



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 20-074

For business meeting on: May 15, 2020

Title

Sargent Shriver Civil Counsel Act: Report to the Legislature

Agenda Item Type

Action Required

Rules, Forms, Standards, or Statutes Affected

None

Effective Date

June 30, 2020

Recommended by

Shriver Civil Counsel Act Implementation Committee

Hon. Earl Johnson, Jr. (Ret.), Chair

Date of Report

March 27, 2020

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Executive Summary

The Sargent Shriver Civil Counsel Act Implementation Committee recommends that the Judicial Council approve the *Sargent Shriver Civil Counsel Act Evaluation* (June 2020), and forward the report to the Legislature. This report is required by Government Code section 68085.1(c). The report examines the effect of providing legal representation to low-income persons over a period of five years in cases involving landlord/tenant matters, highly conflicted custody cases, and guardianship and conservatorship matters of the person. The report includes a review of data from legal services case records, court files, and interviews with clients, courts, and legal services programs and other stakeholders, in addition to providing a review of other research.

Recommendation

The Sargent Shriver Civil Counsel Act Implementation Committee recommends that the Judicial Council, effective June 30, 2020, approve for submission the *Sargent Shriver Civil Counsel Act Evaluation* (June 2020), as required by Government Code section 68085.1(c).

The evaluation is included as Attachment A.

Relevant Previous Council Action

On January 28, 2016, the Judicial Council approved for submission the *Report to the Legislature on the Sargent Shriver Civil Counsel Act* and directed staff to submit the report to the Legislature as required by Government Code 68085.1(c). On July 28, 2017, the council approved for submission the *Evaluation of the Sargent Shriver Civil Counsel Act (AB 590)* and directed staff to transmit the report to the Legislature.

Analysis/Rationale

The Sargent Shriver Civil Counsel Act (Assem. Bill 590; Stats. 2009, ch. 457) provides that, commencing in fiscal year 2011–12, one or more pilot projects selected by the Judicial Council are to be funded to provide legal representation and improved court services to low-income parties on critical legal issues affecting basic human needs. These issues include housing, child custody disputes, domestic violence, or the need for a guardianship or conservatorship. The pilot projects are to be operated by legal services nonprofit corporations working in collaboration with their local superior courts. Partner courts are also provided funding to enable them 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.

As set forth in Government Code 68085.1(c), the study was intended to “demonstrate the effectiveness and continued need for the programs.” “The study shall report on the percentage of funding by case type and shall include data on the impact of counsel on equal access to justice and the effect on court administration and efficiency, and enhanced coordination between courts and other government service providers and community resources. This report shall describe the benefits of providing representation to those who were previously not represented, both for the clients and the courts, as well as strategies and recommendations for maximizing the benefit of that representation in the future. The report shall describe and include data, if available, on the impact of the programs on families and children. The report also shall include an assessment of the continuing unmet needs and, if available, data regarding those unmet needs.”

The report provided to the Legislature on January 31, 2016, documented the implementation of the Sargent Shriver Civil Counsel Act and described what had been learned to date. It noted that a more comprehensive evaluation was still underway. That further evaluation was completed and submitted to the Legislature on July 28, 2017. That report, prepared by NPC Research of Portland, Oregon, an organization with a long history of evaluation and policy analysis of judicial branch–related entities, was one of the most comprehensive evaluations of legal services programs conducted in the United States. In addition to the information from the legal services agencies regarding demographics of clients and the services provided, it involved case file review, interviews with clients and stakeholder interviews, as well as a comprehensive review of other research.

Assembly Bill 330 (Gabriel) enacted September 4, 2019, amended Government Code 68085.1(c) to expand the evaluation requirement so that the Judicial Council shall submit a report as set forth above to the Governor and the Legislature every five years, commencing June 1, 2020.

This report complies with this new statutory requirement and covers the period beginning January 1, 2015, and ending December 31, 2019.

Key evaluation findings

Since the Shriver Program's inception in 2012, a total of 43,266 low-income litigants have received some type of civil legal service. More than 20,000 of these individuals received full representation by a Shriver attorney (help on all aspects of the case). Nearly 17,000 of them received limited-scope legal assistance ("unbundled services") provided by a legal services organization, such as brief counsel and advice, preparation of forms, and help with trial preparation. An additional 6,000 litigants received court-based services, such as mediation, settlement conferences, and expanded self-help services. Of the 43,000 litigants served, about 39,000 were involved in unlawful detainer (eviction) cases, about 3,000 were involved in child custody cases, and about 1,000 were involved in guardianship or conservatorship cases.

Housing/unlawful detainers. Six of the programs provided assistance with housing and unlawful detainers. Eviction is one of the most critical civil justice issues for low-income individuals, as the loss of housing poses a wide range of short- and long-term risks and consequences for families. Families can become homeless, children's education can be undermined, and even the health of family members can be at risk. Among cases that received full representation by Shriver counsel, the study found that:

- Significantly fewer Shriver cases ended by default.
- Representation by Shriver counsel helped tenants avoid evictions.
- Most cases settled, providing more certainty for both landlords and tenants.
- Shriver services supported longer-term housing stability. The higher rate of settlement agreements among Shriver clients, and the terms of those agreements, helped families in the process of securing replacement housing.

Child custody. Child custody cases are complex, emotionally charged, contentious, and have critical implications for families and children. Three programs provided Shriver services to help parents who were otherwise self-represented and facing opposing parties represented by attorneys in cases where sole custody was at issue. Roughly half of these cases had intertwined issues of domestic violence. The study found that:

- A higher proportion of Shriver cases reached settlement;
- Judicial involvement in settlement conferences increases the rate of settlement;
- Attorneys increased collaboration between the parties; and
- Significantly fewer Shriver cases involved subsequent requests to modify orders.

Guardianships and conservatorships. Improving family stability through the establishment of guardianships and conservatorships was the goal of the one pilot probate project, particularly where there were significant risk factors for the children or disabled persons involved. The study found that:

- Court proceedings in Shriver cases were more efficient and translated into cost savings for the court. The combined benefits of Shriver representation and assistance from the probate facilitator reduced the court costs to process a case by an average of 25 percent.
- Guardianship petitions were successfully filed.
- The project helped prevent the need for additional governmental services.

Impact of legal assistance. The following findings were true across all three case types, unless otherwise indicated. The evaluation clearly supported the important role of attorneys in representing their clients, in reaching settlements, and in helping ensure more efficient use of judicial resources:

- Attorneys help settle cases, positively impacting all parties involved and freeing up limited judicial resources. Shriver counsel help individuals have more reasonable expectations regarding what can be accomplished and what is beyond the scope of the case. The random assignment study of three projects found that, among cases with Shriver representation, 67 percent were settled, 3 percent resolved via trial, and 8 percent ended by default. In contrast, among non-Shriver comparison cases, 34 percent were settled, 14 percent resolved via trial, and 26 percent ended by default.
- Balanced representation facilitates settlement of cases that should settle and trial of those that should be tried. This both improves litigant satisfaction and enhances court efficiency.
- Shriver cases involve more efficient court proceedings, including fewer continuances, fewer trials, and more settlements across all three case types. The provision of Shriver services made notable contributions to court efficiency and improved the quality of information available to the court. Cases with a Shriver attorney were resolved more efficiently than were cases without Shriver services, and courts received more comprehensive and relevant information on which to base decisions.
- Attorney involvement improves the durability of court orders.
- Attorney resources are used most effectively with well-designed triage systems. Such systems are critical to the smooth functioning of the continuum of service.

Findings concerning court innovations

- Court-based opportunities for settlement discussion, including mediation and settlement masters, are an effective way to resolve cases before trial, benefiting all parties.
- The improved use of technology, including expansion of e-filing, helps facilitate the efficient handling of cases.

- Expanded court-based self-help centers are a critical piece of the continuum of service.

Policy implications

As demonstrated in the report, the Sargent Shriver Civil Counsel project is of value both to the public and the courts. The work performed by the projects helps to implement Goal I (Access, Fairness, and Diversity) of the judicial branch’s strategic plan by increasing representation and court services for low-income persons. The research findings from the evaluation will help to guide future decisionmaking about best practices and resource allocation.

Comments

This report to the Legislature has been considered by the Shriver Civil Counsel Act Implementation Committee, which was appointed by the Chief Justice as provided by Government Code section 68651(b)(5). The statutory scheme does not contemplate public comment.

Alternatives considered

The report to the Legislature is required by Government Code section 68651(c). The committee did not consider an alternative to submitting the report. The committee considered asking the Judicial Council for authorization to make specific recommendations but determined that the proposed recommendations from NPC could either be undertaken by the grantees or needed additional consideration.

Fiscal and Operational Impacts

Judicial Council staff will administer the Sargent Shriver Civil Counsel Act pilot project funding, including overseeing completion of the detailed evaluation of the project. Staff will provide oversight and technical assistance for the selected pilot projects to ensure that funding is used for the purposes intended by the legislation. Staff will also provide support to the Shriver Civil Counsel Act Implementation Committee. Costs for Judicial Council staff support and the evaluation will be covered by the provision for administrative costs in the Budget Act appropriation.

Attachments and Links

1. Attachment A: *Sargent Shriver Civil Counsel Act Evaluation* (June 2020)
2. Attachment B: Sargent Shriver Civil Counsel Act

Report to the California State
Legislature for the

SARGENT SHRIVER CIVIL COUNSEL ACT EVALUATION

JUNE 2020



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ATTACHMENT A

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

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

Gould School of Law; **Ms. Shirley E. Sanematsu**, Attorney; and **Mr. Thomas Smegal**, Administrative Patent Judge on the Patent, Trial and Appeal Board for the United States Patent and Trademark Office

Lastly, we are grateful to our colleague, Juliette Mackin, who assisted with the compilation of this report.

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EXECUTIVE SUMMARY

The 2019 California Justice Gap Study¹ found that 60% of low-income Californians experienced at least one civil legal problem in the past year and that low-income households averaged four problems during the year, which was double the rate among wealthier households. These problems spanned a range of legal areas, including issues with rental housing, child custody, and family-related issues such as seeking guardianship. The problems were often described as having a severe negative impact on the individuals facing them.

The Sargent Shriver Civil Counsel Act (AB590)² established pilot projects to provide legal representation for self-represented³ low-income parties in civil matters involving critical livelihood issues such as housing, child custody, domestic violence, guardianship, and conservatorship. The Appointed Legal Counsel in Civil Cases Act (AB330)⁴ expanded and strengthened the Shriver Program. All pilot projects involve one or more legal services agencies working in collaboration with the local superior court. The purpose of the pilot projects is to improve court access, increase court efficiency, and improve the quality of justice. Shriver services were provided to individuals with an income at or below 200% of the federal poverty level (FPL).⁵

Since the Shriver Program began service provision in fiscal year 2012, a total of 43,266 low-income litigants have received some type of civil legal service. More than 20,000 of these individuals received full representation (help on all aspects of the case) by a Shriver attorney. Nearly 17,000 of them received limited scope legal assistance (“*unbundled services*”) provided by a legal services organization, such as brief counsel and advice, preparation of forms, and help with trial preparation. An additional 6,000 litigants received court-based services, such as mediation, settlement conferences, and expanded self-help services. Of the 43,000 litigants served since FY2012, about 39,000 were involved in unlawful detainer (eviction) cases, about 3,000 were involved in child custody cases, and about 1,000 were involved in guardianship or conservatorship cases.

The evaluation of the Shriver pilot projects is one of the largest access to justice studies undertaken. The study employed a mixed methods design and utilized data collected from multiple sources over time. This report presents information gathered on the ten pilot projects that were funded between 2015 and 2019. In total, there were six pilot projects focused on housing cases, three projects focused on child custody cases, and one project focused on guardianship and conservatorship (probate) cases. This report builds upon the report provided to the Legislature in 2017.

¹ The State Bar of California (2019). *2019 California justice gap study*. Retrieved from: <http://board.calbar.ca.gov/docs/agendaitem/Public/agendaitem1000025128.pdf>

² Assem. Bill 590; Stats. 2009, ch. 457.

³ The term “self-represented” refers to litigants who appear in court or participate in their cases without representation by an attorney.

⁴ Assem. Bill 330; Stats. 2019, ch. 217.

⁵ In 2019, the federal poverty level was \$25,750 for a family of four. <https://aspe.hhs.gov/2019-poverty-guidelines>

Shriver Housing Pilot Projects

Given the dearth of affordable housing in California and the rate at which rents have outpaced wages in most areas of the state, eviction is one of the most pressing civil justice issues for low-income individuals, as the loss of housing poses a wide range of short- and long-term risks and consequences for families. These risks can be particularly severe for vulnerable tenants, such as older adults and people with disabilities. Among low-income populations, it is very common for unlawful detainer cases to involve landlords with legal representation and tenants without the resources to retain counsel. By leveling the playing field, the Shriver Program sought to provide equal access to justice and to ensure that cases were decided on their merits and not as a result of one side having legal representation. Between 2015 and 2019, the Shriver Program funded housing pilot projects in Fresno, Kern, Los Angeles, Sacramento, San Diego, Santa Barbara, and Yolo Counties.

Data for the evaluation of the Shriver housing pilot projects were collected from multiple sources including program services data, individual court case files, court case management systems, interviews with tenants, and interviews and site visits with Shriver project staff and stakeholders from both legal services and the courts. In addition, a random assignment study⁶ was conducted with three projects to compare tenants who received Shriver services with those who did not.

Who was served by the Shriver Housing Pilot Projects?

From 2015 through 2019, the six housing pilot projects provided legal services to more than 19,000 low-income tenants facing eviction. Most Shriver clients were female and people of color. About one third experienced a disability or chronic health condition, and three out of ten tenants were at risk of losing a housing subsidy. More than half had minors living in their households. Within these cases, more than 55,000 household members were impacted by the Shriver legal services.

The median monthly household income among Shriver housing clients was \$1,069, yielding an annual income of less than \$13,000, which is below the 2019 FPL for households with two or more people. The majority of clients experienced substantial rental cost burden. In 2018-2019, across projects, 82% of clients spent more than 30% of their monthly household income on rent, and 61% spent 50% or more.

What services were provided by the Shriver Housing Pilot Projects?

Just over half of Shriver housing clients received full representation by a Shriver attorney and the remainder received unbundled services, such as brief counsel and advice or help filing an answer. Shriver representation helped to level the playing field in these cases: Of those tenants who received full representation from Shriver counsel, nearly all (95%) were facing a landlord who was represented by counsel (1% were not and 4% of cases were missing this information).

⁶ Random assignment, a rigorous methodology to assess causation, was employed to assign tenants to receive representation by a Shriver attorney or no Shriver services (i.e., remain self-represented) and then to compare the outcomes of these cases. Please see the 2017 Shriver evaluation report for more detailed discussion about this methodology.

Court-based Shriver services for unlawful detainer cases included self-help centers, mediation services, and electronic filing systems. One court established a Housing Settlement Master and instituted mandatory settlement conferences for all unlawful detainer cases that were scheduled for trial. Two projects established relationships with the local housing inspectors to inspect and document properties with habitability concerns.

Notable impacts of the Shriver Housing Pilot Projects

Study findings demonstrated that, relative to cases with self-represented tenants, cases with Shriver full representation for tenants had the following impacts.

Shriver clients had more access to and participation in the justice system.

Tenants' access to justice depends on their ability to successfully file a written response to the unlawful detainer complaint within 5 days. Inability to do so results in a default, whereby tenants lose possession of the property without ever presenting their side of the case. In unlawful detainer cases, defaults tend to be very common. In 2019, across four of the counties with Shriver housing pilot projects, the average default rate was approximately 40%. Shriver services were effective in helping tenants surmount this important initial hurdle. In the random assignment study, the default rate among Shriver full representation cases was effectively zero,⁷ compared to 26% among self-represented litigants. The lower rate of default judgments is an important indication of access to justice for these families.

Shriver representation led to more settlements and fewer trials.

Balancing representation did not appear to make unlawful detainer proceedings more combative or drawn-out. Instead, it increased the likelihood of settlement. Across all six pilot projects, 66% of tenants with Shriver representation settled their cases and only 4% resolved their cases via trial (18% were dismissed, 4% resolved another way, and 8% were missing this information). The random assignment study found that the settlement rate with balanced representation was significantly higher (67%) and the trial rate lower (3%), than what occurred when the tenant was self-represented (34% and 14%, respectively).

One Shriver housing pilot project that established a court-based Housing Settlement Master required parties in unlawful detainer cases to meet with the Settlement Master before the trial date. Data suggest that this intervention was effective and further bolstered the settlement rate (79%).

Most tenants moved, but very few Shriver clients were forcibly evicted.

Across all six pilot projects, among cases that received full representation, tenants in 71% of cases ultimately moved out of their homes (18% stayed in their homes and 11% were unknown). Likewise, the random assignment study found that possession was obtained by the landlord in roughly 75% of all

⁷ 8% of Shriver full representation cases ended with a default judgment. However, in all of these cases, the tenants presented for service with a default already entered and the Shriver attorney was unable to have it set aside.

cases, both those with Shriver-represented tenants and self-represented tenants. Although a minority of cases ended with the tenant retaining possession of the property, possession was retained more often among cases with Shriver-represented tenants than among self-represented tenants.⁸

Importantly, although most Shriver representation clients ultimately moved, across all six projects, very few (3%) cases ended with a formal eviction (i.e., a court-issued judgment against the tenant, requiring the tenant to vacate). Given that all tenants had been served an eviction notice, it is notable that such a small proportion faced an actual lockout. Keeping formal eviction judgments off tenant records is also an important protection for their ability to seek replacement housing.

Instead, of the Shriver representation clients who ultimately moved, the majority (83%) did so as part of a negotiated settlement. Among the self-represented tenants who moved, just 44% did so as part of a settlement agreement. Moving as part of a settlement helps to calm emotional tensions on both sides and to foster a transition that is better planned, less disruptive, and less damaging for tenants by offering some additional stability.

Shriver representation case outcomes favored longer-term housing stability.

Shriver attorneys were able to help low-income tenants save money. Shriver attorneys negotiated waivers or reductions in past-due rent and other fees. As a result, across all six projects, the median amount saved by Shriver-represented tenants was \$1,957. In addition, the random assignment study results showed that, compared to self-represented tenants, fewer Shriver-represented tenants were ordered to pay holdover damages (17% vs. 9%, respectively) or landlord attorney fees (34% vs. 19%). In the random assignment sample, the average amount saved was \$2,127 among Shriver representation cases and \$1,365 among comparison cases. Avoiding these costs enables low-income tenants to put their resources toward securing a new rental unit.

Shriver attorneys helped protect low-income tenants' credit, supporting their ability to rent again.

Shriver attorneys succeeded in brokering settlement agreements with terms that benefited tenants. These terms included, for example, the unlawful detainer action sealed or masked from public record (91%), the case not reported to credit agencies (81%), and a neutral rental reference from the landlord (71%). Random assignment study results showed that many of these beneficial credit-related outcomes were attained more often by tenants with Shriver representation than by self-represented tenants. Any of these elements alone—and even more so when combined—provides tenants with increased opportunity to find alternate stable housing for themselves and their families.

Shriver representation clients were more likely to have found a new rental one year later. This support for longer-term housing stability was evident among a small sample of tenants interviewed 1 year after their case had closed. All interviewees except for one had moved out of their homes at the end of their housing case. One year later, 71% of Shriver clients had obtained a new rental unit, compared to 43%

⁸ Note that possession was unknown for cases that ended in dismissal, roughly 20% of the random assignment sample.

of self-represented tenants. It is plausible that benefits such as protected credit, masked records, and reduced/waived debt made it easier for Shriver clients to obtain replacement housing and to maintain stability for their households.

Shriver representation clients felt supported during the intimidating eviction process.

When interviewed about their housing cases, many Shriver clients expressed appreciation for the legal services they received. The presence of an attorney helped tenants make the stressful experience of an unlawful detainer case manageable, feel supported in the process and not lost in the system, and in some cases, mount the motivation for a new start. Services helped to mitigate the negative impacts of the case and the forced relocation on clients and their families.

Shriver services improved efficiency for the courts.

Although providing representation to tenants did not shorten the time to resolve cases, it did reduce the level of involvement necessary by the court to bring cases to resolution. Shriver services enabled a majority of unlawful detainer cases to resolve by settlement, which requires comparably fewer court resources, and limited the number of cases that went to trial, thus avoiding a more resource-intensive activity for court staff and judges. These efficiencies can help alleviate court congestion by reducing the load on court clerks and judicial officers, and they also translated into cost savings over time.

Shriver Custody Pilot Projects

Contested child custody cases are complex and emotionally charged, have critical implications for families and children, and remain open until the child turns 18 years old. A court order for sole custody can often leave the other parent with limited or no access to the child. Therefore, these cases can also be highly contentious, which most cases served by the Shriver projects were. The Act mainly aimed to level the playing field in these types of cases by addressing imbalanced representation. Shriver projects served parents trying to obtain custody, as well as those trying to preserve custody.

The Sargent Shriver Civil Counsel Act allocated up to 20% of program funding for child custody cases. In addition to the income eligibility requirement, the statute (AB590) also required that, to be eligible for services, litigants be facing an opposing party with an attorney and be involved in a case with a parent trying to obtain a court order for sole custody of the child (Gov. Code Section 68651(b)(2)(B)). [These two additional requirements were subsequently eliminated by legislation, allowing projects to serve more clients.] The Shriver Program funded custody pilot projects in Los Angeles, San Diego, and San Francisco Counties. Services were provided for one request for orders (RFO)⁹ during the life of a custody case.

Data for the evaluation of the Shriver custody pilot projects were collected from multiple sources including program service data recorded by Shriver attorneys, individual court case files, interviews

⁹ A request for orders is one instance in a custody case when one parent requests the court to issue, modify, or enforce orders for custody.

with litigants, and interviews and site visits with project staff from legal services agencies and the courts. A comparative study of case outcomes was conducted at one project.

Who was served by the Shriver Custody Pilot Projects?

Shriver services were provided to both mothers and fathers, though most clients were female and people of color. The median monthly household income of Shriver clients was \$1,200, well below the 2019 FPL, and many demonstrated substantial needs in critical livelihood areas such as income, employment, and food security. More than one third of Shriver cases had intertwined issues of domestic violence.

What services were provided by the Shriver Custody Pilot Projects?

From 2015 through 2019, the three custody projects provided services to 1,565 low-income parents. More than half of these clients received representation by a Shriver attorney (full representation but limited in scope to the custody matter), and the remainder received unbundled legal services, such as brief counsel/advice and mediation preparation. Over time, two pilot projects incorporated social workers into their projects to address their clients' serious and persistent social service needs. Moving families out of crisis and into self-sufficiency became a project goal, as this transition also eased emotional duress, enabled the creation of more stable environments for children, and supported sustainability of custody arrangements. In addition to the legal services, the court affiliated with one custody pilot project also offered Shriver Settlement Conferences conducted by a judicial officer.

Notable impacts of the Shriver Custody Pilot Projects

Studies have acknowledged the myriad benefits of providing legal assistance to litigants in complicated family law matters (e.g., Engler, 2010). The Shriver custody pilot projects demonstrated several.

Attorneys educated parents, eased tensions, and supported collaboration between parties.

Shriver attorneys educated litigants about family law court and helped them develop reasonable expectations for their cases. Staff felt that litigants were more willing to enter agreements when their attorneys helped them understand when terms were fair. By reducing emotional tensions between parties and encouraging negotiations, Shriver attorneys increased the likelihood of pre-trial settlements, which positively impacted the court and the families. This finding was supported by the quantitative data culled from the court case files at one project, where 54% of Shriver representation cases resolved via settlement versus 30% of comparison cases that did not receive Shriver services.

Combined effect of attorney representation and Shriver Settlement Conferences bolstered the settlement rate and yielded durable custody orders.

The settlement rate increased. While mediation is common in family law courts, one custody pilot project offered Shriver Settlement Conferences that were facilitated by a judge, with counsel present. Sixty percent of these Shriver Settlement Conferences reached full or partial agreement. In total, 34% of Shriver representation cases were fully resolved during the settlement conference, contrasted with

4% of Shriver cases that reached resolution during typical mediation sessions. The heightened success of Shriver Settlement Conferences is likely attributable to the presence of counsel—parents were more willing to enter into agreements under the guidance of their attorneys—and to the ability of the judicial officer to provide immediate resolution.

Custody orders were more durable. At one project, the combination of representation by a Shriver attorney and participation in a Shriver Settlement Conference yielded more durable custody orders. Within the 2 years after the pleading was resolved, the orders were durable for 90% of Shriver clients—that is, only one in ten Shriver cases returned to court to modify the custody orders during that time. In contrast, during this same time frame, orders were durable for only 67% of non-Shriver comparison cases—that is, one in three comparison cases returned to court. Increasing settlements and improving the durability of custody orders are important project achievements. While it is difficult to disentangle the independent contributions of legal representation and settlement conferences, data suggested that both were useful.

Shriver services improved court efficiency.

Custody orders that endure not only help stabilize families, they also reduce the burden on courts. Durable orders can translate into cost savings, as the investment costs of Shriver court-based services are offset by the reduction in subsequent filings requesting a change to custody orders.

Cases with Shriver representation tended to involve fewer hearings and continuances than comparison cases. At one project, 16% of cases with Shriver representation resolved without any hearings at all, versus 2% of comparison cases. Further, while nearly two thirds (63%) of comparison cases required hearings to resolve the pleading, less than half (40%) of Shriver representation cases did.

Moreover, Shriver attorneys helped to educate parents about the legal process. Consequently, court proceedings became more efficient, as judges spent less time educating litigants in the courtroom. With attorneys involved, judicial officers also benefited from more comprehensive information on which to base decisions. Shriver attorneys reported reducing some of the emotional turmoil that would otherwise cloud and complicate proceedings.

Litigants felt supported.

Parents reported feeling informed about their cases, supported throughout the process, and not lost in the system. Having an attorney’s expertise and support mattered to parents despite the case outcomes. Specifically, while litigants’ perceptions of fairness of the judicial system varied depending on their satisfaction with their case outcomes, their perceptions of the Shriver attorneys did not. If parents were satisfied with their case outcomes, they found the process was fair; if they were not satisfied with their outcomes, they found it not fair. In contrast, litigants’ perceptions of the Shriver attorney were overwhelmingly positive regardless of their satisfaction with their case outcomes.

Shriver Probate Pilot Project (Guardianship/Conservatorship)

The Shriver Program funded one probate pilot project that focused on guardianship (care of a minor child) and conservatorship (care of a dependent adult) cases.¹⁰ These cases are technically complicated and involve volumes of paperwork that can be very challenging for self-represented litigants, and insurmountable for those with limited English proficiency or literacy challenges. In addition to legal services, this pilot project also established a court-based Probate Facilitator to provide detailed self-help services to litigants.

Establishing legal guardianships and conservatorships helps to ensure that vulnerable children and adults live in stable environments and have the care they need. Unlike the housing and custody pilot projects that sought to level the playing field by addressing imbalances in representation, the Shriver probate pilot project broadened court access for litigants in often uncontested cases but where a lack of expert representation all too often meant that the process failed long before the merits of the petition could be addressed.

Data for the evaluation were collected from multiple sources, such as program services data, individual court case files, and interviews and site visits with project staff from legal services and the court. A study was conducted to compare outcomes of cases that received Shriver representation, Probate Facilitator services, and no Shriver services.

Who was served by the Shriver Probate Pilot Project?

The most common Shriver probate case involved individuals seeking help with a petition for guardianship (e.g., grandparents seeking to care for grandchildren). These cases evidenced considerable risk factors for the children involved—most guardianships were sought because parents were unable or unavailable to care for children due to issues such as substance abuse, incarceration, abandonment, maltreatment, and homelessness. The median monthly household income among Shriver probate clients was \$1,600, below the 2019 FPL. Moreover, roughly one quarter of families were referred by the child welfare system (CWS), suggesting that CWS recognized guardianships as a way to avoid foster care. One quarter of Shriver clients sought help with a conservatorship over a dependent adult.

What services were provided by the Shriver Probate Pilot Project?

From 2015 to 2019, Shriver legal services were provided to 173 cases (122 guardianship and 51 conservatorship). Of these, 41% received full representation by a Shriver attorney and 59% received unbundled services (brief counsel and advice).

¹⁰ Because of the statutory guidelines and income eligibility requirements, Shriver services were provided to cases involving the physical care of a dependent adult or child and were not provided to cases involving protection of financial resources.

During this same period, the Probate Facilitator assisted a total of 472 litigants (384 in guardianship cases and 88 in conservatorship cases). The Probate Facilitator assisted all parties who presented at the court (no income requirement) and could serve multiple parties on the same case. The Probate Facilitator provided litigants extensive help with paperwork, including the initial petition for guardianship/conservatorship and the entire range of additional forms and documents related to the physical care of the dependent adult or child. This assistance made it possible for litigants who otherwise lacked the resources to retain an attorney to meaningfully access the legal system.

Notable Impacts of the Shriver Probate Pilot Project

Findings from the evaluation demonstrated several beneficial impacts of the Shriver probate pilot project.

Shriver attorneys helped litigants successfully file petitions.

The complexity and volume of the paperwork necessary for petitions, as well as the skills and time required to locate family members for notification, present significant barriers to filing. As a result, historically, many people who begin the process never successfully file. Shriver representation aided litigants to file petitions (77% of guardianship cases, all but one conservatorship case) or pursue other official care-giving arrangements that did not require court intervention, such as power of attorney for the child or a caregiver's affidavit.

The Probate Facilitator positively impacted probate court staff and litigants.

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

Shriver representation increased litigants' participation in the legal system.

Shriver attorneys aided their clients to employ a range of strategies to effectively present their cases. For instance, litigants with Shriver counsel called witnesses (31%) and submitted declarations (22%) significantly more often than did litigants without Shriver services (5% and 3%, respectively). These actions supported the petitioners' cases and offered the court more complete and comprehensive information on which to base decisions.

Shriver services, both legal services attorneys and the Probate Facilitator, also supported effective notification procedures, including those for relatives and tribes in cases involving children with Native American ancestry. Accurate notification provides other appropriate parties with an opportunity to participate in the case. Shriver project staff also educated parties about the terms of guardianships/conservatorships—e.g., parental rights are not terminated when guardianship is established—which often eased tensions and fostered cooperation.

Shriver representation supported the appointment of permanent guardians.

Among the guardianship cases that were carried through to completion (i.e., not including withdrawn or abandoned petitions), permanent guardians were appointed in 86% of Shriver representation cases, versus 74% of Probate Facilitator cases and 70% of comparison cases.

Court proceedings were more efficient.

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

Efficiencies in proceedings translated to savings for the court.

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

Conclusion

Across the Shriver pilot projects, the benefits of Shriver services were clear, both for low-income litigants and the courts. Shriver services supported litigants' access to the court system and access to justice, and they also supported the courts' ability to efficiently dispense justice.

INTRODUCTION

Civil legal problems arise from basic aspects of daily life, such as housing, health care, child custody, and employment issues. Such civil legal issues are surprisingly prevalent in the United States and disproportionately impact low-income families.¹¹ The prevalence of civil justice problems and the broad range of livelihood issues that these problems impact are aptly described by Professor Rebecca Sandefur of the American Bar Foundation:¹²

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

Understanding the considerable risks inherent in some civil cases, and recognizing the indisputable disadvantage of unrepresented low-income litigants in the legal system, led the American Bar Association to pass a resolution¹³ in 2006 supporting the right to counsel in civil “adversarial proceedings where basic human needs are at stake.” The Conference of Delegates of the State Bar of California adopted a similar resolution in 2006.

The Sargent Shriver Civil Counsel Act (California Assembly Bill 590 [AB590];¹⁴ “The Shriver Act”) was passed in 2009. Since its inception through September 2019, the Shriver Program has provided legal services to more than 40,000 low-income Californians engaged with the civil justice system in the areas of eviction, child custody, and guardianships/conservatorships. In 2019, California affirmed its commitment by passing Appointed Legal Counsel in Civil Cases (California Assembly Bill 330 [AB330]),¹⁵ which expanded and strengthened the Shriver Pilot Projects Program. The first round of AB330 grants will begin in October 2020.

Since California passed the Shriver Act, several other jurisdictions have proposed legislation supporting civil counsel programs across a range of legal areas. Among these, eviction defense programs have received particular attention. As of the writing of this report, statutes supporting legal services for individuals in eviction cases have been passed in New York City, NY; the District of Columbia; San Francisco, CA; Los Angeles, CA; Philadelphia, PA; Newark, NJ; and Cleveland, OH. A federal bill has also been proposed, although its fate remains uncertain. Several other jurisdictions have proposed legislation to support the provision of representation in civil legal matters related to child custody, child welfare, domestic violence, elder abuse, guardianship, and conservatorship.

¹¹ Legal Services Corporation (2017). *Justice gap report: Measuring the civil legal needs of low-income Americans*. Retrieved from: <https://www.lsc.gov/media-center/publications/2017-justice-gap-report>

¹² Sandefur, R. L. (2010). Impact of counsel: An analysis of empirical evidence. *Seattle Journal of Social Justice*, 9, 51-95.

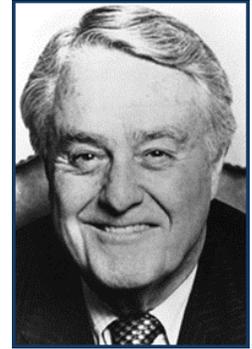
¹³ American Bar Association, Resolution 112A, August 2006.

¹⁴ Assem. Bill 590; Stats. 2009, ch. 457.

¹⁵ Assem. Bill 330; Stats. 2019, ch. 217.

Shriver Program Overview

The Shriver Act (AB590), passed on a bipartisan basis, authorized 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 supported innovative court services designed to ensure that self-represented parties obtain meaningful access to justice and to guard against the involuntary waiver or other loss of rights.



Sargent Shriver

In the years leading up to passage of AB590, there was significant discussion about the importance of legal representation in the courtroom as a key component of the continuum of service. All too often, poor people appear in court without counsel, while their opponents have lawyers. There is great concern that justice is not served when only one side is represented. Californians lack a right to legal representation in the majority of civil cases, yet many believe that it is at least as important to provide an attorney to indigent individuals who might lose their housing or custody of their children as it is to provide representation in minor criminal matters. Legal representation is often necessary to guard against unnecessary defaults or the involuntary waiver of rights. A fundamental goal of the Shriver Program is to have cases determined purely on the merits and not on the presence of legal representation.

In the legislative findings of the Shriver Act, it was concluded that “equal access to justice without regard to income is a fundamental right in a democratic society” ... and “in many cases the state has as great a responsibility to ensure adequate counsel is available to both parties... as it does to supply judges, courthouses, and other forums for the hearing of the cases...” Since its inception, the Program has been evaluating when the state needs to provide counsel in order to ensure equal access to justice and how that can be done most cost-effectively.

Enactment of Appointed Legal Counsel in Civil Cases (AB330; Gabriel, 2019) improved the potential impact and effectiveness of the Shriver pilot projects. It increased the funding by 150%. It also made structural changes regarding child custody cases to respond to earlier evaluation findings that legislative requirements made it difficult to offer services to some of the most vulnerable parties requesting assistance. Specifically, the bill eliminated the requirement that cases involve a request for sole legal or physical custody, a situation that is increasingly rare in California. The bill also removed the priority for custody cases where one side is represented and the other is not. This requirement became a challenge for pilot projects because the status of representation changes frequently in family law matters as attorneys make limited scope appearances or withdraw from a case. Finally, AB330 endorsed the important role of evaluation, continuing the requirement for periodic evaluation reports to the legislature.

Shriver Pilot Projects

The Shriver Act established pilot projects to provide legal services to unrepresented low-income parties in civil matters involving critical livelihood issues such as housing, child custody, domestic violence, and guardianship/conservatorship. All pilot projects involve a collaboration between one or more legal services agencies and the local superior court. Shriver services are intended for individuals with an income at or below 200% of the federal poverty level (FPL).¹⁶

In fiscal year (FY) 2012,¹⁷ ten pilot projects were selected by the Judicial Council of California to be funded. Of these, six projects focused on housing cases, three on child custody cases, and one on guardianship and conservatorship cases. Projects were funded for 3-year periods. In FY2015, nine of the ten projects continued implementation (one housing project dropped out). In FY2018, the nine projects continued and one new housing project was funded. Figure 1 shows the pilot projects funded over time.

