

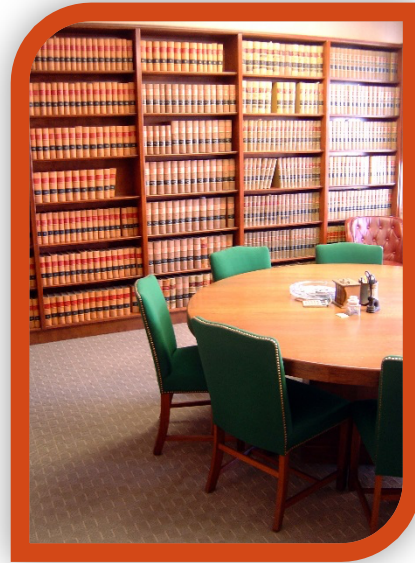
Parental Defense Alliance of Utah



Annual Report
FY 2021

Executive Summary

The Parental Defense Alliance of Utah (PDA) is a non-profit organization created to provide training and assistance to attorneys who represent parents in Utah's child welfare proceedings. Since 2005, the PDA has exclusively fulfilled the contract described in Utah Code Section 78B-22-802 to provide training, support, and other resources to parental defenders across the State. We have secured that contract through 2022. From removal to reunification, or even at termination of parental rights, parental defense attorneys are dedicated advocates, well-versed in the laws and practice of child welfare law in Utah courts. The PDA is proud to support its members, and is ever seeking to provide them with resources in substantive, meaningful, and creative ways. The continuing challenges of the COVID-19 pandemic have required the PDA to be adaptive and flexible, while still providing training of the highest caliber and greatest usefulness to our members, and helping them to address their other needs as well in a legal landscape that looks very different than it did two years ago. We feel we have met these myriad challenges well, while still looking at ways we can continue to improve in the future.



Year in Review

FY 2021¹ was unique in that it was the first year in the PDA's history where all our training events were virtual due to the ongoing COVID-19 pandemic. In some ways, these limitations made things easier. Members did not need to leave their offices to attend our training events, leaving them more valuable time to serve their clients. Also, members in our more rural areas had equal access to our events as those located along the I-15 corridor, an inequity that has long concerned the PDA. Due to the greatly reduced cost of online events, we could plan and execute them more nimbly to address problems as they arose, rather than needing several months of lead time to secure a venue. Additionally, we could secure more nationally-recognized speakers due to the lack of previously prohibitive travel costs. In very impactful ways, the need to shift all our training events online this year has pushed the PDA to better use our limited resources to serve more people and become proficient in virtual training delivery in ways that will positively impact our members in the future.

In other ways, this shift has been challenging, and even damaging to our members. We have now gone almost two years without a live training event. There is significant fatigue surrounding virtual training events. Although access to training is greater, reduced attendance at longer events that typically had very robust numbers (such as our Annual Conference) indicate to us that there is a limit to the number of hours people are willing to sit in front of a screen absorbing information, no matter how critical it is, or how skillfully it is delivered by nationally recognized speakers.

Additionally, now more than ever, our members have almost zero access to any kind of meaningful networking with their peers or other practitioners. Unlike the Assistant Attorney Generals and Guardian ad Litems we work with, there are no centralized offices providing guidance and access to resources for our attorneys. Individual practitioners have been confronted with having to absorb the very real costs of shifting to completely online practice themselves, purchasing equipment and licenses with no increase to their contracts. Finding ways to help our members address these challenges with our own limited budget has been a rewarding task throughout this fiscal year, but one that highlights the continuing inequity between defense counsel, whom we serve, and AAGs and GALs.

Though the past year has been vastly challenging, FY2021 nonetheless provided many exciting opportunities for the PDA to positively impact and change child welfare practice for the better, including the following:

- Participating with a state-wide group of child welfare stakeholders (including leadership from DCFs, the AG's office, the GAL's office, the courts, and other community partners) to promote and train community members on the Core Principles and an accompanying practice guide published in FY2020;

¹ The PDA's fiscal year tracks the State's fiscal year, spanning from July 1, 2020 through June 30, 2021.

