriver service. These actions not only further supported the petitioners’ cases, but they also offered the court more complete and comprehensive information on which to base decisions, which was valuable to judicial officers.

Shriver services also supported effective notification procedures, including those for relatives and tribes. Ensuring effective and complete notification provides other relevant parties with an opportunity to participate in the cases. This could result in cases having objectors or additional parties, which could add complexity to proceedings; however, it also provided the court with more information about the circumstances of the child and family on which to base decisions.

Engaging more people in the process had the indirect effect of increasing collaboration and communication among family members who may have otherwise been in opposition to each other. Shriver staff were able to educate parties about guardianships and conservatorships— notably, to inform parents that their parental rights are not terminated when a guardianship is established and that such arrangements can be temporary—which often eased tensions, calmed emotional reactions, and supported cooperation. For Shriver staff, the goal was to establish an arrangement that was manageable for the family and in the best interests of the children or vulnerable adult.

Court proceedings were more efficient.

The provision of Shriver services made notable contributions to court efficiency. Cases with a Shriver attorney were resolved more quickly than were cases with self-represented litigants. Over half of Shriver representation cases were resolved within 60 days, compared to just over one third of other cases. Further, these full representation cases involved fewer hearings and continuances, compared to cases with self-represented litigants.

Prior to the Shriver project, multiple continuances were typical in probate cases, which protracted proceedings and frustrated litigants. The attention and expertise of an attorney can ensure that common causes of continuance (e.g., incomplete paperwork, improper notification procedures) are avoided. Indeed, this was the case with the Shriver attorneys: 48% of Shriver full representation cases were resolved without a continuance, versus 30% of probate facilitator cases and 20% of comparison cases. Resolving cases without continuances reduces the burden on the court and hastens the stability of the family, whereby the caregiver can more quickly secure relevant resources for the ward or conservatee.

Efficiencies in proceedings translated to savings for the court.

As mentioned above, the Shriver probate facilitator's assistance resulted in more litigants filing petitions successfully on their first attempts, rather than taking multiple attempts, as had been typical before the Shriver project. In addition to helping litigants, this service also substantially reduced the clerk time necessary to review and process petitions. It also streamlined the paperwork and increased the level of information therein, which supported more efficient processes for the clerks and the court's probate attorney reviewing the case.

The Shriver probate pilot project produced efficiencies created by the Shriver probate facilitator (e.g., reduced clerk time to process petitions) and those created by the Shriver legal aid attorneys (e.g., fewer hearings and continuances). Taken together, these services yielded a savings to the court. The average cost to process a typical guardianship case before the Shriver probate pilot project was estimated to be \$4,041. The average cost to process a typical guardianship case that received both Shriver representation and probate facilitator services was estimated to be \$2,720—an average savings of approximately \$1,321 per case (or 33% reduction in cost).



Limitations

Historically, many people are never able to successfully file a petition for guardianship or conservatorship, and many give up due to confusion and fatigue with the process. Because these individuals never file petitions with the court, there are no data to reflect them. Thus, the evaluation was not able to investigate this population.

ADDITIONAL NEEDS NOTED BY PROJECT

Shriver project staff appreciated that the income requirements set by the statute were higher than some other programs, which expanded their service reach. However, there was concern that many additional families in difficult situations who were just above the 200% threshold were not able to access help. Additionally, project staff saw a need in the community for assistance with adoption cases, as well as guardianship, conservatorship, and other probate cases involving small estates.

REFERENCES

- American Bar Association (2006, August). Resolution 112A: Recommendation of the right to counsel in civil cases involving basic human needs. Retrieved from: http://www2.americanbar.org/sdl/Documents/2006_AM_112A.pdf
- Boston Bar Association Statewide Task Force to Expand Civil Legal Aid in Massachusetts. October 2014. Investing in Justice: A Roadmap to Cost-Effective Funding of Civil Legal Aid in Massachusetts.
- Community Training and Resource Center and Citywide Task Force on Housing Court, Inc. (1993). *Housing court, evictions, and homelessness: The costs and benefits of establishing a right to counsel*. New York: Community Training and Resource Center and Citywide Task Force on Housing Court, Inc.
- Engler, R. (2010). Connecting self-representation to civil Gideon: what existing data reveal about when counsel is most needed. *Fordham Urban Law Journal*, 37, 37.
- Greiner, D. J., Pattanayak, C. W., & Hennessy, J. P. (2012, March). How Effective Are Limited Legal Assistance Programs? A Randomized Experiment in a Massachusetts Housing Court.
- Greiner, D. J., Pattanayak, C. W., & Hennessy, J. (2013). The limits of unbundled legal assistance: a randomized study in a Massachusetts district court and prospects for the future. *Harvard Law Review*, 126, 901.
- Legal Services Corporation (2007). *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans*. Prepared by NORC at the University of Chicago for Legal Services Corporation. Washington, DC.
- Legal Services Corporation (2017). *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans*. Prepared by NORC at the University of Chicago for Legal Services Corporation. Washington, DC.
- Maccoby, E. E., & Mnookin, R. H. (1992). *Dividing the child: Social and legal dilemmas of custody*. Cambridge, MA: Harvard University Press.
- Poppe, E. S. T., & Rachlinski, J. J. (2016). Do lawyers matter? The effect of legal representation in civil disputes. *Pepperdine Law Review*, 43(4): 881-944.
- Public Justice Center (2015). *Justice Diverted: How Renters are Processed in the Baltimore City Rent Court*. Report.
- Sandefur, R. L. (2010). Impact of Counsel: An Analysis of Empirical Evidence. *Seattle Journal of Social Justice*, 9, 51-95.
- Seron, C., Frankel, M., Van Ryzin, G., & Kovath, J. (2001). The impact of legal counsel on outcomes for poor tenants in New York City's housing court: Results of a randomized experiment. *Law and Society Review*, 35(2), 419-434
- Women's Law Center of Maryland, Inc. (2006). *Families in Transition: A follow-up study exploring family law issues in Maryland*. Retrieved from: <http://www.wlcmd.org/wp-content/uploads/2013/06/Families-in-Transition.pdf>