Figure 1. Shriver Pilot Projects, County, and Grant Periods

| County | Project(s) | Grant Periods |
|---------------|--|---|
| Fresno | Housing pilot project implemented by Central California Legal Services and the Superior Court of Fresno County | FY2018-FY2020 |
| Kern | Housing pilot project implemented by Greater Bakersfield Legal Assistance and the Superior Court of Kern County | FY2012-FY2014 FY2015-FY2017 FY2018-FY2020 |
| Los Angeles | Housing pilot project implemented by Neighborhood Legal Services of Los Angeles County (with the Inner City Law Center, Public Counsel Law Center, Legal Aid Foundation of Los Angeles) and the Superior Court of Los Angeles County Child custody pilot project implemented by the Los Angeles Center for Law and Justice (with the Levitt & Quinn Family Law Center) and the Superior Court of Los Angeles County | FY2012-FY2014 FY2015-FY2017 FY2018-FY2020 |
| Sacramento | Housing pilot project implemented by Legal Services of Northern California—Sacramento and the Superior Court of Sacramento County | FY2012-FY2014 |
| San Diego | Housing pilot project implemented by the Legal Aid Society of San Diego and the Superior Court of San Diego County Child custody pilot project implemented by the San Diego Volunteer Lawyer Program (with the Legal Aid Society of San Diego) and the Superior Court of San Diego County | FY2012-FY2014 FY2015-FY2017 FY2018-FY2020 |
| San Francisco | Child custody pilot project implemented by the Justice & Diversity Center of the Bar Association of San Francisco and the Superior Court of San Francisco County | FY2012-FY2014 FY2015-FY2017 FY2018-FY2020 |
| Santa Barbara | Housing pilot project implemented by the Legal Aid Foundation of Santa Barbara County and the Superior Court of Santa Barbara County Probate (guardianship/conservatorship) pilot project implemented by the Legal Aid Foundation of Santa Barbara County and the Superior Court of Santa Barbara County | FY2012-FY2014 FY2015-FY2017 FY2018-FY2020 |
| Yolo | Housing pilot project implemented by Legal Services of Northern California—Yolo and the Superior Court of Yolo County | FY2012-FY2014 FY2015-FY2017 FY2018-FY2020 |

¹⁶ In 2019, the federal poverty level (FPL) was \$25,750 for a family of four. <https://aspe.hhs.gov/2019-poverty-guidelines>

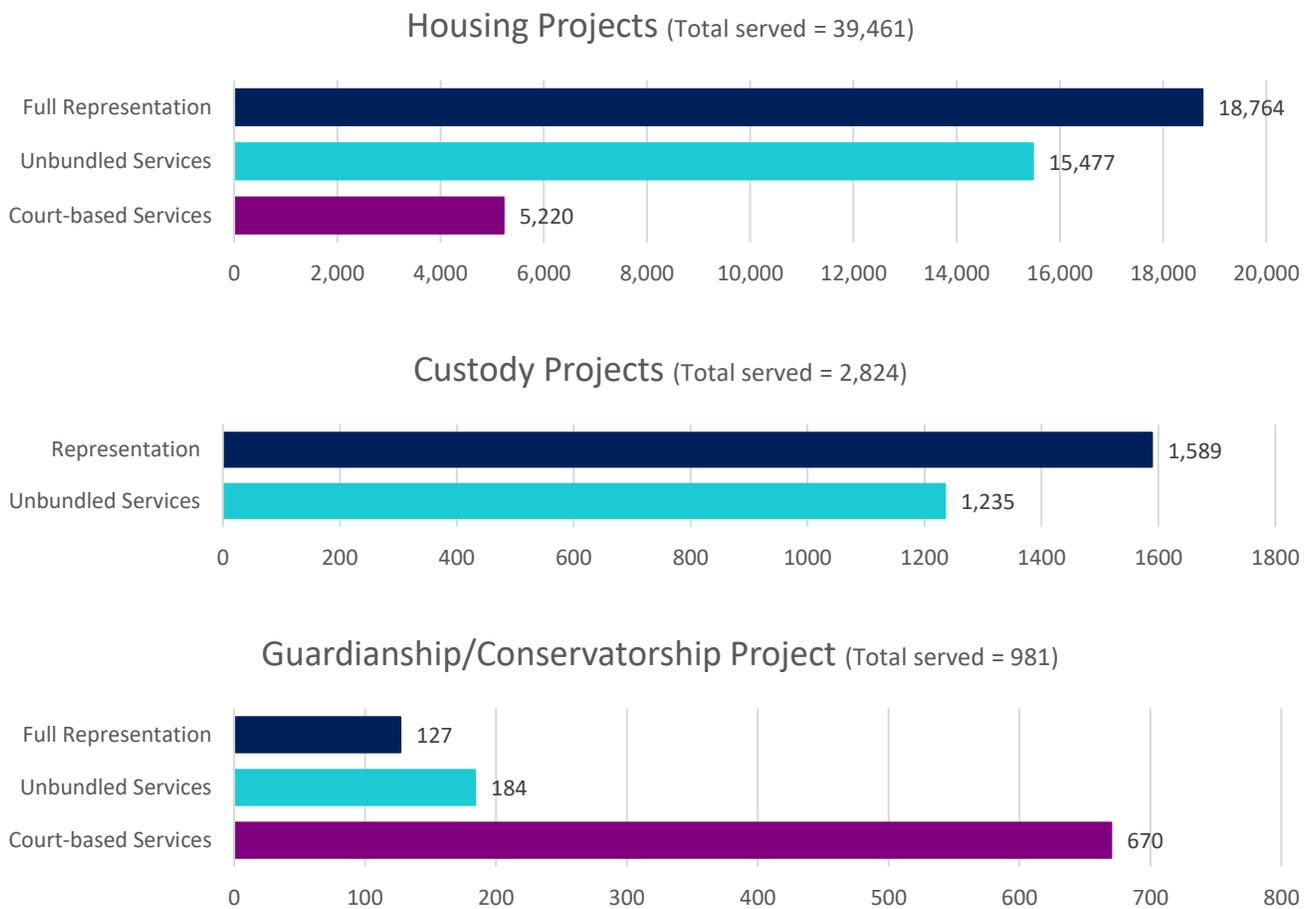
¹⁷ Throughout this report, fiscal years follow the federally defined timeline: October 1 through September 30.

Services Provided Since Program Inception

Available services vary across the Shriver pilot projects. At each project, a legal services agency provides a range of services, including *full representation* by an attorney on all aspects of the case and a variety of limited scope legal assistance (*“unbundled” services*) for discrete legal tasks, such as brief counsel and advice, preparation of forms, educational materials for trial preparation, or brief services such as writing a letter or making a phone call on behalf of a litigant. Some pilot projects also entail *court-based services* and innovations, such as staffing new positions, implementing special alternative dispute resolution methods, and expanding court-based self-help assistance. All projects have a court presence to conduct client intakes, and many work closely with self-help centers.

Since Shriver Program inception, across all pilot projects, 43,266 litigants have received some type of civil legal assistance. Nearly half of these people ($n = 20,480$) received full representation, another 16,896 people were provided with at least one unbundled legal service, and an additional 5,890 people received court-based services. Figure 2 shows the numbers of people served by the area of law.

Figure 2. Numbers of Litigants Served by Project Type and Service Type



Unmet Legal Needs in California

There is an increasing awareness of the prevalence of civil justice issues facing all Americans and the particular difficulties faced by low-income Americans in the civil justice system. In 2017, the *Justice Gap Study*¹⁸ was published by the Legal Services Corporation (LSC) in partnership with the National Opinion Research Center (NORC) at the University of Chicago. This study examined the “justice gap”—the difference between the existing civil legal needs and the resources to address those needs—among low-income Americans. Study findings indicated that the justice gap has widened over time and that civil legal problems remain prevalent: Roughly 7 in 10 low-income American households experienced at least one civil legal issue in the past 12 months, and on average, these households experienced four such problems. The study also found that legal help was scarce: Among low-income Americans who experienced a civil legal problem in the past year, 72% did not receive assistance from a legal professional.



In 2019, the State Bar of California partnered with NORC to conduct a statewide civil legal needs assessment similar to the national study conducted by the LSC. This study, the *2019 California Justice Gap Study*,¹⁹ surveyed nearly 4,000 Californians, many of whom were very low-income (at or below 125% FPL), about their experiences of problems across a range of civil legal areas and whether they sought or received help for these problems. Results mirrored those of the national study.

The California Justice Gap Study found that civil legal problems are prevalent in the state, especially among low-income residents. Sixty percent of low-income Californians experienced at least one civil legal problem in the past year, and low-income households averaged four problems during the year, which was double the rate among wealthier households. These problems spanned a range of legal areas, including issues with rental housing, child custody, and family-related concerns such as seeking guardianship.²⁰ The problems were often described as having a severe negative impact on the individuals facing them, confirming that the current Shriver pilot projects are addressing problems that are relevant and impactful for low-income Californians.

The Justice Gap Study also found that civil legal problems tended to be more prevalent among Californians who are members of historically marginalized populations or who have indications of existing vulnerabilities. For example, rental housing issues were more prevalent among people of color, households with someone with a disability, and survivors of domestic violence or sexual assault. Problems related to children and custody were more prevalent among survivors of domestic violence

¹⁸ Legal Services Corporation (2017). *Justice gap report: Measuring the civil legal needs of low-income Americans*. Retrieved from: <https://www.lsc.gov/media-center/publications/2017-justice-gap-report>

¹⁹ The State Bar of California (2019). *2019 California justice gap study*. Retrieved from: <http://board.calbar.ca.gov/docs/agendaitem/Public/agendaitem1000025128.pdf>

²⁰ Guardianship and conservatorship cases are heard in probate court, not family law court. However, in the study, these issues were categorized with other family issues, because respondents tended to think of them as family-related problems.

and sexual assault. Family-related problems were more prevalent among people of color and households with someone with a disability.

The study also found that most low-income Californians do not receive the legal help they need. Low-income Californians sought some type of help for 58% of their problems, but they sought *legal* help for only 29% of their problems. That is, *for 7 out of 10 civil legal problems experienced by low-income Californians, no legal help was sought or received*. The most commonly cited reasons for not seeking legal help included a belief that they needed to deal with the problem on their own, uncertainty about whether their problem was a legal issue, fear of pursuing legal action, and concerns about costs.

For those low-income Californians who did receive legal assistance, the services most often amounted to one-time help, rather than ongoing legal representation. One-time help included legal advice, assistance filling out documents, or referrals to a legal information online. Individuals less often received assistance negotiating with the opposing party or representation in court. Respondents in the California Justice Gap Study reported satisfaction with the legal services they received. However, previous studies have shown the benefits of receiving full legal representation in housing cases^{21,22,23} and in contentious child custody cases.^{24,25}

Legal Needs Related to Eviction

The Shriver Act has funded a plurality of pilot projects serving low-income parties in eviction (unlawful detainer, “UD”) cases. The investment in housing projects has been warranted, as data suggest that conditions that create eviction risk continue to worsen.

Risk of Eviction

High rental rates, in combination with low wages, create conditions for many Californians to experience rental cost burden. The National Low Income Housing Coalition’s (NLIHC) Out of Reach 2019 report²⁶ ranked California as the state with the second highest “housing wage” in the country. According to the NLIHC, housing wage is “an estimate of the hourly wage a full-time worker must earn to afford a rental home at HUD’s fair market rent without spending more than 30% of their income on housing costs.” In California, a full-time worker had to earn \$34.69 per hour in order to afford a two-bedroom apartment without becoming rental cost burdened. California’s more affluent cities, such as San Francisco and Santa Barbara, certainly contribute to this high statewide rate. Indeed, of the ten most expensive metropolitan areas in the nation ranked by NLIHC, seven were in California.

²¹ Jarvis, K. L., Zil, C. E., Ho, T., Herrera Allen, T., Lucas, L. M. (July 2017). *Evaluation of the Sargent Shriver Civil Counsel Act (AB590)*. Portland, OR: NPC Research.

²² Greiner, D. J., Pattanayak, C. W., & Hennessy, J. (2013). The limits of unbundled legal assistance: A randomized study in a Massachusetts district court and prospects for the future. *Harvard Law Review*, 126, 901.

²³ Sandefur, R. L. (2010). Impact of counsel: An analysis of empirical evidence. *Seattle Journal of Social Justice*, 9, 51-95.

²⁴ Maccoby, E., & Mnookin, R. (1992). *Dividing the child: Social and legal dilemmas of custody*. Cambridge, MA: Harvard University Press.

²⁵ Women’s Law Center of Maryland, Inc. (2006). *Families in transition: A follow-up study exploring family law issues in Maryland*.

Retrieved from: <http://www.wlcmd.org/wp-content/uploads/2013/06/Families-in-Transition.pdf>

²⁶ Retrieved from: https://reports.nlihc.org/sites/default/files/or/OOR_2019.pdf



However, this pressure existed in rural areas in California, too. According to the NLIHC’s report, California’s average housing wage in non-metropolitan areas was \$18.96, the seventh most expensive in the country. Even this comparably lower housing wage of \$19 dollars per hour is still well above the state’s minimum wage of \$12 per hour.²⁷

The U.S. Department of Housing and Urban Development (HUD) considers a household to experience *rental cost burden* when more than 30% of the household income is devoted to rent.²⁸ When more than 50% of the income is devoted to rent, the household is considered *severely cost burdened*. This situation is precarious for renters, as it leaves little income for other necessary life expenses, such as groceries, transportation, and medical care. Moreover, it leaves no resources for emergencies, such as a car repair or hospital bill, putting tenants at risk of falling behind on rent if an emergency arises.

Data from the Shriver Act evaluation indicate that, across all six housing pilot projects in 2019, the majority of Shriver clients were rental cost burdened. Although it varied by county, altogether 82% of Shriver clients experienced rental cost burden and 61% were severely cost burdened. Only one in five clients had rents that were classified as manageable according to HUD standards. Figure 3 shows the percentages of Shriver clients experiencing rental cost burden at each pilot project.



California’s Housing Wage is Second Highest in the US.

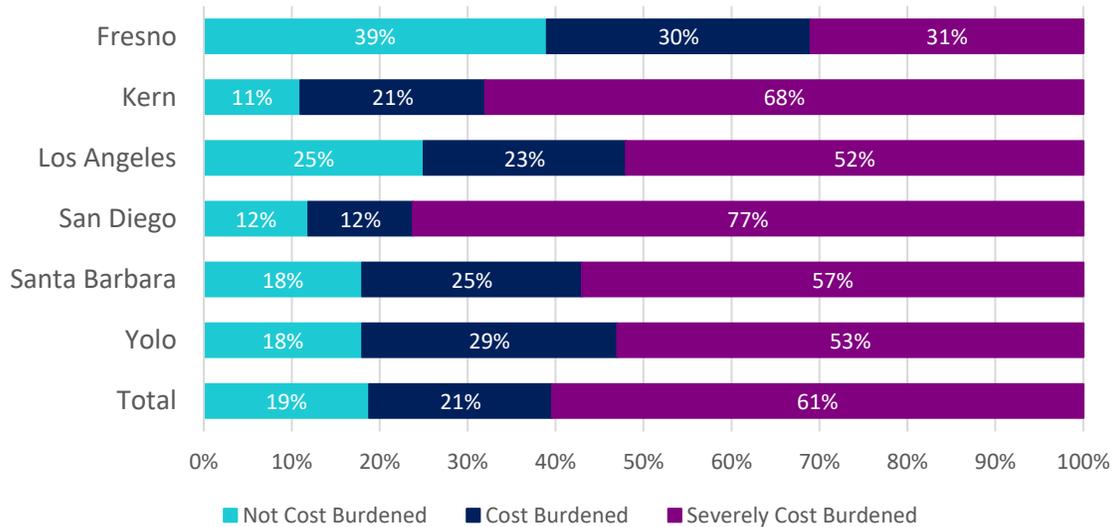
In 2019, California’s statewide housing wage for a two-bedroom unit was \$34.69.

*Averaged across the state, a full-time worker must earn **nearly \$35 per hour** in order to afford a two-bedroom apartment without becoming housing cost burdened.*

*California’s average housing wage in **non-metropolitan areas was \$18.96**, the seventh most expensive in the country. A housing wage of \$19 per hour in rural areas is still well above the **state’s minimum wage of \$12.***

²⁷ In 2019, the minimum wage in California was \$12 per hour for employers with 26 or more employees. Employers with 25 or fewer employees have a minimum wage of \$11 per hour: https://www.dir.ca.gov/dlse/FAQ_MinimumWage.htm

²⁸ Retrieved from https://www.huduser.gov/portal/pdredge/pdr_edge_featd_article_092214.html The 30 percent rule was designed to protect low-income households from extreme rental costs. However, some critics of the rule point out that it is an oversimplification of the problem of affordable housing.

Figure 3. Percentages of Shriver Clients Experiencing Housing Cost Burden by Project

Note. Data, from the Shriver Program Service Database, represent clients served in FY2018 and FY2019.

Eviction Filings and Default Rates

Interestingly, data from the Judicial Council of California indicate that the number of eviction filings statewide decreased by 27% between 2007 and 2017 (the most recent year with complete data).²⁹ Moreover, administrative data gathered from the superior courts in five of the six counties with Shriver housing pilot projects also showed decreases in the number of unlawful detainer filings over the past decade. On average across these five counties, filings dropped by 34% from FY2010 to FY2019. Importantly, despite this decrease, thousands of low-income renters are still brought into eviction court in California every year.

While no data exist to confirm the cause of the decrease in eviction filings, several theories have been posited to explain this change. One theory is that more stringent legal requirements for eviction have left fewer landlords able to file. CalMatters, a nonpartisan journalism nonprofit in Sacramento, recently published an article listing other possible theories for the decrease.³⁰ One theory suggests that there has been a rise in “informal” evictions occurring outside of the court. Some examples of informal eviction tactics include landlords raising rents to unaffordable levels once a lease is up, thus forcing tenants to move; landlords offering tenants “cash for keys” to get them to vacate the property and promising them that an eviction would not show up on the public registry; or landlords harassing tenants until they move. All these actions can occur without the landlord ever filing a complaint with the court, so

Despite a decrease in the number of eviction complaints filed with the court, thousands of Californians are still sued for eviction every year. Many of these cases end in default.

²⁹ Data provided by the Judicial Council from the Judicial Branch Statistical Information System as of February 27, 2020.

³⁰ Retrieved in February 2020 from <https://calmatters.org/projects/california-eviction-filings-up-housing-crisis-mystery/>

while the tenants are still being forced out of their housing, these evictions remain outside of the court and are therefore not reliably counted. Another theory posits that the presence of better-resourced legal aid programs that provide assistance to low-income tenants, who—years ago—would have been unrepresented, may deter landlords from starting a lawsuit. Enhanced technology that enables landlords to more thoroughly screen (and more frequently deny) prospective tenants who may have eviction risk may also contribute to the lower rate of evictions.

Administrative data from the superior courts in four counties with Shriver housing projects showed that, although the number of unlawful detainer filings has decreased, the proportion of cases ending in default has not changed. The average default rate across these four counties was approximately 40%. Put simply, in these counties, two in every five tenants defaulted on their case, which means they had a judgment entered against them and they lost their home without ever presenting their side of the story or engaging the civil legal system. With thousands of low-income renters sued for eviction each year, this proportion of tenants with defaults represents a group of individuals who would have benefitted from legal services but did not access them.

Pursuing Balanced Representation in Eviction Cases

Shriver services were intended to help balance representation in eviction cases, because studies have shown that it is common for landlords to retain counsel, while most tenants are not able to. For example, a recent report on eviction in Fresno County found that 73% of landlords were represented, versus only 1% of tenants.³¹ In addition, studies in two jurisdictions outside of California found that approximately 90% of landlords had attorneys and approximately 10% of tenants did.^{32,33} While some of the Shriver housing pilot projects offered assistance to low-income landlords, the requirement for opposing party representation generally limited eligibility among these individuals. As a result, Shriver clients were primarily tenants facing a represented landlord.

Legal Needs Related to Child Custody

Child custody cases are often complex and emotionally charged, have critical implications for families and children, and can remain open for years (until the child turns 18). A court order for sole custody can often leave the other parent with limited or no access to the child. Therefore, these cases can also be highly contentious. The unique attributes of families, parent personalities, relationship dynamics, and circumstances of children can add intricacy and tension to proceedings. When cases are contentious, as most cases served by the Shriver custody pilot projects were, the adversarial nature of the judicial process can be compounded. These factors can further inflame conflict outside of the court, too, which can have detrimental impacts on the children involved.

³¹ Nkosi, J., Crowell, A. R., Milrod, P., Garibay, V., & Werner, A. (2019). *Evicted in Fresno: Facts for housing advocates*. Report prepared on behalf of Faith in the Valley.

³² Desmond, M. (2015). "Unaffordable America: Poverty, housing, and eviction," *Fast Focus*, 22-2015: 1–6, available at <https://www.irp.wisc.edu/publications/fastfocus/pdfs/FF22-2015.pdf>

³³ *Delivering Justice: Addressing civil legal needs in the District of Columbia* (2019). D.C. Access to Justice Commission, Washington, DC. Retrieved from https://www.dccaccesstojustice.org/assets/pdf/Delivering_Justice_2019.pdf



Parents with contentious relationship dynamics may not be able to negotiate changes in custody arrangements themselves and therefore may rely on the court to intervene. Using the court as an intermediary and enforcement mechanism is a resource-intensive proposition. Low-income parties are unlikely to be able to afford attorneys, especially for frequent pleadings, and those with combative relationship dynamics may not seek legal help for fear of exacerbating tensions. Consistent use of the court by self-represented litigants in contentious custody matters can undermine the capacity for collaboration and can contribute to court congestion.

The Shriver Act identified child custody matters as a high priority and allocated up to 20% of Program funding for services provided for these cases. The statute set several eligibility requirements, including that clients have low-income status (i.e., at or below 200% FPL), be facing an opposing party with an attorney (i.e., imbalanced representation), and be involved in a case with a parent trying to obtain a court order for sole custody of the child (Gov. Code Section 68651(b)(2)(B)).³⁴

Legal Needs Related to Guardianship and Conservatorship

Probate courts are the division of the judicial system that handles wills and estates of deceased individuals and are also responsible for the appointment and supervision of guardians and conservators. Guardianships pertain to caring for the physical well-being of a minor child and conservatorships involve caring for the physical well-being of adults who are unable to care for themselves. Historically, guardianships were fairly straightforward cases that were necessary when parents passed away or were temporarily unable to care for their children, and most cases were uncontested. For these reasons, guardianships were placed under the jurisdiction of probate courts. However, the complexity of both guardianships and conservatorships has grown over the years. Many guardianships are now sought because wards' parents are unable or unavailable to care for them due to a range of complex and deleterious issues, such as mental illness, substance abuse, incarceration, or abandonment. These cases also often involve disputes between family members.

These cases are technically complicated and involve volumes of paperwork that can be very challenging for self-represented litigants, and insurmountable for those with limited English proficiency or literacy challenges. Combined with family tensions, this complexity can render the process of filing for a guardianship or conservatorship emotional, confusing, and drawn out. It is not uncommon for would-be petitioners, relatives seeking to care for a minor child or dependent adult, to abandon the process due to frustration and exhaustion after several failed attempts to complete the necessary paperwork. This situation leaves vulnerable minors and dependent adults without the security and stability of a legal care arrangement.

According to data from the Judicial Council of California, the number of petitions filed statewide for guardianships and conservatorships increased by 385% from 2007 to 2017.³⁵ Given the legal

³⁴ AB330 removed the requirement that one of the parties had to be requesting sole physical or legal custody, and thus, that requirement will be eliminated in the grants commencing October 1, 2020.

³⁵ Data provided by the Judicial Council from the Judicial Branch Statistical Information System as of February 27, 2020.

complexities inherent in this process, one can assume that the need for assistance in these cases has also increased.

To date, the Shriver Program has funded one pilot project in probate court, focused on guardianship and conservatorship cases. For service eligibility, the statute required that the litigants be low income (i.e., at or below 200% FPL) and that the case pertain to the guardianship or conservatorship of the person only (i.e., not of the estate). Because conservatees are appointed an attorney to represent them at no charge, and since guardianship cases are typically uncontested, opposing party representation was not an eligibility requirement.

This Report

The current statute (AB330, 2019) requires a report on evaluation activities every 5 years of the Shriver Program, beginning in June 2020. Accordingly, the current report presents the results of the evaluation activities conducted between FY2015 and FY2019. Because this time period overlaps with the reporting period for the 2017 Shriver Act evaluation report,³⁶ some of the findings included here have been reported previously (see Figure A1 in the appendix for a list of all data sources). For detailed descriptions of the research methodologies or the operations of each individual Shriver pilot project, readers are encouraged to review the 2017 evaluation report. The current report presents data aggregated across the pilot projects addressing each of three areas of law. The first section shows information for the six housing pilot projects, the second presents results for the three child custody projects, and the third shows data for the sole guardianship/conservatorship (probate) project.

³⁶ The 2017 Shriver Act evaluation report can be retrieved from the appendix of the Judicial Council report, available at: <https://jcc.legistar.com/View.ashx?M=F&ID=5319197&GUID=A7E82A2C-C90F-41BF-AA2B-1EC3E5825C4C>

1

HOUSING PILOT PROJECTS



HOUSING PILOT PROJECTS

This section presents data on cases served by the six housing pilot projects from FY2015 to FY2019. The Shriver evaluation incorporated mixed methods and compiles data from multiple sources. For the housing pilot projects during this 5-year period, the evaluation included ongoing data collection in the *Shriver Program Services Database*, a random assignment study of case outcomes, interviews with litigants, a study of case triage for different services, and interviews with Shriver project staff and stakeholders.

To be eligible for services, litigants must have a household income of not more than 200% FPL³⁷ and representation is intended for those facing an opposing party with legal representation. Although some projects offer services to low-income landlords, more than 99% of litigants served were tenants. This profile was typically because in addition to the income threshold, there was also an asset limitation, which disqualified many landlords. Data in this section reflect tenants who received Shriver services.³⁸

A Few Highlights

From FY2015 to FY2019:

- 19,460 low-income tenants received Shriver services. More than half received full representation by a Shriver attorney.
- More than 55,000 household members were impacted by these services.

Among tenants who received Shriver full representation:

- Two thirds settled their cases. Very few (4%) went to trial.
- Three quarters of tenants moved out of their homes. Nearly all of these were via a settlement agreement. Very few (3%) tenants were subject to a lockout.
- Shriver attorneys helped negotiate settlements that supported tenants' longer-term housing stability. For example, settlement terms often included a reduction in back-owed rent, saving tenants notable amounts of money; credit protection, such as sealing the eviction case and not reporting it to credit agencies; and more time to move.
- One year later, Shriver clients were more likely than self-represented tenants to have moved into a new rental unit.
- Shriver clients expressed strong appreciation for the Shriver services they received, despite the trauma of the eviction case. Compared to self-represented litigants, Shriver full representation clients reported higher satisfaction with their case outcomes, even when they had to move.

³⁷ In 2019, the federal poverty level (FPL) was \$25,750 for a family of four. <https://aspe.hhs.gov/2019-poverty-guidelines>

³⁸ Results are aggregated across the Shriver housing pilot projects. Detailed information about the individual projects is available in the previous evaluation report: <https://icc.legistar.com/View.ashx?M=F&ID=5319197&GUID=A7E82A2C-C90F-41BF-AA2B-1EC3E5825C4C>

Shriver Program Services: Who was served and how?

The *Shriver Program Services Database* collects information about the litigants served and services provided by the legal services agencies affiliated with each pilot project. These data have been collected since 2012 (see Figure A1). This report focuses on the six housing pilot projects that were funded between FY2015 and FY2019.

Together, during this 5-year time period, the legal services organizations affiliated with the housing pilot projects served 19,460 low-income individuals. By extension, Shriver services impacted 55,790 household members.

Services Provided

Across all projects, 10,855 clients (56%) were provided full representation by a Shriver attorney, while the remaining 8,605 clients (44%) received at least one unbundled service. Across the projects, Shriver attorneys worked, on average, 16 hours per each full representation case and 4 hours per each unbundled services case.

Low-income tenants sued for eviction frequently face landlords with legal representation. The Shriver Program sought to balance representation in these cases and was largely successful in doing so: Of the clients provided with full representation, 95% faced a landlord with an attorney (1% did not and 4% were missing this information). Of those clients provided with unbundled services, 71% faced a represented landlord (14% did not and 10% were missing this information). Five percent of unbundled services clients presented for assistance before the unlawful detainer complaint was filed with the court. These pre-filing cases can sometimes be resolved outside of court, without the issue ever becoming a lawsuit.

WHO RECEIVED SHRIVER SERVICES?

Between FY2015 and FY2019:

19,460 low-income tenants served

55,970 household members impacted

Of these tenants:

 **73%** were people of color

 **62%** were female

Many tenants had conditions that posed potentially serious consequences if evicted:

 **52%** had minors living in the household

 **37%** had a disability or chronic health condition

 **29%** lived in subsidized housing

Most Shriver clients experienced **severe rental cost burden** (as per HUD):

\$1,069 Shriver clients' median monthly household income

\$850 median monthly rent among Shriver clients (*Fair Market Rent for 2-BD apt. in Shriver counties = \$1,513*)

61% Clients who spent 50% or more of their income on rent

WHAT SERVICES WERE PROVIDED?

44% received **unbundled legal services**

56% received **full representation**

Of tenants who received representation, **95%** faced a landlord with an attorney

Characteristics of Clients and Cases

Of the 19,460 clients served, 64% were between the ages of 26 and 45 years, and 62% were female. Nearly three quarters were people of color, most often self-identifying as Hispanic/Latinx (39%) or Black or African American (28%). One out of five clients (22%) required assistance with language interpretation to participate in court proceedings.

Many tenants had characteristics that posed potentially serious consequences if they were evicted. For example, more than one third (37%) had a disability or chronic health condition and more than half (52%) had minors living in the household. Three out of ten clients (29%) lived in subsidized housing, including Section 8³⁹ voucher-based and building-based subsidies as well as conventional public housing units. Facing eviction, these tenants risked losing their housing and their subsidy. Due to high need and limited availability, Section 8 subsidies are very difficult to obtain in most areas (many jurisdictions have years-long waiting lists); therefore, retaining them is critical.

To be eligible for Shriver services, individuals must have household incomes of not more than 200% of the federal poverty level (FPL). Across Shriver clients, the median monthly household income was \$1,069, which equates to an annual income of less than \$13,000, below the FPL for households with more than two people. Across Shriver clients, the median monthly rental amount was \$850. (For context, the 2019 Fair Market Rent for a 2-bedroom apartment averaged across the six counties with Shriver projects was \$1,513. The range of averages by county was from \$926 to \$2,110.) Although most Shriver clients were living in units with rents below the area Fair Market Rent, very low household incomes rendered the majority of Shriver clients housing cost burdened, 61% severely so. It is not surprising, then, that roughly three-quarters of tenants were being sued for alleged non-payment of rent. The median amount demanded on the complaint, across all 19,460 clients, was \$1,380 (mean = \$2,301), about two months' rent.

Outcomes Among Full Representation Cases

When attorneys provide unbundled services, they often do not know how the case ends. Therefore, outcome data in the *Shriver Program Services Database* reflect only full representation cases.

Defaults were Prevented

Preventing defaults⁴⁰ is a critical first step to ensuring access to justice in eviction cases. According to administrative court data, the average rate of default for all eviction cases in 2019 across four of the six counties with Shriver pilot projects was approximately 40%. In contrast, even within these courts, no

³⁹ "Section 8" refers to the federally funded and locally implemented subsidized housing programs. Assistance can be "building-based," in which specific units are set aside as subsidized, or "tenant-based" (Housing Choice Vouchers), by which recipients are allotted a certain amount, based on their income, toward their monthly rent. HCVs afford families flexibility to live in areas of their choosing (e.g., lower crime, closer to jobs or schools). Due to very high demand, local administrators have waiting lists that are closed for years at a time.

⁴⁰ If a tenant does not file an answer within 5 days of the unlawful detainer complaint filing, a default judgment is entered and the tenant loses their housing without ever presenting their side of the case.

tenants who received full representation by a Shriver attorney defaulted.⁴¹ Representation ensured that tenants engaged with their case and did not involuntarily waive their rights.

Most Cases Settled and Few Went to Trial

Shriver attorneys succeeded in helping clients settle their cases, affording tenants the opportunity to negotiate the terms of their case and, if necessary, the terms of their move. Across the 10,855 full representation cases from the six projects, 66% resolved by settlement, 18% were dismissed, 4% ended via trial, and 4% ended another way (8% were missing data). Increasing the number of settlements leads to fewer cases going to trial, which consequently saves court resources and reduces court congestion.

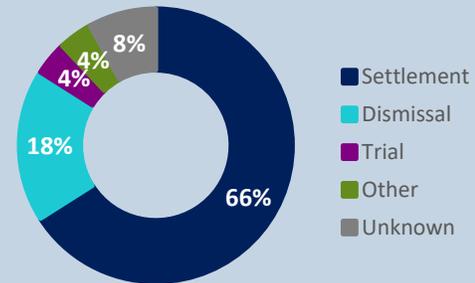
Most Tenants Had to Move

Most tenants had to move at the end of their case. Across the projects, 71% of full representation cases ended with possession awarded to the landlord and 18% ended with possession retained by the tenant. (Possession information was missing for 11% of cases.) Most often, tenants moved as part of a negotiated agreement. Very few (3%) clients were forcibly evicted or subject to an actual lockout by the Sheriff.⁴²

Possession outcomes varied by how cases were resolved. Almost all (91%) settlements included the tenant moving out. However, of the 385 cases that ended by trial, 34% of tenants won their case and stayed in the home.

WHAT OUTCOMES WERE ACHIEVED FOR FULL REPRESENTATION CASES?

Two thirds of cases **settled**.



Most tenants had to move, but very few were subject to a lockout.*



71% landlords got possession



18% tenants kept possession

*Possession was unknown for 11%.

Settlement agreements supported tenants' longer-term housing stability. Among clients who had to move:

- 91%** Eviction court record sealed
- 81%** Eviction not reported to credit agencies
- 71%** Landlord provided neutral references

Clients' financial burdens were eased.

- \$2,695** Median amount demanded on UD complaint
- \$1,957** Median amount saved by clients at case closure

⁴¹ If a Shriver full representation case ended with a default judgment, it was typically because the tenant presented for service with a default already entered and the Shriver attorneys were unable to have that judgment set aside.

⁴² These results contrast with results of studies in other jurisdictions that have implemented similar eviction defense programs. For example, New York City's Office of Civil Justice recently reported that, in the second year of its citywide Right to Counsel program, tenants in 84% of the cases resolved by their program's legal services providers were able to stay in their homes. The different jurisdictions and the varying local housing regulations (e.g., rent control) and tenant protections likely explain many of these differences. Report is available here: https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/O CJ_UA_Annual_Report_2019.pdf

Settlements Supported Longer-Term Housing Stability

Shriver attorneys helped negotiate settlements with terms that supported tenants' ability to find replacement housing more easily and therefore maintain longer-term housing stability. For example, among clients who had to move, 91% had their eviction records sealed, 81% of landlords agreed not to report the eviction to credit agencies, and 71% of landlords agreed to provide neutral references.

Settlements also entailed benefits for tenants who stayed in the home. Among those who stayed, 66% were able to establish payment plans for back rent, 16% of landlords agreed to address habitability issues, and 14% of landlords agreed to make reasonable accommodations for tenant disabilities.

Tenants' Financial Burdens Were Eased

Shriver attorneys helped negotiate financial arrangements that were more manageable for low-income tenants. Among full representation cases,⁴³ the median amount of money demanded on the unlawful detainer complaints (including past due rent, holdover damages, and other costs) was \$2,695 (mean = \$3,984). At case closure, more than half of full representation cases had this debt waived; therefore, the median amount clients were ordered to pay the landlord was \$0 (mean = \$994). The amount avoided by tenants was calculated by taking the amount demanded by the landlord and subtracting the amount that the tenant was ultimately ordered to pay. Across cases, the median amount avoided by tenants, as a result of the representation they received, was \$1,957 (mean = \$2,990). This savings, in combination with the settlement terms mentioned above, helped to support tenants' ability to secure replacement housing and pay the necessary costs to relocate. As such, it contributed to the "soft landing" that Shriver attorneys try to create for their clients who have to move.

Other Services and Innovations

Shriver housing pilot projects have provided other, innovative services, such as:

Mandatory Settlement Conferences (MSC)

One court implemented MSCs for all eviction cases and staffed a special *Housing Settlement Master* to facilitate these discussions. From FY2015 to FY2019, the Housing Settlement Master facilitated 752 conferences. This innovation has shown high participation among litigants: In total, 954 conferences were scheduled and 752 were held. This innovation has also shown high effectiveness: Analysis of data collected in FY2017 on a sample of 333 MSCs found that 70% ended with a settlement agreement.

Housing Inspections

One project partnered with the local authority in charge of housing inspections. This partnership has supported strong evidence collection and subsequent code enforcement for Shriver representation cases that involve allegations of breach of warranty of habitability. Another project has created an internal staff position that performs housing inspections for habitability cases. Although this staff member is not from the local government and cannot enforce building regulations, he inspects

⁴³ Data on case outcomes related to monetary orders were available for cases served in FY2018 and FY2019.

properties, takes photographs of the building conditions, and writes a summary to submit as evidence to the court.

Random Assignment Study: What impact did Shriver attorneys have?

A random assignment study was conducted in FY2015 and FY2016 with three of the six Shriver housing pilot projects participating (see Figure A1). The purpose of the study was to more fully investigate the impact of representation by a Shriver attorney on eviction cases with low-income tenants.

Methods

Random assignment is a rigorous research methodology that supports the inference of causality—that is, to assess whether an intervention, like Shriver services, is the true reason for outcomes. Random assignment protocols create study groups that can be considered equivalent on all aspects except for the receipt of service, enabling a more confident interpretation of the results to reflect the impact of Shriver service provision.

For one month, at three pilot projects, tenants who met the income eligibility criteria and who were facing a landlord with an attorney were randomly assigned to either (a) receive full representation by a Shriver attorney, or (b) receive no legal services (the “comparison group”). No merit screening was conducted during this time. A total of 424 litigants were assigned: 249 litigants (69%) were assigned to receive full representation and 134 litigants (31%) were assigned to the comparison group.⁴⁴

Months later, after these cases had closed, standardized data were gathered from the court record for each case in the study sample. (File reviewers were blind to the case’s study group assignment.) Information was collected pertinent to case characteristics, events, and outcomes, and data for the two study groups were compared. Analyses focused on three areas:

- **Tenants’ participation in the justice system:** Analyses examined how often answers were filed, whether default judgments were avoided, and whether defenses were raised.
- **Case resolution and court efficiency:** Analyses examined how cases resolved, in particular the rate of trial and settlement, as these present different levels of burden on the court and parties.
- **Case outcomes:** Analyses investigated case outcomes related to short-term housing stability, such as tenants remaining in their homes and the amount of time provided for move-out, and those related to longer-term housing stability, such as obtaining feasible financial arrangements, protected credit, and neutral references from the landlord.

Unlawful Detainer Complaint Characteristics

Unlawful detainer (eviction) cases begin with a landlord filing a complaint, which lists the landlord’s demands of the tenant for the tenancy to continue. As shown in Figure H1, tenants in the two study groups were similar in terms of what the landlords demanded. The majority of complaints in both groups demanded past due rent, holdover rent,⁴⁵ and a forfeiture of the lease agreement. Notably, in

⁴⁴ Two projects implemented a 2:1 assignment protocol, whereby for every two litigants assigned to receive full representation, one was assigned to the comparison group.

⁴⁵ Holdover rent (or holdover damages) refers to the rent that will accrue from the date of the complaint filing to case closure.

about three quarters of both groups, the complaint also demanded that the tenant pay the landlord’s attorney fees. Recall that these are tenants who cannot afford to pay for their own attorney.

Figure H1. Demands on Unlawful Detainer Complaint by Study Group

| Demands on Complaint | Full Representation | Comparison |
|---------------------------------|---------------------|------------|
| Past due rent | 223 (90%) | 115 (86%) |
| Damages (holdover rent) | 237 (95%) | 129 (96%) |
| Forfeiture of agreement | 230 (92%) | 119 (89%) |
| Attorney fees | 192 (77%) | 86 (72%) |
| Statutory damages ⁴⁶ | 3 (1%) | 4 (3%) |
| Other | 27 (11%) | 20 (15%) |

Data source: Court case file review

Full Representation $N = 249$, Comparison $N = 134$

Consistent with the Shriver Program Service data, alleged non-payment of rent was the primary reason for the unlawful detainer actions. In most cases, defenses involved proving that either the tenant had paid the rent or was withholding rent due to a habitability problem and could pay the back-owed rent. The average amount of past due rent demanded was roughly equal to two months’ rent, which was true for full representation cases (mean = \$1,873, median = \$1,250) and comparison cases (mean = \$1,746, median = \$1,283),⁴⁷ although amounts ranged widely, from less than \$100 to nearly \$10,000 as shown in Figure H2.

