

## **ATTACHMENT 4 - SCOPE OF SERVICES FOR MARIN COUNTY**

### **1. JUVENILE DEPENDENCY COURT GOALS**

The Superior Court of California, Marin County Juvenile Dependency Court (Court) is the division of the Superior Court responsible for hearing cases involving children who have been abused and neglected. Proceedings in this court are governed by division 2 of the California Welfare and Institutions Code and title 5, divisions 2 and 3, of the California Rules of Court. For the purposes of this RFP, the Juvenile Court adjudicates petitions filed under section 325, 342, 387, or 388 alleging that the child who is the subject of the petition is described by one or more of the subdivisions of section 300.

Dependency counsel competency and continuing education requirements are outlined in:

- Marin Superior Court Local Rules, Rule 4.0  
<http://www.marincourt.org/data/UniLocalRules/112.pdf>
- California Rules of Court, Rule 5.660  
[www.courts.ca.gov/xbcr/cc/title\\_5.pdf](http://www.courts.ca.gov/xbcr/cc/title_5.pdf)

### **2. MARIN COURT FACILITIES AND CALENDARING SYSTEM**

The Court hears juvenile dependency cases at the Marin County Civic Center, 3501 Civic Center Dr., San Rafael, CA.

Regularly scheduled hearings currently take place on Mondays at 1:30 pm, in the courtroom of Judge Faye D’Opal. Detention hearings, trials and other specially scheduled proceedings may take place any other day and time through the workweek. Modifications to the calendar are at the sole discretion of the Court.

### **3. SCOPE OF PROPOSAL AND OBJECTIVES OF THE REQUEST FOR PROPOSAL**

A. Effective January 1, 2014, it is the intent of the Court to transfer all Marin County dependency cases to the new provider(s), if new provider(s) are selected as the result of this RFP process.

A provider selected for “Lot 1 – Parents” will provide representation for all parents in dependency proceedings in Marin County, including all levels of parent conflict.

A provider selected for “Lot 2 – Children” will provide representation for all children in dependency proceedings in Marin County, including all levels of child conflict.

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A provider selected for “Lot 3 – All” will provide representation for all children and parents, including all levels of child and parent conflict.

Newly selected provider(s) should be prepared to accept all dependency cases outlined in their proposal, whether new or ongoing as of January 1, 2014. However, the Court reserves the right to delay transitioning exceptional cases to the new providers and may determine that in certain specified cases the currently appointed attorneys will not be immediately released from continuing representation if the Court determines, in its sound discretion, that transfer would jeopardize competent representation.

- B. In the event that an incumbent provider is selected to represent a different caseload from that currently represented, that provider should continue to represent any clients for whom the provider was identified as the attorney of record in active juvenile dependency proceedings prior to January 1, 2014. The provider must then use the conflict procedures described in *section 5* below, to assure that counsel is provided for all parties in the “lot” that provider is responsible for.

#### 4. CONFLICT COUNSEL

Proposers should describe how they will provide representation to all parties in their “lot”. The following guidelines describe two methods (the “Ethical Walls Approach” in section A, and the “Subcontractor Approach” in section B) for providing conflict counsel when a case has more than one client requiring representation by the proposer, or when proposer has a conflict of interest with a particular client in their “lot”. Proposals may select one method and provide details about how it will be implemented. Or, if the proposer intends to use a hybrid method (a combination of A and B), the proposer should describe their planned approach and provide details of how it will be implemented:

- A. **Ethical Walls Approach:** Separate units, offices, or divisions within any proposed organizational structure should have ethical walls that guard against the inappropriate disclosure or sharing of confidential client communications and information or case materials or files in relation to cases in conflict with each other. To that end, the organization should consider adopting procedures that provide for the following safeguards:

- Separate clerical staff and investigators among the units, offices, or divisions of the organization;
- Telephone, facsimile, photocopier, and computer systems and support that ensure the segregation of confidential client information and case specific information for any cases in conflict represented by the separate units, offices, or divisions of the organization;
- Separate case files;
- Internal procedures and protocols that ensure that all confidential case information relating to conflict cases assigned to given units, offices or divisions of the

organization are maintained by and shared within only that part of the organization and remain separate from the case files and confidential case information of cases in conflict represented by other units, offices or divisions of the organization;

