

OFFICE OF RESPONDENT PARENTS' COUNSEL

ANNUAL PERFORMANCE REPORT



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January 1, 2020

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I. Agency Overview

The Office of Respondent Parents' Counsel (ORPC) is an independent governmental agency within the State of Colorado Judicial Branch and is vested with the oversight and administration of Respondent Parents' Counsel (RPC) representation in Colorado. The agency opened on January 1, 2016, and the agency assumed oversight for RPC attorneys on July 1, 2016. This is the agency's fourth annual performance report.

In Colorado, indigent parents whose parental rights are at risk are statutorily entitled to counsel. Prior to the creation of the ORPC, no agency existed in Colorado exclusively dedicated to parent representation. A study conducted on respondent parent representation in Colorado and published in 2007 found that RPC representation is "typically adequate but rarely proficient."¹ The ORPC was established to address this performance gap, as the cause of "sub proficient practice is not the unwillingness of counsel to provide proficient services but rather the existence of practice, administration, and court systems which discourage optimal practice."²

A. Statutory Mandate

Section 13-92-101 to 104, C.R.S. established the ORPC and vested within it statutory requirements regarding the oversight and administration of respondent parent representation in Colorado. The ORPC's enabling legislation charges and entrusts the ORPC with, at a minimum, enhancing the provision of respondent parents' counsel by:

1. Ensuring the provision and availability of high-quality legal representation for parents in dependency and neglect proceedings,
2. Making recommendations for minimum practice standards,
3. Establishing fair and realistic state rates by which to compensate RPC, and
4. Working cooperatively with the judicial districts to establish pilot programs.

B. Mission Statement and Strategic Plan

The ORPC's mission is to protect the fundamental right to parent by providing effective legal advocates for indigent parents in child welfare proceedings. This right is protected when a parent has a dedicated advocate knowledgeable about child welfare laws and willing to hold the state to its burden. The office's duties are to provide accountability, training, and resources, develop practice standards, and advocate for systemic and legislative changes in Colorado.

The ORPC believes that every child deserves to have their parent represented by the best lawyer in town. To achieve this ideal, the ORPC has identified five essential pillars that support and inform the agency's work.

¹ *The National Center for State Courts, National Council for Juvenile and Family Court Judges, and National Association of Counsel for Children, State of Colorado Judicial Department Colorado Needs Assessment* (hereinafter "Assessment Report"), available here: https://www.courts.state.co.us/userfiles/File/Court_Probation/Supreme_Court/Committees/Court_Improvement/CO_RPCFinalNeedAsstReptApp.pdf

² *Id.* at 75.

1. **Systems are Fair and Followed** – Procedural fairness occurs when parents receive access to excellent interdisciplinary teams through engagement, recruitment, and retention of contractors who have access to the resources necessary to give dignity and fairness to families and to ensure procedures are followed.
2. **Family Voice Leads** – Family voice is strong when parents are engaged and present at every stage of their case, supported by their family defense team so they may be heard by the system, and play an active role in their case planning.
3. **Decrease Trauma to Children** – Trauma to children is reduced when caregivers are provided with preventative or in-home supports to keep children with their family of origin, when unnecessary removals are rare, and when children can safely stay with their family.
4. **Family Defenders Have a Strong Community** – Parents have better representation when there is a strong community of family defenders who have access to training, litigation and practice support, and who are celebrated for every kind of success in their parent advocacy.
5. **ORPC is Recognized, Respected, Productive and its Staff is Strong** – The ORPC achieves its statutory mandate when its reputation, performance, staff strength, and adherence to its values, which include the Five Pillars of the ORPC, have a positive impact on the child welfare system.

The ORPC's vision is that every child deserves to have their parent represented by the best lawyer in town. To achieve this ideal, the ORPC embraces three central concepts: Advocacy, Accountability, and Access.

- Advocacy – The ORPC will contract with experienced, high-quality attorneys and will support those attorneys through training, litigation support, and other resources to ensure that they are advocating for parents' constitutional rights.
- Accountability – The ORPC will be an effective steward of taxpayer dollars by ensuring that parents' attorneys are accountable for minimum standards and billing policies implemented by the agency.
- Access – The ORPC will ensure that all indigent parents have access to high-quality parents' counsel in Colorado child welfare cases.

II. Major Functions

The ORPC is charged with enhancing the provision of respondent parent representation across the State of Colorado and with providing oversight to contractors appointed to represent indigent parents in child welfare cases effective July 1, 2016. The items below detail the major functions of the agency and the efforts by the ORPC to meet its four primary legislative mandates through the five essential pillars of the agency.

A. **Systems are Fair and Followed**

Attorney Evaluations: The ORPC's statutory mandate to provide parents with high-quality legal representation is the primary means for the agency to ensure that the Colorado child welfare system is fair. In furtherance of this mandate, the agency has created an objective attorney evaluation process that includes a written application, writing sample assessment, references, assessment of attorney qualifications and commitment to the work, and an interview.