Figure H2. Amount (\$) of Past Due Rent Demanded on UD Complaint by Study Group

| | Past Due Rent | |
|--------|---------------------|--------------|
| | Full Representation | Comparison |
| Mean | \$1,873 | \$1,746 |
| Median | \$1,250 | \$1,283 |
| Range | \$0-\$9,990 | \$16-\$9,600 |

Full Representation $N = 219$, Comparison $N = 111$

Note. Amount demanded was missing for four representation cases and one comparison case.

No significant differences were found between study groups.

Tenants’ Participation in the Justice System

Did more litigants file an answer to the UD complaint?

One of the first steps tenants must take in order to defend an unlawful detainer case is to file an answer (or, less often, another response, such as a demurrer) to the landlord’s complaint. If tenants fail to file an answer within 5 days of the complaint filing, they default on their case, whereby a

⁴⁶ Statutory damages are allowed for up to \$600 if the tenant stayed in the property maliciously.

⁴⁷ Given the skewed distribution, a nonparametric test was used. Mann-Whitney $U = 11,913$, $p > .05$

judgment is entered against them and they lose their housing without ever presenting their side of the story. As such, answer filing represents a key point of access to justice.

Shriver representation was significantly associated with tenants clearing this initial hurdle.⁴⁸ The study found that across the three projects, 91% of litigants who received full representation filed an answer, compared with 73% of litigants in the comparison group (see Figure H3). Notably, of the cases that did not file an answer, many had a default already entered against them when they presented for services.

Figure H3. Response to Unlawful Detainer Complaint by Study Group

| Response to UD Complaint | Full Representation | Comparison |
|---|---------------------|------------|
| Answer/response submitted [sig.] | 226 (91%) | 98 (73%) |
| Default entered at intake ^a | 19 (8%) | 22 (16%) |
| Other (Dismissals) ^b | 4 (2%) | 14 (10%) |

Data source: Court case file review

Full Representation $N = 249$, Comparison $N = 134$

^a Tenants presented for services after a default judgment had been entered against them; therefore, no answer would have been filed.

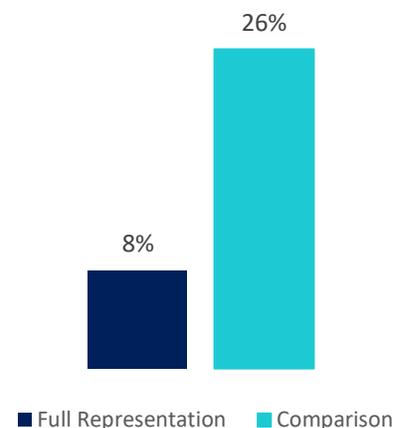
^b “Other” category included cases involving landlord dismissal or failure to prosecute. It is possible that tenants moved out upon receiving the UD complaint and the landlord dropped the case before a default could be entered.

Sig. = statistically significant difference existed between groups, as noted in bold.

Did more tenants avoid defaulting?

Shriver representation significantly decreased the likelihood of default⁴⁹ (see Figure H4). None of the full representation clients defaulted on their cases during service provision. Of the 19 (8%) full representation cases that ended in default, all of them involved tenants with defaults entered at intake, and the Shriver attorneys were unable to get the default set aside. In contrast, 34 (26%) self-represented tenants ended their case by default. These defaults included the 22 tenants who presented for services with a default already entered, four who failed to file an answer during the 5-day period despite having shown the initiative of reaching out for legal assistance, and eight who filed an answer but failed to appear later.

Figure H4. Percentage of Cases that Ended in Default



⁴⁸ $\chi^2 (1) = 9.04, p < .01$, Cramer's $V = .16$

⁴⁹ $\chi^2 (3) = 63.39, p < .001$, Cramer's $V = .41$. Post hoc tests using Scheffé adjustment found a significant difference between groups in the percentages of cases resolved by settlement/stipulation ($p < .001$), trial ($p < .01$), and default ($p < .01$). There was no significant difference found in the percentage of cases resolved by dismissal. Settlements and stipulated agreements include conditional dismissals.

Were litigants more likely to raise defenses?

When responding to an unlawful detainer complaint, tenants have the opportunity to raise defenses to support their side of the case. However, it is often difficult for self-represented tenants to identify appropriate defenses by themselves, particularly those relating to legal technicalities or violations of certain laws (e.g., rent control). Attorneys are better suited to identify appropriate defenses and prepare the necessary paperwork to submit the defenses to the court. Presentation of affirmative defenses may help to generate a more accurate overall depiction of the tenant’s case, thereby increasing fairness and access to just outcomes, and provide a more complete picture of the case for the judicial officer.

Study findings show that Shriver attorneys helped tenants record their defenses with the court at rates higher than what self-represented tenants were able to do on their own.⁵⁰ This assistance included naming issues pertaining to habitability of the unit, retaliatory eviction, and discrimination. Shriver attorneys were also able to spot defenses that were legal in nature, such as rent control violations and defective eviction notices. Overall, 84% of full representation cases raised at least one affirmative defense, compared with 60% of comparison cases. Figure H5 displays the specific defenses raised.

Figure H5. Cases with Affirmative Defenses by Study Group

| Defense Raised | Full Representation | Comparison |
|--|---------------------|------------|
| Defective notice** | 96 (84%) | 14 (28%) |
| Rent control violation* | 90 (78%) | 12 (24%) |
| Habitability | 163 (65%) | 49 (37%) |
| Estoppel** | 52 (45%) | 3 (6%) |
| Plaintiff waived, changed, or cancelled notice | 105 (42%) | 12 (9%) |
| Retaliatory eviction | 102 (41%) | 26 (19%) |
| Discrimination | 49 (20%) | 10 (7%) |
| Negotiations in other language, agreement in English** | 15 (13%) | 0 (0%) |
| Plaintiff accepted rent | 24 (10%) | 9 (7%) |
| Tenant paid for repairs | 19 (8%) | 6 (4%) |
| No reasonable ADA accommodation** | 8 (7%) | 0 (0%) |
| Timely tender refused | 10 (4%) | 12 (9%) |
| Tenant was victim of domestic violence** | 2 (2%) | 3 (6%) |
| Other | 137 (56%) | 47 (35%) |
| None (no defenses listed in case file) | 39 (16%) | 53 (40%) |

Data source: Court case file review

Full Representation $N = 249$, Comparison $N = 134$

*Rent control laws exist in just one of the three counties.

**Systematically collected in one county, but not on forms at the other two counties.

Note. Full representation cases were significantly more likely than comparison cases to raise at least one affirmative defense.

⁵⁰ $\chi^2(1) = 27.24, p < .001, \text{Cramer's } V = .27$

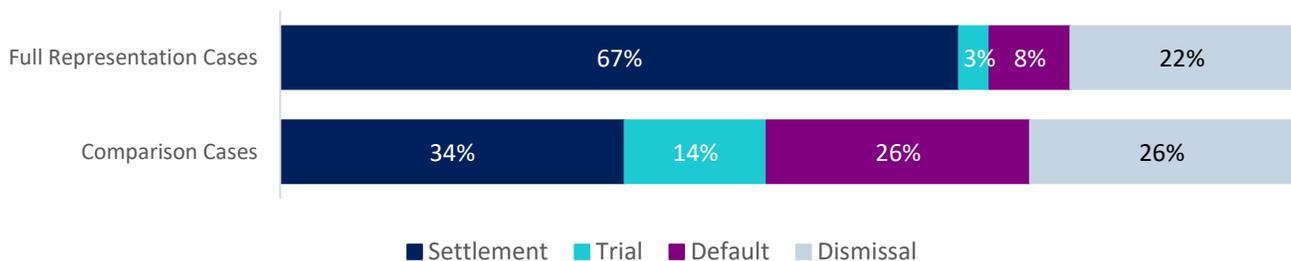
Case Resolution and Court Efficiency

How were cases resolved? Were there fewer trials?

Along with improving fairness in the unlawful detainer process, the Shriver housing pilot projects intended that their services would positively impact court efficiency by increasing the likelihood of negotiated settlements between parties, thus saving the court resources necessary to hold trials. Settlement negotiations also give both parties an opportunity to participate in the process and help shape the outcomes of the case.

Compared to cases with self-represented tenants, cases receiving full representation were significantly more likely to resolve via settlement and less likely to involve a trial.⁵¹ Two thirds (67%) of full representation cases were settled, as opposed to one third (34%) of comparison cases. Only 3% of full representation cases were resolved via trial, versus 14% of comparison cases. These results are shown in Figure H6. As mentioned earlier, 8% of full representation cases ended with a default, versus 26% of comparison cases. About one quarter of both groups ended with a dismissal.

Figure H6. Percentage of Cases Resolving Via Each Method by Study Group



Case Outcomes

Analyses examined case outcomes relative to short-term housing stability, such as how often tenants remained in their homes, and longer-term housing stability, including other impacts of the case that bear on tenants' abilities to find replacement housing, such as reduced back-owed rent, payment plans, and credit protection.

Were more tenants able to remain in their homes? If they had to move out, did they receive more time to do so?

Three quarters of cases in both study groups ended with possession of the property awarded to the landlord. That is, three out of four tenants, whether Shriver clients or not, had to move out of the unit at the end of their case. However, with legal representation, tenants were more often able to negotiate the terms of their move. Among the 179 Shriver clients who had to move out, 83% did so as part of a settlement agreement, which generally involved additional time to move and thus reduced

⁵¹ $\chi^2(3) = 63.39, p < .001$, Cramer's $V = .41$. Post hoc tests using Scheffé adjustment found a significant difference between groups in the percentages of cases resolved by settlement/stipulation ($p < .001$), trial ($p < .01$), and default ($p < .01$). There was no significant difference found in the percentage of cases resolved by dismissal. Settlements and stipulated agreements include conditional dismissals.

some of the trauma of relocating. In contrast, among the 98 comparison tenants who had to move out, only 44% did so as part of a settlement agreement. The remainder of tenants, those who defaulted or lost at trial, were likely subject to a lockout, because the writ of eviction can be issued immediately in these circumstances. This situation occurred for twice as many comparison cases ($n = 53$) as full representation cases ($n = 27$).

Although few tenants remained in their homes, Shriver full representation clients were significantly more likely to retain possession of their units than were comparison tenants.⁵² Specifically, tenants retained possession of their properties in 13 (5%) full representation cases and just one (1%) comparison case.

Note that possession was unknown for about one quarter of both study groups. In most instances when a landlord dismissed the case, the party awarded possession could not be ascertained from the court file. This lack of information is because two possible scenarios would yield different results: (a) Upon receiving the complaint, the tenant moves out, and the landlord dismisses the case because the unit has been vacated, or (b) In response to the complaint, the tenant remains in the unit and responds with strong defenses, and the landlord dismisses the case to avoid complicated and expensive legal battles.⁵³ As a result, possession remains “unknown” for these cases (Figure H7).

Figure H7. Award of Possession by Study Group

| Possession Awarded to... | Full Representation | Comparison |
|-----------------------------------|---------------------|-----------------|
| Landlord | 179 (74%) | 98 (75%) |
| Tenant [sig.] | 13 (5%) | 1 (1%) |
| Unknown (Dismissals) ^a | 50 (21%) | 32 (24%) |

Data source: Court case file review

Full Representation $N = 242$, Comparison $N = 131$

Note. Data for possession were missing for seven representation cases and three comparison cases.

^a Possession was typically unknown in cases that were dismissed by the landlord.

Sig. = statistically significant difference found between study groups, as noted in bold.

Among cases in which the landlord obtained possession, the amount of time the tenant had to move was defined as the number of days from the complaint filing date to the date by which the tenant was ordered to move out of the property. The difference between groups was statistically significant: full representation clients had almost 2 weeks longer to move out than did comparison cases.⁵⁴

⁵² $\chi^2 (1) = 4.59, p < .05$, Cramer's $V = .13$

⁵³ In cases with a technical defense, it is possible that the landlord could refile a new case with corrected paperwork, but current data did not allow the investigation of whether or how often this happened.

⁵⁴ Full representation cases mean = 85 days (median = 79); Comparison cases mean = 74 days (median = 69). Given the skewed distribution, a nonparametric test was used. Mann-Whitney $U = 2,729.0, p < .01$.

Were there differences in other case outcomes that support tenants' ability to relocate, such as monetary orders and credit protection?

Given that the majority of tenants ultimately had to move out of their homes, and their short-term housing stability was thus interrupted, the study examined how Shriver representation may have impacted their longer-term housing stability. In particular, analyses explored other case outcomes related to issues that could support tenants' ability to successfully transition to new housing, including monetary orders and settlement terms related to credit protection and rental references.

Monetary orders. Figure H8 shows the number of cases with each type of money demanded on the complaint and the number of cases with orders for each type of payment to be made. Overall, tenants who received full representation significantly more often avoided payments than did self-represented tenants. Among cases in which the landlord demanded past-due rent, 38% of full representation clients had to pay back the entire amount, as did 43% of comparison tenants. Among cases with holdover damages demanded, half as many full representation clients (9%) as self-represented tenants (17%) were ordered to pay damages. The same held true for attorney's fees: 19% of full representation clients were ordered to pay versus 34% of comparison tenants. Moreover, fewer full representation clients were subject to having their lease forfeited, which can leave tenants vulnerable to covering continued costs on the unit even after vacating it.⁵⁵

Figure H8. Type of Money Judgments

| Number of cases with... | Full Representation | Comparison |
|--|---------------------|------------|
| Past due rent demanded on complaint | 223 | 115 |
| <i>Judgment: Tenant to pay all back-owed rent</i> | 84 38% | 50 43% |
| Holdover damages demanded on complaint | 237 | 129 |
| <i>Judgment: Tenant to pay all holdover damages [sig.]</i> | 22 9% | 22 17% |
| Attorney fees demanded on complaint | 192 | 86 |
| <i>Judgment: Tenant to pay landlord's attorney's fees [sig.]</i> | 36 19% | 29 34% |
| Forfeiture of agreement demanded on complaint | 230 | 119 |
| <i>Judgment: Rental agreement cancelled</i> | 31 13% | 25 21% |
| <i>Judgment: Lease is forfeited [sig.]</i> | 35 5% | 15 13% |
| Statutory damages demanded on complaint | 3 | 4 |
| <i>Judgment: Tenant to pay all statutory damages</i> | 0 0% | 0 0% |
| Other amounts/fees demanded on complaint | 27 | 20 |
| <i>Judgment: Tenant to pay other amounts/fees</i> | 7 26% | 4 20% |

⁵⁵ Having the rental agreement cancelled is a more advantageous outcome for the tenant, because if the agreement is cancelled, tenants are not responsible for unpaid future rent or other costs and damages associated with the landlord re-renting the property. Forfeiting the lease leaves the tenant open to these additional costs.

Figure H9 shows the average *total* amount of money demanded on the complaint, inclusive of back-owed rent, holdover damages, attorney’s fees, and other fees. In this sample, the average (mean) amount demanded was \$3,594 (median = \$2,935) among full representation cases and \$3,298 (median = \$2,333) among comparison cases. At case resolution, on average, tenants were ordered to pay the landlords \$1,230 (median = \$0) among full representation cases and \$1,535 among comparison cases. In both groups, the median amount is zero because more than half of the tenants were not ordered to pay anything. In fact, 34% of full representation clients were ordered to pay the landlord something (median among those who paid something = \$3,550) versus 51% of self-represented tenants (median = \$3,007). Overall, full representation clients were more likely to avoid having to pay the landlord or to have their payment amount reduced, thus resulting in savings for them. Across the cases with any money demanded on the complaint, the average amount saved was \$2,413 for full representation clients and \$1,645 for comparison tenants, a significant difference.⁵⁶

Few landlords were ordered to pay anything, but the average amounts to be paid were noteworthy. Nine landlords in full representation cases were ordered to pay a median amount of \$4,664 to tenants, and two landlords in comparison cases were ordered to pay a median amount of \$750.

Figure H9. Average Amount Demanded, Paid, and Avoided by Tenants

| Average amount... | Full Representation | Comparison |
|--|---------------------|---------------------|
| Number of cases with any type of money demanded on complaint | 223 | 113 |
| Demanded on complaint | | |
| Mean | \$3,594 | \$3,298 |
| Median | \$2,935 | \$2,333 |
| Range | \$306-\$13,050 | \$31-\$16,460 |
| Tenant owed landlord at case resolution | | |
| Mean | \$1,230 | \$1,535 |
| Median | \$0 | \$0 |
| Range | \$0-\$10,046 | \$0-\$8,065 |
| Avoided/saved by tenant^b | | |
| Mean [<i>sig.</i>] | \$2,413 | \$1,645 |
| Median | \$2,127 | \$1,365 |
| Range | -\$7,518 - \$29,516 | -\$3,657 - \$12,141 |

^a Affirmative payments to be made by landlord to tenant.

^b Calculations are out of all cases with money demanded on complaint (Full Representation $N = 223$, Unbundled Services Cases $N = 113$). Includes cases even if all money was awarded to landlord (amount avoided = \$0), if tenant paid more than was demanded on complaint (amount avoided = negative number), and if no money was awarded to landlord (amount avoided = amount demanded).

Credit protection and other orders. Cases with full representation more often involved other outcomes that were favorable for tenants, such as the landlord agreeing to provide neutral rental references, the eviction case being sealed (and therefore not listed in the public record), the case not

⁵⁶ Mann-Whitney $U = 12.45, p < .01$

being reported to credit agencies, and the writ of eviction being stayed until the agreed upon lockout date. Combined with the financial savings discussed earlier, these other outcomes supported tenants' ability to find replacement housing and relocate more easily. The first two columns in Figure H10 show these outcomes for all cases in each study group, regardless of how the case was resolved. In total, 50% of full representation cases involved at least one of these outcomes, versus 25% of comparison cases, which was a significant difference.⁵⁷

These outcomes were most often part of negotiated settlement agreements. The second two columns in Figure H10 show the prevalence of these outcomes among the cases in each study group that settled. Three quarters of settled full representation cases involved at least one of these outcomes, and two thirds of settled comparison cases did, which was not a significant difference.

Figure H10. Credit Protection and Additional Outcomes by Study Group

| Outcome | All Cases | | | | Settled Cases | | | |
|---|---------------------|------------|------------|------------|---------------------|------------|------------|------------|
| | Full Representation | | Comparison | | Full Representation | | Comparison | |
| Neutral references | 80 | 32% | 8 | 6% | 79 | 49% | 8 | 18% |
| Record sealed | 50 | 20% | 16 | 12% | 50 | 31% | 16 | 36% |
| Case not reported to credit agencies | 39 | 16% | 1 | 1% | 38 | 24% | 1 | 2% |
| Writ to be stayed until lock out date | 17 | 7% | 2 | 1% | 17 | 11% | 2 | 4% |
| Writ to issue immediately | 16 | 6% | 4 | 3% | 16 | 10% | 2 | 4% |
| Temporary stay of eviction | 6 | 2% | 2 | 1% | 6 | 4% | 2 | 4% |
| Reservation of right to sue | 2 | 1% | 0 | 0% | 2 | 1% | 0 | 0% |
| Building/Health code violations addressed | 1 | <1% | 0 | 0% | 1 | <1% | 0 | 0% |
| Deposit treated according to CA law | 1 | <1% | 4 | 3% | 1 | <1% | 4 | 9% |
| Relocation costs | 1 | <1% | 0 | 0% | 1 | <1% | 0 | 0% |
| Other | 36 | 14% | 14 | 10% | 26 | 13% | 13 | 29% |
| At least one additional outcome [sig.] | 125 | 50% | 33 | 25% | 124 | 77% | 30 | 67% |

All Cases: Full representation $N = 249$, Comparison $N = 134$

Settled Cases: Full representation $N = 162$, Comparison $N = 45$

⁵⁷ $\chi^2(1) = 23.51, p < .001$.

Litigant Perspectives on the Shriver Housing Pilot Project Services

Understanding clients' perceptions is essential to understanding program effectiveness and value. Tenants from two pilot projects that participated in the random assignment study were invited to participate in two phone interviews (see Figure A1). The first interview occurred, on average, 1 month after the housing case had closed, and the second interview occurred, on average, one year later. The purpose was to gather litigants' perceptions of procedural justice and fairness, their satisfaction with their case outcomes, and their opinions about the Shriver services they received.

One Month After Case Closure

Methods

Litigants from two projects—one urban and one rural—were invited to participate in an interview. In total, 127 litigants completed a one-month case closure interview. These litigants were from three service level groups:

- 65 tenants, from two projects, who received Shriver full representation and who faced a represented landlord
- 21 tenants, from one project, who received Shriver expanded self-help (Shriver self-help was offered to tenants facing a self-represented landlord and involved consultation with an attorney, sometimes with facilitated mediation and/or referral to social services)
- 41 tenants, from two projects, who received no Shriver services (from comparison cases)

Results

Satisfaction with Case Outcomes, Perceived Fairness, and Procedural Justice

Litigants were asked about their satisfaction with their case outcomes and their perceptions of fairness and procedural justice regarding their cases. Across the three service groups, litigants, on average, perceived the legal process to be moderately fair and procedurally just. However, regarding their case outcomes, full representation clients reported being significantly more satisfied than tenants who did not receive services.

When asked to rate their satisfaction with their case outcomes,⁵⁸ full representation clients reported being marginally satisfied (mean score of 3.6 on a 5-point scale), and their ratings were significantly higher than those of comparison litigants, who reported being marginally dissatisfied (a mean score of 2.6).⁵⁹ Tenants who received Shriver self-help services fell in between (mean score of 3.3).

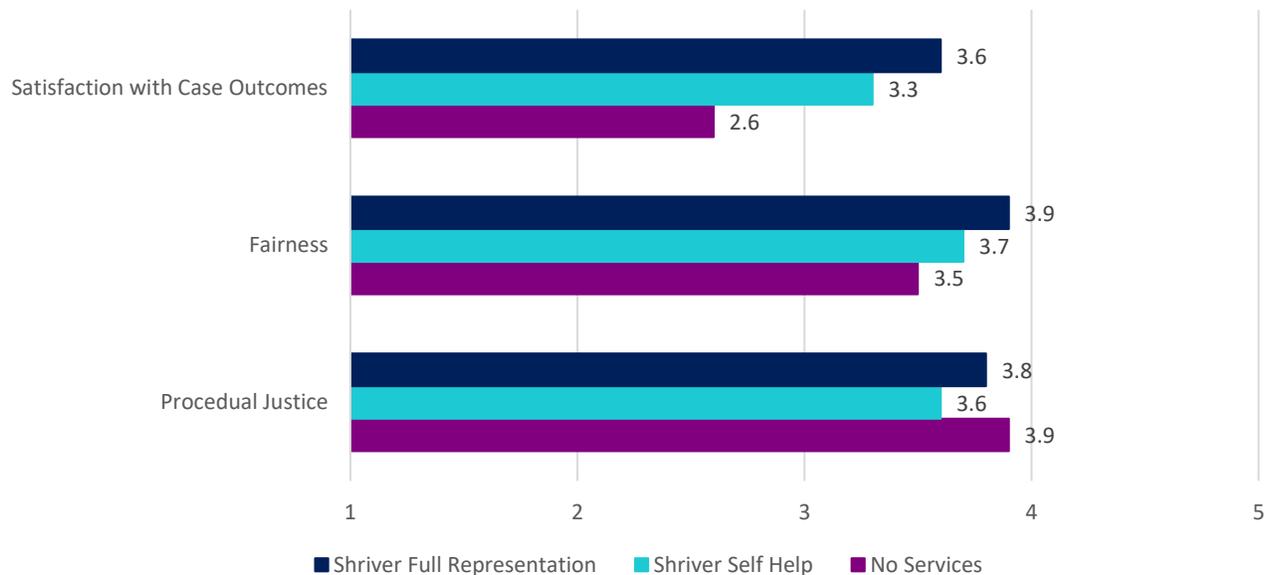
⁵⁸ Litigants' satisfaction with the case outcomes was assessed with one item: "How satisfied are you with how your case turned out?" Responses were on a 5-point Likert scale, with 1 being *very dissatisfied* and 5 *very satisfied*.

⁵⁹ $F(2, 114) = 3.18, p < .05$

Perceived fairness of the legal process was assessed using a scale that included statements such as, “My case was handled fairly by the court” and “My legal rights were taken into account.” Interviewees were asked to rate how much they agreed with each statement, from 1 (*strongly disagree*) to 5 (*strongly agree*).⁶⁰ When asked to rate fairness, litigants in all three groups, on average, reported perceiving moderate levels of fairness (mean scores = 3.5-3.9).

Perceptions of procedural justice were assessed with a scale that included items such as, “The judge listened to what I had to say” and “I was treated the same as others in the same position.” Interviewees rated their agreement with each statement on the same 5-point scale.⁶¹ When asked about their perceptions of procedural justice, litigants in all three groups, on average, reported perceiving moderate levels of procedural justice (mean scores = 3.6-3.9). There were no significant differences in these perceptions among the groups for either fairness⁶² or procedural justice.⁶³ See Figure H11.

Figure H11. Satisfaction with Case Outcomes, Perceptions of Fairness, and Perceptions of Procedural Justice by Study Group



Satisfaction: Full Representation $N = 65$, Shriver Self-help $N = 21$, Comparison $N = 41$

Fairness: Full Representation $N = 50$, Shriver Self-help $N = 19$, Comparison $N = 33$

Procedural Justice: Full Representation $N = 37$, Shriver Self-help $N = 9$, Comparison $N = 25$

⁶⁰ Fairness was assessed using a 4-item scale adapted from Frazer (2006). Interviewees were asked to rate how much they agreed with each statement on a 5-point scale. A scale score was calculated by averaging across the items for those tenants who answered at least 75% (3 of 4) of the items. Higher scores indicate greater perceived fairness with court proceedings.

⁶¹ Perceptions of procedural justice were assessed by an 8-item scale adapted from the Specific Procedural Justice Scale (Bornstein, Tomkins, & Neeley, 2011). Interviewees rated their agreement with each statement on the same 5-point scale used for the fairness scale. A scale score was calculated as a mean across the items for tenants who answered at least 63% (5 of 8) of the items. Higher scores indicate greater perceived procedural justice.

⁶² $F(2, 120) = 1.014, p > .05$

⁶³ $F(2, 119) = 0.176, p > .05$

Moving Out of Property

At the start of their cases, about 60% of tenants in each group wanted to stay in their homes. However, consistent with earlier data from the *Shriver Program Services Database* and court case files, the majority of tenants ended up moving out at the end of their unlawful detainer cases. As shown in Figure H12, about 85% of the full representation group and the comparison group had to move, as compared to 67% of the Shriver self-help group. The lower rate of move-outs among Shriver self-help clients may be because these tenants were facing self-represented landlords, which may have presented alternative options for resolution. For full representation clients, moving out was often part of a negotiated agreement and not a formal eviction (i.e., being locked out by the sheriff), as the majority of Shriver full representation cases tended to end in settlements that included negotiating the move-out details.

Figure H12. Litigants Moving out of Home

| | Full Representation | Shriver Self-Help | Comparison |
|-------------------------------------|---------------------|-------------------|------------|
| Wanted to Move at Case Start | | | |
| Yes | 23 (35%) | 6 (29%) | 14 (34%) |
| No | 39 (60%) | 13 (62%) | 25 (61%) |
| Neutral | 2 (3%) | 2 (10%) | 2 (5%) |
| Had to Move at Case Closure | | | |
| Yes | 54 (83%) | 14 (67%) | 35 (85%) |
| No | 11 (17%) | 7 (33%) | 6 (15%) |
| Missing/unknown | 0 (0%) | 0 (0%) | 0 (0%) |

Full Representation $N = 65$, Shriver Self-help $N = 21$, Comparison $N = 41$

Residential Mobility Among Tenants Who Moved

Of the litigants who had to move, 25% of the full representation group and 24% of the Shriver self-help group moved directly into a new rental unit, as did 20% of the comparison group. Moving into another rental property—presumably, with a lease and secure space—is likely an indicator of housing stability.

In contrast, as seen in Figure H13, a sizable proportion of all three groups appeared poised to suffer acute housing instability. Approximately one third of litigants reported moving in with friends or family. Moving in with friends/family is typically not considered a stable housing situation. When individuals move in with friends or family because they cannot afford their own space, this condition is commonly referred to as being “doubled up for economic reasons” (as opposed to roommates who live in a space sufficient to accommodate them). This scenario can relate to overcrowded conditions which can have negative health consequences, be a precursor to homelessness, and create potential eviction risk for the renter of the space if the occupancy exceeds what the lease allows.

Studies have linked eviction to homelessness,^{64,65} and the current data align with this assertion. At case closure, 6% of full representation clients and 5% of comparison tenants reported being homeless (e.g., living in a shelter, abandoned building, or outside). Another 19% of full representation and 22% of comparison litigants said they moved to a hotel or motel, which does not constitute stable or long-term housing. In addition, several litigants in each group (3% - 5%) reported being still unsure where they would go. Together, these responses suggest that 28% of the full representation group and 32% of the comparison group were essentially homeless at the end of their unlawful detainer cases. It is important to consider that these figures may well be underestimates, in that litigants who became homeless after case closure would have been the most difficult to locate for an interview.

Figure H13. Living Situation at Case Closure

| Upon case closure, tenant moved to... | Full Representation | Shriver Self-Help | Comparison |
|---|---------------------|-------------------|------------|
| New Rental | 17 (26%) | 5 (24%) | 8 (20%) |
| Friends/Family | 19 (29%) | 7 (33%) | 12 (29%) |
| Motel/Hotel | 12 (19%) | 0 (0%) | 9 (22%) |
| Shelter/Outside/Homeless | 4 (6%) | 0 (0%) | 2 (5%) |
| Subsidized Housing/Supported Living Environment | 0 (0%) | 0 (0%) | 2 (5%) |
| Other (Uncertain/Still looking) | 2 (3%) | 1 (5%) | 2 (5%) |
| Unknown/declined to answer/didn't remember | 11 (17%) | 8 (38%) | 6 (15%) |

Full Representation $N = 65$, Shriver Self-help $N = 21$, Comparison $N = 41$

This housing instability became further apparent for the comparison group members, who were significantly more likely to have moved more than once in the month after their case closed. At the time of the 1-month interview, 24% of the comparison litigants had moved a second time, versus 11% of full representation and 5% of self-help clients.⁶⁶ Of the seven full representation clients who moved again, nearly half (43%) moved into a new rental unit. Of the ten comparison litigants who moved again, the majority (70%) moved in with family. [All seven full representation litigants who moved again were transitioning from other unstable housing situations: three had been staying with other friends/family, one had been living in a shelter or outside, one had stayed in a motel and a car, and one had been living at a training center.]

⁶⁴ Holl, M., van den Dries, L., & Wolf, J. R. (2016). Interventions to prevent tenant evictions: A systematic review. *Health & Social Care in the Community*, 24(5), 532-546.

⁶⁵ Houseman, A. (2014, October). The anti-poverty effects of civil legal aid. The Public Welfare Foundation. Consortium for the National Equal Justice Library.

⁶⁶ $\chi^2 = 5.68$, $p = .06$

Figure H14. Residential Mobility between Case Closure and 1-Month Interview

| | Full Representation | Shriver Self-Help | Comparison |
|---|---------------------|-------------------|------------|
| Did tenant move again before interview? | | | |
| Yes | 7 (11%) | 1 (5%) | 10 (24%) |
| No | 47 (72%) | 10 (48%) | 23 (56%) |
| Unknown/declined to answer | 11 (17%) | 10 (48%) | 8 (20%) |
| Of those who moved again, they moved to... | | | |
| New Rental | 3 (43%) | 1 (100%) | 1 (10%) |
| Friends/Family | 2 (29%) | 0 | 7 (70%) |
| Other | 2 (29%) | 0 | 2 (20%) |

Full Representation $N = 65$, Shriver Self-help $N = 21$, Comparison $N = 41$

Impacts of the Unlawful Detainer Case for Litigants

Litigants were asked how their unlawful detainer cases had impacted their lives. Overall, litigants overwhelmingly reported that the case had negatively impacted them. Across all interviews, 96 responses described negative impacts and 35 reflected beneficial impacts (16 interviewees said the case had no impact on their lives, usually because they were already planning to move). The most common themes are listed in Figure H15.

Many tenants reported stress, anxiety, and hardship associated with their eviction case, including having nowhere to go or being homeless, enduring financial hardship or loss of a job, suffering general stress, having bad credit or difficulty finding alternative housing, and having problems with transportation or changing children’s schools. Notably, a small number of litigants—most of whom had received Shriver full representation—reported some positive impacts of their eviction case, including feeling vindicated, having reached resolution with the landlord, or having moved to a better place.

Figure H15. Impact of Eviction Case on Litigants’ Lives

| Response Themes | Full Representation | Shriver Self-Help | Comparison |
|--|---------------------|-------------------|------------|
| Nowhere to go/Homeless | 9 (15%) | 2 (10%) | 9 (26%) |
| Financial hardship/Job loss | 6 (10%) | 2 (10%) | 7 (20%) |
| General Stress | 5 (8%) | 5 (24%) | 4 (11%) |
| Bad credit/Difficulty finding housing | 4 (7%) | 3 (14%) | 3 (9%) |
| Transportation problems/School changes | 3 (5%) | 2 (10%) | 2 (6%) |
| Vindication/Resolution with landlord | 7 (11%) | 1 (5%) | 1 (3%) |
| Moved into a better place | 3 (5%) | 4 (19%) | 1 (3%) |

Full Representation $N = 61$, Shriver Self-help $N = 21$, Comparison $N = 35$

Full representation group missing responses from 4 clients. Comparison group missing responses from 6 tenants.

One Year After Case Closure

The one-year follow-up interview study sought to gain a deeper understanding of the lives of unlawful detainer litigants after their cases had resolved.

Methods

Respondents for the 1-year follow-up interview were recruited from the 127 litigants who completed a 1-month case closure interview. In total, 66 individuals were interviewed at the 1-year follow-up:

- 45 litigants who had received any Shriver services⁶⁷ (either full representation or Shriver expanded self-help)
- 21 litigants who did not receive Shriver services (“comparison”)

Results

Living Situation

Of the 66 litigants reached for a follow-up interview, all but one had to move out of their homes at the end of their unlawful detainer cases (see Figure H16). At the 1-year interview, 71% of Shriver services clients were living in a new rental unit, versus 43% of the comparison group. The increased housing stability for Shriver clients may be a result of the work of the Shriver attorneys by negotiating terms such as protecting credit records, keeping the court cases off the public record, and obtaining neutral references from landlords. Together, these elements support tenants finding replacement housing.

One in five Shriver clients (22%) was living with friends/family at follow-up, versus half (48%) of comparison litigants. As described earlier, being “doubled up” for economic reasons constitutes unstable housing and can be a precursor to homelessness. A small number of litigants reported being homeless 1 year after their case ended. This proportion may be small because most litigants had found alternate living arrangements by 1 year after their case closed, or because those who were homeless were unable to be located to interview.

Figure H16. Living Situation Among Litigants Reached for 1-Year Interview

| Living Situation | Shriver Services | Comparison |
|--|------------------|------------|
| Case Outcome | | |
| Moved | 44 (98%) | 21 (100%) |
| Stayed in home | 1 (2%) | 0 (0%) |
| At case closure, relocated to... | | |
| Another rental unit | 16 (36%) | 6 (29%) |
| Family/friends | 21 (47%) | 10 (48%) |
| Homeless | 4 (9%) | 1 (5%) |
| Other | 3 (7%) | 4 (19%) |
| At 1-year follow up, living in... | | |
| Rental unit | 32 (71%) | 9 (43%) |
| Family/friends | 10 (22%) | 10 (48%) |
| Homeless | 2 (4%) | 1 (5%) |
| Other | 1 (3%) | 1 (5%) |

Full Representation $N = 45$, Comparison $N = 21$

⁶⁷ Due to small sample sizes—in particular, only six litigants who received Shriver self-help were located—litigants who received any form of Shriver service (full representation or self-help) were combined for analysis.

Challenges Related to Poverty

Between the case closure and 1-year interview, litigants moved an average of two times. When asked about their relocations, the majority (80%) of interviewees reported not having any housing options other than the one they were currently living in. Many individuals explained being very constrained by their low incomes, given the high costs of rental properties. Several respondents reported being recently unemployed and without income, which made searching for housing options difficult. Other obstacles to obtaining a new rental included experiencing difficulty saving for the deposit in time for the move-out. A chronic lack of resources was a common theme throughout the interviews.

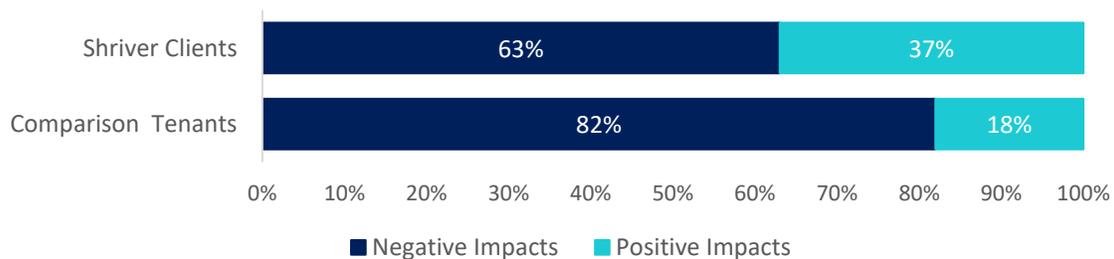
Finding Affordable Housing

Across all 66 litigants in both groups, when asked if they were able to find housing that they could afford, one in five (20%; $n = 13$) respondents said they did. The remaining 80% reported being unable to locate affordable housing. Of this group, those who were renting described spending a precariously large proportion of their income on rent. Options that were more financially affordable tended to come with different social costs. Some interviewees explained that the only housing they could afford without substantial cost burden was in a “bad part of town” or a “crime-ridden area.” This theme echoes findings from previous research on eviction which asserts that low-income families are often forced to move to areas with higher crime and less economic opportunity.

Impact of the Eviction Case on Litigants’ Lives

Circumstances related to possible eviction and the court process were stressful for almost everyone. When asked about the impact of the case on their lives, 82% of the comparison group relayed negative effects, versus 63% of Shriver clients. Of those who reported negative impacts of the case, litigants in both groups reported that mental health had suffered, including increases in depression and anxiety, and described the experience as “traumatic” and “devastating.” A few individuals expressed a sense of hopelessness, others were concerned about the lack of stability and stress of having nowhere to go. Being forced to move not only impacted the litigant, but also others in the household, most notably dependent children, leaving the adults worried about their ability to adequately care for their families.

