

To: Court-Appointed Counsel Funding Allocation Methodology Joint Subcommittee
 From: Roger Chan, Executive Director
 Date: September 15, 2015
 Re: Comments for September 17, 2015 Meeting

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Item 3: Counting caseload and caseload fluctuations

A combination of filings and child welfare case numbers will not produce a more accurate picture of workload. There should be further study to clarify any discrepancies between the Berkeley data and county data of child welfare case numbers.

The number of filings only reveals a narrow glimpse of the actual workload in dependency practice, especially for children's counsel. The range of duties for a child's attorney continues throughout all stages of a case, such as monitoring the child's educational needs and rights holder, psychotropic medications, placement stability, and sibling contacts. A child client in need of placement, for example, can actually consume more of an attorney's time than a trial because the child is in crisis and multiple people need to be contacted on an urgent basis. Each client presents a volume of work beyond the original petition filing, and dependency cases carry over from year to year. There is no scientific way to predict which cases will result in timely reunification and which will last for potentially years in long-term care.

Dependency attorney workload is not frontloaded – it is ongoing. As children are in care for longer periods of time, their attorneys must be even more diligent that their needs and permanency goals are met.

This is reflected in the time reports as well:

DRAFT Event Time - Children

	Phase 1 (through DET)	Phase 2 (post-DET through Dispo)	Phase 3 (post-Dispo to Permanency)	Phase 5 (post- permanency)
Document Review	30	32	31	26
Notes to file and drafting	60	34	34	36
Legal Research	59	65	58	52
Communicate w/Client in person	40	57	61	42
Communicate w/Client – other	25	23	25	19
Communicate with social worker	17	16	16	14
Communicate with other counsel	22	22	21	19
Communicate with others	22	22	21	19
Other	34	32	29	26

My understanding is that the Event Time reflects how much time was spent by attorneys who performed these tasks in each phase. The DRAFT Total Time is lower than the Event Time because the activity did not occur in every case.

The fact that certain activities did not occur in every case may be the result of data entry error or overwhelming caseloads. For example, in Phase 5 (through Post-Permanency Plan), the model anticipates only 23% frequency of document review, but every review hearing has at a minimum, a court report. The model also calls for 21% frequency for communicating with a client in person and 13% communication with a client by other means, but communication with a client, especially a child, should be with 100% frequency.

In addition, original filings alone do not provide enough of a picture because every type of dependency hearing can be contested, including six month reviews and 26 hearings. Every contested hearing requires preparation, discovery, and investigation.

To the extent that filings suggest a degree of workload, other petitions besides original petitions should be considered. Supplemental 387 petitions trigger the same jurisdictional/dispositional procedures as an original petition, and along with 388 petitions, may result in a contested evidentiary hearing.

Also, as previously noted, the rise in Non-Minor Dependent (NMD) cases also impacts the ratio to estimate parent clients.

Item 5: Review of cost information from attorneys

Table 4: Direct and Indirect Cost Proportions

For staffed law firms, supervision, administrative support and other overhead are vital aspects of equipping the line attorneys to do their jobs well. Supervising attorneys, secretaries, training, travel expenses, etc. are included in the “indirect costs” in Table 4 (pages 54-58). These expenses should be given equal importance as the line staff in the funding model. In addition, the ability to provide competitive and equitable pay for administrative support, as well as localized rent prices, should be included in the funding methodology.

Thank you for your consideration.

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