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Characteristics of Attorneys Representing Children in Child Welfare Cases

BRITANY ORLEBEKE,* ANDREW ZINN,** DONALD N. DUQUETTE,*** & XIAOMENG ZHOU****

I. Introduction

Every day in state and local courts throughout the United States, judges are called upon to decide who should have the responsibility for the immediate and long-term care of neglected and abused children. Federal recognition of the right to independent advocacy for children subject to these proceedings originates with the 1974 Federal Child Abuse Prevention and Treatment Act (CAPTA).¹ As a condition of receiving federal funds for child abuse prevention services through CAPTA,² states must provide for the appointment of an appropriately trained guardian *ad litem* (GAL) for every child whose case results in a judicial proceeding.³ A guardian *ad litem* (GAL) may be an attorney, a lay advocate (such as a Court Appointed Special Advocate (CASA)), or both. CAPTA charges child representatives to obtain “first-hand a clear understanding of the situation and needs of the child; and to make recommendations to the court

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1. 42 U.S.C. § 5106a(b)(2)(A)(xiii) (2010).

2. The National Quality Improvement Center on the Representation of Children in the Child Welfare System has compiled the state laws governing the child’s legal representative on its website, *available at* www.ImproveChildRep.org.

3. In most states, CAPTA comprises less than 5% of federal child welfare revenue provided to states. The majority of federal funds come from Title IV-E and, to a lesser extent, IV-B of the Social Security Act, *available at* <http://www.childwelfarepolicy.org/maps/single?id=290>.

concerning the best interests of the child.”⁴ This CAPTA requirement reflects the view that children have interests that should be represented in these proceedings that may differ from the interests of their parents and the state.⁵ Even though the state has brought the action to protect the child, the voice and needs of the child may get lost in the fray of arguments and allegations between the state’s lawyers, parents, and other adults that are parties to the case. Furthermore, the child needs an advocate if the state fails to deliver on necessary services and actions due to fiscal constraints and/or organizational failures.⁶

Since the passage of CAPTA, legal scholars have written extensively about how the voices and needs of children in dependency cases should be independently represented. Most of these scholars advocate for representation by attorneys;⁷ a few caution against the consequences of providing children attorneys.⁸ Another field of debate has been the relative merits of client-directed versus the substitute judgment role of representation.⁹ State laws vary in the definition of the role for the attorney, that is, whether it is client-directed or substitute judgment/best interests. Some states provide for both types of representation.¹⁰ Federal law is silent on the need and training requirements for client-directed attorneys for children who are the subject of child welfare cases.

4. *A Child’s Right to Counsel: A National Report Card on Legal Representation for Abused and Neglected Children*, First Star & Children’s Advocacy Institute (2012). The majority of state laws (63%) mandate the appointment of an attorney to serve in the GAL role, but these mandates are not always followed in local courts. See also Donald N. Duquette & Ann M. Haralambie, *Representing Children and Youth*, in *CHILD WELFARE LAW AND PRACTICE: REPRESENTING CHILDREN, PARENTS AND STATE AGENCIES IN ABUSE, NEGLECT AND DEPENDENCY CASES*, Duquette & Haralambie eds., 2d ed. 2010.

5. Erik S. Pitchal, *Children’s Constitutional Right to Counsel in Dependency Cases*, 15 *TEMP. POL. & CIV. RTS. L. REV.* 663–95 (2006); Lashanda Taylor, *A Lawyer for Every Child: Client-Directed Representation in Dependency Cases*, 47 *FAM. CT. REV.* 605–33 (2009).

6. Marvin Ventrell, *History of Child Welfare Law*, in *CHILD WELFARE LAW AND PRACTICE: REPRESENTING CHILDREN, PARENTS AND STATE AGENCIES IN ABUSE, NEGLECT AND DEPENDENCY CASES*, Duquette & Haralambie eds., 2d ed. 2010.

7. Leslie Starr Heimov, Amanda George Donnelly & Marvin Ventrell, *Rise of the Organizational Practice of Child Welfare Law: The Child Welfare Law Office*, 78 *U. COLO. L. REV.* 1097–1117 (2007); Jacob Ethan Smiles, *A Child’s Due Process Right to Legal Counsel in Abuse and Neglect Dependency Proceedings*, 37 *FAM. L.Q.* 485 (2003); Pitchal, *supra* note 5.

8. Annette Ruth Appell, *Representing Children Representing What? Critical Reflections on Lawyering for Children*, 39 *COLUM. HUM. RTS. L. REV.* 573, 623 (2008); Martin Guggenheim, *Maximizing Strategies for Pressuring Adults to do Right by Children*, 45 *ARIZ. L. REV.* 765 (2003).

9. Other terms for client-directed attorneys are attorney *at litem*, child’s counsel, counsel for the child, child’s attorney, or attorney for the child.

10. Annette Ruth Appell, *Decontextualizing the Child Client: The Efficacy of the Attorney-Client Model for Very Young Children*, 64 *FORDHAM L. REV.* 1995–1973 (1995); Donald N. Duquette, *Legal Representation for Children in Protection Proceedings: Two Distinct Lawyer Roles Are Required*, 34 *FAM. L.Q.* 441–66 (2000); Andrea Khoury, *Why a Lawyer?: The*

Since the passage of CAPTA, professional associations have been debating, writing, and promulgating standards for child representatives. In 2001, the American Bar Association established child representation as a distinct legal specialty with its own Board Certification (ABA Standing Committee on Specialization Approval of NACC Definition, 2001). Additionally, many law schools started child advocacy clinics.¹¹ More recently, in 2011, the American Bar Association House of Delegates approved a *Model Act Governing the Representation of Children in Abuse, Neglect, and Dependency Proceedings*.¹² In October 2009, the federal Children's Bureau included child representation in its National Quality Improvement Center initiative. After a national needs assessment of the field, the National Quality Improvement Center on the Representation of Children in the Child Welfare System (henceforth, the *QIC-ChildRep*) developed a Best Practice Model to guide lawyers in representation of children.¹³ A 2012 article provides the most recent comprehensive review of the literature and professional activities on all of these issues.¹⁴

While there has been considerable interest in defining and improving the legal representation that children in child welfare cases receive from their attorneys, there is only limited understanding of who these attorneys are and what they are actually doing to fulfill this role, either as a GAL, a client-directed attorney, or both. Information about the practice context, range of income, practice experience, and training of child representatives has not been collected or published, either at the national or state level. Furthermore, no systematic surveys of these attorneys about their beliefs and attitudes about child representation work in the United States have been published to date.¹⁵

This article begins to fill the gap in knowledge about attorneys serving the role of representative for maltreated children who are in the legal-

Importance of Client-Directed Legal Representation for Youth, 48 FAM. L. REV. 277 (2010); Taylor, *supra* note 5.

11. Marvin Ventrell, *The Practice of Law for Children*, 66 MONT. L. REV. 1–20 (2005).

12. American Bar Association, *Model Act Governing the Representation of Children in Abuse, Neglect, and Dependency Proceedings*, available at http://apps.americanbar.org/litigation/committees/childrights/docs/aba_model_act_2011.pdf.

13. *QIC-ChildRep* Best Practice Model, available at <http://www.improvechildrep.org/DemonstrationProjects/QICChildRepBestPracticeModel.aspx>; see also Appendix B, Donald N. Duquette, with Julian Darwall, *Child Representation in America: Progress Report from the National Quality Improvement Center*, 46 FAM. L.Q. 1 (2012).

