

**Figure 13: Riverside County Housing Options for TAY**

Age	Type of Care	Description
18-21	Family setting	Resource homes and kin placements
	Transitional Housing Placement Program (THP)-NMD	Furnished apartments Services to help develop independence Rules and services vary by provider Clients receive stipends to pay bills (enables them to learn money management and establish credit)
	Supervised Independent Living Placement (SILP)	High level of independence Non-licensed Social worker checks home for safety concerns Clients receive foster care payments and Supportive Transition (ST) services
18-24	THP-Plus	Housing and services for <b>former</b> foster youth Participants may live in apartments, houses, college dormitories, and with host families Goals set in a Supportive Transition Emancipation Program (STEP)/THP-Plus Transitional Independent Living Plan (TILP) Time limit in program of 24 months

## Strengths

Leadership and front-line staff care deeply about children and youth with complex needs, and about youth transitioning from care. They show appreciation for the unique challenges these populations face and want to be even more effective in serving them.

## Children with Complex Needs

Given the large number of youth who present Riverside County with complex care needs, CSD leaders are working to develop new, small-scale pilot models responsive to the child welfare population. This includes regular conversation with state leaders to determine their flexibility around some restrictive regulations, and ongoing meetings with new FFA providers who may have the capacity to serve high needs youth.

## Transition-Age Youth

A small number of FFA providers were highlighted by staff as giving an especially high level of care to TAY. These agencies deliver high quality services, particularly in the areas of housing,

employment, and education. The ILP provider received praise for providing helpful services to teens and for being responsive to their needs and tailoring programs accordingly.

Respondents saw TAY benefitting from having specialized social workers with deep knowledge of services and supports and the ability to connect well with teens. According to an interviewee, workers who stay with the same clients year on year are able to build a long-term relationship. They noted:

A lot of our workers who have been doing this for a long time, they have youth who call them back like, "Okay now I want to go to college. Now I want to do the next step, how do I do it?" So they [former foster teens] are still referring back to that person to guide them with support.

Unfortunately, turnover, caseloads, and the demands of paperwork impact this area of strength. Social workers have less time per client. Clients must continually adapt to new workers in order to receive services and support. One respondent said, "I think with teenagers it's hard for them to adapt to new workers. They don't really trust you and it takes a lot to create that bond...to actually help them."

CSD operates a warm line and central email account for extended foster care youth to contact a social worker. This is particularly useful for those who want to re-enter care after having exited. As a manager explained:

With our extended foster care population... you see them going down a road and you're trying to encourage them... to hang on and to stay there. And so all I can say is we welcome them back with open arms. So we have a couple of workers whose sole job is re-entry... we can re-enter them as timely as possible from the time they call our warm line that is specifically for extended foster care youth.

## Opportunities

CSD's leadership has a vision for building out a responsive continuum of care that can meet the range of concerns that TAY present. Riverside County is currently piloting an innovative model to serve children and youth with especially challenging needs. This "professional foster parent" model (otherwise referred to in the County as an STRTP-of-one), is designed to respond to children's significant behavioral health needs and to stabilize their care. If the pilot is effective, it could be expanded to serve additional children. Staff attest to the promise of these innovative models:

We have a kid placed in an STRTP-of-one right now. We have a kid placed in an enhanced ISFC home that we created out of nothing with a provider.

And that's the most stable place that this kid has been in and it'll be a year next month... So for me the dream is to have that full continuum so our kids get a good match, and we also have supportive services, our wrap provider—and the expedited services that we recently contracted with a couple of agencies. So for me that's all of the things that you need in order to really be able to support, in a meaningful way, from a trauma-informed perspective.

CSD's Youth Partners were identified as a bright spot, with calls for more mentors for teens. Youth Partners are full-time employees who have previous experience receiving child welfare services. The Youth Partners are advocates, mentors, and liaisons for TAY.<sup>123</sup> As one interviewee explained, the program "helps bridge the gap between the Agency and the youth."

Respondents felt that this type of mentoring encourages TAY to engage with services, helps reduce stigma, and can be especially helpful to teens who are most discouraged and disengaged. Respondents suggested support groups led by former foster youth could be especially helpful for teens who have "given up" on counseling.

The County is pursuing an agreement with the providers of Transitional Housing Plans (THPs), NMD, and THP Plus (for TAY ages 21-25). The providers are licensed by the State and have not had an agreement with the County to date. The agreement will give CSD more influence over the housing and support services provided. In describing the need for this agreement, one respondent noted that there have been instances of unresponsiveness to CSD's needs. The attitude was described as: "This is how we run the program, you can like it or not. We can go to another county." Additionally, the County has begun meeting monthly with all the providers. A respondent said the meetings are enabling providers to share how they address problems with NMDs constructively to avoid evictions.

Various community based organizations are developing model programs, [scholarships](#), and other supports to help youth make successful transitions to college. Efforts such as these can offer important opportunities to young people in care.<sup>124</sup>

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<sup>123</sup> Angelica De La Torre et al., "Integrating Youth Partners to Improve Service Delivery and Outcomes in Child Welfare" (Conference presentation at County Welfare Directors Association of California Conference, Monterey, California, October 14, 2015).

<sup>124</sup> The Press Enterprise, "New scholarships offered for Foster Youth in Riverside County," April 16, 2022.

## Areas in Need of Improvement

### Children and Youth with Complex Care Needs

A critical issue is matching children and youth who have high-end needs with an available caregiver who has the capacity to provide an appropriate level of care. As one respondent said, "our kiddos with complex care needs—definitely, we do not have what we need to truly meet their needs. They may have a bed, but they don't have a good match yet." Although the County is developing new placement options for these children and youth, CSD staff expressed that the models being designed are expensive and the County and provider agencies may need time to build out effectively. Testing these models' effectiveness will require ongoing support from county leaders, as well as deep collaboration with county partners (e.g., RUHS/BH, education, and health).

Some children and youth who cannot be effectively cared for in family home environments may need supports offered in higher levels of care. Although many nonprofit FFA providers have developed new STRTP models in place of former congregate care settings, staff raised concerns that STRTP providers can refuse to accept children into their care, and that they can discharge them at will. Only very few providers offer a no reject/no eject policy. Without close partnerships with FFA providers who have the capacity to care for high-needs children and youth—and a deeply held value of providing unconditional care—the County has very limited options for effectively serving those with complex care needs.

### Transition-Age Youth

There are four areas in need of significant improvement for TAY. We list these separately and elaborate below:

1. Further development of high quality placement options
2. Better supports for navigating complex systems of care
3. Better articulation of responsibilities for obtaining vital documents
4. More effective communication and outreach

### High-quality Placement Options

As suggested previously, the limited availability of high-quality foster homes for adolescents is particularly acute. Social workers repeatedly returned to this critical issue, with one respondent saying, "Quality placements for...teenage children, especially those with mental and behavioral health needs, are difficult to find." Another respondent said:

I think an area where our County really needs to focus is recruiting homes for teens. We struggle with finding homes for our teenagers who

don't meet the new criteria to be placed into a group home but have all these behavior problems. And the foster parents need the support for these kids. We have an abundance of teens right now that are bouncing around because we can't find foster homes that are willing to work with them.

Social workers and supervisors spoke about the need for better training and support for resource parents so they can respond effectively to trauma-related behaviors and teach their young people the skills needed to become independent. One survey respondent observed:

Resource parents sometimes forget that these youth need to learn how to drive, how to grocery shop, manage their money, know how to make a doctor's appointment, where to go for help, know about their reproductive/sexual health and rights, etc.

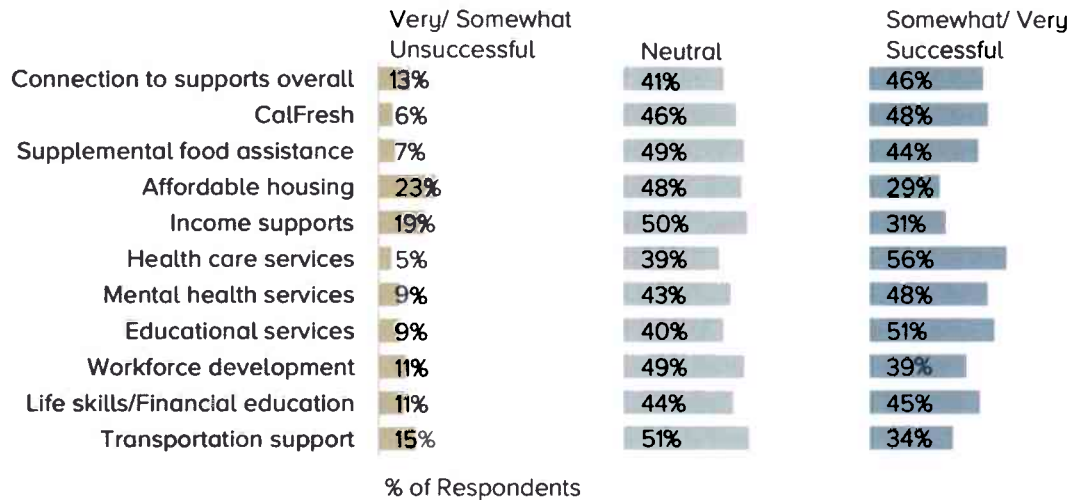
Finally, for youth ages 18–21 making the transition to adulthood, CSD faces significant challenges identifying housing that is safe, affordable, and available long-term. Although the state has developed some programming designed for foster youth transitioning out of care (e.g., THP-Plus), the available funding and existing housing stock are insufficient to match current and future needs.

## **Streamlined Service Navigation**

Responses to our survey suggest that CSD is challenged in connecting TAY to the range of services to which they are entitled. Less than half of respondents (46.3%) indicated that they were sometimes or always successful in connecting young people to the full spectrum of services for which they are eligible. In particular, staff struggle to identify affordable housing (28.8% indicated that they were somewhat or very successful), income support (31% indicated they were somewhat or very successful), and viable transportation options (34% indicated they were somewhat or very successful).

Figure 14: Meeting the Needs of TAY Survey Results

Q5 Please share your Impressions of how successful the Department is in meeting the needs of transition-age youth. Overall, how successful is the Agency at connecting transitional age youth to the full spectrum of support services they are eligible to receive? Q6 How successful is the Department at connecting transition-age youth to the following specific services?



The need for skillful support to connect teens with services was noted in interviews and in survey responses. One survey respondent shared the concern that:

Actually connecting the youth and assisting them in navigating the services is lacking; repeatedly asking the youth if they completed an application (housing, Medi-Cal, FAFSA, etc.), yet not providing direct assistance; hearing the challenges a youth is facing with an agency and not facilitating a 3-way call or advocating directly for/with the youth; simply expecting the TAY to function as an independent adult.

Respondents identified a need for social workers, external parties, and the youth themselves to better understand the services available to TAY. The service landscape was described as a patchwork that can be challenging to understand and navigate. This finding is consistent with research showing that skillful practice often involves hands-on service connection—not just a referral.<sup>125</sup> Respondents suggested a need for better information sharing among and between teams in CSD. One respondent also indicated that other counties have easy-to-use websites showing an array of available services that social workers can readily see and help youth enroll in. We did not examine other counties as part of this review, but CSD's website could offer a

<sup>125</sup> Sarah Carnochan, Erika Weissinger, and Michael J. Austin, *Identifying Skillful Practice in Child Welfare Case Record Data Through the Use of Qualitative Data-Mining* (UC Berkeley Mack Center, June 2015).

good deal more information for staff, clients, and community members to help TAY better navigate the complex service system landscape.

Service navigation brings special challenges—especially for young people who have built trusting relationships with their counselor or therapist. When young people turn 18 they are typically required to move from childhood to adult services, which includes a change in therapist. This stressor sometimes prompts teens to stop therapy altogether. As one social worker summarized on behalf of their client, “There’s this fear—I’ve been with this therapist for so long, we’ve made all this progress. Now I have to start over with someone new.”

## Obtaining Vital Documents

A critical need for young people moving to independence is obtaining vital documentation such as birth certificates, social security cards, and California identification. Some individuals we spoke with described a standardized process to obtain these documents that they felt works well. It appears CSD does not track metrics on obtaining vital documents, so we are unable to verify performance. However, we heard concerns that CSD is not always able to obtain these documents in a timely manner and that CSD documents, such as court reports, sometimes state that vital records have been obtained when they have not. According to one observer, sometimes helping a young person obtain this critical documentation can feel like it is simultaneously everyone’s and no one’s responsibility:

Who does what varies case by case. The County is ultimately responsible and yet some cases have more resources than others. Naturally you look at what resources are available and what capacity people have to marshal those resources. Youth willingness to participate in ILP services and their own availability to participate in classes is also an important factor. Each case is different depending on who the players are.

Sometimes it feels like there are too many cooks in the kitchen—if there are this many people involved [the County social worker, the FFA social worker, sometimes a caregiver, and an ILP social worker] then everyone assumes that other people are handling it. At the end of the day, everything is the County’s responsibility and yet it is not realistic for them to do everything. It gets murky. And sometimes it’s the child’s willingness to participate too. If they’re AWOL [absent without official leave] for most of the year that they are 17, then of course they are missing out on services.

The California State Legislature is considering an amendment to the Welfare and Institutions Code that would provide stronger incentives to connect clients with their identification documents. Agencies would be required to keep individuals in care after turning 21 if the

agency had not yet provided them with their identification documents, certain services, and housing assistance.<sup>126</sup>

Once CSD provides young people their vital documents, young people may lose them. As one respondent said, "It's really difficult for [young people in care] to keep [the documents] safe when they're moving constantly or when they're homeless. How are they going to keep them safe?" Replacing the documents can be difficult, and not having them presents barriers to moving forward with goals.

## Outreach and Communication

Interviewees and survey respondents suggested improvements on how CSD communicates with TAY. One interviewee suggested moving from reliance on paper pamphlets and forms to social media, email, and texting. They also noted that teens' cell numbers may change frequently while email addresses are typically more stable. However, some of CSD's contact management systems do not have email address fields. One respondent suggested CSD collect emails and alternative points of contact (such as a life-long connection) when clients exit the system. Another suggestion from this respondent was that teens should receive an email or text with a helpline and central CSD email address.

Respondents identified the need for better promotional materials for the ILP. In the past, when caseloads were more manageable, social workers could more easily attend ILP events. This first-hand knowledge enabled them to "sell" the program to eligible teens. Paper hand-outs about the ILP could be replaced (or supplemented) with more compelling, digital promotion.

In addition to making communication more teen-friendly, there is a need to find ways to overcome reluctance that some teens feel about continuing with services. Some social workers indicated that once youth reach the age where they can voluntarily engage in support services, many are eager to leave the system. Some described the stigma that foster youth may feel relating to foster care and some suggested that youth may view CSD as a wedge that separates them from their family. As one survey respondent explained, "The challenge is engaging youth to participate in such services. Most just want to leave and end their chapter with the child welfare system." Even when youth are receptive to receiving services, planning ahead can be challenging for teens, and they may want assistance at the last minute.

To address the stigma, some social workers and supervisors recommended making more use of peer support and mentoring. They also thought it might help to find people "cooler than a social worker"—such as celebrities—to inspire the youth to engage in ILP services. This could tie in well with adopting social media as a communication channel.

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<sup>126</sup> Foster Youth, California Assembly Bill 2189. (Amended March 23, 2022).



## Recommendations

### Overarching Recommendations for Serving Children with Complex Care Needs

1. **Assess the newly developed professional parent model (i.e., STRTP of one) to determine if it should be expanded to serve additional children.** This new model of foster care recruits from the existing pool of human service professionals in the County (including current social workers, nurses, teachers, or others with expertise in a child-serving profession). It pays and supports caregivers commensurate to their salary in a child-serving profession, and includes wraparound, in-home supports to reduce the social isolation that otherwise may accompany foster caregiving. Evaluation of the model's effectiveness in reducing placement instability, child behavioral health challenges, and other untoward outcomes (e.g., contact with police, emergency room (ER) hospital utilization, etc.) should be conducted.

### Placement for Children Requiring Complex Care and for TAY

1. **Create financial or other incentives for FFAs to develop unconditional care policies.** County staff indicated that at least one FFA offers a clear unconditional care model wherein they will not reject a child for engaging in especially challenging behaviors. To build out a system of care that fully responds to child and youth needs, unconditional care policies and practices need expansion. CSD is therefore encouraged to review current unconditional care models and should develop recommendations for how other FFAs could replicate such a model. What are the barriers for agencies? What training or expertise would they need to build out a similar approach? CSD may consider stipulating in future Request for Proposals that FFAs with unconditional care policies will receive priority for selection as providers.
2. **Create a placement stability rating scorecard for each FFA.** Providers that score high on the metric would receive a financial incentive for delivering stable placements for children. To avoid creating unintended incentives (e.g., for maintaining placements that are not in children's best interests, or only accepting children with minor behavioral health profiles), provide situation-based waivers that will not impact the placement stability scorecard.

### Overarching TAY Recommendations

1. **Explore an organizational partnership with [Think of us](#), a research and design lab driving systems change so that "the youth and families most impacted by foster care**

have the greatest power and opportunity to reshape it."<sup>127</sup> The recommendations below should be guided by this or a similar partnership that elevates lessons learned from young people with lived experience in the foster care system.

2. **Seek input from TAY on effective ways to support them.** Establish a funded County Youth Commission to provide input on the TAY recommendations in this report, and supplement with areas of concern and ideas for improvement. Establish scope, objectives, deliverables, and timeline for the Commission. Agree on procedures for facilitating discussion and generating recommendations that represent the view of the Working Group. Hold quarterly Working Group meetings. Provide the Working Group with transparent updates on how CSD is addressing their input.
  - a. Hold a minimum of two teen and young adult focus groups annually to identify needed improvements to services and supports for TAY. The scope for focus group discussions could be areas CSD is accountable for (direct and contracted services) as well as areas CSD could influence. For example, discussions on how social workers could better interface with the Department of Motor Vehicles (DMV) to support youth seeking a California ID.
3. **Increase opportunities for TAY to be paired with a young adult mentor with experience in foster care.** Consider whether the Youth Partner program could be expanded or if there are other avenues to connect TAY with mentors who are young adults with experience in foster care. Involve current Youth Partners in determining recruitment strategies. We heard multiple comments in focus groups and interviews about the need for mentors who were young and had experienced foster care.
4. **Recruit young adults with experience in foster care for TAY-related roles in CSD.** Building on the success of the Youth Partners Program, CSD should identify further roles that could be filled by individuals who have experienced foster care. Actively recruit new hires with this background. Consider offering younger individuals internships as a pathway for subsequent employment.
  - a. Collaborate with the ILP provider so that ILP job readiness, interview skills, and job retention workshops include content relevant for those considering roles at CSD.
5. **Create a TAY initiative for improvements to TAY services.** This initiative should be managed by the newly formed Strategic Initiatives Unit. The purpose of the initiative would be to provide additional resources to drive planning and implementation of TAY-related recommendations.

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<sup>127</sup> Think of Us, "Welcome," Accessed June 9, 2022.

## Service Navigation for TAY

1. **Create a TAY Navigation Team within the Youth and Community Services Region.** Invest additional funding and staff resources within the Youth and Community Services Region to create a TAY Service Navigation Team. The team's mission should be to connect TAY with services and supports. TAY Navigators should conduct outreach to TAY, coordinate with other parts of DPSS (e.g., Self-Sufficiency Programs), the TAY-assigned FFA, and with external partners who serve TAY.
  - a. The team should comprise three to five non-case-carrying staff. Responsibilities should include managing social media and the helpline (see Communication and Outreach Recommendations below), maintaining resource guides, fielding questions from caregivers, social workers, and youth, and coordinating with external partners.
  - b. This team could include staff who specialize in obtaining identification documents and supporting teens to retain them (see Identification Documents recommendations below).

## Vital Documents

1. **Verify the obtainment and digital storage of vital documents and track performance.** Establish a single point of accountability for clients' identification documents, such as the supervisor of the TAY Navigation Team. Staff should be required to verify that records have been obtained. This could be done by requiring photos of the records to be included in the Court Report or requiring a link to digital storage of the records.
  - a. Track data to determine what percentage of children in care and exiting care have their identification documents in a digital storage locker at key time periods (e.g., six months after entering care, six months before exiting care).
  - b. Retain a notary or train current staff to serve as notaries to help obtain records by notarizing photocopies of birth certificates or SSNs when needed.
  - c. Create liaisons with County Records (for birth certificates) and DMV (for CA ID) to make the process easier for TAY and caregivers to navigate these complex bureaucratic entities.
  - d. Offer caregivers a financial incentive to obtain and digitally store documents for children in their care. Provide them with both digital and paper checklists and Frequently Asked Questions (FAQs).
2. **Provide caregivers and TAY with tools to retain their identification documents.** Identify a secure, digital storage option for children and teens'

identification documents, such as [iFoster's digital locker](#).<sup>128</sup> Provide staff training on the tool. Collaborate with the ILP provider to deliver teen training. Give social workers and clients access to high-quality scanners and technical support for utilizing these tools.

- a. Develop contract language with FFAs to assist TAY in creating their digital accounts and upload scans of their vital identification documents.
- b. As clients, TAY should experience document transfer as a timely, professional process that releases their hard copies in tandem with securing the documents digitally. The system for verification and tracking should be electronic files, not checklists completed by social workers which may not be accurate.

## Communication and Outreach

### 1. **Develop and use teen-friendly channels of communication with TAY.** CSD

should implement the use of social media to share information about beneficial services, programs, and events. The warm line and central email should be promoted regularly through social media so that youth are aware of resources and how to seek out needed information. Hire a social media specialist to support the efforts of the TAY Navigation Team. Create a branded social media toolkit and work with relevant units to identify services, programs, and events to promote. New content should be regularly posted on social media platforms and these platforms should be regularly publicized to TAY clients. Track uptake of social media and adjust strategies as needed.

- a. Improve and expand the DPSS website. Develop and maintain a Teens and Young Adults web page with comprehensive resources. An example of this can be viewed here: [Los Angeles County - Teens 16+](#).<sup>129</sup> Work closely with partners to include comprehensive, up-to-date information on services and supports. Wherever possible, provide links to registration forms, applications, and responsive points of contact.
- b. Utilize email, text, and direct messaging (through social media platforms) for communications between CSD and teens/young adults. Modify systems and procedures to enable input of email addresses and social media handles. Identify types of communication that should be handled by email/text/DM (e.g., registering for events and appointments, sending reminders, promoting workshops and events).

### 2. **Add texting options for youth services including for peer-to-peer support.**

Replicate the successes of mental health helplines by employing former foster youth

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<sup>128</sup> iFoster, "iFoster Tay Assistant," Accessed June 9, 2022.

<sup>129</sup> Los Angeles County Department of Children and Family Services, "Teens 16 and Older," Accessed June 6, 2022.

with lived experience to support current foster youth via texting a centralized number. Personal numbers could be hidden for added security and the texts could be monitored for quality control purposes. Information for which teens might seek peer support could include topics ranging from obtaining a GED, job and relationship advice, reconnecting with family members, seeking mentors, and more. Escalation procedures could be utilized for issues pertaining to substance abuse, violence, suicidality, and commercial sexual exploitation of children (CSEC).

3. **Increase promotion of the ILP.** The ILP provider contract should include the requirement to create teen-friendly promotional materials that can be disseminated via social media, website, text, and email. Information from the ILP provider should be prominently displayed on the revamped DPSS website.
  - a. Teens engaged in ILP could be invited to contribute to the materials (e.g., testimonials, Q and A's, mini-interviews). The audience for the promotional materials should be TAY social workers and the teens they serve.
  - b. To help keep social workers informed about the ILP, CSD should share these digital materials at inductions, staff meetings, or other learning venues.
4. **Collect contact information for youth exiting the system to support reconnection.**
  - a. Modify internal systems and protocols to collect email and alternate contact details (e.g., a life-long connection) as part of the exit process. This information is especially critical for youth ages 18–21 who choose not to continue in foster care as an NMD. Regular outreach to these youth to offer opportunities for a return to care should be provided.
  - b. Provide exiting youth with the helpline and inbox email address in a digital form (via text, email, and/or direct messaging).

## Services to Children and Families

### Context

Federal and state law require child welfare agencies to provide services to parents whose children are taken into foster care in order to support their efforts toward reunification (with some exceptions). Working collaboratively with a social worker, allied professionals, and their informal network, each family develops a case plan that outlines the services parents will engage with in order to change the safety-compromising behaviors that brought their child into care. Social workers submit the case plan to the courts for their approval. Parents have

between 6 and 18 months to engage in services and demonstrate that they have made progress in their capacity to care for their children safely.

The large majority of families requiring child welfare services are managing difficulties associated with substance abuse, domestic violence, mental health, poverty, and housing instability.<sup>130</sup> Ensuring availability and access to these services is essential for parents to engage with their case plan.

Children also require services when placed in out-of-home care. In response to *Katie A. v. Bonta* (2002), California now mandates that any child placed in out-of-home care or at imminent risk of foster care placement be assessed for mental health-related needs. If mental health needs are identified, child welfare agencies are advised to use the principles of the Core Practice Model to guide their interactions with families and to use a team approach (e.g., CFTMs) to determine service needs and access.

In addition to having their mental health care needs met, children also require close consultation with medical professionals for their (often) complex or chronic health care needs. The [Health Care Program for Children in Foster care](#) provides public health nurse staffing to child welfare agencies to support the health care needs of children in care, though it is the responsibility of the foster caregiver to ensure that children receive regular medical and dental care services from a healthcare professional.<sup>131</sup>

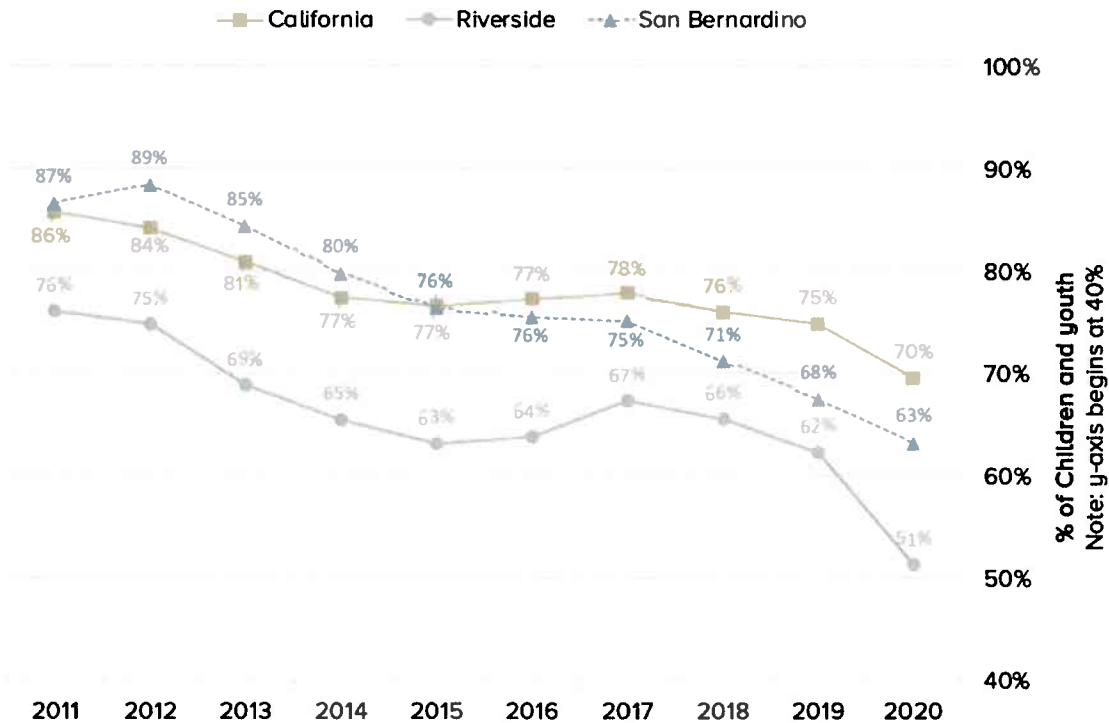
Another impact of COVID-19 throughout California and in Riverside County was a decline in timely medical and dental visits for children in foster care. Although the trend for timely visits was already declining, the drop is quite notable between 2019 and 2020, likely due to avoidance of non-essential medical care during the height of pandemic isolation. In Figure 15 below, San Bernardino County is shown as a point of comparison, with similar but slightly better performance on this measure.

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<sup>130</sup> Richard P. Barth and Yanfeng Xu, "Poverty, employment, family adversity, and entry into out-of-home care." (Unpublished manuscript, University of Maryland, School of Social Work).

<sup>131</sup> Department of Health Care Services, "HCPCFC Program Overview," Last modified March 23, 2021.

**Figure 15: Timely Dental Visits in Riverside County by Year**  
 Compared to California and San Bernardino



Finally, children in foster care are more likely than children in the general population to experience educational deficits. Research on children in foster care suggests that they suffer from high rates of school instability both prior to and during their stay in foster care.<sup>132</sup> They are more likely to use special education services, more likely to experience a suspension or expulsion, and less likely to graduate from high school.<sup>133</sup> California provides funding for a [Foster Youth Services \(FYS\)](#) program in every county. FYS staff are housed in the County Office of Education and help to coordinate children's school records and instruction. Children in care typically require extensive educational remediation; social workers, foster caregivers, and FYS staff can work together to ensure that children's educational needs are attended to.

<sup>132</sup> Elysia V. Clemens, Trent L. Lalonde, and Alison Phillips Sheesley, "The relationship between school mobility and students in foster care earning a high school credential," *Children and Youth Services Review* 68, (September 2016): 193-201.

<sup>133</sup> Katherine C. Pears et al., "Pre-reading deficits in children in foster care," *School Psychology Review* 40, no. 1 (March 2011): 140-148; Bonnie T. Zima et al., "Behavior problems, academic skill delays and school failure among school-aged children in foster care: Their relationship to placement characteristics," *Journal of Child and Family Studies* 9, no. 1 (March 2000): 87-103.

