

# Profile of Lawyers Representing Children<sup>1</sup>

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## **Abstract**

We profile child advocates and discuss implications for developing and sustaining a state's child representation. In this study, most children are represented by an experienced lawyer handling only a few cases as part of a diverse legal practice. This has significant implications for training and delivery of legal services for children

## **8.1 Introduction**

Research results presented in this chapter begin to fill the gap in knowledge about the attorneys who serve as the child's representative. The chapter presents the characteristics, experiences, circumstances and attitudes of attorneys representing children in dependency cases throughout the state of Washington and nineteen counties in Georgia in 2013, at the beginning of the experimental evaluation of the QIC-ChildRep Best Practices Model for child representation. These findings give legislators, court staff and policy-makers an understanding of the characteristics, experiences, circumstances and attitudes of lawyers currently representing children in their jurisdiction. These findings also allow attorneys to situate themselves among their peers doing similar work. We

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1. Excerpted from: Britany Orlebeke, Andrew Zinn, Donald N. Duquette, & Xiaomeng Zhou, *Characteristics of Attorneys Representing Children in Child Welfare Cases*, 49 FAM.L.Q. 477 (Fall 2015) and Andrew Zinn, Britany Orlebeke, Donald N. Duquette, & Xiaomeng Zhou, (in press). The organizational contexts of child representation services in child welfare cases. *Family Court Review*.

also learn that the various employment settings—staff attorney office, private law firm, or sole practitioner—are associated with some interesting similarities and differences.

How representative is this group of attorneys of the broader population of attorneys representing children in child welfare cases across the country? That is, can these findings be generalized so that a policy maker in another state can reliably use these results to understand his or her population of attorneys representing children? That question cannot be answered directly, but this research sample has several advantages. First, almost all attorneys who were practicing in the covered geographic areas were included, so results reflect a general attorney population. Second, the response rate on the survey was quite high: 86% for Georgia attorneys and 93% for Washington State attorneys.

Finally, when comparing the characteristics and circumstances of attorneys between these two very different states, the profile revealed many similarities. Thus, we can make stronger claims about the representativeness of this combined sample to the population of child representatives in other jurisdictions.

**The QIC-ChildRep baseline survey provided information about:**

- Employment Setting
- Demographics
- Experience
- Continuing Legal Education
- Other Types of Law Practiced
- Financial Compensation
- Organizational Supports
- Responsibilities as Child Representatives
- Importance of different representation tasks
- Job Satisfaction and Sense of Impact

## **8.2 Distinctions by Employment Setting**

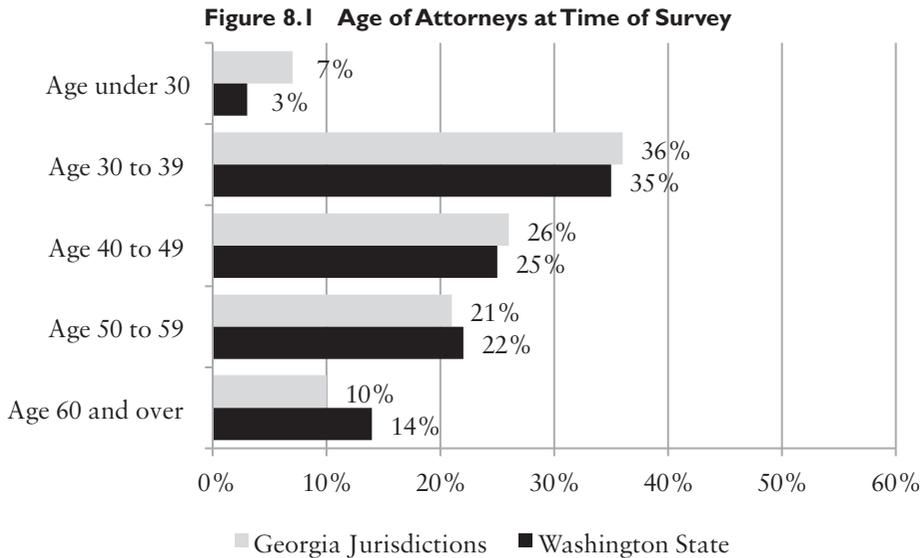
Among Washington State's attorneys, there were enough attorneys working in different employment settings to allow for a comparison of across those settings. In staff attorney offices, the median number of child representatives per organization was nine. In both Georgia and Washington State, most attorneys working in private firms, and, by definition, all solo practitioners, were alone within their respective organizations in their practice of child representation. Throughout this chapter, distinctions in the findings based on employment setting are highlighted.