After the ORPC was created, the Children's Bureau issued an information memorandum about the importance of high-quality legal representation for all parties in child welfare proceedings.³ The Children's Bureau emphasized the "numerous studies and reports" indicating the importance of competent legal representation for parents, children and youth in ensuring that legal rights are protected.⁴

The Children's Bureau noted that there is evidence that supporting legal representation for parties in child welfare proceedings contributes to:

- Increases in party perceptions of fairness;
- Increases in party engagement in case planning, services, and court hearings;
- More personally tailored and specific case plans and services;
- Increases in visitation and parenting time;
- Expedited permanency; and
- Cost savings to state government due to reductions of time children and youth spend in care.

Further, the memo points to the demonstrated link between provision of competent legal representation and increases in procedural justice, fairness, and engagement of families in the child welfare system.⁵ The ORPC's intensive contractor review and selection process helps to assure that parents' attorneys have adequate experience and are qualified to handle child welfare cases on behalf of respondent parents.

In the upcoming years, the ORPC plan to increase diversity among RPC applicants; increase the total number of RPC applicants from across the state; develop a streamlined, electronic application process; and develop an electronic means of tracking contractor information. In prior years, the

³ ACF – Children's Bureau, High Quality Legal Representation for All Parties in Child Welfare Proceedings, ACYF-CB-IM-17-02 (January 17, 2017).

⁴ *Id.* at p. 2.

⁵ *Id.* at p. 5.

ORPC reported on the percentage of renewing attorney applications that were evaluated annually. The ORPC collects applications annually for renewing contractors as well as for attorneys under an existing contract who must submit annual verification of compliance with the ORPC contract, such as ongoing training requirements. By modifying the prior goal of monitoring and evaluating renewal attorney applicants only, the ORPC can more effectively report on the total number of contractor applications that are evaluated annually and target resources toward recruitment of new attorney applicants across the state.

The ORPC believes that continuing to improve the availability of high-quality legal representation for parents will help shift the child welfare system in a way that is fundamentally fair for families.

Performance Measure A: Evaluate and Recruit Attorney Contractors		FY 2017-18	FY 2018-19	*FY 2019-20	FY 2020-21	FY 2021-22
Number of Applications Reviewed	Actual	278	294	299	TBD	TBD
Number of New Applicants	Actual	Data not available for new applicants	93	75	TBD	TBD

** Data provided for the FY 2019-20 year includes data from July 1, 2019- December 2, 2019. Most contractors apply by 3/31/20, but ORPC does review mid-cycle applications where there is a need for new attorneys in a particular jurisdiction.*

Conduct Court Observations: The ORPC prioritizes conducting in-person courtroom observations of RPCs to ensure the provision of high-quality legal representation, a constitutional and statutory right for parents facing the possibility of permanent deprivation of their relationship with their children. The use of frequent, targeted, and objective evaluations based on ORPC practice standards ensures that indigent parents have access to effective assistance of counsel. Observations also mitigate overall legal error in courtrooms. If ORPC staff observe systemic problems in any jurisdiction, staff may follow up with judges and other appropriate agencies, such as the Colorado Judicial Department’s Court Improvement Project, to discuss needs for training or additional resources. ORPC staff also support attorneys in each jurisdiction by providing relevant caselaw, research, or practice tips following observations to ensure parents have access to appropriate treatment plans, services, and resources as early as possible and throughout the case. Court observations are an essential role of the ORPC in ensuring fair systems for families.

Since 2017, the ORPC has conducted court observations year-round. During the past year, the agency has reevaluated the goals and purposes of these observations. Scheduling court observations requires intensive coordination between agency staff, local court personnel, and RPC attorneys. Logistical challenges can present significant hurdles to scheduling and completion of court observations in rural and non-metro areas of the state. As a result, ORPC staff aim to ensure each observation creates meaningful opportunities to collect information about the contractors, their advocacy, and their practice in dependency and neglect cases.

This past year, the ORPC adopted an objective measurement tool that is tied to its practice standards, rules of professional conduct, and legislative mandates. The goal for observing

contractors has evolved with an eye toward focusing on those contractors scheduled to renew their contracts during the current fiscal year. The agency will also focus on meaningful observation of contractors who have been identified as needing additional training or support, including observations of counsel in contested and substantive hearings. The goal for observations is for 100 percent of renewing attorneys to be observed during the fiscal year in which their contract will be renewed. A secondary goal is to observe contractors at least three times during their four-year contracting period. The agency makes an exception regarding these fundamental goals for those contractors who carry fewer than five contracted cases. For those contractors, the goal for observation is to see them at least once during their contracting period.

By modifying the prior goal to observe all contractors every fiscal year to allow some flexibility, the ORPC can more effectively target resources and observations towards jurisdictions in which the contractors are up for renewal or contractors who are in need of additional support. The ORPC can also better align court observations with participating in best practices meetings and attorney roundtables, which avoids unnecessary travel to see a single contractor in a rural location. The ORPC was unable to isolate data on the number of court observations for renewing contractors for FY 2017-18 or FY 2018-19. As the below performance measure regarding observations of renewing contractors is a newly tracked data point, the chart begins with the current fiscal year.