## Strengths

As discussed in more detail in the above Workforce section, CSD staff members are highly dedicated, knowledgeable, and seasoned professionals who are concerned about the health, mental health, and educational needs of children, and who want to see access to services to parents improved. Access and availability of services are often provided by County partners and community-based organizations; CSD does not control the delivery of most allied services. Nonetheless, there is interest and willingness to work creatively with community allies to improve the service landscape for children and families.

CSD has developed a Peer Mentor/Parent Partner model that includes former child welfare parent clients as staff. The purpose of these peer mentor programs is to offer peer support to parents who are new to child welfare system contact, to address their fears or concerns, and to help parents engage in their service plans as quickly and effectively as possible. The peer mentor model has been assessed elsewhere in California; findings suggest that the model may increase the likelihood of family reunification.<sup>134</sup>

## Opportunities

The [FFPSA](#) (2018) offers federal Title IV-E funding to help support evidence-based services in the areas of in-home parenting skills services, mental health services, and substance abuse services for parents whose children are at risk of foster care placement.<sup>135</sup> As the County identifies local service providers that can offer these services for placement prevention, these same services can be made available to parents whose children have already been placed in care. In doing so, the quality of the services provided to parents is likely to rise, and the benefits to parents in terms of positive outcomes are likely to improve as well.

## Areas In Need of Improvement

Parents can only engage in services to support reunification if they are available and accessible. High quality services are also essential to parents' ultimate success. In a county as spread out as Riverside, access and availability are challenging. The County is geographically large. If a parent lives in one community, but the only appropriate service is in another community, access may be difficult. Much of the County is rural and includes small towns that may not have

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<sup>134</sup> Jill D. Berrick, Edward Cohen, and Elizabeth K. Anthony, "Partnering with parents: Promising approaches to improve reunification outcomes for children in foster care," *Journal of Family Strengths* 11, no. 1 (November 2011): Article #14.

<sup>135</sup> California Department of Social Services, "Family First Prevention Services Act," Accessed June 6, 2022.



services the parents require. And transportation is especially problematic for this disproportionately low income population that may not have access to a car.

Within this context, the child welfare system as a whole appears to be stretched thin, including CSD and the range of service providers with which it partners. The combination of survey responses and focus group and individual interviews suggests a service landscape that is well intentioned, but under-resourced. Wait times for services to children and families are long, specialized programs of the past are now paused or terminated, and all service providers are short-staffed. According to one social worker:

All of our providers right now are short-staffed because of COVID-19; the waitlist to get into just about any service is a month out, which means our kids aren't getting services.

I used to be able to use a platform called Care Portal for a lot of service needs for families to meet basic things like beds, like fridges, things that would help with reunification, or even help with stabilization. But at this time, that partnership has been put on hold this year and so we're not able to access that platform so we're dwindling down in services and resources we can provide, but we're still expected to provide all this stuff that we don't have access to.

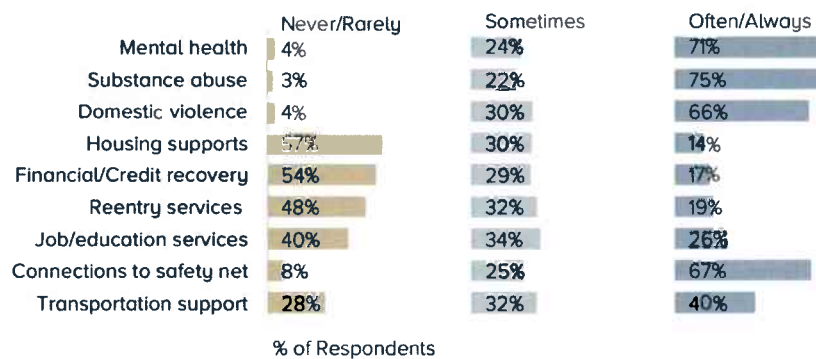
Comments such as these were frequent, especially relating to long wait lists, virtual services that were of lower quality than in-person, minimal services available in remote communities, and those provided far from a parent's home.

## Services for Parents

During the pandemic, CFTMs, in which service needs might be identified for families, shifted to being completely remote, using Microsoft Teams. This shift meant that family members who would have otherwise faced transportation challenges and work conflicts were able to attend meetings. While this increased accessibility was a silver lining, some family members could not participate due to limited internet and technology access. Additionally, some Child and Family Team (CFT) social workers felt that family members were at times less engaged and empathetic when they were not meeting in person. In particular, staff indicated that remote access seemed to make it easier for extended relatives to decline children's placement in their home when they were not meeting face-to-face. Some staff also suggested that virtual meetings may have contributed to less engagement for parents in meeting reunification goals. As of the time we conducted our focus group with CFT social workers and supervisors, CFTMs were still being conducted remotely.

Responses to our survey suggest that some services are more widely available than others. For example, about three-quarters of respondents (71%) indicated that substance abuse services are often or always available to parents trying to reunify, as are mental health services, but that many other services were difficult to identify and access. These included housing-related services (14% indicated housing was often or always available); financial education/credit recovery services (17% indicated services were often or always available); reentry services to formerly incarcerated individuals (19% indicated services were often or always available); or job or education-related services (26% indicated services were often or always available). A somewhat higher percentage of respondents indicated that the following services were often or always available: transportation support (40%); connections to social safety net programs such as CalWORKs or CalFresh (67%); and domestic violence-related services (66%). Survey results for availability of services are presented in full in Figure 16 below.

**Figure 16: Availability of Services for Parents Seeking Reunification**  
**Q3 How available are the following services for parents seeking reunification?**



The quality of services to address issues of substance abuse, domestic violence, mental health, and connections to safety net services were also noted relatively positively in our survey. Staff did not rate the quality of other services as highly:

Some of the challenges we've had is parents having to go on a waiting list for a long time. And that's important because, if they're in family reunification services, and they have a certain amount of time to complete their services and they can't get into services, that's a challenge. I think a lot of parents also are looking for daycare provisions and housing. I don't know if we have FUP anymore [the Family Unification Housing program, offered by the federal Housing and Urban Development program, was previously offered to support parents working toward reunification with their children], the whole housing thing.

Those are barriers to getting what they need, and then also it gets down to finding the appropriate parenting class for the parent. I've seen some challenges, with the social worker trying to get an appropriate parenting class that meets that parent's needs and also, there are a lot of parents that work and there's a challenge with accessing services due to their work schedules.

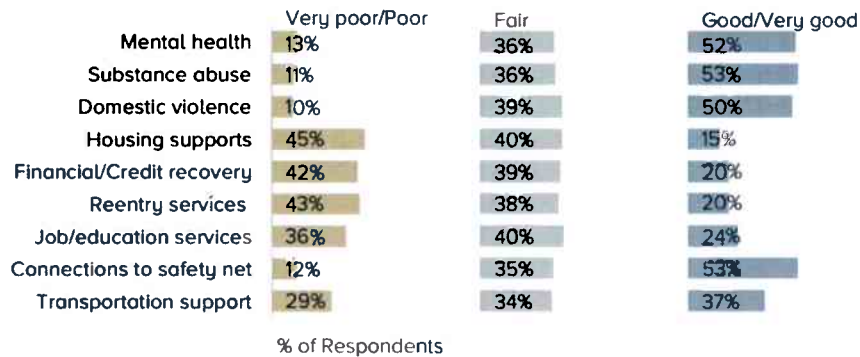
Another respondent said:

There are no services for housing. There used to be programs that aren't available anymore. They give them referrals. But those are worthless piles of paper... I don't know what to do. There used to be programs like [for families with a goal of] family reunification they'd get bumped up on the Section 8 waitlist. But that doesn't exist anymore. I guess they have a new program called Linkages for the parents but it doesn't seem to be that good. Unfortunately, it's just a society-wide problem right now. Housing is not good for poor people.

Multiple social work staff also mentioned transportation challenges. Access to services was identified as especially problematic for parents living in more remote areas of the County, and for parents who had no means of private transportation.

We also used to have this program [that] used to provide transportation for parents... Right now, we only provide bus passes. That's something we offer, but it's not realistic for families and I think it's a barrier for reunification in general, because we are servicing low income populations. So we used to be able to set up an Uber ride for a parent to get to their visit or to get to their psych eval[uation], or to get to their substance abuse treatment. But we don't have that contract anymore so we are at a total loss with regards to services being offered that are even appropriate for families.

**Figure 17: Quality of Services for Parents Seeking Reunification**  
**Q4 How is the quality of the following services for parents seeking reunification?**



## Services for Children and Youth

Focus group and survey respondents identified mental health services for young people as being inadequate. Staff described the dilemma they and their children face when therapists leave their jobs, making youth reluctant to form a new connection with a new therapist. According to social workers, youth become fatigued with telling their story and adjusting to new counselors. Some youth perceive no benefit to continuing counseling services and many who appear to need these services refuse to re-engage with a new therapist when there is service discontinuity. Social workers also indicated concerns about the limited availability of therapists who are experts in substance abuse, and others raised concerns about waitlists for therapy services. Some of these views are captured in the following comments:

And this seems to be a pattern of them continuing to start over with new therapists, which means that they have to go back and rehash traumas and why they're there, and I mean this is over and over and over again. And that therapy is supposed to assist them in developing coping skills and being able to deal with their traumas and move on. Rehashing them every time they meet a new therapist is a problem.

I think in terms of the service providers for mental health like for therapy for children and parents, I think it's a little limited, it could be broader. And I'm really missing for our clients who have sexual abuse where I remember when we used to have Daughters and Parents United, those were for sexual abuse victims and their parents. That program went. And we still have a lot of sexual abuse cases where the parents need to be in

some type of specialized service for that as well as the child and then even the junior sexual offenders.

## Recommendations

1. **Review data on service availability by region within the County and assess opportunities for service expansion.** Riverside is a large county with a dispersed population. Families living outside of the metro areas may not have access to services that will support reunification efforts. CSD should review County contracts with service provider agencies to determine whether they are sufficient in scope and County coverage. Services typically missing from geographic areas may need expansion.
2. **Identify opportunities for expanded access to transportation for parents living in remote areas of the county.** Parents cannot participate in court-ordered reunification services, including visitation with their children, if they have no means to access mandated services. Access to rideshare or other transportation resources should be pursued.
3. **Build on the already established peer mentor model to make these services more widely available to parents.** Research suggests that finding and supporting peer mentors in child welfare is challenging, but that the effort offers a range of positive effects. Supervision for these staff may be a key to their success. Promising strategies developed in Contra Costa County may be a model for consideration.<sup>136</sup>

## Court-Related Services

### Context

In cases where mandated services are recommended, or a child requires separation from a parent, courts are likely to be involved. The court system was not the focus of this inquiry and thus we did not meet with or interview many actors that participate in court services. Instead, we provide a very brief overview of some court processes, and focus on a few issues relevant to CSD's interactions with the courts.

Parents and children involved in juvenile dependency court proceedings are provided legal counsel. If indigent, attorneys will be assigned;<sup>137</sup> under some circumstances, parents may be financially responsible for legal representation.<sup>137</sup> A number of court hearings may take place to

<sup>136</sup> Laura Frame, Jill D. Berrick, and Judi Knittel, "Parent mentors in child welfare: A paradigm shift from traditional services," *The Source* 20, no. 1 (January 2010): 2–6.

<sup>137</sup> See Cal. Welf. & Inst. Code § 317; see also *In re J.P.* (2017) 15 Cal.App.5th 789, 796.

determine the evidentiary basis for detaining a child (the detention hearing); the veracity of the allegations and whether the court will retain authority over the child (the jurisdictional hearing); where the child will live while separated from the parent, and what the parent is required to do to provide evidence that her/his parenting is sufficiently safe (the dispositional hearing). Review hearings typically occur every six months thereafter until the child is reunified with their parent, or a permanency plan is established that (ideally) identifies an alternative lifetime caregiver for the child.

A CSD social worker is required to file court reports to keep all parties informed about the well-being of the child and the parents' progress in meeting the goals laid out in the case plan. These reports must be filed in advance of the court hearing so that the judge, the attorneys, and the parents all have an opportunity to review the report's contents and come to court prepared with additional confirming or disconfirming information. Included in these reports are recommendations from social workers about the case, including those that may pertain to the parent or the child. Attorneys use the information in these reports to meet with their client in advance of the court hearing to determine if the recommendations are appropriate and/or if additional or different recommendations might be considered by the judge.

The hearing might include a number of actors including the judge, legal counsel for one or both parents, legal counsel for the child, County Counsel (representing the child welfare agency), the parent or parents, and the child if age 10 or above. In some cases or counties, the case-carrying social worker and a CASA may also be present.

Below we highlight two issues especially relevant to CSD and its interactions with the Juvenile Dependency Court.

### **Limited Social Worker Court Presence**

Prior to the pandemic, CSD social workers were more regularly present in court than they are now. Their presence has been limited since the pandemic began. Given the high social worker vacancy rate and the premium placed on social workers' time, some respondents felt it was a positive change that they are not spending time in court rather than being in the field. Some respondents from the County felt the post-pandemic shift is working well, with social workers being accessible by telephone if questions are raised in court that County Counsel cannot answer. One respondent said:

I don't see much benefit of social workers being in the courtroom... We speak more freely when the social workers aren't there. If there's a question, the County Counsel just calls them... We had one [social worker] that was [in court] all day. She was there because we may have removed the child. Her whole day was wasted. As much as you can try to work

from your computer while you're in court, you can't call your clients and you can't do real social work. I'd rather them be in the field than in court.

Another viewpoint was that social worker absence from the courtroom is detrimental to children and families for the following reasons:

- County social work staff—who may cause court continuances due to tardy court reports—may not fully understand the adverse impact delays have on clients when they are not present in court.
- Particularly during jurisdiction/disposition hearings, family members may appear in court who are otherwise difficult to reach. This can be a missed opportunity for social workers to identify potential foster caregivers and obtain key information about cases.

One respondent said:

You don't get the details, you don't get the contact. They do the phone thing and that doesn't help. It would be better if [the social workers] were [in court]. I wish they would come back because more cases get resolved. We want the social workers to come back. Sometimes children sit in care over issues that are really non-issues. It's tragic.

One respondent suggested that at a minimum, social workers should be present in court for "hot" cases—those that are hotly contested or in the media spotlight.

From a research perspective, the evidence on social workers in the courtroom suggests that the experience can be stressful and may contribute to worker burnout and attrition.<sup>138</sup> These impacts are especially acute for child welfare professionals of color.<sup>139</sup> Depending on the tone and tenor of the courtroom—typically set by the judge—juvenile courtrooms can be settings that tend toward a therapeutic jurisprudence stance<sup>140</sup> where various actors engage in quasi-therapeutic interactions that focus on supporting and enhancing client well-being. Or they can be settings that tend toward shame and punitive interactions.<sup>141</sup> In general, social worker participation in court processes appears to be effective only when these processes are participatory and respectful. These interactions not only contribute to the information exchange

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<sup>138</sup> Frank E. Vandevort, Robbin Pott Gonzalez, and Kathleen Coulborn Faller, "Legal ethics and high child welfare worker turnover: An unexplored connection," *Children and Youth Services Review* 30, no.5 (May 2008): 546–563.

<sup>139</sup> Kathleen Coulborn Faller, Marguerite Grabarek, and Frank E. Vandevort, "Child welfare workers go to court: The impact of race, gender, and education on the comfort with legal issues," *Children and Youth Services Review* 31, no. 9 (September 2009): 972–977.

<sup>140</sup> David B. Wexler, "Therapeutic jurisprudence and changing concepts of legal scholarship," *Behavioral Sciences and the Law* 11, no.1 (1993): 17–29.

<sup>141</sup> Vicki Lens, Colleen Cary Katz, and Kimberly Spencer Suarez, "Case workers in family court: A therapeutic jurisprudence analysis," *Children and Youth Services Review* 68, (September 2016): 107–114.

Judges need to make informed decisions, but they have lasting impacts on social worker/parent relationships built on mutual respect and shared goals.

## Court Reports

Respondents raised concerns that too often, court reports are inaccurate or missing.

Inaccuracies include:

- Stating that personal documentation such as birth certificates or California Identification had been collected when in fact it had not
- Stating that connection to services and materials had been completed by the County social worker when they were actually completed by others
- Cutting and pasting earlier court reports without fully updating them
- Cutting and pasting court reports from other clients and not fully modifying them for the relevant case

It appears that, at times, social workers begin work on their court reports so close to their due date that they run out of time to corroborate the updates they receive from parents. According to one respondent:

The court reports read like this: "Mom says she's been in counseling and attends every week. I attempted to reach the counselor to confirm but could not receive a response." They aren't very helpful because they are just hearsay. They are reaching out to service providers to confirm attendance of services but they don't hear back in time to confirm it on the court report.

Information gathering processes were described as highly inefficient. Parents are asked to show evidence of course or treatment completion to their social worker, but parents who completed classes may be unable to locate their certificates of completion. Social workers then must try to verify service delivery with the provider. Contract providers do not typically have an obligation to report on the status of child welfare clients.

Most seriously, several respondents reported that too often, court reports were missing altogether. The most common explanation for missing court reports were social workers vacating their positions before court hearings and new social workers either not yet being in place or not having enough time to complete the court reports. Problems relating to missing court reports appear to be quite serious, with attorneys and judicial officers expressing significant concerns. One respondent indicated that on a typical day, 12-15 cases are heard in court and 1-2 court reports will be discovered as missing.



When court reports are not filed in a timely fashion, court processes are usually delayed. Typically, judicial officers will order a continuance for 30 days to allow for the report's submission. Continuances, however, are highly problematic in child welfare. Frequently, missing court reports are not realized until the court date. Parents—who typically take time off from work, who often travel long distances, and who use public transportation—are often not notified in time, and their day is wasted. More importantly, various studies have shown a clear relationship between court continuances and delays in children's reunification with their parents.<sup>142</sup> Other effects may include delays in moving children to placements that are a better fit, and delays in service provision.

Some respondents said that as many as six out of twelve court reports may be missing on any given court day—a missing court report rate of 50 percent. A few seasoned respondents said the rate of missing court reports was currently higher than it had been in decades and is “the worst it has ever been.” However, one respondent said that during the most recent month, the social workers were improving on court report completion rates, but that as a result, casework was adversely impacted. This respondent said: “Now they are doing better on court reports but then other things are suffering instead.”

## Recommendations

1. **Include a requirement in CSD contracts that service providers share completion reports and activity logs with the County and all appointed counsel,** including any service requiring social worker verification to aid in their completion of court reports. Weekly service logs should include:

- a. Parental completion of classes
- b. FFA parent/child visit logs and assessments of supervised visits

Increased automation of this information would save social workers time verifying service completion. It would also enable them to provide more informative and complete court reports.

2. **Track and publicize court report completion rates.** This should be done by the courts. Social workers with 100 percent completion rates over a 6- or 12-month period should receive recognition from the court and CSD for their efforts.
3. **Resume in-person court activities for social workers on a selective basis.** During supervision, choose at least one case per month for social workers to attend in

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<sup>142</sup> Amy D'Andrade, *A Quantitative Evaluation of Concurrent Planning in California Public Child Welfare* Dissertation, University of California, Berkeley, School of Social Welfare, 2004; Howard A. Kaifus, “When can I go home? The impact of continuances on rates and timing of reunification in Vermont’s child abuse and neglect dockets,” *Vermont Law Review* 45, no. 1 (2020): 1–41.

court. Prioritize challenging or controversial cases for in-person court days. Prior to the pandemic, it was the norm that social workers attended Court in person. In this environment, social workers were often able to bring together key players and make important decisions outside the courtroom. This opportunity is lost with the new normal of social worker absence from court. In addition, judges and attorneys sometimes do not fully understand the facts of the case without the social worker present to clarify important details. Requiring occasional attendance in court could also help social workers complete high-quality court reports on time.

4. **Expand partnership with the CASA program.** CASA volunteers have played an important role in Riverside County cases during this time of critically high social worker turnover and vacancy rates. Attorneys and judges depend on CASA reports when social workers are unable to submit court reports. Currently about 10 percent of children have CASAs in Riverside County. Efforts to grow the CASA program could increase the number of children assigned a CASA volunteer. Along with efforts to increase community-wide visibility of foster care issues and needs, CSD should work with the media, with their internal communications staff, and with community partners to showcase opportunities for community volunteerism in the CASA program.
5. **Create courtroom and attorney-level access to the new Comprehensive Child Welfare Information System (CCWIS).** Riverside County should incorporate this function during the development of CARES. This would involve creating a user category with the ability to view the following suggested elements of the system:
  - a. Child placement
  - b. Service plans
  - c. Notice
  - d. Paternity

This would enable attorneys to learn key information about their clients more efficiently if they are unable to obtain the information in a timely way from the County.

A next step should be to implement two-way (bi-directional) data exchange between the agency and the court. The [Children's Bureau](#) provides sound guidance on bi-directional data exchange and outlines the elements of a data sharing agreement. Data categories to consider for court to agency data flow include:<sup>143</sup>

- a. Hearing schedule and dates for information submission
- b. Tracking (e.g., filings, notices, and orders)

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<sup>143</sup> Children's Bureau, *Data Sharing for Courts and Child Welfare Agencies* (US Department of Health and Human Services, Administration for Children and Families, 2018).

- c. Reports aggregating court performance data (e.g., time from removal to placement)

Bi-directional data exchange is now a regulatory requirement of the CCWIS. To the extent practicable, agencies are to share data with courts via CCWIS. Data sharing between state child welfare agencies and courts can provide timely, accurate information to support court decisions.<sup>144</sup>

## Opportunities for Prevention

Although our assessment of Riverside CSD was limited to the policies, procedures, and practices pertaining to out-of-home care, our understanding of the unique circumstances of the Turpin case combined with our broad review of Riverside County's services to vulnerable children and families reveals at least three areas that merit further consideration from County leaders:

1. Early childhood intervention
2. Homeschooling and invisible children
3. Anti-poverty pilot programs such as Guaranteed Income (GI) pilots

In this section, we refer to information currently in the public domain relating to the Turpin family. None of the information we refer to here was derived from any court-related documents that we received as part of our investigation.

### Primary Prevention For Infants Who Are Not Visible To The Public

According to publicly available media reports, Louise Turpin gave birth to her oldest child in Dallas, Texas. Eleven of the couple's thirteen children were born in Texas hospitals before the family moved to California in 2010. Thereafter, Ms. Turpin gave birth to two children, both in Riverside County. From the available records, it appears that the Turpin parents left the hospital following each birth without the advantage of health services or check-ups for their children. According to the available records, none of the children participated in an early childhood education program, and none of the children attended a California public school. In short, the family lived in almost complete privacy, without the benefit of any services or supports, but also outside the view of professionals—all of whom are mandated reporters of child maltreatment—who might have recognized the plight of the children. Following 17 years of captivity, one of the Turpin children ventured out of the home in January 2018 to get help. Had she not done so, it is entirely possible that the children's abuse would have been sustained for an indeterminate period of time; the family was preparing for a move to Oklahoma in February 2018.

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<sup>144</sup> Children's Bureau, *Data Sharing for Courts and Child Welfare Agencies*.

Although the vast majority of parents in our communities provide love and support to their children, parents who are intent on maintaining the absolute privacy of their families for nefarious reasons can do so relatively easily. Unlike most Western European countries, the United States does not provide universal prenatal care, universal health care, universal day care, or targeted home visiting services.<sup>145</sup>

Some California counties have made efforts to bring services to vulnerable families directly following the birth of a child. These universal home visiting programs are typically sponsored by the local First 5 organization, and they offer a hospital-based visit with a public health nurse followed by a home visit. Under typical circumstances, home visiting public health nurses can support new parents with lactation, baby care, information about infant and child development, child safety, and a host of issues new parents may face. At the same time, they can check on the baby's health and well-being. These short-term services can offer important support to parents who may need reassurance or information about their newborn; the services can also bring to light the needs of isolated families. Families with elevated needs can receive time-limited ongoing services. Evidence from one widely used home visiting model suggests that it may have important effects on reducing the likelihood of child maltreatment.<sup>146</sup>

First 5 Riverside County funds several home visiting programs. Depending on the funded program and its jurisdiction, different eligibility criteria apply. Some programs target low-income first-time parents; others target families at risk of child welfare involvement, or families who have recently been referred to child welfare services. These are important resources currently available to some of Riverside County's families. But these targeted programs were not available universally, and therefore would have missed the Turpin children.

Had universal home visiting services been available at the time that the two youngest Turpin children were born, the conditions of the home and the circumstances of the older Turpin children would likely have been discovered. Importantly, home visiting services are typically voluntary. Parents such as the Turpins, who are intent on isolating themselves from professionals, would likely decline in-home services. However, an assessment of Ms. Turpin in the hospital prior to discharge might have raised concerns sufficient for a child maltreatment referral.

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<sup>145</sup> Sheila B. Kamerman et al., "Social policies, family types and child outcomes in selected OECD countries," *OECD Social, Employment and Migration Working Papers*, No. 6, (May 2003).

<sup>146</sup> David L. Olds et al., "Long-term effects of home visitation on maternal life course and child abuse and neglect: Fifteen-year follow-up of a randomized trial," *JAMA* 278, no. 8 (August 1997): 637-643.

## Opportunity

1. **Consider developing a universal, hospital-based family assessment for all hospital-based deliveries.** Following the hospital-based assessment, medical, psychological, and social services personnel should make targeted home visits.

## Homeschooling and Invisible Children

Various media outlets indicate that the Turpin children were never observed by educators in California. None of the Turpin children attended a California public school; instead, David Turpin completed a Private School Affidavit indicating that his children's education was provided by Sandcastle Day School, a fictional homeschool of his creation. In fact, according to various media outlets, the Turpin children did not receive educational services in their home and as a result were substantially behind academically. Homeschooling raises special concerns for children like the Turpins who are intentionally isolated by their parents.<sup>147</sup>

Prior to the COVID-19 pandemic, rates of homeschooling were rising across the country.<sup>148</sup> As recently as 2019, approximately 200,000 California children were enrolled in a homeschool.<sup>149</sup> Some evidence indicates that a large percentage of parents choosing to homeschool their children do so for religious or moral reasons,<sup>150</sup> a view purportedly held by the Turpin parents.

Homeschooling is relatively unregulated. Texas (where 11 of the 13 Turpin children were born and raised until 2010) is one of 11 states with no notification requirement. That is, if a parent chooses to homeschool their child, public authorities need not be informed. California is one of 15 states with "low regulation" of homeschooling.<sup>151</sup> Parents who wish to homeschool are required to complete a Private School Affidavit and submit it to the California Department of Education. Thereafter, parents are required to provide annual notice of their child's enrollment

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<sup>147</sup> The following discussion of homeschooling is informed by: Luck, A. (2020), *The homeschooling and child maltreatment connection: An examination of the evidence*. Advanced policy analysis. Goldman School of Public Policy, U.C. Berkeley.

<sup>148</sup> During the pandemic, schools closed and all California children were educated at home. These school-at-home arrangements, while far from ideal, were nonetheless regulated by the public school system.

<sup>149</sup> In California, children who are homeschooled can not be distinguished from students attending private school and they are thus difficult to separate out for analysis. Estimates can be derived here: A2z Homeschooling. "Number of Homeschoolers in US 2018-2019," December 2018.

[https://a2zhomeschooling.com/thoughts\\_opinions\\_home\\_school/numbers\\_homeschooled\\_students/](https://a2zhomeschooling.com/thoughts_opinions_home_school/numbers_homeschooled_students/). Similar estimates are derived by Luck, A. (2020), *The homeschooling and child maltreatment connection: An examination of the evidence*. Advanced policy analysis. Goldman School of Public Policy, U.C. Berkeley.

<sup>150</sup> Meghan McQuiggan, Mahi Megra, and Sarah Grady, *Parent and family involvement in education: Results from the National Household Education Surveys program of 2016: First look*, (National Center for Education Statistics, 2019).

<sup>151</sup> Home School Legal Defense Association, "Homeschool Laws by State," Accessed June 9, 2022.

In a homeschool, though there is no accountability or enforcement of this regulation. Beyond notification, there are no requirements for testing, tracking, or accountability for school or child educational outcomes.

Over the past decade, critics have raised concerns that lax policies on homeschooling oversight allow parents to intentionally isolate and mistreat their children.<sup>152</sup> Homeschooling, as a deinstitutionalized system, shields children from the monitoring systems otherwise in place in school settings, where mandated reporters are more likely to observe signs of maltreatment. Indeed, it is possible that some parents—like Louise and David Turpin—who have reason to hide abusive or neglectful behaviors might be drawn to the homeschooling option, away from mandated reports and intrusion they might experience by participating in the public school system.

Proponents of homeschooling have resisted efforts to improve data collection or to address issues of accountability through legislation. In early 2018, following the media attention relating to the Turpin children, Assembly Member Susan Eggman (Stockton) introduced Assembly Bill (AB) 2926 to establish an advisory committee to consider the appropriateness and feasibility of imposing additional requirements on California home schools. The bill was opposed by the homeschool advocacy community and was withdrawn by the bill's author. Similarly, Assemblymember Jose Medina (Riverside) introduced AB 2756, a bill to require an annual home inspection by the fire marshal for home schools, and a requirement to separate homeschool data from private school data in California Department of Education data systems. Due to objections from the homeschool advocacy community, the bill was almost immediately amended to delete the requirement pertaining to the fire marshal. After a single hearing, and in response to intense pressure, the bill was withdrawn by the author.

## Opportunity

**Advocate for statewide home school accountability standards.** CSD should partner with local Riverside legislators, the media, and statewide children's organizations to re-introduce legislation to impose standards of accountability on all California home schools. Children's education is a fundamental right and should not be denied by misguided or troubled parents.

