



JUDICIAL BRANCH



OFFICE OF RESPONDENT
PARENTS' COUNSEL
Protecting the Fundamental Right to Parent

FISCAL YEAR 2016-2017
July 1, 2016

PERFORMANCE PLAN

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Agency Overview

Mission

The mission of the Office of Respondent Parents' Counsel (hereinafter, "ORPC") 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, resources, develop practice standards, and advocate for systemic and legislative changes in Colorado.

Background

The United States Supreme Court recognized that the "Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children." Troxel v. Granville, 530 U.S. 57, 66 (2000). In Colorado, an indigent respondent parent has a statutory right to appointed counsel (hereinafter referred to as "Respondent Parents' Counsel" or "RPC") to protect this fundamental right to parent. See § 19-3-202, C.R.S. (2015).

The Colorado General Assembly declared that Respondent Parents' Counsel "plays a critical role in helping achieve the best outcomes for children involved in dependency and neglect proceedings by providing effective legal representation for parents in dependency and neglect proceedings, protecting due process and statutory rights, presenting balanced information to judges, and promoting the preservation of family relationships when appropriate." § 13-92-101, C.R.S. (2015).

Based on this fundamental constitutional right to parent and the critical role of RPC in preserving this right, section 13-92-101 to 104, C.R.S. established the ORPC. The 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 representation in Colorado effective July 1, 2016. The Office opened on January 1, 2016, and the initial focus was on building the office infrastructure. This is the ORPC's very first State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act (hereinafter "SMART") report.

Statutory Mandate/Directive

The ORPC's enabling legislation, section 13-92-104, C.R.S., charges and entrusts the ORPC, at a minimum, with 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.

Vision

The ORPC's vision embraces three concepts: Advocacy, Accountability, and Access. The ORPC strives to identify and train attorneys to be effective *advocates* and to be *accountable* for their performance, while the ORPC provides *access* to resources and training to aid in their representation of respondent parents.

Major Functions of the Agency

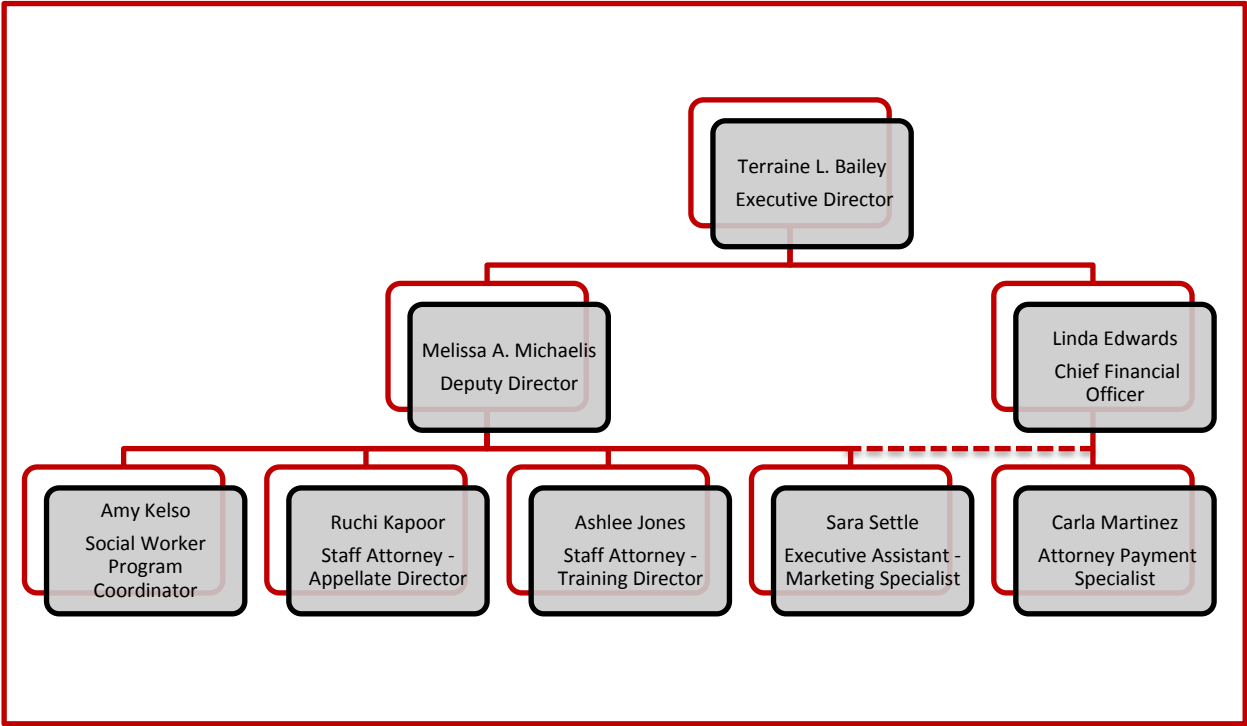
The Office of Respondent Parents’ Counsel will provide effective legal advocates for respondent parents in dependency and neglect cases starting on July 1, 2016. The ORPC’s office is located in the Ralph L. Carr Judicial Center, 1300 Broadway, Suite 340, Denver, Colorado 80203. The ORPC office is tasked with enhancing the provision of respondent parent representation across the State of Colorado. At this time, the ORPC has hired seven (7) staff and the office plans to complete hiring in the fall of 2016 based on the office’s assessment of agency needs.