## **8.3 Attorney Demographics**

Eighty-seven percent of attorneys were white. Ten percent of attorneys in the Georgia jurisdictions were African American and four percent of attorneys in Washington were African American. Very few attorneys indicated Hispanic origin. Only 3% of attorneys were Asian or "Other" race/ethnicity. Most attorneys (84%) did not have other graduate

**Table 8.1 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%
Private law firm	27	22%	19	16%
Employed by private, non-profit organization (i.e., staff attorney)	0	0%	35	30%
Employed by county office	1	1%	4	3%
Total	123	100%	117	100%



degrees besides a law degree. 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. Attorneys who represented children ranged in age (Figure 8.1). Five percent of attorneys were under 30. Thirty-five percent were in their thirties, 26% were in their forties and 21% were in their fifties. Twelve percent were over 60 years old.

**Washington Employment Settings:** Attorneys from staff offices in Washington State were younger than attorneys from solo practice or firm contexts. Fifty percent of staff office attorneys were between the ages of 30 and 39.

## 8.4 Experience as Child Representatives

All the attorneys in the sample had represented, or were representing, children during 2013, but there was a range in how much child representation each attorney was doing. For fifty-two percent of attorneys across both sites, child representation constituted 20% or less of their practice (Table 8.2). For twenty-four percent of attorneys, it constituted 21-40% 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 6-10 cases, 19% had represented 11-21 cases and 20% had represented 22 or more cases. Thus, these “child

**Table 8.2 Child Representation Practice**

% of Practice that is Child Representation	All	Georgia Jurisdictions	Washington State
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	All	Georgia Jurisdictions	Washington State
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	All	Georgia Jurisdictions	Washington State
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” were attorneys with a range of experience and specialization in this area of practice, with child representation constituting a minority of their practice for most child representatives.

The majority of attorneys representing children (56%) had been practicing child representation for at least five years. Twenty-six percent had been practicing for more than ten years and 29% had been practicing for two years or less.

*Washington Employment Settings:* Child representation constituted 20% or less of the practice for about 50% of attorneys from all types of settings, including staff offices. Attorneys from private firms had the highest proportion of attorneys who had represented 5 or fewer cases in the last six months (53%) but had a comparable proportion

**Table 8.3 Child Representation Practice by Organizational Setting (Washington State only)**

% of Practice that is Child Representation	Solo (n=59)	Private (n=19)	Staff Office (n=35)
0% to 20%	60%	58%	50%
21% to 40%	27%	26%	24%
41% to 60%	10%	11%	3%
61% to 80%	0%	5%	3%
81% to 100%	3%	0%	21%
Number of Cases Represented in Past Six Months	Solo (n=59)	Private (n=19)	Staff Office (n=35)
0 - 5 cases	34%	53%	29%
6 - 10 cases	25%	26%	40%
11- 21 cases	25%	5%	17%
22 or more cases	15%	16%	14%
Years Practicing as Child Representative	Solo (n=59)	Private (n=19)	Staff Office (n=35)
Less than 1 year	7%	21%	32%
1 or 2 years	12%	32%	27%
3 or 4 years	9%	11%	12%
5 or 6 years	15%	16%	12%
7 or 8 years	14%	5%	3%
9 or 10 years	7%	11%	9%
More than 10 years	37%	5%	6%

of attorneys who had represented 22 or more cases in the last six months (16%). Attorneys from staff offices in Washington State had less experience as child representatives: Thirty-two percent had been practicing child representation for less than a year. Solo practitioners reported much more experience, with 37% practicing child representation for more than 10 years.

