

**MODEL CHILD CUSTODY REPRESENTATION PROJECT**

**EVALUATION REPORT**

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## **Model Child Custody Representation Project Evaluation Report**

### **Executive Summary**

The Model Child Custody Representation Project (MCCRP), funded by the Administrative Office of the Courts and Maryland Legal Services Corporation (MLSC), provides legal representation to low-income clients involved in contested child custody matters in three Maryland jurisdictions (Anne Arundel County, Montgomery County, and Prince George's County). It consists of two components. The first, a *Reduced Fee Private Attorney Component* encompasses attorneys from the private bar who agree to represent eligible clients for \$50/hour, up to \$1000/case (but are obligated to complete the case regardless of the number of hours involved). The second, a *Staff Component*, is comprised of 3.5 full-time equivalent attorneys from the Legal Aid Bureau (LAB).

This project was initiated by MLSC in 1999 to increase legal assistance in what was generally acknowledged to be the most critical under-served legal need of low-income persons in our State. MLSC determined that the need for legal representation by low-income persons in child custody cases could not be served through pro bono services or through existing staff attorney resources. Following information, comment, and recommendations received from a public hearing at the Maryland State Bar Association from legal aid organization staff, bar representatives, private attorneys, court personnel, and others, and numerous meetings with interested parties around Maryland, MLSC developed and began funding for the 3-county model project in October 1999. Between October 1, 1999 and June 30, 2002, the project has closed 565 child custody cases, of which 240 cases were closed following representation in litigation and the remainder

involving advice, counsel, negotiations, or other services. Total cases closed in FY 2002 (the most recent data available) were 275 (98 reduced fee private attorneys, 177 staff attorneys, 140 cases involving representation in litigation) for total funding from the Administrative Office of the Courts and MLSC that fiscal year of \$352,478, for an average cost per case of approximately \$1,282.

MLSC has contracted with the Center for Families, Children, and the Courts (CFCC) to conduct an evaluation of the Model Child Custody Representation Project. This provides a process and outcome evaluation of the project to determine: what is being done for low-income families involved in contested custody matters; the differences, if any, that are made by providing legal assistance for these families; the degree to which the project has assisted and can continue to assist Maryland's Family Division; the demonstrable need for the services provided; and the satisfaction of project stakeholders (judges, project attorneys, case coordinators, and litigants). The report uses data compiled from periodic reports provided to MLSC by the LAB and the participating bar associations. In addition, CFCC surveyed the project's stakeholders by conducting on-site visits, telephone interviews, and by distributing questionnaires.

After a brief history of the project, the report reviews quarterly and annual reports provided by grantees, comparing the two components in areas such as number of cases closed; number of cases opened; number of attorney hours reported; number of clients served; types of service provided (brief service/advice, counseling, negotiation, and litigation); costs of services; and demographic factors.

CFCC found that the reduced fee private attorney component consistently provided a proportionately higher percentage of litigation services than is provided by the

staff component, while the staff attorney component provided a more “holistic” approach to their clients’ legal problems in addition to the custody matter. Cost per case for the staff component is higher than for the reduced fee component.

In terms of demographics, the reduced fee component includes a higher percentage of Hispanic clients, while the staff component appears to serve a higher percentage of African-American clients. The demographic data is also notable in that overwhelmingly women receive services in the greatest numbers.

The CFCC stakeholder satisfaction survey revealed a high degree of satisfaction with the project. Unfortunately, the majority of judges and masters in the three project counties were not aware of the project itself. Those who did know about it, however, uniformly believe that the project is helpful both to litigants and the Court, mentioning that it facilitates the court’s process, improves the quality of custody decisions, and promotes access to justice for low-income and indigent families.

Both reduced fee and staff attorneys cited access to legal advice and their own personal satisfaction as two of the project’s major benefits. Staff attorneys pointed out that an equally critical benefit of the project is that it enables them to leverage other services provided by their offices, including expertise in corollary matters such as public benefits.

Reduced fee attorneys indicated that they would like to see additional funding to compensate attorneys for personal expenses and litigation support, while staff attorneys mentioned the desirability of increased funding to cover costs for experts, depositions, and transcripts.

Other findings, based on remarks by reduced fee and/or staff attorneys include:

- Clients need greater and better access to social services to better inform them about resolving or preventing custody disputes;
- The project would benefit greatly by increased collaboration and cooperation between the two components;
- Changing demographics are noticeable, including a growing number of elderly individuals who are caretakers and the increasing number of minority populations in each of the counties.

Client surveys revealed a high degree of satisfaction on the part of both LAB and private attorney clients. Comments from all those surveyed regarding the project's benefits to litigants focus on the fact that, without the project, these individuals are not adequately prepared to engage in custody litigation and they may risk losing a child. Pro se litigants are neither familiar with court procedures, such as rules for filing petitions and service of process, nor with the rules of evidence, particularly as they relate to the admissibility of documents.

CFCC has made a series of recommendations based on the data analysis and surveys. These include: add to categories of data collected; develop data that will aid in distinguishing between case handling in each component; cultivate additional partnerships with community providers; develop and implement greater collaboration/cooperation between project staff attorneys and reduced fee private attorneys; implement staff training programs; better inform judges and court personnel about the project and increase project publicity efforts; conduct a specific fiscal analysis; and conduct client exit polls.

Finally, the report concludes that the MCCRCP is providing necessary legal services to clients, resulting in stable custody arrangements for children and reducing emotional stress for the families involved. Furthermore, the project benefits the court system, helping to move cases through the system more quickly and judiciously than if

these clients had no representation. While data reflect an ebb and flow of clients between the two project components, there is no doubt that both data and interviews of stakeholders clearly and forcefully demonstrate the expanding need for this project.

## **I Project Overview**

The Model Child Custody Representation Project (MCCRP) has been serving clients since 1999. Funding for the project is provided by the Administrative Office of the Courts (AOC) and Maryland Legal Services Corporation (MLSC), via allocations from the Maryland Legal Services Corporation (MLSC). The project provides legal representation to low-income clients involved in contested child custody matters in three Maryland jurisdictions: Anne Arundel County, Prince George's County and Montgomery County. In addition to income eligibility requirements set by MLSC, prospective clients must meet at least one of the following criteria:

- The child is at risk due to abuse and/or neglect; or
- The opposing party is represented, the person seeking representation is the primary caregiver and the caregiver is a fit and proper person to care for the child; or
- The party needing representation is not the primary caregiver, but the primary caregiver is not fit and proper due to abuse and/or neglect, substance abuse, criminal conduct, or other incapacitating reasons; or
- The party needing representation has a complete denial of visitation; or
- A specialized program (e.g., House of Ruth or local county domestic violence project) is unable to provide representation in the Circuit Court custody case after expiration of a protective order.

The goals of the project include the following: (1) to increase opportunities for legal representation for low-income parents; (2) to establish a model that can facilitate similar projects around the state; (3) to demonstrate the extent to which legal services are



required for this discrete case category. It is also worth noting that the original intent of this project was to provide clients primarily with representation in litigation, primarily because brief services/interventions could be obtained through other existing programs and, due to the nature of high-conflict custody cases, the vast majority of clients involved in this program would end up in court.

