

**Office of
the Child's Representative
2002 Report**



**Presented to
the Colorado General Assembly
September 1, 2002**

OCR 2002 General Assembly Report

The Office of the Child's Representative (OCR) is required by state statute to annually submit a report to the General Assembly on or before September 1. This report provides an update of the OCR's activities for the past year, including transition of the payment for attorney services, completion of a statewide assessment of attorney services, establishment of local oversight committees, completion of an attorney application interview and selection process, provision of training conferences and workshops, development of an attorney resource center and website, and an overview of the OCR budget. This report will also provide a summary of the office's future goals.

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Please Note: For informational purposes, this report often refers to “attorney representation” and “attorney services” in the broad sense. All attorney services that fall under the auspices of the OCR are “best interest representation.” The Guardian ad litem, child’s representative and attorney special advocate zealously advocate for, and or make recommendations in the child’s best interests.

“Children are our prized possession. They hold the key to the future, but frequently we overlook what needs to be done to nurture them. They have no voice of their own. They have to wait patiently for adults to take up their calling. Our state laws already recognize that children have special needs, yet they flounder in our system. It is for this reason that I have appointed a Commission.”

Quote taken from the Florida Commission on the
Legal Needs of Children/June 2002 Report

I. INTRODUCTION

Citizens of this democratic government are privileged and entitled to fundamental rights under our Constitution. When these privileges are threatened or abused, one has a right to be heard and represented in our court system. Our constitution and traditions provide an adversarial judicial system that grants each individual the right to be independently heard. This adversarial process is the cornerstone of our judicial system. Children are entitled to the same rights in court and zealous advocacy that the government affords adults.

Children’s lives are often horribly disrupted because of the actions of their families, and unfortunately, too often because of the actions of the system that is supposed to serve them. Further, children do not have the resources to retain an attorney and they lack the ability and understanding to evaluate, assess and advocate their needs. They cannot complain about their representation or lack thereof. It is ironic that across the nation, children, who stand to lose the most in litigation, are often not afforded the privilege of having their rights, safety and lives independently represented.

Recognizing that effective legal representation and advocacy is a critical element in giving the children a voice in the court system, the General Assembly adopted legislation in 2000 creating the Office of the Child’s Representative (OCR). The purpose of the statute authorizing OCR, Section 13-91-101, C.R.S., is to empower Colorado’s most vulnerable children with uniform, high-quality counsel.

By creating the OCR, the Colorado General Assembly took an unprecedented step in securing the fundamental rights of children and protecting their legal interests. The General Assembly should be recognized for its courage and leadership in acknowledging that children need an effective advocate in court and, more importantly, for addressing this need by establishing the OCR. The office is one of the few state agencies in the nation whose sole purpose is to protect and ensure that children have a competent and effective voice in the courtroom. Regrettably, society and government are often justifiably accused of recognizing that children are our most important resource yet rarely follow through on initiatives or legislation that will nurture and protect this resource. The Colorado General Assembly is to be commended for being one of the few state legislatures in the country that have recognized and acted upon the unique and special needs of children in the courtroom.

A. OCR'S MISSION STATEMENT

The OCR's mission statement was developed to meet the General Assembly's legislative intent set forth in Section 13-91-101, C.R.S., and made on behalf of the children in the state of Colorado. The office has been given a tremendous opportunity to serve children, and we believe it is an honor and privilege to implement the challenges and mandates outlined in state statute. This mission statement governs the implementation and fulfillment of every mandate and goal of the OCR.

OCR Mission

The mission of the Office of the Child's Representative is to provide Colorado's children with competent and effective "best interest" representation. As a state agency, the OCR must achieve this mission in the most cost-efficient manner that does not compromise attorney services and is accountable to the state of Colorado. The OCR is committed to ensuring that these children, Colorado's most vulnerable and voiceless population in the courts, receive the best attorney services available throughout the state.

B. OCR'S LEGISLATIVELY MANDATED RESPONSIBILITIES

This new state agency was created in the 2000 legislative session by House Bill 00-1371. The intent of the General Assembly was to create an independent agency that could provide high quality attorney services for children. The legislation sets forth critically important mandates that provided, for the first time in Colorado, the necessary tools to create a consistent best interest representation system for children.

The mandates listed in state statute include the following:

- Improve quality of children's representation statewide
- Provide accessible training statewide for attorneys
- Provide statewide training to judges and magistrates
- Recommend and establish minimum training requirements for all attorneys representing children
- Establish fair and realistic compensation for state-appointed GALs
- Recommend and establish minimum practice standards for all attorneys representing children
- Provide oversight of the practice of GALs to ensure compliance of the minimum standards
- Create local oversight committees in each of the 22 judicial districts that will oversee the provision of services and report to the OCR director concerning the practice of GALs

- Work with Court Appointed Special Advocates (CASA) to develop local CASAs in each of the 63 counties statewide; CASA currently serves 21 counties
- Enhance funding resources for CASA
- Work cooperatively with CASA to provide statewide CASA training
- Serve as a resource
- Develop measurement instruments to assess and document the effectiveness of various models of representation

C. HOW ARE CHILDREN INVOLVED IN COLORADO’S COURT SYSTEM AND WHY ARE THEY ENTITLED TO THE APPOINTMENT OF AN ATTORNEY REPRESENTING THEIR BEST INTEREST?

Over 60 percent of all Colorado court cases involve families. The majority of these cases directly affect children. These children who are exposed to the court system are typically the subject of a dependency and neglect (D&N), domestic relations (dissolution or paternity), delinquency, truancy, adoption /relinquishment, probate or mental health case. In many of these cases, the court appoints a Guardian ad Litem (GAL) or Child’s Representative who is charged with representing the best interest of that child.

In a D&N petition, the allegation is that the child has been abused, neglected or is otherwise dependent on the state. In domestic relations cases, the child is usually the subject of a high conflict parental responsibility (formerly known as custody) dispute. If a child has criminal charges pending, he or she is the subject of a delinquency case. In all D&N cases, and as required by state statute, a GAL is appointed for the child. In the other case types listed above, a GAL, child’s representative or attorney special advocate is appointed if it is necessary to serve the child’s best interest.

In all of the above referenced appointments except the dissolution of marriage, the attorney is called a Guardian Ad Litem and must be licensed and in good standing. The state, through the OCR, bears all costs associated with these best interest appointments.

When the child is the subject of a high conflict divorce, in accordance with Section 14-10-116, C.R.S., the court may appoint an attorney to represent or make recommendations in the child’s best interest (child’s representative or attorney special advocate). The parties are responsible for any costs unless there is a finding that the parties are indigent. In cases where the parties are indigent the state (OCR) is responsible for all costs of the appointment.

Recommendations made by parents, state agencies and other interested parties concerning children subject of litigation usually serve the child’s best interest. However, history has shown that well-intended recommendations may be harmful to a child. The child must have his or her own attorney or advocate independently and zealously protecting their unique interests.

II. COMPLETED MANDATES

A. STATEWIDE ASSESSMENT COMPLETE

The OCR announced in the 2001 General Assembly Report that the director would personally travel to every judicial district to ascertain the quality and availability of attorney services within the state. The visits also provided an opportunity to assess the strengths and needs of each locality, determine how the office could best serve as a resource and offer support to the urban and rural attorney, personally meet the attorneys in the field, and learn about the communities where the children are represented. These visits also helped begin the process of establishing meaningful local oversight committees, which would later be implemented by the OCR and utilized in the attorney selection process.

