

# Moving the Dial:

IMPROVING PARENT AND  
CHILD REPRESENTATION



# Presenters

- Wendy Sotolongo,  
Office of Parent Representation (North Carolina)
- Sue Jacobs,  
Center for Family Representation (New York)
- Joanne Moore,  
Washington State Office of Public Defense
- Tamara Steckler,  
Juvenile Rights Practice, Legal Aid Society (New York)

# Office of Parent Representation

NORTH CAROLINA



# Comparison

## North Carolina

- Population 10,042,802
- Foster care 9,800 (FY14)
- 53,819 sq mi
- 268 district ct. judges
- 100 Counties, 1 tribe; state-administered/county-implemented DSS model
- State pays for parent representation

## Minnesota

- Population 5,489,594
- Foster care 6,300 (FY14)
- 86,939 sq mi
- 279 district ct. judges
- 87 counties, 11 tribes; state-administered/county-implemented DSS model
- Counties pay for parent representation

# Office of Parent Representation (OPR)

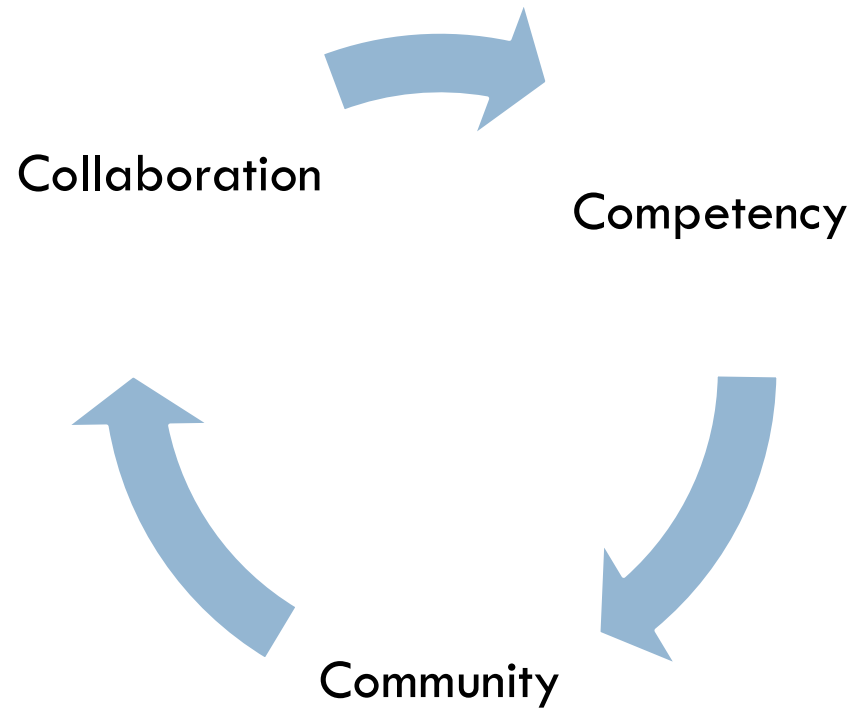
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OPR was created by NC Indigent Defense Services in 2006.

- OPR is a state-wide public defender office. Our mission is to ensure effective legal representation of indigent parents in AND and TPR cases.
- Since 2006, we have grown from 1 to 5 staff including 3 in-house appellate attorneys. We also oversee 20 roster appellate attorneys.
- For trial attorneys, we provide training, support and performance guidelines and advocate for policy and legislative changes. We oversee a small number of contracts.
- At the appellate level, we appoint counsel in all appeals from AND and TPR cases, averaging 200 appointments per year. We monitor the quality of representation through mandatory training and regular evaluation of briefs.