- At least one supervising attorney for each unit, office, or division of the organization to ensure separate supervision of the day to day representation and case-related decision making in regard to conflict cases and conflict clients assigned to that unit, office, or division of the organization. That supervisor will also be responsible for making recommendations to the organizational head in regard to termination or discipline of attorneys and staff in that unit, office, or division of the organization.
- No attorney shall have access to the case files or confidential client information relating to any clients in conflict with those of the unit, office, or division in which that attorney works.
- The separate units, offices, or divisions within the organization may share:  
Funding source(s); an administrative unit with responsibility for budgeting, personnel, payroll, procurement of office supplies and equipment, office maintenance, and ensuring that all groups are of comparable quality (with no access to confidential information and no role in handling cases); executive leadership responsible for: hiring, training standards, other general policies (that are not case specific) in regard to the operation, function, and management of the organization; crafting the organization's policies on systemic issues and reforms; and accountability to the court and AOC for the organization's fulfillment of its contractual obligations; a law library; Form and brief banks; and a supply room.

B. **Subcontractor Approach:** Proposer will enter into subcontracts with other qualified attorneys or law firms, to provide representation to any clients in proposer's "lot" that proposer cannot represent.

- The subcontractor attorneys and/or firms must be separate organizationally from the proposer's firm, and must not share with proposer any files, staff, computer systems, facilities, case information or any other resources that would compromise client confidentiality.
- Proposer is responsible for ensuring that there are sufficient subcontractor resources available to represent all clients in the lot, regardless of how many individual clients in each case require representation.
- Proposer must ensure that subcontractors provide high quality representation. Proposals should include information about how high quality representation will be assured, including meeting the attorney performance standards described in *section 5* below, when cases are assigned to subcontractors.

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- Proposer will determine the compensation structure for the subcontractor attorneys. Proposer will provide the proposed compensation structure to the AOC as part of its proposal.
- The AOC will pay proposer on a reimbursement basis for costs associated with the subcontractor services.

## 5. ATTORNEY PERFORMANCE REQUIREMENTS

Competency and education standards for dependency representation are described in the state and local rules of court referenced above (*section 1*). The following description of counsel's responsibilities and actions is presented as an outline of what constitutes thorough and professional representation. An individual case will rarely require all of the activities enumerated. Underlying each activity is the expectation that the attorney will possess knowledge and understanding of current statutes, rules of court, relevant case law, and the policies inherent within them.

### A. Maintain ongoing client contact

1. Meet with the client before each court hearing;
2. Personally explain to the client, in a developmentally appropriate manner, what the court is deciding and what alternatives might be available; elicit the client's preferences, advise the client, and discuss what will happen next;
3. Observe the parent's interaction with the child(ren), after obtaining permission from opposing counsel;
4. Contact the client in the event of an emergency or significant case-related event; and
5. Be accessible to the client through office hours, telephone/voicemail, fax, e-mail or home/school/office visits.
6. Additional duties of child's counsel:
  - a. Visit the child at each new placement, whenever feasible; and
  - b. Personally visit with the child in a non-court setting before each court hearing.
7. Additional duties of parents' counsel:
  - a. Investigate and evaluate the parents' environment (home, relative home, shelter, etc.); and
  - b. Be alert to any special needs of the parent related to his or her ability to understand and participate in the court process, including making a determination as to whether or not a *guardian ad litem* is necessary.