The statewide assessment was exhaustive and usually consisted of a 2-3 day visit in almost every county in order to meet with all entities representative of the judicial district. The visits took over a year to accomplish, and began in April 2001 and were completed in May 2002. During each visit, the director met independently with the Court (local judges, magistrates, court administrators, and court facilitators), attorneys who provide or are interested in providing services, each county department of social services within the district, CASA, District Attorney's office, county attorney, and any other service provider or agency that works with children. The visits were conducted while simultaneously implementing and meeting the other mandates of OCR.

The information gathered was invaluable and enabled the office to accurately identify and isolate those areas in which improvements are needed. It also created an awareness of areas providing exceptional services that deserve long overdue recognition. It afforded OCR the opportunity to implement measures based on real information rather than speculation. Instead of operating in a vacuum, the office now has actual, first-hand knowledge with which to base its decisions.

The visits were also very helpful in effectuating better management of costs. In the meetings with the judiciary, administration, and the attorneys issues such as appropriate appointments, necessary findings and the OCR's responsibility to review excess costs were discussed. The establishment of these ongoing relationships with each judicial district continues to help the OCR to better assess the program and manage mandated costs statewide.

Before discussing the particular results of the assessment, the OCR must first emphasize that even in jurisdictions where the most alarming and concerning problems were identified, there was also a group of devoted and effective attorneys providing exceptional services. Problems that will be discussed are not attributable to all of the attorneys in any particular jurisdiction. Further, the office found that a majority of attorneys in the state are competent and effective. They should be commended for their hard work and dedication. However, the OCR cannot ignore any of the more isolated

problems because of the serious consequences that one incompetent attorney may cause in a child's life. The office is committed to ensuring that all attorneys who represent children are highly qualified and competent.

The results of the statewide assessment ranged from absolutely exceptional attorneys and services to serious concerns and issues regarding the provision of attorney services.

Rural Judicial Districts. Most of the rural areas in the state of Colorado have attorneys who are extremely dedicated and provide exceptional services. These attorneys are required to travel great distances to serve children and often lack access to resources commonly found and accessible to children in the Front Range. It is not unusual for these attorneys to ride a circuit to follow judges to different courthouses within each county of a judicial district. Also, children are frequently placed hundreds of miles away in the Front Range, Grand Junction, or out of state. The rural attorneys must be very committed and creative in order to find resources to meet the needs of the children they represent. Paying the rural attorney the same flat fee (\$1040 for two years of the case) as an urban attorney is inequitable and unconscionable. It takes a tremendous amount of dedication and hard work for these attorneys to ensure that their clients' best interests are met in a rural court system. It was always a pleasure to meet these talented and truly exceptional attorneys.

Urban Districts. The quality of services provided in the Front Range and more populated urban areas varied widely. In the urban areas with few if any problems, the OCR recognized a direct correlation between high quality attorney services and historically proactive judges and or court administration in the annual GAL contract process.

8th, 10th, 18th, and 20th Judicial Districts. For instance, in the 10th judicial district, (Pueblo) the court administration developed an instrument that was used to evaluate attorney services. All attorney applicants were interviewed and reconsidered annually under this evaluation process. In the 18th judicial district (Arapahoe County), under the supervision of District Court Judge Cheryl Post, a local oversight committee was created and assisted the judiciary in their annual review of attorney applicants. This jurisdiction also solicited outside comments from other professionals and litigants in the jurisdiction. In the 20th judicial district (Boulder), the Chief Judge, Roxanne Bailin, closely screened all applicants every year, solicited outside feedback on attorney services, and closely monitored performance throughout the year. If the attorneys did not meet her standards, they did not receive contracts the following year. In other jurisdictions such as the 8th judicial district (Fort Collins), there was no identifiable explanation for the high quality of attorney services other than the 8th judicial district has a very professional group of attorneys that on their own, set and meet high professional standards of practice.

In conclusion, we found a consistently better quality of services in districts in which the attorney selection process included proactive participation by the judiciary and/or its administration.

El Paso Office of GAL. One of the best models of highly competent GAL services is provided in the 4th judicial district (El Paso County). This is a pilot project that the OCR inherited and is discussed in more detail on page 18 of this report.

Denver-Metro Judicial Districts. The most significant problems in attorney services were identified in three Denver-metropolitan area jurisdictions. Again, the OCR must emphasize that there are many devoted, outstanding attorneys providing services in these areas. However, significant problem areas were identified during the assessment. In one jurisdiction, a core group of attorneys were not seeing their children in foster care and attributed this problem to the department of social services who reportedly refused to tell these attorneys where the children were located. However, other qualified attorneys in this same jurisdiction routinely were able to overcome these alleged obstacles and maintain contact with their children. In another metropolitan area jurisdiction, attorneys on a regular basis had no contact with the children, did not return phone calls to other professionals, and seldom conducted an independent evaluation.

Finally, in a third metropolitan judicial district, the OCR visit resulted in disturbing discoveries such as parent/child termination hearings had been conducted without the presence or participation of a GAL and attorneys were not seeing children in the foster placement. Many would visit the child at the Denver Receiving Home when the case was first initiated and never saw the child in the more permanent placement thereafter. Of further concern was the established culture in which the attorneys adamantly protected their position that they did not need to personally see the children in the environment where they reside. The OCR was justifiably astounded at the commitment to preserving the status quo and resistance to any fundamental changes.

The information obtained in the statewide assessment, good and bad, was shared with the local oversight committees and taken into consideration during the interview and attorney selection process. The information was incorporated into the interview questions used by the local oversight committee and OCR. The OCR and committees also addressed problem areas by developing goals and action plans to resolve issues identified during the statewide assessment.

Finally, information gathered during the assessment concerning the needs of the attorneys in the field and how this office can best support them was incorporated into the office's training curriculum, resource center and website.

B. LOCAL OVERSIGHT COMMITTEES ESTABLISHED

The OCR also developed local oversight committees in each judicial district as required by state statute. The oversight committees were established to assist the OCR in ensuring that the attorneys selected within each community have the necessary training, competency and commitment to provide high quality legal representation to children. The community-based committees will also provide continual input and feedback to the OCR on the quality of attorney services provided in their community.

Committee members. The participation of the committees in the attorney interview and selection process was invaluable. Committee participants included representatives from the OCR, legislative delegates, judicial offices, local foster care providers, CASA volunteers, community representatives involved in children's issues, an attorney who has provided GAL services in the past or an attorney from the local bar association, and a district court administrator or court facilitator.

Committee goals. All 22 committees operate under the same four very specific goals:

- To assist the Office of the Child's Representative with its annual screening and selection process for attorney applicants who wish to serve as guardians ad litem, child's representatives and special advocates. This joint selection process will ensure that the attorneys selected within each community will have the necessary training, competency and commitment to provide high quality representation to children.
- To identify training and other resource needs of guardians ad litem, child representatives, and special advocates within each judicial district and to ensure that the necessary training and other resources are available in the district.
- To annually meet with the OCR to provide information about attorney services provided in the previous fiscal year (including positive feedback, constructive criticism, and/or concerns) and allow the OCR to report on attorney services provided to ensure that each local oversight committee is fully apprised about the quality of attorney services within their community.
- Recognizing the unique needs of each judicial district, (especially when considering rural compared to urban areas) the local oversight committee will annually assess, together with the OCR, the jurisdictional characteristics in the district to enable the OCR to best serve the needs in that legal community.

