

**Office of
the Child's Representative
3rd Annual Report**



**Presented to
the Colorado General Assembly
September 2003**

OCR 2003 General Assembly Report

The Office of the Child's Representative (OCR) is required by state statute, Section 13-91-105, C.R.S., to annually submit a report in September to the General Assembly. This report provides an update of the OCR's activities for the past year, including those conducted to meet the office's statutorily mandated responsibility to provide and oversee best interest legal representation for children in Colorado. The report also includes an overview of major accomplishments achieved this last year, the OCR's response to the budget shortfall, the State Auditor's review of the OCR and the OCR's goals for the upcoming year.

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.

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SUMMARY OF ACHIEVEMENTS AND CHALLENGES FY02-03

In the last year, the OCR was fortunate to successfully achieve the following long-term goals and priorities:

- Significantly improve the quality and competency of attorney services statewide
- Begin the transition to compensate attorneys at the state hourly rate
- Continue to provide consistent and high quality professional training to attorneys throughout the state

It was the vision of the Colorado General Assembly to create a state agency that would enhance and oversee the provision of best interest attorney services for children in Colorado. As a step towards that vision, the General Assembly created the OCR in 2000 to empower children by providing them with established and uniform high-quality guardian ad litem (GAL) services.

The OCR is pleased to report that over this last year, the ideals set forth in the General Assembly's vision have become a reality. Based on the OCR's own observations, feedback this office has received through an evaluation process and comments from professionals who work closely in the field with the GALs, the OCR is able to report that the state has seen real, measurable improvements in attorney services across Colorado, particularly in jurisdictions that formerly had some attorneys providing less than adequate services.

The OCR thanks all the state agencies, including the State Department of Human Services Foster Care Administrative Review, court facilitators, foster parents, CASA and court personnel that provided feedback throughout the year and/or completed the OCR evaluation forms on the quality of attorney services. The OCR also appreciates the dedication of the attorneys who work diligently to provide exceptional services and set aside valuable time to continually train and improve their representation skills for children.

A long-term goal and priority of the OCR has always been to compensate attorneys who represent children in the same manner as other public sector attorneys, such as state paid defense attorneys. This year the OCR was given the authority by the Joint Budget Committee to begin to transition to hourly compensation for attorneys, to better serve the children and the state. Hourly payment for services rendered promotes thorough and timely representation; creates accountability because the state is able to monitor attorney services; and is a more equitable and fair compensation model for the provision of attorney services. This is a tremendous step for the OCR and its attorneys. The OCR thanks the JBC for its willingness to always be available and open to discussing this and all other issues with the OCR, particularly in such a difficult budget year.

Other achievements of this past year include the successful and meaningful training provided by the OCR in the rural and Front Range jurisdictions on topics unique to children in the court system. Training is a primary function of the OCR, and one of the

most effective means of improving and maintaining competent attorney services. The OCR acknowledges the many agencies and organizations who donated their time and expertise to train the OCR attorneys and the many entities that provided the training facilities (see acknowledgement in closing paragraph below). It was also this past year's goal to improve attorney litigation skills by providing effective trial advocacy training. This was accomplished with the assistance of some of the most recognized trial attorneys in the state who volunteered their time and expertise to the OCR.

While the OCR made great strides this last year, the year was not without its trials and challenges. As experienced by all other state agencies, the OCR had to respond to and survive cuts in funding due to the state's budget crisis. The OCR lost attorneys due to a cut in attorney fees, and the El Paso County GAL Office incurred significant caseload increases without additional staff. Although some attorneys could no longer afford to provide attorney services, most of the attorneys across the state and the El Paso County GAL Office stayed true to their charge, withstood the hardships and remained committed to providing quality legal representation to children. The office is pleased to note that, after extensive efforts, it was able to reinstate the original fees for the next fiscal year.

The office also experienced challenges of its own. The OCR, which under the best circumstances functions with a staff of five, was short staffed due to long-term emergency medical leave, maternity leave and other administrative vacancies. The OCR staff (including a budget officer who committed weekly time to OCR while on her maternity leave) through perseverance, dedication and often performing the responsibilities of two and three people, were able to overcome these shortcomings and accomplished much with less this past year. The OCR is indebted to its staff, particularly Deputy Director Kent Spangler and Financial Budget Officer Tammy Nelson, who selflessly gave of themselves over and above their normal duties to ensure work was completed, and to its law clerks who volunteered summer time towards OCR's administration and success this past year.

The staff shortage also affected attorneys in the field, who patiently waited, at times an extra 30 days beyond the normal 30-day payment cycle, to receive state reimbursement for their services. The OCR acknowledges the patience and understanding of the attorneys who endured the difficulties imposed by these delays on their daily business practices.

