



**OKLAHOMA  
COMMISSION ON  
CHILDREN AND YOUTH**

1111 N. Lee Ave. Suite 500, Oklahoma City, OK 73103  
405-606-4900

**REGULAR MEETING**

This public meeting is being held consistent with the amendments to the Open Meeting Act, 25 O.S. § 301 et seq., signed into law by Gov. Stitt on Wednesday, March 18, 2020. See SB 661, 2020 O.S.L 3, § 3.

**CONFERENCE LINE (405) 259-7296 <https://www.uberconference.com/room/okcommissiononchildrenandyouth>**

**The following Commissioners will be attending via Uberconference call:** Secretary Justin Brown, Commissioner Jason Charles, Commissioner Gary Cox, Commissioner Angela Donley, Director Melinda Fruendt, Superintendent Joy Hoffmeister, Interim Director Rachel Holt, Dr. Kalie Kerth, Commissioner Lindsay Laird, District Attorney Angela Marsee, Commissioner Sheryl Marseilles, Commissioner Javier Ramirez, Commissioner Lee Roland, Commissioner John Schneider, Judge Mike Warren, Interim Commissioner Carrie Slatton-Hodges

**The following staff will be attending via Uberconference call:** Annette Wisk Jacobi, Mark James, Amanda Jett, Jennifer Hardin, Jimmy Widdifield Jr., Tina Pendergraft, Harold Jergenson, Robert Agnew, Lisa Rhoades, Keith Pirtle

**The following individuals will be attending via Uberconference call:** Grant Moak, Assistant Attorney General and Judge Doris Fransein

***In order to promote the health and well-being of the public, interested persons are encouraged to attend the meeting by Uberconference. For those without access to Uberconference, viewing will be available in the OCCY conference room.***

**MARCH 27, 2020  
9:00 a.m.**

**AGENDA**

- |      |  |   |
|------|--|---|
| I.   | Call to Order and Determination of Quorum  | <i>Chairman Jason Charles</i>                     |
| II.  | Welcome and Introductions  | <i>Chairman Jason Charles</i>                     |
| III. | Review and Approval of the Minutes from the January 10, 2020 Commission Meeting<br><i>Discussion and possible action</i>   | <i>Chairman Jason Charles</i>                     |
| IV.  | Presentation regarding the "Task Force on the Uniform Representation of Children and Parents in Cases Involving Abuse and Neglect"<br><i>Discussion</i>  | <i>District Judge (Retired) Doris L. Fransein</i> |
| V.   | Presentation Proposing that OCCY Administer a Pilot Program to Contract with Attorneys to Represent Parents and Children in Child Abuse and Neglect Cases<br><i>Discussion and possible action</i> | <i>District Judge (Retired) Doris L. Fransein</i> |
| VI.  | Directors Report<br><i>Discussion</i>  | <i>Director Annette Wisk Jacobi</i>               |
| VII. | Commissioner Announcements (Report only – no discussion)   | <i>ALL</i>  |
| X.   | Adjournment  |   |

**Next meeting is scheduled for May 29, 2020 at 9:00 a.m.**

Note: The Board may discuss, vote to approve, vote to disapprove, vote to table, change the sequence of any agenda item, or vote to strike or not discuss any agenda item.



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OKLAHOMA TASK FORCE  
ON THE  
UNIFORM REPRESENTATION  
Of  
CHILDREN & PARENTS  
IN CASES INVOLVING  
ABUSE & NEGLECT

Interim Report: February 1, 2020

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## **I. OVERVIEW AND PROCESS:**

On July 22, 2019, the Oklahoma Supreme Court approved the establishment of a Task Force to study and report on legal representation of children and parents in legal proceedings set forth in the Oklahoma Children’s Code, 10A O.S. 1-1-101 *et seq.*<sup>1</sup>

The Task Force’s process in meeting the Supreme Court’s directive is unfolding in three stages: 1) gathering information; 2) crafting solutions; and 3) making decisions that will result in its final recommendations to the Justices. Over the course of five (5) meetings, the Task Force focused on gathering information and data regarding current legal representation practices in Oklahoma deprived cases as well as receiving information from other selected states’ representation agencies regarding their models, structure, compensation, training, supervision and caseloads. Other topics presented and discussed were:

- Defining high quality representation;
- Identifying and assessing the current models of representation;
- Understanding the obstacles to and costs of high quality and consistent representation;
- Assessing the role of the deprived court system in child welfare outcomes;
- The benefits of high quality and consistent representation;
- Practice differences between Oklahoma counties;
- Local practices of note; and
- Nationally recognized best practices.

In its attempt to gather information and data regarding legal representation practices, the Task Force emailed surveys to Oklahoma judges presiding over juvenile dockets as well as attorneys who represent parents and children in deprived proceedings. Thirty-eight (38) judges and forty-three (43) attorneys responded. Focus groups were also conducted at the 2019 annual Court Improvement Program statewide conference. Forty-five (45) judges, attorneys and Department of Human Services Child Welfare employees participated.

The Task Force thanks the Administrative Office of the Courts (“AOC”) for providing information on how AOC and the counties currently address attorney representation that is compensated by the Court Fund.

## **II. ELEMENTS OF HIGH QUALITY REPRESENTATION:**

Nationally recognized standards for high quality parent and child representation as well as a recently published 7-year study regarding the use of the interdisciplinary legal team model have provided what the Task Force believes should be the foundation for any system improvement in Oklahoma that will ultimately be recommended.

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<sup>1</sup> See Appendix, Attachment A

The *Family Justice Initiative*<sup>2</sup> published “Attributes of High-Quality Legal Representation for Children and Parents in Child Welfare Proceedings” that set forth, in part, the following:

**Attorney Attributes:**

- Competent legal advocacy;
- Out-of-court advocacy including active engagement with clients;
- Expansion in scope of representation to include potential ancillary legal issues that would assist the client’s efforts to be in compliance with the case plan;
- Conduct independent investigations;
- Approach cases with a sense of urgency;
- Engagement in case-planning; and
- Diversity/Cultural Humility.

**System Attributes:**

- Adequate compensation;
- Reasonable caseloads;
- Use of interdisciplinary teams;
- Early appointment of attorneys;
- Adequate support for and oversight of attorneys;
- Accountability for quality legal representation; and
- Diversity/Cultural Humility.

The Task Force also recognizes the important role the judiciary plays in ensuring high quality representation, including supporting the role of attorneys as zealous advocates for their clients.

In addition to the recognition of the attributes required for high quality legal representation for children and parents, the results of the seven (7) year study commissioned by Casey Family Programs and conducted by NYU and Action Research were published last spring.<sup>3</sup> The study compared case outcomes based on parents who were represented by experienced court-appointed solo practitioners (panel lawyers) versus parents who were represented by professionals who were part of a multidisciplinary law office that included lawyers, social workers, and parent advocates (multidisciplinary representation). The study traced the outcomes of 9,582 families and their 18,288 children through a four (4) year follow-up period.

Key findings were as follows:

- Reduced time in care: When compared to panel lawyers, multidisciplinary representation achieved faster reunification outcomes by nearly four (4) fewer months during the forty-eight

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<sup>2</sup> The Family Justice Initiative (FJI) is a collaboration of the ABA Center on Children and the Law, the Children’s Law Center of California (CLC), the Center for Family Representation (CFR), and Casey Family Programs (CFP).

<sup>3</sup> Children and Youth Services Review, Effects of an interdisciplinary approach to parental representation in child welfare, Lucas A. Gerber, You C. Pang, Timothy Ross, Martin Guggenheim, Peter J. Pecora, Joel Miller, Vol. 102, July, 2019

(48) months following the petition's filing. This amounted to nearly \$40 million annual savings in foster care board rates for New York City.

- First-Month Reunifications: 17% more children were reunified within a month if their parents had multidisciplinary representation.
- First Six-Month Reunifications: 27% more children were reunified with their families within 6 months if their parents had multidisciplinary representation.
- First-Year Reunifications: Multidisciplinary representation secured the safe return of children to their families approximately 43% more often in the first year.
- Second-Year Reunifications: Multidisciplinary representation secured the safe return of children to their families 25% more often in the second year.
- Higher Rates of Kin Placement: Multidisciplinary representation allowed children to be permanently released to relatives more than twice as often in the first year of the case and 67% more often in the second year.
- Guardianships: Of those children who could not be returned to their families, 40% more children ended up with a permanent disposition of guardianships when their parents had multidisciplinary representation than children whose parents were represented by panel lawyers.

Premised upon the necessity for Oklahoma to provide high quality legal representation for parents and children involved in the child welfare system, the Task Force began its assessment of the practice and costs of models of representation used by other states in child welfare proceedings. It is now comparing and contrasting these models of representation to the current structure and practice in Oklahoma.

### **III. OVERVIEW OF LEGAL REPRESENTATION OF CHILDREN AND PARENTS IN OKLAHOMA**

On December 2, 2019, there were 4,553 open deprived cases being litigated in the Oklahoma courts; having 8,382 children as parties to those open deprived cases.<sup>4</sup> Oklahoma and Tulsa counties (commonly referred to as “Urban Counties”) constitute 1,424 of those open deprived cases. Both counties address the health, safety, and welfare of a combined 2,621 children. The remainder of the 3,129 cases and 5,761 children fall within the jurisdictions of what are commonly referred to as “Rural Counties.”

