

# Parental Defense Alliance of Utah



Annual Report

FY 2017

## 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 63A-11-104 to provide training, organizational and other resources to parental defenders across the State. 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 the juvenile courts. The PDA is proud to support its members, and is ever seeking to provide them with resources in substantive, new, and creative ways.



## Year in Review

FY 2017<sup>1</sup> was a year of dynamic growth for the PDA. Our training opportunities reached more attorneys than ever before, and our Board of Directors expanded in membership and skill specialty beyond what it has provided in the past. These incredible growth opportunities did not come without challenges, and as organization, the PDA was required to be more creative than ever in determining how to stretch its resources in order to best serve these growing demands. In addition to continuing to fulfill our mission to provide the best possible training and assistance to Utah's parental defense attorneys, we also pursued new methods and opportunities for providing outreach and support to our members, which included the following:

- adding two new board members (totaling 7 in FY2017), which expanded the Board's geographical representation, as well as adding specialized expertise in particularly challenging areas of parental defense work, including appeals;
- providing a number of in-person trainings, including a successful annual conference and renewal of several online training opportunities;
- updating our website and using our blog and emails to provide relevant information related to child welfare to our members and contacts;
- participating in trainings both locally and nationally, along with other statewide committees related to child welfare;
- continuing to reimburse funds to attorneys who represent indigent parents for the purposes of appeal and expert testimony; and
- reaching out as an organization to be included 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

As you may recall from previous Annual Reports, the PDA has gradually been expanding its Board of Directors with the ultimate goal of having each judicial district represented by a single member on the Board. As the Board has expanded, the additional experience and perspectives we have assembled have enriched our training opportunities and expanded the geographical area we can reasonably reach in impressive ways. In February 2017, the PDA continued this expansion by adding Michael Rawson as the 5<sup>th</sup> District Representative, and Margaret Lindsay as the 4<sup>th</sup> District Representative. Additionally, due to the resignation of Board Member Jim Smith, the Board hired Jordan Putnam to be the new 3<sup>rd</sup> District Representative, and reassigned Grant

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<sup>1</sup> The PDA's fiscal year tracks the State's fiscal year, spanning from July 1, 2016 through June 30, 2017.

Dickinson to be a floating representative, better suiting our organizational needs. These additions are exciting for many reasons. Firstly, with the addition of Michael Rawson, for the first time, the PDA has a Board Member who actually lives in and practices in the 5<sup>th</sup> District. Rather than hoping to connect with our southern district members during yearly training events, we can rely on Michael to keep us abreast of the unique challenges that need to be addressed in the 5<sup>th</sup> District. Secondly, the addition of Margaret Lindsay to our Board has provided us with institutional expertise that we have never had before, namely in appellate experience and providing us with insight into our State's lone institutional provider of parental defense, the Utah County Public Defender's Office. These additions required restructuring of our board, as follows:

Name	Districts	Representative
<b>Northern</b>	1 <sup>st</sup> and 2 <sup>nd</sup>	Carol Mortensen (president-elect)
<b>3<sup>rd</sup> District</b>	3 <sup>rd</sup>	Jordan Putnam
<b>4<sup>th</sup> District</b>	4 <sup>th</sup>	Margaret Lindsay
<b>5<sup>th</sup> District</b>	5 <sup>th</sup>	Michael Rawson
<b>6<sup>th</sup> District</b>	6 <sup>th</sup>	Dave Boyer
<b>Eastern</b>	7 <sup>th</sup> and 8 <sup>th</sup>	Mark Tanner (treasurer)
<b>Floating Representative</b>	All districts	Grant Dickinson (president)
<b>Executive Director</b>	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 contributing posts to the PDA's blog. 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.

As you may recall, in April 2016, the board elected Grant Dickinson to be its President, Carol Mortensen as President-Elect, and Mark Tanner as Treasurer, with each officer serving for a period of two (2) years. They are each currently in the second year of fulfilling these offices.

## 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 defense attorneys in the state of Utah. This past year we provided four different in-person training opportunities.

