



## Case Study: Changing Lives Through the Creation of a New Program — The Children’s Attorneys Project

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You could hear a pin drop in the legislative hearing room as a brave fourteen year old, eyes glued to a piece of paper, read her words to a legislative panel. She recounted that she was five years old the first time her stepdad tripped her, causing her to fall down the stairs. She described what it was like to be in and out of foster care without anyone speaking up on her behalf. She told the panel what it was like to obtain a lawyer and to watch the lawyer fight hard for what she wanted — to live with her grandmother in the only place she had ever felt safe. She recounted that when the judge ruled in her favor on her fourteenth birthday, it was the best birthday present she could have ever hoped for. Her 2017 testimony made history and led to the creation of a right to counsel for all children in Nevada’s child welfare system. By the end of this year, every child will have a well-trained attorney to represent them. This is the story of how we began and how we got to this moment in time.



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### The Beginning

It all began with a phone call. The county manager called our office, alarmed that Clark County was one of the largest metropolitan areas in the nation with absolutely no program to provide independent legal representation for children. Did our office think we should begin one? Our answer was immediate: “Yes!” — and we were the ones to do it. Legal Aid Center of Southern Nevada has always represented the vulnerable, and who was more vulnerable than kids in foster care? It was clear to us from day one that even though legal aid programs did not “traditionally” handle these types of cases, it made complete sense to do so. The county

manager formed an advisory committee to kick off the effort. We received a grant to hire one attorney, and so we began our work.

We first needed to develop our model. Not wanting to reinvent the wheel, and determined to utilize best practices, we contacted the American Bar Association (ABA) Center for Children and the Law, and asked if they could find two experts in the field. They did, and we grilled them. Should we use a client-directed model or a guardian ad litem (GAL) model? What should we look for in our first attorney? What are the pitfalls in representing kids? Who could we learn from? The experts gave us good advice, noting that both the ABA and the National Association of Counsel for Children recommended a client-directed model — a child needs an attorney, not a GAL — and if we were starting from scratch, that is how we should design the program. They recommended finding an attorney who was experienced, who could help make the critical decisions needed. And so we did.

### What Exactly Is the Role of Legal Aid Center Attorneys in Representing Kids in Foster Care?

Our intuition told us that we should be representing kids in foster care, and it was immediately confirmed that this was the right decision. The lack of legal counsel for children in foster care resulted in many languishing in the system, even if they had a loving permanent family ready to adopt them. Children were often separated from siblings and put in placements they opposed. There were missed opportunities for family reunifications, even though this was the child’s desires. Overcrowding at the temporary shelter for children who were removed from their homes was also an issue. Babies remained in their cribs for weeks on end, despite the fact this could permanently harm

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them. Teens were being given psychotropic medications for behavior control, not to address any specific disease. There was no watchdog — no one to advocate for the children and their legal rights.

### Growth of the Program and Funding

We began representing our first child with our first lawyer in 1999. The advisory committee decided to go to the legislature and request funding for the endeavor. Nevada has a filing fee addition for the provision of legal aid services; an additional fee component was added to fund the work. This funding allowed the program to add attorneys.

From the beginning of the program, we decided we would focus on quality, not quantity. We set our own caseload standards of approximately 55 cases (or 110 children) per attorney. Some programs accept every case, similar to a public defender model, and are representing hundreds of children. As a result, they may not meet their clients for the first time until right before court. Although some of these programs are doing extraordinary work, we decided not to let ourselves get in that position. We advised the court that we would accept referrals of kids in the worst situations. Under our model, we would meet each child in their home so we could pick up nonverbal clues and learn about our client's environment. If our attorneys' caseloads were high, we told the court we were unable to accept referrals. The court quickly learned that cases with children's lawyers ran better than cases without children's lawyers, but they were nonetheless remarkably supportive and understanding of our strategy. Sometimes the court would ask us to take a case even though we couldn't (and we did), but we refused to let our caseloads grow so much that quality was sacrificed. We also decided to hire slowly. If we did not feel someone really understood how difficult this work can be, we did not hire them. Since our inception, we have had only two directors. Our current director, as well as two of our team chiefs, are certified child welfare experts by the National Association of Counsel for Children. As a result, we now have one of the best-trained, hardest working attorney staffs in the country — a team of 23 amazing attorneys (and we are hiring if you fit this mold!).

As the program matured, the county began providing a contract for the services, gradually adding funding until it reached \$780,000 in 2016.