Prior to the creation of the ORPC, no agency existed in Colorado exclusively dedicated to parent representation, and attorneys who were under contract with the Office of the State Court Administrator (hereinafter “SCAO”) to represent parents were not provided with any dedicated respondent parent training. *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”) states that respondent parent representation in Colorado is “typically adequate but rarely proficient.” The ORPC was established to address this performance gap because 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.” *Assessment Report* at 75.

The creation of the office is just the beginning of a comprehensive plan to enhance parent representation across the state. The ORPC’s statutory mandate requires the office to provide high-quality legal representation for parents, develop and recommend minimum practice standards, establish fair and realistic state rates to compensate RPC, and to work cooperatively with judicial districts to establish pilot programs. In just six months, the ORPC has:

<ul style="list-style-type: none"> • Obtained computers, phones, and software • Collaborated with the Ralph L. Carr Building to construct ORPC dedicated office space • Hired seven (7) staff members out of nine (9) FTEs • Completed eight (8) rural, three (3) non-metro, and four (4) metro area jurisdictional visits • Developed an online payment system that will allow RPC to bill the office for their legal services • Worked with Chief Justice Nancy Rice and SCAO staff to create Chief Justice Directive 16-02 to govern the administration of RPC appointments across the state • Begun development of a social worker program • Worked with the Joint Budget Committee (hereinafter “JBC”) to amend section 19-3-607, C.R.S. • Created agency website • Established a motions bank • Co-sponsored two trainings • Facilitated Best Practice Court Teams at the 2016 Colorado Convening on Children, Youth, and Families using three (3) staff 	<ul style="list-style-type: none"> • Undertaken a state-wide online application process for contracts with the ORPC • Evaluated over two hundred (200) applicants for contracts • Conducted an online RPC attorney feedback survey for all dependency and neglect judges and magistrates • Created and executed a new attorney boot camp • Provided a list of independent contractor attorneys eligible for appointments to twenty-two (22) judicial districts • Developed personnel policies • Drafted billing policies • Created fiscal rules • Joined numerous stakeholder committees including the State Court Improvement Program Committee (hereinafter “CIP”), CIP ICWA sub-committee, the Dependency and Neglect System Reform Program (hereinafter “DANSR”) Executive Oversight Committee, the DANSR Legal Subcommittee, the Discovery Rules Subcommittee, the ICWA rules subcommittee, and Child Welfare Training Steering Committee
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Organizational Chart



