



JUDICIAL COUNCIL OF CALIFORNIA

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Chief Justice of California
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Chair, Litigation Management Committee

HON. KENNETH K. SO
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MR. MARTIN HOSHINO
Administrative Director,
Judicial Council

January 29, 2016

Ms. Diane F. Boyer-Vine
Legislative Counsel
State Capitol, Room 3021
Sacramento, California 95814

Mr. Daniel Alvarez
Secretary of the Senate
State Capitol, Room 400
Sacramento, California 95814

Mr. E. Dotson Wilson
Chief Clerk of the Assembly
State Capitol, Room 3196
Sacramento, California 95814

Re: *Report to the Legislature on the Sargent Shriver Civil Counsel Act* as required under Government Code section 68085.1(c)

Dear Ms. Boyer-Vine, Mr. Alvarez, and Mr. Wilson:

Attached is the Judicial Council *Report to the Legislature on the Sargent Shriver Civil Counsel Act* as required under Government Code section 68085.1(c).

If you have any questions related to this report, please contact Diane Nunn, Director of the Center for Families, Children & the Courts at 415-865-7689 or diane.nunn@jud.ca.gov.

Sincerely,

Martin Hoshino
Administrative Director
Judicial Council of California

January 29, 2016

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MH/BRH/bhh

Attachment

cc: Margie Estrada, Policy Consultant, Office of Senate President pro Tempore Kevin de León
Fredericka McGee, Special Assistant to Assembly Speaker Toni G. Atkins
Anita Lee, Senior Fiscal and Policy Analyst, Legislative Analyst's Office
Tina McGee, Executive Secretary, Legislative Analyst's Office
Benjamin Palmer, Chief Counsel, Senate Judiciary Committee
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MR. MARTIN HOSHINO
Administrative Director,
Judicial Council

January 29, 2016

Report Summary

Report title: *Report to the Legislature on the Sargent Shriver Civil Counsel Act*

Statutory citation: Stats. 2009, ch. 457

Code section: Government Code 68651(c)

Date of report: January 29, 2016

The Judicial Council has submitted a report to the Legislature in accordance with Government Code 68651(c).

The following summary of the report is provided under the requirements of Government Code section 9795.

The Sargent Shriver Civil Counsel Act (AB 590) provided that, commencing in fiscal year (FY) 2011–2012, pilot projects selected by the Judicial Council were to be funded to provide legal representation and improved court services to low-income parties on critical legal issues affecting basic human needs such as housing, child custody disputes, domestic violence, or the need for a guardianship or conservatorship.

The pilot projects were to be operated by legal services nonprofit corporations, working in collaboration with their local superior courts who were to provide innovative court services designed to ensure that unrepresented parties obtain meaningful access to justice and to guard against the involuntary waiver or other loss of rights. The legislation required an evaluation of the pilot projects by January 31, 2016.

This report documents the implementation of the Shriver Civil Counsel Act, describes what has been learned so far, and explains the steps taken to develop proposals, select grant recipients, launch pilot projects across the state, implement innovative court practices, and design and implement a comprehensive evaluation system. This report is based on evaluation data collected to date. More detail about the services rendered, client demographics, case results, findings, and recommendations will be contained in the comprehensive professional evaluation report to be released later in 2016.

Preliminary evaluation results are encouraging. To date, the pilot projects have provided invaluable legal representation to over 20,000 low-income Californians. The services are focused on helping vulnerable parties facing critical legal problems when there is an attorney representing the other party.

Early evidence suggests that Shriver services are improving the administration of justice and balancing the playing field by offering legal representation in key cases, and preventing the loss of important legal rights. Preliminary analysis of court data suggests that, compared to cases without Shriver representation, Shriver housing cases may involve more dismissals, more settlements, and fewer trials. Additionally, Shriver probate cases may involve fewer continuances, fewer hearings, and fewer unsuccessful filing attempts. Stakeholders perceive similar impacts for custody cases, and court data are being inspected to substantiate these impressions.

The full report can be accessed here: www.courts.ca.gov/7466.htm.

A printed copy of the report may be obtained by calling 415-865-7739.

Report to the Legislature on the Sargent Shriver Civil Counsel Act

JANUARY 31, 2016



JUDICIAL COUNCIL
OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

**REPORT TO THE LEGISLATURE ON THE SARGENT
SHRIVER CIVIL COUNSEL ACT
JUDICIAL COUNCIL OF CALIFORNIA**

JANUARY 31, 2016

JUDICIAL COUNCIL OF CALIFORNIA

Hon. Tani G. Cantil-Sakauye
*Chief Justice of California and
Chair of the Judicial Council*

Martin Hoshino
*Administrative Director
Judicial Council*

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EXECUTIVE SUMMARY
REPORT TO THE LEGISLATURE ON THE SARGENT SHRIVER CIVIL
COUNSEL ACT [AB 590, Stats. 2009, Ch. 457]
JUDICIAL COUNCIL OF CALIFORNIA

The Sargent Shriver Civil Counsel Act (the Act), passed in 2009 on a bipartisan basis. It 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 unrepresented parties obtain meaningful access to justice and to guard against the involuntary waiver of rights. The pilot projects are designed to address the wide and growing “justice gap” – the gap between the need for legal assistance and the resources available to serve those in need. A report to the legislature on the pilot projects is required by January 31, 2016.¹

The Pilot Projects

A competitive RFP process was conducted by the newly-formed Sargent Shriver Civil Counsel Act Implementation Committee appointed by the Chief Justice. Ten pilot projects in eight counties were selected by the Judicial Council of California for the initial round of 3-year grants. The projects began operation in the Fall of 2011, and three-year renewals were approved by the Judicial Council in 2014. It was initially projected that at least \$11 million per year would be available for the projects, derived from a small \$10 fee increase on certain post judgment court services. In reality, the available funding declined from \$9.5 million in 2011-2012 to \$7.7 million per year in 2014-2015.²

Evaluation is at the heart of this legislation, and this is the largest study of its kind in the United States. The evaluation team collected service data from multiple sources, including a newly-designed case management system that holds information on client demographics and services. Data on implementation and the perceptions of program impact were gathered through interviews with key stakeholders, such as project directors, managing attorneys, judges and other associated court staff as well as clients. To investigate the impact of Shriver services on case outcomes, the evaluation used data coded from individual court case files, comparing case outcomes for litigants who had a Shriver attorney and those who did not.

This report is based on evaluation data collected to date. More detail about the services rendered, client demographics, case results, findings and recommendations will be contained in the comprehensive professional evaluation report to be released later in 2016.

Key Preliminary Findings

As described in more detail below, preliminary evaluation results are encouraging. To date, the pilot projects have provided invaluable legal representation to over 20,000 low-income Californians. The services are focused on helping vulnerable parties facing critical legal problems in the areas of child custody, eviction, and guardianships/conservatorships who are involved in the types of civil cases particularly susceptible to power imbalances between the parties.

Early evidence suggests that Shriver services are improving the administration of justice and balancing the playing field by offering legal representation in key cases, and preventing the loss of important legal rights. Shriver attorneys appear to be helping clients have realistic expectations for their cases. Clients are more likely to perceive that the results of their cases were fair -- even if the outcomes were not what they desired -- because they had had the opportunity to have their perspective heard.

Preliminary analysis of court data suggests that, compared to cases without Shriver representation, Shriver housing cases involve more dismissals, more settlements, and fewer trials, and Shriver probate cases involve fewer continuances, fewer hearings, and fewer unsuccessful filing attempts. Balanced representation and court innovations in custody cases appear to lead to more durable settlements in custody cases, alleviating strains on family members and the courts.

Not only can Shriver services and court innovations result in better outcomes for the individual clients, but these efficiencies can translate into significant cost savings to the court. Quicker resolution of cases means that judicial officers can attend to more cases (increased efficiency and volume) which benefits everyone coming before the court. Judges can have more time to attend to complex cases, and limited court resources can be used more effectively.

The services already provided under this critical legislation have reached thousands of vulnerable Californians. The results presented in this report, though preliminary, suggest that the pilot projects are providing a vital service, and are helping us understand how to truly reach 100% access to justice in California.