- Provide support to the IDC's appellate reimbursement program, supporting several critical appeals to the Utah Supreme Court that appear to be on track to having optimal outcomes for children and families;
- Increasing the PDA's visibility in the legislative process, which has resulted in more invitations to work with legislators on bills that impact child welfare;
- Increasing communication and cooperative projects with our community partners, particularly pertaining to coordinated training efforts, input on legislation impacting child welfare, and navigation of Title IV-e funding per the Family First Act;
- Working extensively with other agencies and offices to elevate practice in child welfare, most particularly the Court Improvement Program and Indigent Defense Commission;
- Providing quality online training events, including a successful annual conference;
- Continuing utilization of the PDA website and email database to keep members aware of important changes in the child welfare community;
- Participating in trainings both locally and nationally, along with other statewide committees related to child welfare; and
- Reaching out to be included as an organization in a robust and ongoing national dialogue about the status of the practice of parental defense, in our jurisdiction and others.

The balance of the Annual Report will address these opportunities in greater detail, as well as outline the allocation of our annual budget.

Board Members

One of the greatest resources the PDA has at its disposal is our Board of Directors. We directly benefit from their 70+ years of collective child welfare experience, as well as their extensive networks in the geographic areas where they practice. We have experienced several years of organizational stability within our Board of Directors, which has been a very bright spot in the world of uncertainty presented to us with the pandemic. However, in November of this past year, Carol Mortensen, who has served on the PDA Board of Directors since 2015 representing the 1st and 2nd districts, found she had to step away from the PDA. Carol's tireless advocacy on behalf of her clients and the PDA will be sorely missed, but we support her decision to move ahead with what was best for her family.

The vacancy left for our 1st district position was posted shortly afterwards to the PDA's listserv. We were fortunate to be able to add Erin Byington to our Board this past January. Ms. Byington is a private defense attorney with a practice principally located in Logan, Utah who regularly practices in Box Elder, Weber, Davis, and Salt Lake counties. She practices in several areas, including juvenile and DCFS cases, and though she does not currently hold a contract for parental defense, she has held one previously, and is well connected to the current contract attorneys in her district. She also handles private TPR cases regularly as part of her practice. Ms. Byington's enthusiasm and expertise have already benefited the PDA, and we look forward to working more with her in the future.

All of our remaining current directors retained their geographic assignments. Accordingly, since September 2017, the PDA Board of Directors has consisted of 6 members (5 voting members and one Executive Director). Jordan Putnam continues in his role as our President and Jason Richards continues to be our President Elect. Thus, our current board structure is as follows:

Name	Judicial Districts	Representative
1st District	1 st	Erin Byington
2nd District	2 nd	Jason Richards (President Elect)
3rd District	3 rd	Jordan Putnam (President)
4th District	4 th	Margaret Lindsay
Southern	5 th and 6 th	Michael Rawson
Eastern	7 th and 8 th	Mark Tanner (treasurer)
Executive Director	All districts	Kirstin Norman

Specific duties of board members include liaison with PDA members in their districts, liaison with court clerks in their districts, planning at least one lunch CLE for their region per year with the Executive Director, observing court with the different judges in their region, and providing mentoring and guidance for attorneys who reach out to the Board with practice related questions. As a reminder of our internal practices, the Executive Director is not a voting member of the Board, except in the event a tie-breaking vote is needed to facilitate a decision.

Truly, one of the greatest benefits the PDA provides to its members is the concentrated assemblage of talent and perspectives on its Board of Directors. All six have been recognized by their peers for the excellence of their practice, with multiple winners of PDA awards for Trial Attorney of the Year, Appellate Attorney of the Year, and Lifetime Achievement Award recipients all in the mix. The institutional knowledge and buy-in this affords the PDA is beneficial in helping us to tailor training events to fit specific needs, as well as allow us to be responsive to questions and concerns from members across the state. Additionally, our mix of contract and private practice attorneys helps us ensure we are not missing out on serving the needs of all attorneys who practice parental defense, though our focus remains firstly on serving the needs of contract attorneys.

Trainings, Seminars and Conferences

One of the main charges of the PDA is to provide training opportunities for continuing legal education credit (CLE) to parental representation attorneys in the state of Utah. This past year, we provided five virtual events, including our Annual Conference. It is worth noting that all this training must be independently accredited by the Utah State Bar Association, and that every application we have submitted to the MCLE department has been approved.



September 18, 2020

Event: Multi-Hour Community Partner Event
Location: Webinar
Topic: Building Relationships Between Birth Parents and Foster Parents
Presenters: Dr. Jerry Milner, Associate Commissioner at the Children’s Bureau, David P. Kelly, JD, MA, Special Assistant to the Associate Commissioner of the U.S. Children’s Bureau, Candice and Jamie (last names removed for privacy concerns), foster parent and birth mom
Number of Registrations: 334; CLE submitted on behalf of 40 attorneys.