ORPC Goals, Strategies, and Performance Measures

ORPC PERFORMANCE GOALS AND STRATEGIES	
GOALS	STRATEGIES
<p>1. Ensuring the provision and availability of high-quality legal representation for parents in dependency and neglect proceedings.</p>	<p><u>I. RPC Recruitment, Application, and Evaluation</u></p> <ul style="list-style-type: none"> A. Develop an online attorney application process and cycle. B. Develop an attorney evaluation process. C. Establish a list of qualified attorneys available for appointment in rural and metro counties. <p><u>II. Develop a Comprehensive Training Program</u></p> <ul style="list-style-type: none"> A. Assess the training needs of RPC in rural and metro areas. B. Provide relevant, accessible, and role-specific training for RPC and support staff. C. Evaluate the quality of offered trainings and use this data to improve and adapt the ORPC training program to meet the needs of RPC. D. Provide scholarship opportunities to national trainings for RPC attorneys on the appointment list. <p><u>III. ORPC Practice Supports</u></p> <ul style="list-style-type: none"> A. Provide support to attorneys through an expert witness resource bank, a motions bank, a treatment resource bank, case/social worker consultation, and appellate case summaries and practice tips. B. Develop a website as a central location for all the supports being made available for RPC. <p><u>IV. ORPC Appellate Initiative</u></p> <ul style="list-style-type: none"> A. Implement a state-wide appellate strategy through the development of an appellate attorney list and work groups led by the Appellate Director.
<p>2. Making recommendations for minimum practice standards.</p>	<ul style="list-style-type: none"> I. Develop and recommend a Chief Justice Directive with ABA practice standards. II. Develop a draft set of practice standards to vet with an RPC workgroup from rural and metro jurisdictions.
<p>3. Establishing fair and realistic state rates by which to compensate RPC.</p>	<ul style="list-style-type: none"> I. Research the current payment structure across the state. II. Develop a billing system with set data points that allow the ORPC to track costs per case and case outcomes. III. Analyze cost per case and case outcomes to establish a budget to present to the JBC to support request to achieve payment parity for RPCs with OCR and ADC and incentivize quality representation.
<p>4. Working cooperatively with the judicial districts to establish pilot programs.</p>	<ul style="list-style-type: none"> I. Hire a Social Work Program Coordinator to research existing national multidisciplinary programs across the country and begin the process of establishing the ORPC social worker program and the possibility of multidisciplinary pilot programs. II. Research efficacy of multidisciplinary pilot programs and explore funding options in the budget.

Goal 1: Ensuring the provision and availability of high-quality legal representation for parents in dependency and neglect proceedings.

I. RPC Recruitment, Application, and Evaluation

The ORPC's recruitment, application, and evaluation process will ensure the provision and availability of high-quality legal representation for parents in dependency and neglect proceedings by:

- A. Developing an online attorney application process and cycle.
- B. Developing an attorney evaluation process.
- C. Establishing a list of qualified attorneys available for appointment in rural and metro counties.

The ORPC will enter into contracts with attorneys across the state beginning on or around July 1, 2016. The online application process for attorneys seeking contracts with the ORPC began on March 1, 2016 and ended on March 31, 2016, just three months after the office opened. Over 200 applications were received.

In order to compile the list of RPC contractors from which Courts across the state could appoint, the office created a matrix as a standard measure for determining placement on the appointment list. The matrix gave weight to prior dependency and neglect and child protection law experience, motions writing skills, trial skills, and interest in child welfare law. Each submitted application was evaluated using the matrix.

In order to ensure that the process was equitable, each application was evaluated by different staff, and the scores were averaged. The applications were sorted according to a cascade, depending on which judicial districts each individual contractor had applied to, in order to distribute the applications to staff for evaluation.

After the individual evaluations process using the matrix, the applications were sorted into an interview list and potential contractors were scheduled for interviews. After the interview process, the applications were matched based upon an assessment of jurisdictional needs using data supplied by SCAO. Applications were then sorted into the contractor lists based on assessed county needs. The lists were distributed to the judicial districts on June 10, 2016. This process worked to identify possible contractor areas of strength and weakness, as well as creating a baseline for contractor evaluation in future years. Additionally, the ORPC developed and distributed the RPC 2016 Performance Survey to dependency and neglect judges and magistrates to obtain valuable feedback about current RPC attorneys.

II. Develop a Comprehensive Training Program

To ensure the provision and availability of high-quality legal representation for parents, the ORPC's training program strives to standardize and elevate the practice of RPC in dependency and neglect cases by:

- A. Assessing the training needs of RPC in rural and metro areas.
- B. Providing relevant, accessible, and role-specific training for RPC and support staff.
- C. Evaluating the quality of offered trainings and using this data to improve and adapt the ORPC training program to meet the needs of RPC.
- D. Providing scholarship opportunities to national trainings for RPC attorneys on the appointment list.

Performance Measures

Goal 1: Ensuring high-quality legal representation for parents in dependency and neglect proceedings. Strategy II: Develop a comprehensive training program.				
Action Step 1: ORPC will assess the training needs of RPC in rural and metro areas.				
Key Measure		FY17	FY18	FY19
1. A. Explore survey tools and data collection methods to gather information from RPC contractors regarding perceived training needs.	Target	Establish baseline using sample response rate of 20% of RPC attorneys.	Sample response rate of 25% of RPC attorneys.	Sample response rate of 30% of RPC attorneys.
	Actual			
1. B. Develop an anonymous, self-assessment and client assessment tools to gather baseline data regarding competency levels of current RPC contractors.	Target	Establish baseline using sample response rate of 20% of RPC attorneys.	Sample response rate of 25% of RPC attorneys.	Sample response rate of 30% of RPC attorneys.
	Actual			