Figure H17. Case Impact on Lives of Litigants



Data source: 1-year follow-up interview. Shriver Clients $N = 41$, Comparison $N = 17$. Eight comparison group respondents are not included in the counts above because they refused to answer, said the case had no impact, or gave ambiguous answers.

Figure H17 also shows that a minority of litigants in both groups reported that the case had positive impacts for them. Notably, positive effects were noted by twice as many Shriver clients (37%) as comparison litigants (18%). Any positive impact typically pertained to the receipt of legal services and feeling supported in the otherwise stressful process. The presence of a legal aid attorney helped make the stressful experience of an unlawful detainer case manageable for some clients, and in some cases, an incentive for a new start. One person explained that it was motivation to “better my life.”

At the end of the interview, respondents were asked to rate the impact the case had on their lives on a scale from 1 “generally positive” to 5 “generally negative,” with 3 being “neither positive nor negative.” Shriver clients had a mean score of 2.7, versus the comparison group’s mean score of 3.4, indicating that Shriver clients tended to feel less negatively about their circumstances related to their housing cases. This result may be due to Shriver clients’ higher satisfaction with their case outcomes.

Limitations of the Follow-up Interviews

These findings are based on a small sample (66 litigants in total). Considerable effort was taken to contact all tenants who had participated in an interview at one month after case closure, but given their necessary relocations, many were not able to be located one year later. With small numbers of litigants in each study group, the reader should interpret the percentages with caution.

Due to the difficulty reaching people 1 year after their housing case closed, the current sample may be biased toward litigants who were more stable and therefore more easily located. This bias may mean that the number of individuals who were homeless is an underestimate relative to the population as a whole. However, even though this potential bias was equally present for both the Shriver and comparison groups, these data suggest that Shriver clients were more able to find alternate housing within 1 year and fewer were doubled up with relatives and friends.

Triage Study: How do projects determine the level of service provided?

The previous random assignment study illustrated the benefits of providing full representation for tenants in eviction cases facing a landlord with legal representation (see earlier section on random assignment study). However, available resources do not permit full representation to be provided to every low-income tenant facing eviction. As the recent California Justice Gap study showed, legal needs for housing issues are prevalent among low-income Californians. A minority of these individuals receive legal help, and of those, an even smaller minority receive an attorney to represent them in court or settlement negotiations; most receive self-help assistance or another unbundled service.

Given the increasing demand for legal services and the chronically insufficient resources to provide help to everyone who needs it, the ability to identify the most effective and cost-efficient service for an otherwise self-represented litigant can help ensure that litigants are afforded equal access to justice while maximizing the benefit of limited public resources. Understanding how to match litigants with the appropriate level of service for their case is critical to the development of successful and sustainable civil counsel programs. Of the six Shriver housing pilot projects, five incorporated a triage protocol to determine a client's eligibility for representation versus limited scope assistance.⁶⁸ However, the elements of these triage protocols varied across projects.

To explore what constitutes an appropriate triage method for eviction cases, the Shriver evaluation team studied the triage processes of these five projects during FY2019.

Methods

Over the course of 3 months, Shriver project attorneys were interviewed regularly to ascertain the factors they used to decide the level of legal assistance provided to clients. Using stimulated recall⁶⁹ methods, attorneys were asked to recall a specific client intake and then articulate aloud the thought processes that determined the service level offered to that client. Across the five projects, triage information was gathered for a total of 205 cases, with approximately 40 cases from each project. The sample was close to evenly split: 93 (45%) were full representation cases and 112 (55%) received unbundled services.

Attorney interview responses were coded into categories and collapsed into 11 summary factors. Figure H18 defines the 11 summary factors and shows the client and case characteristics inherent in each one. The following section describes how often each factor was present in the sampled cases and, then, how each factor influenced service decisions.

⁶⁸ One project offers full representation to all eligible clients. If a client receives less than full representation, it is due to litigant decisions (e.g., declining service, not showing up for appointments).

⁶⁹ Lyle, J. (2003). Stimulated recall: A report on its use in naturalistic research. *British Educational Research Journal*, 29(6), 860–878.

Figure H18. Triage Factors and Constituent Client and Case Attributes

| Factor | Client/Case Attributes |
|---|--|
| Client is vulnerable | Client has at least one of the following characteristics: <ul style="list-style-type: none"> • disability or chronic illness • household member with disability • limited proficiency with English • children in the home • domestic violence survivor • older adult • low level of education (creates a barrier to court access) |
| Case deemed to have merit; affirmative defenses are possible | Case involves: <ul style="list-style-type: none"> • procedural defenses (e.g., improper notice, lack of service) • grounds for stay of eviction • grounds to set aside default or vacate judgment • breach of warranty of habitability • retaliation against tenant • discrimination against tenant • mobile home case in which tenant could cure the alleged violation • tenant says they paid the rent |
| Housing is subsidized or subject to rent control | Client has HUD housing choice voucher, resides in a HUD-subsidized unit, has other housing subsidy (e.g., low-income tax credit), or lives in unit that is subject to rent control. |
| Opposing party is represented | Opposing party has an attorney. |
| Opposing party/counsel known to Shriver agency | Shriver legal services agency has previous experience with the opposing party or counsel—can include known collaborators (e.g., attorneys who are inclined to settle) and “bad actors” (e.g., landlords with recurring problematic properties). |
| Case is pre-filing | Unlawful detainer complaint had not yet been filed with the court (e.g., eviction notice had been served, tenant had question about rights). |
| Case complexity; potential impact of an attorney^a | Case is deemed too complex for an unrepresented litigant to reasonably handle. There is reason to believe that the presence of an attorney would strongly impact case outcomes. |
| Tenant has other plans | Tenant has already moved out of the property, has plans to move out of the unit, or declined further service after the first meeting (e.g., plans to retain other counsel or handle the case themselves). |
| Tenant has money to pay back-owed rent | Tenant has money to pay some or all of the back-owed rent—includes instances in which the tenant received the money through a short-term rental assistance program. |
| Rent exceeds tenant income^b | Rental amount exceeded, or nearly equaled, tenant’s household income. |
| Other factor | Other client or case characteristics, such as the length of residency and payment history, substantiation of a temporary financial hardship, insufficient time to prepare for an imminent trial date, or agency’s history with the client. |

^a Examples include: primary issue pertained to the title, case involved the presentation of substantial evidence, case was part of a larger group of tenants being evicted from a mobile home park, tenant had lost job but had new job secured.

^b All tenants experienced high rental cost burden, where rental costs accounted for more than half of the household income each month. However, this factor was indicated for cases in which the rental amount exceeded or equaled the household income and therefore the living arrangement was not sustainable for the tenant.

Results

Prevalence of Triage Factors among Shriver Clients

Figure H19 shows, for each of the 11 triage factors, how often the factor was present among the 205 cases in the sample. Previous studies on eviction cases has shown that the majority of landlords have legal representation, whereas the majority of tenants do not. The current data align with this finding, as 83% of cases involved a represented landlord. Further, eight out of ten cases (79%) were deemed by the intake attorney to have merit. Nearly two thirds of clients (64%) were found to have an indication of vulnerability. About one third of clients resided in housing that was subsidized or subject to rent control, and about one quarter of clients presented for service before the UD complaint had been filed. Another quarter of clients had other plans that would negate the need for representation.

Figure H19. Prevalence of Triage Factors

| Factor | Factor Present N = 205 |
|--|---------------------------|
| Opposing party (OP) is represented | 170 (83%) |
| Case has merit | 162 (79%) |
| Client is vulnerable | 132 (64%) |
| Housing is subsidized/rent control | 75 (37%) |
| Case is pre-filing | 56 (27%) |
| Tenant has other plans | 55 (27%) |
| Case is complex | 31 (15%) |
| OP/counsel known to Shriver agency | 28 (14%) |
| Rent exceeds tenant income | 21 (10%) |
| Tenant has money to pay back-owed rent | 16 (8%) |
| Other factor | 40 (20%) |

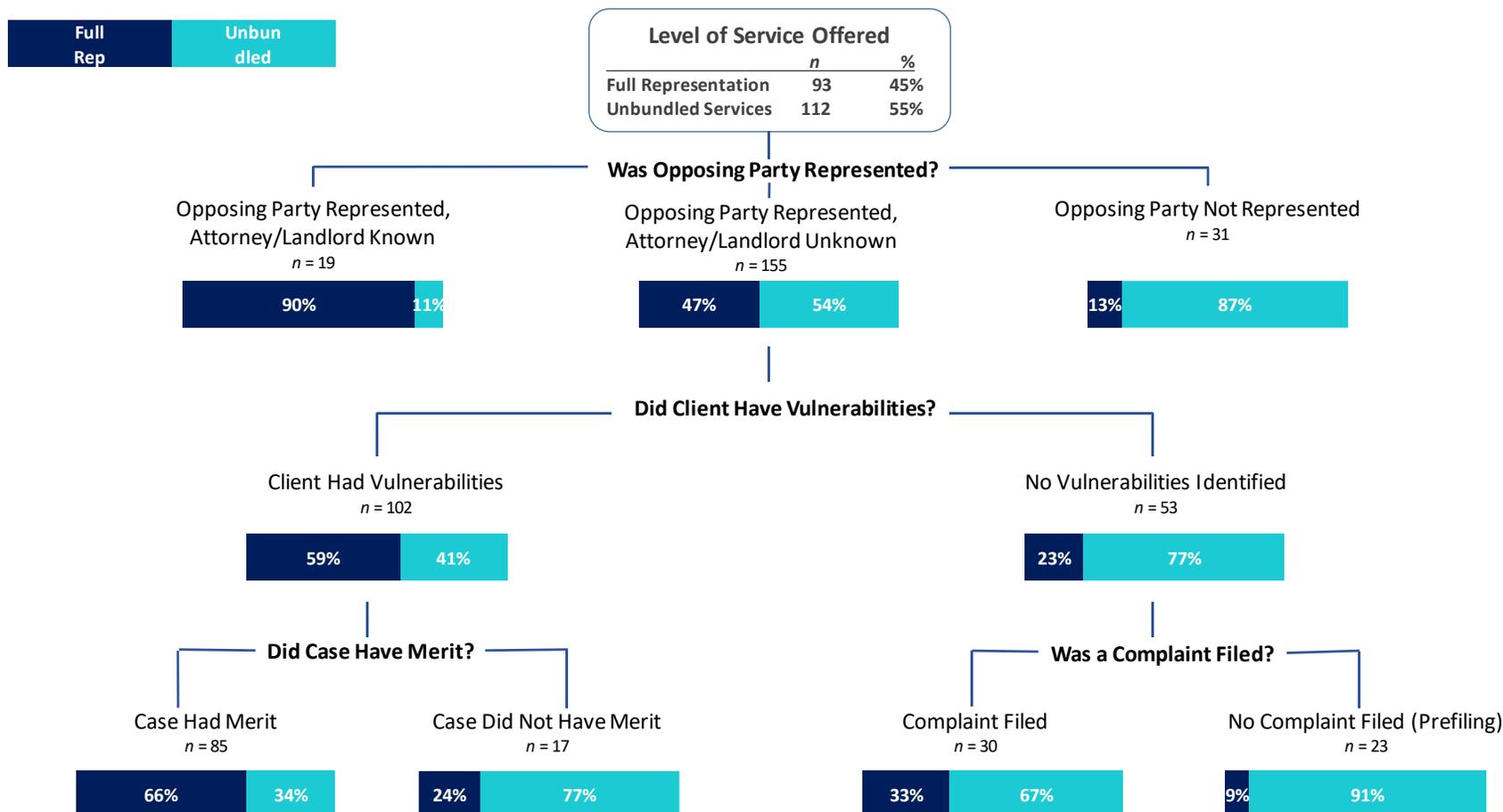
Triage Factors Related to Service Level Decisions

Relationships between the triage factors and service level decisions were investigated using two analytic methods. First, a classification tree was produced using the Chi-square Automatic Interaction Detection (CHAID) algorithm.⁷⁰ Second, a logistic regression was run to confirm the results of the CHAID analysis. *Importantly, classification trees are not synonymous with decision trees.* The classification tree in this report does not represent a linear, step-by-step decision-making process undertaken by attorneys, in which one factor is considered at a time. Instead, attorneys collected several pieces of information during the intake interview, and the combination of these factors informed their service decision. The classification tree uncovers the factors that tended to be most impactful in those decisions, as noted by the strength of the statistical relationship.

Figure H20 displays the CHAID model when the 10 summary factors were used to predict whether clients were offered full representation or unbundled services. In the figure, dark blue bars represent the proportion of cases offered full representation and light blue bars represent the proportion offered unbundled services. Logistic regression results are shown in Figure A2 in the appendix.

⁷⁰ Classification tree methodologies are used to identify predictor variables that classify a population along an outcome variable. In this report, the 10 summary factors (excluding “other”) were examined to see how they classify cases regarding the level of service offered (the outcome variable). These methodologies produce an inverted “tree” with branches indicating variables that are associated with differences in the outcome variable.

Figure H20. CHAID⁷¹ Classification Tree



⁷¹ The Chi-square Automatic Interaction Detection (CHAID) algorithm assesses when there is a statistically significant difference in the outcome based on levels of a predictor variable (e.g., a difference in service decision based on whether the client had a vulnerability indicator), and then creates a “branch” of the tree based on that variable.

Across all cases, 45% were offered full representation and 55% were offered unbundled services. Four factors emerged as significantly predictive of the level of service offered: opposing party representation, client vulnerability, case merit, and case status.

Opposing party representation (and being known by the Shriver attorney). The CHAID model found that service level decision was most strongly predicted by opposing party representation, which is unsurprising given that the legislation specifically sought to balance representation. The logistic regression results confirmed the importance of this factor: tenants facing a landlord with an attorney had three times of the odds of being offered full representation compared to those facing a self-represented landlord. The impact of this factor pertained to two distinct situations: (a) tenants facing a self-represented landlord were rarely offered representation (roughly 1 in 10 cases, and only those with other important factors such as merit and vulnerability), and (b) tenants facing a represented opposing party and either the landlord or opposing counsel was known to the Shriver attorney were almost always offered full representation (9 out of 10 cases). For tenants facing self-represented landlords, the lack of opposing counsel was the single biggest determinant of services. For tenants facing a landlord with an attorney, the knowledge of the opposing party or opposing counsel was the single biggest determinant of services. This result may be because the Shriver attorney could predict with some certainty how the case would transpire and whether their involvement would impact outcomes.

The majority of Shriver cases (76%) involved a tenant facing a represented landlord who was unknown, and whose counsel was unknown, to the Shriver agency. Across these cases, roughly half were offered full representation, which reflects the proportion in the overall sample. For these cases, other factors more significantly impacted the services offered (see below).

Client vulnerability. Analyses found client vulnerability to be significantly associated with service level decisions. The regression found that vulnerable clients' odds of being offered full representation were 2.5 greater than clients without an identified vulnerability. Specifically, more than half of clients assessed to have a vulnerability were offered full representation, compared to less than one quarter of clients without a vulnerability.

Certain vulnerability characteristics—such as clients with disabilities or household members with disabilities, children in the home, or being an older adult—were particularly influential in offering full representation. This finding makes sense, as these tenants would be the least likely to be able to navigate the court process and effectively represent themselves. They would also potentially be the most at-risk if they became homeless after their eviction.

Case merit. Analyses also revealed case merit as a significant predictor of service level decisions. The regression found that the odds of full representation being offered were 5.3 times greater for clients with legal defenses than for those without. Specifically, two thirds of clients with meritorious cases

were offered full representation, versus one quarter of those without. Cases without merit that were offered full representation often included tenants deemed to be vulnerable.

As a factor in the analysis, the presence of case merit impacted service decisions among clients with an opposing represented party and a vulnerability factor. One might expect merit to have had a more significant impact across the entire sample, as it seems critical for the provision of full representation. The slightly diminished capacity of merit to distinguish between service levels is likely due to its pervasiveness in the overall sample (79% of cases were deemed to have defenses).

Case Filing Status. Just over one quarter of clients sought Shriver assistance before the landlord had filed the unlawful detainer complaint with the court. Analyses found this status to be significantly associated with service level decisions. In general, pre-filing cases were more likely to be offered unbundled services. Specifically, the regression estimated that pre-filing cases had a 70% reduction in the odds of being offered full representation, compared to active cases.

When cases are pre-filing, there are several possible trajectories (although if an eviction notice has been posted, a complaint is likely to follow if the tenant does not correct the problem). At this point in the case, there are limited ways in which the Shriver attorneys can intervene. In most instances, legal education on the court process and tenants' rights, advice and counsel, and limited scope assistance is all that is warranted until there is an actual lawsuit.

The CHAID analysis did not find additional variables significant, but the logistic regression did. The regression also revealed, unsurprisingly, that tenants' plans significantly impacted the service decision. In particular, if the tenant had moved out of the unit, then the unlawful detainer case might be dismissed and there would be less for the attorney to do. If the tenant had plans to move out of the unit, then the attorney could help negotiate for additional time to move, for example, but would not have to invest the resources to try the case. In a few cases, tenants declined further assistance after the first meeting. These tended to be situations in which the tenant required only limited help (e.g., they had retained other counsel and just needed help filing an answer) or the tenant decided to handle the situation differently (e.g., based on fear that retaining counsel would create further tension with the landlord). In these instances, the attorneys would provide unbundled services (e.g., advice and counsel), but ultimately follow the tenant's wishes.

Ongoing Exploration of Housing Case Triage

In addition to the classification tree presented in this report using aggregated data, individual classification trees were constructed for each housing pilot project, and it was clear that the triage protocols differed across the sites. The Shriver evaluation has also collected case outcome data from the court files for the triaged cases, and these data are being analyzed to explore the relative effectiveness of different triage protocols for eviction cases.

Staff and Judicial Officer Perspectives on Shriver Housing Pilot Projects

The Shriver Act evaluation gathered information from the Shriver housing pilot project staff and stakeholders about their perceptions of the Program and its impacts. Data were collected from multiple legal services agency staff members (e.g., staff attorneys, supervising attorneys, paralegals, intake coordinators, and executive directors) and superior court judges and staff members (e.g., program managers and clerks) affiliated with the project. In 2015, telephone interviews were conducted with more than 20 legal services and superior court staff across the six housing pilot projects. In 2018, in-person site visits were conducted at each of the six pilot projects and more than 70 legal services and court staff members participated in one-on-one interviews or focus groups. This section summarizes the information collected across the projects at these two time points.

Successes and Accomplishments of the Pilot Projects

Access to Services

Shriver legal services staff thought that the project provided low-income tenants with meaningful access to the judicial system and with the security of knowing that someone was there to help them with their cases. Because Shriver funding enabled an increase in legal aid staff, the agencies were able to serve more people, which, in turn, changed the flow of cases and increased overall efficiency.

Staff explained that, without Shriver services, tenants who receive eviction notices are often scared and do not do anything, resulting in a default judgment against them. In this common scenario, they lose their housing and their credit is negatively impacted, making it even more challenging to obtain replacement housing. Other staff explained that as many as one third of legal aid clients have disabilities, and Shriver attorneys were able to help those tenants using provisions of the Fair Housing Act. With Shriver services, “tenants’ rights are preserved.”

Court stakeholders, many of whom were judges, explained that the eviction cases being brought to court were more defensible and more appropriate for trial proceedings as a result of Shriver assistance. They also thought the Shriver projects were effective vehicles for low-income tenants to be able to access expert help with their cases that they would otherwise not be able to afford. As a result of unbundled Shriver services, self-represented litigants were more educated about the system, which also increased efficiency.

Access to Justice

Shriver staff thought that the project had enhanced access to justice for low-income litigants in housing cases and improved the culture of landlord tenant court. They explained that Shriver representation “helps even the playing field” and “makes things more respectful” and that Shriver services make the unlawful detainer process for litigants “less hurried” and “less aggressive.” These staff reported that, without Shriver assistance, self-represented tenants experience a daunting lack of

legal knowledge and notable power differentials in court and when interacting with landlord attorneys. Some staff also reported that tenants tend to receive more respect in court when they have an attorney. Judges might not have favored tenants, even with meritorious cases, due to their inability to articulate their concerns effectively or to understand legal documents and processes. However, with representation, tenants are more likely to be heard and to receive more just rulings and fairer settlements. Through the Shriver Program, staff hoped to illustrate the necessity of representation for tenants in unlawful detainer cases with represented landlords. “Balancing the playing field” was an important goal. Attorneys felt confident that their presence improved outcomes for tenants and, over time, will help equalize the power dynamics in landlord tenant court.

Settlement Rate

Staff highlighted that Shriver services increase the proportion of cases that resolve by settlement. Settlements can provide important reprieve for tenants, especially when they have to move. Settlement terms can support tenants’ ability to find replacement housing by giving them more time to move out, reducing the amount of back-owed rent they must pay, and ensuring that the unlawful detainer case does not impact their credit. Attorneys are critical allies in the settlement process, as most self-represented litigants are not knowledgeable about what they can request or expect as part of a negotiation. Settlement agreements can provide a more stable transition for low-income tenants and their families, reducing the stress and trauma of a forced relocation. As part of this process, tenants are also educated about their rights and the legal process. Overall, staff thought that tenants “felt understood and that the law was explained to them. They weren’t taken advantage of.”

With attorneys on both sides, it was usually possible to successfully negotiate instead of taking the case to trial. Many staff also thought that the terms were better and fairer when both sides had legal representation. Court stakeholders pointed out that settlements made for a smoother transition period for both the landlord and the tenant when a property had to be vacated. Settlements also reduced the burden on the court by reducing the number of trials. They tended to relax the tension in the court, which helped alleviate some of the stress inherent in the process. One interviewee explained



Goals of the Shriver Program

Staff members across the six housing pilot projects described similar program goals:

- (a) Expand services to reach more clients and provide representation whenever possible.*
- (b) Create stability for the client, whether to keep tenants housed or negotiate move-out agreements that enables a “soft landing.”*
- (c) Positively impact landlord-tenant court culture by leveling the playing field.*
- (d) Improve the local housing stock by resolving habitability problems.*

further that both sides had the ability to resolve the case without a straight default or going to trial “where a tenant doesn’t even know what to do.”

Court Efficiency

Staff thought that the Shriver project had a positive impact on the court system and that judges appreciated it. Legal services staff reported that a combination of things contributed to a more efficient court calendar. First, represented litigants brought up fewer irrelevant matters before the judge, making hearings run more smoothly. Second, fewer frivolous, non-meritorious cases were brought by landlords when they had to consider opposing counsel. Third, with counsel, many litigants chose mediation or settled outside of court, thus diverting cases away from the court trial calendar. Overall, legal services staff thought that court processes moved faster with attorneys on both sides, relative to cases with self-represented litigants, and cases were less likely to go to trial. When tenants are not represented, the court system can more easily become congested with trials and continuances.

Court stakeholders expressed that the Shriver project had positively impacted the court by educating and supporting litigants, reducing emotional tensions in cases, increasing the likelihood of settlement, and facilitating efficiency of court proceedings. In particular, court stakeholders reported that the accuracy and completeness of paperwork and the compilation of evidence by Shriver attorneys made the court process smoother for everyone. One judge felt the cases were better prepared and others felt that litigants were more focused on facts relevant to their cases. They also appreciated that increases in settlements ultimately decreased trials, supporting overall court efficiency.

Court staff also explained that the Shriver projects had impacted the way landlord attorneys handled unlawful detainer cases. One interviewee described that Shriver services had “eased the whole process for the landlord bar and the court.” Because attorneys are fluent in the legal process, landlord attorneys were no longer resistant to talk to the defendants and were more amenable to settlements. One court staff person explained that some landlord attorneys were initially hesitant about the Shriver Program because they were used to dealing with unrepresented tenants. However, most believed that, over time, landlords and their attorneys became grateful for a more efficient process.

Mandatory Settlement Conferences

As of 2018, one project had implemented mandatory settlement conferences, and staff from that project described some benefits of these conferences. In addition to creating efficiency for the court in the form of fewer trials, these conferences were noted to have “emotional efficiency” for both parties, by not dragging the matter out. These conferences also created an important financial efficiency for landlords. Settlement conferences occurred 1 to 2 weeks before the trial date and were mandatory for all cases headed to trial. If a settlement was reached and the tenants agreed to move out as part of the terms, they were typically out of the unit well before the time it would have taken for the trial to conclude, and the writ of possession to be issued by the court and executed by the sheriff. In these

instances, the landlord was able to regain possession of the unit faster (than had the case proceeded to trial) and therefore was able to more quickly find a new tenant and begin collecting rent again.

Collaborations

Shriver Program grants entailed collaborations between legal services agencies and the local superior court. While there were some challenges in these collaborations, the majority of projects described good working relationships with the court and explained that the Shriver grant had strengthened the partnership. Many felt as though the elements of collaboration—regular communication between legal service providers and court stakeholders, easy referral pathways for services, joint brainstorming about how to improve services for litigants—were a significant success of the Program.



Some pilot projects included multiple legal services providers working together, which was a notable accomplishment. One staff member explained that the Shriver project helped to “create a partnership that weaved together what was once disparate legal services for unlawful detainer cases in the region.” In addition, this multi-agency collaboration allowed the partners to identify trends that they might not have seen independently. For example, if the agencies were seeing many cases coming from the same building or landlord, they could coordinate and strategize how they might best address these situations and the resultant concerns for tenants.

Challenges Encountered by the Pilot Projects

Social Service Needs Among Clients

Staff explain that many of their clients had other conditions that impacted their lives and functioning, such as issues related to mental health, substance use, domestic violence, and other family law matters. Attorneys reported operating as “semi-social workers.” However, they felt very limited in terms of the help they could provide beyond legal assistance due to lack of time and training. Staff in some projects stated that they referred their clients to other local social services (e.g., the local Alcohol, Drug, and Mental Health hotline) but could not offer direct service for these issues. Many attorneys thought that a social services coordinator would help free up attorney time to focus on the legal matters and would be more effective at connecting clients to needed services.

Some of these personal issues directly impacted eviction cases. For example, a few staff members noted that they represented individuals involved in unlawful detainer cases due to behavioral or nuisance problems, such as individuals acting out symptomatic mental health issues. Staff thought that a large portion of these cases were based on discrimination against tenants with disabilities or mental health issues—often people who were vulnerable and for whom eviction could have severe consequences. In these cases, attorneys often sought judgments or settlements that allowed for

reasonable accommodation for the tenant’s disability, and/or allowed the tenant to stay if treatment was sought and behaviors no longer disturbed others.

Service Reach and Capacity

Staff at all pilot projects acknowledged that there were low-income renters in their communities who would have qualified to receive Shriver assistance, and would have benefited from receiving it, but who never accessed it. They lamented that a notable portion of eviction cases ended in defaults because the tenants never engaged their services. They also believed that many tenants moved out after receiving the eviction notice and explained that these individuals were very hard to reach for services because they were essentially unknown to the legal services agency since nothing had been filed with the court.

Staff at several of the pilot projects reported that they were unable to serve all of the litigants who did present for help because demand for service consistently outpaced their capacity to provide it. One staff member explained, “[W]ith the current funding and staffing levels, our program cannot assist everyone that shows up for help.” Capacity problems were exacerbated for legal services agencies in rural areas that struggled to stay fully staffed.

Income Requirements for Service Eligibility

Staff expressed concern that the household income eligibility criteria was too restrictive and, as a result, omitted a population of low-income individuals who needed, but could not afford, an attorney. Tenants with incomes just over the eligibility limit did not qualify for Shriver services, but many of them had needs that were too extensive to fully address through self-help assistance.

Summary of Results for the Shriver Housing Pilot Projects

Given the dearth of affordable housing in California and the rate at which rents have outpaced wages in most areas of the state, eviction is one of the most urgent civil justice issues for low-income individuals, as the loss of housing poses a wide range of risks and consequences for families. These risks are severe for vulnerable tenants, such as older adults and people with disabilities. The Shriver Program endeavored to ensure access to justice and to support fair judicial decisions for these cases.

It is very common for unlawful detainer cases to involve landlords with legal representation and tenants without the resources to retain counsel. By leveling the playing field, the Shriver Act sought to provide equal access to justice and to ensure that cases were decided on their merits and not as a result of one side having legal representation.

Who was served by the Shriver Housing Pilot Projects?

From October 2014 through September 2019, the six housing pilot projects provided legal services to more than 19,000 low-income tenants facing eviction (and a small number of low-income landlords). Most Shriver clients were female and people of color. Many Shriver clients had characteristics that posed potentially serious consequences if they were evicted. For example, more than one third experienced a disability or chronic health condition, more than half had minors living in their households, and more than one quarter lived in subsidized housing. As part of these 19,000 cases, approximately 56,000 household members were impacted by the Shriver legal services.

California's high rents combined with low wages put tenants at risk for eviction. The median monthly income among Shriver housing clients was \$1,069, well below the 2019 FPL. The majority of clients experienced housing cost burden (82% of clients spent more than 30% of their household income on rent; 61% spent more than 50%), despite having rental amounts below the local fair market rent rates. Most commonly, Shriver clients were being evicted for the alleged non-payment of rent, and the median amount demanded on the notice was \$1,380.

What services were provided by the Shriver Housing Pilot Projects?

The housing pilot projects offered two levels of legal service: (a) full representation by a Shriver attorney, and (b) unbundled services (help with discrete legal tasks). Across the six projects, 56% of Shriver clients received full representation and 44% received unbundled services. Of those tenants who received full representation from a Shriver attorney, 95% were facing a landlord who was represented by counsel (1% were not and 4% were unknown).

Shriver court-based services for unlawful detainer cases included self-help centers, mediation services, and electronic filing systems. One court created a Housing Settlement Master position and instituted mandatory settlement conferences for all unlawful detainer cases that were scheduled for trial. Two

projects established relationships with the local housing authority to streamline inspections for cases involving allegations of breach of warranty of habitability.

What were the impacts of the Shriver Housing Pilot Projects?

Study results demonstrated that, relative to self-represented tenants, Shriver full representation had myriad benefits for tenants.

Services led to fewer defaults and increased participation in the justice system.

With the help of an attorney, tenants were better able to engage with the judicial system and adequately defend their cases. Tenants' access to justice depends on their ability to successfully file a written response to the unlawful detainer complaint within 5 days. Inability to do so results in a default judgment and tenants losing their homes without presenting their side of the case. Default judgments are common in eviction cases. Recent court administrative data from four of the six counties with Shriver projects had an average default rate of 40%.

Shriver services addressed this need. In many projects, unbundled services focused on filing answers for unrepresented litigants, helping them to clear this initial important hurdle. Further, among clients who received full representation, the default rate was effectively zero. No clients defaulted while receiving Shriver assistance, although some of these cases did result in a default judgment because the tenant presented for service with a default already entered and the Shriver attorney was unable to have it set aside. Even with these pre-existing and undisturbed defaults, Shriver full representation clients ended their cases with significantly fewer defaults (8%) than self-represented tenants did (26%).

In addition, attorneys enabled tenants to more effectively defend their cases and present the court with comprehensive information on which to base decisions. Tenants in 84% of full representation cases raised defenses, compared to 60% of those without representation. Raising issues of habitability, rent control violations, and Americans with Disabilities Act (ADA) accommodations with the court not only enabled tenants to clearly present their cases, but also allowed the issues to be remedied as part of the unlawful detainer case and therefore alleviated pressure on other publicly funded agencies.

Representation yielded more settlements and fewer trials.

Balancing representation significantly increased the likelihood of settlement and decreased the likelihood of a trial. Two thirds of tenants with full representation settled their cases, and 3% went to trial. This result contrasts with one third of self-represented tenants who settled their cases and 14% that went to trial.

Mandatory Settlement Conferences were effective.

One Shriver housing pilot project established a court-based Housing Settlement Master. Parties in unlawful detainer cases that were scheduled for trial were required to first meet with the Settlement Master for a Mandatory Settlement Conference (MSC) to see if an agreement could be reached. Data from a sample of cases indicate that these conferences were effective at helping parties reach

agreements that were tenable over time. This service exhibited high usage among litigants: In 79% of cases, both parties showed up and were willing to negotiate before the trial. The approach also showed high effectiveness, in that agreements were reached 70% of the time. This enhancement greatly reduced the number of cases that proceeded to trial, thereby reducing the burden on the court.

In most cases, the settlements were conditional, and Shriver attorneys helped to ensure that the terms provided some support to tenants. Contingent on the tenants moving out by a certain date (and sometimes paying money), the landlords agreed to reduce or waive the rental debt, offered ways to protect the tenant's credit (e.g., not report the case to credit agencies), or dismissed the case (so an eviction would not appear on the public record). These settlements were beneficial for both landlords and tenants. Landlords regained their property more quickly and without having to go through the trouble and expense of a trial or executing a writ of possession. Tenants had their debts reduced and their credit protected, both of which supported their ability to find replacement housing.

Most tenants moved out.

Despite having legal representation, the majority of tenants still had to move, but very few were subject to an actual lockout. Program service data from all six projects indicated that while 71% of full representation clients had to move, most did so as part of a negotiated agreement. Just 3% were forcibly evicted. Moving as part of a settlement helped calm emotions on both sides by including a leave date agreed upon in advance. It also offered some extra stability for tenants, including additional time to transition.

The random assignment study at three projects echoed these findings. Three out of four tenants, whether Shriver clients or not, had to move at the end of their case. However, with representation, tenants were more often able to negotiate the terms of their move. Among the Shriver clients who had to move, 83% did so as part of a settlement, as compared to 44% of self-represented tenants.

Some tenants retained possession of the property. Program service data from all six projects show that 18% of full representation clients retained possession of their housing. This rate nearly doubled among those cases that went to trial, in which 34% of tenants won their case and stayed in their home. The random assignment study at three projects found considerably fewer tenants retained possession, which could be due to the jurisdictions in which the random assignment study took place or the removal of a merit screen during the study group assignment protocols. Despite this difference, Shriver representation clients (5%) were still significantly more likely to stay in the home than were self-represented tenants (1%).

Representation fostered other beneficial financial and credit-related outcomes for tenants.

Outcomes of cases with tenants represented by Shriver counsel tended to involve elements supportive of longer-term housing stability, such as a reduction or elimination of back-owed rent, the eviction action kept off the public record, the case not reported to credit agencies, and a neutral rental

reference from the landlord. Any of these elements alone—but more so when combined—provided tenants with better opportunities to find alternate stable housing for themselves and their families.

When comparing the amount of money demanded on the complaint by the landlord and amount of money that the tenant was ordered to pay at the end of the case, random assignment study results show that tenants who received full representation tended to avoid payments more often than self-represented tenants. About 40% of full representation clients and self-represented tenants were ordered to repay all of the past-due rent. However, half as many full representation clients as self-represented tenants were ordered to pay holdover damages or attorney's fees. On average, tenants were able to avoid paying approximately \$2,000, a boon when trying to secure new housing. Moreover, the median amount avoided among full representation clients was about \$2,127, compared to \$1,365 among self-represented tenants.

The program's impact on supporting longer term housing stability was evident when talking with tenants 1 year after their cases had closed. All but one of the 66 interviewees had moved out of their homes at the end of their cases. One year later, 71% of Shriver clients had obtained new rental units, compared to 43% of litigants who did not receive Shriver services. Several litigants remained either homeless or unstably housed, but this was the case for twice as many self-represented tenants as Shriver clients. It is certainly plausible that benefits such as protected credit, sealed cases, and reduced/waived debt made it easier for Shriver clients to find stable replacement housing.

Litigants felt supported in the legal system.

When asked about the impacts of the unlawful detainer cases on their lives, tenants described many negative impacts, including increases in depression and anxiety due to the lack of stability and stress of having nowhere to go. They explained that being forced to move also negatively affected others in their household, most notably their children. Separate from the difficult experiences of the eviction case, many Shriver clients expressed appreciation for the legal services they received. The presence of an attorney helped make the stressful experience of an unlawful detainer case manageable for some clients, helped them to feel supported in the process and not lost in the system, and in some cases, helped them mount the motivation for a new start. This support likely contributed to Shriver clients feeling more satisfied with case outcomes than self-represented tenants did, even when they had to move out.

Shriver services improved court efficiency.

Although providing full representation to tenants did not shorten the time to resolve cases, it did reduce the level of involvement necessary by the court to bring cases to resolution. Shriver representation enabled two-thirds of unlawful detainer cases to settle, requiring comparatively fewer court resources, and severely limited the number of cases that went to trial, a more resource-intensive activity for court staff. These efficiencies could help alleviate court congestion by reducing the load on clerks and judicial officers, and possibly translate into cost savings over time.

Additional Needs Noted by Projects

Shriver staff overwhelmingly lamented the dearth of affordable housing, which made finding replacement housing very difficult for those who had to move. Additionally, tenants frequently needed more resources than legal help, such as short-term rental assistance and help finding new housing, which can be particularly important when trying to prevent homelessness and implement rapid re-housing. Importantly, many tenants also had other pressing social service needs, including mental health needs and substance use disorders. Finally, project staff expressed concern for those tenants who did not qualify for Shriver services due to their income—too high for the program, but still too low to afford an attorney. There was concern that these people could not be able to navigate the court system without help and would experience negative outcomes as a result.

Methodological Limitations and Considerations

Three pilot projects implemented random assignment, a methodologically rigorous study design that lends considerable credence to the results. However, even with random assignment protocols, the practicalities of field-based data collection may involve potential bias. In the current study, litigants could be assigned to a study group only if they presented at the legal services agency for assistance. Given the high number of tenants who defaulted without ever seeking help, the comparison group in this study may not have been representative of typical unrepresented tenants in unlawful detainer cases. This limitation may have introduced bias in the current sample, but one that would likely underestimate the effect of representation, because these proactive comparison tenants may also have been more likely to file an answer, engage with the landlord, and try to resolve their case. The larger drawback to this potential sample bias is the lack of information about those litigants who were most prone to default. In addition, the post-case closure interviews may have underrepresented litigants who became homeless after their forced relocation. While homelessness and unstable housing was a clear theme among those interviewed, it is possible that the litigants who were not located for interviews were more likely to be those in less stable situations.

2

CUSTODY PILOT PROJECTS



CHILD CUSTODY PROJECTS

This section presents data on cases served by the three child custody pilot projects from FY2015 to FY2019. The evaluation incorporates mixed methods and compiles data from multiple sources. For the pilot projects during this 5-year period, this study included ongoing data collection in the *Shriver Program Services Database*, an analysis of client self-sufficiency assessments, a comparative study of case outcomes, interviews with litigants, and interviews with Shriver project staff and stakeholders.⁷²

To be eligible for services, litigants were required to have a household income of not more than 200% FPL.⁷³ Services were intended for litigants in cases with a represented opposing party and that involved a request for sole custody.⁷⁴ Balancing representation was an important goal for staff serving these frequently contentious cases. The California Justice Gap Study found that child custody is the legal problem most strongly impacting low-income families—more than 60% of respondents rated it as extremely important.