Finally, any success the OCR achieved this last year could not have been accomplished without the assistance provided by the Colorado Supreme Court, the Office of the State Court Administrator, Office of the Alternate Counsel, the Attorney Regulation Office, the court facilitators throughout the state, the State Department of Human Services, the 17th Judicial District Court Administrator, the City and County of Broomfield court staff and County Judge, the National Association for the Counsel of Children, the Kempe Center, the Children's Hospital, the North Metro Task Force, the Foster Parent Coalition and many other dedicated professionals who volunteered their time in the interest of Colorado's children.

Table of Contents

<u>I. Introduction and Mandates</u>	6
A. What is the OCR?.....	6
B. When was the OCR created?.....	6
C. Who are the OCR attorneys?.....	6
D. Who are the children represented?.....	6
E. Why are OCR attorneys appointed by the Court?.....	6
F. OCR’s Mission Statement.....	7
G. What are OCR’s legislative mandates?.....	7
H. Real life examples of GAL advocacy.....	8
I. What attorneys and professionals do not fall under OCR?.....	11
<u>II. Update on OCR Mandates and Activities</u>	12
A. Improve quality of children’s representation, oversight, resource.....	12
B. Establish fair and realistic compensation for GALs.....	14
C. Provide accessible training statewide for attorneys.....	17
D. Provide statewide training to judges and magistrates.....	18
E. Recommend and establish minimum training requirements.....	19
F. Recommend and establish minimum practice standards.....	19
G. Create local oversight committees.....	21
H. CASA.....	21
I. GAL Pilot, El Paso County GAL Office.....	22
<u>III. OCR Response to Budget Crisis</u>	23
<u>IV. OCR Child Advocacy and Activities</u>	24
A. Supreme Court Family Issues Committee.....	24
B. CBA Domestic Violence & Children Committee.....	25
C. Drug Endangered Children.....	25
D. Immigration Issues Committee.....	25
E. Juvenile Justice and Mental Health Subcommittee.....	26
F. Denver Juvenile Court Domestic Violence Protocol Committee.....	26
G. Domestic Violence Containment Committee.....	26
H. Colorado Statewide Team Promoting Equity Committee.....	27
I. Status Offender Committee.....	27
<u>V. OCR Audit</u>	28
<u>VI. OCR Goals for Upcoming Year</u>	29
<u>VII. Appendix</u>	30
Appendix A – OCR Training & Conference Agendas.....	31

I. INTRODUCTION AND MANDATES

A. What is the OCR?

The OCR is a small state agency that provides and oversees attorney services rendered by Guardians Ad Litem (GALs), also known as best interest attorney representation for children. This past year over 10,000 children were represented by GALs. The agency operates with a staff of five. Over 94 percent of the OCR budget is used exclusively for attorney services.

B. When was the OCR created?

This 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 and monitor (GAL) attorney services for children.

C. Who are the OCR attorneys?

The OCR contracts with over 250 licensed attorneys to represent the best interest of children. These attorneys are also known as GALs, child's representatives and attorney special advocates. They are specially trained in the area of issues related to children who are abused and neglected, are victims of high conflict divorce or are in the delinquency system. The OCR also oversees a ten attorney staff model office in the 4th Judicial District, which is supervised by Director Debra Campeau and provides exceptional GAL services in dependency and neglect and delinquency cases.

D. Who are the children represented?

Primarily, the OCR provides representation to children who have been abused and neglected and are the subject of a dependency and neglect case. Colorado state statute requires every child who is the subject of this case type be appointed a GAL. This past year this agency provided attorney services to over 10,000 children statewide. The OCR attorneys also represent children in adoption, probate, delinquency and mental health matters when best interest representation is necessary. Further, the OCR provides services to children who are the subject of high conflict parental responsibility disputes (formerly known as custody) when parents are indigent and unable to pay for child representative or attorney special advocate services.

E. Why are OCR attorneys appointed by the Court?

Recommendations made by parents, state agencies and other interested parties concerning children who are the 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. The state of Colorado

requires that every child who has been abused and neglected be appointed an attorney to serve their best interest. This is best illustrated by real life examples of actual cases heard this last year in which the independent advocacy of a GAL caused a different outcome in a child's life. (Page 8 of this report.)

F. OCR's Mission Statement

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 it 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.

G. What are OCR's legislative mandates?

Colorado state statute, Section 13-91-101, et seq., C.R.S., sets forth mandates that provide the necessary tools to create and maintain a consistent and high quality best interest representation system for children.