### B. Conduct thorough, continuing, and independent investigations and interviews necessary to ascertain the facts, which may include, but is not limited to:

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1. Obtaining any required authorizations for the release of information;
2. Reviewing the client's social services, public assistance, psychiatric, psychological, drug and alcohol, medical, law enforcement, and school records; taking any additional steps necessary to gain access to those records that may not be in existing or open files;
3. Making all efforts to investigate the appropriateness of a medication request and provide input to the court whenever possible;
4. Reviewing court file and case-related records of the social services agency and other service providers;
5. Interviewing school personnel, caretakers, neighbors, relatives, coaches, clergy, mental health professionals, physicians, and law enforcement officers;
6. Contacting and meeting with child welfare workers who are presently or were previously interacting with the client or other family members, including the child welfare worker who will provide the next report to the court;
7. Contacting counsel for other parties;
8. Contacting any non-attorney *guardian ad litem* or Court Appointed Special Advocate (CASA) appointed in the case to obtain background information;
9. If additional information suggests, contacting other professionals and lay witnesses who may identify alternative potential placements and services;
10. Eliciting the client's preferences, advising the client, and giving guidance in a developmentally appropriate manner (regarding placement, visitation/contact, or agency recommendations);
11. Identifying individuals in the child's life to maintain consistent connections and possibly serve as alternate caretakers;
12. Reviewing photographs, video or audio tapes, and other relevant evidence; and
13. Attending treatment and placement conferences and placement staffing.
14. Additional duties of child's counsel:
  - a. Contact and meet with parents/legal guardians of child(ren), with permission of their attorney;
  - b. Upon being appointed by the court, investigate the interests of the child beyond the scope of the proceedings and report to the court, subject to any legal privileges, any other interests of the child that may need to be protected by the institution of other administrative or procedural hearings.

These interests include, but are not limited to:

- School/education issues;
- Special education or developmental services;
- Child support;

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- Personal injury;
  - Mental health proceedings;
  - Immigration;
  - Social security or public assistance payments; and
  - Medical issues.
- c. Attend Welfare and Institutions Code section 241.1 hearings if the child is a dependent with a new delinquency petition pending or if the child is a ward and the subject of a new dependency petition; advocate for dependency or dual jurisdiction as appropriate.
15. Additional duties of parents' counsel:
- a. Contact and meet with counsel for the child to determine child's wishes versus parents' interpretation of child's wishes;
  - b. Emphasize what is expected of the parent and the consequences for failing to complete the terms of the case plan;
  - c. Stress the need for the parent to communicate to counsel any questions about the case plan or problems in fulfilling its requirements; and
  - d. Respond to all communications from client (e.g., phone messages, email, etc.).
- C. File pleadings, including petitions, motions, responses, or objections, as necessary to represent the client. Requested relief may include, but is not limited to:
- 1. Obtaining necessary services or assistance for the family;
  - 2. A mental or physical examination of the client;
  - 3. A parenting, custody, or visitation evaluation of the client;
  - 4. An increase, decrease, or termination of contact or visitation;
  - 5. Requesting, restraining, or enjoining a change of placement;
  - 6. Contempt for non-compliance with a court-order;
  - 7. Termination of a child-parent relationship;
  - 8. The administration of psychotropic medications;
  - 9. Restraining orders;
  - 10. Motions to Quash a child's testimony;
  - 11. A protective order concerning the client's privileged communication or tangible property;
  - 12. Dismissal of petitions or motions; and
  - 13. 388 motions to reinstate parental rights.

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- D. Seek appropriate services (by court order if necessary) to access entitlements, to protect the client's interest, and to advocate for a comprehensive service plan.
1. Attorney advocacy may include, but is not limited to:
    - a. Family preservation and related prevention and reunification services;
    - b. Advocating placement with siblings;
    - c. Sibling and family visitation;
    - d. Maintaining connection with relatives or non-related extended family members (NREFM) and community ties;
    - e. Child support: including advising parents on their rights and responsibilities regarding child support and filing parentage inquiries;
    - f. Domestic violence prevention and treatment;
    - g. Medical and mental health care;
    - h. Drug and alcohol treatment;
    - i. Parenting education;
    - j. Transitional and independent living services and plan;
    - k. Adoption services;
    - l. Education;
    - m. Recreational or social services;
    - n. Housing;
    - o. Long-term foster care or Another Planned Permanent Living Arrangement; (parent's counsel may advocate for Individualized Permanent Plans for child(ren) in lieu of adoption/guardianship); and
    - p. Post-adoption agreement referral.
  2. Agencies (i.e. school districts, housing authority, etc.) may be joined in the dependency action if there are problems with the services being provided;
  3. Counsel should request services even if no hearing is scheduled. If direct informal requests to treatment providers are unsuccessful, counsel should file a motion related to necessary services.
  4. Counsel should advocate for services for clients with special needs, such as physical, mental, or developmental disabilities. These services may include, but are not limited to:
    - a. Special education and related services;
    - b. Supplemental security income (SSI) to help support needed services;
    - c. Therapeutic foster and group home care;
    - d. Residential/in-patient and outpatient psychiatric treatment; and
    - e. Regional center services.
- E. Negotiate settlements/mediations