THE SARGENT SHRIVER CIVIL COUNSEL PROJECT: BACKGROUND, IMPLEMENTATION AND SERVICES PROVIDED

A. BACKGROUND ON THE ESTABLISHMENT OF THE SHRIVER CIVIL COUNSEL PROJECT

Recognition of the Justice Gap

The introduction of AB 590 reflected the conviction of key legislative and judicial branch leaders that there was an unacceptable justice gap in our judicial system. The legislative findings state that “[t]here is an increasingly dire need for legal services for poor Californians. Due to insufficient funding from all sources, existing programs ... are not adequate to meet existing needs.” As well-documented elsewhere, including in the Judicial Council Report to the Legislature on the Equal Access Fund (2005),³ funding for legal services has never come anywhere near addressing the needs of low-income, vulnerable individuals and families in California. Two-thirds of eligible clients were being turned away.⁴ According to the National Center for State Courts, there were 4.3 million Californians who were self-represented in 2009.⁵ The justice gap is even wider today. According to a 2015 report by the State Bar of California’s Civil Justice Strategies Task Force:

In recent years, the funding has reached critically low levels. One of the largest sources of state funding, interest on lawyers’ trust accounts (“IOLTA”), has dropped from over \$22 million in 2007–2008 to under \$5 million in 2013–2014. Not only did IOLTA revenue drop ..., but other sources of funding including government grants and contracts, foundation funding and private giving, have all been negatively affected by the economic downturn.

Similarly, the primary federal source of funding for legal services, the Legal Services Corporation (LSC), also has faced historic declines. In 2014, LSC provided \$365 million nationally for civil legal assistance to low-income people—down from \$420 million four years ago. This marks a 30 percent decrease from 2007 to today.

*Civil Justice Strategies Task Force Report and Recommendations, State Bar of California (2015)*⁶

The Continuum of Service: the Framework for Achieving 100% Access

In response to this crisis, a coordinated continuum of service emerged over the past 15–20 years as the only practical way to offer effective access to justice to the greatest number of unrepresented parties in need.

The “Continuum” consists of a range of services. Combined, these components enable legal aid providers and the courts to serve the public most effectively, using limited resources:

- **Self-Help.** Court-based self-help centers offering legal information, workshops, procedural guidance, and referral to other government and nonprofit services;
- **Online Resources.** Online legal information and sample legal documents and forms;
- **Help with Document Preparation.** Software programs available at the self-help centers helping individuals fill out their court papers, using “Hotdocs” and other methods of document assembly assistance;
- **Limited scope representation.** Legal services programs and private attorneys offering representation for certain hearings or specific legal issues, designed for parties who cannot afford to hire an attorney to take on all aspects of their case;⁷
- **ADR.** Alternative dispute resolution such as mediation, available through the court or local nonprofit entities; and
- **Full scope representation.** Full legal representation for court hearings and trials, and obtaining court-ordered relief.

The goal of all of these components of the Continuum is 100% access to effective assistance, and the judicial branch is committed to partnering with the legislative branch to achieve this goal.

Role of Self-Help Centers

One significant component of the Continuum is the system of court-based self-help centers, developed and supported by both the Legislature and the Judicial Council. Beginning in 1997 with the establishment of family law facilitator programs in every county, and expanded over the next decade to include attorney-staffed self-help centers in every superior court, these centers are now assisting over 1.2 million individuals each year.⁸

The Judicial Council has provided extensive support and encouragement for these centers through development of:

- Court rules providing that attorney-supervised, court-based self-help centers are a core service to be provided by the courts;
- Detailed guidelines for the operation of local self-help centers;

- Desk manuals and training materials to help judicial officers facing courtrooms filled with self-represented litigants; and
- Extensive self-help materials, sample pleadings, and fillable court forms made available online through the Judicial Council’s award-winning self-help website, which is fully translated into Spanish.

Together, these services are providing considerable help to those without the resources to hire their own attorney. However, these centers do not provide legal advice or representation to litigants. In addition, they have inadequate resources to meet the increasing need, particularly as a result of the recent economic recession when court budgets were significantly reduced and the number of vulnerable individuals seeking help significantly increased. The centers often have nowhere to refer individuals who need further assistance or need representation inside the courtroom, and these unrepresented individuals then end up unintentionally burdening an already over-extended judicial system.

These litigants have cases that are too complex, or they lack the language or other skills necessary to handle their lawsuits on their own, even with information, education and support from a self-help center. Without representation, they do not know how to prepare for hearings, do not know what a reasonable settlement might be or how to document it, and lack the knowledge and skills required to effectively prepare and present their case to a court. This lack of assistance causes delay and frustration on all sides and leads to concerns about both procedural and substantive fairness.

The Need for Representation

In the years leading up to passage of AB 590, there was significant discussion about the importance of actual legal representation in the courtroom as a key component of the continuum of service. The widening justice gap—particularly in housing, family law, domestic violence, guardianships, and other cases involving critical life issues—posed a serious challenge for courts, nonprofit legal aid providers, bar associations, legislatures, and all stakeholders concerned about the promise of equal justice.

The important role of representation as part of the continuum of service was becoming clear around the country. Research has shown that availability of counsel is uneven, and there is great concern about whether justice is being served in cases where one party is represented and the other is not.⁹

Californians are not entitled 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 persons who might lose custody of their children or lose their housing or their livelihood as it is to provide representation

in a minor criminal matter.¹⁰ Legal representation may often be necessary to guard against unnecessary defaults or the involuntary waiver of rights.

Strong Network of Civil Legal Aid Programs Provides Framework for Shriver Pilot Projects

California has a long history of collaboration among key stakeholders working to increase access to justice, including an extensive statewide network of nearly 100 legal aid programs, as well as court-based self-help centers, law libraries, pro bono lawyers, and other government and nonprofit service providers. Together they work to ensure that as many components of the continuum of service are available as funding permits.

Each legal aid program develops its own priorities responding to local needs, in consultation with other local stakeholders, while also coordinating with other legal aid providers in the state. They are able to take advantage of expert training, consultation, and co-counseling available from statewide support centers with specific legal expertise, as well as support from the State Bar, the Judicial Council, the Legal Aid Association of California (LAAC), and other statewide institutions participating in efforts to improve access to justice.

A key player in this justice community is the California Commission on Access to Justice,¹¹ a blue-ribbon Commission pursuing fundamental improvements in the civil justice system involving appointees from the Governor, the Legislature, the Supreme Court, the State Bar, the Chamber of Commerce, the Council of Churches, the League of Women Voters, and several other business and civic organizations.

The nonprofit legal aid programs that are the cornerstone of this network rely on two key funding sources:¹²

- The State Bar's Legal Services Trust Fund Program, funded by Interest on Lawyers Trust Accounts (IOLTA), and
- The Equal Access Fund, which was established by the Legislature in 1999 as a joint effort involving the California Commission on Access to Justice, the Judicial Council of California, and the State Bar of California. The Equal Access Fund also supports local collaborative efforts of legal services programs with their local superior court through special partnership grants.

These shared funding sources and collaborations further strengthen this network and make it an ideal system to undertake the Shriver Civil Counsel Pilot Project.

The Shriver Civil Counsel Legislation

The Shriver Civil Counsel Act calls for the appointment of counsel for low-income clients in cases involving basic human needs where there is an independent determination that the client may benefit by representation.¹³

Although sometimes described as a “right to counsel” measure, the bill does not actually provide a guarantee of representation. Rather, it is an equal-access act designed to secure more just legal outcomes and a better-functioning court system by recognizing the need for appointment of counsel for those who need but cannot afford a private attorney in the most critical civil matters. AB 590 is intended to complement the state’s many other access-to-justice initiatives, such as court-based self-help services, simplified court procedures, and limited-scope legal services. The Legislature took into account that these other issues are the subject of separate efforts, most notably via the Judicial Council’s Elkins Family Law Task Force and implementation of its recommendations (see <http://www.courtinfo.ca.gov/jc/tflists/elkins.htm>).¹⁴

B. GRANT SELECTION AND PLANNING FOR EVALUATION

The Shriver Civil Counsel Act Implementation Committee was appointed by the Judicial Council in 2009 to provide oversight for the implementation process, including reviewing applications and making recommendations about funding allocations to implement AB 590. Chaired by Justice Earl Johnson, Jr. (Ret.), a jurist with decades of experience with the provision of legal services, the independent committee also includes representatives from the judiciary, legal services providers, the Chamber of Commerce, State Bar, and others.¹⁵ (The roster is contained in the Appendix.)