### **October 14, 2016**

- Event: Multi-Hour CLE Event  
 Location: Utah Court of Appeals  
 Topic: *Appellate Practice Workshop*  
 Presenters: Judge Michele Christiansen,  
 Associate Presiding Judge of the  
 Utah Court of Appeals  
 Mary Westby: Staff Attorney for the Utah Court of Appeals  
 Kristin Gerdy: Director of the Rex E. Lee Advocacy Program at the J. Reuben  
 Clark Law School at BYU  
 Number of Registrations: Approximately 40



Our fall, multi-hour CLE event was an Appellate Practice Workshop. In the course of reviewing applications for reimbursement for paralegal assistance, as well as assembling case description for the case law database that we have been working on for the past two years, the Board of Directors identified a need for training in the area of appellate writing. Utah’s unique statutory scheme requires that parental defenders file the appeal in child welfare cases. The style and format of this writing is drastically different from that which the vast majority of our members are familiar. Accordingly, we focused this training on improving this skill set. Mary Westby, the staff attorney responsible for writing all of the child welfare memorandum decisions for the court of appeals, presented on tips and tricks from a clerk’s point of view, focusing on points that would make Petitions on Appeal more likely to be selected for full briefing, as well as what makes for an excellent brief. Next, Kristin Gerdy, Director of the Rex E. Lee Advocacy Program at the BYU law school, led a workshop on organizational techniques that improve the quality and persuasiveness of appellate briefs. Finally, Judge Michele Christiansen then presented on what she’s looking for in a brief from the position of the bench. She also engaged in a very useful dialogue on this topic with our members.

We had approximately 30 people attend this in-person training event. Feedback from our survey of the event was entirely positive, with 100% of those responding rating the event as “Excellent” or “Good.” One survey participant said the following about this event:

This group puts on one of the most consistently good series of continuing legal education courses in the state. There is very little I could suggest to improve. You do a great job. I am most grateful.

The PDA received approval for 3 hours of CLE credit from the Utah Bar. The event was so successful, that the staff of the Court of Appeals was open to perhaps hosting a yearly event to improve training in this particularly difficult area of parental defense work.

### ***April 27-28, 2016***

Event: Annual Parental Defense Conference

Location: The Zermatt Resort and Spa, Midway, Utah

Number of Registrations: 171

Presenters:

- **Keynote: The Project to Enhance Permanency**  
by Christine Sabino Kiesel, Esq.
- **Getting an Early Start on Cases: Panel Discussion**  
by McKette Hinkins Allred, Janell Bryan, and Jason Richards, moderated by David Boyer
- **Successful Strategies for Effective Parent Time**  
By Tara Adamson, CMHC
- **Preservation: Starting with the Appeal in Mind**  
by Mark Tanner, PDA Board of Directors
- **Celebrity Match Game! Professionalism and Civility Challenge**  
by Grant Dickinson, PDA Board of Directors
- **Advancing Your Argument**  
by Professor Kristin Gerdy, Director of the Advocacy Program at the J. Reuben Clark Law School at BYU and Kirstin Norman, Executive Director of the PDA
- **Case Law Update**  
by Mary Westby, Staff Attorney for the Utah Court of Appeals
- **Ethics: Dealing with Difficult Clients**  
by Lisa Lokken, Lokken & Associates, P.C.
- **The Brain Architecture Game**  
Administered by the PDA Board of Directors
- **Legislative Update**  
by Tara Harrison, Associate General Counsel for the Office of Legislative Research

This year's conference had the largest number of registrants for a parental defense conference ever hosted by the PDA. We had 171 persons register, which is approximately 13% more than the two previous years of the conference. Additionally, of those 171 registrants, 163 actually attended, where our typical attendance is usually between 130-140, which represents a growth in the number of actual attendees nearer 25%. This growth provided challenges, one of which was finding sufficient lodging for all attendees. We ended up needing to sign a contract with the nearby Homestead Resort for overflow. Despite these challenges, administration of the

conference went very smoothly, and the increased attendance did not ultimately impact the function or quality of the conference.

Of those surveyed, 18.2% reported that this was the first year they had attended the conference, which is interesting as it is on par with previous years. This means, at least amongst those who responded to the survey, the increase cannot be attributed solely to new attendees.

Our feedback for this year's conference was overwhelmingly positive: 90% of those surveyed rated the conference as either "Excellent" or "Good." Again, participants favored the front-loaded format of having the first day be longer and the second day ending at lunch. All but one of those surveyed indicated that the conference was relevant to their daily practice. One survey participant noted "The conference improves every year and it certainly exceeds my expectations." The most well-reviewed presentations were Mark Tanner's presentation on preservation, Lisa Lokken's presentation on dealing with difficult clients, and our keynote address.