# North Carolina

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# Community

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100 counties =

100 Contacts

# Community

- Listserv for Parent Attorneys
  - Training Announcements
  - Decision Day
  - Experts





# Competence-Training-2015

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- **March 12-13.** New Parent Defender Training. Cosponsored by the UNC-Chapel Hill School of Government (SOG) and IDS.
- **April 8.** “Constitutional Issues for Fathers Known and Unknown.” Social Services Attorneys’ Winter Conference. Sponsored by SOG.
- **May 8.** “North Carolina Trial Skills Incubation Workshop.” Sponsored by North Carolina’s Court Improvement Program (NC-CIP).
- **August 13.** “Advanced Evidence in Abuse, Neglect and Dependency Cases.” Annual parent attorney conference cosponsored by the SOG and IDS.
- **September 11** (Wake County), **September 18** (Gaston County) and **September 25** (New Hanover County). “The Plot Thickens: Review and Permanency Planning Hearings in Abuse, Neglect, and Dependency Cases.” Regional trainings sponsored by NC-CIP.
- **October 16.** “Ineffective Assistance of Counsel Claims in Abuse, Neglect, and Dependency Cases.” Annual conference for Guardian ad Litem Attorney Advocates.
- **November 19.** Appellate Boot Camp-Parent Representation. Required training for new roster attorneys doing A/N/D and TPR appeals.

# Collaboration-Committees

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- Court Improvement Program's Advisory Committee, Training Subcommittee and Juvenile Code Revisions Subcommittee
- Governor's Crime Commission, Child Abuse and Neglect Subcommittee
- Appellate Rules Committee, NC Bar Association
- AOC Forms Committee, Juvenile Forms Subcommittee
- Memorandum of Understanding (MOU) Committee  
IDS, State DSS and AOC
- ABA Parent Counsel Organization's Steering Committee and Development Subcommittee
- Adoption Committee of the Family Law Section, NC Bar Association



# Collaboration-Committees

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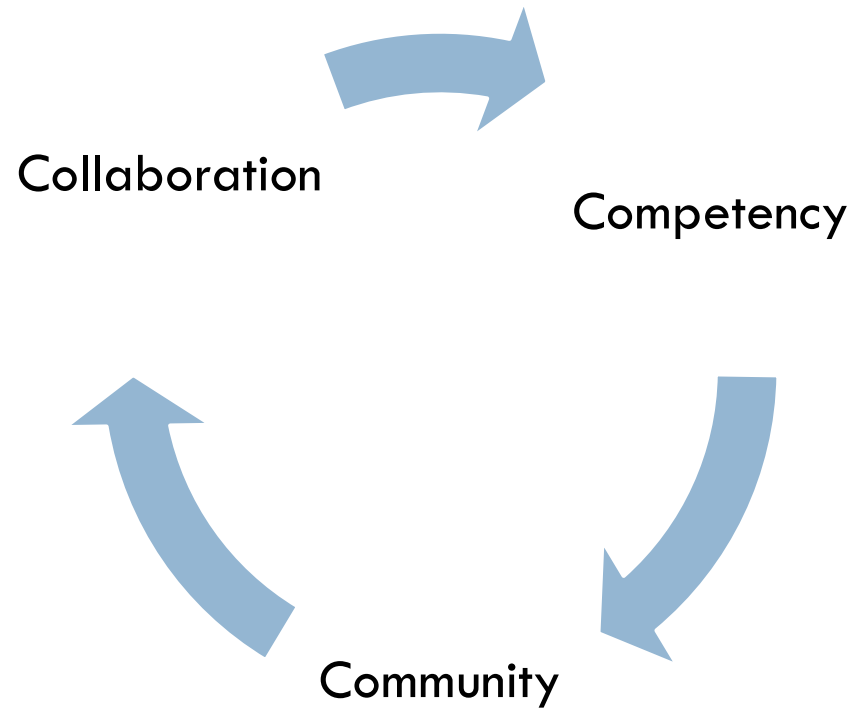
Small and large accomplishments:

- Change in language
- Court calendars
- AND/TPR manual
- Discovery statute
- Reinstatement of Parental Rights



# North Carolina

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# The Future...