The Committee worked closely with the Judicial Council staff from 2009 through 2011 to develop the mechanisms for implementing the pilot projects, including the following steps:

- Developing detailed criteria and application procedures for the pilot project applicants;
- Conducting informational workshops across the state for legal services programs and court staff interested in developing a proposal for a pilot project;
- Preparing grant contracts and grant conditions, budget forms, and other oversight materials, including the evaluation protocols that recipient programs would be expected to follow;
- Establishing a framework for evaluation and conducting a national search for the consultants responsible for implementing the comprehensive evaluation, including implementation of the rigorous random assignment protocols for some of the projects;
- Designing a training system for the “Shriver Counsel” who would be hired by the pilot projects so that they would all receive valuable skills training and form a cohort who could learn from each other, particularly those working on similar subject matter pilot projects, so as to ensure a successful roll-out of the pilot projects across the state.

Each of the documents developed as part of these selection and evaluation procedures can be found at www.courts.ca.gov/ShriverDocuments.

Grant Selection Process

For the first cycle, 18 proposals were received. The committee thoroughly vetted all proposals and recommended to the Judicial Council that 10 projects be funded in 7 counties. Those recommendations were approved in April 2011, and grant funding began in October 2011.¹⁶ All grant funds were to supplement services, not supplant existing resources.

For the second cycle, beginning in 2014, the committee thoroughly vetted each of the 10 applications, analyzing their capacity and, for continuing projects, their record of success during the first cycle. Given the significantly reduced funding available and the statutory language in

favor of renewing successful projects in order to ensure a comprehensive evaluation, the committee recommended to the Judicial Council that it would be most appropriate to continue only existing projects. One court declined to submit an application for renewal with the existing legal services grantee and proposed instead to work with a new lead agency with a change of focus in their project, and the Implementation Committee determined that this was not a renewed project. Therefore, for the second three-year cycle, the number of funded projects was reduced by one.¹⁷ The grants for the second three-year cycle, while not as much as the programs requested, were funded at a level intended to avoid significant disruption of existing services.¹⁸

The Pilot Projects¹⁹

The following projects were recommended by the Implementation Committee and approved by the Judicial Council as the Shriver Civil Counsel Act Pilot Projects.²⁰

<p><u>Kern County</u> Greater Bakersfield Legal Assistance Superior Court of Kern County Housing Pilot Project</p>	<p><u>Los Angeles County</u> Los Angeles Center for Law and Justice Superior Court of Los Angeles County Child Custody/Domestic Violence Project</p>
<p><u>Los Angeles County</u> Neighborhood Legal Services of Los Angeles County Superior Court of Los Angeles County Housing Pilot Project</p>	<p><u>Sacramento County</u> Legal Services of Northern California Superior Court of Sacramento County Housing Pilot Project (first cycle only)</p>
<p><u>San Diego County</u> Legal Aid Society of San Diego Superior Court of San Diego County Housing Pilot Project Child Custody Pilot Project</p>	<p><u>San Francisco County</u> Justice & Diversity Center of the Bar Association of San Francisco (formerly the Volunteer Legal Services Program of the Bar Association of San Francisco) Superior Court of San Francisco County Child Custody Pilot Project</p>
<p><u>Santa Barbara County</u> Legal Aid Foundation of Santa Barbara County Superior Court of Santa Barbara County Housing Pilot Project Guardianship/Conservatorship Pilot Project</p>	<p><u>Yolo County</u> Legal Services of Northern California Superior Court of Yolo County Housing Pilot Project</p>

Evaluator Selection

The Shriver Implementation Committee also oversaw selection of the evaluator responsible for the statutorily-mandated evaluation of the pilot projects. The first step was the examination of

the operations of each of the legal services programs to determine the best way to set up a coordinated evaluation system to capture all the necessary data from each of the pilots. The consultant hired for this purpose determined that the various legal services programs had such diverse case management systems and other operating procedures that it was necessary to design a new case management system to capture the data statutorily required for this project in a standardized manner across the agencies.

The committee conducted a nationwide search for a firm to conduct the evaluation. After an extensive RFP process, it ultimately chose NPC Research, of Portland, Oregon, an organization with a long history of evaluation and policy analysis of judicial branch-related entities in 12 states and the U.S. Department of Justice.²¹

The Evaluation Design

The evaluation requirement is at the heart of this legislation because the key goal is to study the effect of providing legal assistance for vulnerable, low-income litigants in civil proceedings affecting critical life issues. The evaluation employs a mixed-methods design and involves qualitative and quantitative data that has been collected from multiple sources. These include site visits; interviews with key stakeholders at the legal agencies and the courts; the program services database; court-based service data; phone interviews with litigants after their cases had closed; review of individual court case files; longitudinal (five years) summary statistics from the courts; information from court staff about the steps involved in, and the resources needed for, processing a case; information pertaining to costs; and reviews of relevant reports and other literature.

The development of the cross-site “program services database” to collect standardized information about client demographics, service provision, and case characteristics created critical infrastructure to gather implementation information. Importantly, the evaluation design involves a census sample for service data, random assignment of litigants in three housing sites, and pre/post comparison groups in two custody sites and the one probate site. Together, these design elements and multiple sources of data provide a comprehensive examination of the Shriver Pilot Projects.

The evaluation began in 2012 and has collected large amounts of data. Due to the nature and timing of project events (the timing of random assignment by programs, the time needed to elapse for cases to close and follow-up to occur, etc.), a substantial amount of data was acquired by the evaluation team in the latter part of 2015. Preparation and analysis of these data are ongoing and will be included in a comprehensive evaluation report released in 2016. That report will also address issues concerning implementation, outcomes, perceived impact, cost, and unmet needs.

C. IMPLEMENTATION

Ensuring Appropriate Administration and Oversight

The Judicial Council is responsible for administration of the Shriver Pilot Program, including distribution of all grant funds, fulfillment of the statutory requirements for an evaluation of the pilot projects, and preparation of a report to the Legislature. Following the grant-selection process, Judicial Council staff worked closely with the Shriver Implementation Committee to provide ongoing oversight and technical assistance for the selected pilot projects to ensure that funding was used for the purposes intended by the legislation. Each pilot project is subject to grant conditions, and the Judicial Council regularly reviews programmatic and budget reports from all pilot projects and court innovation efforts to ensure compliance with all legislative requirements and grant conditions.²²

Funding Allocations

The following chart indicates the allocation of the annual Shriver Pilot Project funding. No general funds are provided to these pilot projects, since the funding comes from specific \$10 filing fee surcharges, as described above.

Based on recommendations from the Trial Court Budget Working Group, the Judicial Council approves total expenditures for the program using designated funds set aside specifically for this project. The allocations include funding for the legal services providers, the local courts, and the Judicial Council's costs for administering and evaluating the program as required by Government Code section 68651(c). Any funds that remained unspent were kept within the program and made available for distribution in later cycles.

<u>Grant Year</u>	<u>Pilot Projects with Legal Aid Programs</u>	<u>Court Innovations</u>	<u>Administration & Evaluation</u>	<u>Total</u>
2011-12	\$7,599,578	\$1,900,333	\$500,000	\$9,999,911
2012-13	\$7,772,578	\$1,660,209	\$500,000	\$9,932,787
2013-14	\$7,950,846	\$1,542,174	\$500,000	\$9,993,020
2014-15	\$6,978,130	\$815,023	\$500,000	\$8,293,153
Totals:	\$30,301,132	\$5,917,739	\$2,000,000	\$38,218,871

The next chart shows the allocation of grant funding by case type, both by total funding and by percentages of grant funds available.

<u>Grant Year</u>	<u>Housing Law Pilot Projects</u>	<u>Custody * DV Pilot Projects</u>	<u>Guardianship/ Conservatorship</u>	<u>Total</u>
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			<u>Pilot Project</u>	
2011–12	\$7,121,288/75%	\$1,894,959/20%	\$483,664/5%	\$9,499,911/100%
2012–13	\$7,046,339/75%	\$1,906,412/20%	\$480,036/5%	\$9,432,787/100%
2013–14	\$7,081,448/75%	\$1,926,500/20%	\$485,072/5%	\$9,493,020/100%
2014–15	\$5,503,721/71%	\$1,874,060/24%	\$415,372/5%	\$7,793,153/100%
<u>Totals:</u>	\$26,752,796/74%	\$7,601,931/21%	\$1,864,144/5%	\$36,230,451/100%

Note: in 2014–2015, percentages for funding shifted because one of the housing projects was not refunded. Due to the legislative funding cap of 20% for custody, one of the custody projects modified its focus to include a small domestic violence component which had been identified as a critical supportive service by the agency and court.