Shriver Probate Pilot Project
Appendix A: Supplemental Cost Tables

Appendix A: Supplemental Cost Tables

Table PA1. Average Cost per Case for Legal Aid Services in FY 2014 – Invoice Calculations

| Level of Service | Total Invoiced Amount FY 2014 | Average Atty Hours per Case | Relative Level of Effort (LOE) ^a | Number X of Cases | Number of LOE Units | Cost per Unit ^b | Average Cost per Case ^c |
|------------------|-------------------------------|-----------------------------|---|-------------------|---------------------|--|------------------------------------|
| | | | | | | | |
| Full rep. | | 16.3 | 7.8 | 16 | 124 | | $\$437 * 7.8 = \$3,389$ |
| Unbundled svcs. | | 2.1 | 1.0 | 42 | 42 | | $\$437 * 1 = \437 |
| Total | \$72,562 | | | 58 | 166 | $\\$72,562/166=\\437 | |

^a Relative level of effort (LOE) was estimated to reflect the proportional difference in resources needed to provide the two levels of service. Specifically, the average number of attorney hours for both full representation (16.3 hours) and unbundled service provision (2.1 hours) was divided by 2.1, to develop a ratio. In this case, the ratio was 7.8 to 1.0. These numbers reflect all litigants who received unbundled services, regardless of Shriver eligibility status (which was determined later, after initial services were received).

^b LOE units were a standardized unit of measure across the levels of service. The cost per LOE unit was calculated by dividing the total amount invoiced (\$72,562) by the total number of LOE units (166), yielding a cost per unit of \$437.

^c Average cost per case was calculated by multiplying the cost per LOE unit by the number of LOE units by level of service (i.e., the relative level of effort).

Table PA2. Average Cost of a Hearing in FY 2014

| Staff Involved | Hourly Rate | Average Time for a Hearing | Average Cost per Hearing |
|-------------------------------|-------------|----------------------------|--------------------------|
| Probate attorney | \$92 | 45 minutes | \$69 |
| Judicial assistant | \$43 | 200 minutes | \$143 |
| Court reporter | \$61 | 180 minutes | \$183 |
| Bailiff | \$83 | 180 minutes | \$249 |
| Judge | \$117 | 200 minutes | \$390 |
| Total cost per hearing | | | \$1,034 |

Note. Data source: number of minutes estimated by court staff, staff hourly rates (judicial assistant, probate attorney) from SBSC, and (court reporter, judge, bailiff) from online budget information

(<http://publicpay.ca.gov/Reports/Counties/County.aspx?entityid=42&fiscalyear=2013>)



Table PA3. Average Cost of a Continuance in FY 2014

| Staff Involved | Hourly Rate | Average Time for a Continuance | Average Cost per Continuance |
|-----------------------------------|--------------------|---------------------------------------|-------------------------------------|
| Probate attorney | \$92 | 45 minutes | \$69 |
| Judicial assistant | \$43 | 30 minutes | \$22 |
| Court reporter | \$61 | 20 minutes | \$20 |
| Bailiff | \$83 | 20 minutes | \$28 |
| Judge | \$117 | 30 minutes | \$59 |
| Total Cost per Continuance | | | \$198 |

Note. Data source: number of minutes estimated by court staff, staff hourly rates (judicial assistant, probate attorney) from SBSC, and (court reporter, judge, bailiff) from online budget information (<http://publicpay.ca.gov/Reports/Counties/County.aspx?entityid=42&fiscalyear=2013>)