## 8.5 Continuing Legal Education

Most attorneys had taken a CLE course in the last two years that had covered at least one topic in child welfare law and policy and child representation practice. Within those two broad topics, differences were revealed across the two sites, with Washington attorneys 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 covered expert witness and interviewing and counseling the child.

However, 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. 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 much as attorneys practicing in the Georgia jurisdictions.

Nevertheless, more than 50% of Washington attorneys had not received 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.

*Washington Employment Settings:* The percentages of attorneys reporting having received continuing legal education credits during the prior 2 years is very similar across organizational settings. Some differences are found, however, with respect to continuing legal education credits pertaining to child welfare law and policy. For example, attorneys in private practice were significantly less likely to report training in state child welfare law (37%) than solo practitioners (66%) and attorneys in staff attorney offices (62%).

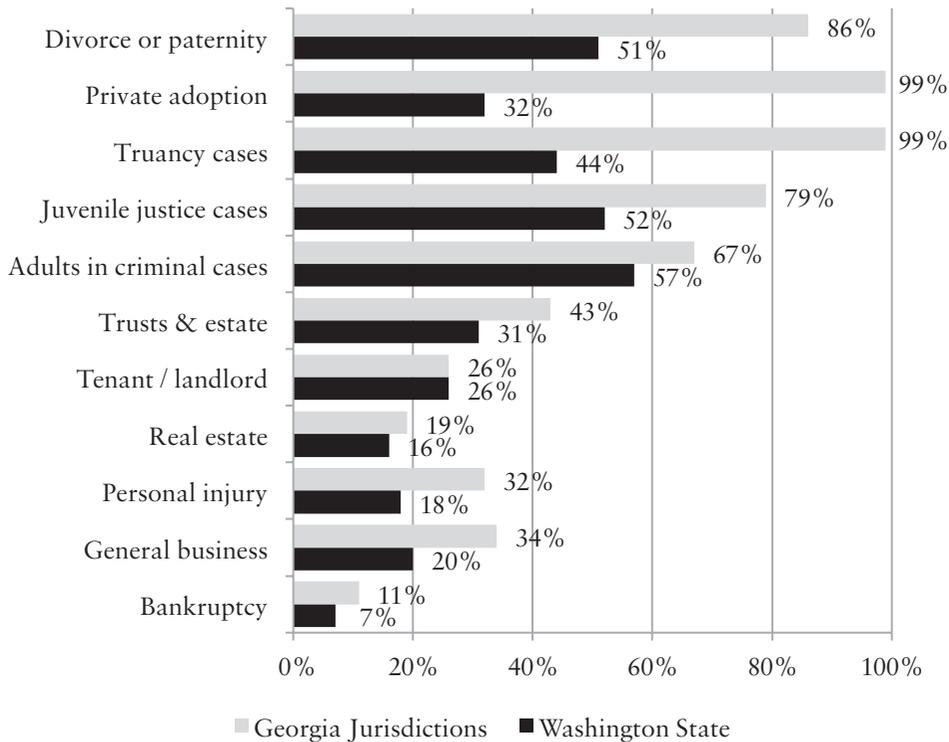
## 8.6 What Other Types of Law Were These Attorneys Practicing?

The professional practice of lawyers representing children included a broad range of legal subjects. In addition to representing children, attorneys were practicing a variety of other types of law (Figure 8.2). At least three-quarters of the Georgia jurisdiction attorneys

**Table 8.4 Continuing Legal Education in Prior 2 Years**

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

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 in Washington. 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.