Pilot Project Design

For each of the Shriver Pilot Projects, the legal services agencies provide case assessment and direction, including providing representation to eligible individuals, and incorporating available pro bono services wherever possible. The lead agency also contracts with other legal services providers in the community to provide services, particularly where there are potential conflicts of interest.

The lead legal services agency is also the central point of contact for referrals emanating from the court and other agencies providing services through the pilot and makes determinations of individuals' eligibility for services based on uniform criteria.

Each pilot project is responsible for keeping appropriate records on the referrals accepted and not accepted, tracking case information for each referral as well as information on the effect of the representation on the clients, and collecting data about the outcomes associated with the provision of legal services and court services.

Hiring and Training of Shriver Counsel

Within the network of Shriver housing pilot projects, approximately 40 new advocates were hired across the state. Each of these advocates was sent to one-week trial advocacy training, and some also attended two days of training on mediation. A list-serve was set up to facilitate sharing of information, and coordinated brief banks and other resources were made available to the cohort. This initial training and coordination was designed to ensure a strong network of Shriver Counsel, better able to implement the pilots within their own agency because of the support and resources available from the network of all Shriver Counsel. When advocates from this initial group of 40 attorneys left for other positions, their replacements were brought up to speed and brought into the network.

Court Collaboration and Innovation

Local superior courts are an integral part of the pilot projects. Each court that has elected to participate in one of the Shriver Pilot Projects began participating with local legal services programs during the pre-application design phase. They also have developed a range of services or improved procedures designed to achieve effective and efficient access, based on local needs. These services are available to all individuals and are not limited to those who are income eligible. Courts have been receiving funding for the services that they provide through intra-branch agreements between the Judicial Council and each court, with appropriate grant conditions establishing expectations.

In addition to playing a leadership role in the community-focused planning and implementation of the pilot project, and dedicating staff to facilitate the court administration, courts developed one or more of the following innovations, described in more detail below:

- Special mediation procedures, including pre-filing mediation;
- E-filing and online case tracking systems;
- Self-help center expansion;
- Probate facilitators;
- Provided space at already crowded courthouses for Shriver Counsel to consult with clients and facilitate representation;
- Expanded court interpreters and translated materials;
- Housing Settlement Master offering neutral evaluation and education, and providing continuity in the settlement of Shriver cases;
- Dedicated court clerks referring potential Shriver clients and otherwise expediting the handling of Shriver cases; and
- Other support and ongoing coordination to address concerns as they arise, analyze and help address legal issues, and facilitate the smooth operation of the Shriver Pilot Projects.

Local Implementation

Each of the Shriver projects has an advisory committee overseeing the project. These advisory committees include court administrators and judges, legal services staff attorneys, private bar attorneys, and representatives from other local government and nonprofit agencies. Some committees include other key stakeholders. For example, one housing project that primarily represented tenants includes a landlord attorney on the advisory group for planning and

coordination purposes. The advisory committees meet regularly to address issues as they arise, planning for the most efficient and effective operation of the project, and suggesting modifications where necessary to improve the project if possible.

Case Selection

Potential clients are eligible for Shriver services if they are at or below 200% of the federal poverty level. This is only \$23,540 per year for an individual or a total of \$48,500 for a family of four.²³ After determining income eligibility, the statute directed the lead legal services agency to use the following criteria in determining when to provide representation.²⁴ It also required the agency to target scarce resources at cases where representation was likely to make the greatest difference or avoid the most injustice. In assessing whether to accept a particular case, the lead legal services agency must determine the litigant's need for representation, considering:

- Case complexity;
- Whether the other party is represented;
- The adversarial nature of the proceeding;
- The availability and effectiveness of other types of services, such as self-help;
- Language issues;
- Disability access issues;
- Literacy issues;
- Merits of the case;
- Nature and severity of potential consequences for the client without representation; and
- Whether legal services may eliminate or reduce the need for and cost of public social services for the potential client and others in the household.

D. OVERVIEW OF SERVICES PROVIDED

Housing, child custody, and guardianships/conservatorships (probate) are the three subject areas of the pilot projects funded by the Shriver Civil Counsel Act. This section describes the services provided in each of these three areas, including any related court innovations, and presents data on implementation progress and initial outcomes. This report is based on available resources and evaluation data collected to date. Significantly more detail about the services rendered, client demographics, case results, information on cost-benefit and continuing unmet needs, and recommendations will be contained in the comprehensive professional evaluation report, which will be released in mid-2016.

Services Provided by Shriver-Funded Legal Aid Agencies

From the start of the Shriver Pilot Projects in 2011 to the second half of 2015, more than 20,000 vulnerable, low-income people have received services from the Shriver-funded legal aid agencies. In this report, services are categorized as either “full representation,” which involved the attorney providing legal services from start to finish on all aspects of the case, or “limited services” which included discrete legal tasks, such as legal assistance at the self-help center, brief counsel and advice, preparation of forms, educational materials for trial preparation, or representation during mediation and settlement negotiations. Across the Shriver Pilot Projects to date, full representation was provided to just over half of the housing and custody clients and a quarter of the probate clients.

Number of Clients Served by Shriver Legal Aid Agencies (including only cases already closed, not ongoing cases)

Case Type	# Clients Provided Full Representation	# Clients Provided Limited Services	Total # Clients Served
Housing ^a	10,038	8,833	18,871
Child custody ^b	588	555	1,143
Guardianship/Conservatorship ^c	63	179	242
Total across case types	10,689	9,567	20,256

^a Clients served between October 1, 2011, and October 19, 2015

^b Clients served between January 1, 2012, and June 30, 2015

^c Clients served between January 1, 2012, and June 11, 2015

Data for each of the program areas are presented below. The results shown here come primarily from the program services database and reflect the implementation progress and success of the

pilot projects. Data have also been collected from the court case files and client interviews, for Shriver clients and nonclients, the comparative analysis of which is current and ongoing. Where possible, initial results based on early comparative analysis of court data are mentioned. However, these initial findings should be considered preliminary until the statistical analyses are complete and reviewed. Evaluation activities are continuing, and additional data are being gathered and analyzed to draw the clearest conclusions that can be applied and to inform future funding of legal services throughout California.

Shriver Housing Pilot Projects

Legal Representation in Landlord/Tenant (“Unlawful Detainer”) Cases

An unlawful detainer lawsuit is a civil court proceeding that can be filed by a landlord seeking to evict a tenant on a variety of legal grounds, including the failure to pay rent, alleged violation of a provision in the lease, etc. By design, unlawful detainer cases are considered *summary* or *limited* court procedures, which permit landlords who win judgments to recover possession of the unit more quickly compared to other types of proceedings. Where there is a Shriver housing project, the courts notify all litigants about Shriver services, and how they might seek assistance in the case.

Most tenants have only five days to file a written response in court after they have received the summons and complaint. Filing a timely written response to a landlord’s written complaint is critical, as otherwise the landlord can ask the court to enter a default judgment against the tenant. The speed of the proceedings and the potentially devastating impact of an eviction make this the kind of critical legal issue where legal representation can truly make a difference. Legal assistance can assure that the tenant submits a timely and accurate answer or other responsive pleading with the court, avoiding a default. The attorney can work with the tenant to see if there are habitability issues or other legal defenses; negotiate with the landlord’s attorney to try to resolve the case amicably, thus saving court time and bringing clarity and closure for all parties; and, if necessary, represent the tenant at trial.

Negotiation normally involves questions such as whether there will be repayment of back rent, whether the tenant can stay in the property and for how long, whether habitability concerns will be addressed, or whether there will be a public record, etc. These are the kinds of goals a tenant might have:

- **Legal goals**, such as a conditional dismissal of the eviction case or having the case dismissed;
- **Physical goals**, such as staying in the home or obtaining a temporary stay of eviction, preserving a Housing Choice Voucher, getting health code violations addressed, or obtaining reasonable accommodation for a disability;
- **Monetary goals**, such as relocation costs, discounts for problems with habitability, or a payment plan; and
- **Credit-related goals**, such as maintaining a masked record.

Components of Shriver Housing Projects

Six of the initial 10 pilot projects offered landlord/tenant services and provided data regarding the effects of that representation. These unlawful detainer cases represent the bulk of the total number of clients served by all pilot projects. These housing projects were located in Kern, Los Angeles, San Diego, Santa Barbara, Sacramento, and Yolo counties, and involved ten participating community agencies and six superior courts.