- Increase attorney compensation
- Increase number of law school clinics
- Additional contracts for parent representation
- Additional representation by PD offices
- Additional resources for holistic representation

# How Much Does it Cost?

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□ PAC (Private Assigned Counsel)	\$7,500,494
□ Public Defenders-estimate	\$ 230,000
□ Contract Attorneys-Trial	\$ 627,557
□ Roster Attorneys-Appeals	\$ 411,051
□ Office of Parent Representation (includes 4 attorneys and 1 AA)	\$ 434,802



## NEW YORK

Founded in 2002 to provide free legal and social work services  
to NYC families involved in the child welfare system

[www.cfrny.org](http://www.cfrny.org)

Center for Family Representation

40 Worth St, Suite 605

New York, NY 10013

# How We Grew

- Pre 2002, parents in NYC represented by solo attorneys who were leaving the practice

## Our Team Model:



- Demonstrated results with small caseload and data; shorter lengths of stay and cheaper/more accountable for gov't.
- In 2007 NYC issued RFP for institutional providers; required social workers, parent advocates, data



# The Four Cornerstones

## Visiting

Should be as frequent and long as possible, and in settings that most closely mimic family life.

## Placement

Should support a child's connections to family and the people and institutions that the child was connected to before placement.

“Cornerstone Advocacy” supports family reunification by devoting intensive advocacy during the first 60 days of a case in four areas.

## Services

Should address a parent and child's strengths and needs.

## Conferences

Should occur out of court and provide opportunities for parents and older youth to meaningfully participate in their case planning.

# Services and Costs

- Since 2002, represented over 6,000 parents with over 11,500 children in dependency, termination, interim and final appeals and collateral matters
- **Yearly intake:** over 800 new cases and over 2,000 total cases in Manhattan and Queens
- CFR's budget in 2014: \$7.5 million
  - ▣ Expenses: \$6.25 million for personnel, 1.25 million for OTPS
  - ▣ City contracts paid for \$5.6 million
- CFR fundraises the rest of the budget
  - ▣ Other government sources paid for \$500,000
  - ▣ Foundations paid for \$800,000
  - ▣ Individual donors paid for \$480,000

# Fundraising 101

- There are 3 “legs” to our fundraising:
  - ▣ Government contracts (which pay for mandated services like lawyers)
  - ▣ Foundations (which pay for mostly program related services)
  - ▣ Private donors (who and how to find them)
- Each kind of funding is important and has different strategies
- Advocacy for each – legislative, executive, PR, etc.

# Results

- More than 50% of our families avoid foster care
- Since 2007, our clients' children who are in foster care stay half as long as other children citywide

**\$6,500**

The average cost of our services per family, regardless of the number of children.

vs.

**\$30,000**

The minimum cost to keep a child in foster care for a year.

# Expansion



- SSFI – get families on the road to stability
- Housing, public benefits, criminal defense, families in transition, economic self-sufficiency, immigration
- Move toward holistic representation w/additional civil legal services