Committee participation in attorney interview and selection process. Although the OCR has the sole discretion to contract with attorneys, the local oversight committees were established in each judicial district to assist and advise the OCR in the attorney interview and selection process. The committees were a true collaborative effort, and the input from the variety of professions with different backgrounds and perspectives were essential to the attorney interview and selection process (described in further detail below). For the first time in this state, a prescribed and uniform process was implemented statewide to ensure that information from a number of different sources was collected concerning the quality and availability of attorney services in each judicial district. The process also allowed the participants to know the attorneys in their community who are providing GAL services to children.

The OCR extends a sincere thank you to the legislators and foster parents who actively participated in the process. These representatives made a difference on the committees and all members benefited from their input and perspective from outside the judicial system. Further, the OCR appreciates the time and commitment provided by all the volunteers who served on the committees. The interview and selection process required a serious commitment by the participants. In some jurisdictions it took several

days to interview and discuss the qualifications of each candidate. The ongoing participation of all members will continue to affect changes on behalf of children in Colorado. These committees will help OCR establish the framework for training, practice standards and outcomes for each jurisdiction. If one child receives a better attorney to represent them due to the local oversight committee process, it was worth the time and effort of all who participated.

C. ATTORNEY INTERVIEW AND SELECTION PROCESS COMPLETED

First fiscal year of operation. Effective July 1, 2001, the responsibility for the selection of attorneys contracting with the state to provide GAL services transferred from the State Court Administrator's Office (SCAO) to the OCR. In this first fiscal year of operation, FY02 contracts were entered into at the inception of OCR's creation when the newly appointed board had just hired an Executive Director. Obviously no staff had yet been hired and the OCR did not have an office to conduct business. As a courtesy, the SCAO did business as had been conducted in the past and completed the contract process on behalf of the OCR.

Application and attorney selection process for FY2003. Prior to creation of the OCR, judges from each judicial district developed the list of attorneys from which they appointed GALs. In past years, the SCAO received flat fee bids for services and selected attorneys available for contract after the bid proposal. For the first time in the state of Colorado and as explained below the OCR established the list of attorneys available to take GAL appointments in each jurisdiction based on the statewide application, interview, and selection process.

In April of 2002, the OCR posted, mailed, and advertised announcements soliciting applications from all current practicing GALs, child's representatives and any other licensed attorney interested in providing attorney services for children. Over 400 applications were received. The OCR staff went into the field and personally interviewed all applicants in each judicial district throughout the state. The interviews were conducted with the assistance of the local oversight committees. It was an overwhelming task and took almost two months to complete the interview process.

For the first time in the selection of attorneys, information from a number of different sources was collected concerning the attorney services in each judicial district. The selection process gave equal weight to a number of variables, including the information received in the application, quality of job interview, attorney's litigations skills, experience and education concerning children's issues, years of experience as an attorney, and the applicant's philosophy concerning how to best represent the child's interests.

The OCR went to extensive lengths to ensure that the interview and selection process was fair and not arbitrary. The OCR believes the thorough selection process was critical to ensuring that only qualified, competent attorneys represent children. The overriding

objective governing the interview and selection process was the best interests and needs of the child.

Based on the local oversight committee interview and selection process, the OCR created a new attorney appointment list which became effective on and after July 1, 2002. It is important to note that the OCR did not approve all applicants, and did not contract with some attorneys who previously provided attorney services. All of the attorneys who were selected to the appointment list are qualified, competent attorneys. Judges do not have the discretion to appoint attorneys who have not been screened and included on the OCR appointment list. The OCR will annually select and contract with qualified attorneys for the applicable fiscal year.

The OCR sincerely thanks each and every attorney who participated in the application process. The process was lengthy and onerous for all involved, including the experienced and qualified attorneys. However, one of the benefits it provided the community, local oversight committee members, and OCR was an excellent opportunity to meet the attorneys and become aware of and appreciate the commitment, hard work and outstanding services the attorneys provide.

D. OCR TRAINING

As mentioned under the list of OCR's mandates, training is a critical component to the success of enhancing the provision of legal services and advocacy for children. A child-sensitive legal system depends upon a bench and bar of considerable sophistication and competence. In representing children, lawyers and judges must not only know the law well but also be able to draw upon interdisciplinary knowledge from psychology, sociology, social work and medicine. Children are best served by the legal child welfare system when lawyers understand the social, psychological as well as legal implications of a case and what those mean developmentally for the child.

Because training is a high priority for the OCR, the office created a multi-disciplinary committee for the purpose of developing a curriculum and standards for training. The committee is in the process of developing a training curriculum for new attorneys and an advanced continuing education module for experienced attorneys.

This past year, the office completed continuing legal education training in the four rural corners of the state. The training in the rural areas included such topics as: high conflict mediation, ethics, expert testimony, child hearsay testimony, emancipation planning resources and funding, secondary trauma, child development, child development considerations in the development of parenting time orders, forensic interview techniques, early identification of developmental disabilities, domestic violence and its effects on children and implications for parenting time orders, and the effects of violence and maltreatment on brain development. The two to three day seminars were presented in Montrose, La Junta, Steamboat and Ft. Morgan. It is a priority for the OCR to provide meaningful and cost effective training to the rural attorneys in the state. It is difficult for the rural attorneys to have to suspend their practice for several days, travel to the Front

Range, and pay for accommodations in order to receive training specific to children's issues. Therefore, the OCR delivers the training to the rural area attorneys and actually solicits input from them directly as to topics they would like covered. This office is committed to continually providing training and support to these attorneys on an annual basis.

Also the OCR hosted its first annual Denver Metro Conference entitled "In Pursuit of Excellence". The conference was presented at the University of Denver College of Law Campus in May of 2002. The conference provided an in depth training for less experienced attorneys seeking to enter the field, as well as, an advanced curriculum for attorneys currently practicing in the field.

- There were over 200 attorneys in attendance from all over the state.
- Nationally recognized speakers were brought in to speak on such topics as brain development and parental alienation syndrome.
- The conference extended over four (4) days and included over thirty five (35) topics and over forty five (45) speakers.
- Topics at the conference included: ethics, expert testimony, emancipation planning resources and funding, secondary trauma, child development, child development considerations in the development of parenting time orders, early identification of developmental disabilities, domestic violence and its effects on children and implications for parenting time orders, and the effects of violence and maltreatment on brain development, growing up in foster care, sibling adoption, anatomy of a dependency and neglect case, court expectations, relocation in a domestic case, parental alienation, truancy, anatomy of a delinquency case, working cooperatively with CASA, case law update, DSM IV Diagnosis and appropriate case plan services for the child of a parent with mental illness.
- Youth currently in the child welfare system were speakers at the conference providing feedback to all participants on the state of the child welfare system.
- The final day was devoted to litigation skills. Advanced trial advocacy skills were taught in conjunction the National Institute of Trial Advocacy.

The Denver Metro Conference is an important component of the OCR training program which will be offered annually in May. The conference draws broad participation from attorneys and other professionals across the state working in the field. It allows the OCR to present the most current information to the largest number of participants. The cost of the training was minimal at twenty five (25) dollars a day. Over \$10,000 in proceeds from the conference were transmitted directly to Colorado CASA to aid in the development of CASA around the state.