## **II Process Evaluation**

### **A. Introduction**

In August of 2000, after one full year of operation, MLSC, in partnership with the Administrative Office of the Courts (AOC), embarked on plans to have a thorough evaluation of MCCRCP activities conducted by an independent evaluator. At that time MLSC and AOC expressed that a critical component of the evaluation will be to receive “the input and suggestions”<sup>1</sup> of family division judges and masters, family services coordinators, clients, and project attorneys.

In October of 2001, MLSC entered into an agreement with the University of Baltimore School of Law’s Center for Families, Children and the Courts to perform a process and outcome evaluation of the MCCRCP. The expectations for the evaluation are to determine: (1) what is being done for low-income families involved in contested custody matters; (2) the differences, if any, that are made by providing legal assistance for these families; (3) the degree to which the project has assisted and can continue to assist Maryland’s Family Divisions with the case management and case processing of this category of cases; (4) the demonstrable need for the services provided; (5) the satisfaction of project stakeholders (judges, project attorneys, case coordinators, and litigants).

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<sup>1</sup> Letter from Robert J. Rhudy to Honorable William D. Missouri, August 11, 2000.

The foregoing agreement was the result of a meeting held on October 2, 2001, at which representatives from the participating bar associations (Montgomery County and Prince George's County), the Administrative Office of the Courts, MLSC, and the Legal Aid Bureau discussed the scope and substance of the evaluation.

The expectations for the evaluation, as articulated above, focus on four distinct areas: objectifying need, objectifying outcomes, publicizing project activities, and supporting a long-term, expanded commitment to the project. The expansion plans envision replicating the project in additional counties and using project data to create specialized case tracking systems for high-conflict custody cases in Maryland's Family Divisions.

#### **B. Project Components**

The methodology for conducting the process evaluation of the project components included a review of the quarterly and annual reports for the project from its inception in 1999 through the most recent period ending on June 30, 2002. While the form and substance of those reports changed from 1999 to the present, the data and records maintained by each county allow for comparative as well as substantive analysis.

From the outset, the project has had two components--a *Reduced Fee Private Attorney Component* and a *Staff Component*. The *Reduced Fee Private Attorney Component* encompasses attorneys from the private bar who agree to represent eligible clients for \$50/hour, up to \$1000/case. The attorneys for this component are provided under the auspices of the local bar associations in Montgomery and Prince George's counties and, initially, the Maryland Volunteer Lawyer's Service (MVLS) on behalf of Anne Arundel County. As of June 30, 2000, however, MVLS terminated its relationship

with the Anne Arundel County program. Beginning March 1, 2001, the Reduced Fee Private Attorney Component in Anne Arundel County has been administered by the YWCA of Annapolis and Anne Arundel County, Legal Services Division.

*The Staff Component* comprises 3.5 full-time equivalent (FTE) attorneys from the Legal Aid Bureau.<sup>2</sup> These attorneys are assigned to this project and handle child custody cases falling within the previously articulated guidelines. The following discussion sets forth comparative data between the two project components, the *Reduced Fee Component* and the *Staff Component*, for each year of project operations.

#### FY 2000

During the FY 2000 period (October 1, 1999-June 30, 2000), the first reporting period after approximately nine months of project operations, 38 attorneys in the *Reduced Fee Component* accepted 46 cases (Montgomery County-23 cases; Prince George's County-16 cases; Anne Arundel County-7 cases).<sup>3</sup> The *Staff Component*, comprising attorneys provided by the Legal Aid Bureau, served a substantially larger population. During the same FY 2000 period, Legal Aid opened 206 cases (Anne Arundel County-24 cases; Montgomery County-75 cases and Prince George's County-107 cases).<sup>4</sup> Accordingly, the total number of clients served for the first year (nine months actual) was 252.

#### **Reduced Fee Caseload – FY2000**

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<sup>2</sup> In addition to the three attorneys assigned to handle project cases at the LAB Metropolitan Office, the emergency nature of some cases and their complexity requires that other advocates in that office handle some project cases from time to time.

<sup>3</sup> Status Report on Child Custody Project, Reduced Fee Component Data (August 2000).

<sup>4</sup> Status Report on Child Custody Project, Staff Component Data (August 2000).

During the first nine months of the *Reduced Fee* component, 13 of the 46 accepted cases were closed. The following services were provided:

- Brief service/advice: 2 (15.4%)
- Counseling: 1 (7.7%)
- Litigation: 9 (69.2%)
- Other: 1 (client became ineligible) (7.7%)

Demographic data indicates that 8 clients were male (17.4%) and 38 female (82.6%); all were between the ages of 18 and 59. Seventeen clients were African American (37%); 11 were white (23.9%); 15 were Hispanic (32.6%); and 3 were mixed race or “other” (6.5%).

A total of 341.5 hours were reported by reduced fee attorneys – but in most instances this reflects cases that have been concluded, and does not reflect the number of hours worked on cases that remain open.

### **Staff Caseload – FY2000**

Seventy-nine (79) of the 206 cases opened during this period were concluded (6 in Anne Arundel; 75 in Montgomery; and 44 in Prince George’s). The following services were provided:

- Brief service/advice: 29 (36.7%)
- Counseling: 15 (19%)
- Negotiation: 3 (3.8%)
- Litigation: 9 (11.4%)
- Other: 23 (insufficient merit to proceed; change in eligibility; client withdrew, etc.) (29.1%)

Among cases opened, demographic data indicates that 23 clients were male (11.2%) and 183 female (89.8); 204 were between 18- and 59-years old, with one client under 18 and one over 60. Fifty-six clients were African-American (27.2%); 41 white (19.9%); 11 Hispanic (5.3%); 2 Asian (1%); and 96 were “other” or “unknown” (46.6%) (LAB’s policy precludes asking applicants for services about ethnic or racial backgrounds).

The total number of hours reported on cases (both ongoing and closed) for the nine-month period was 3,881.50.

#### FY 2001

The number of clients served in the *Staff Component* remained fairly constant from the program’s inception. As noted above, the reports for FY 2000 demonstrated that a total of 206 cases were referred to the Legal Aid Bureau.<sup>5</sup> In FY2001 (July 1, 2000-June 30, 2001), 212 new cases were referred to the Staff Component (Montgomery County-89 cases; Anne Arundel County-22 cases; Prince George’s County-101 cases).

The *Reduced Fee* Component saw a total of 84 referrals and 57 ongoing cases during FY2001: 43 referrals and 28 ongoing cases in Montgomery County; 24 referrals and 29 ongoing cases in Prince George’s County, and 17 referrals and no ongoing cases in Anne Arundel County during FY2001.<sup>6</sup>

A total of 42 reduced fee cases were closed during FY 2001 (Montgomery County-21, Anne Arundel County-3, Prince George’s County-18), while 158 cases were closed by staff attorneys.

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<sup>5</sup> Status Report on Child Custody Project (August 2000) (noting that the Staff Component was operational for 9 months of the first grant year and that the Reduced Fee Component was operational for 7-8 months of the first grant year).