Performance Measure B: Conduct Court Observations		*FY 2019-20	FY 2020-21	FY 2021-22
Observations of renewing contractors	Target	100%	100%	100%
	Actual	58%	TBD	TBD

** Data provided for the FY 2019-20 year includes data from July 1, 2019- December 2, 2019. Renewing contractors must be observed by 3/31/2020, so the ORPC is on track to meet this objective.*

To accomplish these observations, agency staff travels throughout judicial districts, witnessing court appearances in many types of hearings, both contested and non-contested. Staff observes not only the advocacy and litigation skills of the ORPC contractors, but also the practices of judges and magistrates, as well as those of county attorneys and departments of human services. These observations assist staff in assessing training needs, identifying gaps in resources, and considering implementation of additional practice standards. Further, as part of identifying jurisdictional challenges, staff communicates with judicial officers and court personnel when appropriate to assist contractors in achieving practice standards. Agency staff also meet with contractors while in jurisdictions to address common challenges and provide training and coaching tailored to improving practice for the county.

The ORPC records court observation data. This data creates opportunities for staff to follow up with attorneys to notify them when their performance has fallen below that required by practice standards and to provide RPCs with resources to improve their performance. It also allows the ORPC to recognize contractors who are excelling in their advocacy for and support of clients. The data also creates information for the training division to incorporate in planning curricula for the coming year.

Colorado-Specific Practice Standards: Based on input from RPCs and the need for Colorado specific practice standards, the ORPC has drafted practice standards that reflect the nature of the agency's practice in Colorado while also drawing on the guidance from the ABA and other state's practice guidelines for respondent parent attorneys. The ORPC anticipates finalizing the standards and working with the Supreme Court to include them in CJD 16-02 in early 2020.

Appellate Program: Another important piece of the ORPC's statutory mandate to provide high-quality legal representation for parents is the provision of adequate legal representation during an appeal. After assuming oversight, the ORPC created an appellate contractor list, selecting appellate attorneys based on objective criteria, to ensure that parents receive quality representation on appeal. The agency also implemented a policy preventing trial attorneys from handling their own appeals to ensure that parents are getting the opportunity for a truly unbiased review of trial proceedings.

Appeals are especially important to ensure that the court process in child welfare cases is fundamentally fair. When the Court of Appeals publishes an opinion pursuant to Colorado Appellate Rule 35(f), it becomes binding statewide precedent that guides all trial judges' application of the Children's Code. Opinions are published at the discretion of the appellate court, and therefore not every case results in a published opinion.

The ORPC tracks reversal and remand rates in both published and unpublished opinions, which is listed in the table below.

This data indicates that the ORPC's appellate program is having a positive impact on advocacy and change in the law for parents and families. Correcting errors at the trial court level is important to protecting parents' due process rights and is crucial to ensuring that children achieve permanency appropriately when the case first proceeds through the trial court. Based on contractors' reports on case closure of appeals, approximately ten percent of cases submitted to the Court of Appeals are found to have a legal error so substantial that the Court of Appeals has required reversal. This figure does not include limited remands, which occur when the Court of Appeals sends a case back to the trial court for further proceedings but still maintains jurisdiction over the appeal. If limited remands were included, this figure would be even higher.

Due to the nature of appeals, however, it is likely that as the appellate program ages the percentage of new appeals and remands will level off or decrease. The sharp spike in published remands and reversals is indicative of some of the larger procedural issues occurring at the trial court level that impinge upon the constitutional and statutory rights of parents and families. As respondent parent counsel improve their ability to spot and correct these errors at earlier points in the case and as trial courts make corrections based on current remands from the Court of Appeals, this increase in the number of remands should level off. This creates an environment where many of the published opinions are only issued in cases with difficult legal issues to resolve or correct.

The agency has also developed an appellate-specific training program for appellate RPCs. The ORPC has implemented a biannual Appellate Certification training to acquaint new RPCs with the ORPC's expectations of its appellate attorneys. All ORPC appellate attorneys are required to complete the Appellate Certification training within two years of appointment, meaning that the ORPC expects to see at least 50% of its appellate attorneys complete the certification training this year. In the subsequent year, the agency's goal is for 100% of its appellate attorneys to complete the

certification training. After all appellate attorneys have completed the certification training, the ORPC will implement tailored training that suits contractor needs.

Performance Measure C: Appellate List Efficiencies		FY 2017-18	FY 2018-19	*FY 2019-20	FY 2020-21	FY 2021-22
Overall percentage of remands	Actual	16%	8%	4%	TBD	TBD
Percentage rate of published remands	Actual	33%	60%	50%	TBD	TBD
Percentage of appellate attorneys trained through ORPC	Target	Establish training track	No target established	50%	100%	100%
	Actual	Establish training track	78%	85%	TBD	TBD

**Data provided for the FY 2019-20 year includes data from July 1, 2019-December 2, 2019.*

B. Family Voice Leads

Attorneys representing indigent parents in dependency and neglect proceedings are client-directed, meaning they must consult with their client and represent his or her expressed position. A courtroom is an intimidating place for a parent to be, particularly after experiencing the trauma of having a child removed from the family. When an attorney has frequent communication with a parent and can access appropriate resources such as expert evaluations and the assistance of investigators, parents' voices are heard by the court and by the professionals working on the case.