The housing pilot projects involved services provided by both the legal aid agencies and the local superior courts. Typically, projects included the following components:

Legal Aid Agency Services

- Intake and triage function, to ensure that individuals were referred to the most appropriate level of service given funding constraints, based on their individual needs when compared with the statutorily-mandated case criteria described above.
- A referral system to help individuals receive necessary services.
- Arrangements for representation by other agencies or pro bono attorneys for cases where the legal services program appeared to have a potential conflict of interest.
- Housing inspectors were available at some sites to help provide neutral information to the court about the habitability of the rental property.
- Significant community outreach to educate the client community about the services and to coordinate with key community resources for referral purposes, as well as involvement with broader community-wide discussions about housing policy.
- There were three levels of assistance provided and studied:
 - Assistance at the self-help center, including help with pleadings, workshops, and navigation through the court process.
 - Limited Scope Legal Assistance, including getting an answer filed promptly and accurately, representation during settlement negotiations, and/or representation at a hearing. (This level of assistance is termed “limited services” in this report.)
 - Full legal representation for all aspects of a case, including negotiation, representation at trial, and posttrial assistance, if necessary. (This level of assistance is termed “full representation” in this report.)

Court-based Services or Innovations

The following innovative approaches were developed by the courts with housing projects. Not all courts implemented the same innovations.

- *Mediation:* A court-based, neutral mediation system can help ensure that the advantages of an early mediated settlement are available for housing cases.
- *Housing Settlement Master:* One project adopted a housing settlement master program, where the master meets with all litigants and counsel in the case in a Settlement Conference one week before the case is set for trial. This increased the consistency of the handling of these cases and facilitated their resolution.
- *E-Filing and Online Case Tracking Systems:* The improved use of technology in landlord-tenant cases, including expansion of e-filing to tenants where it had previously only been available for landlords, helped facilitate the efficient handling of these cases.
- *Self-Help Center Expansion:* Because of the fast-track nature of landlord-tenant cases, it is invaluable to have the triage function located at the courthouse, enabling court clerks to refer individuals directly to the self-help center for assistance. Any issues that arise in the paperwork can be identified and addressed promptly, avoiding delays and continuances.
- *Language Interpreters:* The expanded availability of interpreters and translated forms and resources provides critical support for parties who might otherwise be unable to participate in their own defense, due to language barriers.

Each of the six Shriver housing programs had a unique set of priorities based on the particular local circumstances and the needs of the local client community. As a result, these programs implemented different service structures that included a wide range of approaches to their service model. For instance, one program aimed to provide full representation to all eligible tenants with cases filed at one courthouse, while other programs aimed to provide full representation to a selected number of eligible tenants and provide others with a more limited level of assistance. Some areas had rent control, which raised another set of legal issues. The evaluation was therefore designed to learn as much as possible from the differences among the programs while also tracking as many similar services as possible so as to have an adequate level of comparable data across all the projects.

Shriver-funded legal aid agencies could serve both low-income landlords and tenants, but the vast majority (over 99%) of clients were tenants because most landlords had incomes above the Shriver eligibility threshold. The court self-help services were able to provide assistance to both landlords and tenants without concern for income level, but did not provide representation to either party. Because the court self-help services did not include representation, their results are not a part of this study. There were a few income-eligible landlords who sought Shriver services and they were referred for legal assistance. The majority of landlord/tenant cases involved

landlords who were represented and tenants who were not—the kind of power imbalance that the Shriver Act was designed to study and address.

Preliminary Housing Pilot Project Outcomes

This section describes aspects of the assistance provided by the legal aid agencies (not the court-based services) through fall 2015, as entered into the program services database. This data will be supplemented with data on court-based services in a forthcoming report. Since the start of the Sargent Shriver Civil Counsel Program, 18,871 low-income people have been provided legal assistance from a legal aid agency in housing matters. The majority of Shriver clients are female (62%) and nonwhite (38% Hispanic/Latino, 28% African American). Over half of these clients (52%) were provided full representation by an attorney, and just under half (48%) were provided more limited services.

Shriver services offered by these agencies are reaching the population intended by the legislation—namely, those tenants who are opposed by a party that is represented by an attorney and often have other potential disadvantages navigating the legal system (e.g., limited education or English proficiency) and/or who have a heightened vulnerability (e.g., experience a disability, have minors in the home). At least one-third of Shriver clients have a high school diploma or less, at least one-quarter experience a disability, and nearly one-quarter have limited English proficiency. Over half (53%) of Shriver clients had minors living in their households, and over one-third (37%) received CalFresh benefits.²⁵ The average monthly income of Shriver clients was \$1,145 (median = \$1,000).

Of those litigants who received full representation from a Shriver attorney, 98% were facing a landlord who was represented by counsel. (0.5% were not, and 1.5% were missing opposing party representation data.)

Tenants' access to justice depends on their ability to successfully file a written response to the unlawful detainer complaint within a short timeframe. Inability to do so usually results in a default and the tenant never presents his/her side of the case. Historically, in these cases, defaults are common. Shriver services are addressing this need: of those litigants who received full representation, an answer (or other appropriate written response) was successfully filed in approximately 95% of cases.

Engaging more tenants in the legal system and providing them with counsel does not appear to have made the proceedings more combative or drawn-out. In fact, Shriver clients are most likely to end their case by settlement.

- Of those litigants who received full representation, 70% resolved their case by settlement, 19% by landlord dismissal, and 5% by trial. (Data were missing for 7% of cases.)
- The majority (82%) of settlements happened on or before the day of trial, saving court resources, and half (50%) occurred within 30 days of the complaint filing.

The outcomes of the unlawful detainer cases with litigants represented by Shriver counsel seem to favor longer-term housing stability, which is important for this at-risk population.

- Of those tenants who received full representation, the majority ultimately moved out of their homes as a result of their unlawful detainer case: 69% moved out and 23% stayed in the home. (Data were missing for 8% of cases.)
- Of those who moved out, 53% had their move-out dates adjusted to allow them more time to find replacement housing.
- Of those who moved out, a large majority (91%) received a positive financial outcome, such as reduction/waiver of rent owed, the case not reported to credit agencies, a neutral rental reference from the landlord, or the case masked from public record. Any one of these elements—but more so when combined—provides the tenant with increased opportunity to find alternate stable housing for themselves and their families.

Child Custody/Family Law Pilot Projects

The Shriver Act made child custody cases a high priority for pilot projects, both in terms of providing legal services and in terms of studying the impact of those services.

Family courts have traditionally experienced some of the highest caseloads, while at the same time family law litigants have among the lowest rates of representation. The low rate of represented parties also leads to lengthier hearings, more delays and continuances, and a significant amount of court time devoted to each case. Child custody litigation tends to be protracted and involve a high level of conflict between the parties.

Special provisions were included in the Shriver statute to highlight the importance of this work but also to put some reasonable limit on the scope of such representation. The Legislature focused the representation on cases involving requests for sole legal or physical custody of a child and included a 20 percent cap on the amount of total Shriver funding that could be directed to such projects.²⁶

Components of Child Custody Pilot Projects

The three Child Custody Pilot Projects were located in Los Angeles, San Diego, and San Francisco, and these projects received funds totaling just under the 20% cap provided in the

statute. The child custody projects involved five main participating agencies as well as the superior courts in each of the three counties.

Legal Aid Agency Services:

The custody projects identified the following specific goals for their clients:

- **Legal custody goals**, such as sole or shared joint custody;
- **Physical goals**, such as when the child would live with the client; and
- **Visitation goals**, including whether scheduled visitation is supervised or unsupervised.

The different pilot projects developed different visions for their projects, while maintaining many of the same components of project design, which helped with evaluation. In San Francisco, the project hoped to serve every eligible low-income San Franciscan with a case fitting the case criteria. The Los Angeles project, on the other hand, with large numbers of child custody cases, decided to focus its services on the most challenging child custody cases, based on direct referral from the court. The custody program in San Diego was designed to quickly identify eligible cases and get those parties into special settlement conferences with a judge. These settlement conferences are designed to help the parties agree to a parenting plan as soon as possible, thereby eliminating the need for protracted litigation.

Custody-related Court Innovations

The following court-based innovations were implemented as part of the Shriver projects. Not all courts implemented the same innovations:

- *Settlement conference*: Special settlement conference tracks were set up for Shriver cases, helping ensure that the critical issues of child custody were handled in an expedited fashion, and that other services needed in Shriver cases were available in a coordinated fashion.
- *Self Help Center expansion*: Each of the projects worked with their courts to develop expanded self help services, assisting with cases which could benefit from additional assistance short of full representation.
- *Interpreters*: The expanded availability of interpreters and translated forms and resources in family law cases is critical for Shriver parties who might otherwise be unable to understand the critical child custody and visitation issues being addressed, due to language barriers.
- *Collaboration on parent education*: The courts have worked with the legal services agencies to develop training for parents in high-stress cases, to help reduce the stress and

improve parenting skills, thus facilitating the settlement of the custody and visitation issues in the litigation.