## GI for Former Foster Youth

Ample research suggests that the transition to adulthood for former foster youth is especially difficult. Former foster youth are less likely than other youth to go to college,<sup>153</sup> their wages

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<sup>152</sup> Bartholet, Elizabeth. "Homeschooling: Parent Rights Absolutism vs. Child Rights to Education & Protection." *Arizona Law Review*, 2020

<sup>153</sup> Okpych, N.J. (2021). *Climbing a broken ladder: Contributors of college success for youth in foster care*. Rutgers University Press.

from employment are lower,<sup>154</sup> and they are much more likely to experience housing instability.<sup>155</sup> Media coverage of the Turpin children indicates that they have also struggled on the path to independence. Although California policy allows youth the opportunity to voluntarily remain in foster care after age 18, that support disappears when youth turn 21. In 2018, federal law expanded access to health care through Medicaid/Medi-Cal for former foster youth up to age 26. Under a recent decision by the California Public Utilities Commission, starting in 2023, former foster youth will have free access to a cell phone and wireless services up to age 26.

These efforts not only address the needs and vulnerabilities of former foster youth, but they also respond to a growing recognition that non-foster young adults often return home or rely on parents for financial and material support well into young adulthood. According to a Pew Research Center study, only about one-quarter of US young adults are fully financially independent from their parents by age 22.<sup>156</sup>

There is growing recognition that additional financial support can help former foster youth make a positive transition to adulthood. In 2020, Santa Clara County became the site of the nation's first guaranteed basic income program for former foster youth, providing them \$1,000 per month for 12 months. Since that pilot, San Francisco, South San Francisco, and other cities across the country have initiated similar pilot projects. Building on these models in 2021, the California legislature and Governor included \$35 million in the budget to pilot a first-in-the-nation statewide GI program for former foster youth.<sup>157</sup> The Request for Applicants is scheduled to be released in June 2022, and interested counties may apply.

## Recommendation

**Participate in the statewide GI pilot program.** Riverside County should take advantage of this important opportunity to obtain state funding to support former foster youth and apply to participate.

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<sup>154</sup> Courtney, M.E., & Dworsky, A. (2006). Early outcomes for young adults transitioning from out-of-home care in the U.S.A. *Child and Family Social Work*, 11(3), 209–219.

<sup>155</sup> Berzin, S.C. (2008). Difficulties in the transition to adulthood: Using propensity scoring to understand what makes foster youth vulnerable. *Social Service Review*, 82(2), 171–196.

<sup>156</sup> Barroso, A., Parker, K., & Fry, R. (2019). Majority of Americans say parents are doing too much for their young adult children. <https://www.pewresearch.org/social-trends/2019/10/23/majority-of-americans-say-parents-are-doing-too-much-for-their-young-adult-children/>.

<sup>157</sup> For more information see: <https://www.cdss.ca.gov/inforesources/guaranteed-basic-income-projects>.

## Chapter 3: Office of Public Guardian

### Agency Context

A noted bioethicist has written that “the single greatest category of problems we encounter are those that address the care of decisionally incapable [individuals] . . . who have no living relative or friend who can be involved in the decision-making process. These are the most vulnerable . . . because no one cares deeply if they live or die. . . . We owe these [individuals] the highest level of ethical and medical scrutiny.”<sup>158</sup> Such vulnerable adults may become clients of public guardianship programs.

If a court determines that an adult cannot care for him or herself or manage finances, the court may appoint a conservator<sup>159</sup> to do so. A conservator is often a family member or friend but may be a professional or a private agency. Sometimes a conservator is needed but there is no one willing and appropriate to serve, and often little or no funding to pay for someone to serve. Thus, states and localities have created public guardianship programs as a last resort.

Public guardianship programs are an important part of the public safety net for adults who are at-risk—who have decisional impairments, who may be subject to abuse, neglect, or exploitation; and who frequently are poor and isolated. These programs face steep challenges. They must constantly be ready to provide humane and client-centered care, face emergencies, protect rights, make tough medical decisions, find appropriate placements, manage property and accounts according to fiduciary standards, and report to court.

Under California law, counties may create public guardianship programs,<sup>160</sup> and all 58 counties operate such programs.<sup>161</sup> In a 1964 ordinance (as amended in 1984), the Riverside County Board of Supervisors established OPG, making the Mental Health Director of the County *ex officio* the Public Guardian.<sup>162</sup> OPG operates through RUHS/BH. OPG has 22 paid professional staff, including about 14 deputy public guardians who directly manage individual client cases.

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<sup>158</sup> Nancy Dubler, as quoted in Karp, Naomi and Erica Wood, *Incapacitated and Alone: Health Care Decision-making for the Unbefriended Elderly* (American Bar Association, 2003).

<sup>159</sup> State terminology differs. In California the term conservator refers to a court-appointed surrogate to manage an adult's personal affairs, property, or both. The term “guardian” refers to a court-appointed surrogate for a minor.

<sup>160</sup> Cal. Gov't. Code §§ 27430 – 27436.

<sup>161</sup> Farrah McDaid Ting, Justin Garrett, and Roshena Duree, “Counties Ask for Public Guardian Funding,” California State Association of Counties, April 4, 2019.

<sup>162</sup> Riverside Ordinance No. 497 (as amended through 497.1), An Ordinance of the County of Riverside Amending Ordinance No. 497 Providing for a Public Guardian.



## Methods

Methods for examining OPG were undergirded by the purpose of the present investigation and the first and second national public guardianship studies.<sup>163, 164</sup>

The two national studies offered five criteria upon which to base the effectiveness of public guardianship programs.

- Adequate staffing and funding;
- Safeguards for due process;
- Specified staff-to-client ratios;
- Office should not be dependent upon collection of fees for service; and
- Office should coordinate services, work as an advocate for the client, and educate professionals and the public regarding guardianship.

## OPG Cases

OPG serves as conservator in two types of cases—probate conservatorship and Lanterman-Petris-Short (LPS) conservatorship.<sup>165</sup> Referrals for general probate conservatorships may come from APS, from another agency or institution, or from a physician. Probate conservatorship clients may be older adults with dementia or a person of any age who needs protective intervention in caring for themselves. Under the Lanterman-Petris-Short Act, LPS conservatorships serve individuals found “gravely disabled” as a result of a mental disorder and who are unable to provide for basic needs. These clients may require placement in a state mental institution or other facility for psychiatric treatment. LPS conservatorships are for one year only and thereafter subject to re-evaluation. Both LPS and probate conservatorship may be for the person only, for the estate only, or, more commonly, for both personal and financial affairs.

When OPG receives a referral for conservatorship services, its team of Conservatorship Investigators investigates the need for intervention in each specific case. If the need is confirmed and there is no one else willing or appropriate to serve, OPG, through County Counsel, petitions the Superior Court to be appointed as conservator. The Court sends a probate court investigator to assess the case and report back. The Court holds a hearing with

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<sup>163</sup> Windsor C. Schmidt et al., *Public Guardianship and the Elderly*. (Cambridge: Ballinger Publishing Company, 1981).

<sup>164</sup> Pamela B. Teaster et al., *Public guardianship: In the best interests of incapacitated people?* (ABC-CLIO, 2010).

<sup>165</sup> A subcategory of probate conservatorship known as “limited conservatorships” also exists for developmentally disabled individuals referred through the Inland Regional Center.

procedural requirements set forth under state law and appoints OPG as conservator. OPG must submit a report and accounting to the Court on each conservatorship annually.

## OPG Clients

OPG serves a broad range of clients. The exact number varies daily, but is between 1,200 and 1,300.<sup>166</sup> As of January 3, 2022, OPG reported a total of 661 LPS clients and 516 probate clients (with 40 limited conservatorship cases of developmentally disabled adults). The age breakdown of clients for Fiscal Year (FY) 2021–2022 was as follows:

- Under age 18            27
- Age 18–64            793
- Age 65+            515

The complexity of the cases is daunting. LPS clients with severe mental illness often cycle in and out of crises and medication regimes. Probate clients are frequently subject to abuse, neglect, and exploitation and have high demands for housing and health care. One estimate was that some 70 percent of probate referrals to OPG are due to neglect, including self-neglect. OPG leadership reported that the incidence of financial exploitation is growing, which further impacts the degree of difficulty in the cases. One interviewee offered typical profiles of LPS and probate clients:

- **LPS clients.** "Somebody is having an episode where they are out on the street or they are overly self-medicating or they're threatening family members or others. Law enforcement takes them to a facility [for temporary holds required by law]. They may be released again, and we start the cycle over again. Then they might come under a general LPS conservatorship for a year. And during that time, OPG is charged with placement and works with a doctor on medication. But there are not enough beds to go around and not enough help."
- **Probate clients.** "It's often self-neglect combined with somebody committing financial elder abuse. The elder will have a neighbor or friend or family member who is offering help, and suddenly they are on the accounts and money is being taken out. Banks are concerned. And the elder is living in poor conditions. They may not be getting adequate medical treatment, and a family member or friend or caregiver is stealing from them."

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<sup>166</sup> In the survey completed by OPG leadership, the total number of clients varies, depending on the calculation and the data available. The total of LPS and conservatorship clients was 1177 on January 3, 2022. The total number of clients by age category for FY 2021 was 1335. The total number by placement categories for FY 2021 was 1385. The total number by type of conservatorship (conservatorship of the person, conservatorship of the property, or both) was 1409.

## Statutory Framework

While public guardianship programs throughout the country are often administratively housed in state agencies, California lodges the function at the county level but regulates it by state law. OPG operates under the parameters of multiple state conservatorship provisions:

- The California Welfare and Institutions Code includes provisions on conservatorship for "gravely disabled" adults under the Lanterman-Petris-Short Act.<sup>167</sup>
- The California Probate Code sets out basic definitions and procedures for establishment of a guardianship for minors and a conservatorship (of the person, estate, or both) for adults, as well as powers and duties of a guardian or conservator.<sup>168</sup>
- The California Probate Code provides for "limited conservatorships" for people with developmental disabilities that allow the individuals to maintain as much autonomy as possible by limiting the powers of the conservator.<sup>169</sup> The petition for limited conservatorship must be supported by a report from the regional center through the Department of Developmental Services.
- The California Penal Code provides for "Murphy Conservatorships" for adults who are not competent to stand trial and who have outstanding felony charges related to the adult having caused great physical injury or death of another person, and who are gravely disabled with a mental health disorder.<sup>170</sup>
- The California Probate Code includes specific provisions on public guardianship, including taking control of property, investigation, appointment of the public guardian, and administration of the program.<sup>171</sup>
- The California Business and Professions Code establishes a licensure program for professional fiduciaries but exempts public guardianship agencies, which are not required to be licensed<sup>172</sup> but must comply with continuing education requirements to be certified.<sup>173</sup>

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<sup>167</sup> Cal. Welf. & Inst. Code § 5350; see also Cal. Welf. & Inst. Code § 5351 on authority of public guardian to provide investigation and to serve as conservator; §5351 & 5354.5 on investigation of less restrictive alternatives and on public guardian as last resort.

<sup>168</sup> Cal. Prob. Code § 1400 – 2893. See Cal. Prob. Code § 1800.3 on appointment of a conservator of the person and conservator of the estate; and Cal. Prob. Code §§ 1820 – 1835 on establishment of conservatorship; and Cal. Prob. Code § 2620 on conservator reporting requirements.

<sup>169</sup> Cal. Prob. Code § 1801(d).

<sup>170</sup> Cal. Penal Code § 1370.

<sup>171</sup> Cal. Prob. Code § 2900 – 2944.

<sup>172</sup> Cal. Bus. & Prof. Code § 6501.

<sup>173</sup> Cal. Prob. Code § 2923.

## Effects of the COVID-19 Pandemic

In California and elsewhere, a disease barely known prior to February 2020 wreaked havoc on governments, economies, lives, and livelihoods, with the most deleterious effects on older and vulnerable adults and their families. OPG provided fiduciary services throughout the pandemic, but COVID-19 affected every facet of its practice and created steep challenges concerning:

- Staff responsibilities as frontline workers
- Workplace practices
- Closed courtrooms and/or remote hearings
- Facility lock-downs and resulting isolation of clients
- Remote meetings with facility residents
- Client illnesses and deaths
- Urgency of ASD cases
- Issues of vaccine consent
- In-home services for community-based clients
- Technological needs
- Interagency meetings

COVID-19 offers an opportunity to rethink existing patterns to best meet client needs and protect their rights and to enhance support for frontline conservatorship workers.

## Overarching Recommendations

Below are our overarching recommendations for OPG. These are derived from the data we collected (see Methods Section below). We insert them here to frame the chapter that follows.

1. **Provide funding to OPG to increase the number of deputy public guardians.** The maximum caseload per deputy public guardian should never exceed 60 clients. OPG can explore mechanisms to ensure that caseloads are further reduced in phases and kept at a manageable level. This action can enable greater frequency and consistency of deputy-client interactions, attention to community-based placements, reduced staff turnover and greater job satisfaction, and more staff interaction with other agencies.
2. **Increase funds for administrative and technological support for deputies to help with workload management and provide other efficiencies.**
3. **Play a proactive role in the County's new initiative on service integration for the health and human services system.** Institute a specific policy on data sharing that meets fiduciary requirements. To further service integration, OPG should leverage the California Public Administrators, Public Guardians, and Public Conservators Association (CA PA/PG/PC) to seek prioritization agreements with the Housing Authority,

DPSS, and other relevant public and nonprofit agencies to fast-track services to its clients.

**4. Implement means of external review and outreach.**

- a. Develop a specific, accessible public complaint and resolution process
- b. Develop an external, independent performance audit and write a publicly available annual report
- c. Develop a content-enhanced accessible website with contact information.
- d. Provide a quality improvement strategy
- e. Establish an advisory board

**5. Implement channels to strengthen client voice in decision-making.** OPG should develop, implement, and train on a practice model concerning client rights, client participation in decision-making, client-centered care approaches, client communications, and support to enhance self-determination. OPG should also develop and implement a plain-language client satisfaction survey.

**6. Expand opportunities to place clients in secure, high-quality residential settings, prioritizing community-based options.** This includes developing, implementing and training on policies and procedures to prioritize home and community-based settings, developing agreements and liaisons with housing agencies, ensuring OPG has sufficient long-term care staff to locate and maintain contacts with available placements, and developing an ongoing relationship with the long-term care ombudsman program to assist in resolving issues of resident care and rights.

## Staffing and Support of Staff

### Context

The Riverside OPG serves some of the most vulnerable residents of the County, managing their affairs and essentially stepping into their shoes to make vital decisions about their lives. At its heart is the staff who bears this formidable responsibility. To carry out their functions, staff need maximum support.

In California, professional fiduciaries are licensed. Public guardianship program staff are exempt from licensing<sup>174</sup> but must be certified. The designated certifying body is the CA PA/PG/PC. The California Probate Code provides that public guardianship staff must comply with the Association's continuing education requirements.<sup>175</sup>

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<sup>174</sup> Cal. Bus. & Prof. Code § 6501(r)(4)(C).

<sup>175</sup> Cal. Prob. Code § 2923.

## Policies and Procedures

In August 2021, OPG updated its *Office of Public Guardian Policy Manual*, acting upon a recommendation from the 2013–2014 Grand Jury Report when its investigation revealed that policies and procedures had not been updated since 1988.<sup>176</sup> Information related to the functions of the office, largely focused on record keeping, are provided within this document. The Manual was crafted for the purpose of contributing to “the development of an orderly, proficient program in which each member functions in concert with other members for the betterment of the program and its clients.”<sup>177</sup>

- Policies 100–150.1 concern transactions, recordkeeping, and accounting for the estate of a protected person. Also included are accountings necessary for the court.
- Policies 201–220 concern case file format, computerized case entry formatting, and the probate referral process.
- Policies 300–391 concern probate conservatorship policies, referrals, probate investigations, medical consents, management of special conditions of conservatees, applications for benefits, insurance, services, burial trusts, filing fees, inventory and appraisal procedures, marshaling of assets, disposition of property, and closing of conservatorships due to death.
- Policies 400–435 involve preparation of accountings, handling of closed files, property inventory procedures, management of correspondence, and management of revenue.
- Policies 500–502 involve appraisal of valuable items, handling of special properties, and the sale of properties.

There are no specific sections on client-centered care, client communications, residential options, or decision-making standards.

## Organizational Structure

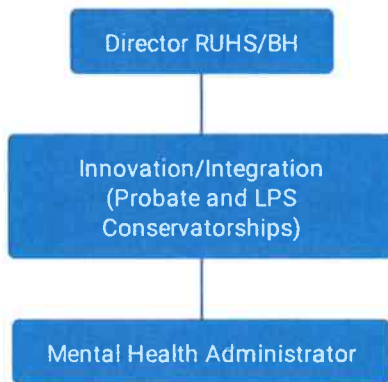
OPG is located within the RUHS/BH. The reporting structure of RUHS/BH is as follows: at the top of the organization is the Director of RUHS/BH. Reporting to that person is the Director of Innovation/Integration. Both probate and LPS mental health conservatorships fall under the oversight of Innovation/Integration. Below the Director and Innovation/Integration is the Mental Health Administrator, as shown in Figure 18 below.

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<sup>176</sup> Riverside County, “2013–2014 Grand Jury Report,” December 18, 2013.

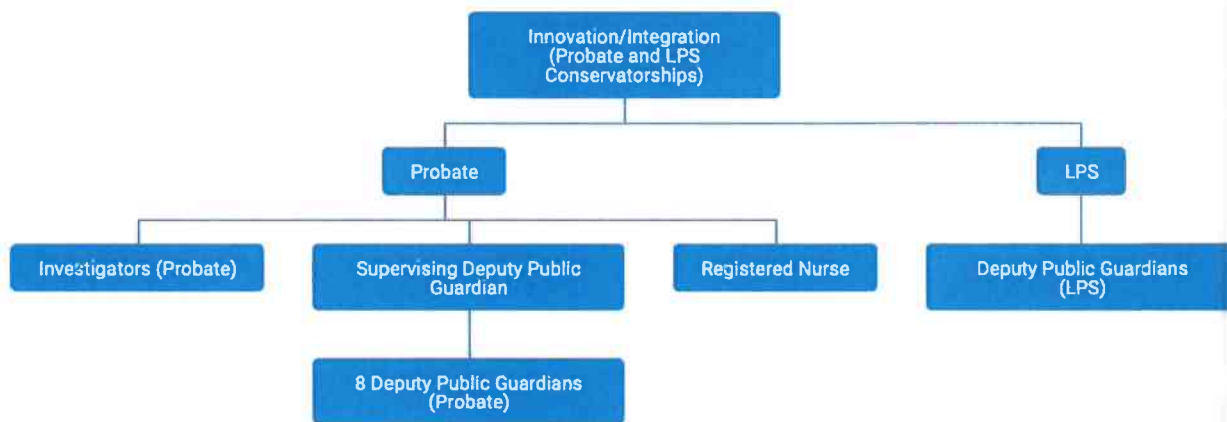
<sup>177</sup> Public Guardian Policy Binder, 2021.

**Figure 18: Organizational Structure of RUHS/BH and OPG**



Probate Conservatorships involve an investigatory component and LPS conservatorships do not. On the probate side, there are five investigators who assess referrals for entry into the public guardianship program, a Supervising Deputy Public Guardian (SDPG), eight Deputy Public Guardians, and a Registered Nurse.<sup>178</sup> There are also Deputy Public Guardian positions on the LPS side of the Office.

**Figure 19: Organizational Structure of OPG Probate and LPS**



### Job Descriptions and Staff Qualifications

On the probate side of OPG, at least two essential positions deal directly with conservatees: the deputy public guardian and the SDPG.

**Deputy Public Guardian:** Salary range: \$49,771–\$77,736.46 annually. Deputy public guardians are the staff who come into closest contact with conservatees, managing their cases and communicating directly with them. The position description is as follows:

<sup>178</sup> RUHS Public Guardian Organizational Chart, 2021, 7.

To investigate and administer the estates of disabled or legally incompetent persons; to provide conservatorship services as specified in the Probate Code; and to perform other work as required. Persons in this position manage the personal and financial affairs of persons placed under guardianship by the court and are responsible for protecting conservatees and their respective estates from exploitation or other forms of loss. Initial and ongoing training is to be provided by the SDPG.<sup>179</sup>

Preferred qualifications include knowledge of the public guardian/conservator's functions and related laws, regulations, and practices used in financial and estate investigations to determine assets, real property management, banking investments and other financial procedures. Deputies also should have a bachelor's degree with emphasis on business, finance, accounting or social services, or an associate degree with experience in human services or health case management.

**Supervising Deputy Public Guardian:** Salary range: \$54,452.11–\$80,559.23 annually. Tasks of the SDPG position are "to assign, supervise, and evaluate the work of staff engaged in the management of estates of disabled or legally incompetent persons; to personally perform the more difficult estate management work and to do other work as required."<sup>180</sup> This position reports to the Chief Deputy Public Guardian/Conservator in OPG's Office of the Mental Health Department. Responsibilities include training, supervision, and reviewing the work of staff providing conservatorship services. Specifically, the role supervises and trains deputies in the methods and techniques of conservatorship procedures, estate investigation, and management.

Positions not highlighted above but also critical to the probate division's functioning are probate investigators (five positions), a nurse (one position), and long-term care support staff (five full-time positions, two part-time positions).

## Staff Meetings

Interviewees told us that prior to 2020 the SDPG held regular, weekly staff meetings during which the group discussed cases. Staff meetings included cross-training, and at one time, the public guardian investigatory staff also attended. At that time, the SDPG supervised the investigators, warehouse technicians, the probate nurse, and the deputy public guardians, such that about 16 staff members attended each staff meeting. Cross-training was particularly helpful for newer staff members. According to the current SDPG, management holds a quarterly meeting for all staff and guests are periodically invited to speak. However, COVID-19 changed these practices: "Since the pandemic, we don't obviously have the meetings in person anymore,

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<sup>179</sup> Deputy Public Guardian Position Description.

<sup>180</sup> Supervising Deputy Public Guardian Position Description.



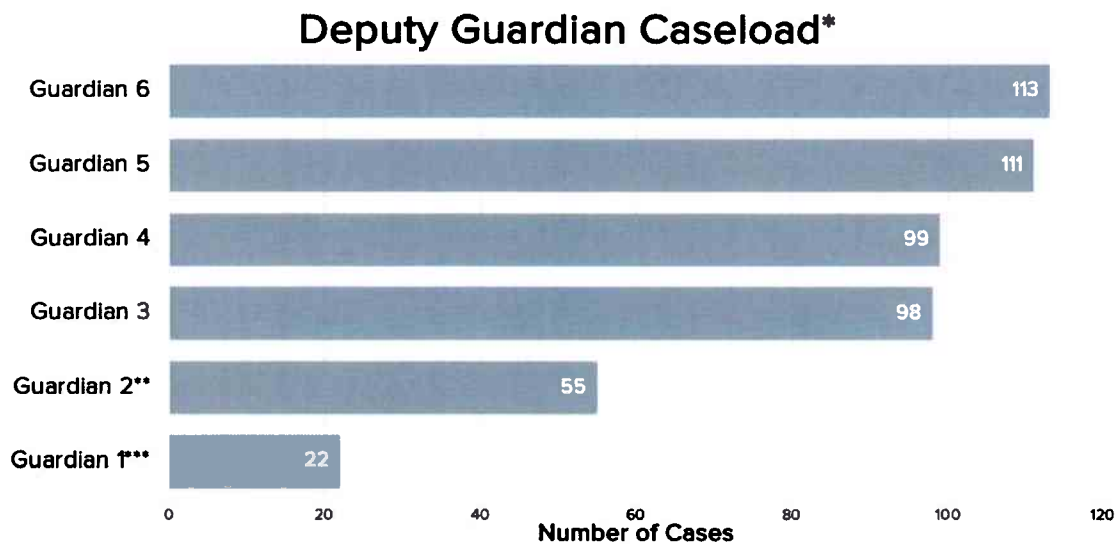
but our supervisor does have a complete open door policy. So we're constantly in her office saying, 'Hey, this is what's going on,' and she advises us accordingly."

## Caseloads

The 2013–2014 Grand Jury Report found that "caseloads varied from 59 to 196 per Public Guardian Deputy" and that "[s]worn testimony indicated that caseloads were unmanageable."<sup>181</sup> At that time, "...when caseloads exceed 60 patients the quality of service is compromised." Additional testimony revealed that when deputy public guardians complained about the loss of quality of services due to large caseloads, they were told by supervisors to "do as much as you can." High caseloads increase occasions for errors related to all facets of the deputy's work on behalf of clients, including reducing opportunities for observation and assessment during client visits.<sup>182</sup>

On February 28, 2021, we asked each deputy public guardian attending our focus group interview to provide us with their current caseload—which in many cases was close to or over 100. (Figure 20)

Figure 20: Caseloads of Deputy Public Guardians and the SDPG



\*Two deputy public guardian positions were vacant.

\*\*Caseload of supervisor who generally does not carry cases.

\*\*\*Caseload at one month of service, but assisting on four other cases.

<sup>181</sup> 2013–2014 Grand Jury Report," Riverside County, 3.

<sup>182</sup> OPG Probate deputies are required to visit each client every 90 days. The National Guardianship Association Standards of Practice recommend that clients be visited no less than monthly. See: National Guardianship Association, *Standards of Practice*, (2013).

When asked about their caseloads, staff emphasized, "All of those [cases] are not active. There are some that are pending close, but there's still stuff to do. So like, for example, a client passes away or terminates for some reason—there's still final accounting. There are still discharges, [and] receipts to file. So there's still things to do. I still very much consider them in my caseload, because I'm not done." These cases were regarded as taking up just as much time as the active cases. According to our in-depth survey response from OPG leadership, deputy public guardians spend an average of 30 hours per year working on a single client case, which would total substantially more time in a year than normal work hours.

The majority of the probate cases concern older adults. However, the types of cases the staff must address are increasing in complexity because of a higher number of conservatees who are entering the system at younger ages as well as a growing population of middle-aged clients with psychiatric diagnoses and behavioral challenges, which limits both consent and placement options.

Caseloads ranging from 59–196, as reported in the 2013–2014 Grand Jury report,<sup>183</sup> and an average of 105 cases per full-time deputy public guardian eight years later, stand in sharp contrast to recommended caseload ceilings and ratio limits established by a number of states. According to Teaster et al., in 2010, statutes or regulations existed in seven states (Florida, New Jersey, New Mexico, Tennessee, Vermont, Virginia, and Washington) that provided for a ratio of staff to protected persons served.<sup>184</sup> Since that time, Nebraska has enacted a staff to client ratio of 1:20.<sup>185</sup> Most public guardianship programs serve a true last resort function and must accept judicially-referred cases regardless of staffing level. This puts understaffed programs in an intractable position and places clients in jeopardy. The 2010 national report by Teaster et al. recommended a staffing ratio of *one full-time decision-making staff to 20 clients*.

Without sufficient funding and staffing, programs are stretched to the breaking point and fail to provide any real benefit to the individuals they are obligated to serve. Additionally, frequently, cases are more complex than they were 25 years ago, reflecting a greater number of individuals with challenging behavioral problems, substance abuse issues, and severe mental illnesses, problems requiring a higher degree of staff oversight and interaction.<sup>186</sup>

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<sup>183</sup> Riverside County, "2013–2014 Grand Jury Report."

<sup>184</sup> Teaster et al., *In the best interests*, 129.

<sup>185</sup> See Nebraska Laws, Sec 30-4115.

<sup>186</sup> Teaster et al., *In the best interests*, 128.

COVID-19 made staffing even more challenging than before. According to one staff member:

We're supposed to visit every 90 days on the probate side. We also had a nurse that visited clients every 90 days that were at facilities. She's separated as of December of 21. And clients in-home care she visited every 30 days. All right. But the deputies themselves every 90 days. Obviously, during COVID time, we weren't able to do that, but we were making phone calls.

## Support for Deputy Public Guardians

To offset their unmanageable caseloads, and to provide client-centered, trauma-informed and timely help, frontline OPG staff must have a supportive environment. This includes: (1) administrative support; (2) workplace flexibility (e.g., staggered schedules and the flexibility to work remotely when completing reports); and (3) the technology to do the job (e.g., tablets, secure connectivity).

### Administrative Support

Deputy public guardians on the probate side said they could carry out their duties more effectively with additional administrative support. "We have multiple office assistants assigned to Public Guardian, but none directly assigned to our program on the probate side. So they (clerical staff) often get pulled into other projects. They will do our filing, pull the chart for us if we require one from the chart room. But we have to do most of our own clerical duties."

Interviews revealed that LPS staff have more clerical support than probate staff. One probate staff member explained that "clerical support means everything to us because it relieves some of the stress, some of the pressure. It might be something as simple as faxing a letter," but if it has to be done right away, and other immediate duties are competing for time, it can make a big difference.

### Workplace Flexibility

Nationwide, the COVID-19 pandemic brought new ways of working. There was a huge growth in telecommuting. Many employees have welcomed the new flexibility and have found that telework or hybrid arrangements can increase efficiency.

OPG maintained a requirement for in-person work during the pandemic due to the importance of building trust and of being consistently available for clients. This requirement caused significant stress for deputy public guardians, who feared for their safety, especially as there were two staff in each office. Several were scrambling for childcare at a time when staff was depleted, their caseloads were soaring, and the complexity of the cases was increasing exponentially with hospitalizations, facility outbreaks, and the need for vaccine consents. At the

same time, staff were leaving and turnover was high. Workplace practices such as staggered schedules and designated telework days could be opportunities for increased job satisfaction and increased productivity.

### Office Equipment/Technology

Almost 10 years ago, the Grand Jury Report on OPG noted that "equipment such as ergonomic furniture, headphones, computers, software, and printers are outdated or inoperative."<sup>187</sup>

Although a new data system (Panoramic) was put in place, it appears that some data are not readily accessible through this system. For example, the number of developmentally disabled clients with limited conservatorships and the number of adults with dementia cannot be produced easily because the data are collected in a narrative field and are difficult to extract. Additionally, income is not a required field in the Behavioral Health Electronic Health Record, and thus the number of low-income clients in 2021 was not available. Such aggregate numbers are essential for analyzing trends and planning strategically. The 2010 national public guardianship study urged that "public guardianship programs should maintain and regularly analyze key data about clients and cases."<sup>188</sup>

Interviews with the probate deputy public guardians revealed that although new technology was purchased in 2016, it is still the case in 2022 that deputy public guardians generally do not have the items they need. Although they travel frequently—approximately 10 hours a week, post-COVID-19, according to one staff member—they have no iPads or tablets to keep up to date with their documentation. Sometimes, they may need to go to Los Angeles or other counties where clients are located. This can take four hours a day, and access to devices for documentation can enable staff to work more efficiently during traveling days and while waiting for appointments. One staff member explained, "Sometimes we wait a long time, like for law enforcement to show up, so for us not to have access to a laptop out in the field ... We could be working on notes, but we don't have them."