**Figure 8.2 Percent of Attorneys Practicing Other Types of Law**

*Washington Employment Settings:* Attorneys employed by staff attorney offices report significantly less heterogeneity in their recent legal practice than do other attorneys, though even those attorneys did not spend the majority of their time on child welfare cases. In contrast, the level of heterogeneity of practice experience among solo practitioners and attorneys in private firms in Washington was very similar, and was also similar to the prevalence of these practice types in Georgia.

## 8.7 Financial Compensation and Compensation Arrangements

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 fourteen percent of Washington attorneys left the question blank. About half of the attorneys from Georgia and Washington who completed the question indicated incomes from the practice of law between \$40,000 and \$80,000.

There was an issue with this question, however, because some attorneys may not have been working full-time. Suffice to say that in both states, there were few attorneys doing this work who were earning more than \$100,000 from the practice of law: 17% in Georgia and 12% in Washington.

**Table 8.5 Adequacy of Compensation**

How adequate do you think the level of compensation you receive for child welfare cases is?	All	Georgia Jurisdictions	Washington State
Very inadequate	29%	30%	28%
Somewhat inadequate	38%	41%	36%
Somewhat adequate	29%	28%	30%
More than adequate	4%	2%	6%

**Table 8.6 Compensation Arrangement**

Compensation Arrangement	All	Georgia Jurisdictions	Washington State
Hourly rate based on voucher	65%	86%	42%
Hourly rate based on voucher with limits	11%	12%	10%
Contract for a monthly or annual payment	8%	2%	14%
Salaried in non-profit or government organization	16%	0%	33%

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

*Washington Employment Settings Note:* Attorneys from different employment settings responded similarly to this question, though no attorneys from private law firms indicated that compensation was more than adequate.

There were several common types of 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 non-profit or government organization (Table 8.6). In a few jurisdictions, more than one contract arrangement was possible within the same jurisdiction. For example, one jurisdiction used the Office of the Public Defender (salaried attorney) but, if all public defender attorneys had conflicts, the jurisdiction used an outside “conflict attorney” paid by the hour based on a submitted voucher.

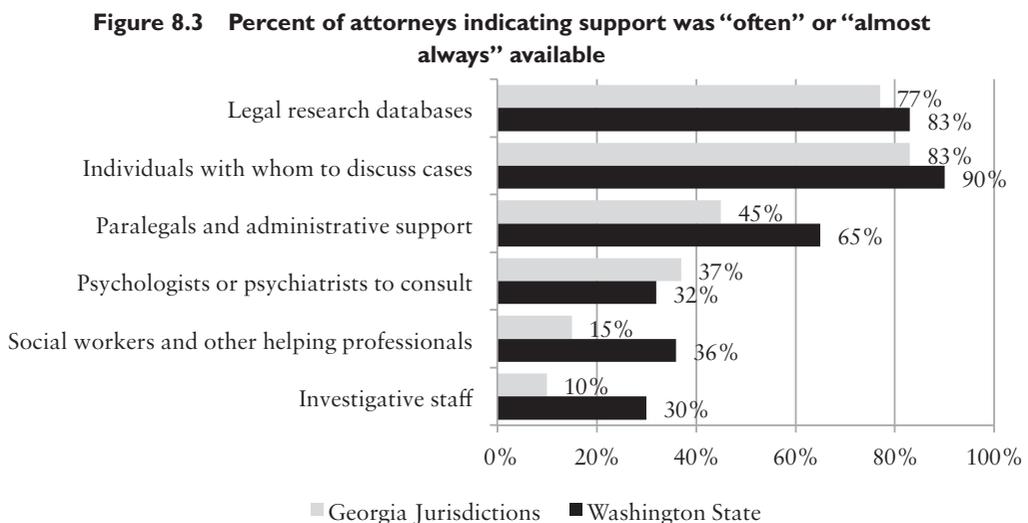
The most common compensation arrangement was a submission of a voucher with hours, in which the attorneys were paid an hourly rate without official limits on the number of hours. A few attorneys (10-12%) were paid an hourly rate with a

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. And in Georgia jurisdictions, as discussed previously, there were no attorneys representing children who were staff attorneys either in a government or non-profit agency.