Interestingly, we did have 3 surveys rate the conference as "fair" and one that rated it "poor." For the most part, these responders did not like the "game" presentations and felt they were a waste of time. Ironically, we included the two different Game presentations in response to requests from previous years to appeal to different learning styles in the presentations offered at the Conference. Also, the label of "game" is itself a bit misleading. The Brain Architecture Game is actually a way of physically manifesting the physiological differences between a normal brain and one that is raised in a stress-inducing environment. This training worked hand-in-hand with those we've offered previously on ACES scores, but presented the information in a method friendlier to kinesthetic learners. During the game itself, the entire room of participants was engaged and participating in making their team "brains." While a notable few participants were unhappy, it did provide a unique opportunity to try a different method for imparting information to our members. Ultimately, all of the surveys are invaluable to us to stay connected with the needs of our members. Frankly, the negative surveys help more than the positive ones in helping us identify areas where we can improve for future conferences.

### ***July 14, 2017***

Event: Lunch CLE  
 Location: Utah County Public Defender's Office, Provo, UT  
 Topic: *Enhancing Permanency*  
 Presenter: Margaret Lindsay  
 Number of Attendees: 9

Following up on the keynote address at the PDA Annual Conference, Margaret Lindsay held an afternoon CLE event addressing how to enhance permanency hearings. She drew her remarks from some of the data that Christine Kiesel had presented at our annual conference as to what

factors are most likely to contribute to better outcomes for parents and families. She then led a discussion on what efforts practitioners could specifically make in the 4<sup>th</sup> district to make some of these factors a reality. One example was for attorneys to ask for 2 hours of parent time a week instead of settling for the customary 1 hour per week that is currently adhered to by most courts. It was a great opportunity for practitioners in the 4<sup>th</sup> District to meet Margaret and unify their efforts to push for system change that will be better for families in ways that are realistic and meaningful.

### ***July 28, 2017***

Event: Lunch CLE  
 Location: Frontier Grill, Roosevelt, UT  
 Topic: *Practical Tips and Resource Review*  
 Presenter: Mark Tanner  
 Number of Attendees: 5

Mark Tanner presented a lunch CLE training to attorneys in the 7<sup>th</sup> and 8<sup>th</sup> districts that addressed some practical tips, particularly focused on preservation techniques, and a case review of two Utah Supreme Court cases that had been handed down in the past year that impacted parental defense that he had worked on personally. He also did a resource review for the members who attended so they would know exactly how the PDA was equipped to assist them in their practice.

Given the geographical remoteness of these districts, we were very happy with the turnout. Several of the attendees specifically mentioned how grateful they were that the PDA would make the effort to come out to them for the training event. We understand that these are some of our most underserved members, and that familiarizing them with the PDA resources available to them is of paramount importance. It also offered the unique opportunity for Mr. Tanner to meet face to face with attorneys he often doesn't get to see, so that they could feel connected to their representative on the PDA Board of Directors.

These small lunch training opportunities are incredibly valuable to the PDA, particularly in helping us become more acquainted with the unique needs our members have in their different geographic locales. We plan on continuing these training opportunities in the future, with a goal to continually rotate to some of the more rural districts each year.

### ***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.



Additionally, this year, Kirstin Norman had the unique opportunity to be selected to attend the Family Defense Workshop at the University of Michigan School of Law in June, 2017. This event is funded by the Casey Family Foundation and hosted by Professors Vivek Sankaran and Matthew Fraidin, both of whom are renowned scholars who focus their research on parental defense. Participants are selected to attend based on their ability and desire to help institute system change in favor of parents in their jurisdictions across the country. The Workshop provided Ms. Norman with an incredible opportunity to network with attorneys in other states who have cultivated resources for parents and attorneys far beyond those currently available in Utah, helping us to create a plan to institute similar programs and opportunities in the future. Some of the most promising projects are a Child Welfare Appellate Clinic to be run in partnership with one of the law schools here in Utah and defense social workers.