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1. Initiate and participate in settlement negotiations to seek an expeditious resolution of the case, avoiding continuances and delays; and
2. Attempt to settle any contested issues by initiating and participating in settlement negotiations, including mediation.

F. Hearings

1. Attend and participate in all hearings related to the dependency matter;
2. Report to the court on the child's adjustment to placement, social services' and the parent's compliance with prior court orders and treatment plans, and child/parent interactions during visitation and other contact;
3. Present and cross-examine witnesses, offer exhibits, and provide independent evidence;
4. Prepare and submit trial briefs prior to contested hearings;
5. Be prepared to endorse, challenge, and amplify any reports submitted to the court;
6. Ensure that the record reflects objections, reasoning, waivers, and the evidence upon which the court relies, and that it preserves issues for appeal;
7. If a continuance is sought, prepare a written motion under Welfare and Institutions Code section 352; and
8. At the conclusion of the hearing, if appropriate:
  - a. Make a closing argument and provide proposed findings of fact and conclusions of law;
  - b. Request orders that are clear, specific, and where appropriate, include a timeline for assessment, services, placement, and evaluation of the child and/or family;
  - c. Ensure that a written order is entered; and  
Review all written orders to advocate for the orders to conform to the court's verbal orders and statutorily required findings and notices.
9. Additional duties of child's counsel:

Pursuant to Welfare and Institutions Code section 349, the child has a statutory right to be present at the hearing:

  - a. A child's presence at a hearing should be based upon an individual determination of the child's willingness to attend, age, and maturity;
  - b. A child's presence at a hearing should be based upon consultation with the child, therapist, caretaker, or any other knowledgeable adult in determining the effect of the child being present at the hearing; and
  - c. Consider the court facilities and how children attending hearings are accommodated.
10. Additional duties of parents' counsel:

If appointed by the court to do so, represent the client at a judicial hearing set (under Welfare and Institutions Code section 903.45(b)) to resolve a dispute over the client's ability to pay for the cost of court-appointed counsel.

11. Prepare client to testify as a witness
  - a. Consult with client and determine whether s/he should testify;
  - b. Prepare the client to testify;
  - c. Protect the client by making appropriate objections; and
  - d. Ensure that questions are appropriate (developmentally and linguistically).
  - e. Additional duties of child's counsel:
    - (i) Determination of calling the child as a witness:
      - Consider the child's need or desire to testify;
      - Weigh the likely consequences of having the child testify;
      - Determine the necessity of the child's direct testimony;
      - Determine if there is any other evidence or hearsay exceptions that may eliminate the need for direct testimony;
      - Determine the child's developmental ability to provide direct testimony and withstand possible cross-examination; and
      - Consider available alternatives to in-court testimony as specified in Welfare and Institutions Code section 350(b).
    - (ii) Child as a witness:
      - Prepare the child to testify:
        - a. Familiarize the child with the courtroom, court procedures, and what to expect during direct and cross-examination;
        - b. Make an effort to advocate for your client (including making objections) that testifying will cause minimum harm to the child;
        - c. If possible, conduct the direct testimony of the child; and
        - d. Object to questions that are not developmentally appropriate and/or not phrased in a syntactically and linguistically appropriate manner.
    - (iii) Challenges to child's testimony/statements: If necessary, prepare expert testimony to establish competency or reliability or to rehabilitate any impeachment.