*Washington Employment Settings:* Attorneys working in private practice and as solo practitioners were more likely to be appointed to individual cases (by a judge or from a rotational list) than are attorneys who work in staff attorney offices. Conversely, attorneys working in staff attorney offices are more likely than other attorneys to report working under contract to courts in which they are remunerated on a per-hearing basis.

## 8.8 Organizational Supports

Legal research databases and individuals with whom to discuss cases were the most commonly available services. Less commonly available were paralegals and administrative support. Only about a third of attorneys indicated that psychologists or psychiatrists with whom to consult were available often or almost always available. 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 at all available to 52% of attorneys in the Georgia jurisdictions and 33% of attorneys practicing in Washington ( $p < .01$ ). Investigative staff was not at all available to 54% of attorneys in the Georgia jurisdictions and 35% of attorneys practicing in Washington ( $p < .01$ ).



*Washington Employment Settings:* Attorneys in staff attorney offices are found to be more likely to have access to investigative staff and to have greater access to social workers, psychologists, psychiatrists, or other helping professionals, than attorneys in solo practice and private firms. Solo practitioners are found to be less likely than attorneys in private practice to have access to paralegals.

There are no significant differences across organizational settings concerning access to legal databases or individuals with whom attorneys can discuss cases. In both Georgia sites and Washington, when only attorneys practicing in small firms or as solo practitioners are compared, Washington attorneys still had more access to investigative staff, paralegals, and psychologists or psychiatrists than Georgia jurisdiction attorneys but they rate the access to social workers and legal research databases equally.

### 8.9 Identified Responsibilities of Child Representatives

Attorneys were asked to evaluate seven child representation tasks and indicate on a five-level scale the extent to which each task was “your responsibility as a child’s attorney in dependency cases.” Each statement and the response distribution are shown on Table 8.7. These questions were 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 evaluation of the QIC-ChildRep Best Practices Model for child representation.

**The QIC-ChildRep baseline survey asked if the attorney had the following level of responsibility: 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

Each statement and the response distribution are shown on Table 8.7. These questions were 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 evaluation of the QIC-ChildRep Best Practices Model for child representation.

These questions were designed to assess 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, assistant attorneys general representing the state’s interests, CASAs, judges and parents. The responses can be used to understand attorney’s views on responsibility and to reveal differences

in attorneys practicing in these two different state contexts.<sup>2</sup> With respect to attorneys views of responsibility in general, the majority of attorneys considered attending case planning meetings (61%) and establishing the goals that parents need to meet in order

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2. See Chapter 7 for a description of the state legal and policy context in Georgia and Washington.

**Table 8.7 Opinions about responsibilities of child representatives.**

The bolded state indicates that group of attorneys from that state rated the task was higher on the responsibility scale.

	All	Georgia Juris.	Wash.
<b>Attending case planning meetings</b>			
Little or none	6%	11%	1%
Limited	16%	24%	7%
Shared	61%	59%	<b>62%</b>
Primary	11%	4%	<b>19%</b>
Exclusive	6%	2%	<b>11%</b>
<b>Advocating for services for children</b>			
Little or none	0%	0%	0%
Limited	2%	3%	0%
Shared	33%	37%	<b>28%</b>
Primary	47%	50%	<b>43%</b>
Exclusive	19%	9%	<b>29%</b>
<b>Identifying caregivers who can serve as foster parents</b>			
Little or none	17%	24%	<b>10%</b>
Limited	30%	31%	<b>28%</b>
Shared	45%	41%	<b>50%</b>
Primary	7%	5%	<b>9%</b>
Exclusive	1%	0%	<b>2%</b>
<b>Identifying potential adoptive homes</b>			
Little or none	32%	37%	26%
Limited	35%	32%	38%
Shared	29%	28%	30%
Primary	4%	3%	4%
Exclusive	0%	0%	1%
<b>Advocating with respect to other legal matters (e.g., education, custody, SSI) for the children you represent in dependency cases</b>			
Little or none	7%	7%	8%
Limited	13%	15%	11%
Shared	33%	36%	31%