This event highlighted some of the benefits of virtual events. Initially, the PDA had interest in securing Dr. Jerry Milner, the then-head of the Children’s Bureau, and his special assistant, David Kelly, to address the topic of building relationships between foster parents and birth parents for PDA members. Both men had made a deep impact on the national parental representation community at various ABA events, and when the two of them were available for our fall event, we were thrilled. However, it was quickly apparent that training only parental representation attorneys on this topic might not be as beneficial as training our entire child welfare community at large. Accordingly, we reached out to the CIP to partner with them to provide this training event to literally every member of our state’s entire child welfare community. This included parental representation attorneys, guardians ad litem, assistant attorneys general, ALL DCFS employees, all foster parents, and other community partners. We were able to utilize the CIP’s larger Webex webinar system so we had no limits on who could attend this event. As a result, 334 individuals attended, making this the largest event the PDA has ever hosted.

Dr. Milner and Mr. Kelly presented information on how to successfully build relationships between foster parents and birth parents, and provided information surrounding the Children’s Bureau’s recent report regarding family time. They

highlighted many of the institutional changes that will need to occur for our child welfare system to adapt to the Children’s Bureau’s vision of the future of foster care, which notably uses the term “resource family” instead of “foster parents.” Following their presentation, a foster parent/resource parent and birth mother from Utah, Candice and Jamie, who had recently successfully worked together to help Jamie reunify with her children, held a conversation about what made their relationship work so well.

This event was successful and memorable for many reasons, including our ability to secure incredibly sought-after, nationally recognized speakers for one of our shorter training events, the ability to serve literally hundreds of our community partners at no increased cost to the PDA, and the ability to spread a critical message as far as possible, while also learning from local speakers with lived experience.

We ended up submitting CLE credit for 40 attorneys, which included an approximately equal mix of AAGs, GALs, and parental representation attorneys. Our hope is that this training fostered conversations that helped foster parents and birth parents see each other as partners and not adversaries. This will yield dividends in the future for our attorneys, whose clients will feel more supported and less attacked by the people caring for their children.

The PDA received approval for 1.5 hours of CLE credit for the event from the Utah Bar.

November 20, 2020

Event: One Hour Lunch Event
 Location: Zoom Webinar
 Topic: 3rd District Judges Panel
 Presenter: Judge Tupakk A.G. Renteria, Judge Susan H. Eisenman, and Judge Elizabeth A. Lindsley
 Number of Attendees: 28

After the recent success of our 1st and 2nd district judges panel, we decided to continue the series and hear from judges in Utah’s 3rd District. We were fortunate to hear from Judges Renteria, Eisenman, and Lindsley, who each took a portion of the time to address best practices in their courtrooms, both virtually and in-person. The judges also provided insights on how they each believe parental defenders could advance their client’s interest in court. This was a well-attended virtual event. Notably, as was the case with our last judges panel, a significant portion of attendees were from outside of third district. We continue to attribute this to members’ curiosity about how judges in different districts handle cases as compared to the judges they normally practice before in their home districts. We intend to continue this process, especially with the recent appointment of new judges in other districts.

December 18, 2020

Event: One Hour Lunch Hour Event
 Location: Zoom Webinar
 Topic: *Objecting to Virtual Termination of Parental Rights Trials*

Presenter: Emily Adams, JD, and Freyja Johnson, JD
 Number of Attendees: 45

This event highlighted the agility of online training events. The format of juvenile court hearings has changed many times throughout the pandemic. Initially, almost everything was put on hold. As it became apparent the world would not be returning to in-person events to the same degree we had done so pre-pandemic, the courts adopted several different strategies in an attempt to continue to move cases forward despite manifest challenges. For a while, juvenile courts put off holding trials in TPR cases virtually because there are very serious due process concerns in doing so. However, a little more than one week before this event, the courts announced an intention to move forward with virtual TPR trials to avoid too much backlog in their calendars. This, of course, immediately alarmed parental representation attorneys. In any hearing where evidence is being presented and weighed by a judge, and particularly where a witness is offering testimony, judges miss out on many critical cues when relying on a virtual presentation. For example, witnesses can receive off-screen coaching. A witness who might be shaking their leg under the table with nervousness would appear artificially calm on a video from the neck up. Because termination cases especially rely so heavily on the judge's opportunity to view participants behavior firsthand, there was deep concern about how to proceed, and indeed, even IF these cases should proceed. Two of the most well-respected appellate attorneys in the state with child welfare focus, Emily Adams and Freyja Johnson, had filed an interlocutory appeal on the issue in one case. We wanted to make their arguments available to attorneys across the state so they could file motions in their cases to at least preserve the issue for review. It was a great opportunity to put together an event in a very small window of time to serve a pressing need. Ultimately, the courts' policies focused on having these type of evidentiary hearings in person due to these important due process issues.