Court-appointed legal counsel for indigent parents and all children who are parties to a deprived action is mandated pursuant to the Oklahoma Children's Code, 10A O.S. 1-4-306(A)(1)(a) and (A)(2)(a) once a deprived petition has been filed.<sup>5</sup> Appointment of counsel prior to the emergency custody hearing is discretionary with the trial court.

The Task Force desires to give the Supreme Court as much information as possible in its final report regarding the amount of dollars spent, but currently there is no uniform way of collecting

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<sup>4</sup> Per DHS report to CIP. See Appendix, Attachment B

<sup>5</sup> See: Appendix, Attachment C



data to differentiate dollars spent on each type of case: deprived, guardianship, mental health, indirect contempt, adoptions, etc. in each county. Independent of Public Defender Offices in Oklahoma and Tulsa Counties, approximately \$5.25 million<sup>6</sup> is budgeted annually from “Court Funds”<sup>7</sup> for indigent representation statewide. These figures include criminal conflict cases and parent representation in deprived cases in Tulsa and Oklahoma Counties, as well as deprived, mental health, adoption, guardianship, contempt, and all other cases in the other seventy-five (75) counties. Oklahoma County’s Public Defender estimates approximately \$504,919 is dedicated for the full-time attorneys and supporting resources for the legal representation of deprived children. Tulsa County’s Public Defender estimation is approximately \$366,125. Two non-profit agencies, Oklahoma Lawyers for Children (OLFC) and Tulsa Lawyers for Children (TLC) also provide legal representation for children utilizing volunteer attorneys as support for the respective Public Defenders’ Offices. Administrative funding for OLFC and TLC are provided by grants and private donations. The total combined budget for OLFC and TLC is approximately \$889,323.00.

Fifty (50) counties’ Court Funds contract with approximately 200 attorneys annually to provide legal representation for parents and children (Contract Counties). The remaining twenty-seven (27) counties’ Court Funds compensate attorneys at either an hourly rate or by case (Exempt Counties).<sup>8</sup> At the present time, there are no formal records maintained by many exempt counties that track the number of attorneys used for court-appointments. As stated previously, Oklahoma and Tulsa Counties rely on the Public Defenders’ Office as well as OLFC and TLC to exclusively provide legal representation for children and rely on contracted private attorneys to provide legal representation for parents. Sparsely populated rural counties have extreme difficulties recruiting attorneys willing to contract or receive appointments for representation of parents and children in deprived cases.

Annually, six (6) hours of CLE, relevant to juvenile law practice, is statutorily required<sup>9</sup> (excluding privately retained counsel) while pre-appointment training is not. This lack of initial training is of particular concern to the Task Force. Repercussions for non-compliance with the mandated annual CLE is inconsistent between counties. The Oklahoma Supreme Court approved Oklahoma Standards of Practice for Attorneys Representing Parents in Juvenile Court in March 2016,<sup>10</sup> but again, it is unknown whether the Standards are enforced by the courts.

Additional resources such as social workers, investigators and experts are not generally utilized by the contracted or court-appointed private attorneys. Investigators are employed by the two Public Defender Offices and are made available to the Assistants assigned to the deprived dockets.

The burden of recruiting, compensating, supervising, and training the court-appointed private attorneys falls upon the local trial courts. For the Task Force, this creates two immediate concerns.

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<sup>6</sup> This amount fluctuates with the amount of collections by the counties and the amount appropriated by the legislature, which has been restricted for multiple years.

<sup>7</sup> The “Court Funds” are funds designated in each county treasury where all fines, fees, and costs collected by each county are deposited pursuant to 20 O.S. 1301. After each county uses Court Funds to pay for their expenses to operate their court, the rest of the monies from fines, fees, and costs are deposited into the State Judicial Fund to help pay for the operation of the District Courts, including salaries of judges, pursuant to 20 O.S. 1310.2.

<sup>8</sup> See Appendix, Attachment D for color-coded map of contract vs. exempt counties

<sup>9</sup> 10A O.S. 1-8-101(B)

<sup>10</sup> See: Appendix, Attachments E-1 and E-2

First, there exists an apparent conflict because attorneys practice before the very courts that are responsible for their supervision, training, and most importantly, compensation. Second, the current system does not permit a uniform, statewide process to train, supervise, and compensate resulting in dramatically inconsistent practices.

#### **A. IDENTIFIED BARRIERS TO HIGH QUALITY REPRESENTATION IN OKLAHOMA**

Currently, Oklahoma lacks a structure and adequate funding that ensures high quality representation for parents and children across the state that includes recruitment, contracting, training, adequate compensation, supervision, and accountability. The Task Force is aware that Oklahoma is not the only state addressing this issue and it is the intent of the Task Force to assess what other states, e.g., New Mexico, are proposing to remedy this issue.

1. **COMPENSATION:** The inadequate compensation rate (whether by contract, per hour or per case) is viewed by the Task Force, as well as the respondents to the surveys and focus groups, as being one of the primary barriers to recruiting and/or maintaining attorneys who can provide high quality representation for parents and children in Oklahoma deprived cases.

The Task Force was unable to receive complete data regarding the rate of compensation provided to court-appointed or contract attorneys in this state. There were multiple reasons for this: lack of responses by judges and attorneys to the surveys; lack of data from county court clerks regarding payments made to attorneys for representation of parents and children in deprived cases only; and contracts provided to attorneys in various counties for indigent representation in a variety of case types. Additionally, ranges of compensation are extremely broad:

- Annual contract amounts for private attorneys: \$10,500 — \$48,000
- Hourly rates: \$40 - \$100
- Hearing rates: \$35 — \$100
- Case rates: \$51.25 — “reasonable rate”
- Full-time Assistant Public Defender’s annual salary: \$42,500 — \$84,000<sup>11</sup>

Of further concern is adequate attorney compensation for necessary out-of-court advocacy (e.g., family group conferences, mediation, conferences with clients, interviewing service providers, independent investigations of allegations/reports). Those counties paying an hourly rate usually reduce the rate for out-of-court activities by \$10-\$20. In fact, several counties do not even compensate for out-of-court advocacy. The Task Force agrees that out-of-court advocacy is generally a key ingredient to achieving positive results for parent and child clients.

Unfortunately, the lack of out-of-court compensation is believed by the Task Force to be a primary contributor to the judges’ survey results that found parents’ attorneys were “usually” prepared for court less than 60% of the time; children’s attorneys fared better in approximately 70% of the attorneys “always” being prepared for termination hearings.

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<sup>11</sup> Range combined for both Oklahoma and Tulsa County, excluding benefits

Specifically, the judges' comments as to what contributed to the attorneys' lack of preparation reflects upon the attorneys' lack of out-of-court activities:

- Failure to meet with client prior to court hearing
- Failure to review DHS reports
- Lack of familiarity with the facts
- Lack of up-to-date information from DHS or the client

In the majority of contract counties, appeals are not additionally compensated and trial court attorneys are expected to handle their own appeals<sup>12</sup>. Although both contract and exempt counties have always been able to request additional funding from the Chief Justice for appeals through a request to exceed their budget, when needed.

Eighty percent (80%) of parents' and children's attorneys who responded to the survey indicated that they were not adequately compensated and 70% of those attorneys believe that the level of compensation negatively impacted the quality of representation or the ability of the trial courts to even find attorneys willing to represent parents and children in deprived proceedings. Seventy percent (70%) of the judges responding to the survey indicated that the attorneys were not adequately compensated as well as 70% believed that the level of compensation negatively impacted the court's ability to find attorneys willing to represent the parents and children in deprived cases.

2. **TRAINING:** Leading national organizations have long emphasized that the gravity of the interests at stake in child welfare cases requires well-trained legal representation for all parties at all stages of child welfare proceedings. The American Bar Association (ABA) has adopted national standards of practice for states'/agencies', parents', and childrens' attorneys in child welfare proceedings to ensure attorneys represent their clients ethically.<sup>13</sup> The Standards have been widely supported and written into court rules and legislation across the country. Pursuant to the Standards, attorneys practicing child welfare law should be required to have at least twenty (20) hours of child welfare law training prior to initial appointment and at least fifteen (15) hours of child welfare law training annually.

In Oklahoma, the Children's Code mandates twelve (12) hours of annual Continuing Legal Education (CLE) relevant to juvenile law for judges and six (6) hours of relevant annual CLE for attorneys.<sup>14</sup> See: 10A O.S. 1-8-101.<sup>15</sup>

Given the disparate practices and general lack of oversight, is it unknown at this time whether the judicial districts are assuming the responsibility to develop and administer procedures and rules for the legal education and training.

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<sup>12</sup> Of note is that the number of appeals of deprived cases has been historically low.

<sup>13</sup> Available at: [http://www.americanbar.org/groups/child\\_law/tools\\_to\\_use.html](http://www.americanbar.org/groups/child_law/tools_to_use.html)

<sup>14</sup> Privately retained attorneys are exempt from this statutory requirement.

<sup>15</sup> See: Appendix, Attachment F

Continuing Legal Education is provided by the Court Improvement Program (CIP), Oklahoma Bar Association, Oklahoma Lawyers for Children, Tulsa Lawyers for Children, and various County Bar Associations with the majority of the attorneys receiving their mandated CLE through the annual CIP conferences. Very few attorneys have the opportunity or resources to attend ABA or other national organizations' trainings and conferences.

Despite its well-documented importance in providing high quality representation, attorneys in Oklahoma are not required to receive training prior to consideration for appointment or contracts in deprived cases. Nor is there a mentoring program or certification process to ensure attorneys receiving their first court appointments are prepared to provide the much-needed high quality legal representation as is required in many states.