Preliminary Custody Pilot Project Outcomes

This section describes aspects of the assistance provided by the legal aid agencies (not the court-based services) through June 2015, as entered into the program services database. This data will be supplemented with data on court-based services in a forthcoming report. Since the start of the Sargent Shriver program in fall 2011, over 1,000 low-income clients have been provided assistance with their child custody cases. The majority of Shriver clients are female (74%) and nonwhite (56% Hispanic/Latino, 16% African American, 6% Asian). Half of these litigants were provided full representation by an attorney for the custody case (but not other aspects of the family law case); half were provided limited services. Shriver services offered by these agencies appear to be reaching the intended population:

- Over 40% of Shriver custody clients have a high school diploma or less, nearly one quarter have limited English proficiency, and one fifth experience disability.
- One-third of Shriver custody clients receive CalFresh benefits. The average monthly income of Shriver clients is \$1,194 (median = \$1,033).
- On average, Shriver custody cases involved two children. The average age of the children was six years and nearly one-fifth experienced disability.

In addition to the demographic risk factors (e.g., low income, limited English proficiency), litigants who received Shriver services tended to report a variety of other risk factors for themselves and their children, making the receipt of legal assistance even more critical:

- Over half of the couples involved allegations of intimate partner violence in the past 5 years.
- Over one-third involved allegations of drug and alcohol abuse.
- Over one-quarter involved current or previous involvement with child protective services.
- Over one-quarter reported police involvement in the previous three months.

The characteristics of the Shriver cases varied:

- Over half (52%) of Shriver custody clients were petitioners, and 38% were respondents (6% other and 4% missing data).
- Half were seeking to modify an existing physical custody order, and 40% were seeking to obtain a new order (5% other, 5% missing data).

- On average, the custody cases had already been open for over two years before the Shriver project attorneys were involved.
- Of those litigants who received full representation by Shriver counsel, 88% faced an opposing party who had representation at the point that the Shriver project took on the case (10% did not and 2% were missing data).

In line with the statutory preference to allow the child frequent and continuing contact with both parents,²⁷ the courts generally awarded joint custody in the Shriver cases. Judges also made orders to mitigate family risk factors for the children. Among Shriver clients who received full representation for their custody case, case outcomes included:

- For legal custody, 59% of couples were granted joint custody, 16% of Shriver clients received sole custody, and 16% of opposing parties received sole custody (10% missing or unknown).
- For physical custody, 38% of children lived most of the time with Shriver clients, 30% lived most of the time with the opposing party, and 21% shared equal time between parents.
- Therapy was ordered for 12% of Shriver clients, 15% of children, and 7% of opposing parties.
- Substance abuse counseling was ordered in 2% of cases.
- Parenting classes were ordered in 14% of cases.
- Restraining orders were granted to 8% of Shriver clients and 7% of opposing parties.

Key goals for the projects also included increasing settlements and decreasing unnecessary hearings, educating clients and avoiding misinformation that fuels conflict, and helping clients have more realistic expectations for their family law cases. In the next steps for the evaluation, data collected from the case file review will be analyzed to investigate whether Shriver services resulted in a higher rate of settlements, and whether those settlements resulted in more durable orders—and therefore, families coming back to court less often.

Probate: Guardianships and Conservatorships

Guardianship and conservatorship cases seek to establish legally-recognized, reliable, and competent caregivers for individuals who require care and assistance. Guardianships pertain to minors, and conservatorships pertain to adults with developmental or cognitive disabilities. In conservatorship cases, attorneys are appointed for the potential conservatee, but there are generally no other resources for the proposed conservator who is seeking to provide protection.

The complexity of the probate process can make it very difficult for a lay person to navigate the system alone, and even attorneys can often not complete the paperwork correctly because it requires specialized knowledge. For litigants with limited understanding of the legal system, educational background, or proficiency in English, the process can be almost impossible. Self-represented litigants in guardianship and conservatorship cases often find it hard to know which of the many forms to submit, how to comply with complex service of process requirements, and to understand when and how to check tentative judicial rulings online so as to respond in a timely and accurate manner. These barriers can result in delays, continuances, and enough frustration and confusion that litigants give up on the process altogether.

Components of Probate Pilot Project

Only one of the Shriver Pilot Projects focuses on probate matters, specifically how to assist eligible low-income families needing guardianships and conservatorships. The project is based in the rural areas of Santa Barbara County with many monolingual Spanish speaking residents and no other services available. The project involves legal aid services, specifically full representation and limited scope services, and court-based services including a new probate facilitator, and a new judicial assistant for probate court.

Both full representation and limited-scope legal assistance are offered to those seeking guardianship or conservatorships of the person (as opposed to those cases involving property issues, which are not covered by the Shriver project). Potential clients are screened for eligibility according to the statutorily mandated case selection criteria. Court-based judicial assistants provide individuals with the appropriate and necessary legal forms, assist in filing completed forms, provide translators and interpreters, and provide referrals to Legal Aid, Family Court Services mediation, the court's probate facilitator, and other community resources.

The probate facilitator assists self-represented litigants through education, helps with completing necessary paperwork, and offers general navigation through the complicated legal process. The court regularly refers cases with self-represented litigants to the probate facilitator from the clerk's office and the courtroom. The probate facilitator also assists with conflict cases from the legal aid program and other individuals not otherwise eligible for Shriver services.

Those clients needing full legal representation are referred to the Legal Aid Foundation of Santa Barbara County.

Preliminary Probate Pilot Project Outcomes

Court-based services: One particular innovation implemented by the court was the addition of a probate facilitator, as described above. The probate facilitator is a licensed attorney specializing in guardianship and conservatorship cases who provides education and assistance to litigants.

This service began in March 2013, and by December 2014, the probate facilitator had assisted 238 litigants. Unlike those served by the legal aid program whose income needed to be at or below 200% of the federal poverty guidelines, the probate facilitator helped anyone who sought services.

- The majority of litigants assisted by the probate facilitator were female (69%), nonwhite (55% Hispanic/Latino, 6% African American).
- At least one quarter received public assistance, 11% spoke primarily Spanish.
- The majority sought help with guardianship cases (85%), and needed assistance filing a new petition (63%).

Legal aid services: From the start of the Shriver Pilot Project (fall 2011) through June 2015, legal services were provided to 242 litigants involved with guardianship and conservatorship cases. The average age of Shriver clients was 49 years, and most (56%) were Hispanic/Latino. Just over half (51%) were provided full representation by a Shriver attorney, and the remainder were provided limited scope services. Shriver services are reaching the population intended—namely, those litigants who are at a potential disadvantage navigating the legal system:

- Approximately one quarter have a high school diploma or less, limited English proficiency, or a disability.
- Nearly three-quarters had minors living in the home, 15% received SNAP benefits, and their average monthly income was \$2,073 (median = \$1,781).
- Two-thirds sought help with guardianship cases, one-third with conservatorship cases. The majority (64%) needed help filing a new petition.

In line with the legislative goals, Shriver cases that received full representation from a legal aid attorney involved family members trying to obtain legal authority to effectively care for vulnerable individuals:

- Of those 47 guardianship cases that received full representation, 66% involved one ward (34% involved more than one ward). Among these 69 wards, the average age was 8 years (median = 8 years) and 9% had a disability.
- Of those 16 conservatorship cases that received full representation, each involved one conservatee and the average conservatee age was 34 years (median = 26 years).
- In all cases that received full representation, the Shriver client petitioning for guardianship or conservatorship was a relative (e.g., grandparent, sibling, adult child).

The ability of family members to obtain legal status as guardians or conservators depends on their ability to successfully complete and submit all of the relevant paperwork associated with

these cases. Inability to do this frequently leads to abandoned petitions. Shriver services are effectively assisting litigants through this process.

Engaging the assistance of an attorney appears to have streamlined the case processing and minimized the need for continuances, which can be costly to litigants and the court. Both guardianship and conservatorship cases require an investigator to do background checks and interviews with the parties in the case, and sufficient notice needs to be provided to the other relatives, requiring significant time between the filing of a petition and hearing; these cases appear to be completed with little delay.