Goal 1: Ensuring high-quality legal representation for parents in dependency and neglect proceedings. Strategy II: Develop a comprehensive training program.				
Action Step 2: ORPC will provide relevant, accessible, and role-specific training for RPC and support staff.				
Key Measure		FY17	FY18	FY19
2. A. Sponsor one annual state-wide conference for all RPC attorneys.	Target	Sponsor one conference with min 12 CLE hours.	Sponsor one conference with min 12 CLE hours.	Sponsor one conference with min 12 CLE hours.
	Actual			
2. B. Annually sponsor trainings in rural and non-metro regions.	Target	Sponsor two rural and non-metro regional trainings.	Sponsor three rural and non-metro regional trainings.	Sponsor four rural and non-metro regional trainings.
	Actual			
2. C. Facilitate access to RPC specific trainings by making trainings available online.	Target	Establish baseline.	24 CLE hours of online training.	36 CLE hours of online training.
	Actual			

2. D. Facilitate access to multidisciplinary training in collaboration with outside agencies.	Target	Access to one multidisciplinary training opportunity.	Access to two multidisciplinary training opportunities.	Access to three multidisciplinary training opportunities.
	Actual			

**Goal 1: Ensuring high-quality legal representation for parents in dependency and neglect proceedings.
Strategy II: Develop a comprehensive training program.**

Action Step 3: ORPC will evaluate the quality of offered trainings and will use this data to improve and adapt the ORPC training program to meet the needs of RPC.

Key Measure		FY17	FY18	FY19
3. A. Explore evaluation methods and develop a training evaluation instrument.	Target	Establish baseline using sample response rate of 20% of annual conference attendees.	Sample response rate of 25 % of annual conference attendees.	Sample response rate of 30% of annual conference attendees.
	Actual			
3. B. Use training evaluation data to continuously inform, improve, and enhance future training program content to meet the needs of RPC attorneys and to begin developing minimum practice standards.	Target	Sponsor annual staff meeting to review training evaluation data and engage in continuous quality improvement for training program.	Sponsor annual staff meeting to review training evaluation data and engage in continuous quality improvement for training program.	Sponsor annual staff meeting to review training evaluation data and engage in continuous quality improvement for training program.
	Actual			

**Goal 1: Ensuring high-quality legal representation for parents in dependency and neglect proceedings.
Strategy II: Develop a comprehensive training program.**

Action Step 4: ORPC will provide scholarship opportunities to national trainings for RPC attorneys on the appointment list.

Key Measure		FY17	FY18	FY19
4. A. Maximize training dollars to send RPC contractors on the appointment list to national trainings.	Target	Establish baseline, send 5 RPC attorneys to national trainings.	Send 10 RPC attorneys to national trainings.	Send 10 RPC attorneys to national trainings.
	Actual			

III. ORPC Practice Supports

The ORPC’s practice supports will ensure the provision and availability of high-quality legal representation for parents in dependency and neglect proceedings by:

- A. Providing support to attorneys through an expert witness resource bank, a motions bank, a treatment resource bank, case/social worker consultation, and appellate case summaries and practice tips.
- B. Developing a website as a central location for all the supports being made available for RPC.

Performance Measures

Goal 1: Ensuring high-quality legal representation for parents in dependency and neglect proceedings. Strategy III. ORPC Practice Supports				
Action Step 1: ORPC will provide support to attorneys through an expert witness resource bank, a motions bank, a treatment resource bank, case/social worker consultation, and appellate case summaries and practice tips.				
Key Measure		FY17	FY18	FY19
1. A. Number of expert witnesses requested by RPC attorneys.	Target	Track number of experts requested and granted.	Track number of experts requested and granted.	Track number of experts requested and granted.
	Actual			
1. B. Number of documents available in the motions bank.	Target	Establish baseline.	10% increase in documents.	10% increase in documents.
	Actual			
1. C. Establish a treatment and social science research bank.	Target	Establish baseline.	Release an annual update to resources.	Release an annual update to resources.
	Actual			
1. D. Number of contacts to the Appellate Director regarding case consultation.	Target	Track number of contacts regarding appellate case consultation.	Track number of contacts regarding appellate case consultation.	Track number of contacts regarding appellate case consultation.
	Actual			
1. E. Number of appellate case summaries, practice tips and advocacy resources.	Target	Track weekly communication.	Track weekly communication.	Track weekly communication.
	Actual			