14. Duquette & Darwall, *supra* note 13.

15. Nicola M. Ross, *Different Views? Children's Lawyers and Children's Participation in Protective Proceedings in New South Wales, Australia*, 27(3) INT'L J. L., POL'Y AND FAM. (2013) (reporting on a qualitative study of attorney beliefs and attitudes in New South Wales, Australia, finding that "lawyers reported that they represented children in very different ways, reflecting ambiguity about how to interpret these roles and involve children as clients or the subject of best interests representation.").

judicial system. The article examines the characteristics, experiences, and circumstances of attorneys representing children in dependency cases in the state of Washington and nineteen counties in Georgia, using data collected during the experimental evaluation of the *QIC-ChildRep*¹⁶ Best Practice Model for child representation.¹⁷ Understanding characteristics of lawyers who are currently representing children will guide legislators, courts, and policy-makers seeking to provide and improve upon the delivery of legal services for maltreated children.

II. Methods

A. Sample

The sample was drawn from the group of attorneys recruited for the demonstration of the *QIC-ChildRep* Best Practice Model. Most recruited attorneys completed the survey between April 2012 and April 2013. The *QIC-ChildRep* study sought to recruit all practicing attorneys representing children throughout Washington and in study counties in Georgia. The two largest Georgia counties (DeKalb and Fulton) were excluded from the project because attorneys in those two counties practiced primarily as staff attorneys in large legal offices, and random assignment of attorneys to treatment and control groups within the same organization would not have been feasible or reliable. In Washington, these attorneys were working in twenty-five different counties, including King (Seattle), Pierce (Tacoma), Clark (Vancouver), Spokane, and a number of medium and small-sized counties. Together, these twenty-five counties represented 89% of Washington's child population.¹⁸ In Georgia, thirteen jurisdictions participated, covering nineteen counties. These counties represented 26% of Georgia's child population.¹⁹

The sample consists of 126 child representatives in Washington and 143 child representatives in Georgia (Table 1). The Georgia Administrative Office of the Courts sought and received agreement from presiding juvenile court judges in participating jurisdictions to require all attorneys practicing

16. *QIC-ChildRep* is the National Quality Improvement Center on Child Representation in the Child Welfare System at the University of Michigan Law School, available at www.ImproveQIC-ChildRep.org. These data were collected by Chapin Hall at the University of Chicago, which serves as the evaluator of *QIC-ChildRep* Best Practice Model implementation in Washington and several judicial districts in Georgia.

17. These data will be used to understand the implementation and impact of the *QIC-ChildRep* Best Practice Model demonstration projects in Washington and selected jurisdictions in Georgia. Findings from this evaluation, forthcoming at the end of 2015, will develop many of the findings of this paper.

18. As of 2010 (U.S. Census).

19. *Id.*

Table 1. Sample by State and Survey Response Rates

	Attorneys		
	All	Georgia Juris.	Washington
Total Sample	269	143	126
Complete Survey Responses	240	123	117
Partial Survey Responses	3	2	1
Response Rate (Complete Only)	89%	86%	93%

in those jurisdictions to participate in the demonstration. As a result, all attorneys practicing at the start of the study, or who began to represent children in one of the Georgia evaluation jurisdictions during the recruitment period, were automatically enrolled in the study and received a survey. In Washington, participation was based on a statewide recruitment and consent process conducted by the Center for Children and Youth Justice and the Washington Office of Civil and Legal Aid, two of the *QIC-ChildRep* partner organizations in Washington. Staff from these partner organizations reported that, out of all attorneys known to practice child welfare representation, fewer than fifteen either did not respond or declined to participate.

B. Data

The data for this study was obtained via a Web-based survey site developed for the *QIC-ChildRep* evaluation. In brief, attorneys were administered surveys at the inception of the evaluation (baseline survey), and then repeatedly over the course of the evaluation based on the number and status of the dependency cases each attorney represented. The data used for the current study, however, is limited to those collected via the baseline survey. The response rate for the baseline survey was high (WA: $n = 117, 93%$; GA: $n = 123, 86%$).

The questions on the baseline survey cover a number of different domains, including attorney demographic characteristics, practice tenure, contract arrangements with counties, income, caseload size, continuing legal education, and experience in different areas of the law. The survey also contains several questions about attorneys’ opinions concerning the level of responsibility that child representatives should assume over various dependency case tasks, and the importance of various tactics and objectives vis-à-vis dependency court outcomes. Finally, the survey contains a question about whether attorneys find child representation rewarding and

a question about attorneys' perceptions of impact as child representatives on child welfare outcomes. The question about impact on outcomes was kept general and did not parse the different types of outcomes, such as due process outcomes, case disposition outcomes, and/or well-being outcomes. Rather, the question was intended to be a barometer of attorneys' general sense of influence in the dependency court. In addition to survey data, information was collected from each jurisdiction on the mechanism for payment of child representatives and the circumstances under which children were provided child representation attorneys.

C. Analysis Approach

Our primary objective is to describe the characteristics, experiences, and circumstances of the sample as a whole. Nevertheless, to help inform our understanding of the degree to which the characteristics of our sample reflect those of the broader population of attorneys representing children, we compare the characteristics and circumstances of attorneys across the two samples. To the extent the characteristics and circumstances of attorneys in these two samples are found to be similar, we can make stronger claims about the representativeness of this combined sample to the population of child representatives in other jurisdictions. The statistical procedures used to conduct these comparisons varied depending on the nature of the variable under examination. Differences on interval-level and categorical variables are examined using a chi-square test of the equality of proportions, and differences on ordinal-level variables are examined using ordered logistic regression.

D. Study Context

The interpretation of the results is guided by three important features of the study context. First, the experimental evaluation of the *QIC-ChildRep* focused explicitly on states where a large number of attorneys practiced either independently as solo practitioners, in small firms, or in small numbers (less than ten attorneys representing children) in nonprofit legal aid organizations (Table 2).

Second, the state laws addressing the circumstances under which children were provided attorneys in dependency cases in Georgia were very different than those in Washington at the time of the survey.²⁰ Because of

20. Georgia statutes in effect in 2012 (GA. CODE ANN. § 15-11-6(b)) entitled a child to legal representation at all stages of the proceedings, but separate counsel was only specifically required for proceedings terminating parental rights (GA. CODE ANN. § 15-11-98(a)). Georgia case law had established that in all other proceedings, when children are placed in the custody of the Department of Human Resources and the Department is represented by counsel, such representation "also constitute[s] representation by counsel on behalf of the children" (Williams v.

Table 2. Number of and Percent of Responding Attorneys by State and Employment Setting

Employment Setting	Georgia Juris. (N = 123)		Washington (N = 117)	
	Freq.	Pct.	Freq.	Pct.
Solo practitioner	95	77%	59	50%
Employed by a private law firm	27	22%	19	16%
Employed by private, non-profit organization	0	0%	35	30%
Employed by county office	1	1%	4	3%

these differences in state law and local practice, Georgia attorneys were representing children that were on average younger than the children being represented by the Washington attorneys. In Washington at the time of the survey, the appointment of an attorney to fulfill the CAPTA requirement, or to provide client-directed representation, was not mandated at any point in the case for any child. State law provided that “if the child requests legal counsel and is age twelve or older, or if the guardian *ad litem* or the court determines that the child needs to be independently represented by counsel, the court may appoint an attorney to represent the child’s position.”²¹ Local court practice varied, but the majority of courts at least provided for the appointment of a client-directed attorney upon request for children entering or already in out-of-home care at age twelve or older. In Georgia at the time of the survey, state law mirrored CAPTA, allowing jurisdictions the discretion to assign either a CASA or an attorney to fulfill the GAL role. Participating jurisdictions in Georgia varied as to whether attorneys were used to fulfill the GAL role. Half of the jurisdictions reported that attorneys were assigned for children in all cases, and the remainder assigned an attorney upon request, or only as required by state law. All children, regardless of age, were entitled to counsel (a client-directed attorney) in termination proceedings.²²

Dep’t of Human Res., 150 Ga. App. 610, 611 (1979)).