**Table 8.7 (continued)**

	All	Georgia Juris.	Wash.
Primary	32%	32%	32%
Exclusive	15%	11%	19%
<b>Establish the goals that parents need to meet in order to have their children returned to them</b>			
Little or none	8%	7%	9%
Limited	25%	20%	32%
Shared	57%	62%	52%
Primary	7%	10%	3%
Exclusive	3%	2%	4%
<b>Advocating for services for parents</b>			
Little or none	15%	11%	19%
Limited	29%	25%	32%
Shared	45%	49%	41%
Primary	9%	13%	4%
Exclusive	3%	2%	3%

to have their children returned to them (57%) a shared 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 35% indicated that identifying potential adoptive homes was a shared responsibility. Almost half of the attorneys thought that advocating for services for parents and children was a shared responsibility. Thirty-two 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. For those tasks, attorneys from Georgia were more likely to select options higher on the scale of responsibility.

*Washington Employment Settings:* Attorneys' opinions about the responsibilities of child representatives were similar across organizational setting. The one exception to this general finding was that solo practitioners were more likely than other attorneys to ascribe a higher level of responsibility to child representatives for identifying caregivers who can serve as foster parents.

### **8.10 Opinions about the Importance of Child Representation Tasks**

Attorneys were asked to evaluate 10 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 its corresponding response distribution, are shown on Table 8.8. Very few attorneys in either site selected "not at all important" for any of the statements, so this response is left off the table.

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 that any of these tasks were less than important, with a comparable proportion (ranging from about 55% to 71%) indicating these tasks were very important.

The remaining six statements related to possible approaches towards representing and interacting with child clients. Washington attorneys had stronger opinions than attorneys from the Georgia jurisdictions about the importance of all six approaches that would be considered part of client-directed legal representation. But it should be noted that the majority of attorneys selected "important" or "very important" for all of the statements with most of the variation concentrated within the top two levels of the scale.

*Washington Employment Settings:* Child representatives in different organizational settings report generally similar views with respect to the importance of various competencies and practices for achieving timely court outcomes. There were no significant differences in the perceived importance of understanding the cognitive and communication capacities of individual children, or understanding the impact of maltreatment and trauma on children's mental and behavioral well-being. Similarly, there were no significant differences in the perceived importance of keeping children informed of the progress and status of their dependency cases, or making sure that children understand the legal options available to them. However, attorneys in staff attorney offices are more

**Table 8.8 Opinions about the Importance of Certain Child Representation Tasks**

The bolded state indicates that group of attorneys from that state rated the task was higher on the responsibility scale.

Importance For Achieving Positive And Timely Court Outcomes for Children	All	Georgia Juris	Wash.
<b>Communicating children’s wishes and needs to others involved in the case.</b>			
Somewhat important	3%	5%	1%
Important	25%	28%	23%
Very Important	71%	67%	75%
<b>Understanding the impact of maltreatment and trauma on children’s mental and behavioral well-being.</b>			
Somewhat important	4%	3%	5%
Important	30%	29%	32%
Very Important	65%	67%	62%
<b>Understanding the cognitive and communication capacities of individual children.</b>			
Somewhat important	9%	11%	7%
Important	37%	36%	38%
Very Important	54%	53%	55%
<b>Being culturally sensitive in your interactions with child clients.</b>			
Somewhat important	8%	11%	5%
Important	35%	38%	31%
Very Important	56%	50%	62%
<b>Establishing and maintaining a relationship with the children you represent.</b>			
Somewhat important	7%	8%	5%
Important	31%	38%	24%
Very Important	61%	53%	70%
<b>Giving children the opportunity to express their wishes regarding legal objectives</b>			
Somewhat important	8%	13%	3%
Important	33%	46%	20%
Very Important	58%	41%	76%
<b>Informing children of positions you have taken or will take as their legal representative.</b>			
Somewhat important	15%	25%	5%