Attorneys who identify their role as ensuring their client's voices are heard have a higher level of satisfaction with their work and are more likely to continue to represent indigent parents. In a recent survey of ORPC contractors, an RPC wrote "I do work that changes lives and matters. It is a purpose driven practice to help indigent people have a voice and receive due process regardless of their economic status. To maybe be the only person who listens to a parent and then voices their input in an often unfair system makes me feel valued and appreciated as a respondent parent attorney." Increasing advocacy and resources for parents will further insert family voice in dependency proceedings and ensure that families are heard regarding what is most important to them – the needs and concerns of their children.

The ORPC's Chief Justice Directive: Early in 2016, the ORPC developed Chief Justice Directive (CJD) 16-02. The CJD outlines the agency's responsibilities and authority, the requirement that Courts must appoint from attorneys approved by the ORPC, the appellate process, practice guidelines, indigency and application requirements for parents, guidelines for payment by the agency, duties of Judges and Magistrates, and a complaint process. The CJD also adopted the practice standards created by the American Bar Association (ABA) as an interim set of practice standards for attorneys to abide by during their representation of parents. On July 1, 2017, the CJD was updated to reflect minor changes.

Attorney Coaching: In 2017, after assessing the need for increased support, the agency hired a full-time staff attorney to serve as the Case Strategy Director charged with handling the increased call volume and need for case support and consultation for trial attorneys. On average, the ORPC Case

Strategy Director handles five case consultations with RPCs regarding trial strategy per day. The ORPC Case Strategy Director implemented a scheduling system that allows contractors to schedule a consultation easily and reduces staff time spent scheduling phone calls and meetings. Attorneys seek guidance on a range of issues, from appointment of expert witnesses to appropriate services to questions on caselaw. Through these consultations, attorneys are provided with the resources and support to ensure that their client’s voices are heard.

Case consultations and attorney mentoring are a part of a broader initiative of attorney coaching developed within the agency, beginning in 2019. With the addition of the position of Director of Engagement, the number of experienced staff attorneys on staff has increased to six.

Attorney coaching consists of individual case consultations related to specific cases and sometimes deeper interventions for litigation skills, client-centered advocacy efforts, ethical concerns, and other practice management advice. Based upon the ORPC’s jurisdictional observations, coaching can also consist of targeting groups of attorneys facing similar challenges by crafting litigation strategies. The format of coaching includes one-on-one feedback, roundtable discussions, and case reviews. Staff may refer RPCs to additional resources, specific training opportunities, or mentorship options as part of the contractor coaching program. RPC coaching can also reduce costs and attorney burnout by helping attorneys avoid spending hours drafting motions or researching issues where ORPC staff resources can point them in the right direction much more quickly.

The ORPC was unable to provide data on the percentage of ORPC attorneys using case consultations for FY 2017-18 or FY 2018-19. The ORPC staff attorney that was tracking this data in prior years tragically passed away in early 2019. Last year the ORPC was able to report the total number of case consultations that were completed by the agency. Starting with this fiscal year, the ORPC is tracking the percentage of attorneys that use this resource, as opposed to the total number of times this resource was used. As the percentage of attorneys using the case consultation resource is a newly tracked data point, the below chart begins with the current fiscal year.

Performance Measure D: Attorney Coaching		*FY 2019-20	FY 2020-21	FY 2021-22
Percentage of attorneys using case consultations	Target	75%	80%	85%
	Actual	83%	TBD	TBD

**Data provided for the FY 2019-20 year includes data from July 1, 2019 – December 2, 2019.*

Access to Experts and Investigators: The ORPC also consults with RPC attorneys about available experts and possible treatment resources for parents, including providing access to published social science journal articles. The ORPC is engaged in developing an expert database to assist agency staff in tracking the number of retained experts willing to work with parents in dependency proceedings and willing to work at negotiated state rates. The expert database would increase efficiencies for six agency staff who routinely consult with RPC attorneys about the availability of experts across the state. The ORPC is also developing an evaluation system to ensure that attorneys are effectively engaging with and preparing experts, and that experts that are contracted with are providing professionally competent testimony and support to parents.

The ORPC has also expanded the availability of investigators. These professionals may assist in locating clients, interviewing possible witnesses, or obtaining information about possible family supports and placements. In one case, an investigator located an out-of-state parent who was unaware of the dependency and neglect case and was able to have his child returned to him from foster care. In another case, an investigator located a client who decided to relinquish her parental rights and was supported during that process, resulting in an outcome supportive to the parent and the child as well as reduced costs, court time, and trauma to the family from going through extended litigation. These are just two examples of how using a relatively low-cost resource can ensure attorneys have the information they need to make parents' voices heard and to move towards permanency for children more quickly.

Experts may provide an evaluation that recommends a service for a client that has not been considered but that would permit a reunification of the family. A psychologist can recommend specific accommodations for a parent with a cognitive or intellectual disability that would allow the individual to independently parent. A toxicologist may review a report and determine that accusations that a parent tested positive for a drug are not accurate. The ORPC offers a wide range of experts that both assist attorneys in evaluating their cases and presenting evidence that supports the parent's position. Expert assistance improves the services that may be offered to a parent and the accuracy of the court's decision, and thus ensures fairness.