The Task Force and the judges and attorneys that responded to the surveys are in agreement that more than six (6) hours of annual training of attorneys is needed. Both comprehensive initial training as well as training in appellate advocacy should be provided, if not mandated.

3. **CASELOADS:** While a reasonable caseload is a serious issue for the Urban Counties<sup>16</sup>, the Task Force is also cognizant that the court-appointed attorneys in Rural Counties are attorneys who maintain a private practice that may affect the quality of representation in deprived cases. Further, for those contract attorneys in the various counties who are also required to represent indigent clients in other case types, it is critical to be aware of the total number of cases they are assigned and to ensure they are not overburdened to a degree that would affect the quality of their representation. The Task Force believes that reasonable caseloads are critical to the ability to provide high quality representation for parents and children and will continue to study caseload management and make recommendations in its final report.

4. **APPEALS:** Of great concern to the Task Force is the lack of attorneys (and appropriate compensation) for parents' and children's attorneys to competently initiate, pursue, and complete appeals. Although attorneys are always appointed to appeals, when asked about initiating and completing appeals for their clients, the majority of responding parents' attorneys advised that they "rarely" continued to represent their clients in appeals. The majority of children's attorneys (still less than 40%) responded that they "always" continued to represent their clients in appeals.

Colorado's Office of Parent Representation (ORPC) implemented an appellate attorney panel program in 2016 by developing policies for the transfer of a case between trial counsel and appellate counsel and by implementing a policy preventing trial attorneys from handling their own cases on appeal. The appellate program allowed the ORPC to begin work on comprehensive practice guidelines specifically directed at appellate attorneys, and to gather data related to child welfare appeals.

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<sup>16</sup> In interviews with the Tulsa Public Defender and Oklahoma County Judge Cassandra Williams, the preliminary data shows that each Tulsa County's contract parents' attorneys manage a caseload range of 100-200 cases. Oklahoma County attempts to cap contract parents attorneys' caseloads to seventy-five (75) cases. Tulsa County's Assistant Public Defenders maintain a caseload ranging from 167 cases to 261 cases. One Assistant Public Defender in Oklahoma County is court appointed to represent 189 children; another representing 158 children.

Since implementing the appellate program, the numbers of appeals filed in dependency and neglect cases has increased 42%. Of those appeals, the remand rate of appeals has doubled, from 11% to 23%. This means that the Court of Appeals is finding errors in trial court rulings and remanding those cases back to the trial court for correction at almost double the rate of the year before. Further, the number of published dependency and neglect cases has also doubled since ORPC began oversight of appellate attorneys, and the Colorado Supreme Court is currently considering five (5) issues raised in child welfare cases. *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.*<sup>17</sup>

5. **MULTIDISCIPLINARY SUPPORT:** Unlike the Offices of the District Attorneys and Public Defenders that may provide resources for their Assistants assigned to the deprived dockets such as investigators, interns, paralegals and expert witnesses (budget permitting), parents’ and the majority of children’s attorneys have little to no multidisciplinary support systems available to them to dispute the State’s evidence.

For example, only nine (9) attorneys responded in the survey given that they “sometimes” obtain expert witnesses, twenty-eight (28) attorneys responded with “rarely” and eight (8) stated “never”. Not one attorney responded that expert witnesses are “usually” or “always” utilized. It is unknown if requests have been made to trial judges for the financial resources for the employment of same and have been denied or if requests are not made assuming budgetary restrictions.

Attorneys were asked to rate as “not needed”, “somewhat needed”, and “highly needed” the supports required to better represent their clients. The majority responded “somewhat need” or “highly needed” in the following categories of multidisciplinary supports:

- Social workers: 90%
- Expert witnesses: 92%
- Interpreters: 62%
- Investigators: 77%
- Parent advocates: 71%

The focus groups conducted by the Task Force resulted in an enthusiastic response by DHS and parents’ attorneys for parent advocates/mentors with the children’s attorneys strongly endorsing the multidisciplinary model as being supportive of the required out-of-court activities and thereby allowing the attorneys to better focus on the legal issues.

6. **TIMING OF APPOINTMENTS:** Except when the provisions of ICWA are applicable, appointment of counsel for children and parents at the time of the emergency custody hearing is discretionary with the trial court. However, the Oklahoma Children’s Code mandates appointment of counsel when the deprived petitions are filed for indigent parents and all children parties to the deprived action.<sup>18</sup>

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<sup>17</sup> ORPC’s FY18-19 Budget Request, pg. 22. <https://www.coloradoorpc.org/wp-content/uploads/2017/11/ORPC-Fiscal-Year-2018-19-Budget-Request.pdf>

<sup>18</sup> 10A O.S. 1-4-306(A)(1)(a)

The Task Force's survey indicated that the majority of parents' and children's attorneys are appointed post-petition, i.e., generally after the child has been removed from the home on an emergency basis and an Emergency Custody hearing has already been held. Children's attorneys are more apt to be appointed prior to the emergency custody hearing whereas parents' attorneys are appointed prior to or during the adjudication hearing.<sup>19</sup> The Task Force strongly believes that all parties should be appointed counsel prior to the initial hearing.

The National Council of Juvenile and Family Court Judges' Enhanced Resource Guidelines (ERG) states that: *“courts should develop a process in which parents' attorneys are appointed prior to and are present at the initial hearing so that parents have advice and counsel at the start of the case. Active involvement of counsel at the initial hearing protects the rights of parents and promotes speedier resolution of key issues that need to be determined early in the case...”*<sup>20</sup>

Of further concern to the Task Force is the practice of several trial courts that only provide parents with legal representation for the adjudication, disposition, and TPR hearings and not for review and critical permanency hearings. High quality representation, both in and out-of-court, during the entirety of the deprived case is critical and will often prevent the necessity of terminating a parent's rights. The surveys' responses indicate that less than 70% of the children's attorneys represented their clients through all stages of the deprived proceedings; and 40% of parents' attorneys responded that they represented their clients through all stages of the deprived proceedings.<sup>21</sup>

7. **SUPPORT FROM THE JUDICIARY:** The Task Force also believes that judges throughout the state, but especially within Judicial Districts, should work together to limit delays or long waiting times for hearings in juvenile deprived cases. Our system cannot relegate juvenile deprived cases to second-class cases. Judges, attorneys and caseworkers have described lengthy waits in many courtrooms before the juvenile docket can start. This occurs when the District Judge or other judge who does not oversee juvenile cases prioritizes other hearings and cases over juvenile deprived cases. This leaves the judge presiding over the deprived cases, the court appointed attorneys, and other participants to wait until a court reporter becomes available or for a court appointed attorney mandated to appear before another judge to finish his or her business before appearing in the deprived case.

There are counties and Judicial Districts throughout the state that make an effort to prioritize juvenile deprived cases. These courts will set the deprived cases one (1) or two (2) days a month so the attorney does not have to make eight (8) or nine (9) appearances a month, which saves time and money for the court appointed attorneys. The attorneys are notified that on the days they make their appearances, those cases would be prioritized and a court reporter would be made available without undue delay. This organization also better utilizes the time and resources of interpreters and court reporters. Oklahoma County judges have a policy that on deprived days, usually Mondays and Thursdays, docket priority in deprived cases exists unless a jury trial involves the

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<sup>19</sup> See: Appendix, Attachment G

<sup>20</sup> Chapter III. The Preliminary Protective Hearing, pg. 110

<sup>21</sup> See: Appendix, Attachment H

contract attorney. Judges in divorce, probate, civil and criminal cases rarely set competing dockets and if they do, they are reminded of the policy by the Presiding Judge.

#### **IV. MODELS IN OTHER STATES FOR HIGH QUALITY REPRESENTATION**

The Task Force assessed various models/structures of representation used nationally or endorsed by standard-setting organizations. Three (3) organizations were specifically studied: Colorado Office of Respondent Parents' Counsel, Massachusetts Committee for Public Counsel Services' Children and Family Law Division, and Still She Rises, Tulsa, Inc./The Bronx Defenders. Each organization reflected two (2) of the three (3) generic recognized models for parent and child representation<sup>22</sup>:

- Contract Model: (Colorado): panel of trial and appellate contract attorneys, as well as contracted social workers, that is overseen by a staffed central office that provides training, technical support, consistent statewide contracts, multidisciplinary resources, appellate support, and oversight by mandating education requirements and practice standards.
- Hybrid Model (Massachusetts): panel or list of contract attorneys who handle majority of trial and appellate representation and a state or county office with full time staff who may handle direct representation, oversee admission onto the panel, provide and oversee attorney education, and administer an attorney review process.
- Institutional Model (Still She Rises, Inc./Bronx Defenders)<sup>23</sup>: offices with full-time staff of attorneys, social workers, peer parent advocates, and investigators.

A description of each model and structure is found in Appendix, Attachments I-1, 2 and 3. It is the intent of the Task Force to continue to explore other states' models, structures, and budgets before making its final recommendations in December 2020.