<sup>6</sup> This reflects only the period 3/1/01-6/30/01 because of the gap between MVLS’s decision to terminate the project in Anne Arundel County and the YWCA’s decision to continue the program.

Extrapolating from the data provided,<sup>7</sup> reports indicate that 61 reduced fee cases were opened in FY2000, compared to 84 referrals in FY2001 – indicating an increase of 23 cases, or a 38% jump in the number of cases referred. In contrast, pro-rating the FY2000 staff component cases, there were 275 cases referred to staff attorneys in FY2000, compared to 212 in FY 2001, a 23% drop.

### **Reduced Fee Caseload – FY2001**

The following services were provided in closed cases:

- Brief service/advice: 8 (21.6%)
- Counseling: 4 (10.8%)
- Negotiation: 3 (8.1%)
- Litigation: 22 (59.5%)

Demographic data for cases opened indicate that 7 clients were male (8.9%) and 72 female (91.1%). Seventy-seven (77) clients were between the ages of 18 and 59; none were 17 or under; and one was over 60 years old. Thirty (30) clients were White (38%); 4 were Asian (5.1%); 23 were Black (29.1%); and 22 were Hispanic (27.8%).

A total of 450.96 hours were reported by reduced fee attorneys – but in most instances this reflects cases that have been concluded, not the number of hours worked on cases that remain open.

### **Staff Caseload – FY2001**

The following services were provided in the 158 cases closed by *Staff Component* attorneys:

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<sup>7</sup> The project was in operation for the last nine months of FY2000. In order to facilitate comparison with other fiscal years of operation, the author calculated the number of cases that would have been closed during the first three months of FY2000 based on the number of cases that had been closed during the nine months of actual operation.

- Brief Advice: 68 (44.7%)
- Counseling: 20 (13.2%)
- Negotiation: 4 (2.6%)
- Litigation: 60 (39.%)

Demographic data indicates that 22 clients were male (10.4%) and 190 were female (89.6), while all 212 clients were between the ages of 18 and 59. Twenty-eight (28) clients were African-American (39.5%); 30 were white (42.3%); 10, Hispanic (14.1%); 2 Asian (2.8%); 1 Native American (1.3%); and the remaining were “Other/Unknown.” The total number of hours reported on cases (both ongoing and closed) for the period was 5700.

#### FY 2002

At the close of FY 2002, the data demonstrate a decrease in the number of cases opened by the *Staff Component*, but an increase in the number of cases closed and an increase in the number of cases litigated. *Staff Component* attorneys handled 170 cases for the year (Montgomery County-66 cases; Anne Arundel County-17 cases; Prince George’s County-87 cases), demonstrating a 20% decrease from the prior year’s total of 212 (42 fewer clients in FY2002).

*Reduced Fee Component* attorneys handled 137 cases for the FY 2002 period (Montgomery County-65 cases; Prince George’s County-46 cases; Anne Arundel County-26 cases). Overall, the *Reduced Fee* component experienced significant growth – nearly doubling from FY2000 to FY2001 (46 cases referred in FY2000; 84 in FY2001), and seeing an increase of over 50% from FY2001 to FY2002 (137 cases referred).

A total of 98 reduced fee cases were closed during FY2002 (Montgomery County-49; Prince George's County-32; Anne Arundel County-17), while there were 97 ongoing cases by the end of the year (Montgomery County-38; Prince George's County-51; Anne Arundel County-8). A total of 177 cases were closed by staff attorneys, with 29 ongoing cases by the end of the fiscal year.

Client referrals to the project come from a variety of sources, including courthouse pro se projects, domestic violence programs, court clerks, masters, judges, advertisements, and word of mouth. The sources for referrals have remained consistent throughout the three-year project.

Project outreach efforts include presentations to family division judges by project attorneys and the distribution of informational pamphlets to prospective clients. These pamphlets are available at the respective courthouses where the projects are located.

At least one project site has developed a partnership with a community service provider. The Montgomery County project has formed an alliance with the House of Ruth for the purpose of facilitating linkages to legal services for domestic violence victims.<sup>8</sup>

### **Reduced Fee Caseload – FY2002**

The following services were provided in closed cases:

- Brief services/intervention: 14 (14.6%)
- Counseling: 10 (10.4%)
- Negotiation: 2 (2.1%)
- Litigation: 70 (72.9%)

Demographic data for cases opened indicate that nine (9) clients were male

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<sup>8</sup> Legal Aid Bureau, Child Custody Pilot Project, Quarterly Report (July 1, 2000 through September 30, 2000).



(9.1%) and 92 were female (90.9%). One hundred twenty-seven (127) clients were 18-59 years old; one was under 18-years old; and none were over 60. The highest percentage of clients were Black (45 clients, or 38.8%); 35 were Hispanic (30.2%); 31 were White (26.7%); and 5 were Asian (4.3%).

A total of 1494 hours were reported by reduced fee attorneys – again reflecting in most instances cases that were concluded, not the number of hours worked on cases that remained opened.

### **Staff Caseload – FY2002**

The following services were provided in the cases closed by staff attorneys:

- Brief advice: 85 (47.2%)
- Counseling: 14 (7.8%)
- Negotiation: 11 (6.1%)
- Litigation: 70 (38.9%)

Demographic data indicates that 25 clients were male (14.7%); 145, female (85.3%). Three clients were over the age of 60; but 167 fell in the 18-59 age range. Thirty-one (31) clients were Hispanic (18.3%); 22 were Black (12.9%); 22 were White (12.9%); and 95 were “other/unknown” (55.9%)

The total number of hours reported was 4,760.

### **Discussion**

It is noteworthy that the reduced fee component consistently provides a proportionately higher percentage of litigation services – ranging from 59.5% of services provided in FY 2001 to 72.9% in FY 2002 – than is provided by the staff component. However, it is also critical to point out that the staff attorneys offer a more “holistic”

approach to their clients, which often entails a range of services that are not typically provided by reduced fee attorneys (See “*Staff Attorneys*” discussion beginning on page 24). Litigation accounts for only 11.4% of services provided by staff attorneys in FY2000, 39% in FY2001, and 38.9% in FY2002.

These percentages are significant given the context of the custody project’s original intent – to offer litigation services to clients faced with a high conflict custody case and lacking the resources to hire an attorney. Brief services/interventions, while not completely antithetical to the project, can be obtained through other programs. Nevertheless, these types of services account for a relatively high percentage of staff attorneys’ time – ranging from a low of 36.7% in FY2000 and incrementally increasing to 44.7% in FY2001 and 47.2% in FY2002. By way of contrast, brief services/advice comprise only 15.4% of services provided by reduced fee attorneys in FY2000, 21.6% in F2001, and 14.6% in FY2002.