April 22-23, 2021

Event: Annual Parental Defense Conference

Location: Zoom Webinar

Number of Registrations: 90

Presenters:

- **Using the Agency's Witness to Make Your Case** by Eleanor Wilkinson and Victoria Bleier
- **Ethical Considerations in Removing Barriers to Success in Child Welfare Cases**, by Alan Sevison,
- **Reasonable Efforts** by Judge Len Edwards
- **Dealing with Challenging Clients** by Vivek Sankaran
- **Basic Principles of Drug Testing** by Samuel Poff and Gordon Nelson
- **Ambiguous Loss** by Dr. Monique Mitchell

Earlier in the year, the PDA Board of Directors had hoped that our Annual Conference would be able to be in person. As they year progressed, however, it became increasingly apparent that by the time our conference was scheduled in late April, none of our community partners would be holding in-person events due to the ongoing pandemic. Accordingly, we hoped to secure more exciting national speakers to assuage some of the

fatigue settling in around the Zoom format of online webinars. To that end, we didn't really have one keynote speaker, but several whom we would ordinarily be thrilled to secure for our conference line up on their own.

After reflecting on the PDA's finances at the close of FY2020, we determined it was not fiscally sustainable to continue to not charge anything for participants to attend the conference. Keeping in mind a desire not to financially overburden our members, the Board determined a \$75 fee, half of the usual amount, would be appropriate.

90 attorneys registered for and attended the virtual annual conference. Again, this is drastically fewer than our typical attendance, which normally hovers between 150 and 170, and fewer than the 110 who attended the previous year. Since last year's online conference was free and this year's cost attendees \$75, the slight decrease is not unexpected. Indeed, that such a high percentage of people still wished to attend the conference speaks to the utility of the training that the PDA continues to offer, even in less-than-ideal circumstances. Presentations went smoothly, each speaker had the opportunity to participate in a "dress rehearsal" ahead of the conference to test connectivity. Participants submitted questions for the presenters in the chat and Q&A functions, which were relayed by board members who served as panelists to help facilitate the entire event.

Our feedback for this year's conference was overwhelmingly positive, with 100% of survey participants indicating the event was either very relevant (70.6%) or somewhat relevant (29.4%) to their practice. Rather than asking participants to rate the event as a whole, we asked for input on each individual presentation in order to comply with a request from the IDC to provide them with consistent data. Results are summarized below:

Using the Agency's Witness to Make Your Case:

- 41.2% of responses indicated their knowledge and skills were "greatly increased" by this presentation, 58.8% of responses indicated "increased" and 0% indicated their knowledge and skills did not increase as result of the presentation.
- 100% of participants rated the presenters' subject matter knowledge as Excellent (52.9%) or Good (47.1%).
- 58.8% of participants rated the content of the presentation as Excellent, 41.2% rated the content as "good."

Ethical Considerations In Removing Barriers to Success in Child Welfare Cases:

- 47.1% of responses indicated their knowledge and skills were "greatly increased" by this presentation, 35.3% of responses indicated "increased" and 17.6% indicated their knowledge and skills "did not increase" as result of the presentation.
- 47.1% of participants rated the presenters' subject matter knowledge as "excellent," 35.3% rated it as "good," and 17.6% rated it as "fair."
- 29.4% of participants rated the content of the presentation as "excellent," 52.9% rated the content as "good," and 17.6% rated the content as "fair."

Reasonable Efforts:

- 58.8% of responses indicated their knowledge and skills were “greatly increased” by this presentation, 29.4% of responses indicated “increased” and 11.8% indicated their knowledge and skills “did not increase” as result of the presentation.
- 100% of participants rated the presenters’ subject matter knowledge as “excellent” (76.5%) or “good” (23.5%).
- 52.9% of participants rated the content of the presentation as “excellent,” 41.2% rated the content as “good,” and 5.9% rated it as “fair.”