The Administrative Office of Courts also issued periodic grants from its "Court Improvement Project." The program grew. Soon we had over 500 children represented.

As we added legislative and county funding, we had funding gaps that hampered our expansion. Private philanthropy filled these gaps. One philanthropist funded one position for seven years. Another local philanthropic organization funded a critical project at a critical time — when we shifted from representing significantly problematic cases to accepting the case from day one. The funder, Nevada Women's Philanthropy, is a wonderful Nevada group of women. Each woman contributes \$5,000 to the effort, and they combine the funds to give to one organization each year (with a \$50,000 donation to the runner-up). They have a unique, hands-on approach; their grants selection committee assigns a member who works with you on the grant application, helping you tell your story and explain the importance of your work. Our application started off pretty legalistic, but by the end, we told the story of our clients and why we make a difference.

Ultimately, our organization won the coveted award, securing \$350,000 for our program to secure another attorney and paralegal for three years. And along the way, we gained friends and even a board member, who remains on our board to this day. These new friends would help advocate for a better foster care system as well, joining us to tour child welfare court proceedings and meeting with the judges to seek more accountability for children in the system.

### The Role of Pro Bono and Educational Advocacy

From the beginning, advisory members thought we could also entice pro bono attorneys to represent kids. Once we understood how to represent children well, and had staff attorneys who could train and mentor pro bono attorneys, we added a pro bono component. We started slowly, adding a few attorneys at a time. Some attorneys understood the mission immediately and utilized their terrific skills and abilities to become

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proficient in representing children. Some of the best appellate attorneys in the state became experts in child welfare appeals and agreed to accept every appeal in every case.

Soon, entire law firms would adopt children's cases. It made perfect sense for multiple attorneys at a firm to learn how to practice child welfare law. What if an associate had a large trial and could not make a routine court appearance? Having teams of lawyers trained on these child welfare cases gave more assurance to the pro bono attorneys and gave the firm more flexibility in handling the cases. We began traveling to law firms where our attorneys would train ten to fifteen lawyers in child welfare law. Each would receive a manual and a case. We would go back to the firms for additional training.

Trainings would be honed and improved every year, culminating in a module training, produced "pro bono" by Vegas PBS: <http://sbn.peachnewmedia.com/store/seminar/seminar.php?seminar=109831>. The program is recognized as a model throughout the State of Nevada. Fast forward to today, we have 350 pro bono attorneys representing 734 kids. We have pro bono resources on a children's attorneys' web page: <http://www.lacsnpobono.org/resources-and-training/childrens-attorneys-project/>.

Each pro bono volunteer receives a mentor and access to frequent free CLE trainings. We recently added a full time Pro Bono Liaison to ensure that pro bono attorneys can more quickly have their questions answered. These cases created a unique and lasting connection between our office, the private bar, and the volunteer attorneys. Indeed, according to a story related to us, two named partners were involved in bitter litigation. One partner mentioned he would be filing for an extension (they couldn't even agree on routine stipulations due to their animosity). When the other partner asked why, the first indicated the extension was needed because of his child welfare case. The other partner said, "You have a CAP case too?" They proceeded to talk about their children's pro bono cases, and the one partner gave the extension to the other. It united these attorneys, even if just for a moment.

Innovation was not limited to pro bono. Along this journey, we found that children in foster care faced a multitude of challenges in their quest to obtain an education. Children were taken out of the only school they ever knew. Evaluations did not happen when there was no parent ensuring and demanding that testing took place. Our program added an effective educational

advocacy program, with a full time education attorney, a dedicated paralegal advocate, and a volunteer coordinator who trains and mentors 150 volunteers who serve as educational decision-makers for our clients. Children in foster care deserve educational success, and our team is devoted to ensuring that occurs.

### Systemic Advocacy Along the Way

Legal Aid Center of Southern Nevada engages in systemic advocacy along with individual representation in all areas of its practices. Systemic advocacy can include legislative action, statewide policy advocacy, or advocacy directed at the system itself through its many stakeholders. It was easy to extend this kind of representation in the child welfare arena. In 2012, our attorneys began to notice that several of our clients were over-medicated; some were drooling in court and could not even communicate with us. Our attorneys would raise the issue in court by motion or oral advocacy, demanding a second opinion or an evaluation be conducted.