While video platforms are not a substitute for in-person visits with conservatees, they may help to strengthen ongoing relationships and could be important links in times of emergency. During COVID-19, when nursing homes and assisted living facilities were locked down, the deputy probate public guardians could communicate with clients by phone, but often they did not have access to a video platform.

### Strengths for Staffing

The most important strength of OPG staffing is the people who perform the day-to-day tasks of service as deputy public guardians. Their dedication to vulnerable adults is laudable, given the

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<sup>187</sup> Riverside County, "2013–2014 Grand Jury Report."

<sup>188</sup> Teaster et al., *In the best interests*, Recommendation #14.

high degree of pressure and expectation that their positions entail. Daily, the probate deputy public guardians confront life-and-death conundrums concerning the autonomy and the protection of younger and older adults whom they never knew, who will likely be conserved for life, and who are unable to make decisions about their person, their property, or both.

Our interview with the deputy public guardians was by far our longest interview at slightly under two hours (all participants remained on the call for the entire time). As we concluded our interview, one participant remarked, "We don't get a lot of people who ask us about what we do, in our opinion. So, this definitely means a lot because I believe you're probably the first to ask. So I hope that this does result in some help for us."

## Opportunities for Staffing

One way to provide better services for clients is to explore possible County partnerships. These could be in the form of pilot projects that focus on populations of conservatees who have especially complex problems, such as those who are homeless, adults who are in their 40s or 50s and are "caught in the middle" of accessing services and benefits, or younger conservatees who cross over from programs for youth into adult conservatorship, such as the Turpin siblings whose experience triggered this investigation. Pilot projects should include an evaluation component.

Another opportunity for staffing is to examine resource allocation for both the LPS and probate sides of public guardianship. Staffing and support appear to be more substantial on the LPS side. There may be unrealized possibilities for reallocating support staff to maximize efficiencies and reduce employee burnout.

## Areas in Need of Improvement for Staffing

### Urgent Need for Additional Staff

OPG staff caseloads are dangerously high. This should be remedied in phases commencing immediately. A ripple effect of problems occurs when staffing is inadequate. It is simply not possible to provide client-centered care to so many individuals with such complex needs. Where caseloads are too high, effort is focused on perfunctorily meeting required paperwork deadlines rather than paying attention to client needs. High caseloads invite over-institutionalization of clients. Moreover, lawsuits filed against OPG, as well as suits in other states against public guardianship programs<sup>189</sup> suggest that high caseloads lead to errors and inappropriate placements, thus harming clients. A Fact Sheet produced by CA PA/PG/PC and other key organizations characterizes public guardianship programs statewide as "at the breaking point"

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<sup>189</sup> See section on Client Placement below.

and finds that they have "exceeded maximum capacity and can no longer meet the demand." The Fact Sheet observes that in comparison with other social service programs that serve vulnerable persons, "a maximum caseload of 30 cases per worker is necessary to ensure consistent quality client-centered case management. On average, PA/PG/PC caseloads are at least 63 percent over the recommended standard of 30 cases."<sup>190</sup>

## Staff Safety

Riverside County should increase staff safety when conducting client/field visits by ensuring timely and reliable accompaniment by law enforcement, as needed, and technology that appries law enforcement, if the deputy public guardians find themselves in dangerous situations. At times, deputy public guardians do not feel safe when in the field. Some client homes become vacant, and squatters may need to be evicted. "We don't have a lot of tools at our disposal other than going there, making a presence, [and] letting them know that we have the legal authority over the property." Deputies try to go in pairs if they anticipate risk, but they feel unsafe when performing the work described above.

## Multi-faceted Staff Support

Greater support would substantially reduce pressures on overburdened frontline staff. In 2010, Teaster et al. identified support and recognition of staff as a hallmark of an efficient, effective, and economic public guardian program.<sup>191</sup> Deputy public guardians are under enormous pressure. Job responsibilities such as finding clients appropriate housing facilities, meeting clients' needs for public benefits, filing court reports and accountings, making family distributions, dealing with families in conflict, appearing in court, and dealing with clients' deaths can be emotionally draining: "It just feels very overwhelming. With the amount of cases that we have, with the expectations that are placed on us, we feel that if things aren't done in a timely manner, there's no grace, that you constantly have to meet deadlines. Trying to meet the demands of the job, especially with the increased caseload that we have had just seems unsustainable."

In addition to the need for additional administrative support, the deputy public guardians repeatedly voiced the need for more support from management and from County Counsel: "I feel like the support is lacking. We don't have as much support as we require, especially in comparison to other counties... I feel like the program would run more efficiently and it would show in our work, it would definitely be much more streamlined." Deputy public guardians want

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<sup>190</sup> CA PA/PG/PC Fact Sheet, State Augmentation of County Operations for Public Administrator, Public Guardian, and Public Conservator Services, DRAFT, with other organizations that had not yet been confirmed; no date on Fact Sheet.

<sup>191</sup> Teaster et al., *In the best interests*.

to have their voices heard, particularly by their supervisors and upper administration. This could produce a spillover effect of amplifying client voice, which is addressed later in this section.

## Strengthen Training

Prior to the appointment of the present SDPG, new deputy public guardians in Riverside County received no formal training for their position. According to one staff member,

[T]here was no formal training. It was very much: this is what we need you to do. So I just kind of dove in there and asked questions as I moved along. That was my training—shadowing and just kind of figuring it out and asking my supervisor at the time what to do. And so that's kind of how I learned.

The present SDPG requires that all new deputy public guardians read the *California Handbook for Conservators*<sup>192</sup> and the *Inventory and Appraisal Handbook*,<sup>193</sup> emphasizing “[t]hose are pretty much the two tools that you really need to do this job. It covers just everything that a deputy needs to know and what their responsibilities and duties are.” After the new deputy reads the handbooks, the supervisor meets with the new deputy to discuss them and to clarify concepts that may be difficult to understand or seem unclear. During the probationary period, the new deputy also shadows staff members for an initial period in order to understand various aspects of the position.

The present SDPG has also instituted on-site training for new deputies, as of February 2022. Training lasts about 12 weeks, during which the new staff member is assigned a reduced caseload (a recent hire, for example, carried a caseload of 20 cases in their first month<sup>194</sup>). Training sessions last three hours per day, two days per week during this time. The new employee and the supervisor review each section of the *Inventory and Appraisal Handbook* as well as the OPG policy manual. There is a six-month probationary period for new staff. The SDPG remarked, “It’s a lot of responsibility. But in six months, you should pretty much know the basics. And after that is just [weekly] supervision and also shadowing and talking to co-workers and myself.”

Ongoing training is also required for CA PA/PG/PC certification. The present requirement is 40 hours of ongoing training over a four-year period.<sup>195</sup> Pre-pandemic, deputies attended applicable conferences and training with the CA PA/PG/PC organization. In addition, one deputy said, “[w]e did have a few, maybe two since I’ve been here, trainings with County Counsel as

<sup>192</sup> Judicial Council of California, *California Handbook for Conservators*. (San Francisco: 2016).

<sup>193</sup> California Probate Referees Association, *The Probate Referee Guide*, (2020).

<sup>194</sup> A caseload of 1:20 is the maximum caseload for a public guardian recommended by Teaster et al. (2010).

<sup>195</sup> California PA/PG/PC, *Standards & Certification Process*. 2017.

far as completing court accounting and inventory and appraisals. It seems that rules and things change quite often, so I don't know how helpful those are."

Other opportunities for training exist. For example, the National Guardianship Association has many online courses, including some offered for credit. It also sponsors a national conference, and occasional colloquia.<sup>196</sup> Additionally, OPG collaborate with other County agencies to provide cross-training on topics such as Self-Sufficiency programs, housing, dementia, aging services, TAY, and more.

## High Staff Turnover

The probate side of OPG experiences high staff turnover. One staff member stated, "COVID has affected it, and COVID continues to affect it. There's a high turnaround of staff here in the Public Guardian's office. Recently, mainly since COVID, but even before then, people resigned because they were unhappy with the lack of resources to do the job." Another reason provided was that OPG can be a stepping stone to other positions in which employees may be interested. We did not find any problems with salary or benefits.

The nurse who was reportedly helpful in locating long-term care placements for conservatees left OPG in late 2021 and had not been replaced at the time of our interviews in February and March 2022. Due to a shortage in staff, the SDPG was carrying a caseload. Remarkd one staff member, "[o]n the LPS side they have case managers, which are the Behavioral Health Specialists and Clinical Therapists to assist. On the probate side, it's always been an issue of: there's no funding. And so, we struggle with staffing to assist us. And on top of that, we've been inundated due to being short-staffed. So our work really suffered during the pandemic and continues to." OPG should proactively take steps to reduce turnover and increase job satisfaction and benefits.

## Updates for Policies and Procedures

Many policies and procedures were revised in 2021 and 2022—seven years after the Grand Jury Report urged their updating. A far better approach is to review and revise these on a continuous and rotating basis. In addition, OPG should devote more policies and procedures to the embrace of a client-centered, trauma-informed approach to the tasks of public guardianship, which include relationship building and client advocacy.<sup>197</sup>

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<sup>196</sup> National Guardianship Association, <https://www.guardianship.org/>.

<sup>197</sup> Teaster et al., *In the best interests*.



## Recommendations Relating to Staffing

1. **Allocate funds for OPG's probate section to increase the number of deputy public guardians so that the maximum caseload never exceeds a 1:60 ratio.** At a minimum, the County should explore mechanisms to ensure that caseloads are consistently kept to a manageable level that does not rise above the maximum level of 1:60. Reduction of current high staffing ratios could occur in phases—immediately bringing them down to 1:60, and within 2 years bringing them to and maintaining them at a maximum of 1:30.
2. **Address staff safety concerns at the earliest possible opportunity.** Staff members should not be going into unsafe environments without appropriate protection and accompaniment. Ensuring staff safety should not be the responsibility of another staff member who agrees to go along for client visits.
3. **Alter the present approach to training new staff (i.e., immediately assigning them a caseload through which to work, learning on the job); and develop more meaningful and intensive initial and retraining requirements and opportunities.** The new approach should take advantage of virtual mechanisms for training, staff updating, and retraining, and other training providers beyond PA/PG/PC, such as the National Guardianship Association.
4. **Develop a working group to review employee stress points within its probate side, and develop a strategic plan with measurable outcomes for addressing them.** The working group should include a representative from RUHS/BH human resources, and/or OPG human resources, the deputy public guardian supervisor, the deputy public guardians, and perhaps a stress management consultant or facilitator to manage the group process. The resulting plan should be reviewed by RUHS/BH.
5. **Allocate additional funding to deputy public guardians.** The additional funding should be used to increase administrative support for deputy public guardians and the technology needed to do the job.
6. **Institute an employee satisfaction and feedback plan.** OPG and the assigned County Counsel should allocate time on a periodic and ongoing basis to listen to the needs of the deputy public guardians, and create a plan to best support them in their jobs.
7. **Consider raising staff satisfaction by implementing more flexible workplace practices.** COVID-19 changed the "work from home" landscape. Accordingly, OPG should consider allowing for a mix of in-person and remote work and for flexibility in

work hours, while still maintaining enough in-person presence to serve clients and build their trust. This arrangement should increase employee morale and job enjoyment.

## Funding

### Context

One of the most important ways public guardian offices ensure that their programs operate effectively and efficiently is to have adequate funding and staffing. Underfunded programs are typically poorly staffed and poorly executed. These problems create vulnerabilities that often affect the lives of the very people the program is designed to serve.<sup>198</sup> Adequate funding is also necessary because one in every five of Riverside County's 2.5 million residents is age 60 or older, a population projected to more than double in future decades, some of whom may become OPG clients.<sup>199</sup> In addition, the population of younger adults with disabilities is rising. A number of them will become OPG clients.

According to OPG leadership, its FY 2021–2022 budget was \$5,219,000.<sup>200</sup> When asked if the budget was adequate, the response was "The Public Guardian's (PG) office budget is adequate." Yet CA PA/PG/PC stated the opposite in their 2022 Draft Fact Sheet: "County Public Administrator, Public Guardian, and Public Conservator services are stretched to the limit and currently receive no state or federal funding to augment growing caseloads and approximately \$258 million in county general funding spending on critical PA/PG/PC services."<sup>201</sup> Further, an accompanying PA/PG/PC press release states that the management of conservatorship cases is at a breaking point: "Public guardians and conservators are the only state safety net program that receives no state funding, despite various state reforms that have pushed their caseloads higher; the result is a system on the brink of crisis."<sup>202</sup>

A question in our in-depth survey to OPG leadership asked, "If a public guardianship program standard of practice is a full-time equivalent paid professional staff to client ratio of 1:20, how much funding should be added to OPG program budget to make it comply with this standard of practice?" They responded, "Meeting this standard of practice staff to client ratio of 1:20 would

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<sup>198</sup> Teaster et al., *In the best interests*.

<sup>199</sup> County Executive Office, *Fiscal Year 2021/2022 Adopted Budget*, (Riverside: Riverside County, 2021).

<sup>200</sup> The RUHS Behavioral Health–Public Guardian Adopted Budget for FY 17–18 through FY 20–21 reports the adopted budget as \$5,218,561.

<sup>201</sup> In-depth Survey, Exhibit B, *State Augmentation, California PA/PG/PC "Draft.Fact Sheet, "State Augmentation of County Operations for Public Administrator, Public Guardian, and Public Conservator* (2022).

<sup>202</sup> In-depth Survey, Exhibit B, *On the Brink of Crisis: Guardians/Conservators Say Budget Proposal Leaves Out Support for the Most Vulnerable*. For Immediate Release January 10, 2022.

require an additional staffing budget of up to \$6M above the current California standard staffing ratio.”

The national public guardianship study found that generally “funding for public guardianship is from a patchwork of sources, none of which is sufficient.”<sup>203</sup> Data from the in-depth survey completed by OPG indicate that the program receives federal funds, state funds, County funds, and client fees. Clarification concerning the allocation revealed that “[t]he majority of federal funds go to LPS programs, although Probate received a smaller portion of federal funds based on services (less than 10% of the allocation). Probate guardianship is primarily funded with County general funds and some probate fees.”<sup>204</sup> We found contradictions concerning whether state funding is used for probate cases, given the CA PA/PG/PC fact sheet statement that public guardianship and conservatorship do not receive state funds.<sup>205</sup>

## County Funds

According to the adopted budget for Riverside County for FY 2021–2022, the County budget is \$6,883,337,226.<sup>206</sup> According to the RUHS/BH Adopted Budget for FY 2017–2018 through 2021–2022, Riverside County funds for OPG have remained flat at \$1,745,218 since FY 2017–2018, although expenditures have increased slightly. We note that various public documents made available to us—as well as answers provided to our in-depth questions—contradict one another. Thus, it remains unclear as to precisely how OPG is funded in Riverside County.

## Client Fees

The program has the authority to collect a fee or charge from the client for OPG services. Where possible, it also collects program fees based on Riverside County Board approved fee schedules and court orders predicated on client fund availability for services (i.e., conservatorship administration services, special services, warehouse services, investigative services, representative payee services, bond fees, and interest fees on estate advances).<sup>207</sup> A concern is that inadequate County funding for OPG may create pressure to raise probate fees, resulting in an inequitable funding arrangement for program clients.

## Cost Per Case

According to OPG upper-level administration survey responses, the estimated average annual cost per case is \$4,770, calculated by allocating the total program cost to total cases per

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<sup>203</sup> Teaster et al., *In the best interests*, Conclusions, #18.

<sup>204</sup> In-depth Survey, Riverside County OPG.

<sup>205</sup> In-depth Survey, Exhibit B, CA PA/PG/PC Fact Sheet.

<sup>206</sup> County Executive Office, *Fiscal Year 2021/2022 Adopted Budget*.

<sup>207</sup> In-depth Survey, Exhibit C, Riverside University Health System – Behavioral Health Public Guardian.

year.<sup>208</sup> The most recent study on the cost per case by a Florida public guardian office calculated the actual average yearly cost of serving a protected person to be \$5,084.72—a 51.6 percent increase from the 2009 cost (based solely on dollars appropriated) of \$2,625.38.<sup>209 210</sup> The higher Florida number was somewhat consistent with the cost per case in Washington State of \$7,907.<sup>211</sup> It is possible that the annual cost per OPG probate case may be somewhat higher than estimated when calculating the cost based on dollars of funding allocated.

## Strengths in Funding

We found no strengths associated with the present funding scenario for the Riverside County OPG. At least since the 2013–2014 Grand Jury Report, it appears to be underfunded, compromising the individuals who work with and make decisions for the County's vulnerable adults as well as the vulnerable adults whom the program serves.

## Opportunities for Funding

### Pooling of Resources

Interagency collaboration and pooling of resources could help to stretch inadequate dollars. An important and justifiable demographic argument related to funding is the growing population of Riverside County, and its ability to serve a rising number of vulnerable younger and older adults. Interviewees from organizations outside OPG emphasized that there were options for collaboration and resource sharing (see section on Interagency Coordination and Collaboration below). Such collaboration would need to be based on improved communication between and among agencies within the County, including but not limited to OPG's relationship with agencies of the DPSS and the Riverside County Office on Aging.

### Support of RUHS/BH

In response to our in-depth survey, a strength OPG identified was the support of RUHS/BH to assist with funding and placing non-funded conservatees. Using the assistance of RUHS/BH to

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<sup>208</sup> In-depth Survey, Riverside County OPG.

<sup>209</sup> Pamela B. Teaster et al., *The Florida public guardian programs: An evaluation of program status and outcomes: Report for the Florida Department of Elder Affairs Statewide Public Guardianship Office*. (Tallahassee: 2009).

<sup>210</sup> Pamela B. Teaster, Wen You, and Saman Mohsenirad, *Florida public guardian programs: Program costs and activities report for the Office of Public and Professional Guardians*. (Florida Department of Elder Affairs, 2020).

<sup>211</sup> Mason Burley, *Public Guardianship in Washington State Costs and Benefits*, (Olympia: Washington State Institute for Public Policy, 2011).

the fullest extent possible represents one strategy for offsetting costs overall as well as to serve indigent clients.

## Advocacy for Additional Funding

This opportunity should be continually visited and pursued. For example, it is possible that an infusion of dollars from the American Rescue Plan Act might provide temporary funding. Creatively investigating public and private resources may uncover available monies for specific purposes or specific populations of OPG clients. The National Public Guardianship study found that, "[t]he public guardian (or director of the public guardian office) has a duty to secure adequate funding for the office."<sup>212</sup>

## Collection of Cost-Savings Information

Public guardianship programs that collect data on ways their services have saved public dollars can incentivize the allocation of additional state and county funding. Cost savings information could include, but is not limited to, a reduction in unnecessary medical procedures and hospitalizations, placement in housing in the least restrictive environment necessary (which also may be, but is not always, less expensive), and concluding unnecessary guardianships.

This approach has been refined and used successfully for public guardianship programs in Virginia<sup>213</sup> and Florida,<sup>214</sup> as well as for The Guardianship Project in New York. During the period June 1, 2018, to December 31, 2018, the Florida program's estimated total cost savings to the state of Florida was \$23,197,672.67.<sup>215</sup> Further, calculating cost savings in Virginia at the inception of the programs<sup>216</sup> kept them from being "zeroed out" during early years of development and limited state coverage. Calculating Medicaid cost savings for The Guardianship Project in New York allowed the program to be sustained for years by the Vera Institute.<sup>217</sup> Calculating cost savings in Florida resulted in increased funding for the Office of Public and Professional Guardians. The national public guardianship study recommended that "public guardianship programs should track cost savings to the state and report that amount regularly to the legislature and the governor."<sup>218</sup>

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<sup>212</sup> Teaster et al., *In the best interests*.

<sup>213</sup> Pamela B. Teaster and Karen A. Roberto, *Virginia public guardian and conservator programs: Summary of the first year evaluation: Report to the Virginia Department for the Aging*, (Richmond: 2002).

<sup>214</sup> Windsor C. Schmidt et al., "Program and ward characteristics and cost savings of public guardianship: An Evaluation of the Florida public guardianship program," *University of Florida Journal of Law & Public Policy* 28, (2017).

<sup>215</sup> Windsor C. Schmidt et al., "Program and ward characteristics."

<sup>216</sup> Teaster and Roberto, *Virginia public guardian*.

<sup>217</sup> Vera Institute of Justice, *Guardianship Practice: A Six Year Perspective*, 2011.

<sup>218</sup> Teaster et al., *In the best interests*, Recommendation #15 (2010).

## Areas in Need of Improvement

As specified in the 2013–2014 Grand Jury Report and supported by the findings of this investigation, it is imperative that OPG probate staff be adequately supported by funding sufficient to hire and retain enough staff members to manage caseloads of highly vulnerable individuals. The program has been underfunded for nearly a decade, and the loss of staff due to COVID-19 has exacerbated the problem.

The 2013–2014 Grand Jury Report did not include a calculation of cost per case but recommended the pursuit of supplemental funding to hire and train additional deputy public guardians in order to reduce caseloads and improve overall quality of services.<sup>219</sup>

## Recommendations Related to Funding

1. **Allocate funds for OPG to increase the number of deputy public guardians for its probate section so that the maximum caseload is never above 1:60 (see section on Staffing).** At a minimum, the County should explore mechanisms to ensure that caseloads are consistently kept to a level that does not rise above the threshold level of 1:60. Reduction of current high staffing ratios could occur in phases—Phase 1: immediately bringing them down to 1:60 and Phase 2: within 2 years, bringing them to (and maintaining them at) a maximum of 1:30.
2. **Leverage client fees for conservatees with an estate responsibly and in accordance with County policy to help fund the program.** We caution that in no way should the funds be levied unreasonably or to the extent that services to conservatees are inequitably provided.
3. **Implement a strategy for calculating the cost savings realized by OPG's efforts and use the findings to bolster an argument for increased funding for OPG.**
4. **Work proactively through PA/PG/PC to secure additional state funds for OPG.** Further, OPG should attempt to secure grant funding, possibly in collaboration with other agencies such as the Housing Authority, Medi-Cal, Child Welfare for Transitional Youth, DPSS, and the Riverside County Office on Aging.

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<sup>219</sup> Riverside County, "2013–2014 Grand Jury Report."

# Client Placement

## Context

Most people want to live at home or in their community. Often, public guardianship programs nationwide make institutional placements because clients are at-risk and perceived to need protection; in some cases, community options are not available or staff lack the resources to monitor in-home care. In the 2010 national public guardianship study, programs in 14 states reported a proportion of institutionalized clients ranging from 37 to 97 percent.<sup>220</sup> For the present investigation, we sought information on where OPG clients live and challenges the program faces in making living arrangements.

The 1999 US Supreme Court *Olmstead* decision<sup>221</sup> held that people with disabilities have a qualified right to receive state supports and services in a community rather than in institutional settings. California law highlights the need for public guardianship clients to be in a setting that is the least restrictive possible while still meeting their needs.

- The California Probate Code requires probate conservators to “select the least restrictive appropriate residence” that is available and that is in the individual’s best interest.<sup>222</sup> The Code sets out a presumption that a person’s home is the least restrictive option. The conservator must take “the measures necessary to keep the conservatee in their personal residence.”<sup>223</sup>
- Under the Welfare & Institutions Code, LPS conservators have authority to place clients in a state hospital or psychiatric treatment facility,<sup>224</sup> but the policy statement of the LPS Act expresses a preference for community settings,<sup>225</sup> and states that generally placement must be “the least restrictive alternative.”<sup>226</sup>

Guardianship/conservatorship standards supplement these legal requirements for seeking home and community-based settings. The CA PA/PG/PC *Best Practices* guide says the conservator must ensure that “the conservatee is in the least restrictive and most appropriate environment that meets his/her needs and wishes.”<sup>227</sup> Under the National Guardianship Association

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<sup>220</sup> Teaster et al., *In the best interests*.

<sup>221</sup> *Olmstead v. L.C.*, 527 US. 581 (1999).

<sup>222</sup> Cal. Prob. Code § 2352(b).

<sup>223</sup> Cal. Prob. Code § 2352.5(a) & (b).

<sup>224</sup> Cal. Weir. & Inst. Code § 5358(a)(2).

<sup>225</sup> Cal. Weir. & Inst. Code § 5115.

<sup>226</sup> Cal. Weir. & Inst. Code § 5358(a)(1)(A).

<sup>227</sup> California Association of Public Administrators, Public Guardians and Public Conservators, *Suggested Industry Best Practices*, 2017, 31.

*Standards of Practice*, guardians should "have a strong priority for home or other community-based settings, when not inconsistent with the person's goals and preferences."<sup>228</sup>

**Figure 21: OPG reported the following client placements for FY 2021–2022:**

Residential Setting	Number of OPG Clients	Percent of OPG Clients <sup>229</sup>
Assisted living or board and care <sup>230</sup>	427	30.8
Nursing home	299	21.6
Mental health facility	250	18.1
Own home/apartment/room <sup>231</sup>	189	13.6
Acute care hospital	149	10.8
Jail	29 <sup>232</sup>	2.1
State hospital	21	1.5
Missing or whereabouts unknown	16	1.2
Rehab facility	4	0.3
Hospice	1	0.1
Group home	0	0

<sup>228</sup> National Guardianship Association, "Standards of Practice."

<sup>229</sup> The total number of OPG clients varies, depending on the calculation and the data available.

According to OPG leadership, the total by living arrangement for FY 2021 was 1385. We used the latter figure to determine the percentages, listed in order of greatest to smallest.

<sup>230</sup> Small board and care homes can also be more home-like, but from the data there is no indication of the proportion of board and care versus assisted living, nor of the size of the assisted living facilities.

<sup>231</sup> The data does not show whether any of the apartments/rooms were in senior housing or other federally funded buildings where at least congregate meals might be provided.

<sup>232</sup> These clients had court-ordered LPS "Murphy" conservatorships.



OPG staff said they try to keep clients in their homes as long as possible, but that sometimes facilities are the only option for safety reasons. Although many LPS clients are in facilities or treatment centers, probate clients are generally in skilled nursing facilities, assisted living facilities, or board and care homes. "And we do have a few who are living in their home with augmented care, either contracted service provided 24/7 or a little less." Placement has long been "a huge challenge," which was intensified by COVID-19 and by state hospitals shutting down. At times, staff are unable to find a placement in Riverside County and must rely on facilities or other resources in nearby areas like Orange County or Los Angeles, making it more difficult for staff to visit.

Perspectives differed on whether OPG is too quick to institutionalize clients. Some interviewees denied any such problem while others said that once conserved, clients routinely go into institutionalized settings. One interviewee explained that OPG "over-institutionalizes because they don't have a choice ... because of client poverty and lack of community resources." Lack of time due to the staff pressure of high caseloads could well be an additional factor.

## Strengths in Client Placement

A program strength related to placement is that OPG has its own transportation unit, which offers some flexibility in the geographic location of clients and their proximity to medical treatment and shopping needs. OPG also has its own storage warehouse to place conservatee property, which again adds flexibility in finding living arrangements.

## Opportunities in Client Placement

### Increase Supply of Community-based Housing Options

Interviewees confirmed that the supply of affordable community-based housing is simply "too low." There are not enough beds, not enough quality board and care homes, and not enough affordable rental units. Openings in affordable housing are scarce, and people seeking rental assistance may need to wait many months to secure it. Veterans and people aged 75 and older may spend a year on the waiting list for a Section 8 Voucher in Riverside County, and for others, the wait may be even longer.<sup>233</sup> One interviewee commented that rental units for Section 8 Voucher recipients "are not always the classiest places or in the most safe environments, but there's a major housing crisis, so that factors in." In the face of an affordable housing crisis, Riverside County is beginning to develop new initiatives.<sup>234</sup> More affordable—

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<sup>233</sup> Jack Katzanet, "80,000 Applicants Wait for Section 8 Vouchers," *The Press Enterprise*, February 15, 2019.

<sup>234</sup> League of California Cities, "The City of Riverside Builds Affordable Housing While Breaking Down Barriers to Mental Health Access," December 2021; see also Riverside County, "County Awarded \$10.5

and, ideally, accessible—housing options with supportive services might reduce the need for conservatorship and might benefit OPG clients. There is a potential for OPG to build relationships during the planning process for such initiatives. OPG leadership listed as a program opportunity the need to create more housing options.

## Affordable Housing Connections

OPG staff interviews confirmed that it has few connections with the Housing Authority. Their focus is primarily on keeping the client at home or looking for facility care, although one staff person mentioned using the Homeless/Housing Opportunities, Partnership, and Education (HHOPE) Program of affordable housing through RUHS/BH.<sup>235</sup> There was little attention to other housing choices such as low-income senior apartments or Section 8 housing choice vouchers—or to opportunities through nonprofits providing affordable housing such as the Hope Through Housing Foundation.<sup>236</sup>

Finding affordable housing and navigating through requirements is a challenge. At-risk adults need help finding available affordable units as well as accessing and completing housing applications, as described in the chapter on Self-Sufficiency Programs. Further, housing alone is not enough to avoid institutional placement. Also needed are adequate supportive services like congregate or home delivered meals or groceries, in-home care, and transportation. By developing a partnership with the Housing Authority, as well as DPSS programs for supportive services, OPG may be able to offer broader choices for clients.