All professionals who work in the area of dependency and neglect, domestic relations, truancy and delinquency are invited to participate in the trainings produced by OCR. The office invites CASA volunteers, county attorneys, respondent parent's counsel, social services caseworkers, Guardians Ad Litem and special advocates. The participation of all the professionals working in the field produces a synergistic

component to our training which is a great benefit to the children of Colorado. The goal of each of the OCR trainings is to upgrade the quality of services provided to children by all the professionals involved in the case.

E. OCR RESOURCE CENTER AND WEBPAGE

The OCR also created a centralized legal and professional resource center to attorneys in the field. The purpose of the OCR Resource Center is to serve as a one-stop shopping center of information concerning the representation of children. Information is provided at the OCR homepage, www.coloradochildrep.com, and is collected in an office library. The OCR website provides technical support and information to attorneys in the field, particularly rural attorneys. Attorneys can access the website for most of their contract, billing and training information and forms. It provides a legal research center with continuing case law and statutory updates. The website also includes links to specialty information such as psychological effects of sibling development, conduct disorders, attachment disorders, developmental disabilities, brain development, adolescent adoption, and parental alienation. The Resource Center, webpage and library are continually being revised, updated and expanded as new information is obtained. The office's goal is to become a valuable resource to the public, judicial officers, GALs, child's representatives, attorney special advocates and anyone else interested in obtaining information in this area.

OCR List Serve. The OCR website also contains a list serve for attorneys to enable them to interact, discuss issues, and ask questions on-line with other attorneys statewide. An example illustrates the effectiveness and benefit of the attorney mentoring and participation on this list serve. An attorney had a question about the impact of alien status for a child that was in need of permanent placement. Several attorneys around the state had struggled with that same issue and were able to give legal advice on the status of the law and how to best proceed on behalf of the child.

The OCR office library contains a number of books, journals, articles, videotapes and audio tapes covering a variety of subjects related to the representation of children. Most of the OCR books are available for a two-week period for contracted attorneys and judicial officers only. The OCR library collection designed to enhance the knowledge and skills, legal research, and the monitoring of legal and social welfare issues and reform impacting children. Further, the OCR has a limited number of continuing legal education (CLE) materials currently available for attorneys and is in the process of increasing the number of CLE credits and materials for attorneys.

Because this area of practice requires expertise in so many areas other than a firm understanding of the law, the OCR continually works to provide ongoing technical assistance, support and useful information to attorneys in the field.

F. BUDGET

The OCR budget is based on our core mission to provide Colorado's children who are involved in the court system with competent and effective legal representation. As a state agency, the OCR must achieve this mission in the most cost-efficient manner that does not compromise the quality of attorney services yet is accountable to the state of Colorado.

Fiscal Year 2002 budget. When the OCR was created, mandated costs were transferred from the State Court Administrator's Office to the OCR. The SCAO prepared the OCR's Fiscal Year 2002 budget and projected the budgetary line item for mandated attorney services based on fiscal year SCAO 2000 expenditures.

The office's responsibility includes processing payment for all GAL, child's representative and special advocate attorney services. Ninety-four percent of the entire OCR budget is expended on mandated attorney services. This office assumed the process of payment from the SCAO October 15, 2001.

The OCR over expended \$1 million more than was appropriated for attorney services in Fiscal Year 2002. The OCR requested approximately \$1.1 million during the supplemental process in January. At that time, over \$526,000 in additional funding was granted. As year-end approached, it became evident that the additional funds would not be sufficient. A little over \$436,000 was necessary to complete payment to attorneys for their Fiscal Year 2002 services. This request was granted in August 2002 through the emergency supplemental process.

The OCR cannot overemphasize the fact that all the additional dollars requested for fiscal year 2002 were not due to any additional costs arising from the creation of the OCR, but were costs that the SCAO would have had to pay had they continued to pay for GAL services. The OCR has not changed the fee structure. Approximately \$405,000 of the increase is attributable to the approximately 12 percent rate increase that the SCAO implemented on January 1, 2001.

The remaining over expenditure was due to increased active caseloads. The OCR budget is primarily comprised of dollars for mandated attorney services. The GALs' work is driven by case filings, which rose significantly over this past year. Unfortunately, the OCR's budget needs have an inverse relationship with economic conditions - when times are difficult abuse and neglect rises. The increases are attributable to general increases in the state's population, difficult economic conditions, higher incidences of drug abuse, and changes in practices of local departments of social services. Consequently, the OCR spent over \$1 million more on attorney services than in the prior year. There are no signs of this trend slowing. As local social service departments' budgets experience constraints, it is expected that resources will be directed toward the most severe cases, which will require more time on the part of the attorney and which will further drive up the costs per case.

The remaining six percent of the original budget, or about \$493,000, went towards OCR's operations to carry out the day-to-day activities of the office; conduct an initial assessment of services; provide five training conferences to attorneys, judges, and magistrates throughout the state; assist CASAs in providing assistance to their local organizations; create an on-site library and website resource center; establish local oversight committees in each judicial district; and interview and select attorneys to provide services for Fiscal Year 2003.

The OCR examined its operations and was able to cut approximately \$175,000 from other budget line items to cover a portion of the shortage requested in the Supplemental. Without sacrificing quality of services, over the past year the OCR also began implementing fiscal management saving procedures.

One of the cost management procedures involved assessing attorney billing practices. One of the most problematic billing practices that we encountered related to indigency determinations in domestic relations cases. In these cases, the OCR pays 100 percent of the fees if both parties in the divorce are indigent, but only 50 percent of the fees if only one party is found indigent. Often the court was not making the findings, but simply ordering the family to reimburse the state for the cost of the services if later they were found not to be indigent. This is a significant problem as the OCR has no authority in Colorado statute to pay for services when parties are not indigent. To do so would be misappropriating state funding. Consequently, payments were denied in these instances. The OCR spent numerous hours traveling and personally educating the attorneys and judges regarding this issue.

The OCR began analyzing cost trends on an ongoing basis. The OCR was able to identify attorneys that had consistently higher bills than other attorneys so that this could be considered in the interview and selection process. It was noted that costs in certain districts were high in relation to others. The OCR found that in El Paso, GALs were appointed to most probate cases, but this was uncommon in the rest of the State. After investigation it was determined that the need would best be filled by a court visitor, which would reduce the cost to the state. The 4th judicial district was extremely cooperative in revisiting the appointment process.

It was a difficult budget climate to be experiencing such a significant increase in costs. However, the Joint Budget Committee was very receptive to learning about the cause of the increased costs and they provided the necessary funding to maintain OCR's mandated core services.

Three significant issues of the Fiscal Year 2003 Budget.

1. The OCR established new billing procedures that went into effect on July 1, 2002. Prior to the OCR oversight of payment, when fees exceeded a certain threshold attorneys would submit a motion to the court for approval after-the-fact. The OCR's new procedures require that all excess fees be pre-approved. This will allow the OCR to better manage its costs and if necessary limit costs before unnecessary fees

are incurred. Other expenses such as out-of-state travel, experts, interpreters, and experts also require pre-approval. In the short time that new procedures have been implemented there have been instances in which alternative ways of meeting the need in the case were found without any additional expense.