21. WASH. REV. CODE § 13.34.100(6)(f) (2014).

22. Child Welfare Information Gateway, *Representation of Children in Child Abuse and Neglect Proceedings* (2011), available at <https://www.childwelfare.gov/pubPDFs/represent.pdf>. Georgia law governing child abuse and neglect at the time of the study has been superseded by a new code with new references. Language from Georgia law at the time of the study is available in this Children’s Bureau publication.

Third, the role of the attorney—whether the attorney was charged with being a GAL, having a “substitute-judgment” role, or a role to represent the child’s “expressed wishes”—was different in the two states at the time of the study. In Washington, when an attorney was assigned, the attorney’s role almost always was to represent the child’s expressed wishes. In Georgia, by contrast, even though the legal authority and practice was quite ambiguous and unsettled at the time of the survey, attorneys were commonly appointed to serve both roles at once, also known as a “dual role,” that is, the attorneys served in a substitute-judgment and GAL role unless there was a conflict between the attorney’s view of the child’s best interests and the child’s wishes. If and when such a conflict occurred, the attorney was obligated to inform the court and an expressed wishes counsel for the child would be appointed.²³

III. Findings

In this section we describe the findings concerning the sample as a whole, as well as those concerning the differences across the two sampled states. Unless otherwise noted, the findings of cross-state comparisons are only described where these differences were found to be statistically significant. The findings are presented in Tables 3 through 11.

A. *Child Representation Practice*

All the attorneys in the sample had represented, or were representing, children during 2013, but there was a range in the amount of child representation each attorney was practicing. For 52% of attorneys across both sites, child representation constituted 20% or less of their practice (Table 3). For 24% of attorneys, it constituted 21% to 40% of their practice. Child representation constituted at least 61% of attorney practice for only 15% of attorneys. Attorneys were also asked to report the number of cases represented in the last six months. Thirty-seven percent across both samples represented fewer than five cases in the last six months. Twenty-four percent had represented six to ten cases, 19% had represented eleven to twenty-one cases, and 20% had represented twenty-two or more cases. Thus, these “child representatives” were attorneys with a range of experience and specialization in this area of practice. For most child

23. In 2012, the Georgia Supreme Court approved a formal advisory opinion of the State Bar, ruling that a dual-role attorney, confronted with a conflict between the child’s expressed wishes and the attorney’s considered opinion of the child’s best interest, must withdraw as GAL and seek appointment of a separate GAL without disclosing the reasons for her withdrawal. The attorney was permitted to continue as the child’s (client-directed) attorney, but had to withdraw entirely if the conflict was severe. State Bar of Georgia (Formal Advisory Opinion 10–2, upheld Ga. S. Ct. No. S11U0730).

Table 3. Child Representation Practice

	All	Georgia Juris.	Wash.
% of Practice That Is Child Representation			
0% to 20%	52%	48%	56%
21% to 40%	24%	23%	25%
41% to 60%	8%	9%	8%
61% to 80%	5%	9%	2%
81% to 100%	10%	11%	9%
Number of Cases Represented in Past Six Months			
0–5 cases	37%	38%	36%
6–10 cases	24%	20%	29%
11–21 cases	19%	19%	19%
22 or more cases	20%	23%	16%
Years Practicing as Child Representative			
Less than 1 year	13%	10%	17%
1 or 2 years	16%	13%	19%
3 or 4 years	15%	20%	10%
5 or 6 years	16%	17%	14%
7 or 8 years	8%	6%	9%
9 or 10 years	6%	5%	8%
More than 10 years	26%	30%	22%

representatives, child representation constituted a minority of their practice.

The majority of attorneys representing children (56%) had been practicing child representation for at least five years. On the two ends of the distribution, 26% had been practicing for more than ten years, and 29% had been practicing for two years or less.

B. Attorney Demographic Characteristics

Most attorneys who represent children were white (87%) (Table 4). Ten percent of attorneys in the Georgia jurisdictions were African American, and 4% of attorneys in Washington were African American. Very few attorneys indicated Hispanic origin. Only 3% of attorneys were Asian or “Other” race/ethnicity. The difference between the percent of “Other” race/ethnicity

Table 4. Attorney Demographic Characteristics

	All	Georgia Juris.	Wash.	Contrast
Race/Ethnicity				
African American	7%	10%	4%	
White	87%	87%	87%	
Asian	3%	2%	3%	
Other	3%	1%	5%	p < .05
Hispanic	2%	1%	3%	
Age				
Under 30	5%	7%	3%	
30 to 39	35%	36%	35%	
40 to 49	26%	26%	25%	
50 to 59	21%	21%	22%	
60 and over	12%	10%	14%	
Tenure				
Years Since First Bar Admission	13.5	13	15	
Other Graduate Degrees				
Business Administration	5%	5%	4%	
Psychology, counseling, or other human services field	3%	6%	1%	p < .05
Social work	2%	0%	3%	p < .05
Public policy	1%	1%	1%	
None of the above	84%	86%	81%	
Worked with children in other capacities (e.g., social worker, counselor, teacher)?				
Yes	33%	30%	37%	
Biological, foster, or adoptive parent?				
Yes	56%	57%	55%	

was significant ($p < .05$) across the two sites, with 5% of Washington attorneys reporting “Other,” versus 1% of Georgia jurisdiction attorneys.

Attorneys who represented children ranged in age. Over both sites, 5% of attorneys were under thirty years of age. Thirty-five percent were in their thirties, 26% were in their forties, and 21% were in their fifties. Twelve percent were over age sixty years old. The average number of years since admission to any state bar was thirteen and a half. Most of these attorneys (84%) did not have other graduate degrees. With respect to other graduate degrees, attorneys practicing in the Georgia jurisdictions had significantly more degrees in psychology, counseling, or other human services fields (6% vs. 1%, $p < .05$) compared to other fields, and attorneys practicing in Washington had significantly more degrees in social work (3% vs. 0%, $p < .05$). One-third of attorneys indicated that they had worked with children in capacities other than as an attorney, and 56% were a biological, foster, or adoptive parent.