The ORPC tracks the numbers of experts requested and used in the representation of parents each fiscal year. This data is useful internally in determining the number of RPCs requesting expert services, training regarding appropriate use of experts in cases, and costs associated with such use. While the numbers related to expert requests are useful to the agency, many variables can create fluctuation in the number of requests. For that reason, ORPC does not use the number of experts as a measure of performance. Instead, it is useful strictly as an informational data point for improving representation of parents and predicting future case costs.

In the upcoming years, as illustrated in the charts below, the ORPC plans to increase available litigation support for attorney contractors.

Performance Measure E: Recruit and Maintain Experts and Investigators		FY 2017-18	FY 2018-19	*FY 2019-20	FY 2020-21	FY 2021-22
Number of experts vetted and available for appointment through ORPC	Target	150	175	200	**265	265
	Actual	174	192	265	TBD	TBD
Number of investigators available for appointment through ORPC	Target	Not tracked	Not tracked	30	40	50
	Actual	Not tracked	Not tracked	33	TBD	TBD
Number of investigator appointments	Target	No target established	No target established	No target established	200	225
	Actual	158	184	106	TBD	TBD

**Data provided for the FY 2019-20 year includes data from July 1, 2019 – December 2, 2019.*

***In upcoming fiscal years, the ORPC's goal is to maintain the existing number of vetted and available experts and to assess the list for breadth of expertise and quality.*

Reinstatement and Relinquishment of Parental Rights: Part of ensuring that parent voices are heard is acknowledging and understanding the range of options available to parents in child welfare cases. This includes representing parents who wish to relinquish parental rights and parents who wish to reinstate their parental rights after they have been terminated.

Parental rights can only be reinstated after a certain set of statutory criteria are met and current statute only allows a petition for reinstatement to be filed by the county attorney. Once a petition is filed, the statute allows parents to be appointed counsel through the ORPC. Currently, the ORPC has received one request for appointment of counsel in a reinstatement case.

A parent can also choose to relinquish parental rights during a termination proceeding. Pursuant to the holding in *People in the Interest of E.M., L.M., and E.J.M.*, 417 P.3d 843 (Colo. App. 2016), a parent who desires to relinquish parental rights during a dependency or neglect case must consolidate the actions together into the same proceeding. This ensures that relinquishing parents are represented by counsel.

Supporting parents to make the choice that is best for them and their families is part of ensuring that parent voices are heard.

C. Decrease Trauma to Children

Research demonstrates that children have better long-term outcomes when they are raised in their families of origin.⁶ The removal of children from their families is a traumatic experience for both children and parents. For children in particular, separation trauma can endure and have long term implications for a child's educational attainment, mental and physical health, and future employability. The ORPC is committed to parent advocacy that provides parents the opportunity to parent their children safely at home whenever possible. In situations where children are not able to remain home safely, ORPC contract attorneys help parents advocate for kinship placements and to identify their children's emotional, health, behavioral and educational needs. Parent advocacy helps ensure children and families have adequate support services to work towards a safe reunification or to make alternative arrangements that are best suited for the individual family.

ORPC Social Worker Pilot Program: The right kind of representation in child welfare cases can mean the difference between preserving a family and seeing it permanently destroyed. Over the last decade, research from around the country has established that a family's chance of success improves dramatically when parents are provided with an interdisciplinary approach to legal representation including a zealous attorney, an appropriate clinical assessment for services, delivery of timely and effective services, and strong advocacy within the child welfare system by a social worker on the parent defense team.

In FY 2017-18, the ORPC piloted this interdisciplinary representation model in high-risk dependency and neglect (D&N) cases in three judicial districts. As part of the Social Worker Pilot Program (SWPP), the ORPC assigned dedicated social workers to high risk D&N cases that involve out-of-home removals for children under the age of six who are therefore subject to Expedited

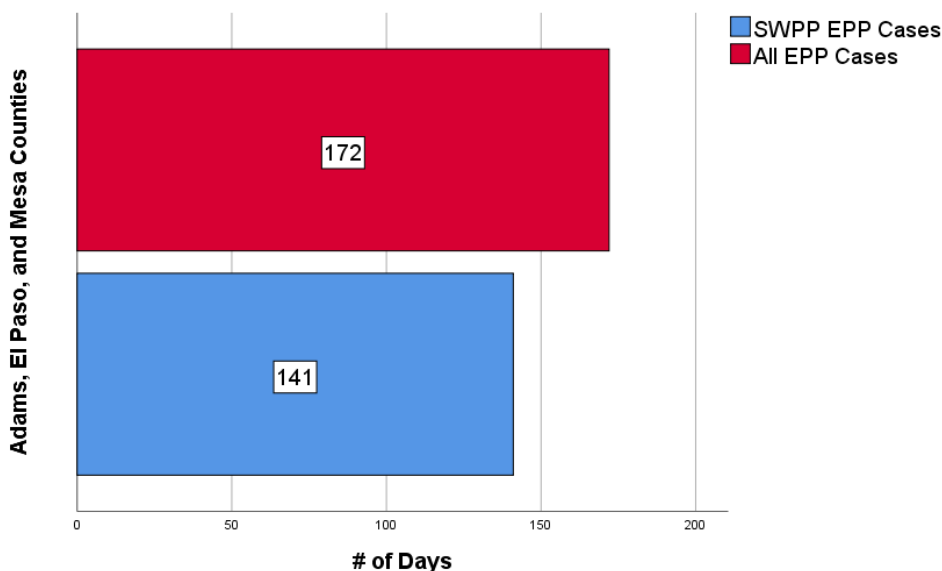
⁶ Mimi Laver, *Improving Representation for Parents in the Child-Welfare System*, October 7, 2013, available at apps.americanbar.org/litigation/committees/childrights/content/articles.