#### **V. ESTIMATED SAVINGS TO THE STATE OF OKLAHOMA APPLYING ELEMENTS OF HIGH QUALITY REPRESENTATION**

It is apparent to the Task Force that Oklahoma's annual funding for representation is wholly insufficient to support high quality representation for the parents and children involved in child welfare proceedings. It is also apparent to the Task Force that the budgets associated with high quality representation models may appear unattainable in Oklahoma. However, if the benefits of high quality representation are considered — reduced time in foster care, faster and higher number of reunifications, more placements/guardianships with relatives — the costs associated with the removal of the identified barriers to high quality representation cannot be ignored especially when considering the effects of temporary foster care on children. After spending time in foster care,

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<sup>22</sup> ABA Center on Children and the Law, *Summary of Parent Representation Models*, 2009

<sup>23</sup> Still She Rises is a duplicative model of The Bronx Defenders located in Bronx, N.Y. - one of the interdisciplinary parent representation agencies studied in the aforementioned Casey Family Programs' commissioned study.

children often experience emotional, social, and behavioral issues.<sup>24</sup> One study found that children who had scored within a normal range on behavioral, social, and emotional questionnaires upon entering foster care often scored more poorly after leaving.<sup>25</sup> Another study found that children placed in foster care are more likely to experience “emotional and behavioral deficits, brain and neurobiological impairment, and poor social relationships with parents and peers.”<sup>26</sup>

An additional benefit of high quality representation is the cost savings to state government due to reductions of time children and youth spend in care.

DHS estimates that \$92.35 of state dollars is spent per child per day.<sup>27</sup> In FY18, a total of \$256,357,900.00 of the Oklahoma Legislature’s appropriations was spent to provide foster care beds for Oklahoma’s children in DHS’s custody.

If the attributes of high quality legal representation were to be put into place in Oklahoma, it can be anticipated that by merely reducing the average length of time for Oklahoma’s 7,801 children currently in foster care from 18 months to 14 months<sup>28</sup> the State will recognize a savings of \$86,450,682.00 over a period of 48 months.<sup>29</sup> These savings should far exceed any concerns for requesting legislative financial support for high quality representation of parents and children in Oklahoma.

## VI. CONTINUING WORK OF TASK FORCE IN CRAFTING SOLUTIONS

The Task Force is committed to recommending a better system of representation, not just patching a broken system. Although the Task Force recognizes the work the Supreme Court, AOC, and district courts have done to provide parent and child representation with the very limited budget and resources available, it is now obvious to the Task Force there is much more to be done to provide the high quality legal representation the families in Oklahoma need and deserve.

The Task Force will continue to review the models and structures of high quality representation that currently exist in other states, keeping in mind a model of representation that best fits within Oklahoma’s laws and framework. The multidisciplinary model of representation is accepted as a best practice but within what organizational or agency structure remains to be determined.

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<sup>24</sup> L. D. Leve et al., Practitioner Review: *Children in Foster Care—Vulnerabilities and Evidence-Based Interventions that Promote Resilience Processes*, 53 J. of Child Psych. and Psychiatry 1197 (2012)

<sup>25</sup> Rae R. Newton et al., *Children and Youth in Foster Care: Disentangling the Relationship between Problem Behaviors and Number of Placements*, 24 Child Abuse & Neglect 1363 (2000).

<sup>26</sup> *Supra* note 2 at 1197.

<sup>27</sup> As reported by DHS based on FY18 calculations

<sup>28</sup> See: Appendix Attachment J, DHS data 12/2/19

<sup>29</sup> Reduction in foster care by 120 days based on NYU’s research outcomes as previously discussed in this report. Calculation determined by multiplying number of children in foster care by \$92.35/day for determination of total daily rate of \$720,422.35. Multiply the figure by 120 days to arrive at total bed days’ cost for 120 days: \$86,450,682.00.



The second category of issues to be resolved addresses recruitment and employment of attorneys and resources. Should attorneys be employed, contracted, or both? A critical consideration to the resolution of this issue is caseload. In rural counties, the caseloads may be too small to support one or more full-time employees hence requiring reliance on contract private attorneys. In urban areas, larger caseloads could be carried by employed attorneys with the assistance of an interdisciplinary team, however contracted attorneys will still be needed to represent conflicting parties. However, all models explored by the Task Force require full-time staff to provide oversight, training, monitoring, performance evaluation, quality assurance, support, and consistent representation of full-time and contracted attorneys.

Management of attorneys is a critical issue identified by the Task Force. The resolution of this question can be determined only when the Task Force resolves the model of representation, i.e., contract, hybrid, institutional and structure that serves both the rural and urban areas of the State. The Standards of Practice must be adhered to statewide and a robust system of performance evaluation must be created to ensure clients receive the highest quality of representation. As previously stated, Oklahoma currently provides very little, if any, oversight and evaluation.

Further to be resolved is whether appellate practice should be included in any representation model endorsed by the Task Force. Will the trial attorneys be required to stay with their appointed clients through the appellate process or should there be a dedicated appellate division or dedicated panel of competent appellate attorneys?

As noted previously, the Task Force agrees that the multidisciplinary team that supports family reunification, when possible, is a proven best practice. Much exploration and information gathering will need to occur to determine: 1) financial support including use of IV-E dollars; 2) caseload requirements; 3) location of resources; 4) administrative supervision; and 5) location of services.

The Task Force recognizes the necessity for more intense training — particularly for parents' attorneys as currently very few local training resources have been created and made available to them. Additionally, pre-service training and certification of competency with child welfare laws, policies and procedures is critical. This will address the current incongruence of practice within the juvenile trial courts in Oklahoma and better ensure the competency of attorneys in and out of court.

Legal representation compensation, as well as the sources for compensation, will be carefully studied by the Task Force in its upcoming meetings. The vast majority of attorneys and trial judges agree that compensation for the attorneys, as currently provided by the Court Fund, is sorely inadequate and as a result negatively affects the quality of representation provided by the attorneys. The Task Force has received information on and discussed the availability of federal Title IV-E funding, accessible through the Department of Human Services, as a supplemental source of funding to support high quality legal representation for children and parents in certain child welfare cases.

Further consideration will be given by the Task Force for the legal representation of parents and children upon DHS's substantiation of child abuse and/or neglect but prior to the initiation of any

court proceedings. The Families First Prevention Services Act<sup>30</sup> was signed into law in February 2018 and one purpose of the Act is to provide enhanced support to children and families and prevent foster care placements through the provision of evidence-based services. Various representation models have been providing legal support to parents in ancillary matters (e.g., protective orders, addressing evictions, landlord-tenant issues, guardianships, modification of custody, paternity proceedings) so to avoid foster care placement as well as to guide them through the prevention programs' requirements.<sup>31</sup>

Lastly, the Task Force will continue to seek and analyze data held by the various agencies associated with the child welfare and judicial systems.

## **VII. INTERIM RECOMMENDATIONS**

1. The Task Force should continue to study early appointment (prior to initial hearing) of attorneys for parents and children.
2. The Task Force should prioritize implementation of critical initial and ongoing quality education for attorneys and judges.
3. The Task Force recommends that the AOC expeditiously continue to research the feasibility of Title IV-E funds either going through the AOC or through other appropriate entities.
4. The Task Force should gather more information about the financing of high quality legal representations from other states.
5. In addition to the pursuit of supplemental federal funds, the Task Force recommends that the final report provide comprehensive information about financing and therefore believes the following information is necessary.

The Task Force requests the Chief Justice require all Court Clerks in counties that are on the KellPro system, by April 1, 2020, to supply the AOC the following:

- a. Number of deprived cases filed in calendar years 2019 and 2020;
- b. Number of guardianship cases filed in calendar years 2019 and 2020; and
- c. Number of mental health and indirect contempt cases filed in calendar years 2019 and 2020.

The Task Force also requests the Chief Justice to require all attorneys in the fifty (50) counties with contracts with the Court to provide the following by April 15, 2020:

- a. Cases appointed in Fiscal Year 2020 through March 30, 2020;
- b. Number of current open cases regarding the representation of:

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<sup>30</sup> H.R. 1892

<sup>31</sup> Legal Aid Services of Oklahoma has contracted with DHS to provide these legal services in Oklahoma.

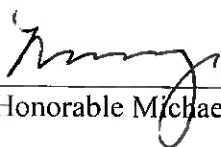
1. Deprived parents;
2. Deprived children;
3. Mental Health;
4. Guardianship;
5. Adoption;
6. Contempt; and
7. Other.

Receiving this information will allow the Task Force to better estimate the number of cases attorneys are handling and the amount being paid and for each case type, to allow for an estimation of Title IV-E funds from these expenses.

6. The Task Force recommends the Supreme Court adopt practice standards for legal representation of children, similar to the standards for parent representation found in Attachment E-2.
7. The Task Force recommends that the Chief Justice discuss with the Presiding Judges the issue of prioritizing juvenile deprived cases, and suggest they collaborate with their colleagues to address these concerns, and identify and implement solutions.
8. The Task Force will continue to determine reasonable caseloads for parents' and children's attorneys, including defining caseload.
9. The Task Force should continue to determine adequate compensation for parents' and children's attorneys that will reinforce high quality legal representation in both trial and appellate courts. This should include compensation for out-of-court advocacy at least at the same level of compensation for in-court work.
10. The Task Force should keep apprised of other states' progress in claiming and receiving Title IV-E funds as well as studying the impact of collecting IV-E reimbursements in Oklahoma.
11. The Task Force should prioritize implementation of the multidisciplinary model of representation when deciding on the statewide model.
12. The Task Force should prioritize implementation of critical initial and ongoing training for trial and appellate attorneys that includes and emphasizes the practice of cultural humility and respect within the child welfare system.
13. The Task Force should gather information about any ethical conflicts and resolutions thereof from other states when considering the recommended structure of the legal representation agency/agencies.
14. The Task Force should continue to think creatively about improvements to the Oklahoma legal representation model while not losing sight of financial realities.