(continued)

**Table 8.8 (continued)**

Importance For Achieving Positive And Timely Court Outcomes for Children	All	Georgia Juris	Wash.
Important	30%	38%	21%
Very Important	54%	36%	74%
<b>Explaining to children the meaning of attorney-client privilege.</b>			
Somewhat important	9%	12%	5%
Important	31%	38%	24%
Very Important	59%	49%	70%
<b>Keeping children informed of the progress and status of their dependency case.</b>			
Somewhat important	12%	19%	4%
Important	36%	42%	30%
Very Important	51%	38%	65%
<b>Making sure that children understand the legal options available to them.</b>			
Somewhat important	6%	10%	2%
Important	31%	45%	17%
Very Important	61%	43%	80%

likely than other attorneys to endorse the importance of giving children the opportunity to express their wishes regarding legal objectives.

### **8.11 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 small percentage (8%) selected an option lower on the scale (Table 8.9). 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.” Fifty-one percent “somewhat agreed” and the remaining 16% selected an option lower on the scale.

*Washington Employment Settings:* No significant differences were found across organizational setting in opinions about how rewarding attorneys find their work as child representatives. In contrast, attorneys working in staff attorney offices report a lower level of perceived impact than attorneys in solo practice or private firms.

**Table 8.9 Opinions about Personal Rewards and Impact**

<b>I find my work as a legal representative for children in dependency cases to be rewarding</b>			
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%
<b>I have a significant impact on the outcomes of the children I represent in dependency cases</b>			
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%

## 8.12 Discussion

### 8.12.1 Experience of Child Representatives

Most children’s lawyers are not specialists, but many are experienced lawyers. 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 constituted less than 20% of their law practice and income. Even among attorneys in staff offices in Washington State, about half of the attorneys were spending 20% or less time on child representation. The practice portfolio of the attorneys was broad and heterogeneous.

Most attorneys were handling only a handful of dependency cases—one-third report handling five or fewer cases within six months. In discussing delivery of legal services to children, the national cognoscenti of child advocates 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.<sup>3</sup> This sample shows that most children are not represented by such specialists, but rather by general practitioners handling a limited number of dependency cases.

The survey data show that these child attorneys are not fresh out of law school. Most had practiced law for many years (mean of 13.5 years) and 56% had had

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3. 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)

represented children for 5 or more years. The implications for training and recruitment may be that good 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 accept practice innovations.

### 8.12.2 *Organizational Supports for Child Representation Practice*

Information about the availability of supports to attorneys is important because these supports are often thought to contribute to the quality of representation.<sup>4</sup> 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. These supports were the most available to the group of attorneys practicing in staff attorney offices in Washington State.

### 8.12.3 *Compensation and Satisfaction*

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.<sup>5</sup> 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 inadequate suggests that there may be other, non-financial 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 counteract the influence of inadequate compensation.

### 8.12.4 *Views of Responsibilities of Child Representative*

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

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4. *Id.*

5. 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. *Children's Legal Rights Journal*, 32(3), 67-88. (2012)

expected, attorneys acknowledged greater responsibility for tasks that pertain specifically to the child (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). On the other hand, notable proportions of attorneys saw themselves having limited or no responsibilities for surveyed tasks.

This is consistent with Ross' qualitative study of lawyer's 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."<sup>6</sup>

Differences in opinions about responsibility for certain tasks between Washington State and Georgia attorneys may reflect the influence of the best interests versus client directed models of representation used in these respective states at the time of the study. 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 State. Alternatively, the more assertive and broader purview associated with Washington State attorneys may be a reflection of the fact that Washington State attorneys served a group of children with an average age of 11, compared to a group of children with an average of 6 in Georgia.