G. Appeals and Writs

1. Appeals:
  - a. Consider and discuss with the client, as developmentally appropriate, the right to appeal, the ramifications of an appeal (including delaying implementation of services or placement), and the likely result of an appeal;
  - b. If, after a thorough discussion, the client wishes to appeal, file a notice of appeal (JV-800 or JV-800S);
  - c. Seek appropriate orders and extraordinary writs necessary to protect the interests of the client during the pendency of the appeal;
  - d. If child's trial counsel, seek separate appellate counsel as appropriate pursuant to rule 5.661;
  - e. If permitted by the Court of Appeal, participate in the appeal, even if filed by another attorney, unless discharged;
  - f. Keep the client informed of the progress of the appeal, to the extent possible; and
  - g. Once a decision is rendered, explain the result to the client, and discuss any additional appellate remedies that may be available as well as what will happen next in juvenile court.
  - h. Withdrawal: If the appeal would be frivolous or counsel lacks the necessary experience or expertise, counsel should notify the court and seek to be discharged or replaced.
2. Writs when a Welfare and Institutions Code Section 366.26 hearing is set:

If reunification services are not offered or are terminated, and a Welfare and Institutions Code section 366.26 hearing is set, or a 366.26 hearing is set under any other circumstances, consider and discuss with the client, as developmentally appropriate, writ rights and procedures under rules 8.450 and 8.452 of the California Rules of Court;

  - a. If the writ is to be sought, file the Notice of Intent (JV-820) once the adult client has signed it;
  - b. If the adult client is not available to sign the notice, request the Court of Appeal to permit counsel to sign on behalf of the absent client.
  - c. If representing the child, sign and file JV-820 on behalf of the child;
  - d. Ensure that the Notice of Intent is filed in a timely manner, following the requirements in Rule 8.450;
  - e. If inexperienced in preparing writs, consult with, or seek assistance from colleagues familiar with the procedures and requirements;
  - f. Prepare and submit the writ petition, following the timeline requirements in Rule 8.452 ;
  - g. Attend and participate in any scheduled oral argument, if it is in the client's interests to do so; and



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Program for evaluation purposes, having been identified by DRAFT attorneys as outcomes impacted by their work.

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**Marin Outcomes Measures<sup>1</sup>**

**Kin Placements<sup>2</sup>**

	April 2013	
	Dependent Children in Care	% with Kin
Marin	75	36.0%
California w/o Marin	50,790	39.5%

**Siblings Placed Together<sup>3</sup>**

	April 2013	
	Kin	Non-Kin
Marin	85.7%	82.8%
California w/o Marin	84.3%	66.0%

**Reunification w/in 12 months<sup>4</sup>**

	Apr '11 – Mar '12	
	Kin	Non-Kin
Marin	16.7%	45.5%
California w/o Marin	37.9%	42.0%

**Reunification w/in 24 months<sup>5</sup>**

	Apr '10 – Mar '11	
	Kin	Non-Kin
Marin	80.0%	55.6%
California w/o Marin	64.7%	55.0%

**Re-entry w/in 12 months<sup>6</sup>**

	Apr '11 – Mar '12	
	Kin	Non-Kin
Marin	0.0%	26.3%
California w/o Marin	10.0%	14.2%

**Guardianship w/in 24 months<sup>7</sup>**

	Apr '09 – May '10	
	Kin	Non-Kin
Marin	13.3%	0.0%
California w/o Marin	10.3%	1.3%

<sup>1</sup> Needell, B., Webster, D., Armijo, M., Lee, S., Dawson, W., Magruder, J., Exel, M., Cuccaro-Alamin, S., Putnam-Hornstein, E., Williams, D., Yee, H., Hightower, L., Lou, C., Peng, C., King, B., & Henry, C. (2012). Child Welfare Services Reports for California. University of California at Berkeley Center for Social Services Research website. URL: <[http://cssr.berkeley.edu/ucb\\_childwelfare](http://cssr.berkeley.edu/ucb_childwelfare)>

<sup>2</sup> The percent of children in foster care who are in kin placements at the specified point in time.

<sup>3</sup> Of children in foster care at the specified point in time who had siblings that were also in foster care, the percent that were placed with either some or all of their siblings. Data is analyzed separately for children in kin and non-kin foster care placements.