A Few Highlights

From FY2015 to FY2019:

- 1,565 parents in custody cases received Shriver services. Nearly half received representation.
- Custody was resolved for 4,798 children.
- Clients demonstrated considerable needs for other, non-legal services.

Among parents who received representation by a Shriver attorney:

- Many were able to settle their cases or reach agreement on some issues.
- Many cases involved additional orders, such as parenting classes or mental health treatment, suggesting that parents were requesting court intervention to require the opposing party to utilize certain services.
- When Shriver representation was combined with a Shriver Settlement Conference, more than half of the cases settled and custody orders were durable for 90% of families for at least 2 years (as compared to 67% of non-Shriver families).
- Shriver clients expressed appreciation with their attorney. They reported being very satisfied with Shriver services even when they were not satisfied with their case outcomes.
- Shriver attorneys were able to educate litigants about the legal process, help them develop reasonable expectations for their cases, calm interpersonal tensions, and facilitate settlements. All of this helped to ease burden on the court.

⁷² Results are aggregated across the Shriver custody pilot projects. Detailed information about the individual projects is available in the previous evaluation report: <https://jcc.legistar.com/View.ashx?M=F&ID=5319197&GUID=A7E82A2C-C90F-41BF-AA2B-1EC3E5825C4C>

⁷³ In 2019, the federal poverty level (FPL) was \$21,330 for a family of 1 adult and 2 kids. <https://aspe.hhs.gov/2019-poverty-guidelines>

⁷⁴ AB330 lifted the eligibility requirements that cases had to involve a represented opposing party and a request for sole custody.

Shriver Program Services: Who was served and how?

The *Shriver Program Services Database* collects information about the litigants served and services provided by the legal services agencies affiliated with each pilot project (see Figure A1). These data have been collected since the first round of grants. This report focuses on the three custody pilot projects funded between FY2015 through FY2019.

During this 5-year period, these three pilot projects collectively served 1,565 individuals. Across these cases, 4,798 children were impacted by Shriver services.

Services Provided

Across the projects, 736 clients (47%) were provided representation by a Shriver attorney and the other 829 clients (53%) were provided at least one unbundled service. Shriver attorneys spent an average of 30 hours on each representation case and an average of 5 hours on each unbundled services case. Among cases that received unbundled services, most (88%) were provided brief counsel and advice.

Two thirds of clients who received representation by a Shriver attorney faced a represented opposing party (27% did not and 8% were missing this information). This percentage is likely low because 60% of Shriver clients were the moving party (i.e., the person who instigated the pleading), and the remainder were responding parties. At the time of filing of a pleading, the representation status of the opposing (i.e., responding) party is not yet definite because they may choose to retain counsel once they are served.

WHO RECEIVED SHRIVER SERVICES?

Between FY2015 and FY2019:

1,565 low-income parents served
4,798 children impacted

Of the parents who received services:



79% were female



62% were Hispanic/Latinx



23% had a disability

\$1,200/month

Shriver clients' median household income

\$1,778/month

2019 Federal Poverty Level for a household with one adult & two children

Most cases involved current or previous risk factors including:

35% allegations of domestic violence

43% allegations of substance use

28% involvement with child welfare services

WHAT SERVICES WERE PROVIDED?

Legal services were provided to parents seeking to obtain or preserve custody.

53% received unbundled legal services

47% received representation by a Shriver attorney

Characteristics of Clients and Cases

Clients

Of the 1,565 clients served, three quarters (74%) were between the ages of 25 and 44, and 79% were female. A large majority of clients identified as people of color, including 62% as Hispanic/Latinx and 12% as Black or African American. Half of all clients (50%) required interpretation assistance to participate in court proceedings. Almost one quarter of Shriver clients (23%) had a disability or chronic health condition. Many clients also received some form of public benefit: 45% received CalFresh benefits and 55% received public health benefits, such as MediCal.

Across all Shriver custody cases between FY2015 and FY2019, a total of 4,798 children were involved. On average, there were two children per case. The average child age was 7 years old, and 7% of them were identified as having a disability or chronic health condition. At Shriver service intake, 63% of children lived with the client most or all of the time, 22% lived with the opposing party most or all of the time, and 12% lived with both parties, either in the same household or through equal parenting time. Child Welfare Services (CWS) had, at some point, been involved with children in 28% of cases. Ten percent of Shriver cases involved children with open investigations or active CWS cases.

To be eligible for Shriver services, individuals must have household incomes of not more than 200% FPL. Across all Shriver custody clients, the median monthly household income was \$1,200, which equates to an annual income of about \$14,400—well below the FPL for a family of three.

Cases

The underlying actions varied across cases. Nearly one third of cases were filed as Parentage actions (FL 200; 31%), another third were filed under the Domestic Violence Prevention Act (DV 100; 31%), and another third were filed as part of a Dissolution, Legal Separation, or Annulment (FL 100 or 103; 30%). There were also Petitions for Custody and Support (FL 260; 5%), Governmental Child Support (FL 600; 5%), and a Juvenile Exit Order (JV 200; 1%).

Cases also demonstrated other complicating factors. One third (35%) involved an allegation of domestic violence at some point in the case, and 43% involved an allegation of substance use.

Case Outcomes

When attorneys provide unbundled services, they often do not know how the case ends. Therefore, the data about case outcomes in the *Shriver Program Services Database* refers only to those cases that received representation (full representation but limited in scope to the custody matter).

Few Cases Went to Trial

Of all Shriver custody cases with representation, very few (4%) were decided at a trial. Almost half of cases (43%) were decided at a hearing, and 26% ended via settlement. An additional 7% of cases reached partial agreement on some items and required a hearing to resolve others. A small number (3%) became dependency cases. Case resolution information was missing for 17% of cases.

Shriver Clients Often Obtained or Retained Custody

Legal custody involves which parent has the right and responsibility to make critical decisions related to the health, education, and welfare of the child. Parents who share legal custody both have the right to make decisions about these aspects of their children’s lives, but they do not have to agree on every decision. During the study period, orders for joint legal custody were common. Across the 735 representation cases, 43% ended with orders for legal custody to be shared between the parties. In 33% of cases, the Shriver client was awarded sole legal custody, compared to 7% of cases in which the opposing party was awarded sole custody. In 5% of cases, the pleading did not request a change in legal custody. Information on custody outcomes was missing for 11% of cases. Altogether, in 76% of cases, the Shriver client retained some legal custody of the children, whether sole or joint.

Physical custody concerns parenting time (i.e., how much time a child resides with each parent). Sole physical custody means that a child primarily lives with one parent. Joint custody generally means that each parent has more than 20% time with the child. More than half of the cases (52%) ended with the Shriver client being awarded sole physical custody. An additional 17% of cases ended with orders for joint physical custody. The opposing party was awarded sole custody in 15% of cases. In 4% of cases, the pleading did not request a change in physical custody. Information on custody outcomes was missing for 11% of cases. Altogether, in 69% of cases, the Shriver client retained some physical custody of the children, whether sole or joint.

Visitation refers to the amount and type of parenting time awarded to the non-custodial parent. Half of the cases (51%) resolved with orders for scheduled visitation, which gives the non-custodial parent time with the child. Orders for some cases indicated concerns about child well-being: 7% of cases involved orders for visits to be supervised and 3% involved no visitation for the non-custodial parent. None of the cases included orders for “reasonable visitation” which allows parties to work out a schedule on their own. This result is likely due to the contentiousness in these cases and the court’s

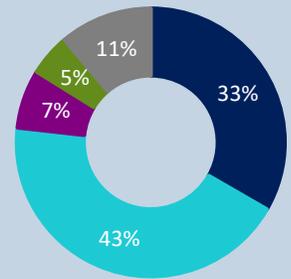
WHAT OUTCOMES WERE ACHIEVED FOR REPRESENTATION CASES?

Between FY2015 and FY2019:

Legal Custody Orders:

33% of Shriver clients awarded sole custody

43% of cases ended with joint custody

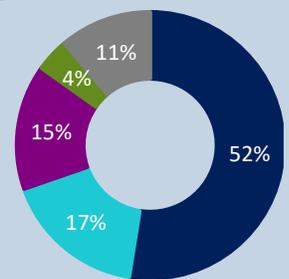


Legend: Sole to Client (dark blue), Joint (cyan), Sole to OP (purple), Other (green), Unknown (grey)

Physical Custody Orders:

52% of Shriver clients awarded sole custody

15% of opposing parties awarded sole custody



Many cases involved other orders.

- 26% parenting classes
- 26% therapy for children or parents
- 23% temporary restraining orders

impression that additional structure would be beneficial to avoid conflict and support sustainability of the arrangement.

Other Orders Beyond Custody Were Common

More than half (54%) of cases involved other orders issued by the judge, beyond legal or physical custody. Litigants requested court intervention to require the other parent to engage in activities such as parenting classes, mental health counseling, substance use disorder treatment, or batterer's treatment. In some cases, parties requested temporary restraining orders.

Across the representation cases, 26% involved orders for therapy or mental health counseling (13% for the children, 6% for the opposing party, 7% for the client); 23% involved orders for parenting classes (13% for the opposing party, 10% for the client); and 23% involved restraining orders (11% against the opposing party, 12% against the client). Smaller percentages of cases involved orders for batterer's treatment (7%), substance use disorder counseling (4%), and anger management classes (3%). An additional 16% of cases involved an "other" order, which was typically something specific to the case (e.g., restricting parents from moving out of state with the child).

Other Services and Innovations for Custody Cases

Shriver custody pilot projects provided other, innovative services, such as:

Shriver Settlement Conferences

One court implemented Shriver Settlement Conferences, which were special conferences facilitated by a designated judicial officer that parties attend with counsel. These conferences were scheduled for all cases with Shriver representation to provide an opportunity for parties to reach an agreement before the case went to hearing or trial.

Social Services Coordinator

Two pilot projects included a social services coordinator position within their legal teams. One project created a relationship with a local graduate school of social work whereby graduate students (working toward their Master of Social Work [MSW] degree) could intern at the legal services agency. In this position, the MSW intern conducted comprehensive needs assessments of all legal clients and then worked with clients to connect them to local community services and other resources. The goal of this position was to help stabilize families so that custody arrangements were possible and sustainable.

Domestic Violence Cases

In 2015, one of the Shriver custody pilot projects expanded its services to assist domestic violence survivors in domestic violence restraining order (DVRO) cases. During the past 5 years, 287 DVRO cases received Shriver services. All these cases were offered representation from a Shriver attorney at the DVRO hearing. The median number of attorney hours spent on a DVRO case was 20.

Clients

Over half of DVRO clients (57%) were between the ages of 25 and 44. Nearly all clients (96%) were female, and 81% were women of color, with most clients identifying as Hispanic/Latinx (52%) or Black or African American (11%). Almost one quarter (22%) spoke a language other than English and required interpretation assistance for court proceedings. The median monthly household income among Shriver DVRO clients was \$880 (less than \$11,000 per year).

Many clients had children in the household. In almost half of cases (47%), children were involved in the domestic violence incident that prompted the DVRO request and Shriver service.

Outcomes

Of the 287 survivors assisted, 270 cases received representation from a Shriver attorney at a DVRO hearing. In all these cases (100%), a Temporary Restraining Order was granted in full. With regard to Orders After Hearing (OAH), in half of these cases (49%) such orders were granted, and just 1% were denied. The remaining half of cases (49%) were effectively dismissed by the client due to the client not appearing or losing contact with the Shriver attorney.

Client Self-Sufficiency: What non-legal service needs do Shriver clients have?

Poverty presents myriad challenges for families, many of which can impact parenting, such as difficulties with housing, transportation, or food security. Understanding this reality, one Shriver custody pilot project incorporated social service coordinators into their legal teams. The coordinators used a standardized tool to assess clients' functioning across a range of life domains to inform various social service referrals. At the end of FY2019, this project shared the assessment data with the Shriver evaluation team. Analyses of these data reflected numerous non-legal needs experienced by many Shriver clients.

Methods

This custody pilot project used an adapted version of the Arizona Self-Sufficiency Matrix (ASSM)⁷⁵ to assess clients, and staff sought to conduct assessments at service intake and again at service exit. The ASSM inquires about a person's functioning across a variety of life domains. The 13 domains assessed by the Shriver staff included: housing, income, employment, job readiness, food security, healthcare coverage, safety, health/disabilities, mental health, child care, transportation, family/social relations, and life skills. Based on information given during the interview, each client was assigned a score for each domain on the following 5-point scale (see appendix for scoring criteria, Figure A3): 1 ("*in crisis*"), 2 ("*at risk*"), 3 ("*building capacity*"), 4 ("*stable*"), and 5 ("*thriving*").

Results

Assessments at Service Intake (Baseline)

Staff completed baseline assessments on 322 Shriver custody clients. Of these clients, 36% received representation by a Shriver attorney for their custody case. Others received unbundled services. A little more than half (56%) were the moving party.

When presenting for services, Shriver clients reported the highest levels of need in the areas of employment, job readiness, and income. In particular, more than two thirds of clients were *in crisis* or *at risk* with regard to employment, and only 15% were *stable* or *thriving*. Two out of five clients were *in crisis* or *at risk* with regard to income, and only 19% were *stable* or *thriving*. Food security and housing were also significant needs reported by parents. Figure C1 shows these findings.

In contrast, the majority of clients reported stability regarding practical needs such as transportation and child care. Most clients also reported stability with regard to physical health/disabilities, safety, life skills, and mental health. These domains, in which more than half of the clients were stable or thriving, are shown in Figure C2.

⁷⁵ *Arizona Self Sufficiency Matrix*. Retrieved from <https://aspe.hhs.gov/report/toward-understanding-homelessness-2007-national-symposium-homelessness-research-accountability-cost-effectiveness-and-program-performance-progress-1998/case-study-arizona-evaluation-project> The Shriver custody project used 13 of the 18 domains.

Figure C1. Domains with the Highest Needs at Service Intake

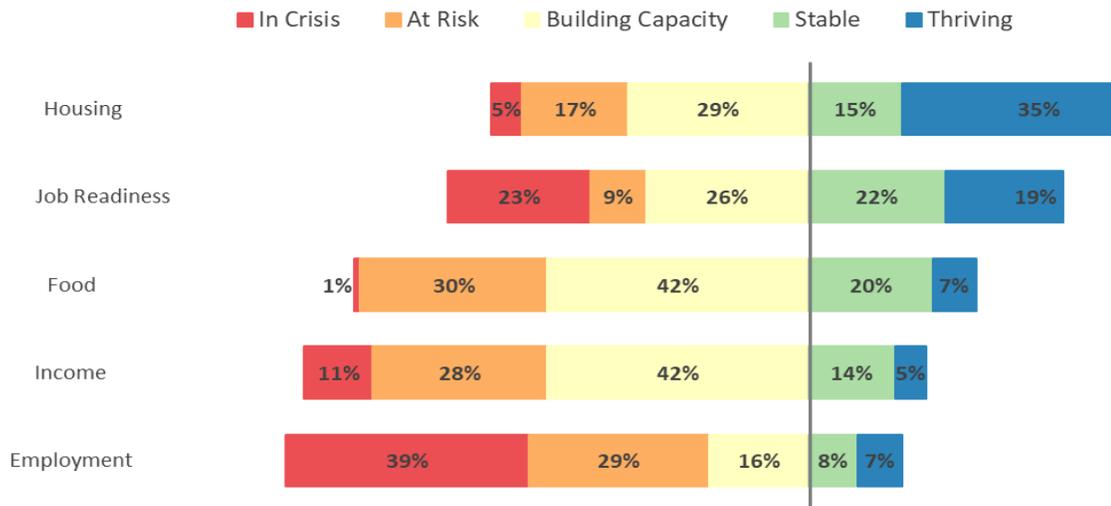
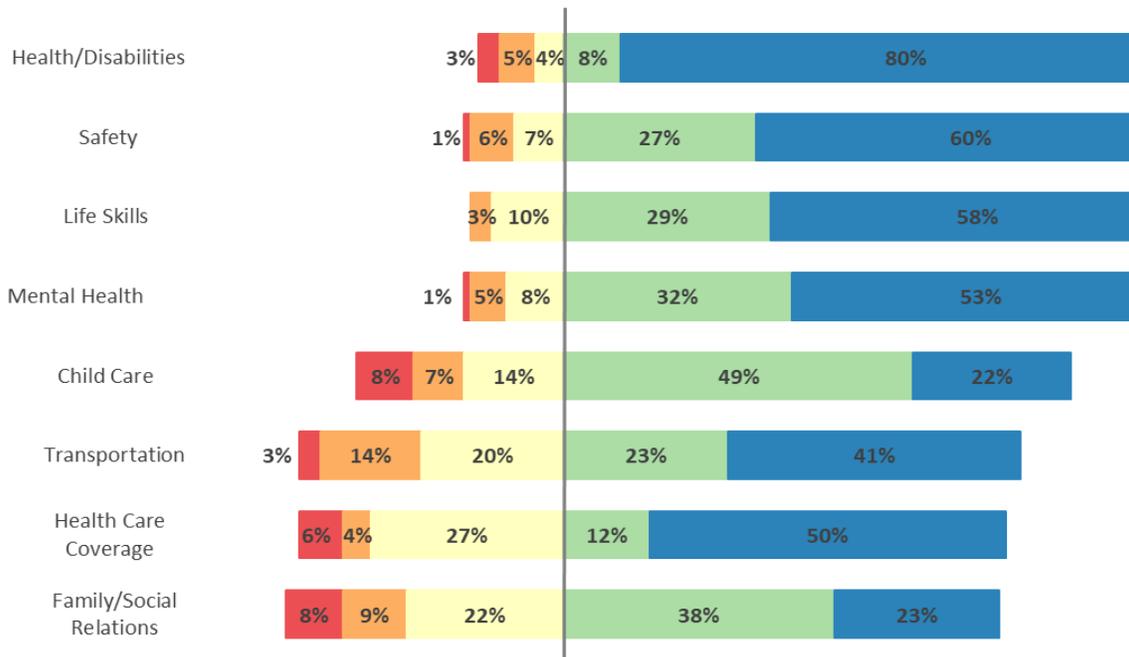


Figure C2. Domains with the Highest Stability at Service Intake



Assessments at Service Exit (Follow-up)

Staff completed follow-up assessments with 75 clients. On average, follow-up assessments were done 4 months (mean = 130 days) after the baseline assessment (range = 7 to 570 days). Of clients with follow-up assessments, 51% received representation by a Shriver attorney.

The assessment results at service exit largely showed the same areas of need as those at service intake. Clients reported the highest need in the areas of employment, job readiness, and income. Food security followed. Figure C3 shows these results. In contrast, most clients continued to report stability

in terms of practical issues such as transportation, and psychosocial issues such as physical health/disabilities, safety, life skills, and mental health. Figure C4 shows the domains for which more than half of clients were stable.

Figure C3. Domains with the Highest Needs at Service Exit

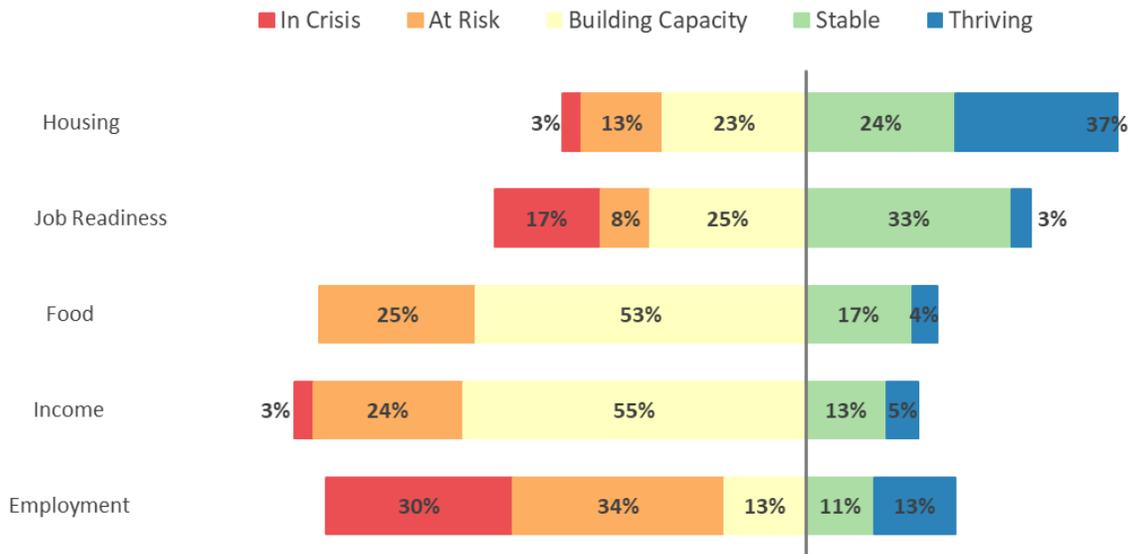
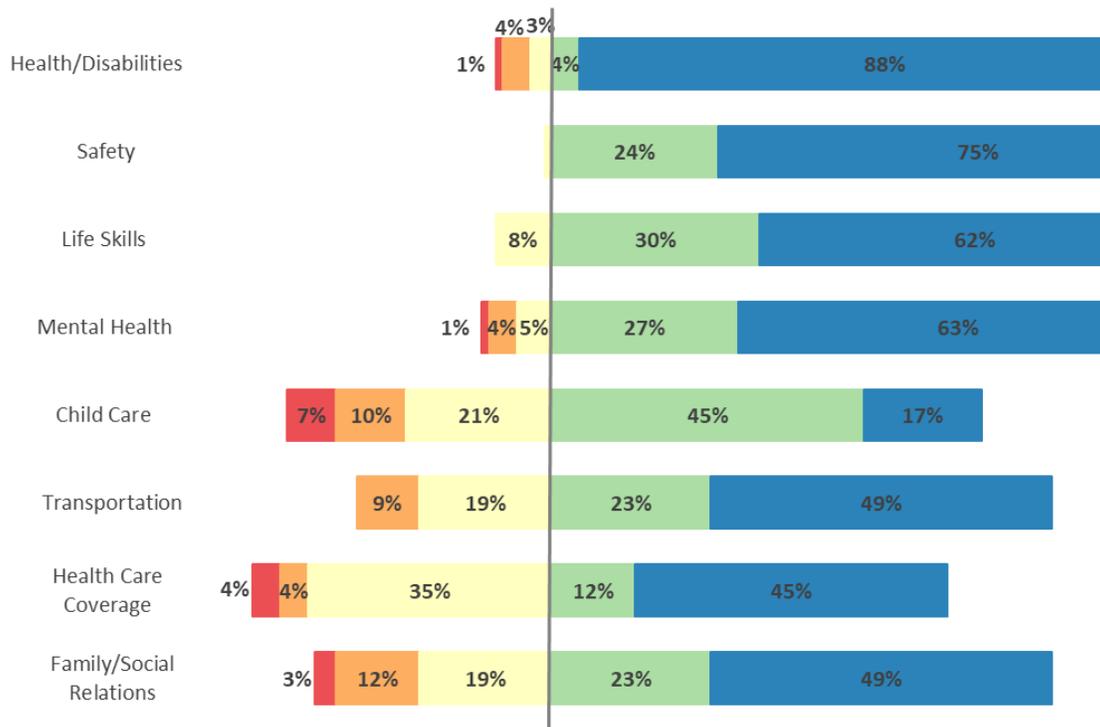


Figure C4. Domains with the Highest Stability at Service Exit



Change Over Time

Figure C5 below shows the average change in assessment scores from baseline to follow up for all 75 clients. Across all clients, the largest increases in scores were seen for job readiness (.34), safety (.31), and transportation (.37). Many other domains showed little change. Child care was the only domain to decrease over time (-.35). It is important to note that these change statistics must be considered within the context of the baseline score. For example, despite the fact that one of the largest increases was for job readiness (.34), this domain remained an area of need among clients. In contrast, while there was a notable decrease for child care, more than half of clients remained stable in this domain.

Figure C5 also shows the average change in scores separately for the 38 clients who received representation and the 24 client who received unbundled services (some clients were missing information about service level). For many domains, the relative change over time appeared to differ between the service groups. These differences were statistically significant for two domains: job readiness⁷⁶ and mental health.⁷⁷ In both instances, representation clients' scores showed greater positive change than unbundled services clients' did—that is, clients who received representation by a Shriver attorney showed significantly greater improvements in mental health and job readiness than unbundled services clients did. These statistics are based on relatively small samples of litigants, so the results should be considered preliminary.

Figure C5. Average Change Between Baseline and Follow-up Assessments by Level of Service Received

| Domain | All Clients | Representation Clients | Unbundled Services Clients |
|-----------------------------|-------------|------------------------|----------------------------|
| Job readiness <i>[sig.]</i> | 0.34 | .90 | -.29 |
| Employment | 0.13 | .29 | -.11 |
| Income | 0.20 | .29 | .17 |
| Food security | 0.03 | .03 | -.08 |
| Housing | 0.17 | -.21 | .38 |
| Health care coverage | 0.11 | .11 | -.21 |
| Health/disabilities | 0.16 | .32 | -.08 |
| Mental health <i>[sig.]</i> | 0.17 | .50 | -.33 |
| Safety | 0.31 | .21 | .33 |
| Life skills | 0.09 | .14 | .00 |
| Family/social relations | 0.24 | .11 | .29 |
| Child care | -0.35 | -.68 | -.05 |
| Transportation | 0.37 | .03 | .63 |

Total N = 75: Representation N = 3, Unbundled Services N = 24 (13 clients were missing service level)

⁷⁶ $t(44) = 2.46, p < .05$

⁷⁷ $t(60) = 3.08, p < .01$

Comparative Study of Case Outcomes: What impact did Shriver services have?

A comparative study of case outcomes was conducted in FY2016, at one custody pilot project, to assess the impact of Shriver services (see Figure A1 for more information). Services included representation by a Shriver attorney and court-based Shriver settlement conferences. In addition to the other Shriver eligibility requirements, litigants had to be involved in a case with sole custody at issue.⁷⁸

Methods

Random assignment was not conducted at the custody project, due to the relatively small number of eligible cases that present for service. Instead, staff at the superior court selected a comparison sample using the court case management system. Data on case outcomes were gathered from the court files of all sampled cases. The study sample included two groups: (a) 53 cases that received representation from a Shriver attorney and (b) 56 comparison cases that did not receive Shriver services. Shriver representation cases were drawn from the *Shriver Program Services Database*. Nearly all (92%) of these cases had legal representation on both sides. Shriver clients were the moving party (i.e., the person who instigated the pleading) in 49% of cases and the responding party in 51%. Most (89%) of these Shriver clients were mothers. Comparison cases all had a request for orders (RFO) involving sole custody and a fee waiver⁷⁹ granted to at least one party. Half of the comparison cases involved both sides self-represented, 16% had both sides represented, and 18% had imbalanced representation.

A custody matter in family court stays open until the child turns 18 years old. Because of this timeline, cases often involve multiple pleadings over time. Shriver services addressed a single pleading (one RFO) at any time during the life of the case. A single RFO can involve several court events (hearings, etc.) and can last for several weeks or months. For this study, one RFO was considered a “case” for the purposes of analysis. The RFO for which Shriver services were provided was considered the **study relevant pleading** (SRP). For the comparison group, one pleading during the same timeframe that involved a sole custody request was selected to be the SRP. Analyses compared outcomes related to the SRP between the two groups (not outcomes for other pleadings in the case) in three primary areas:

- **Case resolution and court efficiency:** Analyses examined the rate of settlement versus decision by hearing, the number and type of hearings, and the impact of Shriver settlement conferences.
- **Case outcomes:** Analyses examined orders for legal custody, physical custody, and visitation.
- **Durability of orders:** Analyses assessed whether SRP custody orders were maintained over time, specifically whether parties submitted a request to modify the custody orders within 2 years of SRP resolution.

⁷⁸ When this comparative study was done, AB590 set sole custody as an eligibility requirement for Shriver services. Sole physical custody is defined differently in different jurisdictions. In this jurisdiction, it typically meant 70% or greater parenting time. In 2019, AB330 removed the sole custody eligibility requirement.

⁷⁹ Judges must waive the court fees for litigants with incomes not more than 125% FPL. (Gov. Code 68632 (b))

Description of Sampled Custody Cases

Type of Petition

Although parties can petition the court for custody, it is more common for them to file a petition in family court for another matter—most often, dissolution of marriage—in which child custody is among the issues subject to disposition by the court. In the current sample, nearly all (98%) of the comparison cases were initiated with a petition for dissolution of marriage. By contrast, cases that received Shriver representation showed more variability in the initial circumstances that led them to petition the court: 42% were initiated by a petition for dissolution of marriage, 28% by a uniform parentage petition, 23% by a governmental child support petition,⁸⁰ 8% by a petition for custody/visitation, 4% by a domestic violence restraining order petition, and 4% by a final judgment for custody in a juvenile court case.⁸¹ The homogeneity of the comparison group is likely due to the capabilities of the court case management system used to sample the cases. This difference in the study groups may indicate a lower rate of marriage among Shriver participants, which may be relevant for case outcomes, given the additional challenges often faced by low-income, never-married parents navigating the family law and child support systems.⁸²



Initial Custody Pleading or Modification Request

Custody cases can remain open for years, and it is possible for parties to submit requests to modify the existing orders multiple times over the life of a case, as circumstances in the parents' and children's lives change. Shriver clients could be at any point in their case when they received assistance.

The SRP was the initial custody pleading for 53% of Shriver representation cases and 66% of comparison cases. In the remainder of the cases, the SRP was a request for modification. For both groups, when the SRP was a modification, the SRP was, on average, the third RFO filed in the case and occurred 2 to 3 years after the initial custody pleading.

⁸⁰ Governmental child support cases are filed by the local child support agency, the County is generally named as the petitioner, and the non-custodial parent is the respondent. Governmental child support cases are always filed if the custodial parent seeks welfare (Temporary Assistance for Needy Families) benefits for the child, or if the child becomes a ward of the state in a dependency action and foster care funds are provided. In addition, any parent can request the services of the child support agency to establish parentage; or to obtain, modify, or collect a child support order at no charge. While the local child support agency provides assistance only with the child support portion of the case, California law provides that custody and visitation can be determined in these cases. The mechanism for requesting a custody or visitation order is to legally "join" the custodial parent after parentage has been established, which involves filing papers with the court. Once the parent has been joined, either parent can file a motion for child custody or visitation and those issues will normally be heard in the family law court in the same way that a divorce, parentage, or other family law case would proceed.

⁸¹ Percentage do not sum to 100% because there may be more than one type of petition that initiated a custody case.

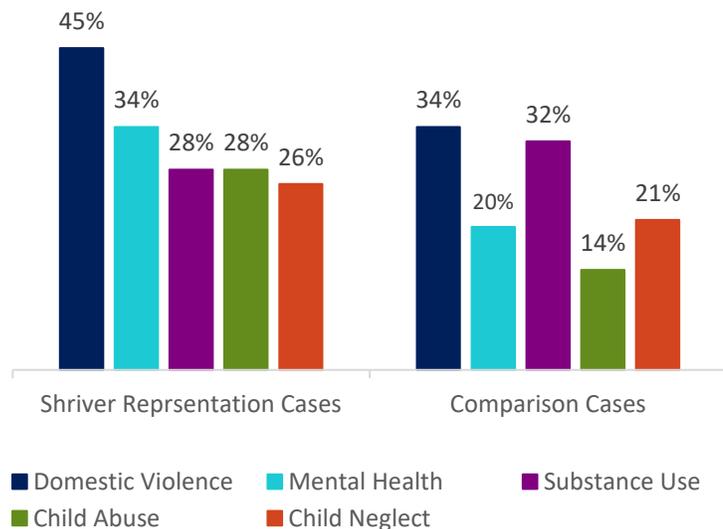
⁸² Boggess, J. L. (2017). Low-income and never-married families: Service and support at the intersection of family court and child support agency systems. *Family Court Review*, 35(1), 107-119.

Complicating Issues and Allegations

Custody cases can involve other allegations that may complicate the proceedings, such as domestic violence, substance use disorders, and child maltreatment. These issues can bear on the court’s ability to determine fit parents and the best interests of the child. They may also reflect the environment in the home or the contentiousness between parties.

Figure C6 shows the allegations made by either party over the life of the custody case (not just the SRP). Shriver cases tended to involve other complicating issues, most often domestic violence and mental health concerns. Altogether, three quarters (72%) of Shriver representation cases involved at least one allegation, versus half (55%) of comparison cases. (Note: Allegations may or may not have been substantiated.)

Figure C6. Percentage of Cases with Each Allegation Made over Life of Custody Case



Study Relevant Pleading (SRP)

What was requested by parties?

Recall that Shriver representation was intended for cases with sole custody at issue. Sole *legal* custody provides one parent the right and responsibility to make all decisions related to the health, education, and welfare of the child, without having to consult the other parent. Sole *physical* custody pertains to the parent who has the substantially greater percentage of parenting timeshare (i.e., child is with that parent most or all the time).

Figure C7 shows the legal and physical custody requests made by parties in these cases. Moving party requests were similar across the two groups and, overall, parents showed more willingness to share legal rather than physical custody. Regarding legal custody, approximately 50% of cases in both groups involved a moving party seeking sole custody and roughly 50% seeking joint custody. In contrast, regarding physical custody, roughly 80% of moving parties in both groups sought sole physical custody.

Not all cases involved a responding party who submitted counter requests. Responsive declarations were more common among Shriver representation cases (87%) than among comparison cases (41%). Recall that about half of Shriver clients were responding parties; thus, it appears that Shriver representation increased the likelihood that responding parties submitted counter requests, ensuring that both parents were able to voice their opinions to the court. Among responses, 28% of Shriver cases involved a responding party requesting sole legal custody, versus 9% of comparison cases. More

than two thirds of Shriver cases involved a responding party requesting sole physical custody, versus less than one quarter of comparison cases.

Figure C7. Legal and Physical Custody Requests by Study Group

| Custody Requests | Shriver Representation | | Comparison | |
|-------------------------|------------------------|--------------------------|----------------------|--------------------------|
| | Moving Party Request | Responding Party Request | Moving Party Request | Responding Party Request |
| Legal Custody | | | | |
| Sole to mother | 12 (23%) | 9 (17%) | 14 (25%) | 3 (5%) |
| Sole to father | 12 (23%) | 6 (11%) | 13 (23%) | 2 (4%) |
| Joint | 26 (49%) | 26 (49%) | 28 (50%) | 13 (23%) |
| None/NA | 3 (6%) | 12 (23%) | 1 (2%) | 38 (68%) |
| Physical Custody | | | | |
| Sole to mother | 21 (40%) | 24 (53%) | 26 (46%) | 10 (18%) |
| Sole to father | 20 (38%) | 8 (15%) | 23 (41%) | 2 (4%) |
| Joint | 9 (17%) | 10 (19%) | 6 (11%) | 6 (11%) |
| None/NA | 3 (6%) | 11 (21%) | 1 (2%) | 38 (68%) |

Shriver Representation N = 53, Comparison N = 56

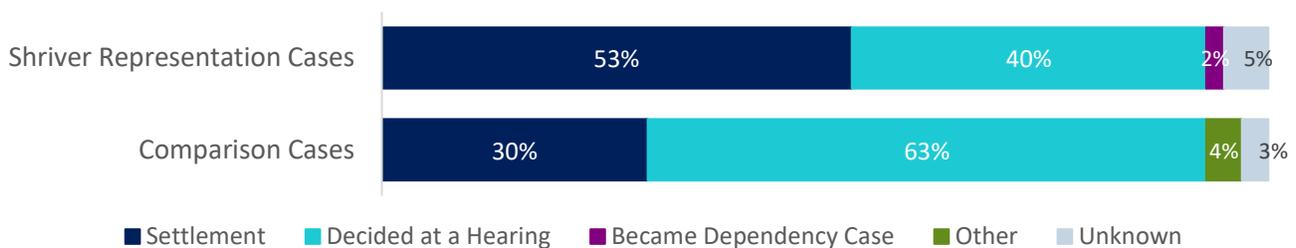
Court Efficiency

How were SRPs ultimately resolved?

Shriver representation cases were significantly more likely to settle and less likely to be decided by the court than were comparison cases.⁸³ Overall, 53% of Shriver representation cases were ultimately settled and 40% were decided at a hearing. In contrast, 30% of comparison cases settled and 63% were decided at a hearing. See Figure C8. (Of both groups, 7% were resolved another way or unknown.)

During the settlement process, attorneys negotiate with the opposing party, speak on behalf of the client, raise and respond to issues, and assess what is reasonable.

Figure C8. SRP Resolution by Study Group



Of the 28 Shriver representation cases that settled, 18 were ultimately resolved by a Shriver settlement conference, 8 settled outside of a settlement conference, and 2 settled via Family Court Services mediation. Of the 17 comparison case settlements, all settled outside of mediation. Approximately three quarters of cases in both study groups had attended at least one mediation session.

⁸³ $\chi^2(1) = 4.28, p < .05, \text{Cramer's } V = .21$

Shriver Settlement Conferences

Shriver settlement conferences were a key court innovation of this custody pilot project (see sidebar).⁸⁴ These conferences were scheduled for all Shriver representation cases and were ultimately held for 85% of them. A few did not occur, most often because an agreement was reached earlier or because one of the parties did not appear.

Of the 45 cases that involved a Shriver settlement conference, 60% reached some level of agreement. Specifically, 42% reached full agreement on all issues, 18% reached partial agreement (parties agree on some issues, but other issues require additional court intervention), 33% reached no agreement, and 7% (3 cases) were missing data. Whether parties reached agreement during the Shriver settlement conference was not related to the pleading type (initial orders vs. modification) nor to other allegations in the case. Anecdotally, judges and attorneys involved in the Shriver project described that these settlement conferences were effective at narrowing the issues, even if agreement was not reached.

Approximately three quarters of cases in both study groups participated in at least one Family Court Services (FCS) mediation session, but only two cases were ultimately resolved in a mediation session. This result contrasts with the higher proportion of cases resolved during Shriver settlement conferences. This heightened effectiveness of the Shriver settlement conferences may reflect the benefit of having counsel present during the negotiation to help clients determine whether terms are reasonable and to facilitate agreement, or the benefit of having a judge facilitate the discussion.

Were there fewer hearings?

A single pleading can involve multiple hearings, particularly when the case is contentious, which can increase burdens on the court and contribute to overall congestion. When agreement can be swiftly reached, court hearings are not necessary. Shriver representation cases were significantly more likely



Shriver Settlement Conferences

Shriver settlement conferences are special conferences facilitated by a designated judicial officer. Parties attend the Shriver settlement conference with counsel, unlike traditional Family Court Services mediation sessions. Parties can confer with their counsel, who can help them determine reasonable terms and, if agreement is reached, the judicial officer can issue orders immediately. These conferences are scheduled for all cases with Shriver representation to provide an opportunity for parties to reach an agreement before the case goes to hearing or trial.