#### 8.12.5 Views of Task Importance for Achieving Positive and Timely Outcomes

Attorney's responses to questions about the importance of different tasks suggest that attorneys in both states put a premium on actively engaging child clients. Reported differences across states 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 State report that the tasks are very important. As is the case for the questions concerning attorney responsibilities, these differences might reflect differences between the models of representation used in each.

Washington attorneys, who operate under a client-directed model, are required to afford children greater authority over case decisions than are attorneys in Georgia, who operated primarily under a GAL model. The client-directed model may also necessitate a more concerted effort to help children understand the exigencies of their court cases in order to ensure that children's expressed interests are well informed. Alternatively, the differences across states in attorneys' assessments of the importance of these tasks may simply be a reflection of an older, more capable pool of child clients.

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6. Nicola M. Ross, *Different Views? Children's Lawyers and Children's Participation In Protective Proceedings in New South Wales, Australia*. 27(3) International Journal of Law, Policy and the Family (2013).

### 8.12.6 Differences Across Organizational Settings

Many of the findings concerning the characteristics and circumstances of attorneys across organizational settings support the general assertion that the manner in which child representation services are organized may have important implications for child representation practice. Some of these findings support the arguments that child welfare legal offices offer a number of advantages.<sup>7</sup> For example, attorneys working in staff attorney offices are found to have greater access to some types of professional resources (e.g., access to helping professionals) and less heterogeneous case compositions, than other attorneys, a finding that suggests a more specialized, better resourced practice environment. Also, a much higher proportion of attorneys in staff attorney offices report working under contract with courts to handle a specified number or proportion of cases.

In light of the fact that attorneys in nonprofit agencies are salaried employees, while solo practitioners and private-firm attorneys must bill on a case-by-case basis,<sup>8</sup> this finding suggests that attorneys in nonprofit agencies enjoy a greater degree of autonomy from those making legal appointments than other attorneys<sup>9</sup>. It should be noted, however, that not all findings support the superiority of staff attorney offices. For example, attorneys working for staff attorney offices are found to be less experienced and to report lower law incomes than attorneys working in other settings. Also, the assessment of the impact of their work on children's outcomes is lower among attorneys working for staff attorney offices than among other attorneys.

There were also many important similarities across organizational settings. Across all settings, attorneys report having had practice experiences in several areas of law. Attorneys, regardless of setting, appear to share a similar mix of attitudes about the proper approach child representation practice and its impact. The findings of no significant differences in caseload size, the degree to which attorneys find their work as child representatives to be rewarding suggest important similarities in the work environments of these various organizational settings.

Finally, it is important to point out that, although solo practitioners and private-firm attorneys share many differences from attorneys in staff attorney offices, the former two settings do not appear equivalent. Solo practitioners have worked longer as child representatives, report higher incomes from the practice of law, and received more continuing legal education credits in state child welfare law, than attorneys in private firms.

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7. Leslie Starr Heimov, Amanda George Donnelly and Marvin Ventrell, *Rise of the Organizational Practice of Child Welfare Law: The Child Welfare Law Office*, 78 *University of Colorado Law Review* 1097-1117 (2007); Donald N. Duquette, with Julian Darwall, *Child Representation in America: Progress Report from the National Quality Improvement Center*, 46 *FAM.L.Q.* 1 (2012).

8. Based on information obtained from participating attorneys and jurisdictions during sample recruitment.

9. Heimov, *supra* note 7.

One possible hypothesis for the differences between solo practitioners and attorneys in private law firms is that the former are comprised of attorneys who have worked within other organizational settings, including nonprofits and private law firms. As these attorneys gained greater experience and expertise, they left these settings to set up their own solo law practices.