Permanency Planning (EPP). EPP cases reduce the legal time frames for children who are the subject of a dependency case in Colorado to 12 months to achieve permanency. Under ORPC supervision, social workers in the pilot districts participated in the parent legal representation team to support and advocate for parents and help them access tailored resources that might not otherwise be identified and obtained.

The pilot program has run successfully for two years and yielded promising results which are documented in an independent evaluation available for review in Appendix A. Outcomes from the SWPP are consistent with the national data on similar interdisciplinary models of parent representation.⁷ Across the three judicial districts in which the pilot program was conducted, the children of parents who had interdisciplinary representation spent fewer days out of the home and families reunified at a higher rate than the county average in the same type of D&N cases.

As Figure 1 shows, children of parents whose EPP cases were automatically assigned a social worker through the SWPP spent an average of 141 days in out-of-home care, compared to children in all EPP cases who spent an average of 172 days—a month longer—in out-of-home care.

Figure 1. Mean Days in Out-Of-Home Care – SWPP EPP Cases vs. All EPP Cases – 2018



In addition to the research demonstrating that children have better long-term outcomes when they are raised in their families of origin, research has also shown that youth aging out of foster care are more likely to drop out of high school, to be unemployed, and to be dependent on public assistance when compared with youth in the general population.⁸ Youth from foster care also experience

⁷ Lori Darnel and Dawn Matera Basset, *A Program Evaluation of Colorado Office of Respondent Parents' Counsel Social Work Program*, Metropolitan State University of Denver Department of Social Work (pending publication) (attached as Appendix A; hereinafter Appendix A).

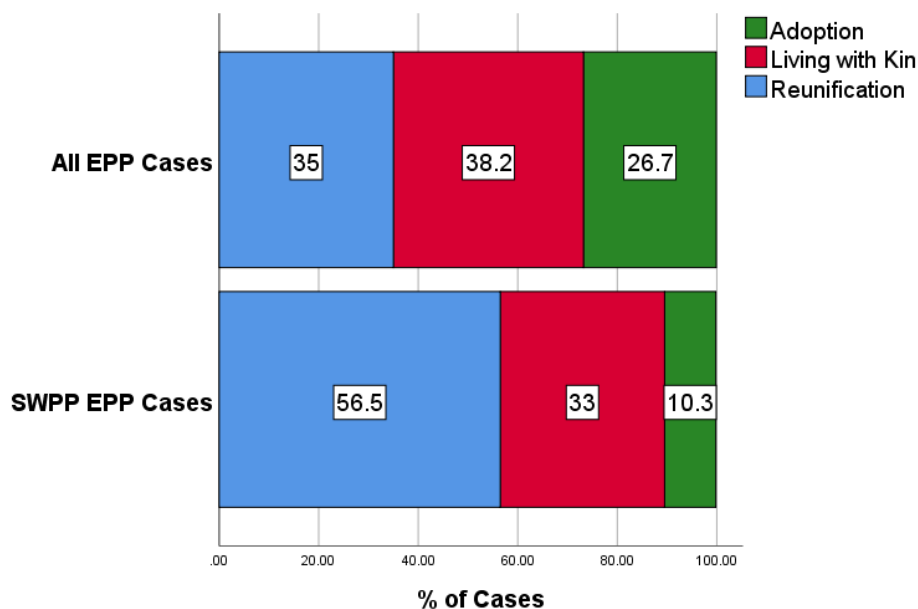
⁸ Pecora et al., *Educational and employment outcomes of adults formerly placed in foster care: results from the Northwest Foster Care Alumni Study*, Child and Youth Services Review (2006).

mental health problems, substance use, and involvement with the criminal justice system at higher rates than children in the general population.⁹ These negative, long-term traumatic effects for children experiencing out-of-home care demonstrate the need to focus on safe and timely family reunification efforts in the child welfare system.

For cases in the SWPP, reunification rates were nearly 22% higher than the county average for children whose parents had interdisciplinary representation.

As Figure 2 shows, in nearly 57% of EPP cases parents who had interdisciplinary legal representation reunified with their children, while only 35% of families in all EPP cases in the same counties reunified. For cases assigned an interdisciplinary team, nearly 90% concluded with reunification or kinship placement.

Figure 2. Number of Reunifications, Kinship Placements, and Adoptions – SWPP EPP Cases vs. All EPP Cases – 2018



Use of Evidence-Based Practices: The ORPC uses evidence-based analysis as a foundation for its budget request and in the development of ORPC pilot programs. The ORPC defines evidence-based budgeting as analyzing data to project costs and justify requests with the best research evidence available, especially research supported by peer-reviewed journals and scholarly articles.

The purpose of performance measure F is to create an implementation strategy for the use of evidence-based practices in dependency cases. The ORPC plans to incorporate these practices by increasing access to social workers on individual ORPC cases across the state and by ensuring that

⁹ Courtney et al., *Midwest Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at Age 26*, Chapin Hall at the University of Chicago, Chicago (2011).

part of the ORPC’s training program is focused on evidence-based practices and the use of social workers.