15. The Task Force recommends 10A O.S. 1-4-306 be amended to additionally allow parents' attorneys reasonable compensation for mileage if the attorney is required to travel to a district court location other than his or her county of business. The current statute only allows for reimbursement of children's attorneys to be compensated for mileage.

Respectfully Submitted,

  
\_\_\_\_\_  
The Honorable Michael Flanagan

# ATTACHMENT A

## CREATION OF TASK FORCE ON UNIFORM REPRESENTATION OF CHILDREN AND PARENTS IN CASES INVOLVING ABUSE AND NEGLECT

2019 OK 53

Decided: 07/22/2019

THE SUPREME COURT OF THE STATE OF OKLAHOMA

Re: CREATION OF THE TASK FORCE ON THE UNIFORM  
REPRESENTATION OF CHILDREN AND PARENTS IN CASES INVOLVING  
ABUSE AND NEGLECT; AND THE APPOINTMENT OF MEMBERS  
THERE TO

### ORDER

¶1 The Supreme Court of Oklahoma, pursuant to its general administrative authority, Okla. Const. Art. 7 §6, and in order to more fully implement SCAD-2014-06, hereby establishes the Task Force on the Uniform Representation of Children and Parents in Cases Involving Abuse and Neglect. The Task Force is charged with determining models of legal representation conducted pursuant to the Oklahoma Children's Code, to assess training, compensation, practice standards and make recommendations on the development of rules and procedures, to address uniform compensation and evaluation processes, training requirements, and improving appellate advocacy, as well as other related issues in order to protect the rights of children and parents and improve outcomes.

¶2 In order to carry out this assignment, the Task Force shall have twelve (12) members as follows:

The Honorable Michael C. Flanagan, Associate District Judge Cotton County, to serve as Chair.

#### **Voting members:**

1. The Honorable Robert A. Ravitz, Chief Public Defender of Oklahoma County

2. The Honorable Corbin C. Brewster, Chief Public Defender of Tulsa County

3. Ronald Baze, Oklahoma Department of Human Services General Counsel
4. Donna Glandon, Attorney, Lawton, OK
5. The Honorable Rebecca Gore, Associate District Judge, Mayes County
6. Lisa Bohannon, Attorney, Pryor, OK
7. Mark Morrison, Attorney, Durant, OK
8. Holly Iker, Attorney, Norman, OK.
9. Tsinena Thompson, Chairperson, OBA Juvenile Law Section
10. Michael Figgins, Executive Director, Legal Aid of Oklahoma
11. Gwendolyn Clegg, Attorney, Tulsa
12. Timothy R. Beebe, Attorney, Enid

**Non-voting members:**

1. Sharon Hsieh, Deputy General Counsel of the Administrative Office of the Courts
2. The Honorable Doris Fransein, Consultant
3. Felice Hamilton, Court Improvement Program Director
4. Casey Family Program support staff
5. Julie Rorie, Attorney, Oklahoma Supreme Court

¶3 The Chair of the Task Force shall convene the Task Force with all due speed. Members appointed by the Supreme Court may be reimbursed for all expenses incurred in the performance of their duties pursuant to the State Travel Reimbursement Act. The standing meeting will be the 4<sup>th</sup> Friday of the month. **The Task Force shall prepare an interim report to the Supreme Court no later than February 1, 2020, with a final report on December 1, 2020.**

¶4 DONE BY ORDER OF THE SUPREME COURT this 22<sup>nd</sup> day of July, 2019.

/S/CHIEF JUSTICE

Gurich, C.J., Darby, V.C.J., Winchester, Edmondson, Colbert and Combs, JJ., concur;

Kauger, J., not voting.

# ATTACHMENT B

OKLAHOMA DEPARTMENT OF HUMAN SERVICES			
YI101 - Permanency Planning Detail Report - Judicial/Case Planning			
December 2, 2019 9:39 am			
Permanency Data Collected On Dec 2, 2019 from 3:00 am to 3:12 am			
County of Jurisdiction	Number of Open OKDHS Court Cases	Number of Total Children (in the cases)	Number of Children with Open Removals
ADAIR	49	105	81
ALFALFA	12	23	20
ATOKA	16	34	27
BEAVER	7	13	9
BECKHAM	41	74	68
BLAINE	27	46	43
BRYAN	88	166	140
CADDO	58	138	134
CANADIAN	162	296	278
CARTER	101	188	179
CHEROKEE	56	96	83
CHOCTAW	20	33	26
CIMARRON			
CLEVELAND	256	443	426
COAL	9	12	10
COMANCHE	169	313	313
COTTON			
CRAIG	3	4	3
CREEK	73	122	117
CUSTER	52	102	94
DELAWARE	33	59	59
DEWEY	4	11	11
ELLIS	3	10	8
GARFIELD	94	182	172
GARVIN	22	41	41
GRADY	36	59	59
GRANT	10	17	14
GREER	2	2	2
HARMON	7	12	12
HARPER	2	3	2
HASKELL	15	32	29
HUGHES	21	38	37
JACKSON	49	95	53
JEFFERSON	4	9	9
JOHNSTON	14	22	20
KAY	112	208	183
KINGFISHER	30	56	53
KIOWA	23	50	30

**OKLAHOMA DEPARTMENT OF HUMAN SERVICES**  
**YI101 - Permanency Planning Detail Report - Judicial/Case Planning**  
December 2, 2019 9:39 am  
Permanency Data Collected On Dec 2, 2019 from 3:00 am to 3:12 am

<b>County of Jurisdiction</b>	<b>Number of Open OKDHS Court Cases</b>	<b>Number of Total Children (in the cases)</b>	<b>Number of Children with Open Removals</b>
LATIMER	14	27	21
LEFLORE	65	103	99
LINCOLN	56	115	99
LOGAN	79	142	123
LOVE	17	41	40
MAJOR	10	15	14
MARSHALL	17	26	26
MAYES	16	29	29
MCCLAIN	17	28	28
MCCURTAIN	67	133	76
MCINTOSH	19	34	26
MURRAY	23	35	32
MUSKOGEE	108	203	198
NOBLE	18	32	25
NOWATA	6	9	9
OKFUSKEE	12	23	23
OKLAHOMA	671	1263	1242
OKMULGEE	121	213	183
OSAGE	34	68	68
OTTAWA	22	42	41
PAWNEE	18	35	32
PAYNE	102	171	158
PITTSBURG	57	108	102
PONTOTOC	45	84	84
POTTAWATOMIE	137	251	250
PUSHMATAHA	7	18	18
ROGER MILLS	7	12	12
ROGERS	33	56	56
SEMINOLE	56	115	114
SEQUOYAH	52	107	79
STEPHENS	25	36	36
TEXAS	8	15	15
TILLMAN	6	9	6
TULSA	753	1358	1304
WAGONER	40	73	63
WASHINGTON	55	90	87
WASHITA	15	38	35
WOODS	23	41	36
WOODWARD	42	70	67
<b>Statewide Total</b>	<b>4553</b>	<b>8382</b>	<b>7801</b>



# ATTACHMENT C

## Title 10A. Children and Juvenile Code

### Article 1 - Oklahoma Children's Code

#### Article Chapter 4, Part 3 - Petition, Summons, Appointment of Counsel and Others

#### Section 1-4-306 - Appointment of Counsel, Guardian Ad Litem - Court-Appointed Special Advocates - Access to Files and Records

- A. 1. a. If a parent or legal guardian of the child requests an attorney and is found to be indigent, counsel may be appointed by the court at the emergency custody hearing and shall be appointed if a petition has been filed alleging that the child is a deprived child; provided, that the court may appoint counsel without such request, if it deems representation by counsel necessary to protect the interest of the parent, legal guardian, or custodian.
- b. The court shall not be required to appoint an attorney for any person other than a parent, or legal guardian of the child pursuant to the provisions of this paragraph.
2. a. The court may appoint an attorney or a guardian ad litem for the child when an emergency custody hearing is held; provided, that when a petition is filed alleging the child to be deprived, the court shall appoint a separate attorney for the child, who shall not be a district attorney, regardless of any attempted waiver by the parent, legal guardian or custodian of the child of the right of the child to be represented by counsel. The child's attorney shall be independent of and not selected by the district attorney, the child's parent, legal guardian, or custodian. If financially capable, the parent, legal guardian or custodian shall reimburse the Court Fund for the services of a court-appointed attorney for the child.
- b. The attorney appointed for the child shall make arrangements to meet with the child as soon as possible after receiving notification of the appointment. Except for good cause shown, the attorney shall meet with the child prior to any hearing in such proceeding. The attorney may speak with the child over the telephone if a personal visit is not possible due to exigent circumstances. If a meaningful attorney-client relationship between the child and the attorney is prohibited due to age or disability of the child, the attorney shall contact the custodian or caretaker of the child prior to the hearing.
- c. The attorney shall represent the child and any expressed interests of the child. To the extent that a child is unable to express an interest, either because the child is preverbal, very young or for any reason is incapable of judgment and meaningful communication, the attorney shall substitute his or her judgment for that of the child and formulate and present a position which serves the best interests of the child. Such formulation must be accomplished through the use of objective criteria rather than solely the life experience or instinct of the attorney. The objective criteria shall include, but not be limited to:
- (1) a determination of the circumstances of the child through a full and efficient investigation,
  - (2) assessment of the child at the moment of the determination,
  - (3) examination of all options in light of the permanency plans available to the child, and
  - (4) utilization of medical, mental health and educational professionals, social workers and other related experts.