In addition to representing children, attorneys were practicing a variety of other types of law (Table 5). At least three-quarters (79% to 99%) of the Georgia jurisdiction attorneys were practicing some other type of child and family law (divorce or paternity, private adoption, truancy, and juvenile justice). The proportion of attorneys who practiced child and family-related law was significantly lower ($p < .01$) in Washington. The proportion of Washington attorneys with this type of practice was between 32% (private adoption) and 52% (juvenile justice). Significantly more ($p < .05$) Georgia

Table 5. Areas of Law Practice in Addition to Child Representation

	All	Georgia Juris.	Wash.	Contrast
Divorce or paternity	69%	86%	51%	$p < .01$
Private adoption	67%	99%	32%	$p < .01$
Truancy cases	73%	99%	44%	$p < .01$
Juvenile justice cases	66%	79%	52%	$p < .01$
Adults in criminal cases	62%	67%	57%	
Trusts & estates	37%	43%	31%	$p < .05$
Tenant/landlord	26%	26%	26%	
Real estate	18%	19%	16%	
Personal injury	25%	32%	18%	$p < .05$
General business	27%	34%	20%	$p < .05$
Bankruptcy	9%	11%	7%	

attorneys than Washington attorneys were practicing trusts and estates (GA: 43%; WA: 31%), personal injury (GA: 32%; WA: 18%) and general business (GA: 34%; WA: 20%).²⁴ Across both sites, 62% were representing adults in criminal cases, 26% were practicing landlord/tenant-related law, 18% were involved in real estate law, and 9% were practicing bankruptcy.

Attorneys were asked about annual income from the practice of law and had the option to leave this question blank. Twenty-eight percent of Georgia jurisdiction attorneys and 14% of Washington attorneys left the question blank (nonresponses). The first set of percentages displayed on Table 6 includes nonresponses, and the second set of percentages excludes the nonresponses. The second set of percentages will only accurately capture the range of income among respondents if nonresponding attorneys had the same distribution as responding attorneys. Among Georgia attorneys, with more than twice the percentage of attorneys declining to respond than in Washington, this is less likely to be a valid assumption. Among Washington attorneys, excluding these nonresponses, the results

Table 6. Financial Compensation

	All	Georgia Juris.	Wash.	Contrast
Income from the Practice of Law				
<i>Entire Sample</i>				
Left blank	21%	28%	14%	
< = \$40,000	13%	17%	8%	
\$40,001 to \$60,000	21%	25%	18%	
\$60,001 to \$80,000	16%	11%	22%	
\$80,001 to \$100,000	16%	10%	23%	
More than \$100,000	12%	9%	14%	
<i>Respondents</i>				
< = \$40,000	16%	23%	10%	
\$40,001 to \$60,000	27%	34%	21%	
\$60,001 to \$80,000	21%	16%	26%	
\$80,001 to \$100,000	21%	14%	27%	
More than \$100,000	15%	12%	17%	

24. When only attorneys practicing in small firms or as solo practitioners are compared across the two sites (Georgia jurisdictions = 123; Washington = 82), the differences between these three practice types (trusts and estates, personal injury, general business) are no longer significant between the two states.

	Georgia			
	All	Juris.	Wash.	Contrast
% of Income from Child Rep.				
0% to 20%	68%	67%	69%	
21% to 40%	13%	10%	15%	
41% to 60%	7%	8%	5%	
61% to 80%	5%	7%	2%	
81% to 100%	8%	7%	9%	
Ratio of Child Rep. Practice % (Table 3) to Income %				
Respondent Reported Same Range for Practice and Income	74%	69%	80%	
Respondent Reported Higher % Practice than % Income	23%	29%	18%	p < .05
Respondent Reported Higher % Income than % Practice	2%	2%	3%	
Adequacy of Compensation				
Very inadequate	29%	30%	28%	
Somewhat inadequate	38%	41%	36%	
Somewhat adequate	29%	28%	30%	
More than adequate	4%	2%	6%	
Compensation Arrangement				
Hourly rate based on voucher	65%	86%	42%	p < .01
Hourly rate based on voucher with limits	11%	12%	10%	
Contract for a monthly or annual payment	8%	2%	14%	p < .01
Salaried in nonprofit or government organization	16%	0%	33%	p < .01

indicate that 10% of attorneys were earning less than \$40,000 per year practicing law. From the practice of law, 21% were earning \$40,001 to \$60,000; 26% were earning \$60,001 to \$80,000; 27% were earning \$80,001 to \$100,000; and 17% were earning more than \$100,000. Among Georgia respondents, attorneys appeared to be earning less money from the practice of law, but this conclusion may not be valid in light of missing data. Nevertheless, the two results confirm a range of income from the practice of law among lawyers who count child representation as a practice area.

Attorneys were also asked to estimate the percent of their income associated with child representation. For 68% of attorneys across both sites,

child representation constituted 20% or less of their income. For 13%, it constituted 21% to 40% of their income. Child representation constituted at least 61% of attorney income for a small proportion of attorneys. Comparing the ratio of the percent of practice that was child representation, with the percent of income that was from child representation, 74% reported the same range for practice and income. Twenty-three percent of attorneys reported that the proportion of income they receive from child representation is less than the proportion of time they spend within the ranges provided. This result was different in the two sites: 29% of Georgia jurisdiction attorneys reported the proportion of income was less vs. 18% of Washington attorneys ($p < .05$). Only 2% of attorneys reported a higher range of percent income than percent practice.

When asked, “how adequate do you think the level of the compensation you receive for deprivation cases is?,” most attorneys thought it was short of adequate, indicating either “very inadequate” (29%) or “somewhat inadequate” (38%).²⁵ Twenty-nine percent of attorneys responded with “somewhat adequate,” and a small percent thought compensation was “more than adequate.”

Across the sites, there were a few common compensation arrangements. Attorneys were paid an hourly rate, paid an hourly rate with limits per case, paid with a monthly or annual payment to handle some or all open cases, or were working for a salary in a nonprofit or government organization (Table 6). In a few jurisdictions, more than one contract type was possible within the same jurisdiction. For example, one jurisdiction used the Office of the Public Defender (salaried attorney) but, if all the public defender attorneys had conflicts, the jurisdiction used an outside “conflict attorney” paid by the hour based on a submitted voucher.

The most common compensation arrangement was a submission of a voucher with hours, where the attorney was paid an hourly rate without official limits on the number of hours. A few attorneys (10% to 12%) were paid an hourly rate with a jurisdiction-imposed maximum payment amount. It was more common for Washington attorneys to be paid a monthly amount negotiated as part of an annual contract for handling a certain number of open cases per month. In Georgia jurisdictions, as discussed previously, there were no attorneys representing children who were staff attorneys, either in a government or nonprofit agency.

C. Organizational Supports

Legal research databases and individuals with whom to discuss cases

25. Note that as of January 1, 2014, the new Georgia Juvenile Code changed the name of these cases from “deprivation” cases to “dependency” cases.

were the most commonly available services. Seventy-seven percent (19% + 58%) of attorneys indicated that legal research databases were either often or almost always available, and 83% (35% + 48%) of attorneys indicated that individuals with whom to discuss cases were either often or almost always available (Table 7). Legal research databases were more available to Washington attorneys ($p < .05$), as were individuals with whom to discuss cases ($p < .01$). Less commonly available were paralegals and administrative support. Fifty-five percent (18% + 37%) of attorneys indicated that paralegals and administrative support were either often or almost always available. Paralegals and administrative support were more available to Washington attorneys ($p < .01$). Only one quarter of attorneys indicated that psychologists or psychiatrists were often (19%) or always (16%) available for consultation. Social workers and other helping professionals and investigative staff were the least likely to be available, though they were more available in Washington than in the Georgia jurisdictions. Social workers and other helping professionals were not available at all to 52% of attorneys in the Georgia jurisdictions and 33% of attorneys practicing in Washington ($p < .01$). Investigative staff were not available at all to 54% of attorneys in the Georgia jurisdictions and 35% of attorneys practicing in Washington ($p < .01$).²⁶

D. Continuing Legal Education

All but one attorney from Georgia indicated having covered racial disproportionality in a CLE in the last two years, compared to 18% of Washington attorneys (Table 8). Excluding racial disproportionality for both sites, 70% of attorneys had participated in at least one CLE that covered a topic within child welfare law and policy. Significant differences were revealed across the two sites. Washington attorneys were more likely to have covered state child welfare law, permanency planning, aging out of foster care, federal and state requirements for foster care cases, and the Indian Child Welfare Act. Washington attorneys were also more likely to have participated in at least one CLE that covered a topic within child welfare law and policy ($p < .05$).