The ORPC is a new agency with limited historical data available to project trends. As a result, the ORPC uses current data to establish performance goals, strategies, and measures outlined in this report. The ORPC is working to collect and analyze baseline data to establish evidence-based performance measures that relate to the ORPC’s legislative mandates.

Performance Measure F: Support the use of Evidence-Based Practices		FY 2017-18	FY 2018-19	*FY 2019-20	FY 2020-21	FY 2021-22
Number of ORPC cases with social workers (including the Social Work Pilot Program)	Target	300	350	400	425	450
	Actual	321	488	429	TBD	TBD
Number of social worker contractors available for work on ORPC cases	Target	5	10	15	30	35
	Actual	8	13	28	TBD	TBD

**Data provided for the FY 2019-20 year includes data from July 1, 2019 – December 2, 2019.*

D. Family Defenders Have a Strong Community

Training: For ORPC, training creates opportunities for contractors to gather, network, and share successes as well as to stay abreast of changes in the law and develop stronger skills related to advocating for parents at all stages of proceedings. These opportunities to share information and ideas are valuable in energizing and strengthening RPC practice for all professionals. In FY 2018-19, the ORPC executed 10 trainings. Below is a sample of RPC feedback about the agency’s trainings:

“Great overview of the basics while still delving into some interesting nuances.”

“This training taught me to consider the story & narrative and incorporate that into every argument I make.”

“Engaging and Inspirational!”

“Great speaker and fascinating topic.”

“Presenter was excellent.”

The ORPC held fewer trainings than during a typical year in FY 2018-19 because it operated without a training director for several months. The ORPC has already conducted 17 trainings in the first

five months of FY 2019-20, and has 22 more trainings scheduled this fiscal year. The ORPC's number of annual trainings, attendees, and training hours are detailed below.

Notably, the ORPC executed its fourth annual fall conference, *Fairness for Families: Assuring Procedural Justice in a Changing System*, in September 2019. This conference attracted 230 registrants and offered 27 individual training sessions over multiple breakout tracks. The entire conference program was approved for 14 continuing legal education credits, including 4.8 ethics credits.

In the next three years, the ORPC plans to implement trainings based on ORPC practice standards and principles of interdisciplinary practice, and to continue to offer core trainings such as the annual boot camp for new trial RPCs and the annual fall conference. The ORPC implemented a new training model for its appellate program in FY 2019-20, which consists of an annual Appellate Certification training, monthly appellate roundtables, and monthly appellate writing clinics. The ORPC plans to continue this appellate training program into the future. The agency will continue assessing training needs for rural and metro area attorneys while working to expand online training resources and remote access to trainings for attorneys in rural areas.

The ORPC hired a new training director in January 2019. The agency is in the process of refocusing its training strategy to increase attendance and improve quality and is already succeeding in this mission. Of note, the ORPC's training attendance for the first five months of FY 2019-20 has already surpassed attendance for the entirety of FY 2018-19. The ORPC anticipates surpassing its highest historical training attendance (from FY 2017-18) by a significant margin in FY 2019-20. Additionally, the ORPC's training evaluation results for FY 2019-20 thus far have shown high marks for quality of trainings. In particular, the ORPC has gotten feedback that its boot camp and annual conference in FY 2019-20 were the agency's best to date. The agency will continue to focus on three main areas: new RPCs, experienced RPCs, and jurisdictional trends.

Performance Measure G: Provide High-Quality Trainings		FY 2017-18	FY 2018-19	*FY 2019-20	FY 2020-21	FY 2021-22
Training for attorneys, associates, social workers, and court personnel	Target	10	10	10	10	10
	Actual	23	10	17*	TBD	TBD
Total Number of Training Hours		83	50	75*	TBD	TBD
Total Number of Attendees		539	413	431*	TBD	TBD

**Data provided for the FY 2019-20 year includes data from July 1, 2019-Novemebr 19, 2019.*

Motions Bank and Caselaw updates: The ORPC provides a number of resources to build and maintain a strong community of family defenders. The agency developed and maintains a website with a password protected page designed to support ORPC contractors. Within the secured pages of the website, the agency houses resources for lawyers, including social science research, articles, links to government agencies, case law, and a motions bank. The bank has been continually updated

since the ORPC took oversight on July 1, 2016. Attorneys are encouraged to share motions, and the ORPC assists with updating and drafting some motions. The Appellate Director also provides regular caselaw updates to trial attorneys as well as analyzing trends in unpublished opinions in order to provide the most up-to-date advice to trial counsel and improve access to fair systems.

Revising the GRID: In 2018 and 2019, the ORPC and the Office of the Child’s Representative (OCR) revised and updated the Guided Reference in Dependency (GRID). The GRID book is a comprehensive guide to the legal standards governing dependency and neglect cases in Colorado. The book covers the stages of a dependency and neglect case and details black letter law, statutes, seminal cases, and checklists of activities for attorneys in child welfare proceedings. The 2019 update is available at: <http://www.coloradogrid.org/>. The updated version of the GRID is now final and was published in PDF format. The ORPC also makes paper copies of the GRID available to ORPC contractors, who frequently rely on it as a first reference for navigating legal and procedural issues that arise.