Goal 1: Ensuring high-quality legal representation for parents in dependency and neglect proceedings. Strategy III. ORPC Practice Supports				
Action Step 2: ORPC will develop a website as central location for all the supports being made available for RPC.				
Key Measure		FY17	FY18	FY19
2. A. Assess need to make comprehensive website updates on an annual basis to ensure the website is a useful resource for RPC attorneys.	Target	Establish baseline – launch and develop website.	Annually assess need for website updates.	Annually assess need for website updates.
	Actual			

IV. ORPC Appellate Initiative

The ORPC’s appellate initiative will ensure the provision and availability of high-quality legal representation for parents in dependency and neglect proceedings by:

- A. Implementing a state-wide appellate strategy through the development of an appellate attorney list and work groups led by the Appellate Director.

Performance Measures

Goal 1: Ensuring high-quality legal representation for parents in dependency and neglect proceedings. Strategy IV. ORPC Appellate Initiative				
Action Step 1: ORPC will implement a state-wide appellate strategy through the development of an appellate attorney list and work groups led by the Appellate Director.				
Key Measure		FY17	FY18	FY19
1. A. Number of published and unpublished opinions related to dependency cases from the Colorado Court of Appeals.	Target	Track number of published and unpublished opinions.	Track number of published and unpublished opinions.	Track number of published and unpublished opinions.
	Actual			
1. B. Number of published and unpublished opinions related to dependency cases from the Colorado Supreme Court.	Target	Track number of published and unpublished opinions.	Track number of published and unpublished opinions.	Track number of published and unpublished opinions.
	Actual			
1. C. Number of adjudicatory appeals.	Target	Track number of appeals.	Track number of appeals.	Track number of appeals.
	Actual			

1. D. Number of termination appeals.	Target	Track number of appeals.	Track number of appeals.	Track number of appeals.
	Actual			

Goal 2: Making recommendations for minimum practice standards.

I. Develop and recommend a Chief Justice Directive with ABA practice standards.

Starting in February 2016, the ORPC began drafting an entirely new Chief Justice Directive (CJD) to govern the administration of justice with respect to the appointment, payment, and training of RPC. On June 1, 2016, Chief Justice Rice signed CJD 16-02 effective July 1, 2016. The CJD contains the following sections: Mission; ORPC Authority and Responsibilities; Authority and Requirement for Appointments through the ORPC; Appointments on Appeal by ORPC; Practice Guidelines, Requirements, and Continuing Education Requirements for Attorneys Eligible for Appointments; Eligibility Requirements for Appointment of RPC; Guidelines for Payment by the ORPC; Duties of Judges and Magistrates; Procedures for Complaints against RPC under contract with the ORPC in Dependency and Neglect Proceedings; and Sanctions.

Relevant to the goal of creating practice standards, the CJD includes as an attachment the ABA Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases. These practice standards have been adopted as interim standards while the ORPC undertakes development of Colorado-specific standards, as outlined below.

II. Develop a draft set of practice standards to vet with an RPC workgroup from rural and metro jurisdictions.

In order to develop comprehensive practice standards, the ORPC needs baseline information about the existing standards of practice. In the next fiscal year, the ORPC will research and evaluate criteria to establish baseline data that will be gathered through jurisdictional visits and court observations. The ORPC will gather existing national practice standards and evaluate their relevance to Colorado practice.

Performance Measures

Goal 2: Making recommendations for minimum practice standards. Strategy II: ORPC will develop a draft set of practice standards to vet with an RPC workgroup from rural and metro jurisdictions.				
Key Measure		FY17	FY18	FY19
1. A. Research and develop data points to analyze RPC standard of practice.	Target	Develop data points.	Reassess data and need for additional data points.	Reassess data and need for additional data points.
	Actual			
1. B. Research and evaluate RPC standard of practice in Colorado and national standards.	Target	Draft Standards.	Host RPC workgroup meetings and publish standards.	Implement standards and assess need for revisions.
	Actual			

Goal 3: Establishing fair and realistic state rates by which to compensate RPC.

To establish fair and realistic state rates by which to compensate respondent parent counsel in parity with OCR and ADC attorneys, the ORPC plans to take the following steps:

- I. Researching the current payment structure across the state.
- II. Developing a billing system with set data points that allow the ORPC to track cost per case and case outcomes.
- III. Analyze cost per case and case outcomes to establish a budget to present to the JBC to support request to achieve payment parity for RPCs with OCR and ADC and incentivize quality representation.