All but one attorney from the Georgia jurisdictions indicated having covered alternative dispute resolution in a CLE in the last two years, compared to 25% of Washington attorneys. Excluding alternative dispute resolution for both sites, 75% of attorneys had participated in at least one

26. When only attorneys practicing in small firms or as solo practitioners are compared across the two sites (Georgia jurisdictions = 123; Washington = 82), these Washington attorneys still have more access to investigative staff, paralegals, and psychologists or psychiatrists than do Georgia jurisdiction attorneys, but they rate the access to social workers and legal research databases equally.

Table 7. Organizational Supports

(Bolded distribution indicates direction of statistical significance.)

	All	Georgia Juris.	Wash.	Contrast
Legal research databases				
Not at all available	8%	9%	8%	
Sometimes available	12%	15%	9%	
Often available	14%	19%	9%	
Almost always available	66%	58%	74%	p < .05
Individuals with whom to discuss cases				
Not at all available	1%	1%	2%	
Sometimes available	12%	16%	8%	
Often available	31%	35%	26%	
Almost always available	56%	48%	64%	p < .01
Paralegals and administrative support				
Not at all available	26%	33%	18%	
Sometimes available	20%	22%	18%	
Often available	18%	15%	21%	
Almost always available	37%	30%	44%	p < .01
Psychologists or psychiatrists with whom you can consult				
Not at all available	25%	22%	29%	
Sometimes available	40%	41%	38%	
Often available	19%	21%	17%	
Almost always available	16%	16%	15%	
Social workers and other helping professionals				
Not at all available	43%	52%	33%	
Sometimes available	32%	33%	31%	
Often available	12%	11%	12%	
Almost always available	14%	4%	24%	p < .01
Investigative staff				
Not at all available	45%	54%	35%	
Sometimes available	36%	36%	36%	
Often available	7%	6%	9%	
Almost always available	12%	4%	21%	p < .01

Table 8. Continuing Legal Education in Prior Two Years
(Bolded distribution indicates direction of statistical significance.)

	All	Georgia Juris.	Wash.	Contrast
Child welfare law and policy				
Racial disproportionality	60%	99%	18%	p < .01
State child welfare law (e.g., deprivation)	53%	46%	60%	p < .05
State case law updates affecting child welfare	51%	47%	55%	
Permanency planning	33%	18%	49%	p < .01
Aging out of foster care	23%	14%	32%	p < .01
Federal and state requirements for foster care cases	19%	10%	27%	p < .01
Indian Child Welfare Act	18%	9%	27%	p < .01
<i>Any of the above (excluding racial disproportionality)</i>	70%	64%	76%	p < .05
Child representation practice				
Alternative dispute resolution (ADR)	63%	99%	25%	p < .01
Child representation practice	59%	63%	54%	
Trial practice in child abuse and neglect cases	34%	30%	38%	
Expert witnesses	28%	15%	42%	p < .01
Interviewing and counseling the child	22%	17%	28%	p < .01
<i>Any of the above (excluding ADR)</i>	75%	71%	80%	p < .01
Child and family well-being				
Child development	33%	18%	49%	p < .01
Child maltreatment	33%	22%	44%	p < .01
Mental health treatment for children and families	27%	18%	37%	p < .01
Family dynamics in child maltreatment	22%	14%	31%	p < .01
<i>Any of the above</i>	49%	32%	67%	p < .01
Other issues				
Domestic violence	43%	33%	53%	p < .01
Substance abuse	37%	24%	50%	p < .01
Educational rights of children	16%	15%	17%	

CLE that covered a topic within child representation practice. Across the two sites, Washington attorneys were more likely to have covered expert witnesses and interviewing and counseling the child ($p < .01$). Washington attorneys were also more likely to have participated in at least one CLE that covered a topic within child representation practice ($p < .05$). More than half of the attorneys from either site had not received training on trial practice in maltreatment cases, expert witnesses, or interviewing and counseling the child in the last two years.²⁷

Topics about child and family well-being were the least likely to have been covered in CLEs taken in the last two years, though these topics were clearly available to at least some attorneys in both sites. Differences between the Georgia jurisdictions and Washington were the most pronounced in these topic areas, with Washington attorneys selecting these as covered topics at least twice as often as attorneys practicing in the Georgia jurisdictions ($p < .01$). Nevertheless, more than 50% of Washington attorneys had not had CLEs on child development, child maltreatment, mental health treatment, and family dynamics in the last two years. With respect to CLEs on domestic violence and substance abuse, Washington attorneys were more likely to have covered these topics in a CLE in the last two years than attorneys in the Georgia jurisdictions ($p < .01$).

E. Responsibilities of Child Representatives

Attorneys were asked to evaluate seven child representation tasks and indicate on a four-level scale the extent to which each task was “your responsibility as a child’s attorney in dependency cases.” Each statement and the response distributions are shown on Table 9.²⁸ These questions were designed to see how attorneys understood their responsibility to child clients relative to the duties of other parties with a stake in the case, including public child-welfare-agency workers, agency attorneys general representing the state’s interests, CASAs, judges, and parents.²⁹ As shown on Table 9, the majority of attorneys considered attending case planning meetings (61%) and establishing the goals that parents need to meet in order to have their children returned to them (57%) a shared responsibility

27. When only attorneys practicing in small firms or as solo practitioners are compared across the two sites (Georgia jurisdictions = 123; Washington = 82), the difference between the frequency of interviewing-and-counseling-the-child CLEs is no longer significant. All other contrasts in Table 8 remain significant.

28. These questions in the survey were designed to assess baseline attitudes about these approaches in advance of the evaluation of the *QIC-ChildRep* Best Practice Model for child representation.

29. The list of tasks was not intended to be comprehensive, but rather to gauge attorney’s opinions of certain tasks associated with an active model of child representation in advance of the *QIC-ChildRep* Best Practice evaluation.