A further interesting difference between the staff and reduced fee components consists of the demographics relating to each. The reduced fee component includes a higher percentage of Hispanic clients, while the staff component appears to attract a higher percentage of African-American clients. It should be noted that the Montgomery County reduced fee project had, as one of its goals, to provide services for Spanish-speaking clients. This in all likelihood accounts for the significant percentage of Hispanics who are served through the Montgomery County reduced fee component. In FY2000, 32.6% of the reduced fee clients were Hispanic, while only 5.3% of the staff component’s clients were Hispanic. In FY2001, 27.8% of the reduced fee clients were Hispanic and 29.1% were African American. The percentage of African-American

clients for reduced fee attorneys in FY2002 jumped to 38.8% in FY2002, while a smaller increase of 30.2% was seen in Hispanic clients. Staff attorneys saw a noticeable increase in the percentage of Hispanic clients, from 14.1% in FY2001 to 18.3% in FY2002.<sup>9</sup> Finally, it is possible to undertake a rudimentary cost-benefit analysis and comparison between the staff and reduced fee components. Using the FY2002 data, which indicates that 177 cases were closed by the staff attorneys and expenditures amounted to \$326,359, the cost per closed case is \$1843. It is important to note that the LAB grant was \$250,000, which was supplemented by an additional amount of \$76,359. By way of contrast, 98 reduced fee cases were closed in FY2002, and grants of \$102,478 were expended by the three counties (Prince George's County - \$52,000; Montgomery County - \$31,377; Anne Arundel - \$19,101). This makes the reduced fee component cost per case significantly lower than that of the staff attorney component: \$1046 per case as opposed to \$1843.

### **Benefits**

The direct service benefits derived for FY 2000 affected 197 people.

Thirty-one parents and children (12 cases) received legal services that resulted in obtaining or maintaining custody, while 166 additional family members "received advice, information and/or referrals to counseling, or some other service."<sup>10</sup> In the six-month period ending in June 30, 2001, 103 people (34 cases) received legal assistance that resulted in obtaining the custody of a child or maintaining custodial arrangements.<sup>11</sup> In a year's time, direct effects accrued to a threefold increase in cases that resulted in

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<sup>9</sup> It should be noted that staff attorneys are precluded from requiring information on race/ethnic background. The race of a substantial percentage of clients is "unknown."

<sup>10</sup> *Supra* note 2

<sup>11</sup> *Supra* note 1

stabilizing custody arrangements for children, thereby enabling family constellations either to remain intact or to place children in circumstances that would promote their best interests. Overall, the benefits of the project as they relate to stabilizing the custody arrangements for children may alone justify its continuance.

In the same period (January 1, 2001 through June 30, 2001), 107 persons received brief advice, information and/or referrals. Clearly, custody litigation and brief legal services consistently were the area of greatest need.<sup>12</sup> Given that the custody cases involved a high-conflict issue, many of the cases proceeded to litigation.

The demographic data is notable in that overwhelmingly women receive services in the greatest numbers (38 in the reduced fee component and 183 in the staff component), as compared to 8 and 23 males in the reduced fee and staff components respectively.<sup>13</sup> Recent data continue to reflect that services are provided to women in substantially greater numbers than to men (138 females and 17 males) in the staff component of the project.<sup>14</sup> The fact that domestic violence is a characteristic of high-conflict families may influence the numbers of women seeking custody of children.

In addition to the data cited above, there is compelling anecdotal information lending credence to the value of the project. All program participants include narrative case outcomes in their regular reports that demonstrate the benefits of the project to families and children. In its six-month report (January 1, 2001 through June 30, 2001) to MLSC, for example, the Law Foundation of Prince George's County<sup>15</sup> cites a case in which the client (paternal grandmother) sought custody of her grandchild. The child had

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<sup>12</sup> LAB child custody report 10/2000 to 6/2001

<sup>13</sup> Status Report on Child Custody Project -2000

<sup>14</sup> LAB child custody project report 10/2000 to 6/2001

<sup>15</sup> The Law Foundation of Prince George's County Report (January 1, 2001 through June 30, 2001).

lived with her grandmother for her entire life and she had no contact with her mother until the grandmother filed a custody petition. Through the efforts of the grandmother's attorney, an order of temporary guardianship was obtained pending a hearing on the custody issue. Although the *Reduced Fee Component* attorney had exceeded the allowable hours, she continued to pursue the case on a pro bono basis. But for the zealous advocacy of the grandmother's attorney, the case likely would have been unduly protracted, causing needless emotional turmoil and destabilization for the child.

The Prince George's County Law Foundation's Report relating to another case narrative states that, "as in many of our reduced fee matters, the attorney has exceeded the initial twenty hours, but continues to pursue the matter as a pro bono case."<sup>16</sup> While this is, of course, one of the many benefits of the project, the expectation – and ethical obligation – is that any attorney who takes on a custody case project continues to represent and counsel his/her client until the entire case, including corollary issues, is completed.

### **III. Outcome Evaluation**

#### **Stakeholder Satisfaction/Project Benefits**

While the scope and breadth of the Child Custody Representation Project is well documented by the collected data regarding clients served, the Project is more complex – and valuable – than would be indicated by caseload statistics alone. A critical component of this evaluation consists of surveying the attitudes of the various stakeholders – judges, attorneys, coordinators, and clients – to determine their satisfaction with this project.

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<sup>16</sup> Id.

Consequently, the survey staff prepared and administered surveys for the various project stakeholders: judges, case coordinators, project attorneys, and litigants.

### **Judges/Masters**

A survey questionnaire was sent to all Family Court judges and masters in Montgomery County, Anne Arundel County, and Prince George's County. Twenty-four (24) out of a total of 37 judges and masters responded to the survey, which was carried out both in written form (fax) and, where there was no response by a certain date, by telephone.

The questions posed to the survey participants are as follows:

- (1) Are you aware of the project?*
- (2) What are your impressions of the project? Is it helpful to litigants and to the Court?*
- (3) Is the project an adequate response to the problem of unrepresented litigants involved in high-conflict custody cases?*
- (4) What are the three most useful aspects of the project?*
- (5) What improvements could be made to the project?*

The following summarizes the responses received to each question on the survey:.

- (1) Are you aware of the project?*

Of the 24 responses received, the majority of judges and masters are not aware of the project (15), while nine (9) state that they know about it. It is worth noting, however, the comments of one Master who responded that while she does not know about the project (her docket consists of juvenile/CINA cases), she feels that it is "a great idea."

*(2) What are your impressions of the project? Is it helpful to litigants, to the Court?*

Those judges and masters who indicated that they are aware of the project are unanimous in their belief that the project is helpful both to litigants and to the Court.

Overall, the comments regarding the project's benefits to litigants focus on the fact that, without the project, these individuals are not adequately prepared to engage in custody litigation and they may risk losing a child. Specifically, one judge notes that pro se litigants are not familiar with court procedures, such as rules for filing petitions and service of process. A master points out, moreover, that pro se litigants are not aware of the rules of evidence, particularly as they relate to the admissibility of documents. In the words of one Anne Arundel County judge, "in a contested custody matter, litigants usually do not know what information is most helpful to the court. An attorney can focus and distill the information and help the clients to obtain important and appropriate information for the court."

In addition to the improvements to the litigation process, judges and masters suggest that litigants who are eligible for pro bono or reduced fee legal assistance are placed with attorneys more quickly, thus expediting their access to justice. Furthermore, the project promotes a level playing field for settlement discussions or hearings, correcting inherent issues of fairness when one party has access to a lawyer and the other does not.