Dealing with Challenging Clients:

- 47.1% of responses indicated their knowledge and skills were “greatly increased” by this presentation, 52.9% of responses indicated “increased” and 0% indicated their knowledge and skills “did not increase” as result of the presentation.
- 100% of participants rated the presenters’ subject matter knowledge as “excellent” (64.7%) or “good” (35.3%).
- 58.8% of participants rated the content of the presentation as “excellent,” 41.2% rated the content as “good.”

Basic Principles of Drug Testing:

- 58.8% of responses indicated their knowledge and skills were “greatly increased” by this presentation, 35.3% of responses indicated “increased” and 5.9% indicated their knowledge and skills “did not increase” as result of the presentation.
- 56.3% of participants rated the presenters’ subject matter knowledge as “excellent,” 31.3% rated it as “good” and 12.5% rated it as “fair.”
- 47.1% of participants rated the content of the presentation as “excellent,” 41.2% rated the content as “good,” and 11.8% rated it as “fair.”

Ambiguous Loss:

- 52.9% of responses indicated their knowledge and skills were “greatly increased” by this presentation, 47.1% of responses indicated “increased” and 0% indicated their knowledge and skills “did not increase” as result of the presentation.
- 64.7% of participants rated the presenters’ subject matter knowledge as “excellent,” 29.4% rated it as “good,” and 5.9% rated it as “fair.”
- 64.6% of participants rated the content of the presentation as “excellent,” 17.6% rated the content as “good,” and 17.6% rated the content as “fair.”

These results were encouraging to the PDA. While the in-person format is deeply missed, it is rewarding to know we have still been able to provide training that is pertinent, interesting, and that raises the ability and knowledge of participants. Comments at the end of the survey indicated some participants felt passionately about still holding the conference in-person, despite the pandemic. With the divided public opinion surrounding

the safety of in-person events, it is not surprising that we deeply disappointed some of our members with the decision to keep this event online. However, it was the only conscionable decision we could make at the time. It is our sincere hope that next year's conference will be able to be held in person once again.

June 25, 2021

Event: One Hour Lunch Hour Event
 Location: Zoom Webinar
 Topic: *Understanding DCFS: CPS*
 Presenter: Sheryl St. Clair and Mandy Adams, Defense-side Social Workers
 Number of Attendees: 25

As the PDA in concert with the IDC looks to expand the defense-side social worker program throughout the state, it has come to our attention that one of the most important things a parental representation attorney should understand are the obligations, rules, and ethics governing the actions of the DCFS caseworker assigned to their cases. Both of UCPD's defense-side social workers have many years of experience at DCFS. We wanted to have them relate some of their wealth of knowledge to our members. As we planned the event, it became apparent that there was so much information to be imparted, it would better serve members to break this up into at least two presentations. The first one focused on the CPS process, with which most of our members have little familiarity.

Cancelled 7th/8th District Event

Event: One Hour Lunch Hour Event
 Location: Zoom Webinar
 Topic: Practical Termination Trial Tips
 Presenter: Jason Richards and Mark Tanner
 Number of Attendees: none

Though virtual training events have many benefits, this event, which ultimately needed to be cancelled, highlights some of the shortcomings. We were aiming to hold a lunch event for our members in 7th and 8th District before the close of the fiscal year. None of our community partners had moved to hold in-person events yet, and it did not seem clear at the time whether it would be safe to do so. We wanted to at least try to facilitate some of the face-to-face type interaction and networking that make our in-person events so popular, so we tried to schedule this event as a Zoom meeting rather than a webinar. This would have allowed a smaller group of participants to have video access to ask the main presenter questions in a more direct way than submitting them to a Q&A. We ran into two types of problems. Firstly, because we were focusing entirely on hosting this event ONLY for members in the 7th and 8th districts, we were only sending invitations to those members through their board representative, Mark Tanner. We knew from the beginning that this would mean this event would have a much smaller number of attendees. However, it proved impossible to coordinate the schedules of this small group, and the event was postponed twice due to conflicts before ultimately being scratched.

Secondly, though this type of event has drawn many participants to in-person trainings in the past, it did not appear to have the same appeal in a virtual format. This demonstrates the needful place in-person training events will still hold in the PDA's future.

Other Training Opportunities

The PDA continues to work closely with the Court Improvement Program to help plan training opportunities that will be useful to parental defenders and other stakeholders in Utah's juvenile courts. This has included being instrumental in planning an ongoing series of webinars based on Utah's Core Principles and Guiding Practices for a Fully Integrated Child-Welfare System, which will continue beyond the end of FY2021.