Specific changes and improvements to the billing and payment process include the following:

- Attorneys must be on the list of authorized attorneys in order to be reimbursed for fees for new appointments
 - The OCR set maximum fees that may be paid by the OCR. Total fees cannot exceed the maximums without OCR's prior approval.
 - Experts, investigators, interpreters, transcript fees, out-of-state travel, and any other extraordinary costs now require OCR's pre-approval
 - The OCR does not pay for custody evaluations
 - The OCR does not pay for financial investigations or discovery
 - Timesheets are required to be maintained and submitted to the OCR regardless of the method of compensation
 - Transcript fees require pre-approval and are approved on a case-by-case basis
 - Reimbursement for travel time varies depending upon the method of compensation
2. One of OCR's mandates is to determine fair and reasonable methods of compensation. Currently, attorneys who represent children in dependency and neglect cases, are paid a flat fee of \$1,040 for two years of the case as opposed to the standard state hourly rate (\$55 per hour in court/\$45 out of court) which most public sector attorneys are paid. In preparing its 2003 budget request, the OCR asked for additional funding to convert the now partially flat-fee/hourly compensation system to 100 percent hourly. Guardian ad litem compensation under the hourly system would be consistent with other public attorneys and would provide pay for services rendered, which does not happen under the mixed system that was inherited.

Understandably, given the state's budget limits the request was not approved. However, the OCR was able to implement changes to achieve some consistency in payment without additional funding. In most districts both payment methods were in place with no apparent reason as to what compensation method was used by what attorney. Beginning in Fiscal Year 2003, the OCR implemented either contract or flat-fee billing within each district, but not both. In doing so we did not change the overall ratio of cases that were hourly vs. flat-fee so additional funding was unnecessary. However, we were able to convert most rural areas to bill hourly, which was one of the greatest areas of immediate need.

In making its request for additional funding, the OCR was acutely cognizant and appreciative of the budget restraints Colorado is facing for Fiscal Year 2003. However, the OCR made its request because it believes it would be neglectful to the Joint Budget Committee and children served by OCR if it did not continue to identify the actual costs needed to allow the office to fulfill its mandates. As will be

explained under OCR's future goals, the office will continue to work toward achieving the best compensation rate and method for attorney services when the budget warrants such a review in order to attract and retain the effective, competent attorneys to represent children. *(Please see Appendix A of this Report for OCR's discussion concerning the need to compensate attorneys who represent the best interests of children fairly.)* The OCR is committed to accomplishing much more than merely processing payments to attorneys who represent children.

3. The state's current budget crisis is a central issue facing the OCR and all state agencies and branches of state government for Fiscal Year 2003. The OCR is aware of and acting upon its responsibility and duty to continually develop ways to improve cost-saving measures and budget management without compromising services.

G. PILOT PROJECTS

4th Judicial District GAL Office Pilot. The creation of the 4th Judicial District Pilot Project was in direct response to Senate Bill 99-215 (Long Appropriations Bill), Footnote 135, which directed the Judicial Department to pilot alternative methods of providing GAL services. While all agreed that the project should not result in additional costs, the goal was to determine if higher quality services could be provided through a "staff model" at the same or less cost as the existing attorney payment process (contract/hourly billing model). This "staff model" office is in its second year of operation. Because all provisions of GAL services now rest with the OCR, the 4th Judicial District's pilot project will continue under the oversight of this agency.

Since the OCR inherited this pilot, it has done extensive investigation and research as to the quality of attorney services provided by this office. The result of our inquiry is that this pilot is providing the best model of attorney services in the state. The most important feedback received from the community, the courts, the CASAs, the county attorneys, and other professionals is that there is real accountability for services rendered. Similar to the Public Defender's Office, a person can make a report to a supervisor if an attorney is not properly representing a child. The attorneys are well trained and the supervising attorneys are recognized for their extensive experience in this special area of practice. They are able to maintain reasonable and manageable caseloads in order to provide a higher quality of service. The staff model office also allows for mentoring by the more experienced attorneys. This pilot is recognized for their effective representation through all phases of the case. Finally, they are able to front load attorney services in order to better serve their client, the child.

This past year the office handled over 1,300 cases; 2,071 children were served; 600 cases were successfully closed (meaning children were permanently placed); 704 cases are still open; and last year the office participated in 13 adjudicatory trials and 56 termination hearings. These litigation statistics are the best in the state and the office is to be highly commended, particularly in light of only 10 attorneys litigating on behalf of the children for the office. The children's best interests are excellently represented.

The staff model also employs a managing social worker and case coordinator. With over 25 years of combined experience in the human services field, the case coordinator and managing social worker provide an important contribution to the effective legal representation of children. The team works on the most difficult and high-risk cases. The case coordinators and the managing social worker have each been providing services on approximately 70 to 80 cases per month. The services include analysis of treatment needs, participation in case staffings, communication with treatment providers and family members, research, conducting psychosocial assessments on select cases, and observation of parent/child visitation. This team has the ability to cover for GALs at treatment staffings when the GALs need to be in court. This provides important continuity on cases leading to more effective legal representation of the children. In addition to the services described above, the managing social worker consults with the GALs on cases involving serious mental illness of children or parents. The managing social worker reviews psychological evaluations and consults extensively with the GALs about the treatment needs of children and families.

The Administrative Review Process conducted by the state Department of Human Services reports the highest participation rate from the GAL Office in El Paso County. The process reviews out-of-home placement every six months to assess whether the child's needs are being met in that particular placement. GALs are encouraged to participate but are seldom available because of mandatory court appearances.

Once again, the OCR gives credit to the supervising attorney, Debra Campeau, Director, and her staff who have achieved these successes entirely through their own initiative and excellence.

H. CASA

The Court Appointed Special Advocate (CASA) program was created nationwide in 1977 as an agency of trained volunteers to speak up for neglected or abandoned children in the court. The Colorado CASA was established in 1985 and has 12 programs throughout Colorado serving 21 counties. The CASA is based on the belief that every child has the right to a safe, permanent home. By thoroughly exploring each child's background, dedicated and intensively trained CASA volunteers are able to assess each child's situation and make objective recommendations to the court. The CASAs are invaluable in providing objective information to the courts regarding what would be the best outcome for the child, which directly supports OCR's mission. Consequently, the OCR's mandates charge OCR the responsibility of working cooperatively with Colorado CASA to develop local CASA programs in each judicial district, or in adjacent judicial districts. The majority of the CASAs are in urban areas. However, rural needs are as great because of minimal local resources.

The General Assembly funded CASA through the OCR budget in an amount of \$20,000 in both Fiscal Years 2002 and 2003. These funds are used for program development and technical support for existing CASA programs. The state statute requires the OCR to enhance the CASA Program in Colorado by supplementing existing funding sources to

provide for high quality volunteer CASA services. Section 13-91-105(1)(b), C.R.S. specifically requires the OCR to develop private and public funding. The development of public funding is accomplished within our budget appropriations. The OCR also raised \$10,000 in the past fiscal year for CASA and plans to do the same in Fiscal Year 2003. Instead of charging registration fees for the May OCR conference, participants were asked to make a \$75 donation towards CASA. This generated approximately \$10,000. (The OCR is not appropriated spending authority to raise funds for the office itself.) *(Please see Appendix C of this report for a more detailed explanation of the role of the CASA volunteer.)*

III. OCR FUTURE GOALS

The OCR is extremely encouraged at the gains made and measures implemented during this past first full year of operation. However, we are already working toward future goals to more fully achieve all phases of OCR's mission. The achievements of the past year will enable the office to produce greater successes on behalf of children in the upcoming year. Our goals focus on the attorneys who provide services, and ensuring that they have the proper training, support and compensation necessary to be effective attorneys. Only through proper support of attorneys can the OCR hope to attract and retain the most qualified attorneys.