Washington State  
Office of Public Defense

# PARENTS REPRESENTATION PROGRAM

Joanne Moore, Director  
711 Capitol Way S, Ste 106  
Olympia, WA 98501

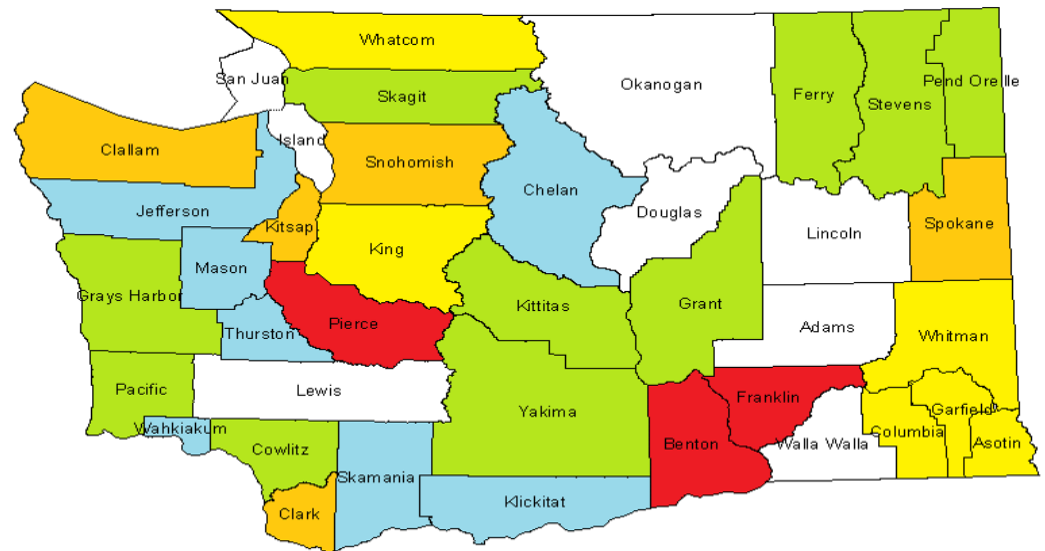
# Pilot Program



- 2000 – 2005
- Located in Two Juvenile Courts
- Attorney Caseload Standard of 80 Open Cases (60 parents)
- Social Workers and Experts
- Parent Advocates added later

# Program Expansion

- 2005 – 10 New Counties
- 2006 – 5 New Counties
- 2007 – 7 New Counties
- 2014 – 6 New Counties

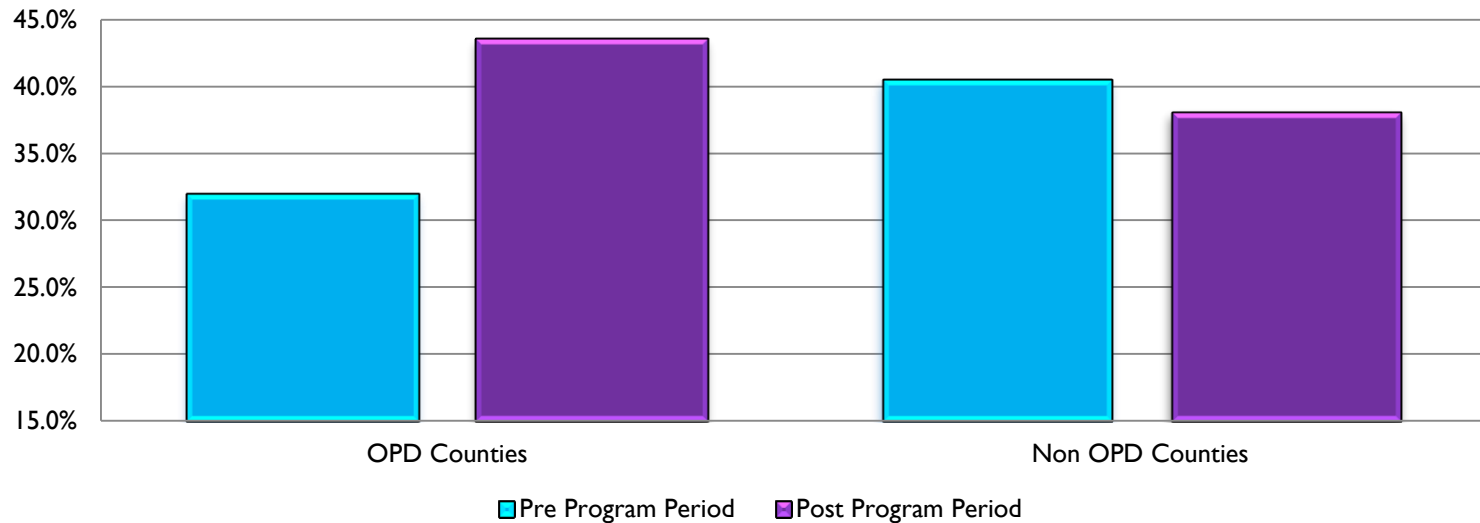




# Evaluations and Data

## 2010 and 2011 OPD and Washington State Center for Court Research Data

### **OPD Program Counties Improved Reunification Rates While Non Program Counties Did Not**





## Washington's Parents Representation Program Helping Children in Child Welfare System Reach Permanency

### KEY MESSAGES

- The Parents Representation Program is helpful in moving children from the child welfare system to permanent homes.
- The Parents Representation Program cuts the time it takes for children to reach permanency:\*