As well as noting the benefits to litigants involved in custody matters, one master points out that the project has increased the pool of attorneys available to indigent litigants involved in related family law matters. She states that many of the attorneys

participating in the *Reduced Fee Component* in Prince George's County have agreed to take an additional pro bono family law case, as well, thereby increasing the pool of pro bono attorneys available to litigants in the Court's Family Division: "Surprisingly," writes one Master, "not only does the modest funding substantially increase the pool of available attorneys for contested custody matters, but it has increased the pool of attorneys for pro bono matters not involving custody, insofar as many of the attorneys who have signed up to take the \$50/hour custody matters have agreed to do at least one additional pro bono matter as well." A judge agrees that the compensation available to attorneys participating in the *Reduced Fee* component enables them to "take more pro bono work."

As to the benefits to the Court, judges and masters suggest that the quality of information that is before the Court is improved when attorneys are involved with custody cases. Accordingly, attorney representation facilitates better-informed judicial decision-making. Furthermore, the court process is more expeditious because cases are managed in a more orderly fashion when an attorney familiar with court procedures handles the case. Specifically, pleadings are more legible and comprehensive, and hearings are often avoided altogether because attorneys facilitate settlement more readily than unrepresented parties attempting to resolve these emotionally charged issues on their own.

Finally, one Prince George's County judge points out that, while there are a number of pro bono programs in the county, this project addresses a particularly critical need for legal assistance in contested custody cases, which are "the hardest to place and to do so quickly."



*(3) Is the project an adequate response to the problem of unrepresented litigants involved in custody matters?*

Respondents speak to two aspects of project adequacy--quality and scope.

There is general agreement that the project addresses the issues inherent in pro se high-conflict custody cases, which are protracted litigation and untoward outcomes. Some respondents, however, suggest that the project should be expanded. A Prince George's County master states that "as long as there are indigent and low-income pro se litigants in contested custody matters because they cannot afford counsel, the project will not be adequate." A Prince George's County judge adds: "[T]here are still too many unrepresented litigants. It would be helpful if cases that take more than one day could go above the \$1000 limit."

*(4) What are the three most useful aspects of the project?*

The responses to this question uniformly emphasize the critical importance of providing services for low-income and unrepresented individuals. More specifically, all the responding judges and masters mention at least one of the following as the most useful aspect of the project: facilitating the court process, improving the quality of custody decisions, and promoting access to justice for low-income and indigent families.

By ensuring that low-income clients have representation, one judge emphasizes, "from the court's perspective, [it] makes such a contested case more efficient/less time consuming by focusing on the important information [that] the court needs."

*(5) What improvements could be made to the project?*

The improvements proposed by judges and masters include adjunctive program services such as assessments for and referrals to community and court resources, and litigation support services such as interpreters and resources for taking depositions.

One Prince George's County judge suggests that it would be helpful if the Family Division's coordinating judges and/or administrative staff received quarterly feedback on the number of referrals and placement for their respective counties." She asks whether this information is shared with other legal service providers. Since this data is, in fact, collected and sent to MLSC, one way to increase the project's visibility might be to send judges and court staff executive summaries of the data collected.

Overall, judges and masters hope to see the program expanded, by increasing the funding, so that more indigent and low-income litigants can take advantage of it.

#### **Family Division Coordinators**

Five case coordinators responded to the survey. Their responses to the survey questions were not specific; thus a general overview of their impressions follows. All coordinators agree that the project provides needed assistance to parties involved in contested custody matters. None of the respondents were able to identify specific benefits to the litigants or to the courts. Notably responses from judges and masters were more substantive, which is likely attributable to the fact that judicial officers are more directly affected by unrepresented parties. In addition, the paucity of feedback from the coordinators also may be the result of a lack of familiarity with the project's goals and objectives.

### *Project Attorneys*

A total of 39 reduced fee attorneys were polled. The survey of the reduced fee attorneys was in the form of a telephone interview that consisted of a series of standardized questions as follows:

- (1) Have you participated in the Child Custody Representation Project as counsel of record?*
- (2) If so, how many cases have you handled?*
- (3) What are the three major benefits you see resulting from the provision of legal assistance to low-income families with high-conflict custody issues?*
- (4) What improvements might you suggest to policies or practices?*
- (5) What additional resources or services are necessary to make this project more effective?*
- (6) What other comments do you have relative to your experience as a project attorney or to the project itself?*

While project staff interviewed reduced fee attorneys primarily by telephone, staff attorneys were interviewed on site in the Riverdale and Annapolis offices. Consequently, this report benefits from the insights of attorneys who handle the project's high conflict custody cases daily. On the other hand, because there are only 3½ staff attorneys, the interviews do not lend themselves to statistical analysis in the same way as those conducted with reduced fee attorneys. There are, however, marked differences, as well as similarities, in the responses between the two groups, as indicated in the following discussion.

*(1) Have you participated in the Child Custody Representation Project as counsel of record?*

Thirty-three (33) of the attorneys surveyed appeared as counsel of record.

*(2) If so, how many cases have you handled?*

It would appear from the results that the average number of cases for each attorney was no more than five.

*(3) What are the three major benefits you see resulting from the provision of legal assistance to low-income families with high-conflict custody issues?*

### **Reduced Fee Attorneys**

Access to legal advice was the most frequently cited single benefit. The attorneys surveyed believed that the advice they gave to clients would not have been otherwise available to the low-income families residing in each of the project jurisdictions. The second most frequently reported benefit was the personal satisfaction that the participating lawyers realized from pro bono legal assistance, both for its value to the individual clients and its value to the community at large. Third on the project benefits scale was the fulfillment attorneys derived from client satisfaction and gratitude. Other benefits acknowledged by the attorneys surveyed included: (1) improving the image of the legal profession; (2) financial remuneration; (3) decreasing the burden on the court system (“Representation is an incentive for the litigant to negotiate with the other party to resolve issues outside the courtroom, which eliminates a backlog of the court’s docket,” one attorney pointed out.); (4) facilitating the best interests of children; (5) leveling the playing field for the parties; (6) sensitizing lawyers to the issues involved in high-conflict custody matters.

### Staff Attorneys

Like the reduced fee attorneys, the staff attorneys cited “access to legal services” for individuals who would not otherwise have such access as the greatest benefit of the program. However, the staff attorneys pointed out that an equally critical benefit of this program is that it enables them to leverage other services provided by their offices, including expertise in corollary matters (e.g., housing and consumer rights, public benefits, access to food stamps) that are often inextricably linked to the custody issue.

In the words of one staff attorney, the program “allows a great deal of cross-fertilization with other areas represented by attorneys in our office, and we often parlay the expertise of other attorneys to benefit the high conflict custody cases.” In other words, as Legal Aid Bureau Project Director Hannah Lieberman mentions, the staff component facilitates a more “holistic approach to our clients’ problems.” In fact, in the Riverdale office, high conflict contested custody cases are shared between all five staff attorneys and two paralegals because of high demand.

Staff attorneys also list a range of “services” they provide in addition to addressing the custody issues, including, for example, helping clients find jobs, directing them to important community resources, assistance in finding mental health and/or substance abuse treatment. “We have to move our clients toward stability,” says one attorney “if we are going to be truly successful in the custody cases.” Consequently, even after a case is closed, a staff attorney often helps his/her client with issues such as child support, visitation, and even international abductions arising from custody decisions.