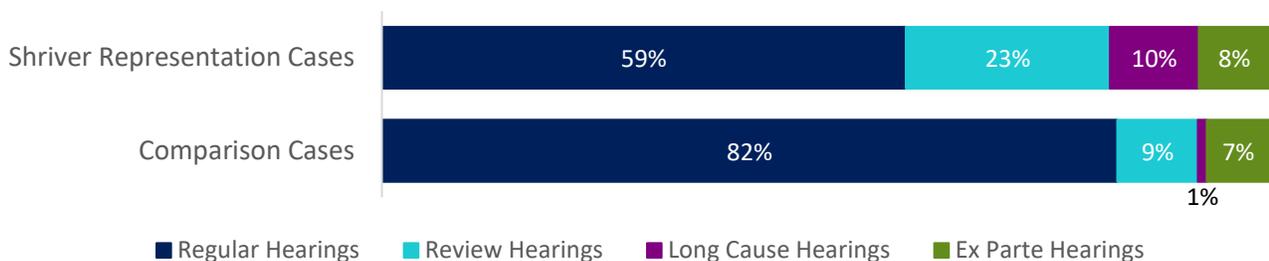
⁸⁴ Extant (non-Shriver) settlement conferences were facilitated by a volunteer attorney and offered only to cases set for trial.

than comparison cases to resolve without a hearing.⁸⁵ Specifically, among Shriver representation cases, 16% were resolved without a hearing, versus one (2%) comparison case.

Cases in the study groups did not differ in the average number of hearings per pleading (2.5), but they did differ significantly in terms of the type of hearings that were held.⁸⁶ A total of 105 hearings were held among Shriver representation cases and a total of 140 hearings among comparison cases. As seen in Figure C9, among the hearings held for Shriver cases, 59% were regular, 23% were review, 10% were long cause,⁸⁷ and 8% were temporary emergency (ex parte) hearings. In the comparison group, a large majority (82%) were regular hearings and the remaining were review (9%), ex parte (7%), and long cause (1%). A lower percentage of regular hearings among Shriver representation cases indicates that, with counsel, parties were more often able to resolve their key issues in the settlement conference and therefore did not need a hearing.

Shriver cases had fewer regular hearings and more review hearings, relative to the comparison group. Review hearings are often used by the court to allow families some time to try out a new custody or visitation arrangement and then to report back to the court on the suitability of the arrangement. In this way, review hearings can alleviate the need for parents to file a new RFO to change existing custody orders that are not working out well.

Figure C9. Type of Hearing by Study Group



Were pleadings resolved faster?

Shriver representation did not significantly impact the length of time it took to resolve the pleading.⁸⁸ The length of the SRP was the number of days between the filing of the SRP and the date of order, settlement, or judgment. On average, proceedings lasted about 4 months in both groups.⁸⁹

Case Outcomes

Child custody cases are complex. Myriad requests can be made, diverse outcomes are possible (e.g., various derivations of timeshare between parents), and a litigant's role in the case (i.e., moving party

⁸⁵ $\chi^2(1) = 6.87, p < .01$

⁸⁶ $\chi^2(3) = 21.02, p < .001$, Cramer's $V = .29$

⁸⁷ A long-cause hearing is any hearing longer than one trial day (i.e., more than 2.5 hours as defined by [CRC 5.393\(a\)\(1\)-\(2\)](#)).

⁸⁸ Given the skewed distribution, a nonparametric test was used. Mann-Whitney $U = 1399.5, p = .608$

⁸⁹ For Shriver representation cases, the mean length was 140 days (median = 111). In the comparison group, the mean length was 135 days (median = 99).

vs. responding party, self-represented litigant or not, current custodial parent or not) can change over time. Recall that 89% of Shriver representation clients were mothers. Analyses compared the custody outcomes for mothers and fathers among the 47 (of 53) Shriver representation cases with mothers as clients and among the 56 comparison cases. Analyses examined custody orders for parents, regardless of whether they were the moving party or the responding party for the SRP.

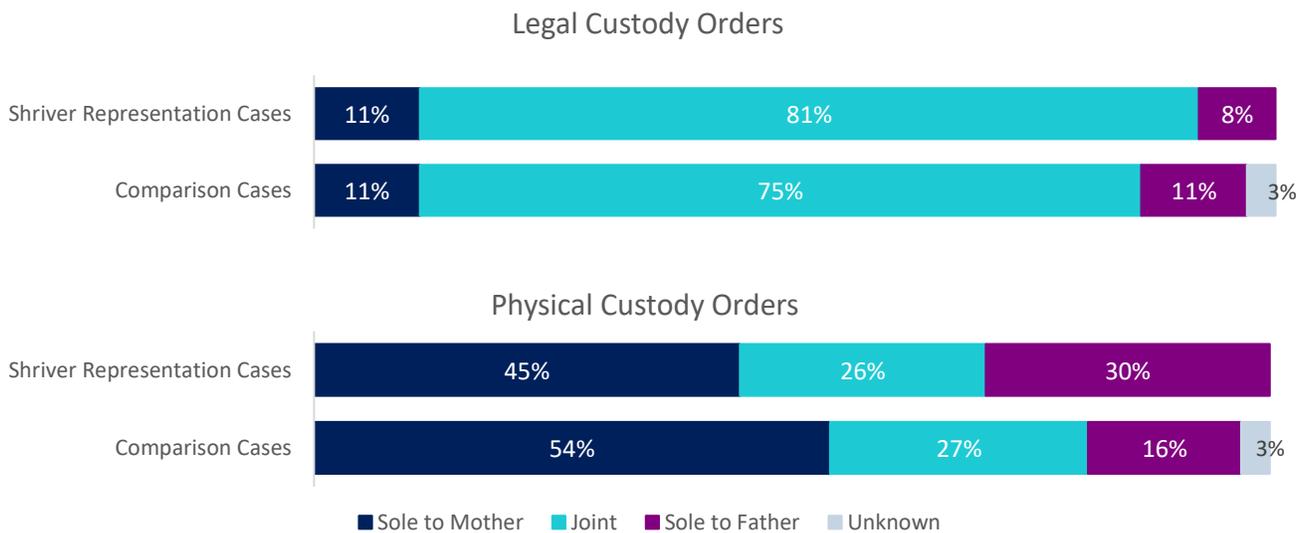
Regarding attorney representation, all of the mothers in the Shriver representation group were, by nature of being a Shriver client, represented. Among the comparison group, 70% of mothers were self-represented and 23% were represented by an attorney (7% were missing this information).

What custody and visitation orders were issued for the SRP?

Custody. Custody orders were similar between the groups, as demonstrated in Figure C10. Joint legal custody was commonly ordered. At least three quarters of both groups (81% of Shriver representation cases, 75% of comparison cases) resulted in joint legal custody. In both groups, 11% of mothers were awarded sole legal custody.

Regarding physical custody, roughly one quarter of both groups (26% of Shriver representation cases, 27% of comparison cases) resolved with joint physical custody. About one half of cases (45% of Shriver representation cases, 54% of comparison cases) resolved with mothers receiving sole physical custody. Thirty percent of Shriver cases ended with sole custody awarded to fathers, versus 16% of comparison cases. None of these differences were statistically significant.⁹⁰

Figure C10. Legal and Physical Custody Orders by Study Group



⁹⁰ $\chi^2 (2) = 2.54, p = .281$

Visitation. The groups were similar in terms of visitation outcomes. Figure C11 compares the visitation orders for study groups, organized by the physical custody orders issued. For example, if sole physical custody was granted to the mother, the type of visitation granted to the father is shown. Scheduled visitation was most commonly ordered for cases in both groups. These visits are scheduled, but unsupervised, which means the parent has time with the child independently. However, when there are concerns for the child’s safety, the court can order the visits to be supervised by a third party. In both study groups, when mothers were granted sole physical custody, roughly 80% of fathers were granted scheduled and unsupervised visitation and about 10% of fathers were ordered to have scheduled and supervised visitation. When fathers were granted sole physical custody, a greater percentage of mothers were ordered to have scheduled and supervised visitation (31% of Shriver representation cases, 44% of comparison cases).

Also seen in Figure C11, no Shriver cases and only one comparison case involved an order of reasonable visitation,⁹¹ which may be indicative of contentiousness between parties and the court’s presumption that these families would benefit from additional structure.

Figure C11. Visitation Orders by Physical Custody Ordered and Study Group

| Visitation Order | Shriver Representation | | | Comparison | | |
|-------------------------|------------------------|--------------|---------|--------------|--------------|---------|
| | Mom has Sole | Dad has Sole | Joint | Mom has Sole | Dad has Sole | Joint |
| Reasonable visitation | 0 (0%) | 0 (0%) | 0 (0%) | 1 (3%) | 0 (0%) | 0 (0%) |
| Scheduled, unsupervised | 17 (81%) | 9 (69%) | 8 (67%) | 24 (80%) | 5 (56%) | 7 (47%) |
| Scheduled, supervised | 2 (9%) | 4 (31%) | 0 (0%) | 4 (13%) | 4 (44%) | 0 (0%) |
| Other | 0 (0%) | 0 (0%) | 0 (0%) | 1 (3%) | 0 (0%) | 2 (13%) |
| None | 1 (5%) | 0 (0%) | 0 (0%) | 0 (0%) | 0 (0%) | 0 (0%) |
| Not applicable | 1 (5%) | 0 (0%) | 4 (33%) | 0 (0%) | 0 (0%) | 6 (40%) |
| Total | 21 | 14 | 12 | 30 | 9 | 15 |

Note. Data were missing for the terms of visitation for one Shriver case with sole custody ordered for the father.

What additional orders were issued at the resolution of the SRP?

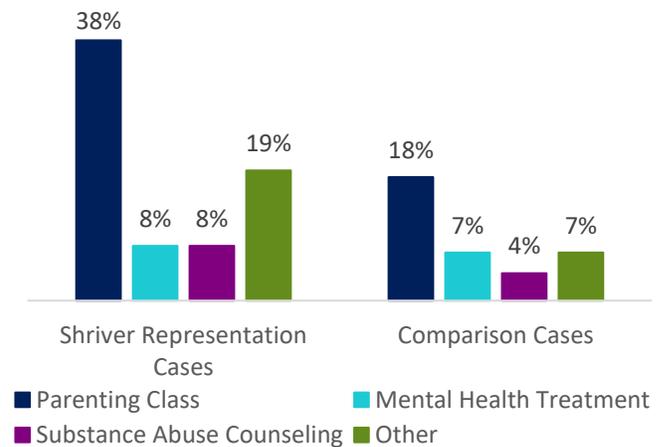
Given that these custody cases often involved serious concerns about the welfare of the child(ren) and about parental fitness, additional orders beyond custody and visitation were often requested by parties. Such additional orders included, for example, mandated mental health treatment, substance use disorder counseling, parenting classes, or batterer intervention programs. Figure C12 shows the percentage of cases with such orders issued at the end of the SRP.

⁹¹ “Reasonable visitation” is a term used when the court enables the parties to establish a visitation schedule that works for them without court order or supervision. This type of arrangement tends to occur in cases with high cooperation and low conflict between parties.

Two thirds (66%) of Shriver representation cases involved at least one additional order, versus one third (34%) of comparison cases, which was a significant difference.⁹² Most additional orders were for parenting classes⁹³ and non-specified “other” orders⁹⁴ which were typically more detailed, case-specific orders for the parents to follow, such as provisions limiting parents’ ability to move away or take the children on vacation.

The higher frequency of other orders among Shriver representation cases may be due to the added expertise brought by the Shriver attorneys. In particular, attorneys know what can be ordered by the judge and what is reasonable to request, while self-represented litigants may not know these options exist. Further, having counsel on both sides of a case likely yields more comprehensive information about the case for the court, which could also result in additional orders.

Figure C12. Percentage of Cases with Additional Orders Issued



Durability of SRP Custody Orders

Were the custody orders among Shriver cases more durable?

Analyses explored the durability of custody orders by examining whether parties returned to the court to request a modification of the orders issued at the resolution of the SRP. Because custody cases can involve multiple requests for modifications, especially in contentious cases, this examination may help elucidate whether providing representation and more intensive settlement services can help bolster cooperation during and after the court case to create more sustainable outcomes. Increased durability of custody orders both increases stability for children and facilitates court efficiency over the longer term, as fewer cases repetitively congest the court.

Durability of orders was defined as whether a subsequent RFO to modify legal or physical custody orders was filed within 2 years of the SRP resolution. As shown in Figure C13, litigants in Shriver representation cases were significantly less likely to return to court to modify their custody orders within the 2-year follow-up period.⁹⁵ In particular, 11% of Shriver representation cases filed a subsequent custody-related RFO within 2 years, versus 32% of comparison cases. Said differently, the SRP custody orders were durable over 2 years for nine out of ten Shriver representation cases and for seven out of ten comparison cases.

⁹² $\chi^2(1) = 11.23, p < .01, \text{Cramer's } V = .32$

⁹³ $\chi^2(1) = 5.39, p < .05, \text{Cramer's } V = .22$

⁹⁴ No cases in either group involved a restraining order being issued as part of the custody determination or a batterer intervention program being ordered. It is likely that these orders, if granted, were part of other hearings.

⁹⁵ $\chi^2(1) = 6.88, p < .01, \text{Cramer's } V = .25$

Figure C13. Durability of Custody Orders (2 years) by Study Group

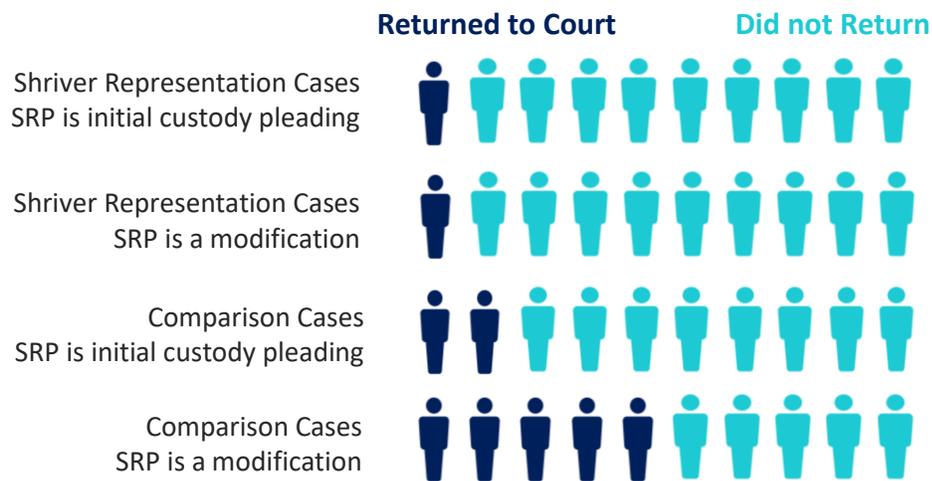
| Did either party file an RFO to modify the custody orders established by the SRP? ^a | Shriver Representation N = 53 | Comparison N = 56 |
|--|----------------------------------|----------------------|
| Yes [sig.] | 6 (11%) | 18 (32%) |
| No | 47 (89%) | 38 (68%) |

^a Within 2 years after the resolution of the study relevant pleading (SRP).
Sig. = significant difference between groups; noted in bold.

This effect was more pronounced among cases with SRPs that were modifications. In the Shriver representation group, the custody orders were durable for roughly 90% of cases regardless of whether the SRP was the initial custody pleading or modification. However, in the comparison group, there was a notable difference in the durability of orders based on whether the SRP was the initial custody pleading or a modification. In particular, 22% of cases in which the SRP was the initial pleading returned to court within 2 years—that is, the custody orders were durable for about three quarters of these cases. In cases where the SRP was a modification, 53% of cases had filed a subsequent RFO within 2 years—that is, the custody orders were durable for less than half of the cases.

Shriver representation and the Shriver settlement conferences seem to be especially impactful when parties were further along in their custody cases and had already used the court to modify their agreement more than once.

Figure C14. Proportion of Cases Returning to Court to Modify Custody Orders within 2 Years of SRP Resolution



Litigant Perspectives on the Shriver Custody Pilot Project Services

To better understand their experiences in court and with Shriver services, phone interviews were conducted with litigants at one Shriver custody pilot project at the conclusion of their case.⁹⁶

Methods

After the resolution of their custody pleadings, 21 Shriver representation clients⁹⁷ participated in telephone interviews to discuss their perceptions of their cases, the legal process, and the services they received through the Shriver custody pilot project. While this is a small sample, it constituted about half of the clients served by this project during FY2015.

Results

Case Characteristics

Children involved. Half of these cases involved the custody of one child. Another eight cases involved two children, one case involved three children, and one case involved six. The average age of the children in these cases was just under 9 years (approximately 2 years older than the average age of children across all three pilot projects).

Interparental cooperation and conflict. Litigants were asked to rate their agreement with six statements regarding their relationship with the other parent. Items included aspects of co-parenting, such as, “*We basically agree about our child’s needs*” and “*We usually manage to work together as parents.*” For each item, clients rated their agreement on a four-point scale, ranging from 1 (*not at all; highly contentious*) to 4 (*very much; highly cooperative*).

Across these six items, the average score was 2.4—the mid-point on the scale. While the average seems to suggest modest cooperation across the group, it masks the variability across individual cases. In particular, half of the clients had an overall average scale score of 1 or 2, indicating a contentious relationship with the opposing party. The other half had an overall average scale score of 3 or 4, indicating a cooperative relationship.

Legal and physical custody goals. Half of Shriver clients (48%) were seeking an initial order for custody. Others were seeking either to modify (38%) or enforce (14%) an existing custody or visitation order. The majority of interviewees reported seeking joint legal (71%) and/or joint physical (67%) custody. Approximately one quarter (24%) were seeking sole legal and physical custody. This goal did not vary

⁹⁶ Phone interviews were conducted at a different pilot site from that where the comparative outcomes study was done.

⁹⁷ For a short period, Shriver project staff identified potential study participants at the beginning of their custody pleading. A total of 50 litigants—25 Shriver representation clients and 25 individuals who met the eligibility requirements but did not receive Shriver services—were identified. At the resolution of the pleading, only four comparison litigants were able to be located. Because they were not provided Shriver services, the staff did not have contact with them over time or maintain updated contact information.

by whether the pleading was for an initial custody order or to modify an existing order. Figure C15 displays the custody goals of the interviewed Shriver clients.

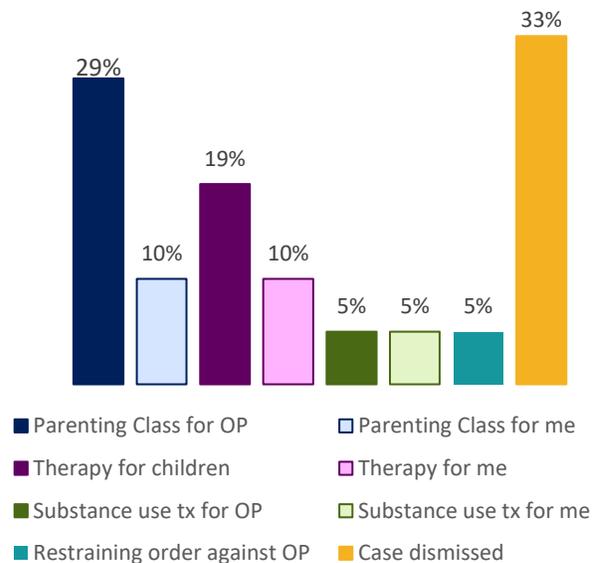
Figure C15. Shriver Client Goals for Case

| Client’s Goals | Objective of Custody Pleading | | | |
|---|-------------------------------|-----------------------|------------------------|----------|
| | Obtain Initial Order | Modify Existing Order | Enforce Existing Order | Total |
| Legal Custody | | | | |
| Sole legal custody to me | 3 (30%) | 1 (13%) | 1 (33%) | 5 (24%) |
| Sole legal custody to the other parent | 0 (0%) | 1 (13%) | 0 (0%) | 1 (5%) |
| Joint legal custody | 7 (70%) | 6 (75%) | 2 (67%) | 15 (71%) |
| Physical Custody | | | | |
| Sole physical custody to me | 3 (30%) | 1 (13%) | 1 (33%) | 5 (24%) |
| Sole physical custody to the other parent | 0 (0%) | 2 (25%) | 0 (0%) | 2 (10%) |
| Joint physical custody | 7 (70%) | 5 (63%) | 2 (67%) | 14 (67%) |

N = 21: Obtain initial order n = 10, Modify existing order n = 8, Enforce existing order n = 3

Other case goals. Shriver clients were asked what, if any, additional goals (beyond custody and visitation arrangements) they had for their custody pleadings. As shown in Figure C16, 33% of clients hoped that the pleading would be dismissed, 29% wanted the opposing party to be ordered to take a parenting class, and 19% hoped that the court would order their children to get therapy. Consistent with results of the comparative outcomes study, parents in these contentious custody cases sought social services and felt the help of the court was needed to ensure the other parent participated in those services.

Figure C16. Shriver Representation Clients’ Other Case Goals



Satisfaction with Case Outcomes, Perceived Fairness, and Procedural Justice

Litigants were asked about their satisfaction with the outcomes of their custody pleadings and their perceptions of fairness and procedural justice regarding their cases. When asked to rate their satisfaction with their case outcomes,⁹⁸ Shriver clients reported being marginally satisfied, with the

⁹⁸ Litigants’ satisfaction with case outcomes was assessed with one item: “How satisfied are you with how your case turned out?” Responses were on a 5-point Likert Scale, with 1 being *very dissatisfied* and 5 being *very satisfied*.

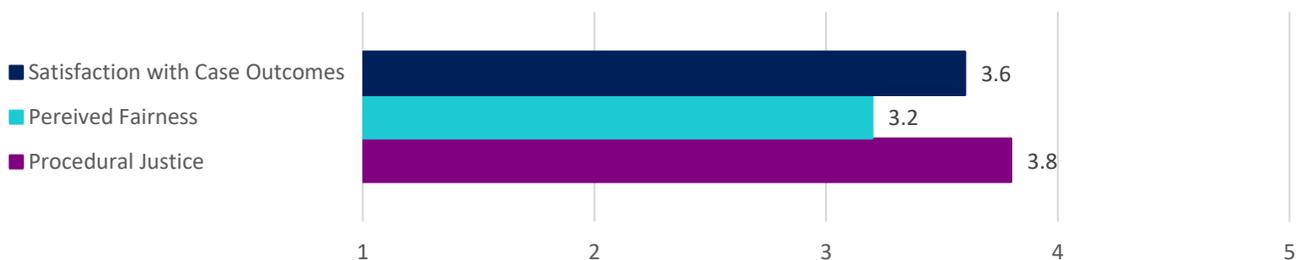


average rating being 3.6 (on a 5-point scale). However, responses ranged from 1 to 5, indicating notable variation across clients.

Litigants were also asked about the fairness they perceived in the legal process. Fairness was assessed using a scale that included statements such as, “*My case was handled fairly by the court*” and “*My legal rights were taken into account.*” Interviewees rated how much they agreed with each statement from 1 (*strongly disagree*) to 3 (*neither agree nor disagree*) to 5 (*strongly agree*).⁹⁹ When asked to rate the fairness of the legal process, Shriver representation clients’ average fairness score was 3.2 on the 5-point scale, indicating that, on average, litigants were unsure whether the court process was fair.

Litigants were also asked about their perceptions of procedural justice. Procedural justice was assessed using a scale that included items such as, “*The judge listened to what I had to say*” and “*I was treated the same as others in the same position.*”¹⁰⁰ When asked about their perceptions of procedural justice, Shriver clients’ average rating was 3.8 on the 5-point scale, indicating that respondents perceived a modest amount of procedural justice in their proceedings.

Figure C17. Average Ratings of Satisfaction with Case Outcomes, Perceived Fairness of the Legal System, and Procedural Justice



Relationship between satisfaction with outcomes and perceptions of fairness and procedural justice.

Shriver clients’ perceptions of fairness and procedural justice were related to their satisfaction with their case outcomes (see Figure C18). Clients were categorized as either *satisfied* or *dissatisfied* with their outcomes¹⁰¹ and their fairness and procedural justice scores were analyzed. Clients who were

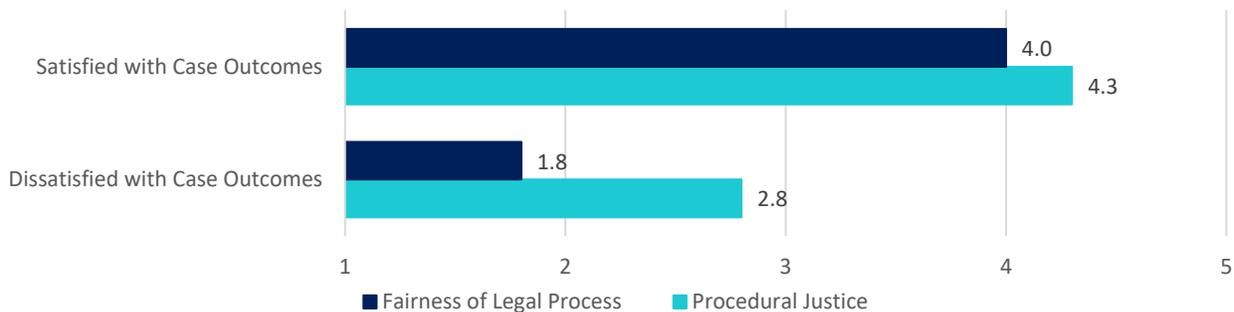
⁹⁹ Fairness was assessed using a 4-item scale adapted from Frazer (2006). Interviewees rated how much they agreed with each statement on a 5-point scale, from 1 (*strongly disagree*) to 3 (*neither agree nor disagree*) to 5 (*strongly agree*). A scale score was calculated as the average across the scale items for the 19 litigants who had answered at least 75% (3 out of 4) of the scale items. Higher scores indicate greater perceived fairness with court proceedings.

¹⁰⁰ Perceptions of procedural justice were computed using an 8-item scale adapted from the Specific Procedural Justice Scale (Bornstein, Tomkins, & Neeley, 2011). Interviewees rated their agreement with each statement on the same 5-point scale used for the fairness measure, and a scale score was calculated as a mean across the items for the 17 litigants who answered at least 63% (5 out of 8) of the scale items. Higher scores indicate greater perceived procedural justice.

¹⁰¹ Clients were categorized as *satisfied* if they reported being *somewhat* or *very satisfied* with their case outcomes (average scale scores of 3 or 4). Others were categorized as *dissatisfied* if they reported being *somewhat* or *very dissatisfied* with their case outcomes (average scale scores of 1 or 2).

satisfied with their case outcomes perceived significantly more fairness and procedural justice in their cases, as compared to clients who were dissatisfied with their outcomes.¹⁰² Satisfied clients had an average score of 4.0 for fairness and 4.3 for procedural justice, whereas dissatisfied clients had average scores of 1.8 and 2.8, respectively.

Figure C18. Perceptions of Fairness in the Legal Process and Procedural Justice by Client Satisfaction with Case Outcomes



Perceptions of Shriver Representation, Fairness, and Procedural Justice

Notably, clients who perceived low levels of fairness and procedural justice still reported being satisfied with the services they received from Shriver attorneys. Of the 11 clients who scored below the mid-point of either the fairness or procedural justice scales, nine clients (82%) indicated satisfaction with the legal services they received. Clients explained that Shriver counsel was knowledgeable and professional and that the attorney effectively helped them through the proceedings. Overall perceptions of Shriver services are described in more detail at the end of this section.

Perceptions of the Impacts of the Custody Case and of Shriver Services

Impacts of the custody case. Shriver clients were asked “How do you think the results of your custody case will make a difference in your life or your family’s life?” Of the 21 clients interviewed, 11 (52%) described something positive, 8 (38%) described something negative, and 2 (10%) were neutral.

Positive Perceptions: Nine clients expressed positive sentiments about a specific aspect of their case outcome. For example, such comments included, “Absolutely, because they finally established an order that both of us parents can live with in taking care of our child” and “I wouldn’t have been able to see my kids or speak to them on the phone for 4 years without the legal help” and “I feel that my son has a better structure and it’s more consistent. It’s best for him and me.” In addition, two clients gave generally positive comments, such as “It’s just in the better interests of my children...their having both parents involved in their lives.”

Clients who perceived low levels of fairness and procedural justice still reported being satisfied with the services they received from Shriver attorneys.

¹⁰² Perceived fairness: $t(17) = 3.60, p < .01, d = 1.75$; Procedural justice: $t(17) = 3.18, p < .01, d = 1.64$

Negative Perceptions: Three clients expressed negativity about a specific aspect of their case outcome. For example, one person said, “My intention was to move out of state and I was not able to do that because of the court order. My life has been stagnant. I feel like I’m kind of stuck. I have the same child care issues I had before.” In addition, five clients gave a generally negative comment, such as “It’s negatively affecting my son, so it’s negatively affecting me.”

Neutral Perception: Two clients gave neutral responses, such as “Everything is fine.”

Impact of Shriver representation. Lastly, clients were asked to describe the impact of the services they received through the Shriver custody pilot project. Specifically, they were asked, “Do you think having received legal services for your custody case will make a difference in your life or your family’s life in any way?” Twenty clients answered this question, and all of them were very positive about and grateful for Shriver services, despite any negative impact their cases may have had for them. Most often, clients expressed appreciation for the Shriver attorney’s knowledge and gratitude for the support he provided to them. They felt that they were better equipped for the legal process and better able to have their voice heard in court. A few clients even expressed regret that the Shriver project could not continue to help them with the rest of their custody case.

A few examples of client responses include:

“Having somebody in the court is very important. [The Shriver attorney] helped me. He is knowledgeable and fair. He knows the law and could tell me what was possible.”

“The legal services actually made my life a lot better and easier. They helped me through a system that most people without legal knowledge cannot navigate.”

“Receiving legal services has already made a difference. I’ve been seeing my daughter regularly. The services were great. [The Shriver attorney] and [Project Coordinator] were very passionate about helping me out. He has a heavy caseload and I appreciate his effort.”

“The other lawyer might have pushed me around or confused me with legal jargon. [The Shriver attorney] was able to make sure my voice was heard. It leveled the playing field. When it came from [the Shriver attorney], it weighed more. I felt that [the Shriver attorney] was more competent and better educated than my ex-husband’s lawyer, who he was paying for. [The Shriver attorney] was 10 times better. Having [the Shriver attorney] there for me, it was priceless. He was phenomenal.”

“Yes, through [the Shriver attorney’s] support I got my children. He made me believe in the court system.”

Staff and Judicial Officer Perspectives on the Shriver Custody Pilot Projects

The Shriver Act evaluation gathered information from the three Shriver custody pilot project staff and stakeholders about their perceptions of the Program and its impacts. Data were collected from multiple legal services agency staff members (e.g., staff attorneys, supervising attorneys, paralegals, intake coordinators, and executive directors) and superior court judicial officers and staff members (e.g., program managers, clerks, self-help managers). In 2015, telephone interviews were conducted with eleven staff from across the three pilot projects. In 2018, in-person site visits were conducted at each of the three projects and 35 legal services staff members and court stakeholders participated in one-on-one interviews or focus groups. This section summarizes the information collected across the projects at these two points in time.

Pilot Project Successes and Accomplishments

Access to Justice

Project staff thought that their Shriver pilot project helped low-income litigants gain greater access to justice. This success was because services were able to “level the playing field” by providing representation to otherwise unrepresented litigants who were facing an opposing party with an attorney. Shriver representation provides support and information to parents, ensures their full and active participation in their cases, and supports fairer judgments and more efficient proceedings, which benefit the families and the court. Shriver services enabled litigants to present their side of the case effectively, which resulted in judges having information that was more organized, relevant, and appropriately presented. This increased availability of information helped judges make decisions that were in the best interests of the children.

Legal Education, Easing Tensions

Staff reported that the custody court process is intimidating and unfamiliar for parents and that having the support and expertise of an attorney helps to reduce stress and make the process more manageable. Given the highly charged emotional setting, litigants without counsel may behave in ways that make it harder for them to effectively plead their cases, thus they obtain little to no satisfaction with the legal process or case outcomes. Having an attorney can help rectify, or prevent, these situations, and represented parties are more likely to achieve their case goals, or at least better understand the reasons behind court decisions that are not in alignment with their goals.

Staff described the positive impact of litigants being educated by their attorneys about the legal process and reasonable expectations for their cases. When parents are knowledgeable, they generally feel more empowered during the custody process, are more likely to perceive the court process as fair, and are more accepting of their case outcomes. These results can also benefit the court because when

litigants are amenable to the case outcomes, they are less likely to challenge the orders by returning to court to file another pleading, thus reducing the number of unnecessary actions filed with the court.

Increased Collaboration

Staff believed that balanced representation in custody cases helped increase collaboration between the parties, especially in contentious cases. Having attorneys negotiate with each other, while educating their clients about reasonable expectations, paved the way for settlement agreements that both parties found acceptable. Staff also hoped that successful collaboration on the custody case would foster subsequent co-parenting efforts, which require a good deal of communication and agreement. Ongoing collaboration benefits the parents, children, and the court, allowing everyone to achieve resolution and move on with their lives sooner, providing children stability faster, and creating efficiencies for the court because cases are not being constantly relitigated.

Shriver Settlement Conferences

When asked about project accomplishments, Shriver Settlement Conferences were named by legal services staff and court staff at the one pilot project where they were implemented. These conferences were successful in encouraging a high rate of settlement. They resulted in orders that were more durable over time, and they reduced the need for additional hearings or mediation sessions, therefore reducing the burden on the court. Having counsel present at the conferences bolstered the settlement process, because attorneys helped clients to discern and accept reasonable terms, ensured that their clients' needs were expressed, and increased the likelihood that clients would enter into agreements. Having the conference facilitated by a judicial officer increased buy-in from the parties and enabled full and fast resolution if the parties came to an agreement. Judges also reviewed the entire case, which put them in a better position than a mediator to find workable solutions that were in the best interests of the child.



Shriver Custody Program Goals

Staff members across the three custody pilot projects described similar program goals:

- *Provide access to quality legal services for parents in high-conflict custody cases and “level the playing field” so that both parents can voice their opinions to the court*
- *Educate litigants about the legal system, help them understand the court process, and encourage them to develop reasonable expectations for their case*
- *Support case outcomes that serve the best interests of children*
- *Increase cooperation between parties, which benefits families and the court*
- *Support court efficiency by helping parties find sustainable agreements, thereby relieving pressure on the court*

Shriver Domestic Violence Service Goals

- *Provide comfort and confidence to survivors who are often intimidated and bullied into unfavorable terms by their opposing parties*
- *Ensure that survivors' cases are presented effectively and that settlements are fair*

More Stability

With increased collaboration and buy-in from the parties, staff thought that cases with balanced representation, and especially those that settled, likely reached outcomes that would be more durable over time. Having more durable orders translates to more stability for families and children in the long run, which is a key point of success.

Court Efficiency

Court staff reported that the Shriver project's impact on the court was a positive one, because having representation made the courtroom run more efficiently and fairly. Staff believed that, in general, judges preferred to have attorneys on both sides of a case because their familiarity with the legal procedures made the case proceed more smoothly. Attorneys helped explain the rules and procedures to their clients and would describe what was transpiring with the case; they also helped manage the emotional tone of the situation and assisted in alleviating anxiety. Staff reported that Shriver services reduced the number of cases that needed to be heard by the court by increasing the likelihood of pre-hearing settlements, as well as decreasing the number of cases that returned to court for subsequent orders.

Staff thought that when parents had counsel, they were more satisfied with the results of the case. In the event they were not satisfied, rather than returning to court to file a modification right away, they could consult their attorney, resulting in more informed litigants and more efficient court proceedings. Court clerks and staff were grateful to have a place to refer low-income, self-represented litigants for legal assistance, and judicial officers appreciated having to educate litigants on the legal process in the courtroom less often.

Reaching and Helping Families in Challenging Circumstances

Some staff commented that the Shriver Program enabled them to reach and help families in crisis. Shriver attorneys took on some of the hardest cases—those with people in very difficult situations with few or no resources and at risk of losing their children—and used the authority of the court to help these parents take necessary steps to regain or retain custody of their children. For example, Shriver attorneys were often able to calm emotional tensions between parties and could sometimes help facilitate parents' entry into needed substance use treatment or mental health counseling.

Two of the custody pilot projects sought to provide more holistic services by incorporating a social services coordinator position in their legal teams. This position expanded their ability to connect clients with other resources and services to help address contextual issues such as substance use disorders, mental health issues, housing instability, and food insecurity in order to help stabilize the family situation, which can impact custody decisions and child well-being.

Expansion to Provide Services to Domestic Violence Survivors

When asked about project accomplishments, staff at one custody pilot project named their expansion of Shriver services to address domestic violence restraining order (DVRO) cases. Through the Shriver grant, this legal services organization was able to assist many domestic violence survivors who would otherwise have had to undertake the court process alone. Having support in the legal process—not having to attend the hearing alone and having an attorney who could communicate with the opposing party—made a significant difference in terms of the case outcomes and the survivor’s emotional and physical well-being. In response to this expansion of legal services, the court established a dedicated domestic violence calendar to hear the DVRO cases. Staff reported that this change has also created substantial court efficiencies because attorneys were always present, clients were adequately prepared, and continuances were rare.



Pilot Project Challenges

Eligibility Criteria

Staff commented on the restrictiveness of the statutory eligibility criteria. In particular, the statute required that, for a parent to be eligible for Shriver services, she must have an income at or below 200% FPL, be facing an opposing party with legal representation, and have a case with sole custody at issue. Staff explained that, in practice, if one parent is poor enough to meet the income eligibility requirements, then the opposing party is often similarly poor and therefore unable to retain counsel. Thus, enforcing both the income requirement and the opposing party representation requirement excluded many low-income families that would have benefited from services. In addition, staff noted that most custody cases did not involve requests for sole custody, and they felt that this restriction ruled out too many cases that would have otherwise been eligible and would have benefitted from legal help. *(Note: The more recently passed statute [AB330] maintains the income requirement, but eliminated the requirements regarding sole custody and opposing party representation.)* Some staff also explained that the income threshold was unrealistic in many areas of California, where the cost of living is high. As in housing cases, the staff reported that there are many parties with incomes above 200% FPL who are unable to afford an attorney.

Opposing Counsel

Some legal services staff reported challenges with opposing counsel. They perceived that many private bar attorneys resisted settlement because it did not fit within their business model. While Shriver attorneys made settlement a priority for their cases and strove to calm tensions between parties to make agreement possible, they reported that these overtures were not always matched by the opposing attorneys.