The attorney shall make such further inquiry as the attorney deems necessary to ascertain the facts, to interview witnesses, examine and cross-examine witnesses, make recommendations to the court and participate further in the proceedings to the degree appropriate for adequately representing the interests of the child. A child is a party to all deprived proceedings and is therefore able to participate as fully as the parents and the district attorney in all aspects of the proceedings including, but not limited to, voir dire, cross-examination, the subpoena of witnesses, and opening and closing statements.

3. The attorney shall be allowed a reasonable fee for such services as determined by the court.
4. When an attorney is required to travel to more than one district court location in order to represent a child or children whom the attorney has been court-appointed to represent, the court may in its discretion allow the attorney a reasonable reimbursement for mileage.
5. The court shall ensure that the child is represented by independent counsel throughout the pendency of the deprived action.



# **ATTACHMENT E-1**

**2016 OK 32**

**Decided: 03/21/2016**

**THE SUPREME COURT OF THE STATE OF OKLAHOMA**

**IN RE: APPROVAL OF PROPOSED STANDARDS OF PRACTICE FOR  
ATTORNEYS REPRESENTING PARENTS IN JUVENILE COURT**

## **ORDER**

The Court has reviewed the proposed Oklahoma standards of practice for attorneys representing parents in juvenile court, submitted by the Juvenile Justice Oversight Committee. The attached proposed standards are hereby adopted, effective immediately.

DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE this 21<sup>st</sup> day of March, 2016.

/s/CHIEF JUSTICE  
ALL JUSTICES CONCUR

## ATTACHMENT E-2

# Oklahoma Standards of Practice for Attorneys Representing Parents in Juvenile Court

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The Parent's Attorney shall:

### General:

1. Adhere to all educational requirements before accepting a court appointment to represent a client in a child welfare case. Acquire sufficient working knowledge of all relevant federal and state laws, regulations, policies and rules.
2. Avoid continuances (or reduce empty adjournments) and work to reduce delays in court proceedings unless there is a strategic benefit for the client.
3. Cooperate and communicate regularly with other professionals in the case.

### Relationship with the Client:

4. Understand and protect the parent's rights to information and decision making while the child is placed outside the home.
5. Advocate for the client's goals and empower the client to direct the representation and make informed decisions based on thorough counsel.
6. Act in accordance with the duty of loyalty owed to the client while adhering to all laws and ethical obligations concerning confidentiality. Avoid potential conflicts of interest that would interfere with the competent representation of the client.
7. Provide the client with contact information. Establish a system that promotes regular client-attorney contact.
8. Meet and communicate regularly with the client well before court proceedings. Counsel the client about all legal matters related to the case, including specific allegations against the client, the service plan, the client's rights in the pending proceedings, any orders entered against the client and the potential consequences of failing to obey the court orders or cooperate with service plan.
9. Provide the client with copies of all petitions, court orders, service plans and other relevant case documents, including reports regarding the child except when expressly prohibited by law, rule or court order.

10. Take reasonable steps to communicate with incarcerated clients and to locate clients who become absent. Develop representation strategies. Establish a plan for the client's participation in case-related events.

11. Act in a culturally competent manner and with regard to the disabilities or unique circumstances of the client. Advocate for appropriate supportive services with the child welfare agency and the court.

#### Investigation and Court Preparation and hearings

12. Interview the client well before each hearing, in time to use client information for the case investigation.

13. Consult with the client to develop a case theory and strategy. Explain the statutory timeline for the case.

14. Aggressively advocate for regular visitation in a family-friendly setting.

15. Engage in multidisciplinary case planning and advocate for appropriate services and high quality family interaction. When appropriate, effectively participate with the client in family team meetings, mediation, and other negotiations.

16. Thoroughly prepare the client in advance for all hearings, meetings, and other case events.

17. Attend and prepare for all hearings, including pretrial conferences.

18. Prepare and make all appropriate motions and evidentiary objections.

19. Present and cross-examine witnesses, prepare and present exhibits.

20. Actively participate in Jury selection and drafting jury instructions.

21. Take reasonable steps to ensure the client complies with court orders and to determine whether the case needs to be brought back to court.

22. Consider and discuss the possibility of appeal with the client.

23. If client decides to appeal, timely file appeal documents. Adhere to the Oklahoma Court Rules and Procedures.

# ATTACHMENT F

## **Title 10A. Children and Juvenile Code**

### **Article 1 - Oklahoma Children's Code**

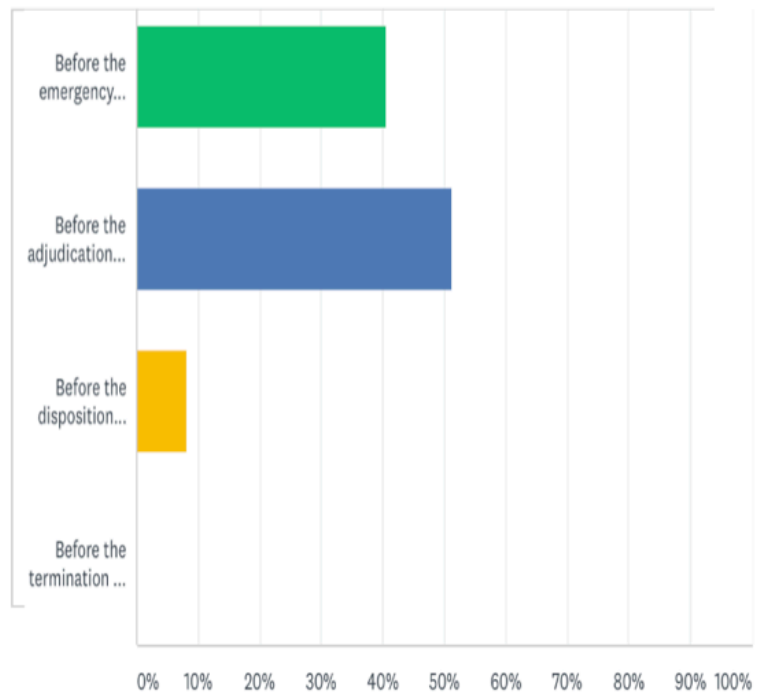
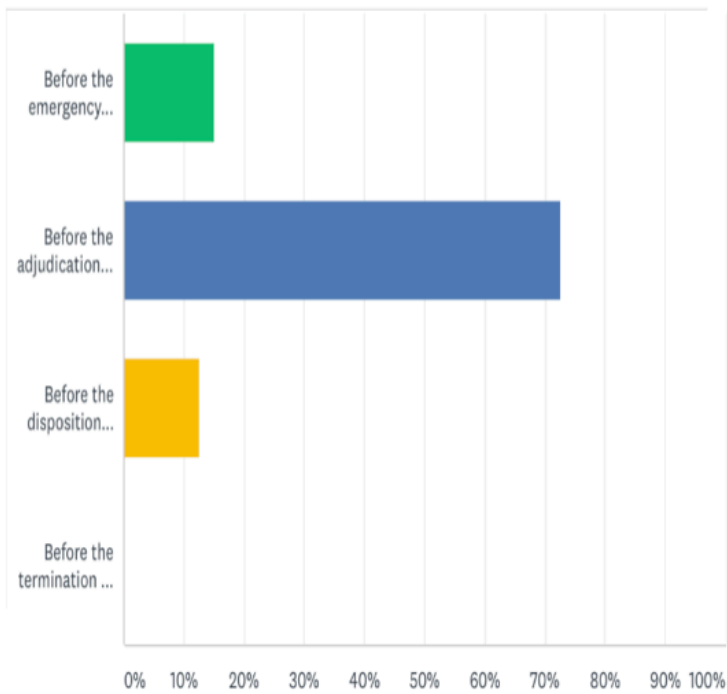
#### **Article Chapter 8 - Miscellaneous Provisions**

#### **Section 1-8-101 - Education and Training Requirements - Judicial Personnel and District Attorneys**

- A. 1. The Supreme Court is required to establish by rule, education and training requirements for judges, associate judges, special judges, and referees who have juvenile docket responsibility. Rules shall include, but not be limited to, education and training relating to juvenile law, child abuse and neglect, foster care and out-of-home placement, domestic violence, behavioral health treatment, and other similar topics.
- 2. All judges having juvenile docket responsibility shall attend at least twelve (12) hours of training in such courses each calendar year relating to the topics described in paragraph 1 of this subsection.
- 3. The Administrative Director of the Courts shall be responsible for developing and administering procedures and rules for such courses for judicial personnel, including monitoring the attendance of judicial personnel at such training.
- B. 1. Any district attorney, assistant district attorney, public defender, assistant public defender, attorney employed by or under contract with the Oklahoma Indigent Defense System, court-appointed attorney, or attorney employed by or under contract with a district court whose duties include juvenile docket responsibility shall complete at least six (6) hours of education and training annually in courses relating to the topics described in paragraph 1 of subsection A of this section. These education and training requirements may be accomplished through a collaborative effort between the judiciary and others with juvenile docket responsibilities.
- 2. Each judicial district shall be responsible for developing and administering procedures and rules for such courses for attorneys identified in this subsection whose duties routinely include juvenile court docket responsibilities. The chief judge of each judicial district, or any designee judge with juvenile docket responsibilities, shall carry out this mandate within one (1) year of the effective date of this legislation.