A third benefit afforded by the program, according to the staff attorneys, directly results from this “cross-fertilization” – the work of the staff attorneys extends far beyond resolving custody issues to addressing matters that ultimately strengthen and stabilize families, increase family safety, and redress an imbalance of power that often characterizes high conflict custody cases. Unlike reduced fee attorneys, staff attorneys are able to follow cases beyond the resolution of the specific custody issue. “Our cases never go away,” says one staff attorney – “we re-open cases all the time.”

*(4) What improvements might you suggest to program policies or practices?*

**Reduced Fee Attorneys**

The most frequently cited areas for improvement were in the areas of program funding and issues surrounding services provided to clients. As to program funding, 25% of the attorneys surveyed recommended that funding be available to compensate attorneys for personal expenses and for litigation support, such as costs for experts and depositions.

Maria Delgado, the Montgomery County Bar Foundation coordinator for the contested custody program, estimates that about half of the attorneys who take these cases typically exceed 20 hours, particularly in those cases where domestic violence issues are tied up with the custody question. However, she also points out that these same attorneys continue to take high conflict custody cases because of the satisfaction derived from their participation in the program.

An equal percentage of attorneys have suggested that the program include a social services component in the form of a social worker to refer clients to appropriate community resources. While several attorneys surveyed state that they are “not social

workers” and, therefore, cannot be expected to intervene effectively regarding these problems, there is widespread recognition that most of the cases handled involve, both directly and indirectly, issues other than custody. However, many of the attorneys surveyed emphasize that the 20-hour time limit effectively precludes even touching any of these other issues.

One frustration often experienced by reduced fee attorneys, according to Bev Mondin, Montgomery County Bar Foundation executive director, is the fact that they never know the ultimate resolution of a case that typically involves more than a contested custody question. Tracking these cases (e.g., the time between resolution of the custody issue and final resolution of the case), says Mondin, would be helpful in determining the full benefit of the program.

It should be emphasized that attorneys who take these custody cases are ethically obligated to pursue each case until its resolution. Moreover, as defined by MLSC guidelines, “A client with two or more closely related legal problems will be considered as presenting a single case if all of the problems will be resolved through a single legal process or forum. For example, a domestic matter involving the issues of divorce, child custody, support, and visitation is considered one case; if the client also has a landlord/tenant problem it would be counted as a separate case.”

To the credit of the attorneys participating in the custody project, it seems that the ethical obligation to handle different aspects of a case is well understood by them. As one Anne Arundel attorney expressed it, “Ethically, you have to handle all the issues of the case. There are always other issues to be resolved. The 20-hour limit has not been a problem for me. I have been handling these cases for 15 years, so I can turn the cases

around quickly.” Similarly, a Prince George’s County attorney stated, “There are usually more issues than custody and I always follow through until the case is closed. When the referring agency refers the case, they advise the attorney that they would like to refer a custody case, but there will be other issues involved, and ask whether you would be willing to handle it or should they refer it to someone else.”

Other recommended improvements are: (1) the ability to provide more long-term assistance and more time to prepare for a case; (2) a more thorough screening process; (3) articulated time-lines; (4) a greater number of law students to assist with project activities; (5) increased efforts to familiarize the courts with the project. Additional suggestions reflect a concern for resource issues, namely, the need for law students to augment the delivery of services, and the need to screen clients more thoroughly so as to provide services to those with the greatest need. One attorney recommends a different fee structure – preferably a flat fee as opposed to an itemized fee structure.

### **Staff Attorneys**

Like the reduced fee attorneys, program staff attorneys listed funding as a high priority for improving the program. Their reasons, however, range from hiring more attorneys to handle the high conflict custody cases, paying for experts, and covering deposition and transcript costs. Experts in particular are often needed in complex custody cases, which often are linked to questions of property division, “voluntary unemployment” in order to avoid paying child support, and other issues that call for technical expertise.

Another significant improvement suggested by the staff attorneys was greater cooperation and collaboration between the reduced fee and staff attorney components of



the program. Lieberman and several staff attorneys point out that the reduced fee component was originally viewed as a “wraparound service” for those cases that did not fall within the Legal Services Corporation (LSC) guidelines, which could then be referred out to the reduced fee attorneys. There is, though, little communication between the staff attorney offices and either the YWCA program or the Foundation of Prince George’s County; and the different programs run substantially on parallel tracks with little intersection.

There would be significant benefits to greater coordination between the two components of the program, according to staff attorneys. First, it would allow them to capitalize on the expertise of private attorneys in areas not represented by LAB lawyers. For instance, Lieberman states, there are a significant number of contested custody cases that involve questions about pension plans and qualified domestic relations order, an arcane and very technical area of the law where “the consequences can be huge.” If staff attorneys could consult a private attorney about such issues, it would significantly strengthen the service provided. This would, of course, also operate in reverse, with reduced fee attorneys benefiting from the domestic expertise and experience of LAB attorneys.

Second, greater communication would benefit caseload – if staff attorneys know when there is a new attorney taking contested custody cases, they would be able to increase the number of referrals to the appropriate LAB office.

Third, collaboration might include partnering with the private bar to reach out to “new recruits” – such a partnership might “either shame or inspire new attorneys to put themselves on the roster of volunteers,” says one staff attorney.

What additional resources or services are necessary to make this project more effective?

**Reduced Fee Attorneys**

Approximately one-third of the respondents have noted that clients need greater and better access to social services to better inform them about resolving or preventing custody disputes. These services include: parent education seminars, psychological and medical assessments, mediation and family counseling. This recommendation is consistent with responses concerning how the project could be improved, which, as noted above, include access to social services.

Although the following suggestion is related to the project improvements section, it has emerged during this query. About 12% of the respondents noted that the income eligibility requirements are too restrictive and should be raised to include a greater number of low-income clients. Several attorneys pointed out that there have been instances in which litigants qualify for the program initially but find employment during the process, rendering him/her ineligible for the program. In these instances, attorneys maintain, they should have the right to withdraw. In addition, the suggestion was made that litigants sign a certification of income between the time of the scheduling conference and the pre-trial conference.

This question also has elicited another response similar to the prior question--the issue of client commitment and how to promote it. These responses to questions four and five support the supposition that project attorneys have difficulty with client compliance, specifically, keeping appointments, supplying necessary documents, and other activities necessary for case preparation. Several attorneys felt that clients took the service for

granted and suggested that the Foundation/referring agency should advise clients that it is important to be responsible and cooperative with the attorney litigating the case. If the referral agency has a record of lack of cooperation on the part of a particular client, that agency should not refer him/her to any other legal service.

Other suggested resources include access to foreign language translators and resources to provide for an investigative service such as a home site visit.

### **Staff Attorneys**

In addition to the abovementioned services, the staff attorneys are very aware of the changing demographics in their region and the resulting demands that may be placed on the program. For example, while the data indicates that the vast majority of clients are in the 18-59 age range, staff attorneys are seeing – and turning away – a growing number of elderly individuals who are caretakers of their grandchildren and other third party custodians. Currently, however, the program’s focus in the LAB is on parents so that, when it is a choice between taking a parent and taking a third party as a client, the staff attorney will typically choose the former.