Table 9. Opinions About Responsibilities of Child Representatives
 (Bolded distribution indicates direction of statistical significance)

	Georgia			
	All	Juris.	Wash.	Contrast
Attending case planning meetings				
Little or none	6%	11%	1%	
Limited	16%	24%	7%	
Shared	61%	59%	62%	
Primary	11%	4%	19%	
Exclusive	6%	2%	11%	p < .01
Establishing the goals that parents need to meet in order to have their children returned to them				
Little or none	8%	7%	9%	
Limited	25%	20%	32%	
Shared	57%	62%	52%	
Primary	7%	10%	3%	
Exclusive	3%	2%	4%	p < .05
Identifying caregivers who can serve as foster parents for the children you represent				
Little or none	17%	24%	10%	
Limited	30%	31%	28%	
Shared	45%	41%	50%	
Primary	7%	5%	9%	
Exclusive	1%	0%	2%	p < .01
Identifying potential adoptive homes				
Little or none	32%	37%	26%	
Limited	35%	32%	38%	
Shared	29%	28%	30%	
Primary	4%	3%	4%	
Exclusive	0%	0%	1%	
Advocating for services for parents				
Little or none	15%	11%	19%	
Limited	29%	25%	32%	
Shared	45%	49%	41%	
Primary	9%	13%	4%	
Exclusive	3%	2%	3%	p < .05

Table 9. Continued
Opinions About Responsibilities of Child Representatives

	Georgia			
	All	Juris.	Wash.	Contrast
Advocating for services for children				
Little or none	0%	0%	0%	
Limited	2%	3%	0%	
Shared	33%	37%	28%	
Primary	47%	50%	43%	
Exclusive	19%	9%	29%	p < .01
Advocating with respect to other legal matters (e.g., education, custody, SSI) for the children you represent in dependency cases				
Little or none	7%	7%	8%	
Limited	13%	15%	11%	
Shared	33%	36%	31%	
Primary	32%	32%	32%	
Exclusive	15%	11%	19%	

Survey Wording of Five Answer Options:
 “little or no responsibility; other parties are mostly or solely responsible”
 “limited responsibility; generally the responsibility of other parties”
 “shared responsibility with other parties”
 “primary responsibility; other parties have limited or delegated responsibility”
 “exclusive responsibility; other parties have little or no responsibility”

with other parties to the case. Forty-five percent of attorneys indicated that identifying caregivers to serve as foster parents was a shared responsibility with other parties to the case, and 29% indicated that identifying potential adoptive homes was a shared responsibility. Almost half (45%) of attorneys thought that advocating for services for parents and children was a shared responsibility. Thirty-three percent thought that advocating with respect to other legal matters was a shared responsibility.

For those attorneys who did not indicate a shared responsibility, did they select an option lower or higher on the scale provided? A response lower on the scale indicated less responsibility and a response higher on the scale indicated more responsibility. Across both sites, among attorneys who did not indicate a shared responsibility, more attorneys felt limited or little or no responsibility for the tasks listed, with the exception of attending case

planning meetings and identifying adoptive homes. For those two tasks, responses were not significantly different on either side of “shared responsibility.” Comparing sites, attorneys from Washington were more likely to select options higher on the scale than attorneys from the Georgia sites for every task, except establishing goals and advocating services for parents, where attorneys from Georgia were more likely to select options higher on the scale of responsibility.

F. Importance of Child Representation Tasks

Attorneys were asked to evaluate eleven child representation tasks and indicate on a four-level scale the extent to which each approach was important “for achieving positive and timely court outcomes for the children I represent.” Each statement and the response distribution are shown on Table 10.³⁰ The distribution of response for the four highest ranked tasks was the same across both sites. The first statement related to how attorneys viewed the importance of communicating the child’s wishes. The second two had to do with communication capacities and interactions with child clients. And the fourth related to being culturally sensitive in interactions with the child client. Few attorneys indicated the tasks were less than important, and a comparable proportion (ranging from about 55% to 71%) indicated these tasks were very important.

The remaining seven statements related to possible approaches toward representing and interacting with child clients. Washington attorneys had stronger opinions than attorneys from the Georgia jurisdictions about the importance of all seven approaches that would be considered part of client-directed legal representation ($p < .01$). However, it should be noted that very few attorneys in either site selected “not at all important” for any of the statements. The one exception was “allowing children to exercise control over legal objectives and tactics.” In this case, 25% of Georgia jurisdiction attorneys, and 11% of Washington attorneys, selected “not at all important.”³¹ Aside from that statement, the majority of attorneys selected “important” or “very important” for all of the statements. Thus, variation in responses within and across sites was between the top three levels of the scale and was concentrated at the top two levels.

30. These questions in the survey were designed to assess baseline attitudes about these approaches in advance of the evaluation of the *QIC-ChildRep* Best Practice Model for child representation.

31. This question blended two concepts that are distinct in the law and may have made it difficult to answer for some attorneys. “Legal objectives” are something clients could have control over, depending on whether the attorney was acting as a client directed (would have control) or substitute judgment/best interests attorney (would not have control). However, in any kind of representation, “tactics” are specifically reserved for the attorney.

Table 10. Opinions About Importance of Child Representation Tasks
 (Bolded distribution indicates direction of statistical significance.)

Importance for Achieving Positive and Timely Court Outcomes for Children	All	Georgia Juris.	Wash.	Contrast
Communicating children’s wishes and needs to others involved in the case				
Not at all important	0%	0%	1%	
Somewhat important	3%	5%	1%	
Important	25%	28%	23%	
Very important	71%	67%	75%	
Understanding the impact of maltreatment and trauma on children’s mental and behavioral well-being				
Not at all important	0%	0%	1%	
Somewhat important	4%	3%	5%	
Important	30%	29%	32%	
Very Important	65%	67%	62%	
Understanding the cognitive and communication capacities of individual children				
Not at all important	0%	0%	1%	
Somewhat important	9%	11%	7%	
Important	37%	36%	38%	
Very important	54%	53%	55%	
Being culturally sensitive in your interactions with child clients				
Not at all important	1%	0%	2%	
Somewhat important	8%	11%	5%	
Important	35%	38%	31%	
Very important	56%	50%	62%	
Establishing and maintaining a relationship with the children you represent				
Not at all important	1%	1%	1%	
Somewhat important	7%	8%	5%	
Important	31%	38%	24%	
Very important	61%	53%	70%	p < .01

Importance for Achieving Positive and Timely Court Outcomes for Children	All	Georgia		Contrast
		Juris.	Wash.	
Giving children the opportunity to express their wishes regarding legal objectives				
Not at all important	1%	1%	1%	
Somewhat important	8%	13%	3%	
Important	33%	46%	20%	
Very important	58%	41%	76%	p < .01
Allowing children to exercise control over legal objectives and tactics				
Not at all important	18%	25%	11%	
Somewhat important	36%	43%	29%	
Important	27%	24%	29%	
Very important	19%	7%	31%	p < .01
Informing children of positions you have taken or will take as their legal representative				
Not at all important	1%	1%	1%	
Somewhat important	15%	25%	5%	
Important	30%	38%	21%	
Very important	54%	36%	74%	p < .01
Explaining to children the meaning of attorney-client privilege				
Not at all important	1%	1%	1%	
Somewhat important	9%	12%	5%	
Important	31%	38%	24%	
Very important	59%	49%	70%	p < .01
Keeping children informed of the progress and status of their dependency case				
Not at all important	1%	1%	1%	
Somewhat important	12%	19%	4%	
Important	36%	42%	30%	
Very important	51%	38%	65%	p < .01
Making sure that children understand the legal options available to them				
Not at all important	2%	2%	1%	
Somewhat important	6%	10%	2%	
Important	31%	45%	17%	
Very important	61%	43%	80%	p < .01

G. Job Satisfaction and Impact

When asked to rate their impact and job satisfaction, 64% of attorneys “strongly agreed” with the statement, “I find my work as a legal representative for children in dependency cases to be rewarding.” Twenty-eight percent “somewhat agreed,” and a small percentage (8%) selected an option lower on the scale (Table 11). When asked to reflect on their impact, 34% of attorneys “strongly agreed” with the statement, “I have a significant impact on the outcomes of the children I represent in dependency cases,” 51% percent “somewhat agreed,” and the remaining 16% selected an option lower on the scale.