Videos/On-Demand Training Events

Since the PDA began using the Zoom platform to host our webinars, every training event we have hosted has been recorded to be used for later on-demand viewing by our members. We now have as many on-demand programs available for our members to view from one year of events than we had in the entire previous history of the PDA, and that number will only continue to increase.

All our programs have been approved for self-study credits, and the Bar has waived the in-person requirements for the foreseeable future due to COVID-19 concerns. Due to the exponentially expanding size of our virtual library, we are now reporting CLE hours only for attorneys who attend events live according to the reports generated by Zoom. Any attorney who watches the programs on-demand and requests CLE credit is directed to the Bar website to fill out self-study forms, though we do provide the approved CLE application for their convenience. Recently, the Utah Bar clarified that any event where a participant has the opportunity to ask a presenter a question in real time qualifies as a "live" training event. This essentially makes all of the PDA's training events the most valuable type of CLE needed by our members.

Website, Outreach and Counseling

Website—www.parentaldefense.org

The PDA continues to look for ways to improve the website so that it is a useful resource to parental defense attorneys around Utah. It has been a valuable tool to quickly communicate major changes to our members during the pandemic. All our training events are published on the website, with their accompanying registration links. Also, members can review a host of online resources available to them, including our video on-demand trainings, apply for PDA membership, and update their directory records. The PDA is continuing to work on updating our Forms database, which was somewhat out-of-date.

Parental Defense Database and Emails

The PDA's contract requires it to maintain a database of parental defense attorneys and to use emails to provide updates. We continue to utilize a member management software called WildApricot to provide this service.

At the end of the fiscal year, we had 409 contacts in the database and 285 of those were considered members. The members have their information displayed on our website as part of the directory, while the contacts do not. Members can manage any changes to their personal information by logging into the database which is linked to the website. During the fiscal year the PDA sent 31 emails out to all the contacts, which averages approximately 3 emails per month, with many of these emails focusing around specific events, such as the conference. It should be noted that these are the emails that come directly from the PDA's email blasts and does not include direct email outreach from our board members to individual practitioners.

Consulting

The PDA continues to act as a resource to parental defense attorneys who may need direction or insight regarding a particular case. Our enlarged board has increased the efficacy of this process. PDA Members at large can connect with the board member that represents their region to report issues or challenges they are facing. This increases the channels by which the PDA is able to receive information from its members and allows us to become more responsive to their needs. Throughout the year, the board has consulted with several attorneys regarding various issues relevant to child welfare and juvenile court practice, directing them to resources or trainings that might be of assistance.

Other Activities

As mentioned previously, the PDA maintains a statewide presence in the practice of parental defense by sitting on the CIP Committee, the CIP Training and Steering Committee, as well as by appointing members to the Indigent Defense Commission and its subcommittees. Additionally, we continue to participate in a group of child welfare stakeholders working together towards a collaborative, cross-system, statewide child-welfare transformation in the State of Utah. After the group collectively drafted seven Core Principles that reflected members' overarching goals of child safety, well-being, and permanency last year, it has continued to train extensively on these topics, while adding additional pertinent information as it becomes available. This group includes the following Utah child-welfare professionals:

- Board of Juvenile Court Judges
- Juvenile Court Improvement Program
- Office of Guardian ad Litem and Court Appointed Special Advocates
- Utah Attorney General's Office, Child Protection Division
- Parental Defense Alliance of Utah
- Division of Child and Family Services
- Lokken & Associates, P.C.

Other Conferences and Trainings

Typically, there are numerous local and national conferences and trainings on subjects relevant to child welfare. These events provide great opportunities for the PDA to scout

potential presenters for our conferences, as well as to stay up to date on trends impacting the practice of parental defense nationally. Due to the pandemic, the PDA did not send any participants to in-person events this year. However, the CIP provided funds so that the entire Board of Directors and other interested attorneys could attend the Virtual NACC Annual Conference, which was held in August 2020. These events continue to prove useful for finding presenters, as Eleanor Wilkinson and Victoria Bleier's presentation stood out so much that we asked them to present at our conference.