The quality of best interest legal representation can only be enhanced by continually improving and increasing the quality of training the OCR provides attorneys. We will continue to provide the Four-Corner rural attorney training and conduct the annual OCR May conference. The website, list serve and library are invaluable tools for each attorney that the OCR will continue to update and improve. These effective, committed and highly qualified attorneys are this office's most valuable resource.

In the very near future, the OCR will be modifying the minimum practice standards (previously adopted in CJD 97-02) that attorneys serving as GALs shall be required to meet. The standards will be incorporated into a new Chief Justice Directive outlining responsibilities and duties of the GALs. The standards are developed with the purpose of ensuring that children, the only client who cannot evaluate their services, voice a complaint, are properly served when represented by GAL. *(For an overview of the proposed OCR minimum practice standards, see Appendix B.)*

The OCR will be providing ongoing oversight and support to attorneys in the field with the assistance of the local oversight committees developed in the attorney interview and selection process. In those jurisdictions where problems were identified, action plans for the jurisdiction or attorneys will be developed to specifically address performance issues. The plans will be monitored for improvements made and outcomes achieved as a result of the action plans. The OCR will attempt to develop evaluation tools to assess attorney services empirically. The OCR may have to secure outside funding sources to fund this goal. Evaluation criteria and performance outcome measures that can be applied statewide will be reviewed.

The office will continue to educate the General Assembly and the Joint Budget Committee members on the important role the CASA volunteers have in children's lives and how they benefit the OCR mission. The OCR plans to re-visit requests for additional state funding for CASA at a later date when the state's budget can afford this issue to be reviewed again. *(See Appendix C for the role of the CASA volunteer.)*

Relating to the budget and the limits imposed by the economic crisis faced by the state, the office will continue to identify budget efficiencies and alternate, cost-efficient methods of conducting business.

The most important and comprehensive goal of the OCR is to complete the statewide transition of payment for attorney services from a flat fee system to an hourly payment for services. Again, given the budget limitations faced by all state agencies and branches of Colorado's government, the OCR will continue to concentrate on educating the General Assembly and Joint Budget Committee members on the benefits of an hourly payment system. The OCR will return to this funding issue when the state budget permits. *(See Appendix A for a complete review of the hourly payment process v. the flat fee payment process.)*

One of OCR's more creative and visionary goals is to begin accessing the office's accomplishments and future goals from a national perspective and implement best-practices in other states or set forth by nationally recognized organizations. The OCR believes it can greatly benefit from, improve attorney services, and be a better resource by applying the experiences and knowledge gained by others.

The OCR and its Board will be conducting a retreat this October to review and address measures that will allow the OCR to implement the new goals set forth for this new fiscal year.

IV. CONCLUSION

The OCR is committed to achieving the mandates outlined by the General Assembly on behalf of children in Colorado. We are confident that the attorneys selected for Fiscal Year 2003 will indeed provide enhanced best interest legal representation to children. The OCR is encouraged by the increased awareness of the newly established office and the services the OCR provides. As is evident by the tremendous amount of work accomplished by the OCR this past year, the office made every effort to fully maximize available resources granted to it by the General Assembly in order to make great strides towards improving attorney services for children.

The OCR believes there is no more important work than protecting the best interests of children. The Colorado General Assembly created the OCR as an independent state agency to ensure that the office commits all of its resources to meeting the needs of the children. The OCR remains true to this charge, and effective and competent counsel for children governs and is the focus of the OCR's daily administration, operation, oversight, selection and training of attorneys who provide services. The OCR is committed to

empowering the attorneys who represent children in order to empower the children they represent.

The OCR believes that the best way society and government can protect the legal, physical, and emotional needs of children is to ensure that children enjoy the same rights in court and the same zealous advocacy that government affords adults in court. Children are our greatest resource for the future. The OCR accepts and welcomes the challenge provided by the Colorado General Assembly, ensuring that these children do have a future.

Together with the support of the legislature, Judicial Department, attorneys representing children throughout the state, CASA, and other interested agencies and individuals, the OCR believes it can deliver on the commitment to children made by the General Assembly, and truly enhance the best interest legal representation, and ultimately, the lives of these children. It is a privilege to be entrusted with this treasured ideal and the OCR remains committed to its achievement on behalf of Colorado's children.

V. APPRECIATION

As one reviews this Report, it becomes very obvious that the OCR could not have achieved any of its goals without the tremendous help from so many individuals, advocates, professionals, and other state agencies. The OCR sincerely thanks those who have helped us throughout the year whenever asked. The Joint Budget Committee Analyst and Joint Budget Committee have always been available to discuss the purposes and needs of the office with the OCR. As mentioned in the Introduction, the General Assembly is to be thanked for creating the office and supporting its continued existence.

Special thanks and appreciation are extended to so many agencies and individuals who participated in many facets of the successes and work of the OCR: Speakers who contributed their expertise at OCR training sessions; foster parent association; the Alternate Defense Counsel Offices' continual advice and assistance; the ongoing support of SCAO; Attorney General's Office, court facilitators who helped coordinate OCR's statewide visits to local jurisdictions and provide the assistance whenever called; and the participation of judges, magistrates, and other court personnel significantly contributed to any successes enjoyed by the OCR. Lastly, the OCR appreciates the exceptional services and commitment of the devoted attorneys providing best interest representation to children.

VI. APPENDIXES

APPENDIX A **OCR Plan for Converting to Hourly Payments**

Background.

The Office of the Child's Representative (OCR) inherited a mixed payment system for guardians ad litem, attorney special advocates, and child's representatives from the State Court Administrator's Office (SCAO). The SCAO used a combination of hourly, contract, and pilot project compensation models, with the specific payment method set by each judicial district. This has led to significant discrepancies in costs per case and levels of representation throughout the state. The following proposal outlines the benefits of converting to an hourly payment system, the historical cost of services under each model, the costs of converting from flat-fee payment to hourly, and the implementation of cost control measures.

Benefits of Hourly Payment.

The main reason to convert to a state hourly rate for services rendered is because children deserve highly qualified and competent attorney services. Also, an hourly payment system provides for a process that is more cost-effective and accountable to the consumer, the taxpayer.

The reason OCR continues to strongly advocate for converting to a state hourly rate for attorneys is because children will never have consistent quality of representation until all attorneys who represent them are compensated as other public sector attorneys. Children (who have been abused and neglected or have special needs) have a right to the same quality of services as others who are able to utilize state paid attorneys. If anything, the representation of children should be a priority when considering attorney services for several reasons. One, it is cost effective for the state to provide adequate representation. A good GAL brings stability to a child's life more quickly, reduces the cost of out of home placement, and meaningful outcomes keep the child out of the delinquency system, the adult criminal justice system and their own children from the dependency and neglect system. Children who grow up in the foster care system are often disrupted and cost the state a significant amount of money and the children pay the real price throughout their life. Decisions made everyday in courts are life and death decisions for every child. These children must have a strong advocate present to protect their best interests.