IV. Summary of Findings

Based on survey responses, sampled attorneys were almost all white and had no graduate degrees other than a law degree. Attorneys were normally distributed by age, and the lawyers in both states were experienced, with an average of thirteen-and-a-half years of practice. Just over half had experience as a biological, foster, or adoptive parent, and about one-third

Table 11. Opinions About Personal Rewards and Impact

	Georgia			
	All	Juris.	Wash.	Contrast
I find my work as a legal representative for children in dependency cases to be rewarding.				
Strongly disagree	0%	1%	0%	
Somewhat disagree	2%	1%	3%	
Neither agree nor disagree	6%	7%	6%	
Somewhat agree	28%	23%	32%	
Strongly agree	64%	69%	59%	
I have a significant impact on the outcomes of the children I represent in dependency cases.				
Strongly disagree	0%	0%	1%	
Somewhat disagree	3%	1%	4%	
Neither agree nor disagree	13%	11%	14%	
Somewhat agree	51%	50%	52%	
Strongly agree	34%	38%	29%	

reported they had worked with children in some other capacity. Almost two-thirds found their job as child representative rewarding, and most thought they had a significant impact on outcomes. Child representation practice constituted under 20% of legal work and income for most attorneys. Attorneys were practicing in a number of different fields of law, including divorce and paternity, private adoption, truancy, and juvenile justice. In the previous six months, one-third of attorneys had represented five or fewer cases. Most thought compensation was somewhat or very inadequate. Two-thirds of attorneys did not have psychologists or psychiatrists to consult.

Washington attorneys were more likely to have covered almost every child-welfare-related CLE topic in the previous two years. In responses to questions about attorney responsibility, Washington attorneys indicated a greater sense of responsibility for attending case planning meetings, identifying caregivers, and advocating for services for children. Georgia jurisdiction attorneys indicated greater responsibility for tasks related to parents—establishing goals and advocating for services for them. Washington attorneys had stronger opinions about the importance of included child representation tasks for achieving good outcomes.

V. Discussion

A. Experience with Child Representation

Survey results showed that the professional practice of lawyers representing children includes a broad range of legal subjects. Indeed, for a majority of the lawyers, child representation constitutes less than 20% of their law practice and income. They are handling only a handful of dependency cases—one-third report handling fewer than five cases within six months. In discussing delivery of legal services to children, the national cognoscenti of child advocacy tend to focus on the specialty child welfare law office where children are represented by a dedicated group of lawyers who develop considerable experience and expertise.³² This sample shows that most children are not represented by such specialists, but rather by general practitioners handling a limited number of dependency cases. One possible explanation for the heterogeneity of attorneys' practice portfolios is that in many jurisdictions, especially those in rural counties, there is not a sufficient number of dependency cases to support a full-time dependency law practice.

32. NATIONAL ASSOCIATION OF COUNSEL FOR CHILDREN, CHILD WELFARE LAW OFFICE GUIDEBOOK: BEST PRACTICE GUIDELINES FOR ORGANIZATIONAL LEGAL REPRESENTATION OF CHILDREN IN ABUSE, NEGLECT AND DEPENDENCY CASES (2006).

B. The State of Training

Washington attorneys had taken more courses, and more courses with a detailed focus on topics important to active child representation, than Georgia jurisdiction attorneys. Differences in what and how many continuing professional education programs (CLEs) were taken in the last two years may have been the result of different statutory training requirements. In Georgia, the minimum requirement to be appointed as a GAL is to take an in-person or on-line CLE-credit course approved by the Georgia Office of the Child Advocate.³³ This CLE course did include a child development and a child well-being segment.³⁴ However, attorneys who had practiced as GALs in juvenile court deprivation proceedings for three or more years and had demonstrated a proficiency in child representation were exempt.³⁵ In Washington, the statute directs the Administrator of the Courts to develop a curriculum for GALs with specific topic areas addressed: child development, child sexual abuse, child physical abuse, child neglect, domestic violence, clinical and forensic investigative and interviewing techniques, family reconciliation, and mediation services.³⁶

C. Compensation and Supports

One of the concerns voiced by legal advocates is that the financial compensation received by child representatives is low, leading to a high level of attrition and diminution in practice quality.³⁷ However, the findings here paint a somewhat more complicated picture. Although it is true that a majority of attorneys in both states report that the level of financial compensation is either somewhat or very inadequate, it is also true that most report that their work as child representatives is both rewarding and impactful. Moreover, based on their average tenure as child representatives, it appears that the level of attrition among these groups of child representatives may be low. Taken together, the attorneys' views that the work is personally rewarding, but the financial compensation is inadequate,

33. The Supreme Court of Georgia Committee on Justice for Children/Georgia Administrative Office of the Courts administered this training provided through the Institute of Continuing Legal Education in Georgia. Other child-welfare-related trainings were offered in the two years prior to the survey, but none were required in order to serve as a child representative.

34. Available at <http://www.iclega.org/programs/webcast/8620.html>.

35. This exemption has been deleted in the new Georgia Juvenile Code, as of January 1, 2014. Child Welfare Information Gateway, *supra* note 22.

36. WASH. REV. STAT. § 2.56.030(15) (2009).

37. Theresa D'Andrea, "Money Talks": *An Assessment of the Effects of Attorney Compensation on the Representation of Children in the Child Welfare System and How States Speak Through Delivery Systems*, 32 CHILD. LEGAL RTS. J. 67–88 (2012).

suggests that there may be other, nonfinancial factors at play. For example, child representatives may be motivated by altruistic reasons that transcend financial concerns. The personal rewards these attorneys derive from including child representation as part of their practice may serve to countervail the influence of inadequate compensation.

Information about the availability of support to attorneys is important because these supports are often thought to contribute to the quality of representation.³⁸ Several supports, including legal research databases and individuals with whom attorneys can discuss cases, appeared to be widely available. In contrast, however, several other types of supports, including investigative staff and social workers, appeared to be available to only a minority of attorneys. The reasons the latter class of services were less readily available may reflect a combination of the relative costs of these different types of supports and counties' willingness to pay for them.

When it comes to resources and supports available to attorneys in different states, attorneys from the Georgia jurisdictions appear to have had fewer supports and services available. These attorneys indicated that they had significantly less access to legal research databases, people with whom to discuss cases, paralegals and administrative support, consulting psychologists or psychiatrists, social workers, or investigative staff.

These differences could be a reflection of two different phenomena. First, the organizational context and contract arrangements under which Washington attorneys worked may have made it easier for these attorneys to fund these types of supports than it was for Georgia jurisdiction attorneys. For example, the percentage of attorneys in Washington who worked in private law firms or private nonprofit organizations (46%) was more than twice the percentage of attorneys in Georgia (22%). Also, Washington attorneys were much more likely to work under contract with courts, either as an individual or as part of a larger agency-level contract, than were attorneys in Georgia. Together, these differences in organizational context and contract arrangements may be associated with differences in billing arrangements with counties, or access to alternative funding sources, which then result in differences in the level of financial resources to pay for these supports.