Systemically, we began listing every child we represented, documenting the medication each child was being prescribed, the diagnosis, and the prescriber. We sent a demand letter to the various government agencies in charge of Medicaid and child welfare, requesting that systemic change be addressed so that litigation would not be necessary. As a result, a new mental health provider received a contract to examine all children on more than two psychotropic medications. Treatment plans were reexamined, and psychotropic drug use plummeted. It is rare now to see a child who is overmedicated.

Another example of our systemic advocacy involves the creation of a program for children aging out of foster care. Legal Aid Center began to notice that when children "aged out" of care, or left the child welfare system without a permanent placement, the child welfare system would supply some of these young adults with financial assistance, but were eager to end the funding at age 19. Additionally, if the young

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adult “misbehaved,” the agency rushed to terminate the young adult from the program. In our opinion, young adults who make mistakes are the very ones who could benefit from guidance so they can become better prepared to live on their own. And most 19 year olds need someone to fall back on when there is an unexpected issue. Inspired by these scenarios, our office wrote legislation mandating that each child aging out of the foster care system receive the foster care payment themselves beginning at age 18 and ending when they turn 21. We added a provision to ensure that only a judge could terminate the young adult from the program and fought for the addition of supportive services. This piece of advocacy caused terminations from the program to plummet and hundreds of children to receive assistance. It established a bridge to independence. Recently, we ran into a young adult who lost his grandfather and ended up in the children welfare system, all alone, at age 17. He is now attending college, and he readily describes how the program saved his life. When we explained our role in creating the program, he asked, “May I hug you?” Is there anything better in this world than that?

### Fast Forward to Today

In 2017, our office represented 5,564 children in the child welfare system through dedicated staff attorneys and committed pro bono attorneys, approximately 85% of the children in the system. In 2017, the Nevada Legislature mandated that every child be represented by an attorney. By January, 2019, we hope to make that a reality as we plan on hiring three additional staff attorneys and recruiting pro bono attorneys for our gap of 230 cases. We are asking our community lawyers to join us as we make history and provide an attorney for every child in the child welfare system. And when we do, we celebrate the creation of a model program — with quality advocates, community support, sustainable funding, and the best clients in the world.

- 1 Barbara Buckley is the Executive Director of Legal Aid Center of Southern Nevada. Barbara spent her entire legal career with legal aid, starting in 1989 and becoming director in 1996. During 16 years of this span, Barbara also served in the Nevada Legislature (a part-time legislature), ultimately becoming Speaker of the Nevada State

Assembly. She received many awards and honors such as Most Effective Legislator in the Assembly from 1999-2009, the 2013 Child Advocate of the Year, the 2014 Jurisprudence Award from the Anti-Defamation League of Las Vegas, and the 2016 Ninth Circuit Distinguished Pro Bono Service Award. Barbara may be reached at [BBuckley@lacs.nv.gov](mailto:BBuckley@lacs.nv.gov).

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use of funds. One goal of the Indiana Criminal Justice Institute was to increase funding to programs that serve underserved populations, such as the Hispanic/Latino community, immigrant community, hearing impaired, LGBT, and elderly victims. “Underserved populations” is defined in 42 U.S.C. Section 13925(a)(39).

It is important to determine who administers the VOCA funds provided to your state and review the VOCA grant program solicitation if you are interested in applying for funds. Requirements and deadlines to apply for funding vary from state to state.

### Conclusion

Access to justice for an underserved and vulnerable population coupled with a source of funding for the program apart from Legal Services Corporation support is a dream for civil legal aid firms.

- 1 Sarah Everett is a staff attorney with Indiana Legal Services, Inc. in the firm's Indianapolis office. She specifically works with the LAVA Project (Legal Assistance for Victimized Adults) focusing on civil legal assistance for vulnerable and elder citizens throughout Indiana who are victims of crime. The LAVA Project was established in January 2017 to ease or eliminate the negative effects of abuse, neglect and exploitation of elder and vulnerable adults, including financial exploitation. Sarah has written and presented on a variety of legal topics relating primarily to elder law, including a presentation at the Gulf Coast Elder Abuse Conference in Slidell, Louisiana. She is a member of the Indiana State Bar Association and the American Bar Association. She earned her J.D. in 1988 from Indiana University Maurer School of Law, and her B.S. in 1985 from Indiana University. She is admitted to the bars of Indiana and United States District Court, Southern District of Indiana. Sarah may be reached at [sarah.everett@ils.net](mailto:sarah.everett@ils.net).