Grant Program

As the pandemic continued to prevent a return to in-person training events in FY2021, the PDA looked for other opportunities to support its members. With the guidance of the IDC, the Board determined that at the end of FY2021, we would offer a mini-grant program to our members with current contracts. They could apply for reimbursement for purchases up to \$2,000 that were made in direct support of fulfilling their contracts. We took applications for 2 weeks, and ended up with 7 requests totaling \$10,581.14. Purchases were for items like new laptops, printers, or even desks and paper as attorneys found themselves needing to provide their own office supplies working from home. Providing this direct support to our members during a time of crisis when these costs were unpredictably shifted entirely to them was highly rewarding, and we hope to offer similar grants in the future, especially where in-person event expenditures are so low.

Assistance on Appeal

One of the PDA's contractual responsibilities involves making expenditures from the Child Welfare Parental Defense Fund (Fund 2090) for the purposes articulated in Utah Code Section 63A-11-203. Those purposes are:

- (a) to pay for the representation, costs, expert witness fees, and expenses of contracted parental defense attorneys who are under contract with the department to provide parental defense in child welfare cases for the indigent parent or parents that are the subject of a petition alleging abuse, neglect, or dependency;
- (b) for administrative costs under this chapter; and
- (c) for reasonable expenses directly related to the functioning of the program, including training and travel expenses.

A parental defense attorney representing a parent or parents that are the subject of a petition alleging abuse, neglect, or dependency under the provisions of Title 78 Chapter 3a, Juvenile Courts, Part 3 or 4 and who have been determined by the court to be indigent pursuant to the provisions of Utah Code Section 77-32-202, may apply to the Parental Defense Alliance for reimbursement of those particular costs.

Historically, the PDA has determined that a parental defense attorney whose clients meet the requirements may be reimbursed for the costs of procuring expert witness services, paralegal services on appeal, and court transcripts for appeals, in order to assist in providing an effective defense. However, more recently, the counties have almost entirely assumed the responsibilities of reimbursing expert witness and court transcript costs. Accordingly, for several years the 2090 Funds were used primarily for reimbursing paralegal assistance costs, though the PDA retained the ability and discretion to use them for other purposes articulated in the statute, insofar as doing so would increase the

likelihood of success on appeal for those cases deemed by the PDA Board of Directors as being central to our mission.

As indicated in last year's Annual Report, the creation of a Child Welfare Appellate Roster changed practice surrounding these appeals for the better. The roster rules required that once a case made it to full briefing, an additional, vetted attorney with significant appellate experience had to join these cases as co-counsel. With qualified roster attorney appointed to each case, need for the 2090 funds drastically diminished. However, FY2021 provided new opportunities to use this fund in very meaningful ways.

Via legislation passed the previous session, the IDC was tasked with providing funding for child welfare appeals that arose in 3rd-6th class counties. It became apparent by late summer of 2020 that the IDC would run short of funding to make it to the end of the year. Accordingly, the PDA entered an agreement with the IDC to help provide a stop-gap to that funding from October 2020 through January 2021. Though the expenditures were relatively modest (less than \$2000 for two cases), the PDA appreciated the opportunity to support the elevation of appellate practice amongst our members.

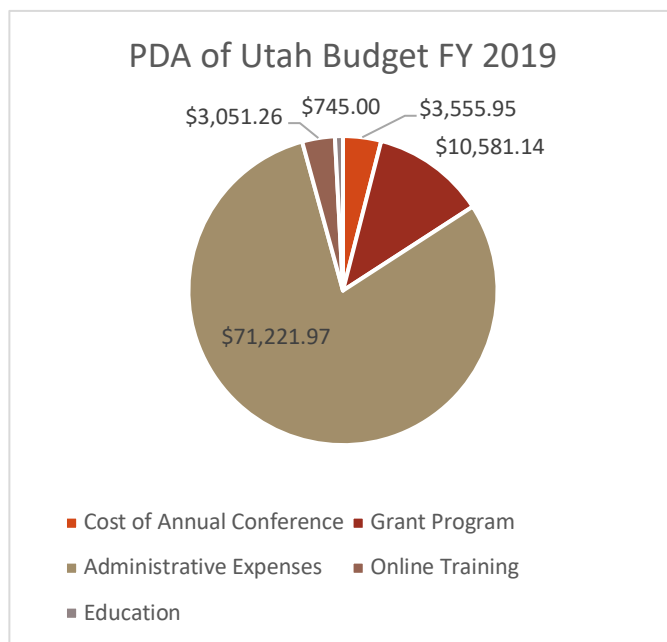
Additionally, the IDC had agreed to fund the appeals for both parents in a highly important child welfare case, *In re J.L.* (Case no. 20200271). However, once the Supreme Court granted certiorari for the case, the IDC realized it would run out of funding before the case made it through oral argument. The issue at hand in this case deals with the extremely (arguably overly) deferential standard of review granted to juvenile court judges in termination cases. This case directly impacts essentially all of the cases PDA members are involved in, and knowing that two extremely high-caliber attorneys were on board representing the parents, the PDA agreed to fund the rest of the case through oral argument in front of the Supreme Court. This expenditure totaled \$39,200, which is a significant portion of the remaining 2090 funds. The PDA also utilized funds from its general budget to author an amicus brief in this case, providing the Supreme Court with critical insight in this case's impact on the child welfare community across the state. The Supreme Court has not yet rendered its decision at the time of this report. However, it did ask for supplemental briefing, and the direction of that inquiry seems very promising. After literally years of these funds remaining untouched, it was rewarding to utilize it in a way that potentially may result in a sea-level change for parental representation attorneys, and more importantly, their clients in the wake of this case.