Recruitment and Retention: A goal of the ORPC is to continue to focus on excellent representation for parents. For the ORPC community to flourish, it is vital to retain those contractors who already provide strong advocacy for their clients. These contractors also model correct application of practice standards for newer members of the RPC community. In creating a strong community of family defenders, it is equally important to recruit talented, dedicated attorneys to the practice to inject energy and creativity to the ORPC’s mission.

This year, the ORPC surveyed contractors for the first time regarding their satisfaction. Many contractors cited the culture of ORPC and leadership of ORPC for ensuring that they feel valued and are able to continue their work.

The ORPC is working to develop multiple pipelines from which to recruit attorneys who are likely to excel in parent representation. The staff attorneys at the ORPC are developing networks of potential family defenders including law schools, specialty bars, and other professional organizations. One method of creating competent parent lawyers is to pair new lawyers with established RPCs in associate positions. Pairing newer lawyers with established practices creates mentorship and training for the associates and injects energy and availability into those practices.

Agency staff also proudly represent the ORPC by participating on committees and boards and appearing at speaking engagements throughout the state and the country. ORPC staff participate in public interest career fairs at local law schools and attend classes, clinics, and other recruitment opportunities to share information about this career path with students. Agency staff routinely engage with attorneys who may be practicing in child welfare, family, or criminal law in other roles and are interested in transitioning to or adding RPC work to their practices. The ORPC generally hosts a legal intern each semester so that law students can be exposed to the work of the agency and its contractors. The agency is committed to supporting alternative business models and structures that allow competent and passionate attorneys to enter this field and to continue to represent parents throughout their legal careers. Participating in these opportunities to share the agency’s mission and vision with the broader community help recruit professionals who might otherwise be unaware of the important work of family defenders.

Establish Fair and Realistic Contractor Hourly Rates to Attract and Retain High Quality Professionals: The ORPC is responsible for paying contract attorneys, paralegals, and other

members of the legal team tasked with representing indigent parents in dependency and neglect cases.

The rates paid to contractors by the ORPC were increased in FY2018-19, the most recent year in which the contractors received an increase. Since that time, state salaries increased by 3% in FY2019-20 without a corresponding increase in the ORPC hourly rate. The FY 2020-21 budget request regarding state employees will include a salary increase of 2%. It is essential for professionals contracting with the ORPC to keep pace economically with the private sector and salaried state employees. To attract and retain experienced attorneys and other non-attorney professionals, the ORPC requests a \$4/hour increase in the hourly rate for attorneys and a commensurate 5% increase in the hourly rates of other contractors.

It is critical that the Office of Respondent Parents’ Counsel be able to attract and retain skilled and experienced attorneys to represent indigent parents who might lose a constitutional and fundamental right, that of parenting their children. Keeping pace with the economic growth of Colorado and the private sector is vital in maintaining and attracting experienced and talented lawyers dedicated to representing indigent clients. Retention and recruitment of quality professionals in the child welfare arena is a priority for the ORPC. Increasing the hourly rates as proposed will help prevent the loss of the public-spirited attorneys who provide a vital service to their clients and to the State of Colorado. It will also increase the ability of the ORPC to attract strong professionals to the practice of parent representation.

Performance Measure H: Realistic Rate of Pay		FY 2017-18	FY 2018-19	*FY 2019-20	FY 2020-21	FY2021-22
ORPC average hourly attorney rate	Target	\$75	\$80	\$80	\$84	\$84
	Actual	\$75	\$80	\$80	TBD	TBD

**Data provided for the FY 2019-20 year includes data from July 1, 2019 – December 27, 2020.*

Redefining Success: In an effort to strengthen advocacy and leadership for ORPC contractors, the agency is working to develop measures of success that encapsulate all of the challenges facing parent attorneys. While family reunification is universally recognized in dependency and neglect proceedings as one measure of successful representation, there are many ways in which RPCs provide parents with dignity, advocacy, and a voice in the proceedings. In building a strong community of family defenders, it is essential that ORPC communicates the value inherent in contractors’ work beyond traditional measures. For that reason, ORPC has begun recognizing contractors for meeting many goals of representation.

These goals include successfully complying with the performance standards established in Chief Justice Directive 16-02 as well as providing client-centered representation to parents for whom they are appointed. Goals also include educating stakeholders regarding the impact of separation trauma when appropriate, successfully communicating client stories and history to opposing parties and courts, and creating dignity for parents who have often experienced extensive trauma themselves. As one contractor put it in a recent survey, success in one case might be avoiding a termination and in another case it would be reunification. “Sometimes just fighting for a client's wishes is success. Ultimately, providing parents with at the very least an opportunity to be successful (whether they take it or not) is success.”

The ORPC is committed to supporting contractors when their clients identify other objectives, such as having their child cared for by family or relinquishing their rights, in addition to supporting contractors whose clients are pursuing reunification. Representing parents who have experienced trauma can be emotionally draining and lead to burnout, and it is crucial that the ORPC redefine success for attorneys in these cases so that they are recognized for the important work they are doing and sustain them in continuing and improving their representation of parents.