OCR believes the Joint Budget Committee members care about the abused and neglected children in the state of Colorado and want to provide meaningful services in a cost effective manner. The contract system does not serve anyone. Children suffer and the state does not get the quality of services it should for the amount of money currently spent. To illustrate OCR's position, provided below is a comparative analysis of the right to competent counsel in a criminal case to that of the right to competent counsel in a child's case. The same principles apply in both situations.

State Paid Defense Counsel	State Paid Children's Lawyers
<p>1. Constitutionally mandated attorney services. Those accused of a crime have a right to a attorney</p>	<p>1. Statutorily mandated attorney services. Children who are the subject of a dependency and neglect case (abused) have a right to an attorney who will solely represent their best interest.</p>
<p>2. How does the attorney's client enter the system? Must be accused of committing a crime and although the innocent do get accused others have committed offenses against society.</p>	<p>2. How does the attorney's client enter the system? A child must be abused or abandoned - through no fault of their own.</p>
<p>3. What does a good defense attorney do? Keep one from going to prison or jail; protect the innocent, mitigate one's conviction (plea negotiation) or sentence (presents to the court sentencing alternatives).</p>	<p>3. What does a good GAL do? Protect vulnerable children who have already been victimized. A competent GAL who can properly investigate and work a case prevents a child from multiple placements in the system. Prosecutes and properly litigates a case on behalf of the child when a county attorney or department of social services fails to do so. Advocates for and causes quicker permanency in a child's life. Relentlessly looks out for the child's best interest when the court or system otherwise fails the child.</p>
<p>4. Should attorneys who provide services be experts or experienced in the area of criminal defense? ADC would never provide an attorney not experienced in the area of criminal defense to any defendant. The level of representation under the ADC office is such that anyone accused has competent legal counsel. To provide a defendant with anything less, for instance someone who's practice is primarily probate, would be a travesty and unacceptable for all the obvious reasons. It could result in imprisonment of an innocent person.</p> <p>If one's sister was arrested and needed an attorney, would the family hire an attorney who handled primarily probate matters – or would they hire the best defense attorney they could find?</p>	<p>4. Should an attorney who provides services be an expert or experienced in the area of children's law? An attorney who represents children must have specific training and experience in the area of issues concerning children. That is the reason most states impose minimum training standards. For instance an attorney who does not understand the basics of child development will be unable to litigate an appropriate recommendation as to whether a child should be moved from current placement at the age of two. A competent attorney requires vast knowledge in areas such as trauma to the brain and brain development, sibling separation and attachment disorder, long term effects of multiple placement, alternative placement options, effects on children exposed to alcohol and drugs while still a fetus, etc. To provide a child with anything other would be tragic and impose a life sentence to an innocent child.</p> <p>If one's child needed a lawyer, would the family hire an attorney who practiced primarily in real estate – or would they hire the best child's attorney they could find?</p>

State Paid Defense Counsel	State Paid Children's Lawyers
<p>5. Why would ADC never consider compensating defense attorneys on a flat fee basis, especially in cases where the accused is charged with serious felony?</p> <p>Most criminal cases resolve themselves within a year. What would be the obvious result if the ADC office were forced to compensate attorneys with a flat fee of \$1,040 for each case appointed? Attorneys would have to take an extremely high volume of cases to be allowed to practice as defense attorneys. They would have to choose which cases to litigate, if any, for \$1040. The accused would not get the same quality representation currently provided. There is a built in incentive to do as little as possible in each case to make it cost-effective. If flat fee existed in defense cases, we know most accused would be prevented from the opportunity for a fair trial and adequate representation. For instance, is an attorney likely to participate in a preliminary hearing, file motion to address the illegally obtained evidence, litigate the suppression hearing, prepare and proceed to a jury trial? Not for a flat fee. Most cases will result in plea bargain and competent representation of one's constitutional rights will disappear. The current quality services for the accused would drop. To properly work a case, defense attorneys must be paid an hourly state rate for services rendered.</p> <p>Summary:</p> <ul style="list-style-type: none"> • Defense attorneys do not take more cases than they can handle • They do not get compensated until they do the work. Therefore, they front load and commence work on their cases immediately. • Every case is given proper attention whether it is resolved by way of disposition or trial because they are paid hourly and can give the case the appropriate amount of hours needed. 	<p>5. What would be the specific benefits to the state if children's attorneys were compensated the same as other state paid attorneys? The consumer, the tax payers, would get the same quality of services for children that are currently provided to those accused of crimes in a responsible and cost effective manner. For instance, if attorneys are paid state rate hourly fees for services rendered, they do not have to take a higher volume of cases than they can properly handle. All children in all cases will get the necessary competent representation. That does not necessarily mean the same amount of time is spent on each case. Just as in criminal cases, some cases are resolved quickly while others are more complicated. An attorney is able to give the appropriate amount of time to each case, which naturally will vary. In jurisdictions where GALs are still paid hourly, their individual bills vary consistent with Alternate Defense Counsel. Attorneys will be able to front load services just like defense attorneys (this includes seeing the child immediately, investigating the case up front, going into and assessing the foster care placement, etc.). Once a defense attorney is appointed, he or she immediately starts to work a case because they do not receive any payment until they do so. Cases are set immediately for preliminary hearing, etc. With the contract system an attorney who represents a child receives upfront payment and can commence work on the case at anytime, including very late in the process. The attorney does only as much as possible with the required heavy case load or as little as the attorney wants.</p> <p>Under an hourly system, attorneys will be able to take on a manageable case load just like defense attorneys. There are only so many billable work hours in the week. When an attorney cannot accept an appointment for a few weeks they can share that information with the court just as defense attorneys. We do not have to tell defense attorneys not to take too many cases. When complicated cases stabilize, counsel is able to accept new appointments just as defense attorneys do. The systemic abuses that the entire state is and has been concerned about, (GALs take too many cases) regarding the contract system will be more readily addressed and resolved with an hourly payment system.</p>

State Paid Defense Counsel	State Paid Children’s Lawyers
	<p>The current contract payment makes it impossible for children to get the attention they need. Under an hourly system, the attorneys will be able to take a reasonable case load as do defense attorneys, and work on the case immediately (see the child within a few days, observe the foster home placement, do an independent investigation, file motions, etc.) Immediate and upfront involvement from all those involved in a case, especially the child’s attorney, causes timely and meaningful results for children.</p>
<p>6. Outcomes for the accused if representation not adequate. People are convicted and may go to prison and or jail. When an adult believes they have been inadequately represented, there is a system in place to give them the opportunity to explain their concerns.</p>	<p>6. Outcomes for children who do not receive adequate representation. Children are not reunited with their family. They are moved to multiple homes. They change schools when they just finally found a friend at the last school. They act out. They are troubled children who are hard to love. Their pain and problems haunt them throughout their entire lives. Children in the system complain through their behavior and the state bears the cost of this behavior long into the future. Children are never able to ascertain or complain about inadequate attorney representation.</p>
<p>7. Cost of effective representation. Office of Alternate Defense Counsel is able to provide quality defense attorneys in a cost effective manner with a budget of \$11.2 million. They represent an average of approximately 7,000 clients a year. The state hourly rate is significantly lower than that charged by attorneys who are privately paid. Yet, this reduced rate is fair and allows the state to contract with competent attorneys and provide quality services. The consumer, the tax payer, gets a “good bang for the buck”. <i>Please note that OCR is not inferring that the ADC does not properly manage each dollar. They have been generous with OCR in sharing best ways to manage general funds. A significant factor driving the ADR budget is the number of death penalty cases.</i></p>	<p>7. Cost of effective representation. It would require a slight increase over the next few years to provide consistent competent legal services to children. OCR represents almost 10,000 children a year. The total estimated cost would be \$7.7 million.</p> <p>Currently the tax payer pays \$6.1 million for services and is not getting the best bang for the buck. With a slight increase the tax payer will get attorneys who are competent, not required to take a case load that prevents them from effective representation, and if paid hourly will be allowed to front load their attorney services once appointed.</p>