A second alternative is that there were differences across states in the policies and practices governing the use of these supports. For example, there may be differences across states with respect to attitudes between the funding authority (typically the county government), and the courts about the utility of child representation. As a result, policies concerning

38. NATIONAL ASSOCIATION OF COUNSEL FOR CHILDREN, CHILD WELFARE LAW OFFICE GUIDEBOOK, *supra* note 32.

billing may be more restrictive, on average, in the Georgia jurisdictions than they were in Washington.

D. Views of Task Responsibilities

A majority of attorneys in both states reported that child representatives have shared, primary or exclusive responsibility over many dependency case tasks. As might be expected, attorneys acknowledged greater responsibility for tasks that pertain specifically to a child or child's dependency case (*e.g.*, advocating for services for children) than they did for tasks pertaining to other parties or matters that were not central to children's dependency cases (*e.g.*, advocating with respect to other collateral legal matters).

Although many attorneys in both states claimed at least a shared responsibility for these tasks, there were a number of interesting differences across sites. For example, save for the two tasks that pertain specifically to parents, Georgia jurisdiction attorneys reported assuming a lower share of responsibility than Washington attorneys for various tasks. These differences may reflect the influence of the models of representation used in these respective states. That is, the GAL model used in Georgia may be associated with a narrower, less assertive purview than that associated with the client-directed model used in Washington. Interestingly, Georgia jurisdiction attorneys were more likely (but not strongly so) to establish goals and advocate for services for parents, perhaps because in Georgia no preference for assigning attorneys at a certain age existed. The group of children represented probably had more children-assigned counsel at the beginning of their dependency case when reunification was the primary focus and services to parents were especially important. A safe and prompt reunification is a logical "best interests of the child" goal.

E. Views of Task Importance

Attorneys' responses to questions about the importance of different tasks suggests that attorneys in both states put a premium on actively engaging child clients. For instance, supermajorities in both states reported that it was important, or very important, to make sure that children have a well-informed understanding of their dependency cases. Similarly, large majorities in both states reported that it was important that child representatives understand children's developmental capacities, including those pertaining to children's ability to communicate and process information.

Reported differences across the sites appear to be limited to two general types of tasks: eliciting children's input on case decisions and attorneys'

efforts to communicate with child clients. For both types of tasks, higher percentages of attorneys in Washington reported that the tasks are very important. As is the case for the questions concerning attorney responsibilities, these differences might reflect the models of representation used in each state. For example, Washington attorneys, who operate under the client-directed model, are required to afford children greater authority over case decisions than are attorneys in Georgia, who operate primarily under a GAL model. Moreover, the client-directed model also may necessitate a more concerted effort to help children understand the exigencies of their court cases to ensure that children's expressed interests are well informed.

Alternatively, the differences across states in attorneys' assessments of the importance of these tasks could be a reflection of the average age of the children represented. At the time the survey was administered, attorneys in Washington primarily represented adolescents, whereas attorneys in Georgia represented children of all ages. Thus, the greater importance attributed by Washington attorneys to some of these tasks may simply be a reflection of an older, more capable pool of child clients.

VI. Implications

This study has implications for efforts to hire, train, support, and retain a cadre of skilled child representatives. A weakness of this point-in-time profile of attorneys already engaged in this work is that it cannot speak to the characteristics of attorneys just as they are recruited and enter the field. But it has advantages in that any effort to change the qualifications, training, or organization of attorneys will encounter a similar eclectic group of attorneys with a mix of training, experience, and attitudes.

The survey data shows that these child attorneys are not fresh out of law school. Most had practiced law for many years (mean of thirteen-and-a-half years), and 56% had had represented children for five or more years. The implications for recruitment and training may be that capable child attorneys could be recruited at various stages of a legal career, and that training opportunities should be available to prepare not only the beginning lawyer but also the more experienced lawyer looking to add the personally rewarding child representation to an existing practice. A downside could be that attorneys who are already accustomed to representing children in a certain way may be less flexible and reluctant to change and embrace practice innovations.

Child representation constituted a fraction of the law practice for most attorneys. For 52% of attorneys, child representation constituted less than 20% of their practice. The practice portfolio of the attorneys was very broad

and very heterogeneous. This heterogeneity of practice areas may be a function of the relatively few dependency cases in many jurisdictions, or the varied legal needs of children and families involved in dependency cases. But regardless of the underlying reasons, this practice heterogeneity presents a challenge for training. This lack of specialization may make attorneys less willing to invest in the unique skills required for child representation. In recognition of the limited time and resources attorneys can devote to dependency law training, educators should carefully identify those aspects of dependency law practice that are most critical to achieving positive outcomes for children and families. Distance learning and online, adult-education courses that attorneys could take on their own schedules should be encouraged.

Attorneys were asked to identify which tasks were their responsibility and which were the responsibility of other participants in the dependency process. Variances in attorney opinions reflect differences in state practice models and the client populations. In Georgia the ages of child clients range from birth to adulthood, with an expectation (at the time of the survey) of GAL best-interests representation. In contrast, in Washington, the clients were typically older than twelve, and the practice model was clearly client-directed. Yet, despite the fact that there were significantly different approaches to child representation in these two states, attorneys from both states show a consistency of opinion that favors thoughtful, active, meaningful representation that involves a relationship with the child. In both states, a majority of attorneys viewed tasks that would be necessary to stay informed about their child client's case as at least a shared responsibility with other parties to the case.

On the other hand, notable proportions of attorneys saw themselves as having limited or no responsibilities for surveyed tasks. There was no consensus in either of these jurisdictions as to the proper elements of child representation. This great variation in what attorneys consider their responsibility is consistent with Ross' qualitative study of lawyers' views of the tasks of child representation. She found that "lawyers reported that they represented children in very different ways, reflecting ambiguity about how to interpret these roles and involve children as clients or the subject of best-interests representation."³⁹ Any efforts to establish standards of practice and systematically train child attorneys must address and harmonize differing views on the actual tasks a child representative should undertake.

The findings of the current study suggest that most child representatives consider themselves poorly compensated. Happily, despite the com-

39. Ross, *supra* note 15.

pensation level, many attorneys find the work rewarding and have made it part of their law careers for more than just a few years. However, compensation levels may impose a barrier to improving practice standards going forward. Raising the expectations of attorneys is likely to require additional hours per case. Who will pay for this? Even without the additional work suggested by more active standards, two-thirds of attorneys reported that compensation was short of adequate. Reform efforts must take into account the current inadequate compensation.

Can multidisciplinary approaches help improve child representation? This survey provides information as to what services and supports are available to attorneys and may help us understand whether the lack of these resources is one cause of poor practice quality and effectiveness. Psychologists or psychiatrists with whom attorneys could consult were often or always available only to one-third of attorneys. Social workers were not at all available to the majority of attorneys in Georgia, and to only one-third of attorneys in Washington. Investigative staff were the least available service in both states, but more available in Washington than in Georgia. Without access to practice supports, attorneys may not be able to implement new expectations, ideas, and techniques. Perhaps these complementary multidisciplinary services, as an adjunct to child representation, would enhance child outcomes and be a more efficient use of funds than expecting attorneys to handle issues beyond the scope of lawyer expertise.

An encouraging finding from our survey is lawyers' commitment to this work and their willingness to assist others in doing it. Despite the fact that most attorneys were solo practitioners, more than 80% said that individuals were often or almost always available to discuss cases with them. These results suggest lawyers' willingness to collaborate, share information, and form learning communities. The ongoing *QIC-ChildRep* study involves a program of coaching and small group meetings, and evaluation results will speak to this possibility.