- Case age for guardianship cases that received full representation was four months, on average. One-third of cases involved a continuance, and of those, the average number of continuances was 2 (median = 1).
- Case age for conservatorship cases that received full representation was three months, on average. One-third of cases involved a continuance, and of those, the average number of continuances was 2 (median = 2).

When people received full representation from a Shriver attorney, the likelihood that a guardianship and conservatorship would be granted was high. Roughly two-thirds of cases ended with the guardianships or conservatorships established. The successful completion of guardianship and conservatorship cases results in more children and conservatees being in safer homes, cared for by more capable and responsible family members. In addition, this makes it possible for guardians and conservators to enroll children in school, obtain public benefits (like housing vouchers or food and nutrition benefits), and connect children and adults to the medical services they needed. Without these new arrangements, many children would have continued to live in dire conditions, been placed into foster care, or faced returning to a home where one or more parents were dealing with severe mental health or substance abuse problems, usually resulting in neglect and/or physical and emotional abuse.

Interviews with Key Court and Project Staff

When asked about their perceptions of the impact of the Shriver Pilot Project, court staff felt there was a substantial improvement in the ability of litigants to participate in the legal process and of the court to respond to the needs of the families. Court staff perceived an increase in the quality of the paperwork filed, which allowed cases to proceed more easily. They were used to seeing petitioners get frustrated with the technicalities and often give up in the middle of the process, but now they are seeing more litigants persist with the process. Court staff reported that Shriver services made the entire probate filing process quicker, more accurate, and less stressful.

Prior to Shriver services, judicial assistants estimated that it took an average of three attempted filings before probate petitioners could successfully file their paperwork, but after the

implementation of Shriver services at legal aid and the probate facilitator, paperwork was usually accepted on the first attempt, resulting in a huge time savings for court staff. Fewer continuances also allowed more cases to be scheduled on the calendar and to be resolved faster.

Project and court staff thought that Shriver litigants were more educated about the process than unrepresented parties, including what to expect and how to facilitate progress, and that proposed guardians/conservators were more familiar with their roles and responsibilities, such as how to comply with the court's investigation and be more prepared to complete future status reports to the court. Because of this, judges felt that more guardianships and conservatorships were able to remain in place, leaving wards and conservatees in more stable environments.

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, and clearer documentation. This allowed judges to make more informed decisions. In addition, there was a common perception that the load on Child Welfare Services and the public guardian (for adults) was lower, allowing them to focus on more serious cases of abuse or neglect, keeping more families out of the system, and decreasing the number of children being placed in foster care.

Preliminary Comparative Analyses of Court Case File Data

Preliminary analyses of court file data suggest that Shriver clients generally fare better in guardianship cases as a result of the legal assistance received through the project. Initial results indicate that, compared with clients who received no assistance, Shriver clients who received full representation for guardianship cases were more likely to utilize the legal process to most effectively support their petition—specifically, by calling witnesses or entering declarations. Also, Shriver full representation cases appear to be less likely to involve continuances and, when parental consent was obtained, came to resolution faster. The evaluation team has also collected data for cases that received assistance from the probate facilitator. These data are still being analyzed.

E. ANALYSIS OF COST BENEFIT AND ASSESSMENT OF ONGOING NEED

The evaluation team is in the process of collecting and analyzing data to investigate the costs of, and potential savings associated with, the Shriver Pilot Projects, as well as to estimate the continuing unmet need. These study activities are currently occurring and results will be presented in the comprehensive report to be submitted later in 2016.

Court Efficiency

Preliminary analyses suggest that cases with Shriver full representation present efficiencies for the court that result in cost savings; that is, these cases appear to resolve faster with fewer resource-intensive events for the court. For example, early evidence suggests that, compared to cases without Shriver representation, Shriver housing cases may involve more dismissals, more settlements, and fewer trials, and Shriver probate cases may involve fewer continuances, hearings, and unsuccessful filing attempts. Such outcomes would help the court, the parties involved in those cases, and all others who benefit from a judicial system able to handle their matters more expeditiously.

The evaluation will analyze case file data from five projects to assess any differences between Shriver and non-Shriver cases in terms of case events and/or court resources. The evaluation team has been collecting information to estimate the costs of various events and will assess whether and to what extent the provision of Shriver services has an impact on court resources.

Other Costs and Benefits

The evaluation team plans to investigate the following specific lines of inquiry for each of the three program types:

Housing: During site visits early in the project, staff at the courts and at the legal services programs perceived that Shriver services had both individual and system-level impacts. For example, they reported that services had helped increase clients' understanding of the legal system and achieve desired outcomes (e.g., prolonged housing, protected credit, or longer-term housing stability for families). Eviction carries significant costs to the individual tenant, who is already likely financially challenged. Receiving some relief from debt (e.g., lower back rent to be paid), some time to prepare (e.g., longer time to move out), and some future support (e.g., case records being masked, neutral credit references) can help reduce the risk of the tenant falling into homelessness or bankruptcy.

Further, interviewed stakeholders reported that Shriver services had impacted the broader community through increased collaboration among agencies serving the same community and by avoiding the need for clients to rely on other social service systems. The evaluation team plans to

explore these individual costs and existing study data to determine the feasibility of calculating potential system costs.

These next study steps are critical activities. The costs of eviction and homelessness are high. As emphasized in the recent Silicon Valley Homelessness Study,²⁸ eviction defense is a key part of a larger public-private partnership effort to avoid homelessness, particularly long-term, chronic homelessness.²⁹

Child Custody: Ensuring that parents focus on a longer-term solution that meets the best interests of the child benefits everyone involved. When parents are given an effective avenue to voice their opinions and when they feel heard and actively engaged in the process, previous research indicates that contentiousness outside of the courtroom declines. This may result in savings to the system, such as fewer calls to police during child exchanges and reduced involvement of child protective services. The evaluation will investigate the occurrence of these events and, if applicable, estimate costs per incident. A more peaceful and stable home life can result in better outcomes for the children, including improved physical and emotional health, improved school functioning, improved sociability, and less probable behavioral dysfunction; all of which may lead to improved outcomes in adolescence and adulthood (e.g., less criminal justice involvement, better health)³⁰ and reduced future costs to the public health and service systems.

Probate: Children without a competent parent or willing guardian can end up as wards of the court. Adults who need care but are without a willing conservator can end up in the care of the public guardian. Both of these entities are taxpayer-funded services. When children become a ward of the court, the state pays for counsel for that child and each of their parents. It also takes on a wide range of other responsibilities including paying for medical, psychological, educational, and other services, even if the child is not placed into foster care. If, as appears, Shriver services facilitate the placement of children and disabled adults with family members, as opposed to these government safety net entities, then there would be a savings to the system. The evaluation team is investigating these potential costs and benefits.

Assessment of the Continuing Unmet Need

The evaluation team is gathering longitudinal summary data from the courts regarding case filings in the subject case types and will use these statistics to estimate the number of litigants who would be eligible for Shriver services but are not receiving them; i.e., the actual need across the state. These estimates will take into account the growing numbers of individuals in poverty. Other contributing factors, such as family size and the fair market value for rent in certain areas, will also be considered, and other reports and data on unmet legal needs will be analyzed. To the extent possible, additional inquiry will occur with programs that are attempting to serve all low-income people within their target population to determine what types of potential clients do not

use the services, as well as why they do not use these services, and this information will help guard against an overestimation of the broader need for services.

F. RECOMMENDED NEXT STEPS

- **Complete the In-Depth Evaluation of Project Services:** The Shriver Pilot Project is conducting one of the most comprehensive analyses and evaluations of legal services ever undertaken. The Sargent Shriver Civil Counsel Project Implementation Committee should continue to work with the legal services programs and courts conducting the pilot projects, as well as with NPC Research, the organization under contract to conduct the study, to ensure that this evaluation is as thorough as possible. The data provided in this report will be valuable in assessing the best ways to move forward to increase access to justice in California.
- **Develop and Disseminate Best Practices:** As the details of the evaluation become available, the Shriver Project Implementation Committee should identify those services and procedures that have proven to be effective and efficient for legal services programs and courts, and disseminate these best practices throughout the state, particularly those best practices that help enhance court capacity, thereby potentially impacting all Californians.
- **Identify Areas for Further Study:** In furtherance of the goal of 100% Access, the report should be analyzed to determine which types of projects and services would benefit from further study and pilot projects. These specific research goals could then be the focus of further study to clarify the protocols and conditions that should be in place in order to ensure the most efficient and effective services, resulting in expanded access to justice.