# ATTACHMENT G

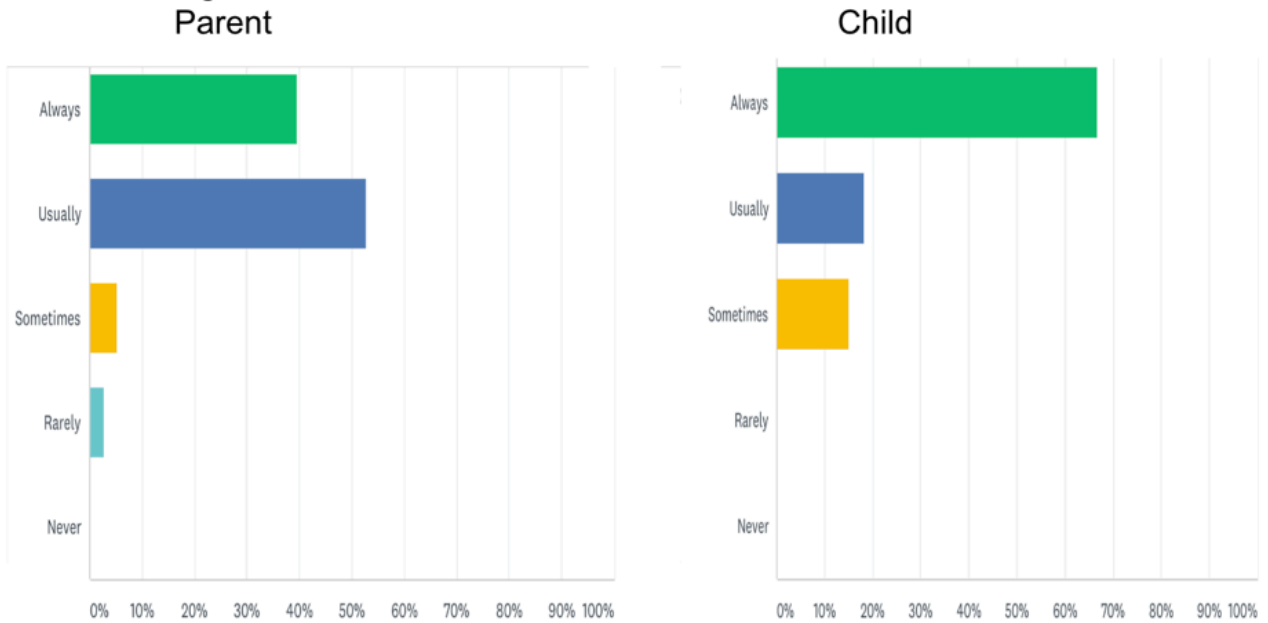
## Attorneys: When do judges appoint attorneys for... Parents Children



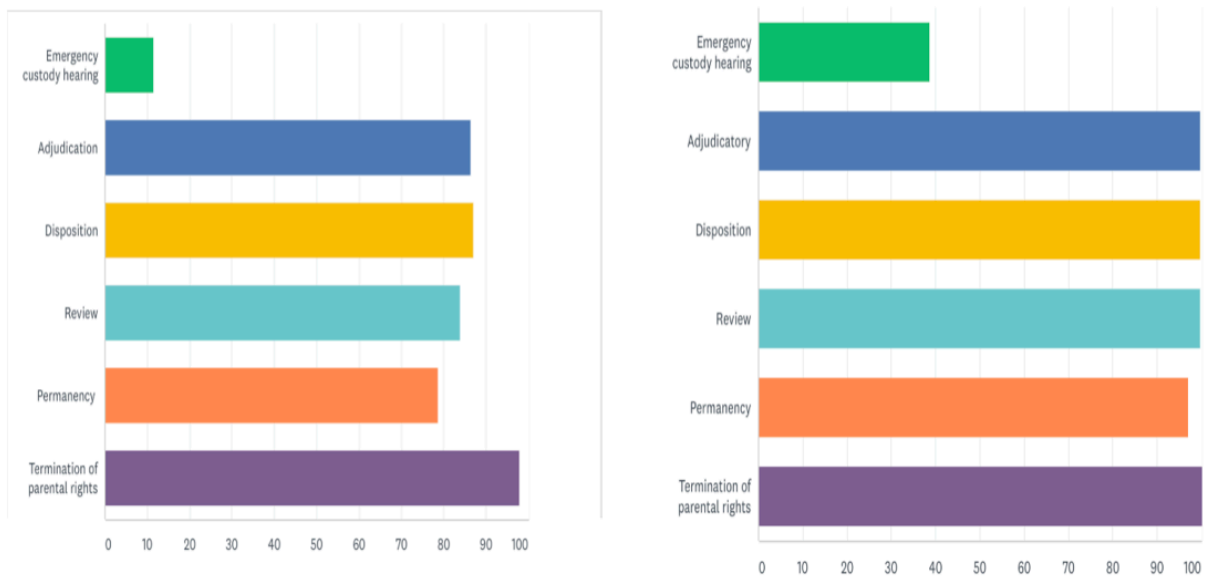


# ATTACHMENT H

Attorneys: How often do you represent your client through all stages of the case, including TPR?



Judges: % of parties represented at the following hearings



# ATTACHMENT I-1

## COLORADO

Colorado has established two (2) independent agencies to provide child and parent representation: the Office of the Child's Representative (OCR) and an Office of Respondent Parents' Counsel (ORPC).

### **OCR:**

**Structure:** OCR was made a permanent state agency in 2010 after its creation in 2000 by legislation.<sup>1</sup> It operates as an independent office in the Judicial Branch to provide competent and effective GAL services to children statewide. Attorneys are provided for representation of children in dependency, delinquency, truancy, probate, mental health, and divorce cases. It is governed by a 9-member Board of Directors who are appointed by the Colorado Supreme Court. The Board serves without compensation and works cooperatively with OCR's Executive Director to provide fiscal oversight, participate in policy and funding decisions, and assist in training, as needed. OCR operates from a central office located in Denver, Colorado and is staffed with an Executive and Deputy Director, Chief Operating Officer, Training Coordinator, Staff Attorney, Accountant, IT, and an Administrative Assistant - 8 FTE. OCR also provides one (1) staffed office in a county that houses 12 lawyers and 5 case coordinators (i.e., social workers).

**Contracting Responsibilities:** OCR has recruited and currently contracts with approximately 275 attorneys who, in FY18, provided representation in an estimated 2,900 cases. The agency also contracts with social workers as resources for the attorneys. The agency has the authority to reject applications from attorneys for contracts as well as terminating existing contracts.

**Compensation for Attorneys:** Attorneys are currently paid the rate of \$80 per hour for in court and out-of-court advocacy. Attorney and resource compensation are billed through, reviewed, approved and compensated by the agency. OCR uses an online billing system that provides excellent oversight and directions for billable activities. OCR caps the caseload per attorney to no more than 100 children.

**Practice Support and Training:** A comprehensive advocacy guide has been written by OCR and disbursed to all attorneys. A mentoring program has been recently established. OCR maintains a Listserv, litigation tool kits, quarterly newsletters, as well as a litigation support list. Ten (10) hours of CLE annually is required and provided by OCR through an annual conference, periodic trainings throughout the year, and online training programs. FY18-19 provided 89 hours of CLE through conferences and 344 hours of CLE are available online.

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<sup>1</sup> Colorado Revised Statute C.R.S. § 13-91-101 et seq.

**Supervision:** Standards of Representation were created by OCR and approved by the Colorado Supreme Court. OCR oversees its contractors by requiring annual verification that the attorneys are meeting standards and have created a contract renewal process to ensure the attorneys' eligibility. Ongoing performance assessments are conducted by the administrators that include on-site court observations, as well as interviews with judges and clients regarding the performance standards of the attorneys. Investigations and resolutions of complaints against its attorneys are also conducted by the administrative staff of the agency.

**Funding:** Legislatively funded. In FY18-19, the total budget was \$28,253,633, with \$23,314,224 allocated for attorney services and \$127,230 for training. 93% of the budget is spent for attorney services with 7% budgeted for administrative costs. It should be noted that although OCR provides contract attorneys for children's GAL services in several types of cases, 75% of the attorneys are appointed in dependency cases.

### **ORPC:**

**Structure:** ORPC, modeled after Washington's Parents Representation Program, was statutorily created as an independent office in the Judicial Branch to provide competent and effective legal representation to parents statewide.<sup>2</sup> The agency assumed oversight of contracted parents' attorneys on July 1, 2016. ORPC is governed by an Operating Commission whose members are appointed by the Colorado Supreme Court. ORPC operates from a central office located in Denver, Colorado. The central office is staffed with an Executive and Deputy Directors, Administrator, Director of Engagement, Appellate Director, Financial Officer, Training Director, Program Analyst, Case Strategy Director, Programs/Social Worker Director, IT, Attorney Payment Specialist, and Accountant- 13 FTE.

**Contracting Responsibilities:** ORPC has recruited and currently contracts with approximately 243<sup>3</sup> private attorneys to represent indigent parents in dependency cases in all 22 Colorado counties, offering 1, 2, and 3 year contracts. It began contracting with social workers in pilot counties. Other interdisciplinary resources to provide support to the attorneys, e.g., investigators, experts, paralegals are available at the request of the attorneys and ORPC's approval. The agency has the authority to reject applications from attorneys for contracts; to terminate contracts with attorneys; and to seek termination of existing court appointments for contract counsel. Recently, ORPC has implemented an appellate division consisting of independent contracted attorneys.

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<sup>2</sup> Colorado SB-14-203 creating ORPC as well as legislatively funding the agency.

<sup>3</sup> As of March 15, 2019.