## Advocate for Community-based Services

Under the US Supreme Court's *Olmstead* decision, qualified individuals with disabilities have a right to receive state supports and services in community rather than in institutional settings, which could segregate them under the Americans with Disabilities Act. California has an *Olmstead Plan*<sup>237</sup> for improving the long-term care delivery system to ensure that individuals with disabilities, including older adults, have access to and a choice of community-based options and services. State and local resources have been devoted to this objective. For example, San

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Million New Housing Efforts," September 2020. These funds are part of the state's new housing initiative Project Homekey for people experiencing homelessness.

<sup>235</sup> The Homeless Housing Opportunities, Partnership & Education Program (HHOPE) manages, coordinates, and monitors programs providing housing support services.

<https://www.rcdmh.org/Children-Services/Housing/>

[https://www.rcdmh.org/Portals/0/PDF/MHSA/HHOPE\\_Brochure.pdf](https://www.rcdmh.org/Portals/0/PDF/MHSA/HHOPE_Brochure.pdf).

<sup>236</sup> The Hope Through Housing Foundation, National Community Renaissance (National CORE) is a nonprofit affordable housing developer with 29 program sites throughout the Inland Empire region, <https://hthf.org/about-us/geographic-reach/hope-inland-empire/>.

<sup>237</sup> "California Health and Human Services Agency, *California Olmstead Plan: Update on Its Implementation* (November 2012).

Francisco has a "Community Living Fund" that can pay for care coordination, equipment, home modification, and needed support services.<sup>238</sup> OPG could advocate for such resources in Riverside County.

## Areas in Need of Improvement

### Support for OPG Staff in Placements

OPG staff have help in placing certain clients to best meet their needs: (1) it has long-term care specialists on staff who select placements for LPS clients, frequently in a psychiatric treatment facility and (2) the Inland Regional Center makes placements for clients with developmental disabilities. However, finding residential placements for probate clients is a challenge. OPG formerly had a nurse who developed a rapport with nursing home staff and staff in assisted living residences throughout the County, but after she left in late 2021, she was not replaced. The program's LPS long-term care specialists have temporarily stepped in to provide assistance on the probate side. Overburdened probate deputy public guardians need ongoing support from specialists with long-term care expertise and contacts.

### Monitoring Residential Settings

Initial placement is just the beginning of the job for OPG staff. With nursing homes, assisted living, and other institutions, they must visit regularly and participate in scheduled care planning meetings. They must monitor the quality of care the facility provides and advocate for any changes needed. Interviews confirmed that staff generally conduct visits and that they generally attend care planning meetings, sometimes by telephone.

There was little evidence of the extent to which overstretched OPG deputies are able to familiarize themselves with the quality of facility care and with facility staff or to advocate for their clients if problems arise. A visit every 90 days is not sufficient to track facility practices—and for efficiency, deputy public guardians may trade visits with other deputies, reducing the opportunity for consistent observation. Hiring of long-term care specialists would help. An additional and apparently underutilized resource for addressing client care problems in nursing homes and assisted living is the Long-term Care Ombudsman Program, which seeks to resolve care problems on behalf of long-term care residents.<sup>239</sup>

While monitoring facilities is essential for high quality client care, it also manages risk. A class action lawsuit was filed against a Nevada public guardianship program for placing clients in poor

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<sup>238</sup> See San Francisco Human Services Agency, "Community Living Fund," <https://www.chhs.ca.gov/wp-content/uploads/2019/06/California-Olmstead-Plan.pdf>.

<sup>239</sup> <https://www.coasc.org/programs/ombudsman/>.

facilities that neglect residents, causing them harm.<sup>240</sup> During the past five years, at least four lawsuits have been filed against RUHS/BH/OPG for cases in which a client was alleged to have been injured or died as a result of negligent care by a long-term care facility. For example, one suit alleged that a "severely mentally and physically disabled" OPG client "suffered physical injuries at the...Home for which the County is legally responsible." Another "seeks to investigate a brain injury that occurred to her mother while she was a resident at...Home."<sup>241</sup>

For clients living in community-based settings, OPG staff must arrange for in-home care, food and other necessities, for which connections to Self-Sufficiency Programs would be helpful. It also must ensure that home modifications for accessibility are made. They must arrange transportation and oversee home maintenance. Additionally, they must respond to emergencies and must facilitate any transfer from one setting to another.

One interviewee observed that the deputy public guardians responsible for case management "don't have a *system* in place to keep people in their own homes" and would need time to focus more intensively on individual cases to do so. Along with additional staffing, an important step in putting such a system in place would be policies and procedures specifically for OPG on prioritizing community-based care and for keeping clients in home settings.

## Recommendations Relating to Client Placements

1. **Support additional low/moderate income home modification programs for accessibility.**
2. **Establish agreements between OPG and the Housing Authority to streamline a path for clients to secure affordable housing.** OPG should also work with County zoning to set aside board and care units for clients.
3. **Hire and support long-term care staff on the probate side, similar to the existing long-term care staff on the LPS side.** This should be accomplished in addition to funding for more OPG deputy public guardians (see recommendations on Staffing).

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<sup>240</sup> *Tenberg v. Washoe County Public Administrator and Washoe County* was a 1999 class action lawsuit filed in Nevada, was brought on behalf of wards and alleging sweeping failures on the part of the public guardian. The case was settled and thus did not yield a published court opinion, but the consent decree included constructive provisions to strengthen quality and accountability. The suit is a notable step in the use of litigation to address broad-based problems of a public guardianship program inadequately caring for wards.

<sup>241</sup> Riverside County Human Resources, "General Liability/Behavioral Health – Public Guardian" Closed Claim/Lawsuit Detail.

4. **Create OPG policies and procedures including checklists that prioritize home and community-based placements, and steps for identifying placements.** Staff should have training that covers strategies for keeping clients in home-based settings, required assessments by County staff, and the specific County partnerships that could help them.
5. **Develop or enhance an ongoing relationship between OPG and the long-term care ombudsman program** to assist deputy public guardians in resolving problems concerning resident care and resident rights in nursing homes and assisted living.

## Supporting Client Choice and Voice

### Context

All conservators must walk a fine line balancing conservatee protection and conservatee self-determination. The court appoints conservators to keep vulnerable individuals safe and meet their needs. At the same time, statutes and standards require that conservators maximize conservatee autonomy and choice to the extent possible, despite risks. This constant tension is a hallmark of guardian/conservator practice nationally, and it is what makes the role so difficult.<sup>242</sup> It is even more difficult for a public guardianship program when caseloads are high. In analyzing how OPG can ensure the voices of its clients are heard and considered, we considered the relatively young Turpin siblings, who prompted our current inquiry, frail older clients, and those with severe mental illness.

Guidance for OPG in making client-centered decisions and involving clients in decision-making is scattered:

- RUHS/BH has a manual on OPG policies and procedures. However, the manual is primarily oriented toward property-related procedures such as auctions, bank deposits, and sale of property.<sup>243</sup>
- OPG is a member of the CA PA/PG/PC. The PA/PG/PC *Code of Ethics* requires staff to "provide services with respect for the dignity and uniqueness of the client..."<sup>244</sup> The CA

<sup>242</sup> See, generally, National Guardianship Association, *Standards of Practice*; Teaster et al., *In the best interests*; Uniform Law Commission, *Uniform Guardianship, Conservatorship and Other Protective Arrangements Act* (2017); National Guardianship Network, "The Fourth National Guardianship Summit: Maximizing Autonomy and Ensuring Accountability," Syracuse University.

<sup>243</sup> Riverside University Health Systems – Behavioral Health, *Public Guardian Policy & Procedures*, 2021. The 2013–2014 Grand Jury Report noted there was no index at that time, and there still is no index, making it difficult to determine what is included.

<sup>244</sup> California Association of Public Administrators, Public Guardians and Public Conservators, *Standards & Certification Protocols*, 2020, 5.

PA/PG/PC *Best Practices* guide recognizes, at least for medical decisions, that conservators must use a "substituted judgment" model of decision-making, taking into account what the person wants or would have wanted in conservator decisions.<sup>245</sup>

- The California Professional Fiduciaries Bureau *Code of Ethics* requires professional fiduciaries to "provide the consumer with every reasonable opportunity to exercise those individual choices that the consumer is capable of exercising."<sup>246</sup> The Professional Fiduciaries Association of California *Code of Ethics* requires that "Acting as an advocate in safeguarding the client's civil and legal rights, the professional fiduciary shall make decisions that maximize and protect the rights of the client, and allow for maximum independence and self-reliance."<sup>247</sup>
- The California *Handbook for Conservators* sets out conservatee rights and advises conservators that "[a]ll conservatees have the right to be treated with understanding and respect and to have their wishes considered. They have all basic human rights, as well, and the right to be well cared for by you."<sup>248</sup>
- Finally, various California Code provisions set out rights of conservatees and require conservators to ascertain their wishes.<sup>249</sup>

OPG staff explained that there are differences in client rights and involvement for the different populations they serve. LPS conservatees retain the majority of their rights, and so there are conversations between the deputy public guardians and the clients, for example, about medications. For probate conservatees—who are often older adults living in nursing homes or assisted living facilities—deputy public guardians communicate about decisions such as returning home after a hospital stay, but often "we just kind of take the reins and handle it." For younger clients with developmental disabilities, "they are very opinionated in what they want, so we do try to support them and let them have some independence."

OPG leadership noted that "It really depends on what it is we're doing and why, but the expectation I have for the staff is that the deputy is communicating with the conservatee." Within the context of high and unmanageable caseloads, however, staff-client interaction is by necessity reduced—sacrificing the client's voice to the pressure of administrative requirements and day-to-day demands.

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<sup>245</sup> California PA/PG/PC, *Suggested Industry Best Practices*.

<sup>246</sup> California Professional Fiduciaries Bureau, *Professional Fiduciaries Code of Ethics*, Section 4472.

<sup>247</sup> Professional Fiduciaries of California, *PFAC Code of Ethics*, [www.pfac-pro.org](http://www.pfac-pro.org). PFAC is primarily oriented toward private professional fiduciaries, but the Code of Ethics is relevant.

<sup>248</sup> Judicial Council of California, *California Handbook for Conservators*.

<sup>249</sup> California Probate Code §1800(a) says it is the intent of the Code chapter to protect the rights of conservatees; Probate Code §1871 lists rights retained.

## Strengths in Supporting Client Voice

### Creativity

Some interviewees highlighted the creativity of OPG staff in making care plans aligned with client wishes and needs within the constraints of low staffing and an inadequate budget. Instead of a flat refusal of client requests, they appear willing to consider and discuss them. One interviewee noted that, concerning the homeless population, "the focus is very person-centered, . . . [staff] do whatever needs to be done, but just have to be a little creative about it."

### Conservatorship Plan

OPG uses the "California Targeted Case Management Assessment/Service Plan" form, which is used in the state's Targeted Case Management program for services to Medi-Cal eligible individuals.<sup>250</sup> The form includes a description of the service plan and whether the conditions of the plan have been discussed with the clients, listing all dates of discussion. The form, which we understood to be a standard of practice for Medi-Cal beneficiaries, includes as an attachment a page on "Public Guardian Client Goals," which are to be developed with the client. When asked about the goals/values sheet, staff leadership said, "that's something we probably don't do as often as we need to, but we do take into consideration things clients want and care about." An example was that some clients want their dog with them, and staff have come up with solutions to make this happen. Staff explained that "Clients have decisions. They can spend their money. If they tell us they want a TV, we make sure to get them a TV." A much more difficult decision is when clients want to end the conservatorship, as described below.

### Client Visits

Another area of relative strength is client visits. The CA PA/PG/PC *Best Practices* guide recommends that conservators make in-person visits to conservatees at least every 90 days.<sup>251</sup> (In comparison, the National Guardianship Association *Standards of Practice* provide that "the guardian shall visit the person no less than monthly.")<sup>252</sup> OPG leadership reports that deputy public guardians visit probate clients in facilities about once every 90 days, unless a more frequent visit is needed. They previously visited clients living at home in the community about once a month, through the probate long-term care nurse, although she is no longer on the staff.

<sup>250</sup> California Targeted Case Management Assessment/Service Plan.

<sup>251</sup> California PA/PG/PC, *Suggested Industry Best Practices*.

<sup>252</sup> National Guardianship Association, *Standards of Practice*.

Leadership emphasized the importance of the visits for "knowing the conservatee, knowing the wishes of the conservatee." During the pandemic when facilities were locked down, staff made their visits remotely, often by phone. We question whether visits are frequent enough and whether there is real two-way communication to build a trusting relationship. Conservators need to create a bond with the client in which there is understanding and respect and it takes time and repeated dialogue to achieve this.

## Less Restrictive Options

An additional area of strength is looking for options less restrictive than conservatorship that would better preserve individual rights and would, at the same time, avoid opening new OPG cases for overburdened staff when needs could be met in other and less costly ways. A key thrust of reform over the past three decades has been the concept that guardianship/conservatorship is a drastic intervention and therefore less restrictive means of help should always be sought first.<sup>253</sup>

The California Probate Code requires that the conservatorship petition show that "alternatives to conservatorship were considered by the petitioner or the proposed conservator and reasons why those alternatives are not available."<sup>254</sup> The CA PA/PG/PC *Best Practices* guide states that a public guardianship program should not accept a case for conservatorship unless "all less restrictive alternatives to conservatorship were considered and tried first and establishing conservatorship is the last resort to meet the person's needs."<sup>255</sup> The guide specifically highlights that a conservatorship may not be needed "if the person who needs help can formulate or cooperate with a plan to meet his/her basic needs or has the capacity and willingness to accept assistance from a third party for financial or health-care decisions."<sup>256</sup>

Our interviews showed a high awareness of the need to screen for informal supports such as family members or other "third party assistance" to show that conservatorship is not needed or that it could be terminated. In other jurisdictions, this is known as "supported decision-making" and has been recognized as a key less restrictive option to guardianship/conservatorship.<sup>257</sup>

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<sup>253</sup> See the Uniform Law Commission, *Uniform Guardianship, Conservatorship and Other Protective Arrangements Act* (2017), Section 310.

<sup>254</sup> Cal. Prob. Code §1821(a)(3).

<sup>255</sup> California PA/PG/PC, *Suggested Industry Best Practices*, Section 9.1.4.

<sup>256</sup> California PA/PG/PC, *Suggested Industry Best Practices*, Section 9.1.6.

<sup>257</sup> Interviewee references to "third party assistance" is similar in concept to the nationally recognized term "supported decision-making," which "allows individuals with disabilities to make choices about their own lives with support from a team of people they choose . . . . Supported decision-making is an alternative to guardianship. Instead of having a guardian make a decision for the person with the disability, [it] allows the person to make his or her own decisions" with support. Center for Public Representation, "About Supported Decision-making," <https://supporteddecisions.org/about-supported-decision-making/>. Riverside interviewees seemed unfamiliar with the term "supported decision-making".



Respondents said that there are several points of screening for supports that could make conservatorship unnecessary:

- APS looks for supports before sending a case to OPG. Its assessment tool<sup>258</sup> specifically asks whether the person has a representative payee, a financial power of attorney, a health care directive, or whether there are any family members or caregivers involved.
- OPG investigators scan for other decision-making or support options such as family members or community supports. Even after a permanent conservator is in place, the deputy public guardians "continue to look for alternatives, and so we have some cases where the person is placed on conservatorship, and within three or four months, a family member from back East will contact us, and so at times we go back and terminate the conservatorship."
- The probate court investigator also assesses the supports available.

Appointed counsel asks these questions as well: "We will explore with our clients what can we do together to make sure that you can manage on your own. Do you have friends who can help out, family members? What can we do to help the court see that you have a plan in place and won't need a conservator?"

## Opportunities for Supporting Client Voice

### Appointed Counsel for Clients

The most important safeguard for elevating client voice in conservatorship is the right to counsel—and ensuring that counsel upholds the traditional attorney-client role of vigorously advocating in support of the client's wishes.<sup>259</sup> Nationally, ongoing representation of adults after the appointment of a guardian/conservator is unusual and is regarded as a key component of securing clients' rights and ensuring accountability.<sup>260</sup>

Riverside County generally funds the appointment of counsel for conservatees, at a minimum through a compliance period of about 80 days following OPG appointment. If there are concerns about placement, family conflicts, or client complaints, appointed counsel may remain on the case and continue to represent the conservatee. Clients are able to approach appointed counsel with issues or concerns, and trust that counsel will advocate on their behalf. When asked about their role, counsel said they have taken "an aggressive stance" to see that services

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<sup>258</sup> Riverside Adult Protective Services,

<https://riverside.leapsportal.net/DynamicAssessment/AssessmentSummary.aspx?AssessmentId=23>.

<sup>259</sup> Uniform Law Commission, *Uniform Guardianship, Conservatorship and Other Protective Arrangements Act* (2017), §305; National Center for State Courts, National College of Probate Judges, *National Probate Court Standards*, Standard 3.3.5 and commentary (2013).

<sup>260</sup> National Guardianship Network, "Fourth National Guardianship Summit," Recommendation 4.3.

are provided and that the client's voice is heard. "Our job is to implore and push" OPG for client needs and wants. There is an opportunity to focus additional attention on the level and model of compensation for these attorneys, to ensure that they are fully able to meet their clients' needs (see Chapter 4 on Appointed Counsel).

## Community Education and Outreach

Public guardianship programs are at the nexus of the classic conflict between client protection and autonomy.<sup>261</sup> This conflict is not well understood by other agencies or the public. It can at times engender misunderstanding and frustration concerning over-protection (paternalism) and under-protection (leaving vulnerable people at risk). One interviewee explained that "The public has a perception that the job [of OPG] is to solve all the problems and protect [clients] 100% from any danger. And that's not their job. Their job is to do the minimum to make sure the conservatee is safe and at the same time afford them personal freedom and personal liberty if possible."

Striking this delicate balance in each individual case takes time and intensive focus—and additional staffing is the most important solution (see section on Staffing). However, community education about conservatee rights also can present an opportunity to educate the public on the complexities of the decision-making process and to heighten community awareness. It could highlight rights that are retained by conservatees and emphasize that a conservatorship is not a "quick fix" or panacea for problems.

## Client Input About Care

Customer satisfaction surveys are informative tools for improving the quality of services or care. They can be useful in determining benchmarks and measuring outcomes. Riverside DPSS has a "Self-Sufficiency Customer Satisfaction Survey."<sup>262</sup> On the state level, Get-Cal-Fresh has a customer satisfaction survey about the application process.<sup>263</sup>

In addition to measuring outcomes, customer satisfaction surveys empower clients by giving a path for personal input about their care and setting. In particular, a satisfaction survey could help OPG clients—who have lost so many rights—gain a sense of voice about their lives. While not all OPG clients would be able to complete such a survey, some could—and others may be able to do so with support. With the creation of an advisory committee (see section on External Review), committee members could help to provide any needed support, while learning

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<sup>261</sup> See, generally, Teaster et al., *In the best interests*. Many foundational documents for adult guardianship reform over the past 25 emphasize this inherent tension.

<sup>262</sup> Riverside Department of Public Social Services, *Self-Sufficiency Customer Satisfaction Survey*, accessed May 23, 2022. <https://rivcodpss.org/dpss-programs/customer-surveys>.

<sup>263</sup> Code for America, *GetCalFresh Enrollment Survey* (2019).

firsthand more about client needs.<sup>264</sup> A survey administered regularly—perhaps annually—would provide OPG the opportunity to view the program through the lens of their clients.

## Areas in Need of Improvement

### Client Communications and Visits

While OPG says they meet the CA PA/PG/PC expectation for the frequency of client visits (previously identified as a strength), seeing a cognitively impaired client in a nursing home every 90 days seems unlikely to build a solid relationship and an understanding of the role. Visits should be consistent enough, frequent enough, and thorough enough to build trust. OPG leadership listed “the ability to ensure the welfare of conservatees through more frequent in-person visits” as a key area for improvement.

One interviewee found that some conservatees did not appear to know who their OPG conservator/deputy public guardian was nor what the conservator’s role was—and did not understand the limitations that come with conservatorship and the rights removed. Clients may be hesitant to report needs and ask for help for fear their rights will be taken away or a restoration will not be pursued. A “bill of rights” displayed where clients live—similar to the Nursing Home Residents Bill of Rights<sup>265</sup> and the “California Foster Youth Bill of Rights”<sup>266</sup>—could be helpful.

Ultimately, the leeway for lengthier, more frequent visits is a function of staffing resources. However, simple communication protocols may help—communication practices such as use of plain language, repetition of important messages, active listening, and paraphrasing. A template for explaining to clients the rights they have, the rights they have lost, and the role of the conservator is a necessary and important step.<sup>267</sup>

The CA PA/PG/PC *Best Practices* guide provides for “courtesy visits” between counties or by other County staff. OPG leadership has stated that, sometimes, cases are transferred from one deputy to another depending on caseload or on interpersonal dynamics. OPG deputies have stated that they sometimes agree to visit each other’s clients, especially in a distant facility in order to help out, given the heavy caseload. While these practices may be useful, they interfere

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<sup>264</sup> One of the co-investigators for the current report is on an assisted living advisory committee, and has administered such client satisfaction surveys.

<sup>265</sup> The National Consumer Voice for Quality Long-term Care, *Nursing Home Residents’ Rights*.

<sup>266</sup> Los Angeles County Department of Children and Family Services, “Foster Youth Bill of Rights”.

<sup>267</sup> Such communication templates exist in other contexts. For example, see the *California Child Welfare Core Practice Model*: <https://calswec.berkeley.edu/programs-and-services/child-welfare-service-training-program/core-practice-model>.

with client-conservator rapport. Consistent one-on-one time is needed to build familiarity and trust.

## Lack of Limited Orders

For many years, national guardianship reform initiatives have urged courts to establish limited conservatorship orders that remove rights only in areas in which an adult is unable to manage personal or financial affairs.<sup>268</sup> The order should not assume the individual lacks capacity globally, but should assess specific areas in which the person is able to act. For example, a person may be able to handle money for daily transactions but not manage investments, or be able to make a health care decision but not determine whether it is safe to live independently.

In the California Probate Code, the term "limited conservatorship" has a particular meaning that is different from elsewhere in the country. It applies to a court order for a developmentally disabled adult, in which the adult retains all rights except those designated by the court. The intent of the law is that developmentally disabled adults "receive services resulting in more independent, productive and normal lives."<sup>269</sup> In Riverside County, the Inland Regional Center assesses developmentally disabled adults, and makes referrals for limited conservatorships to OPG. Our interviews did not extend to findings about this process and what limitations are designated. However, an additional question remains as to whether a general probate conservatorship for clients other than those developmentally disabled (for instance, an older adult or someone with a traumatic brain injury) could be limited in scope to preserve client rights. While crafting a limited order is ultimately the role of the judge, these orders could be requested by OPG as petitioner. We had no indication that it ever requests such limited orders for a client who is not developmentally disabled—or that the court ever makes such orders. Our interviewees were uniformly unfamiliar with the concept.

## Restoration of Rights

The California Probate Code sets out procedures for the review and possible termination of conservatorships, limited conservatorships, and LPS conservatorships.<sup>270</sup> Probate cases are reviewed annually by a court investigator, but terminations are extremely rare. LPS conservatorships automatically terminate one year after appointment, and a conservator must be reappointed if needed. A termination of a conservatorship restores the adult's rights, and simultaneously removes unnecessary cases from OPG files.

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<sup>268</sup> Uniform Law Commission, *Uniform Guardianship, Conservatorship and Other Protective Arrangements Act* (2017); see also National Guardianship Network, *Fourth National Guardianship Summit*.

<sup>269</sup> Cal. Prob. Code § 1801(d); §1828.5(c).

<sup>270</sup> Cal. Prob. Code §§ 1850–1853; Cal. Weir. & Inst. Code § 5361.

Our interviews confirmed that in OPG, probate terminations are nearly non-existent, something also demonstrated by a 2017 national study.<sup>271</sup> LPS terminations appear more frequent but also not common. In FY 2021, 16 LPS clients in OPG were restored to capacity.

OPG staff recalled only a few cases over several years in which a conservatorship was terminated and rights were restored. For probate clients, conservatorship “is kind of a lifelong thing because they don’t get better.” If a probate conservatee wants to have the conservatorship terminated, appointed counsel may represent the client in a petition to the court. Appointed counsel explained, “we argue that the client does have a plan, they can meet basic needs. We may work with OPG and a physician to argue for termination on a trial basis first.” Sometimes clients are not restored to capacity, but instead a private conservator is found, and they leave OPG. There were seven such cases in FY 2021.

## Post-Restoration

One issue is what happens after a conservatorship is ended and the client is restored to capacity. While the client is legally an independent adult with decision-making ability, the client very likely needs some continuing supports and guidance. OPG staff appeared to have little experience with this scenario and said they may give the adult informational pamphlets about services—but there is no plan or follow-up to proactively make connections and ensure that the adult is using the services, or that the adult is actually getting their basic needs met.

One approach could be for OPG staff to actively make the contact between the client and Self-Sufficiency staff responsible for a range of basic supports (see Chapter 5 on Self-Sufficiency Programs). Another approach could be to make conservator terminations progressive, with a plan for steps to independence and connections to services, so that when the court orders termination, the adult has a strategy in place and experience with independent living. A restoration plan could combine services from a number of different agencies, and could possibly be coordinated by an interdisciplinary team such as the Riverside Elder Abuse Forensic Center (EAFC) (see Section on Interagency Coordination and Collaboration).

## Recommendations for Supporting Client Voice and Choice

1. **Establish an OPG working group to develop model practices**, with examples concerning clients’ rights, the participation of clients in decision-making, client-centered care approaches, client communications, and supports to enhance self-determination. OPG should ensure that each supervisor and each deputy public guardian is trained in

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<sup>271</sup> Erica Wood, Pamela Teaster, and Jenica Cassidy, *Restoration of Rights in Adult Guardianship: Research and Recommendations*, (Washington, DC: American Bar Association Commission on Law and Aging, May 2017).

the model practices, and should explore other similar training through CA PA/PG/PC and the National Guardianship Association.

2. **Increase the frequency and length of visits to conservatees by OPG as staffing increases** (see section on Staffing). A preliminary goal would be to increase visits to all conservatees to once a month to build consistent relationships. [Benchmark: staff to increase frequency of visits to once a month by a year's time].
3. **Explore a team approach in which one deputy public guardian is the lead on a case and another is designated as a backup**, to ensure consistency. If one is unable to visit, the backup deputy could make the client contact, building a relationship with the client. This will likewise become feasible with an increase in staffing (see section on Staffing).
4. **Develop a protocol for progressive termination of unnecessary conservatorships**, with available housing and supportive services in place through a multidisciplinary plan.
5. **Explore the concept of limited orders, in conjunction with the court, for general probate conservatorships**, and whether this would require legislation or could be encouraged through changes in practice.
6. **Engage in public education on conservatorship and on OPG's role**, to create a better understanding of its functions, as well as the rights of clients. [Benchmark: development of materials; initial number of public education events].
7. **Direct or request relevant agencies and organizations, including the State Bar Association, to collaborate in a campaign to educate the public on less restrictive decisional legal options** (such as financial powers of attorney and advance directives for health care) that would reduce the overall need for conservatorship and empower adults through legal and financial planning. Such direction should come from Riverside County.

## External Review, Outreach, Transparency

### Context

While individual cases within OPG are subject to review by supervisors as well as the Court, on a more systemic level OPG performance appears little known and little understood in the community. OPG is opaque, like a "black box" in which case referrals may be accepted, but little light is shed on its inner workings. We considered approaches for OPG review, outreach, and community input.

## Strengths

### Court Review of Cases

The California Probate Code provides for regular review of all conservatorship cases, including those of OPG.<sup>272</sup> A probate court investigator must conduct an investigation six months after a probate conservator appointment and annually thereafter, or at any time as needed, and write a report to the court.<sup>273</sup> The California Welfare & Institutions Code provides that LPS conservatorship shall terminate after one year and must be re-established if necessary.<sup>274</sup> OPG must prepare an annual report and accounting for each conservatee, to be reviewed by the Court. These regular reviews are an important safeguard to protect clients under conservatorship.

OPG is represented by County Counsel, who reviews and submits petitions, other filings, and annual reports. Review by County Counsel provides OPG with assurance that all legal requirements are met.

Importantly, Riverside County generally funds the appointment of counsel for conservatees, at a minimum through a compliance period of about 80 days following OPG appointment. This representation offers an opportunity for review and for resolution of client complaints. "We are very vigilant in doing an assessment of placement after a few months to see how it goes. And then we'll advocate change. We'll come back and petition to change placement if something is not right."

## Opportunities

### Advisory Input

OPG has no advisory committee. Many state and local public guardianship programs have advisory boards that offer useful input. The national Model Public Guardianship Act provides for an advisory committee.<sup>275</sup> In addition to being a sounding board, advisory committees or boards can advocate for program resources, help create partnerships with other agencies, and engage in public outreach. Board members can be strong champions for the program. In a somewhat different model, at least one public guardianship program has developed a panel of individual experts in specific topic areas such as investments, Medicare, bioethics, nursing home law and

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<sup>272</sup> Cal. Prob. Code §1850.

<sup>273</sup> Cal. Prob. Code §§ 1850–1851.

<sup>274</sup> Cal. Welf. & Inst. Code § 1861.

<sup>275</sup> See Teaster et al., *In the best interests* and "Model Public Guardianship Act," §§13 & 1.

regulations, and special needs trusts. Regardless of the model used, advisory input presents an opportunity to get feedback, strengthen connections, and have a stronger community profile.

## Areas in Need of Improvement

### Complaint Processes

Recent media attention on guardianship/conservatorship has highlighted the importance of guardianship complaint processes. Some state and local courts and some guardianship programs have developed public complaint procedures specific to guardianship/conservatorship.<sup>276</sup> The National Guardianship Association *Agency Standards* requires a complaint procedure.<sup>277</sup>

RUHS/BH has a Patients' Rights Advocacy Program and a Patients' Rights policy. However, neither of these are specific to conservatorship. Moreover, they are not readily accessible to members of the public—including family members and conservatees—who may want to voice a complaint, although there is a toll-free phone number listed on the RUHS/BH website under "Patients' Rights."<sup>278</sup>

Additionally, the County Board of Supervisors has a policy setting out "Standards and Procedures for Public Complaints and Inquiries."<sup>279</sup> This policy is neither specific to conservatorship nor readily accessible. Plain language fact sheets in English and Spanish or website pages would encourage use.