Emotions and Stresses of Poverty

Staff explained the difficulties of working with individuals embroiled in very stressful and emotional cases. Family law cases are highly emotional by nature. Shriver attorneys worked to support their clients throughout an otherwise intimidating process, and they were often subjected to the emotional outbursts that the clients managed not to exhibit in the courtroom.



In addition, by nature of being low-income, Shriver clients struggle with various poverty-related barriers (e.g., transportation, inflexible work schedules, unstable housing) that created challenges for them to meet the expectations of the court.

Capacity and Resources

Staff from two of the pilot projects reported that their projects lacked sufficient capacity to serve eligible litigants because their attorneys were persistently overbooked. Staff at one project mentioned that funding cuts to the court system had slowed the flow of cases toward a speedy resolution due to reduced availability of court clerks and the loss of a judicial officer. The resultant court congestion created challenges for everyone involved.

Summary of Results for the Shriver Custody Pilot Projects

Child custody cases are, by nature, complex, emotionally charged, and have critical implications for families and children. The unique attributes of each family, parent personalities, relationship dynamics and histories, and circumstances of children can add layers of intricacy and tension. When cases are contentious, as most cases served by the Shriver pilot projects were, the adversarial nature of the judicial process can be compounded. It is no wonder, then, that issues related to children and custody were reported to be the most stressful civil legal problems experienced by low-income people in the 2019 California Justice Gap Study.¹⁰³

Who was served by the Shriver Custody Pilot Projects?

From October 2014 to September 2019, the three custody pilot projects served 1,565 litigants involved in child custody matters. Shriver services were provided to both mothers and fathers—though most clients were female—and to both custodial and non-custodial parents. The average monthly income of Shriver clients was well below the 2019 FPL. Many cases had intertwined issues of domestic violence, which added complexity to the custody disputes. Further, many Shriver clients encountered the added difficulties of having other cases in the court system, including cases to determine parentage and child support.

The statute required Shriver pilot projects to serve cases that stood to have particularly acute consequences for families. Specifically, AB590 required that Shriver services be focused on self-represented parents who faced a represented opposing party in cases with sole custody at issue. (AB330, the more recent statute, has relaxed these requirements.) Legal services attorneys acknowledged that their primary goal was to ensure both parents had reasonable access to justice.

What Services Were Provided by the Shriver Custody Pilot Projects?

The three projects offered two levels of legal service: (1) representation by a Shriver attorney (limited scope—to cover all aspects of the child custody case, but no other family law issues), and (2) unbundled services (help with discrete legal tasks). Across the three projects, 47% of clients received Shriver representation and 53% received at least one unbundled service. Two projects incorporated social service coordinators into their legal teams, to address the serious and persistent social service needs they recognized in their clients. Families were often in crisis regarding critical areas of livelihood (e.g., food security, income, housing), which inflamed custody disputes and undermined the creation of stable environments for children. While these needs were beyond the scope of the attorney, social work staff could connect clients to community services to ease stress and support sustainability of

¹⁰³ The State Bar of California (2019). *2019 California Justice Gap Study*. Retrieved from: <http://board.calbar.ca.gov/docs/agendaitem/Public/agendaitem1000025128.pdf>

custody arrangements. In addition to the legal services, one custody pilot project also offered court-based Shriver Settlement Conferences facilitated by a judicial officer.

What Were the Impacts of the Shriver Custody Pilot Projects?

Results demonstrated several beneficial impacts of the Shriver custody pilot projects.

Attorneys improved participation in the legal process and collaboration between parties.

Project staff stated that when custody cases had attorneys on both sides, they became less emotional and more collaborative. With counsel, parents were better able to present their side of the case, better informed about the court process, and more willing to agree to settle when their attorneys helped them understand when terms were reasonable. This involvement helped parents feel that they were heard and that they played an active role in their cases (rather than having the court decide for them), which contributed to a greater sense of satisfaction with the outcome. By supporting successful negotiations and reducing emotional tensions between parties, Shriver attorneys were able to increase the likelihood of pre-trial settlements, which positively impacts families and reduces court burden.

Representation and Shriver Settlement Conferences, together, yielded more settlements.

The comparative study conducted at one custody project found that the combination of representation by a Shriver attorney and access to Shriver Settlement Conferences significantly increased the odds of settlement. Overall, 54% of Shriver representation cases resolved via settlement versus 30% of comparison cases. The higher rate of settlements among Shriver cases meant that fewer cases with a Shriver attorney were decided at hearings (40%), compared to the majority (63%) of non-Shriver comparison cases. This difference reduces burden on court staff and can create cost savings over time.

This pilot project offered special Shriver Settlement Conferences conducted by a judge, with attorneys present. These conferences differed from mediation, which is required for parties in child custody cases, in that mediation sessions are facilitated by a mediator and counsel generally do not attend. In the pilot, the combination of representation by a Shriver attorney and participation in a Shriver Settlement Conference greatly increased the likelihood of settlement. In fact, 60% of Shriver Settlement Conferences reached full or partial agreement, which was higher than the rate of agreement during Family Court Services mediation sessions.

The heightened success of Shriver Settlement Conferences was likely due, in part, to the presence of counsel. Parents may have been afraid to enter into an agreement because they were uncertain about what would happen later. Having their attorney present during the conference may have increased their confidence entering into agreements, improved their ability to negotiate terms that were manageable for them, and strengthened their subsequent investment in the success of the agreement. Furthermore, Shriver Settlement Conferences were likely successful because a judge facilitated the discussion, which allowed the pleading to be resolved and generated buy-in from parties.

Representation and Shriver Settlement Conferences, together, yielded more durable custody orders.

Findings from the comparative study indicated that the combination of representation by a Shriver attorney and participation in a Shriver Settlement Conference yielded custody orders that were more sustainable over time. Specifically, within the 2 years of pleading resolution, 1 in 10 Shriver cases had filed a Request for Order (RFP) to modify the existing custody orders, versus 1 in 3 comparison cases (which received no Shriver services).

These services seem to be especially impactful when parties were further along in their custody cases and had already used the court to modify their agreement more than once. In particular, only 10% of Shriver clients returned to court for custody issues, regardless of whether they were just starting their case or were seeking a modification of an existing order. In contrast, among comparison cases, parties returned to court about 25% of the time when they were just starting their case and more than 50% of the time when they were seeking a modification.

With appropriately supportive services, it appears that parties were not only able to settle their custody disputes, but could also extend their collaboration beyond the dispute resolution. The effects of more durable custody orders are many. For example, orders that remain in place for long periods of time can increase stability for children of separated parents. Further, increased durability of orders can positively impact court efficiency by reducing the number of families returning to court. This outcome can translate into cost savings over time, as the investment costs of Shriver services were offset by the reduction in subsequent refilings.

Shriver services improved court efficiency.

Increasing the settlement rate and contributing to more durable custody orders improved court efficiency. Shriver project staff (from legal aid and the court) also reported that representation for litigants in high-conflict custody cases helped to facilitate more efficient courtroom proceedings. Attorneys educated parents about the legal process and helped to shape reasonable expectations for case outcomes. As a result, judicial officers spent less time managing litigants who were unknowledgeable about the process, and the court benefited from more comprehensive information about the family on which to base decisions. Shriver attorneys were able to ease tensions and reduce emotional turmoil that could otherwise cloud and complicate proceedings, and this effect helped to expedite the legal process. Parents with Shriver representation were more prepared for court proceedings, more informed about their rights and what was possible, and more often able to settle their cases without the need for a hearing, relieving the court calendar.

Court orders provided some additional structure for families.

Shriver pilot projects assisted custodial parents in some cases and non-custodial parents in other cases, and clearly the goals of these two types of clients differed. For example, one client was seeking to gain sole custody, whereas another wanted to retain the current amount of parenting time when an

opposing party filed for sole custody. For these two cases, a “successful” outcome looked very different. As a result, aggregated data regarding custody orders are not an easily interpretable indicator of project impact.

However, data across the three pilot projects showed some common themes. In general, the courts appeared to favor joint legal custody but sole physical custody arrangements. This result is consistent with other research that found joint physical custody uncommonly ordered among cases¹⁰⁴ and that joint physical custody arrangements may be particularly problematic for high conflict couples¹⁰⁵, like those served by the Shriver projects. Joint custody necessitates more contact between parents, which creates more opportunity for conflict. In cases resolved with sole physical custody granted to one parent, orders for scheduled, unsupervised visitation for the non-custodial parent were also common. Ordering scheduled parenting time can also relieve high-conflict couples from the burden of having to negotiate visitation in an ongoing manner. These outcomes suggest that the court felt parties would benefit from some additional structure and fewer opportunities for conflict.

Results also suggest that parents were enlisting court intervention to compel the other parent to participate in needed services, such as parenting classes or therapy. Parents with Shriver representation requested and received these orders more frequently than did parents in non-Shriver cases. This outcome may be due to the added expertise brought to the case by the Shriver attorneys. In particular, attorneys knew what could be ordered by the judge and what was reasonable to request, while self-represented litigants may not have known those options existed. Further, having counsel on both sides of a case likely yielded more comprehensive information about the case for the court, which resulted in additional orders that would serve the best interests of the child(ren).

Parents felt supported in the legal system.

Parents expressed substantial gratitude for the assistance of their Shriver attorneys. They felt informed about their cases, supported throughout the process, and not lost in the system. Notably, litigants’ perceptions of fairness of the judicial system and procedural justice varied with their satisfaction with their case outcomes. In particular, if they were satisfied with their case outcomes, they felt the court process was fair; if they were dissatisfied with their outcomes, they felt the court process was not fair. However, litigants’ perceptions of Shriver services were overwhelmingly positive, regardless of their satisfaction with their case outcomes. Even when parents were dissatisfied with how their case ended, they expressed appreciation for their attorneys. Having an attorney’s expertise and support accessible to them was important and impactful despite the actual custody orders. In addition, ensuring that domestic violence victims are accompanied by attorneys for restraining order hearings can be a critical source of support in a difficult and emotional legal process.

¹⁰⁴ Maccoby, E., & Mnookin, R. (1992). *Dividing the child: Social and legal dilemmas of custody*. Cambridge, MA: Harvard University Press.

¹⁰⁵ Buchanan, C. M., & Jahromi, P. L. (2008). A psychological perspective on shared custody arrangements. *Wake Forest Law Review*, 43, 419-439.



Additional Needs Noted by Projects

Shriver project staff expressed concern about the restrictive nature of the statute eligibility requirements. Specifically, mandating the combination of an income less than 200% FPL, opposing party representation, and sole custody requests made it difficult to find eligible participants. Often, if one parent was low income, then the other party was also low income and therefore not able to afford an attorney. In that situation, meeting the income requirement and the opposing party representation requirement was not possible. Additionally, staff could identify many contentious custody cases that would benefit from service but were ineligible because neither parent was explicitly asking for sole custody.

Importantly, these concerns have been addressed by the more recent statute (AB330), which retains the income eligibility, but relaxes the requirements for opposing party representation and sole custody.

Methodological Limitations and Considerations

The comparative study of case outcomes was conducted at a single pilot project. Although the sample of Shriver cases drawn for this study was a near census of clients served that year, it is possible that the cases seen at this court may not be representative of cases in other jurisdictions. In addition, the comparison group was selected using the court case management system and the selection criteria were limited by that system's parameters. While most Shriver custody cases were highly contentious, it was not possible to identify contentious cases in the court case management system. Therefore, the two study groups may not have been equivalent on some pre-existing characteristics that could have impacted case outcomes. The litigant interview sample was drawn from one project, was small in size, and did not involve a comparison group. Therefore, while the interview data may reflect clients at this project, the findings may not generalize to other courts.

3

GUARDIANSHIP/ CONSERVATORSHIP (PROBATE) PILOT PROJECT



GUARDIANSHIP AND CONSERVATORSHIP (PROBATE) PROJECT

This section presents data on cases served by the sole probate pilot project from FY2015 to FY2019. The Shriver evaluation incorporates mixed methods and compiles data from multiple sources. During this 5-year period, this evaluation has included ongoing data collection in the *Shriver Program Services Database*, a comparative study of outcomes among cases provided Shriver representation and those assisted by the court-based Probate Facilitator, and interviews with Shriver project staff.¹⁰⁶ Services were provided to litigants with household incomes not greater than 200% FPL.¹⁰⁷

A Few Highlights

From FY2015 to FY2019:

- 173 cases received Shriver services (122 guardianship cases, 51 conservatorship cases).
- By extension, services impacted 154 minor children (wards) and 51 conservatees.
- 41% of cases received full representation by a Shriver attorney.

Among cases that received Shriver full representation:

- Litigants were able to successfully file their petitions and see the case to resolution.
- Letters of guardianship were granted to the Shriver client in most cases.
- Petitioners were more likely to use the legal tools available to them to support their cases, such as calling witnesses and entering declarations.
- Cases were more likely to resolve with just one hearing and no continuances.
- Shriver attorneys and the Probate Facilitator provided valuable assistance to litigants and also helped to preserve court resources. In particular, court clerks spent less time reviewing (and rejecting) errant petitions and judges spent less time educating litigants. Reducing the number of cases with continuances also helped to alleviate some court congestion.

¹⁰⁶ Detailed information about the probate project operations is available in the previous evaluation report:

<https://jcc.legistar.com/View.ashx?M=F&ID=5319197&GUID=A7E82A2C-C90F-41BF-AA2B-1EC3E5825C4C>

¹⁰⁷ In 2019, the federal poverty level (FPL) was \$25,750 for a family of four. <https://aspe.hhs.gov/2019-poverty-guidelines>



Shriver Program Services: Who was served and how?

The *Shriver Program Services Database* collects information about the litigants served and services provided by the legal services agency affiliated with the pilot project. These data have been collected since the first round of grants. This report focuses on the sole probate pilot project—addressing guardianship and conservatorship cases—between FY2015 through FY2019.

During this 5-year time period, the legal services organization affiliated with this project served 173 low-income litigants. By extension, Shriver services impacted 154 children in need of protection (wards) and 51 conservatees.

Services Provided

During the 5-year period, 71 cases (41%) were provided full representation by a Shriver attorney and another 102 cases (59%) were provided at least one unbundled service.¹⁰⁸ Shriver attorneys worked an average of 17 hours per each full representation case and 3 hours per each unbundled services case.

Of the 173 cases served, 71% pertained to guardianship and 29% to conservatorship.

Among guardianship cases, about half of the clients (47%) received full representation and half (53%) received unbundled services. Among conservatorship cases, one quarter (27%) received full representation and nearly three quarters of clients (73%) received unbundled services.

WHO RECEIVED SHRIVER SERVICES?

Between FY2015 and FY2019:

122 guardianship cases received services, impacting **154 wards**

51 conservatorship cases received services, impacting **51 conservatees**

Of these clients:



62% were multiple people (e.g., grandparents)



75% were people of color



29% had a disability or chronic health condition

Many clients had characteristics that would challenge their ability to complete the complex probate process:

57% had a high school diploma or less

31% had limited proficiency with English

WHAT SERVICES WERE PROVIDED?

59% received unbundled legal services

41% received full representation

¹⁰⁸ An additional 59 litigants were provided unbundled services and then subsequently determined to be ineligible for Shriver services, usually due to being over income, outside of the jurisdiction, or having a conflict. These individuals are not included in the above counts.

Characteristics of Clients and Cases

Of the 173 cases served, half (51%) of clients were between the ages of 45 and 61 years and most (62%) were couples—for example, grandparents looking to establish guardianship of their grandchildren. Three quarters of clients identified as people of color (61% as Hispanic/Latinx and 6% as Black or African American) and one quarter (23%) identified as White. More than half of clients (57%) had a high school diploma or less, and about one third (31%) required assistance with language interpretation to participate in court proceedings. More than one quarter (29%) identified as having a chronic health condition or disability.

To be eligible for Shriver services, individuals must have household incomes of not more than 200% FPL. Across Shriver clients, the median monthly household income was \$1,600. This amount equates to an annual income of less than \$20,000, below the FPL for a family of three.

The majority of clients sought to establish a guardianship or conservatorship and needed help filing the petition. Among full representation cases, the Shriver client was the petitioner in 81% of guardianship cases and all conservatorship cases. A small number of clients wanted help to object to an existing petition, terminate a current guardianship or conservatorship arrangement, or find an alternative to a guardianship or conservatorship.

Outcomes Among Full Representation Cases

Note: When attorneys provide unbundled services, they often do not know how the case ends. Therefore, the data about case outcomes in the *Shriver Program Services Database* refers only to cases that received full representation. This group includes 71 cases in total: 57 guardianship cases and 14 conservatorship cases.

Petitions Successfully Filed

Guardianship cases. The proposed guardian was a relative of the ward (e.g., grandparent, aunt/uncle, sibling) in 89% of the cases. Almost half (46%) of the cases had an objection filed to the guardianship petition. Oftentimes, the persons objecting to the guardianship petitions were the parents of the ward.

At Shriver intake, 35% of clients had already successfully filed a petition but needed help with additional paperwork and other assistance to complete their cases. At the end of Shriver service, 77% of clients had successfully filed a petition. One client had withdrawn their petition and another had pursued an alternative arrangement outside of probate court (19% of guardianship cases were missing this information).

Conservatorship cases. The proposed conservator was a relative of the conservatee (e.g., parent, adult child, sibling) in 100% of the cases. Just one petition had an objection filed. At

Shriver intake, 36% of clients had successfully filed a petition. At the end of Shriver service, all but one client had successfully filed a petition (this client decided not to file).

Outcomes of Petitions

Guardianship cases. Shriver representation assisted many petitioners with establishing a guardianship. Of the 57 full representation cases, 68% ended with letters of guardianship granted to the client. Three cases (5%) ended with letters granted to an opposing party. Two cases (4%) had a guardianship terminated at the request of the Shriver client, one case (2%) had no letters granted, and one (2%) petition was withdrawn (19% were missing outcomes).

Conservatorship cases. Shriver representation facilitated an order for a conservatorship for nearly every client. Of the 14 representation cases, 12 (86%) ended with letters of conservatorship granted to the client. One case (7%) ended with an alternative arrangement and one petition (7%) was never filed.

Court Efficiency

The complicated nature of guardianship and conservatorship petitions renders most self-represented litigants unable to file them successfully on their first try, if at all. This difficulty results in court clerks and research attorneys spending considerable time reviewing and rejecting improperly completed petitions, often multiple times for the same petitioner. Having the Shriver attorney complete the petition not only saved the litigants' time, but court clerks' time as well. Moreover, due to the complexity of the process, probate cases with self-represented litigants can involve multiple continuances and take a long time to resolve. This process expends valuable court resources, including judicial officer time. Of those clients with Shriver full representation, 28% of guardianship cases and 15% of conservatorship cases resolved without a continuance.

WHAT OUTCOMES WERE ACHIEVED FOR FULL REPRESENTATION CASES?

Between FY2015 and FY2019:

Among the 57 guardianship cases:



77% successfully filed a petition



68% ended with letters guardianship granted to the Shriver client

Among the 14 conservatorship cases:

All but one successfully filed a petition

All but two ended with letters of conservatorship granted to the Shriver client

Other Services and Innovations

Probate Facilitator

In addition to the legal services organization providing services to clients, the superior court affiliated with this Shriver pilot project also staffed a new Probate Facilitator position. The Probate Facilitator provided intensive self-help services to litigants at the courthouse. She assisted litigants with paperwork and with the notification process. She also provided legal education about the probate process and often helped educate other members of the family to try to support better collaboration among the relatives. Importantly, she did not provide legal advice. Because there is no attorney-client privilege, the Probate Facilitator did not have any conflicts of interest and could therefore assist multiple parties in the same case.

From FY2015 to FY2019, the Probate Facilitator assisted a total of 472 litigants: 384 litigants in guardianship cases and 88 litigants in conservatorship cases. Litigants were most often referred to her by the clerk's office, the county Child Welfare Services, the court, and legal aid. She also had many litigants who would return to her for help on a new issue.

Comparative Study of Case Outcomes: What impact did Shriver Services have?

A comparison study was conducted in FY2016 to investigate the impact of the Shriver probate pilot project on low-income litigants in guardianship cases. This study assessed the outcomes of two project services: full representation by a Shriver attorney and assistance from the court-based Probate Facilitator. Recall that the Probate Facilitator provided self-help but did not provide legal advice. Thus, litigants who received her help were otherwise self-represented.

Methods

Random assignment of litigants was not possible at the Shriver probate pilot project due to the small number of litigants presenting for service. Instead, a sample of litigants was drawn from each of three sources to reflect three service levels: (a) 38 full representation clients were drawn from the *Shriver Program Services Database*, (b) 40 litigants who received Probate Facilitator services (but not legal representation) were identified from the Probate Facilitator’s database, and (c) 37 comparison litigants who received no Shriver legal services and no help from the Probate Facilitator were identified by superior court staff by querying the court case management system during the same time period. All sampled cases had evidence of low-income status (e.g., fee waiver granted¹⁰⁹ or income less than 200% FPL) and all litigants had filed petitions to establish guardianships.

After the cases had closed, standardized data were gathered from the court files for each of the cases in the study sample. Case file reviewers were blind to litigants’ study group assignments. Information was collected pertinent to case characteristics, events, and outcomes, and the study groups were compared. Analyses focused on three areas:

- **Litigants’ participation in the justice system:** Analyses examined indicators such as how often litigants saw their case to resolution versus abandoned their petitions, and how often litigants called witnesses or entered declarations to support their cases.
- **Case outcomes:** Analyses examined how cases resolved; in particular, whether letters of guardianship were granted.
- **Court efficiency:** Analyses assessed case length and number of hearings and continuances.

Guardianship Case Characteristics

In all sampled cases, the petitioner was also the proposed guardian. Nearly two thirds (63%) of cases involved guardianship over one ward, and the remaining third involved the care of multiple minors. The average age of wards was 6.4 years among Probate Facilitator cases and 9 years among full representation cases.

¹⁰⁹ The court can grant a fee waiver to litigants whose incomes are not more than 125% FPL.



Reasons for Guardianship

Guardianship cases are heard in probate court because, traditionally, guardianships were needed when parents were deceased. A review of the petitions in the broader study sample, however, shows that only about 10% of cases involved a deceased parent (Figure P1). In most instances, guardianships were sought because wards' parents were unable/unavailable to care for them. Overall, the most common reasons for filing a petition included: the parent had abandoned the ward or was otherwise absent, the parent had a drug or alcohol use disorder, the parent was going to prison or jail, or there was a history of child abuse. Of those cases with data, at least three quarters of each group listed multiple reasons, indicating that these are families facing myriad, complex issues. Notably, this information was unknown for 45% of full representation cases, which makes the direct comparison of group percentages difficult.

Figure P1. Petitioner Reasons for Seeking Guardianship by Study Group

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

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

Data are shown from categories listed on the California courts guardianship petition form (GC-205).

Full representation $N = 38$. Probate facilitator $N = 40$. Comparison $N = 37$.

Child Welfare Involvement

The severity of family issues was further evidenced by an overlap between the guardianship case and the child welfare and dependency court systems. In all groups, a notable minority of families were referred to probate court by the child welfare system: 26% of full representation cases, 17% of Probate Facilitator cases, and 16% of comparison cases. A small number of cases in each group (2-4 cases) involved open juvenile dependency court cases.

Objections to Guardianship Petition

Objections were on record for 29% of cases receiving full representation, 22% of cases helped by the Probate Facilitator, and 30% of comparison cases. In all groups, those objecting to the guardianship were most often parents of the child involved in the petition. At least one additional party, such as another family member, was on record for 32% of full representation cases, 37% of Probate Facilitator cases, and 22% of comparison cases.

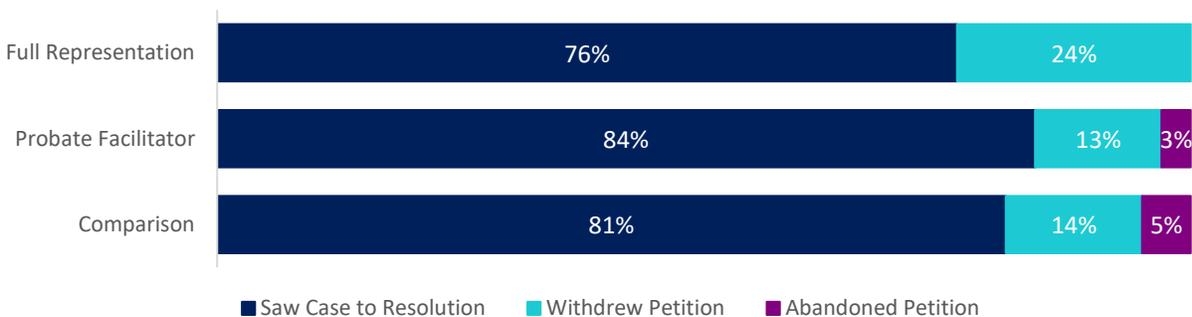
Litigants' Participation in the Justice System

Did fewer litigants abandon their petitions?

Guardianship petitions are complex and require voluminous amounts of information, and many would-be petitioners become worn out by the demands of the process and give up. A primary goal of Shriver service providers was to support the successful filing and following through of guardianship petitions, and to ultimately reduce the number of petitioners who withdraw or abandon their cases from fatigue and confusion with the process.

More than three quarters of litigants in all three groups saw their cases to completion, as shown in Figure P2. No full representation clients abandoned their cases, whereas 3% and 5% of litigants in the other groups did. One quarter of full representation clients withdrew their petitions, versus 13% and 14% of the other groups. Although these differences were not statistically significant,¹¹⁰ the rate of withdrawals among full representation cases appears higher than the other groups. This result may be because, upon receiving consultation from the Shriver attorney about the likelihood of their petition being granted and/or the activities required during the case (e.g., court investigations), full representation clients may have decided to withdraw their petitions and seek alternative arrangements (e.g., Caregiver Affidavits). This type of legal consultation might not have been readily available to self-represented litigants in the other two groups.

Figure P2. Percentage of Cases with Complete, Withdrawn, and Abandoned Petitions by Study Group



¹¹⁰ $\chi^2(2, N = 115) = 0.95, p > .05$

Was there more inclusion of relevant parties?

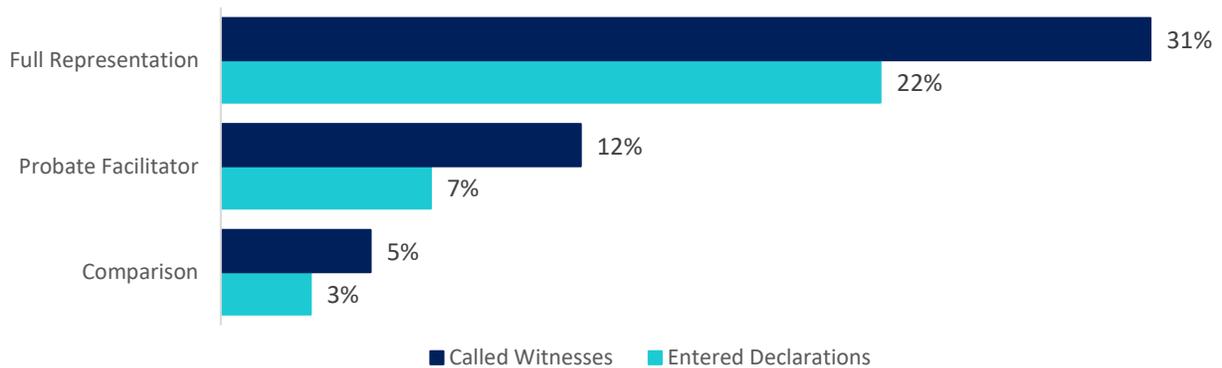
Petitioners are required to notify certain relatives of the ward about the pending guardianship case and, if the child is of Native American heritage, the Indian Child Welfare Act (ICWA) requires that the appropriate tribal authorities are also notified. Across the study groups, the majority (70%-85%) of mothers were notified and about half of them consented to the guardianships. Across the groups, roughly two thirds of fathers were notified, and about two thirds of them consented. Shriver services did not appear to impact the rate of family member notification, although the Probate Facilitator had an especially high rate of successfully completed ICWA notifications. ICWA notifications are particularly challenging for self-represented litigants because there are specific federal regulations governing this notice.

Did petitioners use available legal tools to support their cases?

In a guardianship case, parties can call witnesses and enter declarations to support their petitions. These actions can also provide the court with additional information to support fair rulings. Self-represented litigants may not be aware of the utility of these legal tools or fully understand how to implement them.

Having an attorney enabled litigants to more fully participate in the court process. Full representation cases were significantly more likely to include a witness than were cases in the other two groups.¹¹¹ Specifically, witnesses were called in 31% of full representation cases, 12% of Probate Facilitator cases, and 5% of comparison cases. The same pattern was true for entering declarations.¹¹² Declarations were entered in 22% of full representation cases, 7% of Probate Facilitator cases, and 3% of comparison cases. Figure P3 shows these findings.

Figure P3. Percentage of Cases that Called Witnesses and Entered Declarations by Study Group



¹¹¹ $\chi^2(2, N = 114) = 9.30, p < .01, \text{Cramer's } V = .28$

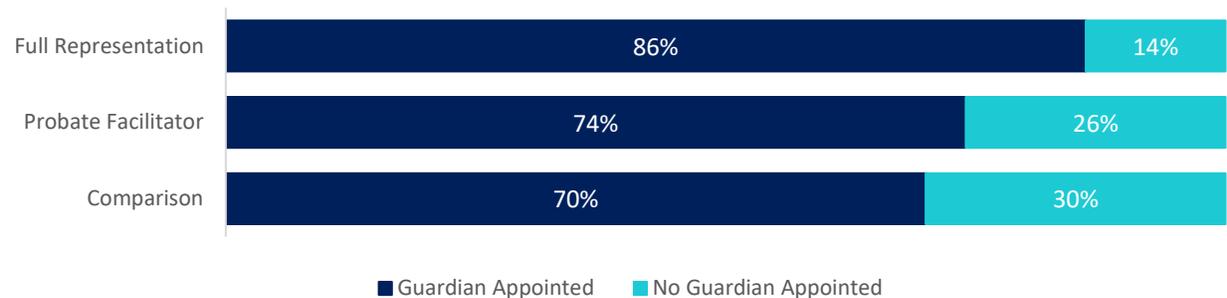
¹¹² $\chi^2(2, N = 114) = 8.80, p < .05, \text{Cramer's } V = .27$

Case Outcomes

Were more guardianships granted?

Of the cases that were seen through to completion,¹¹³ most petitions in each of the three groups ended with letters of guardianship granted. In particular, 86% of full representation clients, 74% of litigants in Probate Facilitator cases, and 70% of comparison litigants were appointed as permanent guardians (see Figure P4). Though the difference among the study groups was notable, it was not statistically significant.

Figure P4. Percentage of Cases with Permanent Guardianship Appointments by Study Group



Note. Percentages are calculated out of the number of completed petitions. Full representation $N = 29$, Probate Facilitator $N = 34$, Comparison $N = 30$

Case Events and Court Efficiency

Were cases resolved faster with Shriver services?

Guardianship cases can become protracted due to multiple continuances when unrepresented litigants struggle to meet the informational demands of the process. Shriver services sought to expedite cases and limit the need for continuances by ensuring that paperwork was complete and accurate and that litigants were informed about each step of the process.

Figure P5 displays the average case length¹¹⁴ for each study group. Full representation was associated, although not significantly,¹¹⁵ with faster case resolution. Cases receiving full representation lasted, on average, 92 days (median = 56), compared with an average length of 119 days (median = 72) among Probate Facilitator cases and 103 days (median = 84) among comparison cases. Notably, more than half (53%) of full representation cases resolved within 60 days, versus about one third (38% and 35%, respectively) of the other groups.

¹¹³ Litigants in 24% of full representation cases, 15% of probate facilitator cases, and 19% of comparison cases either withdrew or abandoned their petitions.

¹¹⁴ Case length was defined as the number of days between the petition filing and the date of disposition.

¹¹⁵ Given the skewed distribution, a nonparametric test was used. Kruskal-Wallis $\chi^2(2) = 2.54, p > .05$

Figure P5. Case Length (in Days) by Study Group

| Case Length | Full Representation | Probate Facilitator | Comparison |
|--------------------------|---------------------|---------------------|--------------|
| Mean number of days (SD) | 92.4 (96.1) | 118.5 (108.9) | 103.2 (78.0) |
| Median number of days | 55.5 | 71.5 | 84 |
| Range | 7 – 431 | 15 – 472 | 8 – 269 |

Full representation $N = 38$. Probate facilitator $N = 40$. Comparison $N = 37$.

Were there fewer hearings or continuances?

In the most efficient circumstances, a guardianship case is resolved with one hearing and no continuances for the court to issue orders.¹¹⁶ Cases receiving full representation were significantly more likely to resolve with just one hearing, as compared to cases without an attorney.¹¹⁷ As shown in Figure P6, 88% of Probate Facilitator cases and 75% of comparison cases required multiple hearings to be resolved, compared to 61% of full representation cases. However, the average number of hearings per case—2.4 for full representation cases, 3.4 for Probate Facilitator cases, and 3.1 for comparison cases—did not statistically differ.¹¹⁸

Continuances occurred in 52% of full representation cases, 70% of Probate Facilitator cases, and 80% of comparison cases (see Figure P6). Full representation cases were significantly less likely than comparison cases to involve a continuance; the Probate Facilitator group fell in between and did not significantly differ from either of the other two groups.¹¹⁹ On average, full representation cases involved one continuance, whereas Probate Facilitator and comparison cases involved two. While notable, this difference was not significant.¹²⁰ Court stakeholders reported that many self-represented litigants who prepared the initial petition on their own were referred to the Probate Facilitator at a hearing, when the court determined that they needed additional assistance. Thus, one might expect a higher rate of continuances among those cases.

¹¹⁶ Four cases were dismissed before a hearing was held, due to the petition being withdrawn or the court lacking jurisdiction. These cases were removed from the analysis for this outcome.

¹¹⁷ $\chi^2(2, N = 114) = 8.47, p < .05$, Cramer's $V = .273$

¹¹⁸ $F(2,111) = 1.96, p > .05$.145

¹¹⁹ $\chi^2(2, N = 112) = 6.98, p < .05$

¹²⁰ $F(2,105) = 2.21, p > .05$

Figure P6. Average Number of Hearings and Continuances by Study Group

| Hearings and Continuances | Full Representation | Probate Facilitator | Comparison |
|---|---------------------|---------------------|-------------------|
| Hearings | | | |
| Cases with one hearing | 13 (39%) | 5 (12%) | 9 (25%) |
| Cases with more than one hearing [sig.] | 20 (61%) | 35 (88%) | 27 (75%) |
| <i>Average (SD) number of hearings</i> | 2.4 (1.8) | 3.4 (2.3) | 3.1 (1.9) |
| Continuances | | | |
| Cases with no continuances | 16 (48%) | 12 (30%) | 7 (20%) |
| Cases with at least one continuance [sig.] | 17 (52%) | 28 (70%) | 28 (80%) |
| <i>Average (SD) number of continuances</i> | 1.0 (1.5) | 1.8 (2.2) | 2.2 (1.8) |

Note. Four cases were dismissed before a hearing occurred: 3 full representation and 1 comparison. These cases are not included in the hearing computations. Data for number of hearings and continuances were missing for two full representation cases, and data for number of continuances were missing for one comparison case.

Full Representation *N* = 33, Probate Facilitator *N* = 40, Comparison *N* = 36

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

ns = study group differences were not statistically significant.

Reduction in Court Costs Due to Increased Efficiency

Average Cost to Process a Typical Guardianship/Conservatorship Case

Court staff described five primary activities associated with processing guardianship and conservatorship cases: (a) a front counter clerk provides the paperwork and referrals to the litigants, (b) a judicial assistant receives and processes the petition, (c) the probate attorney reviews the case, (d) the parties are notified of and attend hearing(s), and (e) the court issues continuances when one or more parties requires more time to prepare. For each activity, court staff estimated the amount of time spent preparing and conducting the activity by the relevant staff members (e.g., clerk/judicial assistant, probate attorney, judge). Salaries, benefits, indirect support rates, and jurisdictional overhead rates for each position were located online¹²¹ (for FY2014, when the sampled cases were active) and used to calculate hourly rates, which were multiplied by the time spent for each activity.

Figure P7 compares the amounts of time court staff reported spending on these activities, for cases with and without Shriver services (by either legal aid or the Probate Facilitator), and the associated costs. The resulting savings summarized below and calculated in Figure P7 are notable. The results show multiple benefits and savings from the Shriver pilot project:

- After the Shriver project began, front counter clerks were able to refer litigants to legal aid and the Probate Facilitator to receive direct assistance, whereas before the Shriver project, they had only the resource center and a reference book.

¹²¹ Retrieved from <http://publicpay.ca.gov/Reports/PositionDetail.aspx?employeeid=15199249>

- Before the Shriver project, judicial assistants estimated spending, on average, 2.5 hours to review and process a petition and noted that litigants returned to the clerk's office approximately three times before successfully filing their paperwork. With Shriver services, processing a petition took an average of 25 minutes and most litigants filed successfully on their first attempt. This difference yielded a savings of \$81 per case.
- Time spent by the probate attorney preparing cases was estimated to be an average of 3.5 hours per petition before the Shriver project. With Shriver services, these tasks took an average of 2.5 hours per petition. This difference yielded a savings of \$92 per case.
- Case file data showed that guardianship cases that received Shriver full representation had an average of 2.4 hearings, whereas cases without Shriver services had an average of 3.1 hearings. The reduction resulted in a savings of approximately \$723 per case.¹²²
- Case file data showed that guardianship cases with Shriver full representation had an average of 1.0 continuance and cases without Shriver services had an average of 2.2 continuances. The reduction resulted in a cost savings of approximately \$238 per case.¹²³

As shown in Figure P7, in FY2014, the average cost to process a typical guardianship case before the Shriver probate pilot project was estimated to be \$4,061. The average cost to process a typical guardianship case that received both types of Shriver services was estimated to be \$2,927. This difference represents an average savings of \$1,134 per case (or 28%). In addition to these savings, there are potential opportunity resources associated with these results. For example, clerks saved nearly 2 hours on processing each case and probate attorneys saved an hour preparing each case. These staff can now spend this time in other ways that would maximize efficiency for the court. For example, this change may increase the overall number of petitions clerks are able to process in one day and it may free up their time to address and complete other tasks.

¹²² Court staff estimated that a typical evidentiary hearing lasted, on average, 3 hours and required the presence of the judicial assistant, court reporter, bailiff, and judge, in addition to preparations or post-hearing processes by the judicial assistant, judge, and probate attorney. The average cost per hearing was estimated to be \$1,034.