<sup>4</sup> Of children who entered foster care during a specified 12-month period, the percent that were reunified within 12 months of entry into care. Data is analyzed separately for children in kin and non-kin foster care placements.

<sup>5</sup> Of children who entered foster care during a specified 12-month period, the percent that were reunified within 24 months of entry into care. Data is analyzed separately for children in kin and non-kin foster care placements.

<sup>6</sup> Of children discharged from foster care to reunification during the specified 12-month period, the percent that reentered foster care in less than 12 months from the date of discharge. Data is analyzed separately for children in kin and non-kin foster care placements.

<sup>7</sup> Of children who entered foster care during a specified 12-month period, the percent who exited to guardianship within 24 months of entry into care. Data is analyzed separately for children in kin and non-kin foster care placements.

## 8. CASELOAD

There are approximately 111 children and 140 parents receiving court-appointed dependency representation in Marin County.

## 9. REPORTING AND BILLING REQUIREMENTS

- A. The service provider will be required to maintain and report to the AOC and Court statistical information regarding dependency representation. Statistical information will be reported using JCATS, a web-based case management program. Reports include but are not limited to the following:
1. No Later than February 1, 2014. A list of all current cases, including those transferred to Contractor from prior counsel;
  2. Monthly Reports. Contractor shall provide statistical information on a monthly basis. Specific information will be provided in the manner prescribed by the State and will include, but will not be limited to, the following:
    - a. For newly-appointed cases:
      - i. Case number;
      - ii. Party represented;
      - iii. For sibling groups, number of children represented
      - iv. Appointment date;
      - v. Initial hearing date;
      - vi. Name of appointed attorney;
    - b. For cases where representation is terminated:
      - i. Case number;
      - ii. Date of termination of representation; and
      - iii. Reason for termination of representation.
  3. Quarterly Reports. Contractor shall provide detailed statistical workload data to the AOC for a three-month period each year. The reporting quarter will change during each subsequent year of the Contract, and shall be specified by the AOC. Data will be provided by the Contractor in the manner prescribed by the State and will include, but will not be limited to, the following information for all ongoing cases:
    - a. The amount of out-of-court time spent on each case per month, including a breakdown of time spent on specific tasks for each case; and
    - b. The amount of time spent in court each month, including a daily list of the types of hearings for which an appearance is made.

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4. Monthly Staffing Reports. Contractor shall provide staffing information on a monthly basis in a manner prescribed by the state. Staffing reports will include the following:
    - a. Number of filled and unfilled positions;
    - b. Name and FTE status of each person employed in these positions; and
    - c. Salary and benefit information for identified position.
  5. Annual Financial Reports. Contractor shall provide annual financial information, by completing and submitting the Income and Expenditures Report, which will be provided by the Project Manager, no later than forty-five (45) days after the end of the State's fiscal year. An audited financial statement may be provided in lieu of this report.
  6. JCATS Case Calendaring. The service provider will be required to use the JCATS calendaring function to track court hearings, in order to facilitate the juvenile dependency court performance measures contained in California Rule of Court 5.505. The purpose of the performance measures is to help courts assess compliance with mandated hearing time frames; ensure children's placement in safe and permanent homes; promote child and family well-being; and provide fair and timely treatment for all court participants.
- B. Monthly and quarterly reporting must be completed in JCATS. A JCATS screen shot is provided in *Appendix A*.
- C. Reporting requirements are subject to change, and the Court, in consultation with the AOC, may require the service provider to provide additional statistical and financial information.
- D. The service provider will be required to submit invoices on standard forms provided by the AOC. Failure to accurately complete information required on the billing form will result in rejection of invoices and non-payment for services.

## **10. JUVENILE DEPENDENCY COUNSEL COLLECTIONS**

The AOC and the Court have implemented a collections program for dependency counsel services. The service provider will be required to participate in that effort at no additional cost; participation includes, but is not limited to the distribution of financial declaration forms to clients upon initial appointment and representation of Parent clients at hearings set to determine the ability to pay for the cost of court appointed counsel.

***END OF ATTACHMENT 4***