### External Audits

OPG is a member of the Local Government Association and participates in the County Medi-Cal Administrative Activities and Targeted Case Management program. This program is part of California Medi-Cal reimbursement for Targeted Case Management. Participating counties are reimbursed for the federal share of costs for case management services provided to Medi-Cal beneficiaries. The state conducts an annual audit of these services.

This appears to be the only external audit reported by OPG leadership. They did not identify any overall performance review or audit process by an outside entity. The National Guardianship Association *Agency Standards* require that "the organization shall undertake an

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<sup>276</sup> Uniform Law Commission, Uniform Guardianship, Conservatorship and Other Protective Arrangements Act, Sec. 127, "Grievance Against Guardian or Conservator."

<sup>277</sup> National Guardianship Association, *Standards of Practice*.

<sup>278</sup> Riverside University Health System – Behavioral Health, "Patients' Rights."

<sup>279</sup> County of Riverside, California, Board of Supervisors Policy, "Standards and Procedures for Public Complaints and Inquiries," Policy Number A-56, Minute Order 3.7 of 11/07/2006, <https://www.rivcocob.org/boardpolicies/policy-a/POLICY-A56.pdf>.



internal program evaluation annually;" and "the organization will arrange to have an external program audit by an objective third party on a biennial basis."<sup>280</sup>

## Website Information

The OPG page<sup>281</sup> on the Riverside County website is minimal, offering a two-sentence description, mailing address, phone, fax, and business hours. No information is provided on the purpose of the program, the staff, or the client population. There is no contact name or title listed. It is not possible to email OPG to ask a question or raise a concern.

The RUHS/BH website<sup>282</sup> provides slightly more information, indicating that OPG provides conservator investigation and administrative services, and that it has forensic psychiatric support for LPS conservatees. It has thumbnail descriptions of conservatorship, conservatorship investigation, LPS/Property Management Administration, probate investigation, and the representative payee program. It has a phone and fax number, but no contact information. The Riverside Office on Aging also has a webpage on OPG,<sup>283</sup> also with minimal information.

One respondent from outside of OPG staff noted, "There's almost no information that can be accessible or that is available online to get information. If you look at the OPG website...you're not going to find very much to even try and communicate or negotiate. So for me as a provider, that means I have to literally track down somebody's email or call the reception desk multiple times and try and find a supervisor to help me."

## Annual Report

OPG has no publicly available annual report. There is nothing to highlight the function of the office, the dedication of the staff, the complexity of the cases, the often overwhelming needs of the clients, or the ways the program improves their quality of life—no success stories, which is a missed opportunity on many levels (e.g., administrative, public, educational). An annual report would be useful in developing partnerships and securing additional funding.

## Public Education

OPG leadership reported that the program educates the public about guardianship and conservatorship and provides technical assistance to private conservators. Interviewees were not aware of these OPG functions but thought they were a good idea reflecting the need for

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<sup>280</sup> National Guardianship Association, *Standards of Practice*, §VI.

<sup>281</sup> <https://www.rivco.org/public-guardian>.

<sup>282</sup> <https://www.rcdmh.org/Administration/PG>.

<sup>283</sup>

[https://riverside.networkofcare.org/aging/services/agency.aspx?pid=riversidecountydepartmentofmentalhealthpublicguardianpublicguardian\\_38\\_1\\_0](https://riverside.networkofcare.org/aging/services/agency.aspx?pid=riversidecountydepartmentofmentalhealthpublicguardianpublicguardian_38_1_0).

greater public understanding of its role and limitations. One interviewee said that OPG has a "circle the wagons" posture of defense and "needs to have an open mind and talk about what needs to be improved."

## Quality Improvement

County Counsel performs an essential role in ensuring that legal requirements are met and in representing OPG in court. They also help educate OPG staff about legal procedures. Interviews did not reveal any role on their part—or on the part of anyone else—in a broader quality improvement and risk mitigation program of periodic evaluation, data analysis, and documentation. Currently, the County Counsel caseload would preclude such a role—one attorney reported having over 400 cases.

The National Guardianship Association *Agency Standards* require that "program managers shall identify a plan in writing and document actions taken to improve the quality of its service delivery system." This includes seeking the input of clients, family members, an advisory board, and other stakeholders.<sup>284</sup>

## Recommendations for External Review, Outreach, Transparency

1. **Develop a public complaint process specifically for OPG.** OPG should create a flyer to describe the process in plain language, in English and Spanish. It should make the process and the flyer accessible on its website. The flyer also should be distributed to long-term care facility staff. [Benchmark: develop a draft process and solicit feedback on its use]
2. **Establish an external, independent performance audit of OPG.** RUHS/BH should be contracted to conduct the audit, and it should be updated biennially.
3. **Develop and distribute an annual report written by OPG to the Board of Supervisors and the public.**
4. **Develop informative content for OPG's webpage,** perhaps in multiple languages, articulating the program mission, describing the functions of the office and the kinds of clients served. The webpage should include a transparent complaint process and the most recent annual report. It should also include contact information.

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<sup>284</sup> National Guardianship Association, *Standards of Practice*, §VI.

# Interagency Coordination and Collaboration

## Context

Conservatorship provides decision-making and management for at-risk adults unable to care for themselves but does not provide direct services. Without a range of food, housing, transportation, health care, and other basic services, conservatorship is just a legal shell with nothing more. For OPG to get help for its clients takes solid interagency partnerships. The California PA/PG/PC *Code of Ethics* includes a duty for public guardianship programs to "Cooperate with other entities engaged in, or supportive of, collateral services to promote quality programs."<sup>285</sup> We examined OPG's relationships with other agencies and how they could be strengthened to better align with the County's new Integrated Health and Human Services Delivery System.<sup>286</sup>

In assessing the strengths and weaknesses of OPG collaboration with other agencies, we heard divergent and sometimes completely contradictory views. Interviewees confirmed that in caring for clients, OPG interfaces with a host of other agencies. Yet several comments described these connections as inconsistent, or not as in depth as needed.

A theme that crossed many of our interviews was the perception that OPG maintains a defensive posture and a reluctance to share information about clients and about its processes, making care coordination challenging. The reason for this posture was not clear. Several comments attributed it to the high caseloads (see section on Staffing) leaving no capacity for systemic thinking or for focusing on collaboration: "I wonder if OPG is so overwhelmed that it's hard to think through solutions instead of just paddling." Another observation was that County Counsel takes an overly conservative approach to information sharing, based on fiduciary duties of confidentiality and privacy, causing staff to be reticent to share information, even though "it's becoming more and more obvious that [maintaining information silos] is not in the best interests of clients" (see section on Data Sharing).

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<sup>285</sup> California Association of PA/PG/PC, *Standards & Certification Protocols*, 5.

<sup>286</sup> County of Riverside Board of Supervisors, Resolution No. 2021-180, Initiative of Development of an Integrated and Comprehensive County Health and Human Services System and Approval of a Coordinated Care Model, Approved December 7, 2021.

## Strengths

### Riverside University Health System - Behavioral Health

When we asked about strengths of OPG connections, several staff members said that its placement within RUHS/BH is a significant benefit. RUHS/BH shares key resources—leadership, staff, contacts, funding, fiscal staff, and mental health expertise. For example, staff look to RUHS/BH for support “if there’s a gap period before benefits are established, we need to take care of [clients] and get them housed.”

### Existing OPG Connections

OPG leadership listed key existing connections—private home health agencies, RUHS/BH clinics, County community care clinics, County Medical Center, private hospitals, DPSS including APS, Inland Regional Center, and County substance abuse outpatient clinics. Interviews brought out additional connections—code enforcement, long-term care licensing, Social Security, Medi-Cal, and a host of long-term care facilities. OPG leadership listed as an agency strength “an excellent working relationship with the County psychiatric hospital and acceptance of conservatees who might need this level of care.”

In some instances, there are or were liaisons from these entities. “We do have a Medi-Cal liaison who helps us in the processing of our medical benefit applications.” In addition, the Inland Regional Center provides a range of supports for developmentally disabled clients, including assessments, assistance with placements, arranging for clients to go to day programs, and getting dental services.<sup>287</sup>

### Connections with ASD and EAFC

An essential OPG connection is with ASD, as it is responsible for a substantial proportion of client referrals. While some interview respondents noted a contentious history between the two, a strength is that OPG is meeting regularly with ASD, and there is no backlog of ASD cases awaiting acceptance.

Another critical relationship for OPG is with the Riverside EAFC an evidence-based program that focuses on protecting older adults from financial and physical abuse as well as neglect. The Center holds county-wide, regular multidisciplinary team meetings where partner agencies can review complex cases of elder abuse including neglect, recommend a coordinated response

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<sup>287</sup> Inland Regional Center. About. <https://www.inlandrc.org/about-irc/>.

plan, and, in doing so, improve case outcomes.<sup>288</sup> OPG has generally participated in Center meetings—with some variation—and continues to do so.

## OPG Staff's Commitment

From a number of individuals whom we interviewed, a strength was the people involved. Generally, OPG staff were regarded as doing their best in challenging situations. It was understood that the people occupying the positions were “there for a reason and care about the people who are the object of case discussion and service provision.” The dedication and sincerity of the staff is a strength in fostering interagency collaboration.

## Opportunities

### Riverside Service Integration Initiative

An opportunity for OPG is to be a part of the County's initiative, approved by the Board of Supervisors in December 2021, to develop an integrated health and human services system. The initiative is based on the concept that “Cross-department coordination and data sharing is necessary to improve well-being, Self-Sufficiency outcomes of clients, and to operationalize and institutionalize a client-centered care delivery model for all services.”<sup>289</sup> The Board's resolution specifies that the RUHS would be included. It states that the integrated system is especially designed “to identify and coordinate services for individuals who face multiple challenges in key life areas, such as abuse and neglect, homelessness, mental or physical health issues, economic vulnerability...”

Data sharing can be challenging, especially for OPG, which operates according to fiduciary standards of client confidentiality and must meet expectations by County Counsel. The California PA/PG/PC *Code of Ethics* requires public guardianship programs to “safeguard the client's rights to privacy by judiciously protecting information of a confidential nature.”<sup>290</sup> One interviewee observed, “There are often conflicting laws and conflicting counsel opinions about when information can be shared. As a County, we haven't yet figured out how to share information in a way that protects people's rights and privacy, allows us to coordinate care, and integrate services better.” The chapter on Self-Sufficiency describes efforts underway to remove barriers to data sharing—while honoring the client confidentiality that is so important in

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<sup>288</sup> Dr. David Franklin, “Introduction to Capacity Assessments,” Lecture, Riverside County Elder Abuse Forensic Center.

<sup>289</sup> Board of Supervisors Resolution (2021).

<sup>290</sup> California Association of PA/PG/PC, *Standards & Certification Protocols*, 5.

conservatorship. In addition, similar models in other counties, such as that in neighboring Los Angeles County,<sup>291</sup> could offer guidance for how to resolve issues of confidentiality.

## Fast-Tracking Services

Another related opportunity for OPG is that increased collaboration with other agencies could result in fast-tracking services and benefits for its clients—benefitting clients and saving staff time. Office staff noted that they are often stymied by a long wait for benefits, and sometimes RUHS/BH steps in to fill gaps. Others pointed out that the potential exists for Medi-Cal, in-home supportive services, Cal-Fresh, and other DPSS services to be prioritized for OPG clients through interagency agreements, similar to how DPSS assists adults coming out of hospitals or prisons. Beyond these agencies, OPG could consider similar arrangements with the Office on Aging as well as nonprofit service providers. (For more on fast-tracking services, reference Chapter 5 on Self-Sufficiency Programs).

## Public Education

A final and valuable opportunity for OPG is to raise public awareness about their clients' needs and the complexity of the cases. Staff said the community and other departments "don't know exactly what is entailed in a conservatorship case—the amount of work, the amount of scrutiny, the amount of accountability." Nor do they understand the balance that OPG must make between client autonomy and client protection (see section on Client Voice).

One interviewee observed that because the job of balancing risk and choice is not well understood, "when a conservatee gets into trouble, it comes back and reflects badly on the OPG. ...Some of the news coverage forces [the OPG staff] to be more like police." Fearing a bad image, the program may tip more rigidly toward protection and less toward conservatee rights. The result is dissatisfied conservatees and a defensive posture of OPG that could undermine service integration and work against the interests of clients. Bringing clarity to OPG functions would have the added benefit of building care partnerships. And—as emphasized in this report across the chapters—additional staffing and resources would afford more time to focus on creative solutions that help staff and conservatees.

## Acknowledging the Pivotal Role of OPG

One individual whom we interviewed acknowledged the pivotal role that OPG can play related to clients' care: "They're kind of it. Right? It really comes down to OPG as to whether or not they're going to take over that individual [accept the case] or not take over that individual, right? So they have a lot of power within their institution to really increase the person's quality

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<sup>291</sup> Los Angeles County Elder Abuse Forensic Center, <https://eldermistreatment.usc.edu/current-projects/los-angeles-county-elder-abuse-forensic-center/>.

of life..." An awareness of this significant role can be an opportunity in developing interagency partnerships.

## Areas in Need of Improvement

### ASD-OPG Relationship

A work in progress is the shifting relationship between ASD and OPG. According to ASD staff, before referring a case to OPG, ASD goes through a rigorous protocol examining the individual's financial, health, mental health, and family information, as well as activities of daily living. It includes a search for less restrictive options like financial powers of attorney, representative payee status, trusts, and advance directives, and describes actions taken to resolve the problems.<sup>292</sup> "We don't take it lightly when we refer over to the public guardian, we really take a good look at it. We have a specialized, centralized unit that specializes in it, to provide that level of oversight that we need" for an OPG referral.

Once the referral is made, it may take an OPG investigator three to six months to determine whether the case should be accepted, based on the person's capacity and the supports available. Of concern, this timeframe coupled with the increasing backlog of referral cases has presented issues regarding client safety. For example, a client may be cycling in and out of crises or living in squalor or danger. ASD staff attempt to manage the pending case to the extent possible without legal consent and without funding for case management. About half of ASD referrals to OPG ultimately are denied. For example, in 2020, of 38 cases referred, 16 were denied. These individuals often continue to cycle through crises and may be referred again, perhaps several times.

From OPG's perspective, when they receive a referral from ASD or any other source, it goes to OPG's investigative unit. Before accepting a referral, the investigators conduct a thorough assessment of the proposed conservatee taking into account information from all sources, the history of the case, and the supports available. They may conduct a search for family members who could step in and provide care. If the investigator finds the person meets the requirements for either a probate or LPS conservatorship and there are no other alternatives,<sup>293</sup> the investigator prepares a declaration to the Court requesting that OPG be appointed. If the investigator denies a case, it may be because the qualifications are not met or because they have identified someone to help—or in some cases the person dies while the case is still pending.

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<sup>292</sup> Riverside Adult Protective Services, *PG Assessment in LEAPS*.

<sup>293</sup> The California Probate Code requires a finding that conservatorship is the least restrictive alternative needed for the protection of the conservatee. See Cal.Prob. Code § 1800.3(b).

Another problem occurs once OPG has accepted the case, which prompts ASD to close it. At that point, communication between ASD and OPG about the client is cut off. ASD case workers may have been heavily involved in a case and know the client well, but they no longer share information or contribute to solutions. Staff from both agencies seemed to regret this abrupt fencing off of information.

All of this "pushing and pulling" has been trying on both sides and was described in one interview as a "wall" between the two agencies. The frequency and consistency of meetings between the two agencies has been uneven. Recently, as mentioned before, there has been progress in holding regular meetings, but the change needs to be systemic, with ongoing conversation between the staff through a multidisciplinary team approach.

## Role in EAFC

Another path for ASD to bring cases to OPG is through the EAFC. The Center regularly convenes a multidisciplinary team to review complex cases of possible elder abuse, neglect, and exploitation. Most of the cases are brought to the Center by APS. A representative from OPG sits on the team, and in the past has played "a pivotal role" in discussions about client capacity and whether a conservator is needed. If the Center team suggests conservatorship, OPG can then determine whether to accept the case. Interviews revealed that recently OPG has been less involved and less open to sharing information, which reduces the effectiveness of the team discussion. In the past, OPG denied about 44 percent of the cases referred through the Center, but now the denial rate is up to 68 or 70 percent. The reasons for the denial are not always clear or forthcoming when EAFC members ask during case follow-ups.

## Recommendations for Interagency Coordination and Collaboration

1. **Ensure that OPG plays a proactive role in the County's new initiative on service integration for the health and human services system.** This includes a specific policy on data sharing that meets fiduciary requirements. [Benchmark: development of a written data sharing policy for OPG that aligns with fiduciary standards.]
2. **Ensure that OPG explores ways to fast-track services with Medi-Cal, In-home Supportive Services, and CalFresh, develops written memoranda of understanding (MOUs) to do so, and identifies agency liaisons for this purpose.** These agreements should go beyond enrollment to ensure that OPG clients are actually using the services. [Benchmarks: meetings held, written agreements, evaluate implementation.]



3. **Engage in an intensive series of mediated sessions between OPG and ASD to identify areas of conflict and develop a plan to move toward a working partnership.** [Benchmark: find mediator skilled in agency policy/practice conflicts; both agencies agree to come to the table and establish goals, action steps, and a timeframe for resolution.]
4. **Reestablish a partnership between OPG and the EAFC.** OPG should participate regularly and proactively in case review, case follow-up, and information sharing where possible.

## Chapter 4: Appointed Counsel

Juvenile dependents, potential wards, wards, potential conservatees, and conservatees are often represented by court appointed counsel. This chapter discusses these arrangements.

### Overarching State Bar of California Guidelines On Indigent Defense Services

In 2006, the State Bar of California released *Guidelines On Indigent Defense Services*.<sup>294</sup> These Guidelines identified two main principles regarding the methodology by which counties should compensate private attorneys to provide indigent criminal defense services: (1) "the method of compensation should assure that the attorney is adequately compensated for all work necessary for the representation of each client," and (2) it "should never place the client's right to vigorous representation in conflict with the attorney's need for adequate compensation."

1. **Provide adequate compensation.** According to the Guidelines, the amount of compensation paid to an appointed attorney "should bear a direct relationship to the time and effort reasonably invested by the attorney in the defense of his or her clients." Therefore, "indigent defense contracts should not be based on any compensation system that does not realistically assess the cost of providing competent representation, including the costs of trial, investigation, expert assistance, or extraordinary expenses, and should take into consideration objective standards of representation."
2. **Avoid financial conflicts.** The State Bar also found that "the terms of any indigent defense contract should avoid any actual or apparent financial disincentives to the attorney's obligation to provide clients with competent legal services."

The Guidelines express a clear preference for hourly rates over flat-fee compensation because hourly rates "compensate attorneys for actual work performed" and "do not penalize thorough preparation" while "flat-rate compensation...does not link attorney time and effort to the level of remuneration" and thus "encourage attorneys to do what is most profitable for them and what is efficient for the system but not what is in the best interests of clients."

While these Guidelines were developed in the context of criminal defense, these same principles should be considered in the context of appointing counsel in juvenile dependency, conservatorship, and guardianship proceedings.

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<sup>294</sup> The State Bar of California, *Guidelines on Indigent Defense Services Delivery Systems* (San Francisco: 2006).

## Legal Representation in Juvenile Proceedings

Legal representation ensures that minors in juvenile dependency cases are afforded due process protections, and that their rights are safeguarded. It means that they have an advocate on their side, asserting their perceived needs and requests. Legal representation gives them a voice. If concerns arise, someone is there to listen, ask key questions, assess the situation in light of the law, and take action. Supporting strong legal representation for these at-risk populations should be a high priority. Adequate compensation and allowing for sufficient attorney time for these complex cases is a key factor.

### Context

In California, the custodial parent is appointed legal counsel if he or she cannot afford a lawyer. Moreover, legal representation is also provided to children placed in out-of-home care. Various statutes mandate appointment of legal representation in juvenile dependency cases.<sup>295</sup>

### The County's Efforts to Provide Court-Appointed Counsel in Juvenile Dependency Matters

Riverside County has contracts with two entities to provide legal services to children and parents in juvenile dependency proceedings. These contracts are maintained by the Riverside County Superior Court. Both contracts provide for a flat-fee per case with no caseload limit.<sup>296</sup> Figure 22 below shows this dynamic.

Figure 22: Years of Service and Fees Per Case

Years of Service	Flat Fee Per Case
Year 1	\$675
Year 2	\$675
Year 3	\$675
Year 4	708.75

<sup>295</sup> See Cal. Welf. & Inst. Code §§ 317, 317.5, 353, 366.26; Cal. Rules of Court Rule 5.660.

<sup>296</sup> See Agreement for Non-IT Goods and/or Services Between The Superior Court of California, County of Riverside and Law Offices; Agreement Nos. Admin-10135-0-6/19 and Admin-10136-0-6/19.

Year 5	\$744.18
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The attorneys are retained as independent contractors and are paid a monthly fee based on the projected number of appointments multiplied by the flat-fee per case. These attorneys provide legal representation to children and to parents—though they never represent both in the same family—and reportedly have caseloads of approximately 200 cases per attorney.

According to publicly available information, Riverside County has been allocated \$7,422,498 for Fiscal Year (FY) 2021–2022 in dependency counsel funding from the State of California.<sup>297</sup> Based on an analysis conducted by the Judicial Council of California, estimated funding needed for that time period is \$9,094,598, almost one-quarter more than that allocated.<sup>298</sup>

Services for these proceedings in the State of California have been underfunded for decades. According to a study conducted by the American Civil Liberties Union (ACLU):

In 2002, the Judicial Council of California recognized that the State's underfunding of dependency counsel had led to unmanageable caseloads that left attorneys unable to provide adequate representation. The Judicial Council identified improvements to the dependency system including a recommended "optimal" caseload of 77 clients per attorney and, in 2007, ultimately adopted standards setting the maximum caseload at 188 clients per attorney.<sup>299</sup>

However, as of 2015, "caseloads in many counties [were] double the maximum standard of 188, and some counties [were] experiencing caseloads in excess of 400–500 clients per attorney. The result is that an already over-stressed system has reached a breaking point."<sup>300</sup> In 2015, the ACLU of California found that Riverside County had the second highest caseload of California's counties with an average caseload of 461 cases per attorney as shown in Figure 23 below.<sup>301</sup>

<sup>297</sup> Judicial Council of California, *Trial Court Budget: Fiscal Year 2021–22 Allocation of Court-Appointed Juvenile Dependency Counsel Funding* (San Francisco: July 2021), 5.

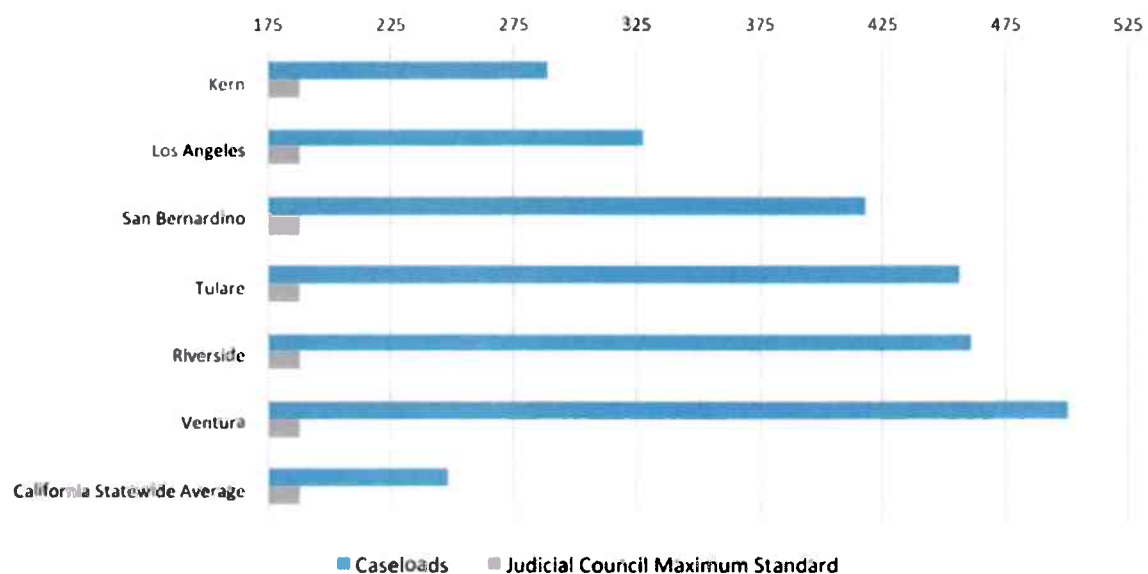
<sup>298</sup> Judicial Council of California, *Trial Court Budget*.

<sup>299</sup> Michael Kaufman and Victor Leung, *System on the Brink: How Crushing Caseloads in the California Dependency Courts Undermine the Right to Counsel, Violate the Law and Put Children and Families at Risk* (American Civil Liberties Union of California, 2015), 1.

<sup>300</sup> Kaufman and Leung, *System on the Brink*.

<sup>301</sup> Kaufman and Leung, *System on the Brink*.

Figure 23: Caseloads in California Counties<sup>302</sup>



Since 2015, great strides have been made to reduce attorney caseloads in Riverside juvenile dependency matters. While it appears that caseloads have been reduced from 461 to about 200, the current numbers still exceed the Judicial Council's maximum ceiling.

## Relevant Studies on Benefits of Adequate Compensation and Caseload Limits

Extensive research into court-appointed counsel in juvenile dependency proceedings underscores the significant benefits of reduced caseloads and adequate compensation.

### Judicial Council Reports

In 2001, California Senate Bill (SB) 2160 was enacted. Among other things, it directed the Judicial Council of California to establish caseload standards, training requirements, and guidelines for appointment of counsel for children in dependency cases. To comply with this mandate, the Judicial Council contracted with the American Humane Association (AHA) to conduct a quantitative caseload study to identify the maximum recommended for court-appointed dependency counsel.

<sup>302</sup> Kaufman and Leung, *System on the Brink*, 8.

In 2004, the AHA released a joint report with the results of their studies.<sup>303</sup> They found that a full-time attorney should not have more than 141 cases, and to provide an optimum level of service, not more than 77.

In response to the report, in July 2004 the Judicial Council implemented the Dependency Representation, Administration, Funding, and Training (DRAFT) pilot program. Under the pilot program, caseload standards identified in the report were modified to reflect the impact of non-attorney staffing. Thus, under this program, court-appointed counsel were permitted to have up to 188 clients, provided they were assisted by an investigator/social worker spending half their time assisting on the cases.<sup>304</sup>

In 2008, the Judicial Council released a report to the California Legislature regarding the results of the DRAFT program.<sup>305</sup> According to this report, the program established that caseload reductions and compensation standardization led to quantifiable and measurable outcome improvements for the children and families counsel represented. Specifically, the Council looked at the following outcome measures: (1) time to reunification, (2) reentry, (3) time to guardianship, (4) placement with kin, and (5) placement with some or all siblings.<sup>306</sup> The Council found that "DRAFT courts improved during the pilot period on all measures, other than sibling placement, at rates exceeding their non-DRAFT counterparts."<sup>307</sup> Indeed, the Council noted that "at the onset of the program, the DRAFT courts significantly underperformed non-DRAFT courts in all selected measures other than sibling placement" but that at the conclusion of the pilot period, "DRAFT courts outperformed non-DRAFT courts on several measures."<sup>308</sup>

In 2009, the California Blue Ribbon Commission of Children in Foster Care<sup>309</sup> released its final report and recommendations.<sup>310</sup> These recommendations concurred with the Judicial Council's

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<sup>303</sup> See Judicial Council of California Administrative Office of the Courts, *Court-Appointed Counsel: Caseload Standards, Service Delivery Models, and Contract Administration (Action Required)*, June 15, 2004.

<sup>304</sup> The Judicial Council noted that these caseload standards were "not optimal" but that they reflected "a pragmatic fiscal realism regarding the court-appointed counsel program."

<sup>305</sup> Judicial Council of California, *Dependency Counsel Caseload Standards* (San Francisco: April 2008).

<sup>306</sup> Judicial Council of California, *Dependency Counsel Caseload Standards*, 22.

<sup>307</sup> Judicial Council of California, *Dependency Counsel Caseload Standards*, 9.

<sup>308</sup> Judicial Council of California, *Dependency Counsel Caseload Standards*, 9.

<sup>309</sup> On March 9, 2006, the California Blue Ribbon Commission on Children in Foster Care was established to provide recommendations on the ways in which the courts and their partners can improve safety, permanency, well-being, and fairness for children and families who find themselves in the child welfare system.

<sup>310</sup> California Blue Ribbon Commission on Children in Foster Care, *Fostering a New Future for California's Children Final Report and Action Plan May 2009 Ensuring Every Child a Safe, Secure, and Permanent Home* (San Francisco: Judicial Council of California, 2009).

findings and recommendations regarding caseload reductions and ensuring that court-appointed attorneys receive "fair and reasonable compensation."<sup>311</sup>

In 2015, the Judicial Council approved recommendations of the Trial Court Budget Advisory Committee (TCBAC) to reallocate funding for court-appointed dependency counsel among the trial courts based on a caseload funding model.<sup>312</sup>

In April 2016, the TCBAC and the Family and Juvenile Law Advisory Committee reviewed the DRAFT program and recommended several adjustments to the workload model.<sup>313</sup> This report included a recommendation that attorney compensation be based on "current county counsel salaries at the median of the first two salary ranges reported by counties."

### **Family Justice Initiative Report**

In 2018, the Family Justice Initiative (FJI)<sup>314</sup> provided recommendations regarding the Attributes of High-quality Legal Representation for Children and Parents in Child Welfare Proceedings.<sup>315</sup> According to these recommendations, compensation rates should be "adequate for the attorneys' practice, accounting for overhead and other costs borne by private professionals" and that "[a]t a minimum, parents' attorneys' and children's attorneys' compensation should be equal to county or child welfare agency attorneys' compensation, and consistent with other publicly-funded attorneys' compensation[.]"