¹²³ Court staff estimated that a typical continuance required staff time from the probate attorney and judicial assistant in preparation, and from the judicial assistant, court reporter, bailiff, and judge for the courtroom time and processing. The average cost of a continuance was estimated to be \$198.

Figure P7. Summary of Court Efficiencies and Related Savings and Improvements for Combined Shriver Probate Services

| Court Activity | Estimated Time to Complete Activity ^a and Related Cost | | | | Savings and Improvements |
|--|---|----------------------------------|--|----------------------------------|--|
| | Before Shriver Project | | During Shriver Project | | |
| Front counter clerk provides paperwork and referrals | 2 minutes | -- | 2 minutes | -- | Clerks are able to refer litigants to legal aid and Probate Facilitator |
| Judicial assistant receives and processes petition ^b (includes calendaring and providing court investigator with paperwork) | 150 minutes (petitioners return an average of 3 times) | 2.5 hrs x \$39/hr = \$98 | 25 minutes (petitioner submits on first attempt) | .42 hr x \$39/hr = \$17 | Quicker processing by clerks, due to Probate Facilitator assistance, yields savings of \$81 per petition |
| Probate attorney reviews and prepares case | 210 minutes | 3.5 hrs x \$92/hr = \$322 | 150 minutes | 2.5 hrs x \$92/hr = \$230 | Quicker processing by probate attorney, due to Probate Facilitator assistance, yields savings of \$92 per petition |
| Hearing(s) held | Average of 3.1 per case | 3.1 x \$1,034 = \$3,205 | Average of 2.4 per case | 2.2 x \$1,034 = \$2,482 | Fewer hearings, due to Shriver full representation, yields savings of \$723 per case |
| Continuance(s) held | Average of 2.2 per case | 2.2 x \$198 = \$436 | Average of 1.0 per case | 1.0 x \$198 = \$198 | Fewer continuances, due to Shriver full representation, yields savings of \$238 per case |
| Average Total Cost^c | | \$4,061 | | \$2,927 | \$1,134 saved per case |

Data source: Court case file review data, staff time estimates, superior court online budget information for FY2014.

^a Estimates provided by court judicial assistants.

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

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

Staff and Judicial Officer Perspectives on the Shriver Probate Pilot Project

To better understand the broader effects of Shriver services beyond what was in the court case files, project stakeholders were interviewed about their perceptions of the Shriver pilot project's impact on various aspects of probate cases. In 2015, a total of 8 phone interviews were conducted with staff members at the legal services organizations and the court. In 2018, a total of 14 project staff, from both legal services and the court, were interviewed during in-person site visits. In all these interviews, court staff primarily focused on the services provided by the Probate Facilitator, as that was the Shriver service/position with which most court-based staff had interacted.

Pilot Project Successes and Accomplishments

Access to Justice

Staff thought that probate litigants—both petitioners and objectors—had better access to the court system and more meaningful participation in the process as a result of Shriver services. They explained that the complexity of the probate process makes it almost impossible for a layperson to navigate alone. They noted that the complexity and volume of paperwork, as well as the research skills required to locate family members, present a significant barrier for most individuals seeking to file a guardianship or conservatorship petition, and especially those with limited English proficiency or literacy challenges. With Shriver services, litigants received individualized assistance with many of these tasks and thus were able to tell their stories before the court hearing, reducing the stress of an already stressful process, providing the court with better information on which to base decisions, and increasing overall access to justice.

More Petitions Successfully Filed

Court staff reported that, before the Shriver pilot project, it was common for petitioners to get frustrated with the technicalities and give up in the middle of the process, thereby leaving vulnerable minors and dependent adults without a stable care arrangement. However, with Shriver services in place, they thought that more litigants persisted with the process and followed cases through to resolution. Project staff were confident that Shriver services, both representation by the legal services agency and the assistance by the Probate Facilitator, resulted in more litigants successfully filing petitions, which led to more letters of guardianship and conservatorship being granted and, therefore, more families having the stability of a lasting legal arrangement.

Probate Facilitator Position

The Probate Facilitator, funded jointly by the Shriver Act and court self-help grants, provided intensive self-help services to all self-represented litigants in guardianship or conservatorship cases, regardless of income level. Project staff, including judicial officers, reported high levels of satisfaction with the

Probate Facilitator services. The Probate Facilitator eased the burden on court staff and enabled individuals who lacked the means to hire attorneys to meaningfully engage with the legal system. They felt the Probate Facilitator’s assistance was instrumental in helping litigants successfully file petitions, which reduced frustration and stress among litigants and decreased the amount of time spent by clerks reviewing repetitively errant or incomplete paperwork.

Fewer Rejected and Unnecessary Petitions

While Shriver project staff thought that their services increased the number of successful filings, they were also confident that their services reduced the number of unnecessary petitions filed with the court. Attorneys were able to discern when a petitioner would benefit from an alternative arrangement (e.g., Caregiver Affidavit) that would not require a court filing or could help petitioners understand when success might be unlikely, given aspects of their background (e.g., criminal record, child welfare involvement). Diverting litigants with potentially unsuccessful fact patterns or inappropriate circumstances from probate court to other appropriate avenues to establish caring arrangements alleviated burdens on the court and potentially maximized litigants’ chances of finding a successful arrangement sooner.

Court Efficiency

Court staff stated that there was an increase in the number of petitions filed with the clerk's office since the Shriver project began, including a dramatic, positive shift in the quality of the paperwork filed. Litigants became more educated about the probate court process, and proposed guardians and conservators became more familiar with their roles and responsibilities (e.g., complying with the court’s investigation and being prepared for completing future status reports to the court). These improvements reduced the amount of time clerks spent reviewing errant and incomplete paperwork and decreased the number of times they had to review and reject the same petition. Prior to Shriver services, clerks estimated it took an average of three attempts before a petitioner was able to file case paperwork successfully, but with Shriver services, paperwork was usually accepted on the first attempt. With an average of 45 minutes required to review a petition each time the paperwork was submitted, this change represented a substantial time savings for court staff.



Goals of the Shriver Program

Staff members at the probate pilot project described three main goals:

- (a) To support meaningful participation by all parties in the legal process by ensuring that more petitions are successfully filed, fewer petitions are abandoned, more family members are available to provide information to the court, and litigants are educated about their rights and the rights of others.*
- (b) To reach outcomes that are in the best interests of wards/conservatees. These cases often involve complex family structures that will persist after the case closes. Outcomes that are agreeable to all parties and that can be sustained is paramount to providing stability for the ward or conservatee.*
- (c) To increase court efficiency by reducing the amount of court time spent on incomplete or ill-prepared petitions and resolving cases faster with fewer continuances.*

Staff reported that the quality of information provided to the court was vastly improved, as a result of more people participating in the process, more evidence presented, and clearer documentation. This quality improvement allowed judges to make more informed decisions, thus better serving wards and conservatees. Judges also reported appreciating being able to refer litigants to the Probate Facilitator for help. Ultimately, as a result of these improvements, court staff thought that more letters of guardianship and conservatorship were granted. Because litigants were more prepared for the process, staff also supposed that fewer guardians and conservators were removed from their positions at annual status reviews, leaving more wards and conservatees in stable environments.

Family Harmony

Most cases did not involve objections, but for those that did, project staff thought that Shriver services helped to educate parties and foster a more collaborative approach to the case. After learning about the process and about guardianships (e.g., no loss of parental rights), parents tended to be less fearful, more apt to consent, and more accepting of the outcome. When child welfare services (CWS) referred a family member to file for guardianship, obtaining consent from parents was particularly important, as it meant that children could be placed in a safe home with a family member more quickly. Staff believe that those persons objecting to the guardianship were more satisfied with the court's decision because they were able to participate in the process. This more inclusive process reduced family tension and stress and brought family members closer together to care for children and adults in need.



Serving the Best Interests of the Children and Adults Needing Care

All staff agreed that the most important impact of the Shriver project was that more children and adults with disabilities were in safer homes, being cared for by loving and capable family members. In addition to a more nurturing environment, staff noted that Shriver assistance made it possible for guardians and conservators to enroll children in school, obtain public benefits (such as SNAP benefits), and connect children and adults to the medical services they needed.

Pilot Project Challenges

Eligibility Criteria

The primary challenge reported by staff at this pilot project was that the statutory income threshold was too restrictive to reach all the litigants who need help but could not afford it. Many people with incomes just above 200% FPL have critical needs for legal assistance but cannot afford an attorney. Moreover, litigants in probate cases with combined person and estate issues sought services, but Shriver project staff could only assist with the guardianship or conservatorship of the person issues and not with the estate portion. Several staff noted that many of the estates in question were quite small—for example, social security checks—and lamented that these issues were excluded from consideration.

Summary of Results for the Shriver Probate Pilot Project

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

Who was served by the Shriver Probate Pilot Project?

From October 2014 to September 2019, the Shriver probate pilot project provided legal services to low-income litigants in 173 cases. The most common case involved multiple individuals seeking assistance with a petition for guardianship (e.g., couples, such as grandparents, seeking to care for grandchildren). Most clients were Hispanic/Latinx, and many had limited proficiency with English, limited education, or a disability or a chronic health condition. The median monthly income of Shriver clients was \$1,600, or approximately \$19,200 per year.

During this same 5-year period, the court-based Shriver Probate Facilitator served 472 parties across cases (mostly guardianships). Most of these parties were female, more than half were Hispanic/Latinx, over one third had a household income of less than \$2,000 per month, and many received some form of public assistance.

Families served by the Shriver project evidenced substantial dysfunction and considerable risk to the children involved. Guardianships were sought not—in most cases—because parents were deceased, but because parents were unable/unavailable to care for children due to issues such as abandonment, substance use disorder, incarceration, maltreatment, and homelessness. Moreover, roughly one quarter of families were referred by the child welfare system (CWS), suggesting that CWS recognized guardianships as a way to ensure care for children if CWS was unprepared to file an action in dependency court.

What services were provided by the Shriver Probate Pilot Project?

The legal services partner affiliated with the Shriver probate pilot project endeavored to provide full representation to all eligible litigants. However, some litigants were recorded as having received unbundled services (brief counsel and advice) if, after the initial consultation, they did not return for subsequent appointments or decided not to pursue the case. In total, of the 173 litigants who sought help, 41% received full representation and 59% received unbundled services.

The Probate Facilitator assisted all parties who presented at the court (no income requirement) and aimed to support the completion of all necessary forms so that the petition could be successfully filed.



The Probate Facilitator also assisted litigants with various documents to proceed with their case, including service of notice and declarations. She made it possible for litigants, who otherwise lacked the resources to retain attorneys, to have meaningful access to the legal system, thereby ensuring access to justice for these at-risk families.

What were the Impacts of the Shriver Probate Pilot Project?

Results demonstrated several beneficial impacts of the Shriver probate pilot project.

Petitions were successfully filed.

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

Nearly one quarter of full representation clients in guardianship cases subsequently withdrew their petitions. This finding may have been due to families pursuing a different arrangement (e.g., Caregiver’s Affidavit), after learning about their options from their attorneys. None of these clients abandoned their petitions without explanation.

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

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

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

Shriver services also supported effective notice procedures, including those for relatives and tribes. Ensuring effective and complete notification provided other relevant parties with an opportunity to participate in the cases. While adding complexity that would be hard for petitioners to navigate on their own, proper notice with the assistance of Shriver services provided the court with more information about the circumstances of the child and family on which to base decisions.

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

Court proceedings were more efficient.

The provision of Shriver services made notable contributions to court efficiency. Cases with a Shriver attorney were resolved more quickly than were cases with self-represented litigants. More than half of Shriver representation cases were resolved within 60 days, compared to about one third of cases with self-represented litigants. Further, these full representation cases involved fewer hearings and continuances, compared to cases without representation.

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

Efficiencies in proceedings translated to savings for the court.

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

The Shriver probate pilot project produced efficiencies created by the Probate Facilitator (e.g., reduced clerk time to process petitions) and those created by the Shriver attorneys (e.g., fewer hearings and continuances). Taken together, these services yielded a savings to the court. The average cost to process a typical guardianship case before the Shriver pilot project was estimated to be \$4,061. The average cost to process a typical guardianship case that received both Shriver services was estimated to be \$2,927 – an average savings of approximately \$1,134 per case.¹²⁴

¹²⁴ These estimates are based on FY2014 salary estimates, because that is the year the sampled cases were active.

Additional Needs Noted by Project Staff

Shriver project staff expressed some concern about the income eligibility criteria. Specifically, they noted that there were many families in difficult situations with incomes just above the 200% FPL threshold who could afford to pay for an attorney but were considered ineligible for Shriver representation. Additionally, project staff saw a need in the community for assistance with adoption cases and other probate cases involving small estates.

Methodological Limitations and Considerations

Probate petitions are challenging. Without legal assistance, many people are never able to successfully file a petition for guardianship or conservatorship, and they frequently give up due to confusion and fatigue with the process. Because these individuals never file petitions with the court, there are no data to reflect them. Thus, the evaluation was not able to investigate this population of litigants and their unmet legal needs.

4

SUMMARY

SUMMARY AND STUDY RECOMMENDATIONS

Summary

Since its inception, the Shriver Program has provided services to more than 43,000 low-income litigants in civil legal cases involving critical livelihood issues. In the last 5 years alone, more than 19,000 litigants have been assisted with evictions, child custody, domestic violence restraining orders, guardianships, and conservatorships. This Shriver Program evaluation has collected data from all 10 pilot projects funded during this time, and some key themes have emerged.

Shriver services reach individuals within the intended populations.

The Shriver Act recognizes that many low-income litigants are at risk of being unable to effectively navigate the court system or of experiencing significantly deleterious consequences as a result of their court case. The Shriver pilot projects sought to reach and assist these people, and available data suggest they are achieving this goal. According to the statute, individuals are eligible for Shriver services if they have an income at or below 200% of the federal poverty level (FPL).¹²⁵ Program service data showed that the median income of Shriver clients was significantly below the FPL, illustrating that services are reaching the poorest of litigants. In addition, service data also revealed that many Shriver clients demonstrated additional indicators of vulnerability. These factors include characteristics that would render someone vulnerable if evicted, such as having a disability, being an older adult, or having children in the home. They also included characteristics that would make it difficult for a litigant to navigate the court system or represent themselves, such as having literacy challenges, limited proficiency with English, or a cognitive disability.

Shriver services provide low-income litigants with improved access to the legal system.

Shriver services supported low-income litigants' access to the legal system. Shriver pilot projects effectively balanced representation in many cases. This equity is especially important in unlawful detainer cases, in which landlords are often represented and tenants rarely are. In these cases, Shriver services ensured that tenants successfully filed answers to their unlawful detainer complaints and therefore avoided defaulting on their cases. This is a significant achievement, given that the average default rate in 2019 across four counties with Shriver housing projects was 40%. In probate court, Shriver services helped would-be guardians and conservators successfully file their petitions and complete the rigorous probate paperwork, which unrepresented litigants are often unable to do.

¹²⁵ In 2019, the FPL (annual household income) for a family of four was \$25,750.

Shriver services help low-income litigants utilize appropriate legal procedures.

Shriver attorneys improved low-income litigants' access to justice by supporting their use of available legal procedures to more effectively defend their case. This included raising affirmative defenses in unlawful detainer cases, requesting additional orders in child custody cases, and calling witnesses and entering declarations in guardianship cases. Compared to self-represented litigants, Shriver clients were more likely to utilize these legal tools, helping them to more actively participate in the legal system. The increased use of these tools also yielded more information for the court, which supports judicial officers' abilities to make informed and just decisions.

Shriver attorneys educate litigants and help them settle their cases.

Shriver attorneys educated litigants about the legal process and helped them form reasonable expectations for their cases. In child custody cases, this intervention often calmed emotional tensions between the parties and opened a pathway toward settlement. In probate cases, this intervention sometimes helped ease discord among family members and made an uncontested care arrangement possible. In housing cases, Shriver attorneys often brokered settlements that involved various tenant-friendly terms as a way to provide tenants a "soft landing" while allowing landlords to regain possession of their property.

Shriver services improve court efficiency.

Shriver services supported court efficiency in several ways. First, Shriver representation increased the likelihood of settlement, which decreased the necessity for trials which are resource-intensive for the court. Shriver services also supported more efficient court proceedings. Litigants were better educated about the process and therefore better prepared for court-related events. Filings were complete and accurate, and requests were reasonable for the case and appropriate for the context. As a result, clerks spent less time reviewing errant and incomplete paperwork, and judges spent less time educating litigants in the courtroom and having to handle unnecessary hearings and continuances. Judges also received more comprehensive information about the case, supporting their ability to make just and fair decisions.

Shriver services support low-income litigants' longer-term stability.

Shriver pilot projects helped low-income litigants resolve their civil cases in ways that created more stability for them and their families. In unlawful detainer cases, Shriver attorneys were generally able to settle the cases with various terms that supported tenants' ability to find replacement housing. Most clients avoided a lockout and had extra time to move, with reduced debt and protected credit, supporting their longer-term housing stability. In child custody cases, combining Shriver representation and Shriver Settlement Conferences yielded custody orders that were durable for 90% of families over the course of 2 years. Having custody arrangements stay in place over time increases the stability for the children involved and reduces court congestion. In probate court, the large majority of guardianship and conservatorship cases resolved with letters being granted, thus ensuring that the children and dependent adults had a stable and legal care arrangement in place.

Across the Shriver pilot projects, the benefits of Shriver services were clear, both for low-income litigants and the courts. Shriver services supported litigants' access to the court system and access to justice, and they also supported the courts' ability to efficiently dispense justice.

Study Recommendations

The following recommendations are made based on information gathered as part of the evaluation and are intended to strengthen the already-successful Shriver pilot projects, as well as to provide useful ideas for those seeking to replicate the Shriver model.

- a) **In cases where one side is represented, provide representation to the other side as often as possible.** While limited scope legal assistance is beneficial, it does not replace a trained attorney providing representation. A represented litigant will nearly always fare better than a self-represented litigant in the courtroom when the other side has legal representation.
- b) **Continue to emphasize litigant education.** Informing litigants about the legal process, courtroom standards, and other court-related matters (e.g., guardianship investigation) will help alleviate fear and confusion. Litigants' stress levels will be lower, and they are more likely to be prepared if they know what to expect. This education can also help litigants form more reasonable expectations for their cases, which facilitates settlement negotiations.
- c) **Provide more comprehensive tools for settlement options and strategies.** Develop and broadly disseminate checklists that litigants can take to court or settlement discussions that outline topics that are commonly considered at settlement (such as what a tenant might request or a landlord might request). Helping litigants prepare to discuss issues such as extended time to move out, sealing eviction records, and providing neutral references can help bridge the information and experience gap between tenants and landlords or their attorneys and assist parties in obtaining more comprehensive and equitable solutions.
- d) **Continue and expand alternative dispute resolution services.** Evidence regarding the effectiveness of the Mandatory Settlement Conferences for eviction cases and the Shriver Settlement Conferences for child custody cases is positive. Both services had a high utilization rate among litigants and a high rate of reaching mutually beneficial settlements. Consider how these services may be expanded throughout project services areas, as well as adopted by other pilot projects.
- e) **Consider ways to address litigants' non-legal needs.** Data indicate that Shriver clients experience a range of social service needs. These other needs—such as a need for mental health services—can become intertwined with, and in some instances exacerbate, the legal problem. For example, a tenant may be served an eviction notice due to disruptive behavior that stems from a mental health problem, or child custody arrangements may be complicated by a parent's food insecurity or lack of stable housing. Some services can effectively complement legal services, such as emergency rental assistance programs that help tenants pay past-due rent and avoid unnecessary eviction. As noted, some pilot projects incorporated social service assessment and referrals into their approaches. These and similar promising practices to identify and implement effective service referrals ought to be expanded and disseminated to other projects.

- f) **Consider ways to strengthen the working relationships between legal services agencies and the court.** Some pilot projects had strong collaborations, and others experienced challenges. When the collaborations were strong, innovation was more likely and the continuum of service for litigants was more streamlined. Pilot projects would benefit from identifying key staff from each partner agency (at least one leadership and one line staff position) to attend regular collaborative meetings and establish protocols for consistent interagency communication. If projects develop a coordinated workplan and ensure that roles and expectations are well articulated, they will improve the quality and sustainability of their collaborations.
- g) **Consider ways to reach low-income litigants who are not accessing services.** Although the pilot projects are reaching people within the intended population of low-income and vulnerable litigants, data suggest that there remains a larger share of low-income individuals who would benefit from services. The California Justice Gap Study found that low-income individuals are likely to seek non-legal help for their problems, which suggests that legal services organizations may do well to expand existing partnerships with other social service organizations to strengthen existing referral mechanisms and create new active referral pathways. These expanded collaborations would enable legal services providers to reach individuals with legal issues who would not otherwise present for legal help.
- h) **Consider requesting an amendment to the Shriver statute to expand eligibility.** Project staff voiced the need for services among individuals with incomes over 200% FPL, who are currently ineligible for Shriver assistance but lack the resources to retain counsel on their own. Slight adjustments to the income threshold would allow legal assistance to reach more Californians who need it; however, some are concerned that the resources might be reduced for the original intended population who are not yet being fully served. Staff also wished that the statute could be revised to allow for assistance with small estates in guardianship and conservatorship cases, as these sources of potential income are often critical resources for poor families.
- i) **Consider ways to disseminate the findings of this evaluation and continue to monitor results of similar studies in other jurisdictions.** The growing number of civil right to counsel programs around the country, especially those pertaining to eviction defense, presents an opportunity to develop a broad knowledge base about how to design and implement effective services. The Shriver Act evaluation involves what is likely the largest database of such cases in the country, and as such, has considerable insights to offer to other programs. For example, innovative practices with promising results—such as establishing a Probate Facilitator for guardianship cases or incorporating independent housing inspections into eviction defense programs—might be swiftly replicated in other areas, both within and outside of California. Likewise, continuing to monitor what is being learned by civil right to counsel programs around the country may inform practices undertaken by Shriver pilot projects in the future.

We hope this overview of the successes of the Shriver pilot projects as well as the ideas for building on these successes and addressing challenges are valuable for all those concerned about improving court access, increasing court efficiency, and improving the quality of justice.

APPENDIX FIGURES

Figure A1. Data Sources and Methods

| Data Source / Method | New Data in Current Report | Data Reported Previously | For more detailed information on the methodology, see previous report ^b |
|--|----------------------------|--------------------------|--|
| Housing | | | |
| Shriver Program Services Database | √ ^a | √ ^a | pp. 6, 35 |
| Random Assignment Study | | √ | pp. 7, 111 |
| Litigant Interviews | | √ | pp. 9, 133 |
| Triage Process Study | √ | | |
| Staff and Court Stakeholder Interviews | √ | | |
| Custody | | | |
| Shriver Program Services Database | √ ^a | √ ^a | pp. 6, 223 |
| Client Self-Sufficiency Assessment | √ | | |
| Comparative Study of Case Outcomes | | √ | pp. 8, 277 |
| Litigant Interviews | | √ | pp. 9, 255 |
| Staff and Court Stakeholder Interviews | √ | | |
| Probate | | | |
| Shriver Program Services Database | √ ^a | √ ^a | pp. 6, 363 |
| Comparative Study of Case Outcomes | | √ | pp. 9, 387 |
| Staff and Court Stakeholder Interviews | √ | | |

^a The Shriver Program Services Database includes data about clients served, services provided, and outcomes achieved. Data are entered by Shriver project staff throughout the grant period. The previous evaluation report presented data on cases served between 2012 and 2016. The current report presents data on cases served between 2015 and 2019.

^b Available at: <https://jcc.legistar.com/View.ashx?M=F&ID=5319197&GUID=A7E82A2C-C90F-41BF-AA2B-1EC3E5825C4C>

Figure A2. Logistic Regression Results for Triage Factors

| Factor | β | SE | Odds Ratio | p |
|---------------------------------|---------|------|------------|-------|
| Opposing Party or Counsel Known | 2.210 | .662 | 9.115 | .001* |
| Merit/Defenses Present | 1.659 | .499 | 5.255 | .001* |
| Opposing Party Represented | 1.127 | .522 | 3.087 | .031* |
| Vulnerabilities Present | .904 | .388 | 2.469 | .020* |
| Case was Complex | .788 | .490 | 2.198 | .108 |
| Subsidized Housing | .539 | .374 | 1.714 | .150 |
| Tenant has Other Plans | -1.116 | .416 | .328 | .007* |
| Case was Pre-filing | -1.196 | .427 | .302 | .005* |
| Other Factor Present | -.370 | .453 | .691 | .414 |

Nagelkerke R -squared: .44

Note. An odds ratio is significant when $p < .05$ (indicated by an asterisk [*])

Figure A3. Arizona Self-Sufficiency Matrix Domains and Categories

| ASSM Domain | ASSM Assessment Category | | | | |
|--------------------------------|---|--|--|--|--|
| | In Crisis | At Risk | Building Capacity | Stable | Thriving |
| Employment | No job. | Temporary, part-time or seasonal; inadequate pay, no benefits. | Employed full time; inadequate pay; few or no benefits. | Employed full time with adequate pay and benefits. | Maintains permanent employment with adequate income and benefits. |
| Food | No food or means to prepare it. Relies to a significant degree on other sources of free or low-cost food. | Household is on food stamps. | Can meet basic food needs, but requires occasional assistance. | Can meet basic food needs without assistance. | Can choose to purchase any food household desires. |
| Income | No income. | Inadequate income and/or spontaneous or inappropriate spending. | Can meet basic needs with subsidy; appropriate spending. | Can meet basic needs and manage debt without assistance. | Income is sufficient, well-managed; has discretionary income and is able to save. |
| Job Readiness | Literacy problems and/or no high school diploma/ GED are serious barriers to employment. | Enrolled in literacy and/or GED program and/or has sufficient command of English to where language is not a barrier to employment. | Has high school diploma/GED. | Needs additional education/training to improve employment situation and/or to resolve literacy problems to where they are able to function effectively in society. | Has completed education/training needed to become employable. No literacy problems. |
| Family/Social Relations | Lack of necessary support from family or friends; abuse (DV, child) is present or there is child neglect. | Family/friends may be supportive, but lack ability or resources to help; family members do not relate well with one another; potential for abuse or neglect. | Some support from family/friends; family members acknowledge and seek to change negative behaviors; are learning to communicate and support. | Strong support from family or friends. Household members support each other's efforts. | Has healthy/expanding support network; household is stable and communication is consistently open. |
| Housing | Homeless or threatened with eviction. | In transitional, temporary, or substandard housing; and/or current rent/mortgage payment is unaffordable (over 30% of income). | In stable housing that is safe but only marginally adequate. | Household is in safe, adequate subsidized housing. | Household is safe, adequate, unsubsidized housing. |
| Life Skills | Unable to meet basic needs such as hygiene, food, activities of daily living. | Can meet a few but not all needs of daily living without assistance. | Can meet most but not all daily living needs without assistance. | Able to meet all basic needs of daily living without assistance. | Able to provide beyond basic needs of daily living for self and family. |
| Healthcare Coverage | No medical coverage with immediate need. | No medical coverage and great difficulty accessing medical care when needed. Some household members may be in poor health. | Some members (e.g., children) have medical coverage. | All members can get medical care when needed, but may strain budget. | All members are covered by affordable, adequate health insurance. |

| ASSM Domain | ASSM Assessment Category | | | | |
|----------------------------|---|---|--|--|--|
| | In Crisis | At Risk | Building Capacity | Stable | Thriving |
| Transportation | No access to transportation, public or private; may have car that is inoperable. | Transportation is available, but unreliable, unpredictable, unaffordable; may have car, but no insurance, license, etc. | Transportation is available and reliable but limited and/or inconvenient; drivers are licensed and minimally insured. | Transportation is generally accessible to meet basic travel needs. | Transportation is readily available and affordable; car is adequately insured. |
| Mental Health | Danger to self or others; recurring suicidal ideation; experiencing severe difficulty in day-to-day life due to psychological problems. | Recurrent mental health symptoms that may affect behavior, but not a danger to self/others; persistent problems with functioning due to mental health symptoms. | Mild symptoms may be present but are transient; only moderate difficulty in functioning due to mental health problems. | Minimal symptoms that are expected responses to life stressors; only slight impairment in functioning. | Symptoms are absent or rare; good or superior functioning in wide range of activities; no more than everyday problems or concerns. |
| Safety | Home or residence is not safe; immediate level of lethality is extremely high; possible CPS involvement. | Safety is threatened/temporary protection is available; level of lethality is high. | Current level of safety is minimally adequate; ongoing safety planning is essential. | Environment is safe, however, future of such is uncertain; safety planning is important. | Environment is apparently safe and stable. |
| Health/Disabilities | In crisis – acute or chronic symptoms affecting housing, employment, social interactions, etc. | Vulnerable – sometimes or periodically has acute or chronic symptoms affecting housing, employment, social interactions, etc. | Safe – rarely has acute or chronic symptoms affecting housing, employment, social interactions, etc. | Building capacity – asymptomatic – condition controlled by services or medication. | Thriving – no identified disability. |
| Child Care | Needs child care, but none is available/accessible and/or child is not eligible. | Child care is unreliable or unaffordable, inadequate supervision is a problem for child care that is available. | Affordable subsidized child care is available, but limited. | Reliable, affordable child care is available, no need for subsidies. | Able to select quality child care of choice. |

Note. Minnesota Housing (1996). *Arizona Self Sufficiency Matrix* [PDF]. Retrieved from www.mnhousing.gov/get/MHFA_010996

The original tool, without Arizona's revisions, can be found here: <https://aspe.hhs.gov/report/toward-understanding-homelessness-2007-national-symposium-homelessness-research-accountability-cost-effectiveness-and-program-performance-progress-1998/case-study-arizona-evaluation-project>

THE SARGENT SHRIVER CIVIL COUNSEL ACT AS AMENDED SEPTEMBER 4, 2019

GOVERNMENT CODE CHAPTER 2.1 CIVIL LEGAL REPRESENTATION

68651.

(a) Legal counsel shall be appointed to represent low-income parties in civil matters involving critical issues affecting basic human needs in those specified courts selected by the Judicial Council as provided in this section.

(b) (1) Subject to funding specifically provided for this purpose pursuant to subdivision (e) of Section 70626 and donations provided pursuant to subdivision (e), the Judicial Council shall develop one or more programs in selected courts pursuant to a competitive grant process and a request for proposals. Programs authorized under this section shall provide representation of counsel for low-income persons who require legal services in civil matters involving housing-related matters, domestic violence and civil harassment restraining orders, probate conservatorships, guardianships of the person, elder abuse, or actions by a parent to obtain legal or physical custody of a child, as well as providing court procedures, personnel, training, and case management and administration methods that reflect best practices to ensure unrepresented parties in those cases have meaningful access to justice, and to gather information on the outcomes associated with providing these services, to guard against the involuntary waiver of those rights or their disposition by default. These programs should be designed to address the substantial inequities in timely and effective access to justice that often give rise to an undue risk of erroneous decision because of the nature and complexity of the law and the proceeding or disparities between the parties in education, sophistication, language proficiency, legal representation, access to self-help, and alternative dispute resolution services. In order to ensure that the scarce funds available for the programs are used to serve the most critical cases and the parties least able to access the courts without representation, eligibility for representation shall be limited to clients whose household income falls at or below 200 percent of the federal poverty level. Programs shall impose asset limitations consistent with their existing practices in order to ensure optimal use of funds.

(2) (A) In light of the significant percentage of parties who are unrepresented in family law matters, proposals to provide counsel in child custody cases should be considered among the highest priorities for funding.

(B) Up to 20 percent of available funds shall be directed to programs regarding civil matters involving actions under the Family Code, subject to the priority set forth in subparagraph (A). This subparagraph shall not apply to distributions made pursuant to paragraph (3).

(3) Amounts collected pursuant to subdivision (e) of Section 70626 in excess of the total amount transferred to the Trial Court Trust Fund in the 2011–12 fiscal year pursuant to subparagraph (E) of paragraph (1) of subdivision (c) of Section 68085.1 and subdivision (e) of Section 70626 shall be distributed by the Judicial Council without regard to subparagraph (B) of paragraph (2). Those amounts may be distributed by the Judicial Council as set forth in this subdivision. If the funds are to be distributed to new programs, the Judicial Council shall distribute those amounts pursuant to the process set forth in this subdivision.

(4) Each program shall be a partnership between the court, a qualified legal services project, as defined by subdivision (a) of Section 6213 of the Business and Professions Code, that shall serve as the lead agency for case assessment and direction, and other legal services providers in the

community who are able to provide the services for the program. The lead legal services agency shall be the central point of contact for receipt of referrals to the program and to make determinations of eligibility based on uniform criteria. The lead legal services agency shall be responsible for providing representation to the clients or referring the matter to one of the organization or individual providers with whom the lead legal services agency contracts to provide the service. Funds received by a qualified legal services project shall not qualify as expenditures for the purposes of the distribution of funds pursuant to Section 6216 of the Business and Professions Code. To the extent practical, the lead legal services agency shall identify and make use of pro bono services in order to maximize available services efficiently and economically. Recognizing that not all indigent parties can be afforded representation, even when they have meritorious cases, the court partner shall, as a corollary to the services provided by the lead legal services agency, be responsible for providing procedures, personnel, training, and case management and administration practices that reflect best practices to ensure unrepresented parties meaningful access to justice and to guard against the involuntary waiver of rights, as well as to encourage fair and expeditious voluntary dispute resolution, consistent with principles of judicial neutrality.

(5) The participating programs shall be selected by a committee appointed by the Judicial Council with representation from key stakeholder groups, including judicial officers, legal services providers, and others, as appropriate. The committee shall assess the applicants' capacity for success, innovation, and efficiency, including, but not limited to, the likelihood that the program would deliver quality representation in an effective manner that would meet critical needs in the community and address the needs of the court with regard to access to justice and calendar management, and the unique local unmet needs for representation in the community. Programs approved pursuant to this section shall initially be authorized for a three-year period, commencing July 1, 2011, subject to renewal for a period to be determined by the Judicial Council, in consultation with the participating program in light of the program's capacity and success. After the initial three-year period, the Judicial Council shall distribute any future funds available as the result of the termination or nonrenewal of a program pursuant to the process set forth in this subdivision. Programs shall be selected on the basis of whether, in the cases proposed for service, the persons to be assisted are likely to be opposed by a party who is represented by counsel. The Judicial Council shall also consider the following factors in selecting the programs:

(A) The likelihood that representation in the proposed case type tends to affect whether a party prevails or otherwise obtains a significantly more favorable outcome in a matter in which they would otherwise frequently have judgment entered against them or suffer the deprivation of the basic human need at issue.

(B) The likelihood of reducing the risk of erroneous decision.

(C) The nature and severity of potential consequences for the unrepresented party regarding the basic human need at stake if representation is not provided.

(D) Whether the provision of legal services may eliminate or reduce the potential need for, and cost of, public social services regarding the basic human need at stake for the client and others in the client's household.

(E) The unmet need for legal services in the geographic area to be served.

(F) The availability and effectiveness of other types of court services, such as self-help.

(6) Each applicant shall do all of the following:

(A) Identify the nature of the partnership between the court, the lead legal services agency, and the other agencies or other providers that would work within the program.

(B) Describe the referral protocols to be used, the criteria that would be employed in case assessment, why those cases were selected, the manner to address conflicts without violating attorney-client privilege when adverse parties are seeking representation through the program, and the means for serving potential clients who need assistance with English.

(C) Describe how the program would be administered, including how the data collection requirements would be met without causing an undue burden on the courts, clients, or the providers, the particular objectives of the project, strategies to evaluate their success in meeting those objectives, and the means by which the program would serve the particular needs of the community, such as by providing representation to limited-English-speaking clients.

(7) To ensure the most effective use of the funding available, the lead legal services agency shall serve as a hub for all referrals, and the point at which decisions are made about which referrals will be served and by whom. Referrals shall emanate from the court, as well as from the other agencies providing services through the program, and shall be directed to the lead legal services agency for review. That agency, or another agency or attorney in the event of conflict, shall collect the information necessary to assess whether the case should be served. In performing that case assessment, the agency shall determine the relative need for representation of the litigant, including all of the following:

(A) Case complexity.

(B) Whether the other party is represented.

(C) The adversarial nature of the proceeding.

(D) The availability and effectiveness of other types of services, such as self-help, in light of the potential client and the nature of the case.

(E) Language issues.

(F) Disability access issues.

(G) Literacy issues.

(H) The merits of the case.

(I) The nature and severity of potential consequences for the potential client if representation is not provided.

(J) Whether the provision of legal services may eliminate or reduce the need for, and cost of, public social services for the potential client and others in the potential client's household.

(8) If both parties to a dispute are financially eligible for representation, each proposal shall ensure that representation for both sides is evaluated. In these and other cases in which conflict issues arise, the lead legal services agency shall have referral protocols with other agencies and providers, such as a private attorney panel, to address those conflicts.

(9) Each program shall be responsible for keeping records on the referrals accepted and those not accepted for representation, and the reasons for each, in a manner that does not violate privileged communications between the agency and the prospective client. Each program shall be provided with standardized data collection tools and shall be required to track case information for each referral to allow the evaluation to measure the number of cases served, the level of service required, and the outcomes for the clients in each case. In addition to this information on the effect of the representation on the clients, data shall be collected regarding the outcomes for the trial courts.

(10) A local advisory committee shall be formed for each program, to include representatives of the bench and court administration, the lead legal services agency, and the other agencies or providers that are part of the local program team. The role of the advisory committee is to facilitate the administration of the local program and to ensure that the program is fulfilling its objectives. In addition, the committee shall resolve any issues that arise during the course of the program,

including issues concerning case eligibility, and recommend changes in program administration in response to implementation challenges. The committee shall meet at least monthly for the first six months of the program, and no less than quarterly for the duration of the funding period. Each authorized program shall catalog changes to the program made during the three-year period based on its experiences with best practices in serving the eligible population.

(c) The Judicial Council shall conduct a study to demonstrate the effectiveness and continued need for the programs established pursuant to this section and shall report its findings and recommendations to the Governor and the Legislature every five years, commencing June 1, 2020. The study shall report on the percentage of funding by case type and shall include data on the impact of counsel on equal access to justice and the effect on court administration and efficiency, and enhanced coordination between courts and other government service providers and community resources. This report shall describe the benefits of providing representation to those who were previously not represented, both for the clients and the courts, as well as strategies and recommendations for maximizing the benefit of that representation in the future. The report shall describe and include data, if available, on the impact of the programs on families and children. The report also shall include an assessment of the continuing unmet needs and, if available, data regarding those unmet needs.

(d) This section does not negate, alter, or limit any right to counsel in a criminal or civil action or proceeding otherwise provided by state or federal law.

(e) The Judicial Council may accept donations from public or private entities for the purpose of providing grants pursuant to this section.