APPENDIX B

Minimum Attorney Practice Standards

The OCR is currently in the process of finalizing minimum practice standards that attorneys serving as GALs shall be required to meet. The current GAL practice standards are set forth in Chief Justice Directive 97-02 and were created prior to the creation of the OCR. Much effort and collaboration from a variety of professionals went into the creation of CJD 97-02. The standards closely encompass attorney practice standards as recommended by the National Association of Counsel for Children and American Bar Association. Minor modifications to the directive will make certain that children are seen in foster care and attorney services are front loaded. The OCR believes that front loading of attorney services is vital to ensuring the needs of the child are met. Providing services at the onset of a case is critical to reducing the time a child spends in the courtroom, out of home, or outside permanent placement.

As mentioned, standards are being revised and developed to incorporate the concept of front loading of attorney services in a case. The first 30 days of a case are the most critical. For many children this may involve their first out-of-home placement. It is a critical time when the child can most benefit from the presence of a GAL. The events that caused the child to be placed in the system and possibly out of home are most evident at this time. Treatment needs, evaluations, independent investigations, alternative permanent placement options, and a good foster care selection to prevent multiple placements should all be considered at the onset of a case. Developing a plan with a good foundation to meet the child's needs must be done immediately.

Examples of current standards under consideration for revision include the following:

1. The current standard reads: *“Personally meeting with and observing the child at home or in placement.”*

This standard is problematic because it is without specific timelines. There has been cases where an attorney may wait months into the case before visiting with the child or will see the child on the first day the case is filed in the temporary receiving home. Many times the child has been in several different foster placements without one visit. Also, if the child is subsequently moved, a GAL may not conduct another visit to confirm this placement is appropriate and meets the needs of the child. This inadequate representation is technically in compliance with the current CJD 97-02. The standard could be revised to require the attorney meet with and observe the child within 30 days of the appointment and, if and when the child is moved, the attorney is required to meet again with the child within 30 days of the new placement.

2. The current standard reads: *“Conduct an independent investigation.”*

The standard is somewhat problematic because there is no time requirement specifying when an investigation should be initiated. An investigation six months into the case is

unlikely to have any impact because the case is moving in a direction that is hard to change. The standard could be revised to specify timelines to ensure that the investigation commences within 30 days (OCR recognizes investigations are ongoing). Independent investigation completed by the GAL is the safeguard that the “system” is not further harming the child and makes certain that the best services are provided to the child.

APPENDIX C

The Role of the CASA Volunteer

A CASA volunteer is a person from the community that is appointed to a child's case and is responsible for taking as much time to find out as much as possible about the child. CASA volunteers review records, interview parents, talk to teachers and neighbors and most importantly they speak to the child. The CASA volunteer is usually assigned to one case and spends one on one quality time with that child. The volunteer then reports their findings in court.

CASA volunteers undergo 30 hours of intensive training conducted by the local CASA program. They learn about courtroom procedure, child development, special needs of children who are neglected or abused, community programs, and the social service and juvenile court system. Several local CASA programs also provide other invaluable services like supervised visits and exchanges.

The CASA volunteer usually works closely with the caseworker and the GAL and is invaluable to all professionals involved. Because the CASA is assigned to one family they have the time necessary to serve that child and to ensure that the child's daily needs are met.

Colorado CASA also recognizes the important collaborative role of the CASA volunteer and the GAL. The volunteers are not attorneys and they do not provide legal representation for the child. Their policy statement reads, "Colorado CASA supports the appointment of GALs in all child abuse cases as required by Colorado statute. It is the attorney that has the ability and authority to present evidence, cross examine witnesses, file motions, and otherwise participate in all legal aspects of the case. Children need and deserve attorney GALs to represent their best interest". A typical scenario can easily be, the CASA would be spending time with the child on the weekend and learn something that needed the courts immediate attention. This information would be shared with the GAL who can file an emergency motion and litigate with the court.

Finally, in 1999, a report evaluating the best methods for collaboration of the CASA volunteer and GAL was completed. Two pilots, one in El Paso County and a second in Arapahoe County, were evaluated. The results of the evaluation indicate that, regardless of the model, the GAL felt they were able to do a better job, there was a better sharing of information and more contact and time was spent on each case when both a GAL and CASA were involved and working together to serve the best interest of the child. The data provides a strong incentive to promote cooperative models of CASA-GAL representation.

In any case, state statute requires that when the court has appointed both a CASA volunteer and a GAL to a case, they must cooperate with each other to represent the best interests of the child.

APPENDIX D

OFFICE OF THE CHILD'S REPRESENTATIVE SCHEDULE OF GENERAL FUNDED EXPENDITURES

This report is being prepared in compliance with Section 13-91-105 (1)(g), C.R.S., that requires an annual, independent financial audit to be performed on the financial aspects of the Office of the Child's Representative (OCR) by September 1, 2002.

This audit was conducted by the accounting firm of Grant Thornton, LLP in conjunction with the annual statewide financial audit performed by the Office of the State Auditor. Audit procedures performed by Grant Thornton, LLP included interviewing staff, reviewing internal controls, and examining documents. The audit did not result in any findings or recommendations to the Office of the Child's Representative.

Fiscal Year 2002 is the first full year of operations for the Office of the Child's Representative. The schedule that follows on the next page summarizes the Office's Fiscal Year 2002 expenditures.

ATTORNEY SERVICES

Guardians ad litem, attorney special advocates and child's legal representatives are appointed by judges and magistrates to represent children's best interests in various types of legal proceedings. Expenditures by type of case are as follows:

Type of Case	Amount Expended in Fiscal Year 2002
Dependency and Neglect	\$5,349,032.41
Juvenile Delinquency	\$1,203,240.25
Domestic Relations	\$424,682.28
Truancy	\$172,981.56
Mental Health	\$807.27
Paternity	\$78,506.75
Probate	\$88,999.94
Other	\$26,193.55
Counsel Expenses	\$5,286.37
TOTAL	\$7,349,730.38

ADMINISTRATIVE AND OPERATING COSTS

\$449,403.51 was spent on administrative and operating costs of the OCR. These dollars were used to compensate staff, rent office space, conduct an initial assessment of services

statewide, establish local oversight committees in each judicial district, and develop a website and resource center.

TRAINING

\$23,938.37 was spent to train attorneys, judges, and magistrates throughout the state. The OCR hosted 3-day seminars in the rural areas of the state including La Junta, Steamboat Springs, Montrose, and Fort Morgan as well as contributed to the Juvenile Judges Annual Conference. The largest training event was a four-day conference held at the University of Denver College of Law. Some topics covered in the training sessions include child development, effects of domestic violence, trial practice skills, and youth services.

CASA

\$20,000.00 was contributed to Colorado CASA which is a non-profit organization of volunteer court-appointed special advocates. This funding allowed them to provide technical assistance to local CASAs throughout the state.