### **ABA Assessment of California's Budgetary Changes**

In 2020, the American Bar Association's Center on Children and the Law issued an Assessment of the Effects of Funding Changes on Legal Presentation Quality in California Dependency Cases.<sup>316</sup> Specifically, "the assessment focused on how increases or decreases in funding affected factors associated with high-quality representation, such as staff recruitment and retention, manageable caseloads, multidisciplinary models of practice, out-of-court advocacy, time meeting with clients, and causes for case delays."<sup>317</sup> The study concluded that quantitative

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<sup>311</sup> California Blue Ribbon Commission on Children in Foster Care, *Fostering a New Future*, 17.

<sup>312</sup> Judicial Council of California, *Juvenile Dependency: Court-Appointed- Counsel Funding Reallocation* (San Francisco: 2015).

<sup>313</sup> Judicial Council of California, *Juvenile Dependency: Court-Appointed Dependency Counsel Workload and Funding Methodology* (San Francisco: 2016).

<sup>314</sup> The Family Justice Institute is "a national collaborative of children's attorneys, parents' attorneys, educators, researchers, national policy advocates, and lived experience experts" that is "led by the ABA Center on Children and the Law, the Children's Law Center of California, and the Washington State Office of Public Defense." See <https://familyjusticeinitiative.org/>.

<sup>315</sup> Family Justice Initiative, *Attributes of High-Quality Legal Representation*.

<sup>316</sup> American Bar Association Center on Children and the Law, *Effects of Funding Changes on Legal Representation Quality in California Dependency Cases* (2020).

<sup>317</sup> American Bar Association Center on Children and the Law, *Effects of Funding Changes*, 5-6.

and qualitative data indicated that increasing funding had a direct positive impact "on several factors that affect legal representation quality, such as attorney recruitment and retention, multidisciplinary legal practice, caseloads, workload per case, and case delays."<sup>318</sup>

## Strengths

Appointed counsel in Riverside County are committed to providing high-quality representation to their clients. Appointed counsel, despite reporting high caseloads and relatively low compensation, stated that they have maintained the important ability to visit or speak with each juvenile client prior to their respective court hearings. Moreover, appointed counsel reported that they have self-regulated to keep caseloads between 180 and 200 cases per attorney. Even though that caseload exceeds the Judicial Council's recommendation, the appointed counsel with whom we spoke believe their workload is manageable, although noting that the sheer volume of work is "daunting."

In Riverside County, appointed counsel are assisted by a small team of social workers. These positions require specialized skill sets, including knowledge of DPSS, child welfare, and the Juvenile Court. These social workers received plaudits from the attorneys they work with, including one attorney who stated, "I find them to be very helpful. There are some cases where they really can turn it around, get through to a client or provide a perspective to the attorney that wasn't there before." Compared to CSD social workers, who often can only stay with a case for a short duration due to social worker specialization, the social workers who assist appointed counsel have long-term client relationships resulting in them being trusted resources for attorneys and clients alike.

## Opportunities

The Family First Prevention Services Act (FFPSA) provided access to Title IV-E funding to support expanded legal representation in juvenile dependency cases. The Judicial Council of California has issued guidance on how counties might access additional funds.

## Areas in Need of Improvement

### Caseloads

Two appointed attorneys reported that their current caseload (approximately 200 cases) was more manageable in comparison to previous years when it was "much worse." Nevertheless, carrying 200 open cases conflicts with the Judicial Council and AHA's finding that the optimal level of service is achieved with no more than 141 cases per attorney, or no more than 188 for

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<sup>318</sup> American Bar Association Center on Children and the Law, *Effects of Funding Changes*, 1.



attorneys assisted by an investigator and/or social worker. It is well accepted that lower caseloads lead to better client service. In interviews, appointed counsel acknowledged that juvenile representation is challenging because of communication, transportation, and developmental barriers, therefore time with juvenile clients is at a premium. Lower caseloads would make finding this time easier.

## Compensation

Some appointed attorneys believe that their compensation is low and they have had little room to negotiate. They are currently paid a fixed dollar amount per appointment. Total monthly compensation is a reflection of an invoice for an identical, projected number of appointments (i.e., 100) multiplied by the flat-fee.

Hourly rates are generally viewed as preferable to flat-fee compensation because hourly rates ensure that attorneys are compensated for actual work performed. Indeed, the State Bar has found that flat-fee or per-case arrangements in criminal proceedings provide a disincentive for counsel to represent clients diligently because it is set regardless of the amount of time an attorney spends on a case.<sup>319</sup> In other words, not only are hourly rates likely the fairest way to compensate appointed counsel, they also support higher quality legal services. Appointed counsel in juvenile dependency proceedings represent some of the most vulnerable members of our society. An hourly compensation model would go far to advance clients' interests, and the interests of justice.

Moreover, it appears that some appointed counsel may not be receiving full compensation under their current contracts. The contract provides that "[o]n a quarterly basis," the [County] and [appointed counsel] shall reconcile the caseload for the previous three months to determine if the actual caseload was higher or lower than the estimated appointments...and shall reconcile and adjust payment accordingly."<sup>320</sup> Thus, contrary to some appointed counsel's belief, they are not necessarily paid the same amount each month. Rather, if appointed on more cases than previously estimated by the contract, appointed counsel are to be compensated for the additional cases.

## Recommendations

1. **Reduce caseloads.** As it was reported that appointed counsel currently carry approximately 200 cases, it is important to recognize that the 141/188 caseload threshold created by the Judicial Council/AHA correlates to the *minimum* standard of

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<sup>319</sup> The State Bar of California, *Guidelines on Indigent Defense Services Delivery Systems* (San Francisco: 2006).

<sup>320</sup> See Agreement for Non-IT Goods and/or Services Between The Superior Court of California, County of Riverside and Law Offices, Agreement Nos. Admin-10135-0-6/19 and Admin-10136-0-6/19.

care. Accordingly, every effort should be made to ensure that caseloads keep within or below the recommended range.

2. **Ensure payment on each appointment.** Based on our interviews, there appears to be confusion regarding how the County pays appointed counsel for their case assignments. Appointed counsel have reported that they are paid the "same amount every month" and they are not "paid on a per-case basis." However, as described previously, they should regularly reconcile their estimated appointments with their actual appointments.<sup>321</sup> This reconciliation system is necessary because the contract requires that appointed counsel submit an invoice for the same, preset number of appointments each month. To avoid confusion and streamline payment, the contract should be revised to allow appointed counsel to submit invoices for the actual number of appointments each month. This would result in counsel being paid for all work performed.
3. **Conduct a flat-fee compensation analysis.** Some appointed counsel reported that they perceive their rate to be low. In alignment with the Judicial Council's and FJI's recommendations, the County should conduct a study to ensure that the negotiated flat-fee rates are adequate for the attorneys' practice, accounting for overhead and other costs borne by private professionals and, that at a minimum, compensation is equal to county or child welfare agency attorneys' compensation.
4. **Consider the feasibility of an hourly rate compensation structure.** It is unclear whether appointed counsel is interested in a transition to hourly rate payments. Nevertheless, in keeping with the 2006 State Bar Guidelines on Indigent Defense Services, and in consultation with the panel of appointed counsel, the County should consider whether an hourly compensation structure for appointed juvenile dependency counsel would positively impact the level of representation and be feasible in Riverside County.
5. **Implement a feedback system that captures client voice.** Appointed counsel represent some of the most vulnerable members of our society: children who are at risk of having their voices and concerns go unheard. Thus, to the extent practicable, recognizing age and maturity level limitations, appointed counsel should devise a formal client feedback system to make sure that their clients are given the opportunity to voice their needs and concerns on a regular basis.

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<sup>321</sup> See Agreement for Non-IT Goods and/or Services Between The Superior Court of California, County of Riverside and Law Offices, Agreement Nos. Admin-10135-0-6/19 and Admin-10136-0-6/19.

# Legal Representation in Conservatorship and Guardianship Proceedings

As with juvenile dependency proceedings, effective legal representation in conservatorship and guardianship proceedings is critical to protecting the rights of potential conservatees, conservatees, proposed wards, and wards. It is of the utmost importance that court-appointed counsel have manageable caseloads and that they be sufficiently compensated for their work.

## Context

California statutes permit, and sometimes mandate, appointment of counsel in guardianship and conservatorship proceedings for unrepresented parties.<sup>322</sup> These court-appointed attorneys must have specific qualifications and meet continuing education requirements.<sup>323</sup> If the court appoints counsel in conservatorship or guardianship proceedings, Riverside County is legally required to pay for any legal fees that these individuals cannot afford.<sup>324</sup>

Court-appointed counsel serve prospective OPG clients by representing them during the process of appointment of OPG in conservatorship proceedings. They also serve clients after OPG has been appointed, at a minimum through a compliance period of about 80 days following appointment, and longer if necessary. They play a critical role for conservatees in voicing concerns. For example, a conservatee may want to work toward restoration of rights, may have a complaint about the facility where he or she has been placed, or may want to return home and needs the support to do so. There also may be family conflicts, medical decisions with which the conservatee disagrees, or concerns about financial expenditures.

## The County's Efforts to Provide Court-Appointed Counsel in Guardianship and Conservatorship Proceedings

Riverside County has entered into an agreement with a law firm to provide legal services for indigent individuals who are subject to guardianship and conservatorship proceedings. Riverside County selected the firm through a public bidding process, and the designated firm (Designated Firm) has been providing these services for the County since December 18, 2012. The current contract is for July 1, 2020, through June 20, 2023.

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<sup>322</sup> See e.g., Cal. Prob. Code §§ 1470, 1471, 1852, 2356.5, 2357, 3140, 3205 and Cal. Welf. & Inst. Code §§ 5276, 5302, 5346, 5350.5, 5365, 5465.

<sup>323</sup> Cal. Prob. Code § 1456; Cal. Rules of Court Rules 7.1101–1103.

<sup>324</sup> See e.g., Cal. Prob. Code §§ 1470(c)(3); 1472(b); Cal. Gov't Code § 27706(d).

Under the contract's terms, the Designated Firm is expected to receive between 40 and 66 cases per month. Monthly compensation is \$41,515.00 for legal fees, and up to \$8,500 in expenses for the cases it receives in this range. However, if the Designated Firm receives more than 66 cases in a month, the contract provides that it will be compensated at a rate of \$730 per case (plus expenses) for each additional case. If the Designated Firm receives fewer than 40 cases a month, the parties agreed that the firm would pay back a portion of its legal fees to the County. The parties also agreed that they would make adjustments to the agreement as necessary to modify the caseload range and associated compensation in the event that the monthly caseloads did not fall within the expected range.

## Relevant Studies on Compensation Models and Caseload Limits

Contracts by which counties in California provide for court-appointed counsel in guardianship and conservatorship proceedings have not been thoroughly studied. However, studies into juvenile dependency proceedings and the State Bar of California's Guidelines on Indigent Defense Services, as referenced previously, provide insight into the benefits of manageable caseloads and adequate compensation.

## The Designated Firm's Appointment Under the Agreement with the County

### Cases Received Between 2018 and 2021

Pursuant to its contract, the Designated Firm submits monthly summary reports to the County that detail its work over the past month. The data indicate that the firm was assigned 4,083 new cases from 2018 to 2021 (or approximately 85 new cases a month) and closed approximately 2,580 cases over this period (or approximately 54 cases a month). Accordingly, the firm's net caseload has increased by approximately 1,503 cases (or 31 cases a month) between January 2018 and December 2021.

Figure 24: Cases Received Between 2018 and 2021

	2018	2019	2020	2021	TOTAL	MONTHLY AVG.
<b>CONSERVATORSHIP</b>						
Conservatorship appointments	465	450	456	471	1,842	38

	2018	2019	2020	2021	TOTAL	MONTHLY AVG.
Conservatorship cases closed	322	179	361	407	1,269	26
Net	143	271	95	64	573	12
<b>GUARDIANSHIP</b>						
Guardianship appointments	709	612	434	486	2,241	47
Guardianship cases closed	428	228	300	355	1,311	27
Net	281	384	134	131	930	19
<b>COMBINED:</b>						
Total appointments	1,174	1,062	890	957	4,083	85
Total cases closed	750	407	661	762	2,580	54
Net	424	655	229	195	1,503	31

### The Designated Firm's Total Caseload

The data indicate that as of December 2021, the Designated Firm had a total caseload of between 2,932 and 4,505 open cases. In total, the Designated Firm appears to have incurred between 113,794 and 114,690 hours on these cases, for an average of approximately 13 hours per case.

Figure 25: Total Caseload

Jan 2013–Dec. 2021 (est.)	
<b>CONSERVATORSHIP</b>	
Conservatorship appointments	3,517–3,829
Conservatorship cases closed	2,322–2,334
Conservatorship cases open	1,195–1,495
Time spent on Conservatorship cases	54,623.63–54,625.02
<b>GUARDIANSHIP</b>	

Guardianship appointments	5,182–5,208
Guardianship cases closed	2,184–3,459
Guardianship cases open	1,749–2,998
Time spent on Guardianship cases	59,170.4–60,065.373
<b>TOTAL:</b>	
Total appointments	8,725–9,011
Total cases closed	4,506–5,793
Total cases still open	2,932–4,505
Total Hour spent	113,794–114,690
Hours per Appointment	12.7–13.1

### Compensation Under Current Contract for Work from January 2018 to December 2021

If the current contract rates were applied to the entire period of 2018–2021, the Designated Firm would have been paid approximately \$675,387.50 a year, at a rate of \$665.11 per case.

Figure 26: Compensation Under Current Contract for Work from January 2018 to December 2021

	2018	2019	2020	2021	Total
<b>Cases</b>	1174	1062	890	957	4,083
<b>Yearly Total</b>	\$777,770.00	\$695,280.00	\$597,460.00	\$631,040.00	\$2,701,550.00
<b>Average Paid Per Month</b>	\$64,814.17	\$57,940.00	\$49,788.33	\$52,586.67	\$56,282.29
<b>Amount Paid Per Case</b>	\$661.33	\$654.00	\$684.85	\$660.26	\$665.11

## Strengths

Despite high caseloads and a rigid compensation structure that fails to adequately compensate the Designated Firm for the breadth of its services, the Designated Firm is determined to provide quality representation in conservatorship and guardianship proceedings.

First, it is notable that Riverside County appoints counsel—the Designated Firm—prior to and after the establishment of a conservatorship or guardianship. This is reported to be a departure from many other California counties that only offer appointed counsel up to the establishment of the conservatorship or guardianship. Accordingly, under Riverside County's system, the Designated Firm performs post-conservatorship/guardianship annual reviews where the Designated Firm's lawyers meet with their clients to address any concerns and, if necessary, seek redress from the court.

Second, the Designated Firm reported that it often provides legal and counseling services beyond the scope of its contract. These services include crisis counseling, visitation dispute resolution, education counseling, grade reviews, and social services/assistance programs counseling. The Designated Firm is not compensated for these services; but as was reported to us, when the Designated Firm's phone rings, it wants to answer the call for the benefit of its clients.

Third, the Designated Firm has reported that the Probate Court routinely asks it to undertake tasks outside the contract's scope. For example, the Designated Firm might review complex case files to assist the court in redacting confidential information before giving a copy to a requesting party. Feeling obligated to comply with the court's request, the Designated Firm performs these extra-contractual—and thus unpaid—services.

Fourth, despite the financial metrics being challenging, the Designated Firm has reported that it has developed internal staffing efficiencies to address the immense workload. Indeed, the benefit of an experienced Designated Firm includes familiarity with the County's judicial system and processes; County personnel, including County Counsel; and proven solutions to address recurring issues with respect to their clients. The Designated Firm has been able to absorb a 10 percent compensation reduction in the last few years because of increased efficiency—a direct byproduct of the Designated Firm's experience.<sup>325</sup>

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<sup>325</sup> The Designated Firm has agreed to two 5% reductions in total compensation. The first reduction was approved by the County's Board of Supervisors on December 12, 2017 for the period February 1, 2018 through June 30, 2020. The second 5% reduction covers the existing contract term: July 1, 2020 through June 30, 2023.

## Areas in Need of Improvement

While the Designated Firm has claimed to have been able to effectively represent the needs of its clients to date, increasing caseloads and rising financial pressures will eventually make current practices unsustainable. Thus, the County should examine the Designated Firm's compensation structure to better align the value of services performed with actual compensation. Doing so will ensure that attorneys provide the necessary legal services as well as desirable counseling services, which will not only advance the safety and well-being of the Designated Firm's clients, but also lessen the burden on the congested judicial system.

The current contract is concerning in three ways:

1. **Flat-fee compensation is suboptimal.** As explained previously, the State Bar generally favors hourly rate compensation because it ensures that counsel is adequately compensated and avoids any conflict between the interests of counsel and clients.
2. **The current contract underestimates future attorney caseload and does not account for the additional costs of extraordinary cases.** The State Bar recommends that any compensation agreement for representation of indigent clients be "based on reliable statistical caseload data, and only in conjunction with a method, specified in the contract, for increasing compensation to account for increases in caseload size or the cost of defending extraordinary cases."<sup>326</sup> The current contract does neither.
  - a. **Extraordinary cases are not accounted for.** There is no provision to compensate the Designated Firm fairly for additional legal services in extraordinary cases, i.e., cases involving complex legal issues, issues of first impression, numerous clients, and/or particularly egregious factual circumstances. While the Designated Firm has thus far absorbed the additional fees and costs associated with providing representation in extraordinary cases, it is unfair for them to do so as their extraordinary caseload grows. Indeed, counsel from the Designated Firm acknowledged in interviews that if additional resources are not provided, they may have to curtail extra-contractual services (i.e., education assistance, crisis counseling, etc.). These are undoubtedly important to their clients' well-being. The contract should include a provision for additional payment (preferably on an hourly basis) to the Designated Firm in extraordinary cases.

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<sup>326</sup> The State Bar of California, *Guidelines on Indigent Defense Services Delivery Systems* (San Francisco: 2006).



This begs the question: who should determine when a case is extraordinary? The Designated Firm has suggested that it should be the Court. This makes sense, at first glance, given the Court's proximity to the docket, familiarity with factual and legal issues in conservatorship/guardianship matters, and objectivity. It is likely that the Court can readily compare a case's facts and issues to other pending matters, and make a determination regarding its unique, complex nature. However, imposing additional responsibilities on the County's Judges may not be the best solution. Moreover, the Court is not an advocate for the conservatee or ward. It must balance the interests of justice with efficiency and case management, which may work against a decision to designate a case as extraordinary.

For all these reasons, we believe the Public Defender would be a better alternative for designating a case as extraordinary. The Public Defender has a roster of attorneys experienced in evaluating legal issues under time constraints, and it has the resources to assess cases for extraordinary circumstances quickly and efficiently. Moreover, just like the Designated Firm, the Public Defender also engages in a client-centered practice, which lends itself to an alignment of goals. This alignment will ensure less disagreement and delay with respect to designating a case as extraordinary, thereby prioritizing the availability of adequate financial resources for individualized representation in "extraordinary" cases.

- b. **Caseloads are rising.** Furthermore, the caseload assumptions used for setting the Designated Firm's compensation—that the Designated Firm would receive between 40 and 66 cases a month—underestimates the number of new cases actually assigned. Indeed, between January 2018 and December 2021, the Designated Firm was never assigned fewer than 40 cases in a month, and only received less than 67 cases 8 out of the 48 months.

Issues surrounding an increasing caseload will only worsen. Prior to January 1, 2022, Cal. Prob. Code § 1471 required the court to appoint counsel to represent the interests of a conservatee, proposed conservatee, or person alleged to lack legal capacity (i) who is unable to retain legal counsel and (ii) requests the appointment of counsel to assist them in particular probate proceedings. But since passage of Assembly Bill No. 1194, the court is now required to appoint private counsel if the conservatee or proposed conservatee has not retained legal counsel and does not plan to. Under this new standard, counsel will be appointed much more frequently to address the interests of conservatees or proposed conservatees. As a result, the Designated Firm's already high caseload will increase substantially, making it even more necessary to compensate the Designated Firm adequately.

- c. **Recent compensation cut.** Given the increasing caseload, the Designated Firm's compensation should not be reduced. It has agreed to two 5 percent reductions in the contract's total compensation. The first reduction was for the period February 1, 2018, through June 30, 2020. The second 5 percent reduction covers the existing contract term: July 1, 2020, through June 30, 2023. While it is commendable that the Designated Firm has developed efficiencies in its workflow in response to the reduction, the burgeoning caseload suggests it will not be able to staff cases adequately without additional resources. The County should not be reducing the Designated Firm's compensation; rather it should align the Designated Firm's compensation with the services actually rendered—this is commensurate with best practices.
3. **The contract's public defender provision is not enforced.** The contract requires that the Designated Firm submit monthly reports to the Public Defender detailing its work. Instead, it has been providing these reports to the County Administrative Center, which has not been forwarding them to the Public Defender. As a consequence, an important contractual provision is not being enforced, and neither the County nor the Public Defender have sought to enforce it. In fact, according to the Designated Firm, the provision may be superfluous—a provision that was unintentionally included in the contract given the Designated Firm's robust scope of services compared to the Public Defender's menial role.

## Recommendations

1. **Incorporate an extraordinary case fee provision.** The County should revise the Designated Firm's contract to include an extraordinary-case fee provision. If a case is designated extraordinary, the Designated Firm should be paid on an hourly basis for work performed on the extraordinary case. Alternatively, the contract should include an additional flat-fee payment per extraordinary case. However, as discussed previously, flat-fee arrangements are not considered to be best practice. Given its client-centered focus, experience, and ability to analyze legal and factual issues in a timely manner, the Public Defender should be responsible for designating a case extraordinary, with the Court a secondary alternative.
2. **Consider performing a flat-fee compensation analysis.** Increasing the Designated Firm's flat-fee per case should, in turn, lead to better client service and outcomes. The Designated Firm has expressed a clear preference for flat-fee compensation. Under the current plan, it is receiving \$665.11 per case (see Figure 26 *supra*). Dividing \$665.11 by 13—the average amount of hours devoted to each case—yields approximately \$50 per hour. As caseloads increase, the Designated Firm will likely find it more difficult to devote 13 or more hours to each case. To keep up with rising demand and to provide

the same level of service, it will likely need to assign additional attorneys to its appointed matters. In turn, its expenses will increase. Therefore it is in the County's interest to adjust the flat-rate per case upward.<sup>327</sup> This would align with the Judicial Council's and FJI's recommendations that flat-fee rates be "adequate for the attorneys' practice, accounting for overhead and other costs borne by private professionals[.]"<sup>328</sup>

3. **Set caseload limits.** It is advisable to research what the appropriate caseload limit should be for an attorney providing representation in these types of matters. This research has not been completed. As explained previously, however, in response to its commissioned study to determine a caseload cap, the Judicial Council recommended a limit of 141 juvenile dependency cases if counsel is working alone, and up to 188 cases if counsel is working with an investigator/social worker who spends half his/her time assisting on the cases.<sup>329</sup> The Designated Firm's caseload has been increasing by 372 cases a year. That annual increase is expected to grow, specifically because of Assembly Bill (AB) 1194. The caseload expansion is compounded because in Riverside County—unlike in other California counties—the Designated Firm's representation continues after a conservator or guardian appointment. It must devote some time (i.e., annual reviews and client meetings) to legacy cases. Therefore, to prevent the Designated Firm from becoming overwhelmed with the expected groundswell of conservatee matters, the County should set a caseload limit per attorney. To do so, it should work with the Designated Firm as well as other experts in the field to determine the appropriate ceiling in light of the unique characteristics of these types of cases.
4. **Consider the feasibility of an hourly rate compensation structure.** The Designated Firm has indicated a clear preference for a flat-fee structure at this time. However, in keeping with the 2006 State Bar Guidelines on Indigent Defense Services, it should periodically revisit whether paying attorneys hourly would be feasible and beneficial to the clients being served.
5. **Implement a feedback system that captures clients' voices.** The Designated Firm is appointed at the Court's discretion when conservatees do not have the means to select and retain an attorney of their choosing.<sup>330</sup> As in all circumstances when counsel

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<sup>327</sup> The Designated Firm also reported that it would be interested in exploring a task-based compensation model, which is a more advanced, detailed flat-fee arrangement. Under a task-based compensation model, the Designated Firm would be paid a flat-fee for each discrete component of its representation. A task-based compensation model is a more precise form of compensation because it is based on the Designated Firm's expected time investment for each component of its representation. However, this model will increase administrative oversight and management at the Designated Firm and for the County.

<sup>328</sup> Family Justice Initiative, *Attributes of High-Quality Legal Representation*.

<sup>329</sup> Family Justice Initiative, *Attributes of High-Quality Legal Representation*.

<sup>330</sup> It should be noted that Cal. Prob. Code § 1471 was recently revised. Pursuant to subd. (d), "[i]f a conservatee, proposed conservatee, or person alleged to lack legal capacity expresses a preference for a particular attorney to represent them, the court shall allow representation by the preferred attorney, even

is appointed, client satisfaction cannot be assumed. Accordingly, the Designated Firm should devise a formal client feedback system that measures client satisfaction. If, for any reason, a client believes that their interests are not being adequately represented, the Designated Firm can then make the necessary adjustments to prioritize their desired outcomes.

Relatedly, the County should draft an informational document that summarizes the various roles and responsibilities of the persons involved in conservatorships and guardianships. Conservatees and their families are often new to the justice system and social services administration. It is not uncommon for them to lack knowledge regarding the roles and responsibilities of the Designated Firm, the Court, OPG, and County Counsel. Having clear definitions will help conservatees understand the process.

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if the attorney is not on the court's list of [ ] court-appointed attorneys." Because Cal. Prob. Code § 1471(d) took effect this year, the impact of this provision on the Designated Firm's appointment rate is uncertain.

## Chapter 5: Self-Sufficiency Programs

### Context

It is common for Riverside County residents in unstable circumstances—including clients of CSD and OPG—to need a variety of services that support their efforts to establish economic stability. For example, TAY, parents seeking reunification, and adults may require support accessing affordable housing, food assistance, financial education, credit recovery services, health insurance, or medical providers. DPSS administers a variety of programs that are largely state and federally funded, to help low-income county residents meet their basic needs.<sup>331</sup> In some situations, DPSS' Self-Sufficiency division is itself a provider. Our inquiry examined the services outlined in Figure 27 below.

Figure 27: Self-Sufficiency Programs

Type of Assistance	Program	Description	# Served
Food	CalFresh <sup>332</sup>	Buying groceries	200,000/ month
Housing	Housing Support Program (HSP)	Motel and hotel vouchers for CalWORKS and General Assistance clients at risk of homelessness.	155/ FY 2020–2021
Health Care	Medi-Cal	Health insurance and referrals to Covered California and Medically Indigent Services Programs	749,000/ month

<sup>331</sup> Agency programs that are beyond the scope of this inquiry include child care and employment services for CalWORKS families, other employment services focus on pathways to becoming home care providers for the In-home Supportive Services Program, and an annual job expo.

<sup>332</sup> In California, most federal programs have been renamed. For example, the Supplemental Nutrition Assistance Program (SNAP, formerly food stamps) is CalFresh in California. Temporary Assistance for Needy Families (TANF) is CalWORKS. Medicaid is Medi-Cal.

Type of Assistance	Program	Description	# Served
Cash <sup>333</sup>	CalWORKS	Monthly cash payments	46,000/ month
	General Assistance (GA) <sup>334</sup>		2,000/ month
	Refugee Cash Assistance		unspecified

While thousands of county residents receive support in these four areas, there is still a significant gap between DPSS-administered benefits and the level of need. The cost of living is high in Riverside County; the current Self-Sufficiency Standard for California<sup>335</sup> (SSS) pegs the monthly cost of living for a single adult in Riverside County at more than \$2,400. For context, this is well above the maximum monthly net income of \$1074 to be eligible for CalFresh.<sup>336</sup> It is common for people to need more food and housing assistance than is provided by these programs.

## Strengths

The Self-Sufficiency Division's greatest strengths are its intentional efforts to enable collaboration across programs and its ability to leverage state funds for investment in local resources and initiatives.

## Service Integration Efforts

DPSS has launched several initiatives to encourage integration of services and make it easier for clients to access them, with varying levels of success.

## Co-locating Eligibility Workers

Medi-Cal, CalFresh, and CalWORKS eligibility workers are now embedded at some county clinics and in mobile outreach efforts, making it easier for eligible people to enroll in all three. Eligibility workers can also provide direct referrals to behavioral health, substance abuse, and related counseling services, and in some cases, the housing team. However, DPSS leadership acknowledges the challenges of training staff on a wide variety of support programs: "not

<sup>333</sup> SSI payments are excluded from this list because they are not administered by DPSS.

<sup>334</sup> Caseloads from Riverside County Department of Public Social Services Annual Report 2020/2021, p. 42-43.

<sup>335</sup> Center for Women's Welfare, "The Self-Sufficiency Standard - California," School of Social Work at University of Washington. Accessed June 6, 2022.

<sup>336</sup> California Food Stamps, "CalFresh Riverside County," Last updated on March 5, 2022.

everybody knows what all those programs are." The main focus of eligibility technicians is understandably on properly administering the program at hand rather than piecing together a patchwork of services.