Additionally, in the last legislative session, the PDA was included in the selection process of appointing members to the Indigent Defense Commission. Margaret Lindsay was nominated by the PDA to sit on this incredibly influential Commission, and later approved by the Governor. Sitting on the Commission will not only ensure that parental defenders have a voice in policy and standards impacting parental defenders, but also keep us informed of looming legislation that will likely impact our members, which we have struggled to stay abreast of in the past. Within the IDC, a subcommittee for parental defense was also created. Margaret Lindsay and Kirstin Norman sit on that subcommittee, as well as PDA members Jason Richards and Lisa Lokken. We are confident in these members' abilities to positively impact the role of parental defenders across the State.

### ***Videos***

As indicated previously, we currently have five (5) online trainings available on demand to PDA members for which they can receive CLE credit. Those trainings are:

- Structured Decision Making: Safety and Risk Assessments (3 hours)
- Children of Incarcerated Parents (.5 hours)
- Juvenile Court Boot Camp for Parental Defenders (1 hour)
- Judges Panel: Mistakes Attorneys Make in Juvenile Court (1 hour)
- 4<sup>th</sup> Annual ICWA Conference

We did not produce a new online training opportunity in FY 2017. Additionally, in preparing our preliminary budget for FY2018, in anticipating the growing cost of the Annual Conference, we are not sure if we will be able to continue to produce more than 1 online video per year. We do renew the CLE applications every year to ensure our members continue to get value from these resources.

It also should be noted that whenever possible, the PDA tries to ensure that our members have access to discount codes to view the online trainings for free. Our purpose is to provide training to our attorneys, and we do not seek to profit from this endeavor. Rather, the online trainings

appear online as purchasable so that attorneys who do not practice in any child welfare related field (and consequently, don't have access to the code) do not utilize our videos to satisfy their CLE requirements, without providing any improvement to the practice of parental defense in the process. The PDA will continue to make trainings available online where appropriate. Not only will this help attorneys who are currently practicing child welfare law, but as new attorneys join the practice, these videos will be available to provide training and supplement the live, in-person events that we will continue to put on.

## **Website, Outreach and Counseling**

**Website—[www.parentaldefense.org](http://www.parentaldefense.org)**

The PDA continues to look for ways to improve the website so that it is an excellent resource to parental defense attorneys around Utah. We continue to add webpages for use during the annual conference, which allows us to distribute materials digitally and save printing costs. All of 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.

**Blog—[www.parentaldefense.blogspot.com](http://www.parentaldefense.blogspot.com)**

In addition to the website, our Blog has become an integral part in sharing relevant information with attorneys. The Blog provides opportunities for members of our board to share topics intriguing to them in their practice, and that they believe would similarly be of use to our members. This opportunity to utilize so many different perspectives highlights the usefulness of both the Blog itself, and our newly expanded board. Those interested can subscribe to the Blog to get updates. The Blog is also searchable and posts are tagged by topic, so ultimately the blog's greatest feature is that it can be used as a searchable database resource for attorneys looking for information on a specific topic.

### ***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. We are highly satisfied with this program as it allows us to not only keep track of members, but to email them all at once. We are able to send blast emails regarding Save the Date reminders, as well as to seek immediate feedback from PDA members on pressing issues.

At the end of the fiscal year we had 336 contacts in the database and 278 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 76 emails out to all the contacts, which averages to just over 6 a month. Most of the emails have been related to PDA events and training, but we have also included references back to blog posts for those who do not read the Blog regularly. This has resulted in an increase of traffic to the Blog.

### ***Counseling***

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 particularly increased the efficacy of this process. PDA Members at large are able to 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 a number of attorneys regarding various issues relevant to child welfare and juvenile court practice, directing them to resources or trainings that might assist them.

### **Other Activities**

As mentioned previously, the PDA maintains a statewide presence in the practice of parental defense by sitting on the CIP Training and Steering Committee, as well as by appointing members to the Indigent Defense Commission and its subcommittees. These relationships help keep us informed on the status of child welfare practice throughout the State.

### ***Other Conferences and Trainings***

There are numerous local and national conferences and trainings on subjects relevant to child welfare. The PDA board wanted to inform themselves, as well as other parental defenders, to what other state and local agencies are doing and keep aware of national trends and ideas. Due to scheduling conflicts, this year, the PDA sent 3 board members to attend 2 conferences/training events.