A second demographic shift is the growing minority populations in these areas, with each ethnic group characterized by specific practices, customs, and beliefs. One staff attorney mentions the proclivity on the part of the Middle Eastern community to raise mental health issues during contested custody cases (“She’s crazy if she wants to leave me.”). Staff attorneys need to show that a client in this situation can still be the better caretaker, which in turn requires resources for mental health assessments.

(6) What other comments do you have relative to your experiences as a project attorney or to the project itself?

### **Reduced Fee Attorneys**

At least 50% of the attorneys polled described the experience as fulfilling a need to serve the community. Two attorneys reported that the project was “ a waste of time,” one stating that experienced attorneys should not be recruited for the project because it was better suited to beginning practitioners (This comment is puzzling, as these cases are often by their very nature complex and demanding – nearly all of the staff attorneys, for example, have at least several years of domestic law experience). Other comments focused on the issue of the client’s financial contribution as a means to facilitate better attorney-client cooperation and the need for adjunctive counseling services so that attorneys could focus on the legal issues instead of the emotional content of inter-parental conflicts.

### **Staff Attorneys**

All of the staff attorneys interviewed believe – passionately – that this project fulfils a critical need in the community. In fact, they are unanimous in stating that the project should be expanded both in terms of adding additional attorneys and/or staff and providing more training for them. Currently, several staff attorneys do attend trial skills workshops that are covered by LAB funds.

Additional comments from staff attorneys stem from their experience with the multiple problems that pervade high conflict custody cases, such as special education needs, Social Security questions, child protective services, and other social services. While several staff attorneys serve on the boards of the Community Action Board and Head Start, there remains a critical demand for more information and sustained cooperation with agencies and groups that can provide assistance with these problems.

### **Litigants**

The reports submitted by the Project grantees offer substantial information on the kinds of services provided and the number of people benefiting from them, as well as the race and gender of applicants. The following is a summary of that information based on reports submitted for FY2000, FY2001, and FY2002. In addition, we include the results of client surveys sent to CFCC by the Law Foundation of Prince George's County and LAB.

### **Client Surveys**

A total of 34 clients were surveyed regarding their satisfaction and suggestions for improvement. There were 19 responses collected by the Law Foundation of Prince George's County, and 15 responses were sent to CFCC by LAB clients in both the Annapolis (Anne Arundel County) and Riverdale (Montgomery and Prince George's Counties) offices.

While the forms filled out by LAB clients were slightly different from those completed by the Law Foundation, they are comparable. The breakdown is as follows:

- Of the 18 surveys of LAB clients, 10 were very satisfied; 7 were satisfied; and one was not satisfied.
- Of the 19 reduced fee clients, 17 rate their attorney as "excellent." All 17 would hire their attorney if they were paying legal fees, and 16 would recommend the Law Foundation to another person seeking legal assistance. One client rates his/her attorney as "good," would hire him/her if paying legal fees, and would recommend the Law Foundation to another person seeking legal assistance. One

client rated his attorney as “poor” and would neither hire him if paying legal fees nor recommend the Foundation to another person seeking legal assistance.

Many of the reduced fee respondents indicated that “professionalism” and clear explanations as to what was happening during the case were the outstanding qualities of their attorneys.

The LAB client survey forms asked for suggestions regarding ways in which Legal Aid’s service could be improved. These included: returning phone calls more promptly; include more Spanish-speaking attorneys; providing more services over the phone rather than asking clients to come to the office; offering representation for child support matters.

#### **IV Recommendations**

##### *A. Add to categories of data collected.*

In addition to collecting consistent categories of data across project components, data must document the numbers of cases, which include each high-conflict custody case characteristic, e.g. substance abuse, domestic violence and mental illness. This type of information assists project planners with the implementation of adjunctive service links as suggested by a number of the attorneys surveyed.

In order to quantify and justify the need for expanding program services, it will be useful to collect data as to the numbers of clients who cannot be serviced by the program.

##### *B. Develop data that will aid in distinguishing between the case handling in each component.*

There are clearly significant differences between the way in which each project component handles cases, stemming from the nature of the project itself. While reduced

fee attorneys have no economic incentive to devote more than 20 hours to each case, staff attorneys have the “luxury” of spending hundreds of hours, if necessary, on a given case. It would be illuminating to include questions in the quarterly and annual reports regarding, for example, follow-up to the custody case; any handling of issues that are relevant to the custody case (e.g., domestic violence, property, abuse and neglect, etc.); assistance with social services; etc.

*C. Cultivate additional partnerships with community service providers.*

As a significant number of the attorney respondents have noted the need to assist families with the underlying social and emotional problems that complicate the client’s legal issue, it is helpful to cultivate additional partnerships with community services, such as family counseling, substance abuse treatment, mental health clinics, and mediation centers. These partnerships can augment the level of service provided to the client and may, in fact, help clients to be more cooperative in assisting their attorneys with case preparation.

*D. Develop and implement greater collaboration/coordination between project staff attorneys and reduced fee private attorneys.*

There was some discussion during interviews with project staff attorneys and supervisors regarding what was believed to be the original structure of the project, i.e., staff attorneys assuming the bulk of the representation with the reduced fee component as a “wraparound service.” Even if this represents the original intent behind the project, it may be that the more effective structure is based on parallel services.

However, there is something to be said for increasing the collaboration between the two components. First, attorneys would be able to consult with each other,

capitalizing on the strengths and expertise represented by each component. Second, the conviction and experience of the staff attorneys might inspire other private attorneys to take on reduced fee cases. Third, introducing a formal element of collaboration and/or cooperation to the program could lead to greater visibility in the legal and judicial communities through, for example, workshops, bar association meetings, and coverage in the local media.

*E. Implement staff training programs.*

A number of staff attorneys in particular suggested that training programs on, for example, issues that affect high conflict custody cases would be helpful. While the vast majority of staff attorneys handling these cases are very experienced in the family law area, there are issues specific to high conflict custody cases that require special expertise, including pension plans and qualified domestic relations orders and property division.

*F. Better inform judges, masters and court personnel about the project and increase project publicity efforts.*

Increased efforts to raise the level of awareness of the project are critical, especially with respect to judges, masters and court personnel. Only 9 of 24 judges and masters who responded to our survey were aware of the project. In Prince George's County, the project serving the greatest number of litigants, one master, the case coordinator, and the court administrator were not aware of the project, thus they were unable to participate in the survey. In Montgomery County, a respondent speaking for the Office of the Family Division Coordinator stated that she was "tangentially" aware of the project and that awareness was limited to the *Staff Component* of the project. The limited response from case coordinators demonstrates the need for increased publicity efforts



directed towards court personnel. Since one of the expectations for this evaluation is that it will publicize project activities, this report should be circulated widely to remedy the information gap regarding the project services.

Another area in which to consider increasing publicity might be in law schools. Several attorneys mentioned that the assistance of law students would help to keep costs down and enable attorneys, both private reduced fee and staff, to focus on the more complicated aspects of each case.