## **Collaborative Case Management and Multidisciplinary Teams**

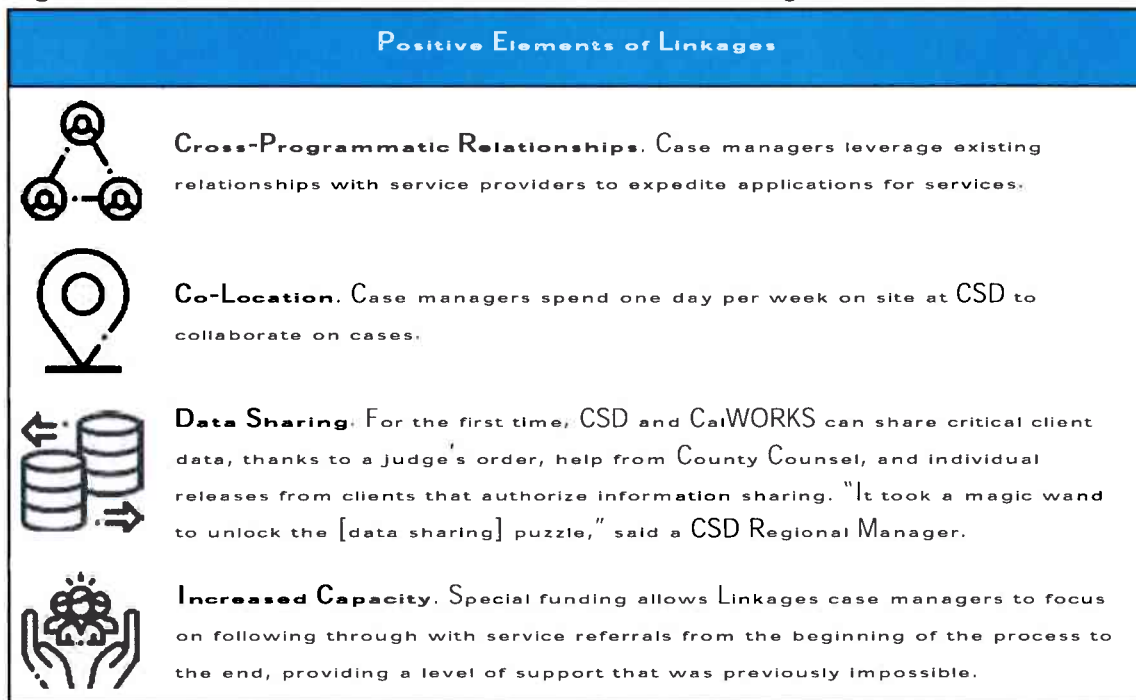
ASD participates in multidisciplinary teams with partners throughout the county on Housing First efforts. Housing First prioritizes securing permanent housing without pre-conditions such as drug testing or employment. Social workers from ASD are also assigned to each senior beneficiary of Project HomeKey, a new state housing initiative, to help them access other benefits and supportive services.

The Linkages program<sup>337</sup> is a new collaboration between the CSD and DPSS Self-Sufficiency programs to connect at-risk populations with diverse services and supports. Launched in Riverside County with a soft roll-out in the Hemet/Diamond Valley Region in May 2021, it aims to provide all-inclusive and intensive case management to mutual clients, with funding from the CalWORKS' Welfare to Work (WTW) program. Linkages' case management is provided by WTW Employment Services Counselors in Self-Sufficiency. They receive referrals from CSD and then collaborate on the cases. The target population is individuals who qualify for CalWORKS and also have an open CSD investigation or an open adjudicated CSD case in Family Reunification (FR), Family Maintenance (FM) and/or Family Maintenance Voluntary (FMV). Services include: Homeless Assistance, Mental Health, Substance Abuse, Domestic Abuse (Anger Management/Domestic Violence), Housing Support Services (HSP), Family Stabilization Services (FSS), and Employment Services.

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<sup>337</sup> Content in this section is supplemented by details provided by Regional Managers from Self-Sufficiency and CSD on 3/2/2022.

Figure 28: Staff-identified Positive Elements of Linkages



While some interviews reflect that Linkages has had a positive impact so far, it is available only to clients that meet specific criteria and is constrained by limited funding. In phase two of the roll-out, the County plans to hire dedicated staff to ensure that every eligible CSD case is referred. DPSS has tasked the data team with extracting matched/mutual client lists for CalWORKS and CSD. CalWORKS Linkages staff and CSD Social Workers will then reach out to these clients to encourage them to enroll. Unfortunately, the program's effectiveness is also inherently limited by the availability of services that clients might need; affordable housing, for example, is in limited supply.

## Investment in Affordable Housing

Riverside County and one city within it, have successfully leveraged state funding from Project Homekey to increase the inventory of affordable housing and to expand services.

The County used \$10.5 million to convert a hotel, a mobile home park, and a 52-bed housing community into permanent affordable housing for people experiencing homelessness. In addition, the City of Lake Elsinore received \$3.1 million to acquire, rehab, and operate a former



hotel to provide 14 transitional housing units for up to 28 residents.<sup>338</sup> While these projects will take some pressure off the demand for permanent housing solutions for the highest risk populations, the overall demand for affordable housing remains high; in 2020, the most recent point-in-time survey of the county, there were 2,884 unhoused adults and children.<sup>339</sup>

In Fiscal Year (FY) 2020–2021, DPSS expanded support services to homeless and unstably housed ASD clients through the Crisis Response and Intervention Services (CRIS) unit. This investment enlarged the team of ASD social workers skilled in providing targeted, short-term interventions, such as securing Section 8 vouchers and improving existing housing circumstances.<sup>340</sup>

## CalFresh Outreach

DPSS has launched a mobile outreach effort in response to low CalFresh enrollment in some communities. Leadership attributes low enrollment to lack of awareness of the program, misunderstandings about program eligibility, fear related to immigration or reduction in other benefits, and stigma. To overcome these barriers, staff on the mobile team will travel by van to underserved communities to take applications, scan verification, and issue electronic benefit transfer (EBT) cards for CalFresh, Medi-Cal, and CalWORKS. Though the outreach is a CalFresh initiative, DPSS has increased the value of this service to clients by offering support for applications to all three programs.

## Opportunities

As Riverside County works to improve its structure, technology, business practices, and service integrations, DPSS can benefit by both participating in these efforts, and using them as a model for its own reforms.

## County-wide Technology and Service Integration Efforts

The Riverside County Board of Supervisors recently authorized multiple departments to initiate the development of an integrated and comprehensive county health and human services system, having acknowledged that “the County of Riverside’s most vulnerable, high-need residents require coordinated services that holistically address multiple needs of the person or within a family.” They charged county leaders to “pursue the development of the interdepartmental multidisciplinary team, an integrated data information hub, a system of governance and partnerships with community-based organizations and academic institutions,

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<sup>338</sup> Riverside County, “County Awarded \$10.5 Million for New Housing Efforts.”

<sup>339</sup> Riverside County DPSS, *2020 Homeless Point-in-Time Count and Survey* (June 2020).

<sup>340</sup> Riverside County DPSS, *Annual Report*, p. 11.

which would be subject to approval by the Board when each prong is developed.”<sup>341</sup> There is a lot of work to do.

One presentation in support of the initiative described the labyrinthine landscape wherein over a million residents are served by six human services departments offering more than a hundred programs with myriad case management systems and client databases.<sup>342</sup> While the focus of this effort is on cross-departmental integration, not cross-program integration within each department, it has created an excellent opportunity for DPSS to participate and align its internal programs with the larger county-wide effort. It is possible that the cross-departmental initiative will yield significant benefits within DPSS.

Initial planning work for the integration has reframed the role of county human services as focused on whole person care<sup>343</sup> and identified five guiding principles also relevant to DPSS:

1. **Coordination.** Connect the different parts and sectors of the existing system comprehensively.
2. **Alignment.** Provide coherence across system-wide tasks like data collection, quality standards, and outcome measurement, breaking down silos associated with administration of funding and oversight.
3. **Sustainability.** Navigate political and administrative changes and be designed to best account for the breadth of the system's reach.
4. **Efficiency.** Allocate resources wisely, reduce duplication of effort, and seek innovative financing solutions.
5. **Accountability.** Be accountable to all system partners and stakeholders in terms of quality, equity, and outcomes, and hold services and programs accountable for their performance.

## DPSS Business Process Improvement Projects

The DPSS Self-Sufficiency Division has begun collaborating with the California Department of Social Services to revamp the agency's business processes. The goal is to connect families to services more efficiently and to distribute work more equitably to staff. The strategies they are implementing include:

1. **First contact resolution processes,** with the goal of providing same-day determinations as often as possible. The County is monitoring denial rates, with the expectation that they will decline due to fewer missed CalFresh interviews. They also

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<sup>341</sup> Riverside County Board of Supervisors, Resolution No. 2021-180.

<sup>342</sup> Transformation Planning for an Integrated Health and Human Services Delivery System, December 16, 2021 presentation.

<sup>343</sup> Transformation Planning for an Integrated Health and Human Services Delivery System, December 16, 2021 presentation.

expect that this will reduce the average number of days it takes to process an application. In a related effort, the County has adjusted staffing models for fielding questions that come through its phone interactive voice response (IVR) system. Riverside CalFresh has restructured staffing to include eligibility technicians as a part of the team that handles client questions from people whose workers are not available.

2. **Shared workload processes** that connect clients to the next available staff member with the appropriate skills to complete the task. Rather than each case going to a specific worker, cases are assigned available workers as they are received.
3. **Standardization of procedures and tools.** All case actions and family interactions must be conducted using the established UPWARD Standard Operating Procedures (SOP) and standardized Consistency Tools. This reduces inconsistencies between offices and facilitates a move to a shared workload process across offices already in process.

In addition to tracking high-level metrics, the County is monitoring the effectiveness of these new strategies with a new technology system that allows them to see activity at the worker level. Managers can follow up with individual workers on potential issues in real time. This promising business improvement initiative has strong potential to make a positive impact on clients' ability to access services.

## Areas in Need of Improvement

### CalFresh is Often Not Enough to Cover Food Costs

The SSS suggests food costs nearly \$270 per month, while the maximum CalFresh benefit for a single adult is \$204.<sup>344</sup> A national survey of SNAP recipients found that affordability of foods was the "most common barrier" to accessing a healthy diet.<sup>345</sup> Pandemic emergency allocations allowed for all CalFresh households to receive the maximum benefit, which made a positive, if temporary, difference for many households. When asked about the adequacy of CalFresh benefits, the local food bank's program staff shared that most people on CalFresh still need emergency food assistance. Given that CalFresh assistance rates are set at the federal level, addressing food insecurity requires a more systemic approach with additional local investments and coordination. Food cost inflation has exacerbated this issue, with prices rising more than 8 percent in the last year.<sup>346</sup>

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<sup>344</sup> California Food Stamps, "CalFresh Riverside County," Last updated on March 5, 2022.

<sup>345</sup> USDA Food and Nutrition Service, *Barriers that Constrain the Adequacy of Supplemental Nutrition Assistance Program (SNAP) Allotments (Summary)* (June 2021).

<sup>346</sup> US Inflation Calculator, [Food Inflation in the United States \(1968–2022\)](#).

## Affordable Housing Supply Remains Inadequate

The supply of affordable housing in Riverside County does not meet demand, and the housing supports that DPSS offers are limited in eligibility. The SSS estimates more than \$1,100 for rent and utilities in Riverside County,<sup>347</sup> while median gross rents were nearly \$1,500 per month in 2019.<sup>348</sup> Average rent for an apartment in the City of Riverside is \$2,074, with an average size of 848 square feet.<sup>349</sup>

Openings in affordable housing with higher subsidies are scarce and wait times for housing subsidies are infamously long, in some cases they are over a decade. DPSS administers several housing programs where eligibility is linked to enrollment in other DPSS programs. For example, the Housing Support Program is targeted to families who receive CaiWORKS, and the motel and hotel voucher program<sup>350</sup> is only available to CaiWORKS and General Assistance recipients. In our survey of CSD case workers, housing availability emerged as the worst service availability challenge for parents seeking reunification. Fifty-seven percent of respondents indicated that housing supports were rarely or never available for this population, and 45 percent of respondents ranked the quality of housing supports as being of poor or very poor quality.

Even when a client is eligible for DPSS' rental assistance, it is common to have to wait several months to receive it. Local community-based service providers say eligibility guidelines can sometimes exclude even those with significant need. Veterans and people aged 75 or older are likely to spend a year on the waitlist for a Section 8 voucher in Riverside County. For others, the wait can range from 3 to 12 years.<sup>351</sup> For youth and families transitioning out of foster care, Riverside County offers HUD's Family Unification Program (FUP)<sup>352</sup> under Section 8, but available slots are taken quickly. The vouchers from this program are permanent for families, but for youth formerly in foster care, they expire after 18 months.

TAY leaving foster care are at high risk of homelessness in California, and housing programs that target their needs run out quickly. Riverside County's annual point-in-time homeless

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<sup>347</sup> Center for Women's Welfare, "Self Sufficiency Standard- California," School of Social Work at the University of Washington, Accessed June 6, 2022.

<sup>348</sup> Department of Numbers, "Riverside County California Residential Rent and Rental Statistics," Accessed March 30, 2022.

<sup>349</sup> Rentcafe.com, *Riverside, CA Rental Market Trends*. Accessed 3/30/2022.

<https://www.rentcafe.com/average-rent-market-trends/us/ca/riverside/>. According to this source, these numbers "var[y] greatly depending on unit type, with cheap and luxury alternatives for houses and apartments alike. Studio apartments are the smallest and most affordable, 1-bedroom apartments are closer to the average, while 2-bedroom apartments and 3-bedroom apartments offer a more generous square footage."

<sup>350</sup> County of Riverside, "Hotel/Motel Vouchers."

<sup>351</sup> Jack Katzanet, "80,000 Applicants Wait for Section 8 Vouchers."

<sup>352</sup> US Department of Housing and Urban Development, "Family Unification Program (FUP)."

count<sup>353</sup> found that 11 percent of the homeless population in 2020 was aged 18 to 24. Another 37 youth reported that they were couch surfing. Children aging out of foster care are at very high risk. In California, 20 percent of foster youth will become homeless the day they age out. Connecting TAY with affordable housing can be a challenge; nearly a quarter (23%) of respondents to our CSD staff survey indicated that CSD was either very unsuccessful or somewhat unsuccessful at connecting TAY with affordable housing. This area was ranked the least successful of all services we asked about.

## Medi-Cal Services Can Be Difficult to Access

To support enrollment in Medi-Cal, health care navigators are stationed at DPSS offices to help applicants choose coverage. Those involved in this community-based assistance describe the Medi-Cal application process as relatively easy, but “accessibility to see a physician or to get care is kind of difficult. For some [the issue is that] the provider [is] in a different city or area. Transportation is often an issue.” Difficulty in finding a health care provider is an issue across California. In 2019, the California Health Care Foundation found that 11 percent of Medi-Cal participants statewide had difficulty finding primary care, and nearly a quarter had difficulty finding specialty care.<sup>354</sup>

## True Service Integration Remains Elusive

While there is isolated progress in DPSS, and while OPG works with a range of partners, full integration of services is an ongoing challenge. Funding for service integration often comes from County general funds, for which there is significant competition. Pandemic pressures (increasing caseloads, staffing shortages, overall burnout) has made service integration work even harder to prioritize. In Riverside County, only 25 percent of Medi-Cal participants were also enrolled in CalFresh in October 2021, as compared to 30 percent statewide.<sup>355</sup> County social workers describe learning and navigating the myriad of programs and benefits programs on their own, rather than accessing centralized sources of information, integrated applications, or streamlined service coordination on behalf of their clients.

Integrating housing services is especially challenging. Most housing support services in Riverside County are operated outside the purview of DPSS. Access to affordable housing is not well coordinated. Community-based services providers describe clients needing to navigate various systems and having to figure out a web of eligibility rules and application processes. A

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<sup>353</sup> Riverside County DPSS, *2020 Homeless Point-in-Time Count and Survey* (June 2020).

<sup>354</sup> Len Finocchio, James Paci, and Matthew Newman, “2021 Edition — Medi-Cal Facts and Figures: Essential Source of Coverage for Millions,” California Health Care Foundation, 2021.

<sup>355</sup> California Department of Social Services, *CalFresh Data Dashboard (January 2022)*. Accessed February 7, 2022. <https://www.cdss.ca.gov/inforesources/data-portal/research-and-data/calfresh-data-dashboard>.

2021 report by the Auditor of the State of California<sup>356</sup> reinforces this assessment. The report reviewed the Riverside County Continuum of Care (CoC), highlighting several concerns: losing track of clients, long delays to access housing, not knowing if services provided meet client needs, and a lack of a coordinated entry process.

While the Linkages program is a bright spot, many CSD and OPG clients who require similar services do not fit its eligibility criteria.<sup>357</sup> The CSD "Non-Qualifying Linkages Cases" receive referrals, but not intensive case management support for services such as Medi-Cal, CalFresh, Rental Assistance, and Eviction Prevention. Program staff described the difficulty their non-qualifying clients experience when seeking housing assistance. They must independently navigate the standard affordable housing access systems for which there are long wait lists and few vouchers.

Currently, there is no clear, agency-wide process for County staff to connect people with a wider set of comprehensive services beyond what the County offers. Comments from DPSS Self-Sufficiency leadership in our interviews suggested that they did not explicitly consider broader service connection to be within their role. One leader explained it this way: "I think we each can only go as far as we can with our own programs and ability to assist. I mean, there's definitely a gap in people having everything to kind of get them out of poverty or to really meet their needs. I wouldn't be able to say that's a fully County issue." Leaders referred to nonprofit efforts trying to wrap services more comprehensively, but did not seem to be actively involved in or knowledgeable about them. DPSS Self-Sufficiency program leadership described efforts to educate eligibility workers in their core programs about other services. However, the core function of those workers is to determine eligibility for specific programs, not to provide comprehensive case management. Until DPSS prioritizes building an ecosystem of care into its roles, job descriptions, and pay structure, connecting clients to additional services will continue to be dependent on isolated individual workers who take the initiative to learn and share.

The DPSS website<sup>358</sup> is limited in its ability to serve individuals searching for additional help independently. The site does include some links to additional support services beyond what is provided by DPSS directly, such as housing and child care, but the information is difficult to navigate. For example, menus appear, disappear, and change depending on where a user

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<sup>356</sup> California State Auditor, *Homelessness in California The State's Uncoordinated Approach to Addressing Homelessness Has Hampered the Effectiveness of Its Efforts* (Sacramento: February 2021).

<sup>357</sup> Riverside County Department of Public Social Services, "Riverside County Linkages" (Powerpoint Presentation, internal). Participants must qualify for CW, or have been receiving at time of child(ren)'s removal. Those who do not qualify include: Not in FR, FM or FMV Status (i.e., Investigation/Pre-J/D); Not eligible to CW; Does not reside in Riverside County; Is a Non-Needy Relative (NNR); Has chronic substance abuse; Has severe Mental Health Issues; Is undocumented; Is an unaided step-parent; Is timed-out for CW/WTW; Has been permanently disqualified from CW; Has been charged with felony fraud; Is otherwise determined not eligible.

<sup>358</sup> <https://rivcodpss.org/>.

places the mouse cursor. Figure 29 below shows an example of the navigation issues, with the "Apply for Benefits" menu partially hiding navigation tiles.

Figure 29: Website Navigation Barriers

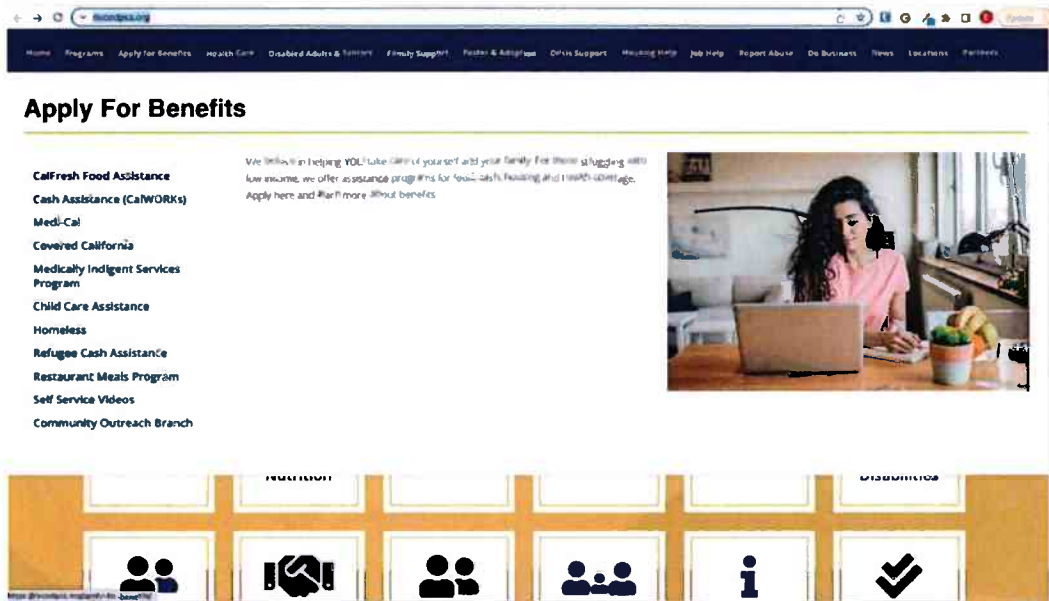


Image: The County of Riverside Website, with an Apply for Benefits menu partially hiding other navigation tiles.

Services and supports are organized according to service type and program eligibility rules, rather than from the perspective of a person seeking support in unstable circumstances. A redesign could help people readily see all the programs that might work for their circumstances.

## Cross-Program Data Sharing is Limited

The inability to share data across programs creates a barrier to service access. County Counsel offices sometimes prioritize eliminating the risks associated with data sharing and associated privacy concerns. This is a common issue<sup>359</sup> standing in the way of improving service delivery. In addition, different programs fall under different privacy requirements and use different release-of-information forms. These differences make it extremely difficult to achieve widespread data-sharing among all programs for which a county resident is eligible, beyond small pilot initiatives with special dispensation to share information. For example, an ASD staff member described how an abundance of caution and conflicting policies impede even potentially allowable information sharing, in this case by OPG:

<sup>359</sup> Lourdes Morales and Ryan Woolsey, *Integrating Health and Human Services Eligibility and Enrollment Processes* (Sacramento: Legislative Analyst's Office, 2014).

There's often conflicting laws and conflicting County Counsel opinions about when you can share information, when you can't share information. I think that sometimes it makes the Public Guardian's office reticent to share information [...] not because they're trying to hoard information or not because they think that we would do something untoward with it, but because they have County Counsel telling them, you're not allowed to share this information, you're not allowed to disclose... That's not a weakness of the Public Guardian. I think that's a weakness of our county in general, maybe even the state of California.

Stronger data sharing agreements would allow for better joint planning between departments and effectively targeted outreach. For example, DPSS Self-Sufficiency staff described interest in working with the Office on Aging to connect older adults with additional services, or providing ASD with a list of homeless disabled and aged customers that they can contact to assist with housing. However, Self-Sufficiency staff have struggled to execute these ideas due to County Counsel interpretations of data sharing restrictions. View-only access to other county programs' databases to determine the status of benefits applications for an individual client can be incredibly useful for social workers, but there is no guarantee that those permissions will be granted. While DPSS staff report working with County Counsel to address the issue and consulting with other counties, it is a complex challenge that requires a systemic approach and a county-level commitment. One ASD staff member explained, "We haven't quite figured out how to share information in a way that protects people's rights and privacy, as we all should have [to], but also allows us to care, coordinate, and integrate services better."

## **Benefits Enrollment is Difficult, Especially for the Highest-Need Clients**

In our interviews, we identified a need to support TAY and adults in conservatorship to apply for benefits. Enrolling in social safety net programs can be difficult. The programs have complex eligibility rules with strict requirements for formal documentation. Staff from nonprofit organizations that provide support to applicants explained in interviews that it is hard for people in stressful circumstances to navigate service networks. Applicants are generally experiencing instability, stress, and/or traumatic circumstances. This hardship reduces capacity to understand complex information and sequence the steps needed to complete benefits enrollment. Applicants often need multiple supports; a review of Riverside County data for CalFresh applications received via the GetCalFresh service from July to December 2021 showed that 39 percent of those applicants reported unstable housing, and anywhere from 12 to 25 percent had lost a job within the last 60 days, depending on the month.<sup>360</sup> While OPG staff enroll

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<sup>360</sup> Riverside County | GetCalFresh Data Dashboard, accessed 1/27/2021.



conservatorship clients, staff do not currently receive much training on how to successfully navigate that process.

One recommended service-delivery model for children, youth, families, and adults throughout California and the United States is a trauma-informed approach.<sup>361</sup> Training and practice in this approach will strengthen the Self-Sufficiency Programs' ability to meet clients where they are and connect them with appropriate services.

Code for America, a nonprofit organization that has extensive experience working with government programs to improve client-centered benefits delivery, shared a summary of their user experience research with respect to trauma-informed principles across multiple states. It describes how these principles often show up in the context of applying for public benefits. See Figure 30 below.

**Figure 30: Trauma-Informed Approach Principles**

Trauma-Informed Approach Principle	
<b>Safety</b>	<p>Applicants describe feeling unsafe in three ways:</p> <ul style="list-style-type: none"> <li>● Fear that answering a question "wrong" will lead to negative consequences, especially when the application design prevents them from fully explaining their circumstances</li> <li>● Fear that they will be denied badly needed benefits or be labeled a public charge</li> <li>● For applicants in an unsafe personal situation, fear of obtaining information or documents that are needed for the application from a person from whom they are estranged or who may be/have been an abuser</li> </ul>
<b>Trustworthiness &amp; Transparency</b>	<p>Applicants experience lack of transparency throughout the application process:</p> <ul style="list-style-type: none"> <li>● Lack of receipts for submitted forms or documents</li> <li>● No obvious way to learn application status</li> <li>● Confusing language in notices and other communications</li> <li>● Lack of opportunities to build trust and support</li> </ul>

<sup>361</sup> See The California Integrated Core Practice Model for Children, Youth, And Families; see also The Substance Abuse and the Mental Health Services Administration's Concept of Trauma and Guidance for a Trauma-Informed Approach for an introduction to the guiding principles of trauma-informed service delivery.

Trauma-informed Approach Principle	
	<ul style="list-style-type: none"> <li>Decentralized access systems (e.g., to affordable housing) that diffuse accountability across many players</li> </ul>
<b>Collaboration &amp; Mutuality</b>	<p>Collaboration between applicants and staff is difficult:</p> <ul style="list-style-type: none"> <li>Often no method for communicating directly with each other</li> <li>Messages seldom returned</li> <li>Power dynamics that favor the agency, or administrative efficiencies over client needs</li> </ul>
<b>Empowerment, Voice, and Choice</b>	<p>Processes fail to recognize that the experience of trauma may be central for applicants - the system assumes stability when instability is actually the norm. The enrollment process is best suited to people with simple, stable incomes to report, stable mailing addresses, easy access to verification documents, and easy availability for phone interviews.</p>
<b>Cultural, Historical, and Gender Issues</b>	<p>Safety net service environments are often not responsive to racial, ethnic, and cultural needs of applicants, including their historical trauma.</p>

## Procedural Denials Are Too Frequent

One way to understand how challenging it is to enroll in benefits is to examine the reasons applicants are denied. Procedural denials mean that applicants are denied due to an incomplete application process rather than a failure to meet program requirements. Riverside County has the highest percentage of procedural denials for CalFresh compared to surrounding counties.<sup>362</sup> Over the last several years, anywhere from a third to nearly 45 percent of all applications in Riverside County were denied for procedural reasons. In comparison, in 2018 and 2019, other Southern California counties mostly hovered around half that rate. Moreover, in Riverside County often more than 8 out of 10 of the denied CalFresh applications are denied for procedural reasons. The most common types of procedural denials occur due to missed interviews and missing verification documents. According to internal reports, the share of CalFresh denials due to procedural reasons has decreased over the last several months, from 45 percent in November 2021 to 36 percent in February 2022, but this is still troublingly high.<sup>363</sup>

<sup>362</sup> Comparison counties: Imperial, Los Angeles, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Ventura.

<sup>363</sup> Shataun Jones, *CalFresh Application Denials by Reason* (Riverside County DPSS, March 2020).

High rates of procedural denials can lead to a resistance in the community to apply for benefits. People feel that it is not worth it to go through the application process because it is so difficult to successfully complete it. Journalist Annie Lowrey, writing in *The Atlantic*, describes this issue as a “time tax”—“a levy of paperwork, aggravation, and mental effort imposed on citizens in exchange for benefits that putatively exist to help them.”<sup>364</sup>

Figure 31: Procedural Denials

Causes of High Rates of CalFresh Procedural Denials	
1.	BenefitsCal system misdirecting applications and not allowing text alerts
2.	Applicants not receiving timely notices for required interviews
3.	DPSS staff not responding to messages
4.	DPSS requesting information that is not mandatory
5.	DPSS allowing only specific verification documents when other types may suffice
6.	DPSS requiring applicants to gather documentation under time pressure before the interview, or not giving sufficient time to complete this step after the interview
7.	Applicants experiencing difficulty using the online document upload system

Community-based application assisters explained that the 2021 transition to a new database system (BenefitsCal) has exacerbated the problem. One interviewee described how system glitches “prevent a lot of the applications that we’ve submitted from going through or [send them] to the wrong county. Then the client ultimately [does] not receiv[e] the benefits.” Furthermore, the previous system, C4Yourself, made it easier for clients to opt into text messaging reminders. Local assisters indicated that BenefitsCal either does not have this feature or that they do not know how to access it. While the County has been made aware of these issues, it has been hard to get fixes quickly because prioritizing bug fixes and system enhancements requires coordination of priorities with the other counties using the same system.

Missed interviews are the most common type of procedural denial in Riverside County, making up 62 percent of “controllable” denials between November 2021 and February 2022.<sup>365</sup> California Department of Social Services’ CalFresh Management Evaluation includes several findings that could explain the high procedural denial rates, including not always providing households with a notice of a missed first interview, and not always contacting households in a timely manner regarding their intake or recertification interview.<sup>366</sup> Local community-based assisters also indicated that the County often does not provide timely notice for interviews. One

<sup>364</sup> Annie Lowrey, “The Time Tax,” *The Atlantic*, July 27, 2021.

<sup>365</sup> Shaleun Jones, *CalFresh Application Denials by Reason*.

<sup>366</sup> Riverside DPSS’s August 2020 response letter.