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- ¹ California Government Code section 68651(c)
- ² Judicial Council Agenda Item, “Sargent Shriver Civil Counsel Act: Selection of Pilot Projects”; August 13, 2014
- ³ Judicial Council Report to the Legislature on the Equal Access Fund (2005)
- ⁴ Legal Aid Association of California
- ⁵ “New Law Creates Right to Counsel,” Mathew Pordum and Catherine Ho, Daily Journal, Oct. 13, 2009
- ⁶ Civil Justice Strategies Task Force Report and Recommendations, State Bar of California (2015)
- ⁷ California Commission on Access to Justice Limited Representation Report, State Bar of California, 2001
- ⁸ Fact Sheet: Programs for Self-Represented Litigants, Judicial Council, May 2015
- ⁹ Clare Pastore, “*Gideon* is My Co-Pilot: The Promise of Civil Right to Counsel Pilot Programs,” 17 University of District of Columbia Law Review 75 (2014); Judicial Council Shriver Fact Sheet, “Sargent Shriver Civil Counsel Act” (AB 590) (Feuer), Aug. 2012
- ¹⁰ Clare Pastore, “*Gideon* is My Co-Pilot: The Promise of Civil Right to Counsel Pilot Programs,” 17 University of District of Columbia Law Review 75 (2014)
- ¹¹ California Commission on Access to Justice 2014 Annual Report, State Bar of California;
http://www.calbar.ca.gov/Portals/0/documents/accessJustice/2014%20AJC%20Annual%20Report_Final%20on%20Letterhead.pdf
- ¹² State Bar of California, Legal Services Trust Fund Program
- ¹³ Stepping Across the Threshold, *supra*, at 554
- ¹⁴ Stepping Across the Threshold, *supra*
- ¹⁵ Judicial Council Fact Sheet, “Sargent Shriver Civil Counsel Act” (AB 590) (Feuer), Aug. 2012
- ¹⁶ Judicial Council Agenda Item, “Sargent Shriver Civil Counsel Act: Selection of Pilot Projects,” July 1, 2011
- ¹⁷ Judicial Council Aug. 13, 2014 Agenda Item, pp. 4–5
- ¹⁸ Judicial Council Aug. 13, 2014 Agenda Item; <http://www.courts.ca.gov/15703.htm>
- ¹⁹ Judicial Council Agenda Item, “Sargent Shriver Civil Counsel Act: Selection of Pilot Projects,” July 1, 2011
- ²⁰ Judicial Council Agenda Item, “Sargent Shriver Civil Counsel Act: Selection of Pilot Projects,” July 1, 2011
- ²¹ <http://npcresearch.com/>
- ²² Judicial Council Agenda Item, Aug. 2014, p. 6
- ²³ Federal Poverty Guidelines; <http://familiesusa.org/product.federal-poverty-guidelines>
- ²⁴ Clare Pastore, “*Gideon* is My Co-Pilot: The Promise of Civil Right to Counsel Pilot Programs,” 17 University of District of Columbia Law Review 75 (2014); Gov. Code, § 68651
- ²⁵ 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.
- ²⁶ Gov. Code, § 68651(2)(A and (B)
- ²⁷ California Family Code section 3020

Shriver Civil Counsel Act Implementation Committee

As of January 31, 2016

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EXCERPTS FROM AB 590 LEGISLATIVE FINDINGS

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) [**Dire Need for Legal Services**] There is an increasingly dire need for legal services for poor Californians. Due to insufficient funding from all sources, existing programs providing free services in civil matters to indigent and disadvantaged persons, especially underserved groups such as elderly, disabled, children, and non-English-speaking persons, are not adequate to meet existing needs.

(b) [**Documentation of the Need for Legal Services**] The critical need for legal representation in civil cases has been documented repeatedly, and the statistics are staggering... Over 4.3 million Californians are believed to be currently unrepresented in civil court proceedings, largely because they cannot afford representation. Current funding allows legal services programs to assist less than one-third of California's poor and lower income residents... The effect is that critical legal decisions are made without the court having the necessary information, or without the parties having an adequate understanding of the orders to which they are subject.

(c) [**Role of Sargent Shriver**] The modern movement to offer legal services for the poor was spearheaded by Sargent Shriver in 1966, aided by the American Bar Association, then headed by future Supreme Court Justice Lewis Powell, driven by the large disparity that existed between the number of lawyers available for poor Americans compared with the availability of legal services for others.... According to federal poverty data, there was one legal aid attorney in 2006 for every 8,373 poor people in California. By contrast, the number of attorneys providing legal services to the general population is approximately one for every 240 people – nearly 35 times higher.

(d) [**Economic Benefits**] The fair resolution of conflicts through the legal system offers financial and economic benefits by reducing the need for many state services and allowing people to help themselves...

(e) [**Impact on the Courts**] Expanding representation will not only improve access to the courts and the quality of justice obtained by these individuals, but will allow court calendars that currently include many self-represented litigants to be handled more effectively and efficiently.... [C]ourts presented with disputes regarding basic human needs that involve low-income litigants facing parties who are represented by counsel have a special responsibility to employ best practices designed to ensure that unrepresented parties obtain meaningful access to justice and to guard against the involuntary waiver or other loss of rights or the disposition of those cases without appropriate information and regard for potential claims and defenses, consistent with principles of judicial neutrality. The experience and data collected through a pilot program will assist the courts and the legal community in developing new strategies to provide legal representation to overcome this challenge.

(f) [**Equal Justice Under Law**] The doctrine of equal justice under the law is based on two principles. One is that the substantive protections and obligations of the law shall be applied equally to everyone, no matter how high or low their station in life. The second principle involves access to the legal system. Even if we have fair laws and an unbiased judiciary to apply them, true

equality before the law will be thwarted if people cannot invoke the laws for their protection. For persons without access, our system provides no justice at all, a situation that may be far worse than one in which the laws expressly favor some and disfavor others.

(g) [**Encourages Settlements and Improves Public Trust and Confidence**] ... Judicial leaders and scholars also believe that the presence of counsel encourages settlements. Just as importantly, court opinion surveys show that more than two-thirds of Californians believe low-income people usually receive worse outcomes in court than others. Unfairness in court procedures and outcomes, whether real or perceived, threatens to undermine public trust and confidence in the courts...

(h) [**Equal Access to Justice is a Fundamental Right**] Equal access to justice without regard to income is a fundamental right in a democratic society. It is essential to the enforcement of all other rights and responsibilities in any society governed by the rule of law...

(i) [**Lack of Representation Harms Court Functioning**]... The absence of representation not only disadvantages parties, it has a negative effect on the functioning of the judicial system. When parties lack legal counsel, courts must cope with the need to provide guidance and assistance to ensure that the matter is properly administered and the parties receive a fair trial or hearing. Those efforts, however, deplete scarce court resources and negatively affect the court's ability to function as intended, including causing erroneous and incomplete pleadings, inaccurate information, unproductive court appearances, improper defaults, unnecessary continuances, delays in proceedings for all court users, and other problems that can ultimately subvert the administration of justice.

(j) [**State Has Responsibility to Ensure Adequate Counsel**] Because in many civil cases lawyers are as essential as judges and courts to the proper functioning of the justice system, the state has just as great a responsibility to ensure adequate counsel is available to both parties in those cases as it does to supply judges, courthouses, and other forums for the hearing of those cases.

(k) [**State Must Provide Legal Counsel Without Cost**] ... In some cases, justice is not achievable if one side is unrepresented because the parties cannot afford the cost of representation.... In order for those who are unable to afford representation to exercise this essential right of participants in a democracy, to protect their rights to liberty and property, and to the pursuit of basic human needs, the state has a responsibility to provide legal counsel without cost. In many cases decided in the state's adversarial system of civil justice the parties cannot gain fair and equal access to justice unless they are advised and represented by lawyers. In other cases, there are some forums in which it may be possible for most parties to have fair and equal access if they have the benefit of representation by qualified nonlawyer advocates, and other forums where parties can represent themselves if they receive self-help assistance.

(l) [**The State Has an Interest in Providing Publicly-Funded Legal Assistance**] The state has an interest in providing publicly funded legal representation and nonlawyer advocates or self-help advice and assistance, when the latter is sufficient, and doing so in a cost-effective manner by ensuring the level and type of service provided is the lowest cost type of service consistent with providing fair and equal access to justice...