Performance Measures

Goal 3: Establishing fair and realistic state rates by which to compensate RPC. Strategy II: ORPC will develop a billing system with set data points that allow the ORPC to track cost per case and case outcomes.				
Key Measure		FY17	FY18	FY19
1. A. Track available data points from ORPC billing system.	Target	Establish baseline.	Reassess and adjust data points.	Reassess and adjust data points.
	Actual			
1. B. Use billing system data to track case costs and outcomes, and assess need for collection of new data points or changes to the billing system.	Target	Sponsor annual staff meeting to review billing system data and plan for needed changes.	Sponsor annual staff meeting to review billing system data and plan for needed changes.	Sponsor annual staff meeting to review billing system data and plan for needed changes.
	Actual			

Goal 4: Working cooperatively with the judicial districts to establish pilot programs.

To work cooperatively with the judicial districts to establish pilot programs, ORPC will take the following steps:

- I. Hire a Social Work Program Coordinator to research existing national multidisciplinary programs across the country and begin the process of establishing the ORPC Social Worker Program and the possibility of multidisciplinary pilot programs.
- II. Research efficacy of multidisciplinary pilot programs and explore funding options in the budget.

Performance Measures

Goal 4: Working cooperatively with the judicial districts to establish pilot programs. Strategy I: ORPC will hire a Social Work Program Coordinator to research existing national multidisciplinary programs across the country and begin the process of establishing the ORPC Social Worker Program and the possibility of multidisciplinary pilot programs.				
Key Measure		FY17	FY18	FY19
1. A. Assess state-wide need for social workers and establish relationships with social workers in different jurisdictions.	Target	Establish baseline measurements.	Create report about assessed social worker need.	Continue assessing need for social workers.
	Actual			
1. B. Develop plan to implement ORPC Social Worker Program.	Target	Investigation and draft implementation plan.	Implement ORPC Social Worker Program.	Reassess and use data on program efficacy for multidisciplinary pilot program.
	Actual			
1. C. Investigate national multidisciplinary programs and trends.	Target	Establish baseline.	Update internal resources.	Update internal resources.
	Actual			
1. D. Develop ORPC plan to implement multidisciplinary pilot program(s).	Target	Investigation and information gathering.	Draft plan for implementation.	Implement multidisciplinary plan.
	Actual			

ORPC Summary of the Most Recent Performance Evaluation

This is the ORPC’s first SMART Act Report. The ORPC dedicated the last six months to establishing the infrastructure necessary to build the office, and has:

<ul style="list-style-type: none"> • Obtained computers, phones, and software • Collaborated with the Ralph L. Carr Building to construct ORPC dedicated office space • Hired seven (7) staff members out of nine (9) FTEs • Completed eight (8) rural, three (3) non-metro, and four (4) metro area jurisdictional visits • Developed an online payment system that will allow RPC to bill the office for their legal services • Worked with Chief Justice Nancy Rice and SCAO staff to create Chief Justice Directive 16-02 to govern the administration of RPC appointments across the state • Begun development of a social worker program • Worked with the Joint Budget Committee (hereinafter “JBC”) to amend section 19-3-607, C.R.S. • Created agency website • Established a motions bank • Co-sponsored two trainings • Facilitated Best Practice Court Teams at the 2016 Colorado Convening on Children, Youth, and Families using three (3) staff 	<ul style="list-style-type: none"> • Undertaken a state-wide online application process for contracts with the ORPC • Evaluated over two hundred (200) applicants for contracts • Conducted an online RPC attorney feedback survey for all dependency and neglect judges and magistrates • Created and executed a new attorney boot camp • Provided a list of independent contractor attorneys eligible for appointments to twenty-two (22) judicial districts • Developed personnel policies • Drafted billing policies • Created fiscal rules • Joined numerous stakeholder committees including the State Court Improvement Program Committee (hereinafter “CIP”), CIP ICWA sub-committee, the Dependency and Neglect System Reform Program (hereinafter “DANSR”) Executive Oversight Committee, the DANSR Legal Subcommittee, the Discovery Rules Subcommittee, the ICWA rules subcommittee, and Child Welfare Training Steering Committee
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This infrastructure provides a solid foundation to continue the mission of the Office of Respondent Parents’ Counsel through advocacy, accountability, and access so parents in Colorado may have high-quality legal representation.