Reunifications occur  
**1 MONTH** sooner\*\*

Adoptions and Guardianships  
occur **1 YEAR** sooner\*\*

\*Based on a projection of statewide implementation on a cohort of children entering care in 2007 \*\*Approximations

# OPD PRP's Reunifications are Successful

Cases Re-filed	Pre-Program %	Post-Program %
Within 1 year of Dismissal	5.3%	3.4%
Within 2 years of Dismissal	8.3%	5.3%

# PRP Savings in State Foster Care:

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- 2016: \$25 million in savings  
\$16 million in program costs

# Alternative Way to Reform County-Funded Defense System

- Add small state-funded office
  - ▣ Training
  - ▣ Resources
  - ▣ Distribution of state-funding supplements
- This method has successfully improved public defense in Texas and Washington



NEW YORK CITY

# Juvenile Rights Division

- Started in 1962
- Provides mandated representation to children and young adults (to 21) in abuse/neglect, delinquency and PINS cases
- Appointed by court at first court date
- State-funded, \$48 million, 360 staff, 30,000 clients
- Utilizes 50 social workers, 40 paralegals and data entry staff to support work of attorneys
- Appeals Unit, Special Litigation and Law Reform Unit, Education Advocacy Project, Training Unit

# Models of Child Advocacy

## Expressed Wishes

- Traditional attorney/client relationship
- Privileged communications
- Client-directed advocacy

## Best Interests

- Appointed to represent child's interest
- Child is presumed incompetent
- Child's preference not binding
- May be called as fact witness



# ABA/NYSBA Standards

- Same duties of loyalty and confidentiality as to an adult client
- Follow child's direction, meet with child regularly, file pleadings/motions, attend and fully participate all appearances
- If child cannot express preference can substitute judgement or request GAL
- Explain all court proceedings, monitor court orders
- Must inform court of child's position unless child instructs otherwise

# New York Family Court Act

"Minors who are the subject of family court proceedings...should be represented by counsel...counsel is often indispensable to a practical realization of **due process of law** and may be helpful in making reasoned determinations of fact and proper orders of disposition. This part establishes a system of attorneys for children who often require the assistance of counsel to help them **protect their interests and to help them express their wishes to the court.**"

# Chief Judge's Rule 7.2

- "zealously advocate" the child's position
- Must consult with and advise child
- Should be directed by child's wishes regardless of best interests: "knowing, voluntary and considered judgement"
- May substitute judgement if child lacks capacity or "likely to result in substantial risk of imminent, serious harm"
- Must inform court of child's wishes if child wants

# The JRD Model

- Counseling the Client
- Determining Capacity: Stringent Analysis
- Age 10, child assumed to have decision-making capacity
- Many children 7-9 also entitled to client-directed representation
- Determine which decisions clients have the capacity to make
- Determining "a substantial risk of imminent, serious harm"

# Substituted Judgement

- No legal authority for "best interests" determination when another legal standard applies
- Must apply the legal standard applicable to stage of the proceeding to the available facts
- Consider the child's wishes and life's circumstances
- If contrary to expressed preference, advocate as close to child's wishes as possible

# Working with "Adversaries"

- Client-directed advocacy allows for stronger relationships with parent providers/attorneys
- Focus on reunification whenever possible
- Strong representation for parents helps child clients
- Out of court meetings/strategizing for common goals
- Cross-training
- Difference between institutional providers and individually appointed counsel

# Questions?

Wendy Sotolongo  
Parent Representation Coordinator  
Office of Parent Representation  
(North Carolina)  
Wendy.C.Sotolongo@nccourts.org

Joanne Moore  
Director  
Washington State  
Office of Public Defense  
Joanne.Moore@opd.wa.gov

Susan L. Jacobs  
Executive Director/President  
Center for Family Representation  
(New York)  
SJacobs@cfrny.org

Tamara Steckler  
Attorney-in-Charge  
Juvenile Rights Division  
Legal Aid Society of New York City  
TAS Steckler@legal-aid.org