The total aggregate amount of grant reimbursements for services cannot exceed the amount available in the "Child Welfare Parental Defense Fund," a restricted fund created by Utah Code. Expenditures to the fund in FY2021 totaled \$41,022.50.

Budget

The PDA of Utah has an annual budget of \$95,200.00 appropriated from the Utah legislature. In addition to those funds, the PDA typically receives \$13,000.00 towards the cost of our annual conference from Utah's Court Improvement Program, as well as revenue from the Annual Conference that usually totals approximately \$20,000.00. This year, the CIP did not transfer any funds to the PDA because we did not end up holding an in-person event. We charged \$75 per registration this year for our online annual

conference and received \$5695.31 in income from that event. Additionally, we received a refund of \$10,000.00 from our venue from the previous year for our cancelled conference in late August 2020. Thus, despite typically expecting an Annual Budget of \$122,000.00 or more, our actual total budget for FY2021 was \$110,859.31.



During FY2021, the PDA expended \$89,165.32. This means that we did not spend \$21,693.99, which includes the \$10,000 refund from last year's conference. As we explained in last year's Annual Report, because the State's fiscal year was irrevocably closed by the time we received the refund from our venue, we could not return these funds to the State. As such, we kept the funds in our operating account and deducted out ongoing expenses from our operating account until the \$10,000 was fully

utilized, which ended up lasting from August 2020-October 2020.

The PDA organizes its expenditures into five categories: Administration (which includes Officers' and Directors' Time and Business Expenses), Conference (which reflects the expenses incurred in putting on the Annual Conference), Education (which includes the expenses incurred sending our board members to national and local training events), Training (which reflects the expenses incurred for in-person training events other than the Annual Conference), and Online Training, (which reflects expenses incurred for training that is only available online.) This year, we added a sixth category for the Grant Program.

Perhaps predictably, spending for FY2021 closely tracks that of FY2020, but differs vastly from non-pandemic years. The most remarkable difference is in the Conference category. Most years, this figure hovers around \$50,000. This year, that number was \$3,555.95, which closely tracks the FY2020 figure of \$3,150.90. We are deeply hopeful that next year's Annual Conference will be in-person, and cost closer to the \$50,000 figure we typically expect for that event. As such, it would be more appropriate to predict future expenditures in the Conference category by tracking previous years rather than the past two.

It should also be noted that our Administrative expenses decreased slightly in FY2021. Last year, those expenses totaled \$76,650.56. This year, that number is \$71,221.97. The slight decrease is likely due to the temporary vacancy in our 1st District position. However, the increased outreach overall by our board of directors should be consistent in the future.

As the PDA is included in more important decision making within our child welfare community, these hours predictably trend upwards. Involvement in projects such as the Core Principles working group, or CIP Bench Card Pilot program takes a significant amount of time, yet the PDA's participation is absolutely critical to ensure parents and their attorneys have their interests represented in the places where the biggest decisions impacting their rights are made. We also continue to work in concert on more and more projects with the IDC that are designed to make positive, lasting changes to child welfare practice.

As the PDA seeks to expand its impact in a meaningful way, and hopefully move towards more in-person events in FY2022, the surplus we have from the past two years of underspending, and even before that time, will be instrumental in helping us gear up for the increased cost of those events, as well as increased activity within our child welfare community. At some point, this might necessitate an increase in the allotment from the State legislature or permission to increase the amount we charge for our Annual Conference or other training events. However, at the present time, it seems no immediate changes need to be made in order for the PDA to meet the financial requirements of fulfilling its statutory obligations.