- April 21-25, 2016: *ABA Parent Attorney Conference*, Washington DC; attended by Board Members Grant Dickinson and Mark Tanner
- June 8-9, 2017: *Family Defense Workshop*, Ann Arbor, MI; attended by Kirstin Norman

### **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, the 2090 Funds are used primarily for reimbursing paralegal assistance costs, though the PDA retains 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.

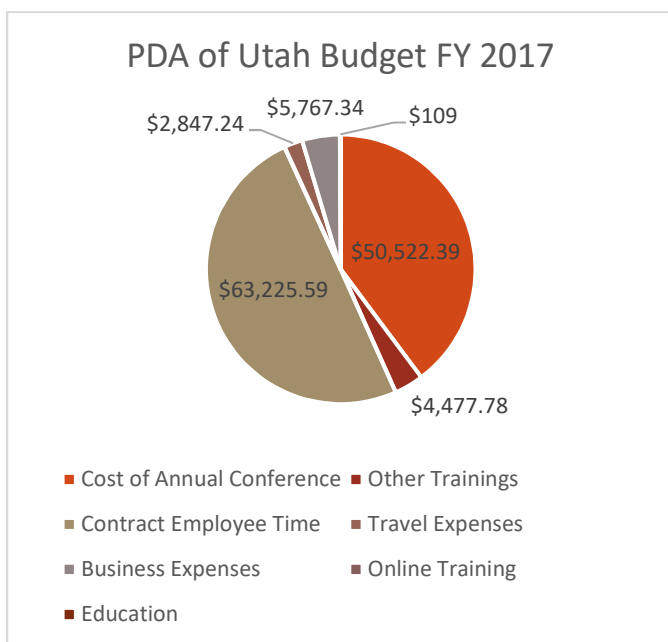
As of August 1, 2012, the PDA instituted a policy requiring a qualitative review of the issues in the case prior to reimbursement approval in order to ensure that the funds be used to assist in meaningful changes in the law. The policy was revised further still in October 2016 to ensure that the dwindling funds are used to their greatest effect on the cases most likely to succeed on appeal.

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 Section 63A-11-203. The balance of the restricted fund at the end of the fiscal year was \$44,404.45.

During FY2017, the PDA provided reimbursement for paralegal assistance on six (6) different cases in the amount of \$14,017.48. Several of those cases are still pending decisions from the Utah Court of Appeals. The PDA diligently tracks the amount spent on each case. Our policies limit the amount spent on a single case to \$2,500. This past year, the PDA made concerted efforts to keep attorneys informed of where they stood in relation to using the approved fund amount. This had the result of ensuring that none of the cases funded in FY2017 went beyond that limit.

## **Budget**

The PDA of Utah has an annual budget of \$95,200 appropriated from the Utah legislature. In addition to those funds, the PDA received \$14,000 towards the cost of our annual conference from Utah's Court Improvement Program. We received \$15,864.00 in revenue from the Annual Conference due to the \$100 attendance fee and the cost of meals for guests. We also received a nominal amount of \$21.30 in online training income. Thus, our total budget for FY 2017 was \$125,085.30.



During the fiscal year, the PDA of Utah expended \$132,213.61. This means that we spent \$7,128.31 over budget, which money was from a surplus from previous years.

The largest increase in spending over last year was the cost of the Annual Conference. This can be attributed to the 20% increase in conference attendance as compared to previous years, and to the fact that per diem rates for hotel rooms in Midway, UT raised from \$90 per night to \$100 per night. There was only a slight increase in Contract Employee Time, despite

the fact that we added two new board members in the past year. This fact demonstrates that our Board continually donates their time to the PDA when they could be billing for it. We spent significantly less on our online training opportunities, due to the fact that we did not produce a new video this year, but renewed the CLE applications for existing ones. The remainder of our expenditures remained similar to previous years<sup>2</sup>. We look forward to continuing to utilize our budget for maximum effect in FY 2018.

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<sup>2</sup> In comparison to last year's Annual Report, it would appear that there was a drastic reduction in travel expenses. However, in reality this is due to a change in internal accounting practices. You will notice the inclusion of "Education" as a category of PDA expenditures. All expenses related to sending Board or PDA members to conferences, including the travel and lodging costs associated with doing so, are included in the "Education" category. Travel expenditures solely reflect in-state travel reimbursement.