**Compensation for Attorneys:** In FY18 attorneys were paid at the rate of \$75 per hour for in and out-of-court advocacy as well as appellate work.<sup>4</sup> This amount was increased to \$80 per hour in FY19 and ORPC has requested the Colorado legislature to consider an additional increase for FY21 to \$85 per hour.<sup>5</sup> Attorney and resource compensation are billed through, reviewed, approved and compensated by the agency. Average cost per case in FY19 was \$2,232.00 which includes costs associated with investigators, experts, interpreters, and social workers.

**Practice Support and Training:** As support for the contracted attorneys, ORPC provides: individual case consultation, case law updates, motions bank, online resource library, listserv, and access to Westlaw. ORPC is responsible for all training of attorneys and annually provides New Attorney Boot Camp, Appellate Certification, and an Fall Conference. Additionally, regional training is provided addressing specific topics based on needs and requests of the regions and training webinars are also provided for the convenience of the rural attorneys.

**Supervision:** Standards of Representation were created and approved by the Colorado Supreme Court. ORPC oversees its contractors by requiring annual verification that the attorneys are meeting standards and have created a contract renewal process to ensure the attorneys' eligibility and ongoing performance assessments are conducted by the administrators. Investigations and resolutions of complaints against its attorneys are also conducted by the administrative staff of the agency. The appellate program developed policies for the transfer of a case between trial counsel and appellate counsel as a policy preventing trial attorneys from handling their own cases on appeal was implemented in 2016. Comprehensive practice guidelines specifically directed at appellate attorneys are being written.

**Funding:** Legislatively funded. Previous to ORPC's creation, court-appointed parents' attorneys were funded exclusively by the Colorado Supreme Court. FY19-20 budget is \$20,881,276.00. Anticipated IV-E match is \$4,528,038.<sup>6</sup>

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<sup>4</sup> See: <https://www.coloradoorpc.org/wp-content/uploads/2015/02/ORPC-BILLING-POLICIES-Rev.-2017.06.13.pdf>

<sup>5</sup> Per Linda Edwards, Chief Financial Officer for ORPC

<sup>6</sup> <https://coloradoorpc.org/wp-content/uploads/2019/11/FY2020-21-Budget-Request-ORPC-Final.pdf>

# ATTACHMENT I-2

## MASSACHUSETTS

**Structure:** Massachusetts Children and Family Law Division (CAFL) represent children and parents in child welfare cases and operates within the state's comprehensive public defender agency - Committee for Public Counsel Services (CPCS). CPCS provides, overall, approximately 500 staff attorneys and 3,000 private attorneys who are trained and certified to accept appointments in criminal, delinquency, youthful offender, child welfare, mental health, sexually dangerous person and sex offender registry cases, as well as related appeals and post-conviction matters. CPCS is governed by a 15-member body appointed by the Governor, the Speaker of the House of Representatives, the President of the Senate, and the Massachusetts Supreme Judicial Court. It oversees the provision of legal representation to indigent persons in criminal and civil cases and administrative proceedings in which there is a right to counsel. Administratively, CPCS's management team consists of a Chief Counsel, Human Resources Director, Training Director, Information Technology, Accounting and Finance, and Division Chiefs.

**CAFL Division Structure:** CAFL's Division essentially can be broken down into four (4) division units: trial offices, appellate unit, private counsel trial panel, and private counsel appellate panel. CAFL Administrative Office is located in Boston and provides offices for 18 full-time employees comprised, in part, of the Chief Counsel, Appellate Panel Director, Director of Social Work, Director of Private Social Work Services, Training Director, Trial Panel Director, Training Directors, Trial Panel Support Attorneys, Appellate Panel Support Attorneys, Appellate Assignment and Certification Coordinator, and other assistants. The Appellate Unit is located in Worcester. CAFL, through Managing Directors for Litigation Offices, also oversees 10 regional offices that house CAFL full-time attorneys who partner with staff social workers.

**Contracting Responsibilities:** Most CAFL lawyers are private attorneys. There are currently over 700 certified attorneys providing legal trial services and 130 certified attorneys providing appellate services for both parents and children. CAFL also contracts with other professional resources such as investigators and expert witnesses. The division is responsible for training, certification, supervision, processing billing, and support for the attorneys.

**Compensation:** Full-time attorneys are annually compensated in the range of \$61,000 - \$103,500 based on experience. Contracted private attorneys are compensated \$53 per hour for in and out of court advocacy.<sup>7</sup> Caseloads cannot exceed 40 cases for full-time attorneys and 75 cases for contracted attorneys.

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<sup>7</sup> Set by statute. 2018 rate.

**Practice Support and Training:** Contracted private attorneys are required to participate in a 7-day training program and work with an assigned mentor prior to receiving certification to be placed on trial attorney panel for appointment. Eight (8) hours of annual CLE is thereafter required. Appellate panel attorneys participated in a 3-day training program thereafter earning a “provisional” certification that includes assignments to mentors. CAFL has established comprehensive Performance Standards for each trial and appellate practices. Practice support is provided by newsletters, training programs, form packets for trial and appellate work, counsel Manuals for trial and appellate attorneys, full-time support attorneys, and access to interdisciplinary resources who are also compensated through CAFL. CAFL places emphasis on the use of mentors who are responsible, in part, for the 1-on-1 training and supervision of the attorney as well as investigating any complaints lodged against the attorney.

**Funding:** CPCS is legislatively funded as an executive agency. The specific budget for CAFL is unknown at this time.

## **ATTACHMENT I - 3**

### **STILL SHE RISES, INC/THE BRONX DEFENDERS**

**Structure:** In 2016, Still She Rises Tulsa (SSRT) was launched as a project of the Bronx Defenders with the goal of using the holistic defense model to represent mothers targeted by the criminal justice system. SSRT is an institutional model comprised of an interdisciplinary team of full-time criminal, civil, and family attorneys that work with social workers, civil legal advocates, and community engagement coordinators. In July 2019, SSRT became a privately funded community nonprofit agency. The agency is overseen by twelve (12) Advisory Board members.

**Employees:** SSRT employs 17 attorneys, 2 investigators, 3 client advocates, 1 training director, 2 business operations managers and 2 community resource engagement coordinators. The Bronx Defenders currently employs 48 staff attorneys, 8 parent advocates, and 11 master's level social workers. Pre-petition and out-of-court advocacy is stressed and legal training is mandatory.

**Compensation:** Unknown at this time. Average annual salary for full-time attorney employed by The Bronx Defenders is \$84,300.00.

**Practice Support and Training:** High quality representation for parents is critical to SSRT and on-going training is required. Training and support is provided in-house as well as financially support the staff in receiving specialized training provided by nationally recognized organizations. Caseloads are capped at 60 cases.

**Funding:** The primary source of funding for SSRT streams from the George Kaiser Family Foundation. SSRT's annual operating expenses are unknown at this time.

# ATTACHMENT J

OKLAHOMA DEPARTMENT OF HUMAN SERVICES		
YI101 - Permanency Planning Detail Report - Judicial/Case Planning		
December 2, 2019 9:39 am		
Permanency Data Collected On Dec 2, 2019 from 3:00 am to 3:12 am		
County of Jurisdiction	ALOS Days	ALOC Months
ADAIR	342	11
ALFALFA	829	27
ATOKA	891	29
BEAVER	1083	36
BECKHAM	587	19
BLAINE	366	12
BRYAN	773	25
CADDO	643	21
CANADIAN	524	17
CARTER	519	17
CHEROKEE	451	15
CHOCTAW	476	16
CIMARRON		
CLEVELAND	437	14
COAL	545	18
COMANCHE	782	26
COTTON		
CRAIG	1890	62
CREEK	431	14
CUSTER	395	13
DELAWARE	548	18
DEWEY	537	18
ELLIS	142	5
GARFIELD	669	22
GARVIN	588	19
GRADY	630	21
GRANT	457	15
GREER	376	12
HARMON	512	17
HARPER	178	6
HASKELL	642	21
HUGHES	521	17
JACKSON	533	18
JEFFERSON	1021	34
JOHNSTON	627	21
KAY	378	12
KINGFISHER	331	11
KIOWA	493	16
LATIMER	625	21



**OKLAHOMA DEPARTMENT OF HUMAN SERVICES**  
**YI101 - Permanency Planning Detail Report - Judicial/Case Planning**  
**December 2, 2019 9:39 am**  
**Permanency Data Collected On Dec 2, 2019 from 3:00 am to 3:12 am**

<b>County of Jurisdiction</b>	<b>ALOS Days</b>	<b>ALOC Months</b>
LEFLORE	597	20
LINCOLN	694	23
LOGAN	676	22
LOVE	511	17
MAJOR	416	14
MARSHALL	479	16
MAYES	467	15
MCCLAIN	599	20
MCCURTAIN	491	16
MCINTOSH	446	15
MURRAY	286	9
MUSKOGEE	450	15
NOBLE	675	22
NOWATA	283	9
OKFUSKEE	642	21
OKLAHOMA	567	19
OKMULGEE	512	17
OSAGE	481	16
OTTAWA	519	17
PAWNEE	743	24
PAYNE	369	12
PITTSBURG	461	15
PONTOTOC	472	15
POTTAWATOMIE	485	16
PUSHMATAHA	214	7
ROGER MILLS	127	4
ROGERS	448	15
SEMINOLE	572	19
SEQUOYAH	305	10
STEPHENS	465	15
TEXAS	388	13
TILLMAN	389	13
TULSA	591	19
WAGONER	271	9
WASHINGTON	553	18
WASHITA	413	14
WOODS	487	16
WOODWARD	579	19
<b>STATEWIDE TOTAL</b>	<b>543</b>	<b>18</b>