*G. Conduct specific fiscal analysis.*

A comprehensive cost/benefit analysis would be a significant component of subsequent outcome studies. Several fiscal issues have emerged in reviewing the materials that were made available to the evaluation team. It is useful to analyze and document the cost of managing each case handled by the *Staff Component*. Clearly, the scope of legal services available to clients is more comprehensive in this program component, as there are no restrictions on the amount of time that a lawyer devotes to the case. Since several respondents suggested that the cap on costs per *Reduced Fee Component* clients be increased, a more thorough investigation of the actual cost of the services provided to *Staff Component* clients may facilitate a more equitable distribution of funds between the two components.

*H. Conduct client exit polls.*

There is strong evidence of client satisfaction emerging from the brief questionnaires distributed for this report. It would be illuminating to conduct a more thorough and widespread survey, perhaps polling clients immediately after the service has been rendered.

## **V. Conclusion**

The mandate for this evaluation, as noted in the introduction, is to determine the issues enumerated below. Within the confines of the data available to the evaluation team, the following appear to be reasonable conclusions:

*(1) What is being done for low-income families involved in contested custody matters?*

The Child Custody Representation Project is providing necessary legal services to clients, including but not limited to litigation and brief services/intervention, who otherwise would not have access to an attorney. The custody litigation services have resulted in stable custody arrangements for children, thereby reducing emotional stress for the families involved. In large numbers, these services are being provided to women who likely are victims of domestic violence, or single mothers or grandmothers who are attempting to provide an emotionally secure and stable environment for their children or grandchildren.

In addition to providing direct legal services, the project promotes family violence prevention—a risk factor in high-conflict custody matters. As the judges interviewed observe, project lawyers have expedited the court process for litigants. Accordingly, families embroiled in custody battles are helped to resolve the issues expeditiously, thereby preventing the verbal acrimony that exists between parties from becoming violent physical confrontations.

Over and above the provision of direct legal services regarding a high conflict custody issue and the promotion of family violence prevention, this project – particularly the staff attorney component – offers a comprehensive, holistic approach to addressing the problems of families involved in these custody battles. Staff attorneys have the

expertise and resources available to address a range of issues that all too often are inextricably linked to the custody question – property, health, public benefits, and education, to name a few. Thus, while the “hook” in these cases might be the custody question, these families are being served and helped on a broad range of issues. On the other hand, it should be noted that this level of services is also reflected in the significantly higher cost of the staff attorney component (\$1843/closed case for FY2002) as compared to the reduced fee component (\$1046/closed case for FY2002). Moreover, while staff attorneys are in many cases spending more time on addressing issues faced by their custody project clients, they are providing fewer litigation services than their reduced fee counterparts.

*(2) What differences, if any, are made by providing legal assistance for these families?*

The most obvious difference, of course, is that this project helps to ensure stability for the children involved in these contested custody cases. It appears that, but for the legal interventions, the custodial relationships for many of Maryland’s poorest children will be indeterminate at best and very likely not in their “best interest.” In addition, the project increases access to justice for indigent and low-income clients by making attorneys available to them early in the court process.

Furthermore, the MCCRCP benefits the court system: judges and masters who preside in custody matters are in a position to make more informed decisions owing to the presentation of more and better information. The court itself benefits as cases move more quickly through the system when attorneys are involved. While there are a number of pro bono projects in Maryland, this project stands out, as noted by one judge, for

addressing a particularly critical need for legal assistance in contested custody cases, which are often “the hardest to place and to do so quickly.”

The program also promotes increased pro bono service to indigent clients, as the compensation received by reduced fee attorneys enables them to take additional family law cases free of charge. There are also the more indirect consequences deriving from the satisfaction that is mentioned by a large number of attorneys as perhaps an unquantifiable but significant benefit of their involvement in representing these clients. It is, to use an overworked phrase (but one that is appropriate here and, in fact, used by a number of those interviewed), “a way of giving back to the community.”

A further benefit derived from the project is the opportunity to highlight the problem of high-conflict custody cases in Maryland’s Family Divisions. Maryland’s family court reform initiative has taken hold across the state in the form of consolidating the jurisdiction of family court matters under one unified system, as well as implementing improved case management and service delivery to families in need. As these improvements are now in place, it is important for the courts to further refine their response to family law cases by defining discrete problem areas within the larger context of family law adjudication. Given that the issue of high-conflict pro se custody cases is one of the most problematic areas, the data derived from MCCRCP can serve to support the need for and provide the basis from which to develop other programs and systems to address these cases.

*(3) To what degree has the project assisted Maryland’s Family Divisions with the case management and case processing of this category of cases and how can this assistance continue?*

The project has assisted an increasing number of clients over the course of the two years that it has been in operation, albeit with a fluctuating distribution of clients as between the two components. The data coming out of interviews and meetings with project stakeholders, particularly judges and masters, demonstrates that increasing the numbers of attorneys involved with these highly fractious cases has improved the court's ability to resolve cases more quickly and more judiciously.

The data gleaned from the project make a strong case for continued service to families involved in custody litigation, particularly those cases that fall within high-conflict parameters. Accordingly, reports such as this can serve as a means to interest other funders. Additional funds would be of tremendous help in further streamlining the management of these cases, especially when it comes to addressing specialized areas of expertise and obtaining the kinds of services necessary to continuing cases (e.g., transcripts, translators, etc.).

*(4) What is the demonstrable need for the services provided?*

The data reflect an ebb and flow of clients between the two project components, but both data and interviews demonstrate increasing need for this project. Despite various growth patterns, the total number of cases closed by both projects increased from 92 during the first nine months of operations to 275 cases closed in FY 2002, thereby empirically demonstrating the need to provide legal services for Maryland's poorest citizens.

*(5) What is the satisfaction of project stakeholders?*

The overall level of satisfaction of the project stakeholders responding to the

survey appears to be very high. Judges and masters appreciate the benefits of having attorneys involved in the court process, because attorneys are familiar with court rules designed to promote efficiency and fairness in resolving legal disputes. They also note the value of the project to litigants, especially when one party is represented and the other is not, and the outcome of the case determines who will obtain or retain the custody of a child.

The project attorneys refer to both tangible and intangible benefits that include: increasing access to justice for underserved populations, decreasing the burden placed on the court system when pro se parties are involved in contentious litigation, and promoting the best interests of children. It should also be noted and emphasized that the custody project provides, both directly and indirectly, access to a wide range of services – legal and, often, social, psychological, and health-related – that would not otherwise be available to these litigants.

Data demonstrate that there are substantial benefits to the clients involved, notably solidifying the custody arrangements of the children who are important to them. There are, however, other benefits, including assistance with many of the other complex issues that surround and come out of these high conflict custody cases.

In summary, the Model Child Custody Representation Project figures prominently in promoting access to justice for Maryland's indigent population, as well as in assisting the court system to manage and resolve the important issue of child custody for persons who would not otherwise have access to an attorney. The project can and should serve as a springboard for further reform initiatives in Maryland's Family Divisions to ensure better service for Maryland's families and children.