The mandates listed in statute include the following:

- Improve the quality of children's best interest representation statewide by providing oversight of the practice of GALs to ensure compliance of standards and by serving as a resource for its attorneys
- Establish fair and realistic compensation for state-appointed GALs
- Provide accessible training statewide for attorneys, magistrates and judges
- Recommend and establish minimum training requirements for all attorneys representing children
- Recommend and establish minimum practice standards for all attorneys representing children
- Create local oversight committees that help oversee the provision of services
- Work with Court Appointed Special Advocates (CASA) to develop local CASAs in each of the 64 counties statewide, enhance funding resources for CASA and work with CASA to provide training
- Develop measurement instruments to assess and document the effectiveness of various models of representation

H. Real life examples of GAL advocacy that changed the course of a child's case.

Provided below are several actual cases heard this last year that underscore the critical need for the independent, best interest representation provided by the GAL and the tremendously positive impact the GAL can have on the outcome of a case and, most importantly, the child's life. The OCR is proud to note and cannot overemphasize the fact that these are but only several of hundreds of cases that can be shared from all 22 judicial districts in which GALs provided effective and competent representation with similar results.

- **2nd Judicial District (Denver) - Protecting the child's need for permanency.** Permanency is in a child's best interests and, in some cases, the termination of parental rights must be accomplished in order to achieve permanency by freeing a child for adoption. A GAL practicing in the 2nd Judicial District, (Denver) representing two young children believed that it was in his clients' best interests that they be adopted. Because of the threat of harm she posed to the children, the mother had been found unfit and her parental rights had been terminated by the trial judge. Their father would not leave their mother, making it impossible for the children to return to his home. However, the trial judge refused to terminate the father's rights, relying on a case that predated the existing Colorado Children's Code. This meant that the children were stuck in legal limbo, without a parent to return to or an ability to become adopted by their loving caregivers on whom they had come to rely. Although the City Attorney (who represents the department of social services) had *initially* joined in the GAL's motion for the termination of the father's parental rights at trial, the City Attorney decided not to appeal the judge's decision that would forever keep the children from being adopted. At the time of the hearing the children, who were twins, were two years old.

Convinced that termination of parental rights was in the best interest of his clients and that the trial judge had made the wrong ruling, the GAL appealed the decision - alone and without support from the City Attorney. The appellate court agreed with the GAL that under the Colorado Children's Code, the father's parental rights to his children could be terminated because of his refusal to leave a relationship that posed a threat to his children. The children now have a chance of being adopted and achieving the permanency they need. **In this case, had it not been for the GAL's willingness to fight for what he believed to be in his clients' best interest, these young children may have remained stuck in legal limbo their entire pre- emancipation lives without the possibility of adoption.**

The OCR recognized David Littman for the high quality of services he provided throughout this case.

- **4th Judicial District GAL Office - Saving a child's life.** A GAL and Case Coordinator both employed by the El Paso County GAL Pilot Office¹, had a suspicion that something was wrong with their client's placement. The foster parent of this autistic, non-verbal and mentally retarded client had been making excuses why the Case Coordinator should not come to her home for a visit with the client. Although the excuses sounded legitimate on the surface, their pattern began to trouble the Office's GAL and Case Coordinator. The Case Coordinator was adamant about visiting and, despite the resistance of the foster mother, insisted on entering her home and seeing the client in his bedroom where the foster mother had stated he was sleeping. What the Case Worker found was an emaciated young person, kneeling on the ground, clothed only in a dirty diaper and a tee-shirt, signing desperately for water with hands dirtied by his own feces. The room reeked of urine and feces, and the Case Coordinator saw no signs of sheets or blankets in the room. An investigation later revealed that the foster parent had locked the client in his room for extended periods of time and that the client was borderline malnourished, having lost almost 15 percent of his body weight in a short period of time. That client and two other foster children who had been living in the home were immediately removed, and the client was hospitalized for five days. Upon his release, the client was placed in a new foster home and, within two weeks, he reportedly gained 13 pounds.

Significantly, several professionals and family members had also been involved in this client's case, including a private agency caseworker, the boy's parents, a registered nurse charged with monitoring the medical care provided by the foster mother, the department of human services caseworkers for the two other children, as well as a department of human services investigative worker who had been to the house the very morning in which the El Paso County GAL Office Case Coordinator discovered the client in his condition. It remains unknown what, if not for the investigation of the El Paso GAL Office Case Coordinator, would have happened to this young person.

The OCR commends Lisa Borden, Case Coordinator, and Elizabeth Shoup, GAL, for their outstanding work on this case and making such a difference in this child's life.

- **1st Judicial District (Jefferson County) – Good work recognized by others.** These cases are taken directly from unsolicited e-mails sent to the OCR from a court staff member who was recognizing the accomplishments of GALs.

The first case involves an "11-year old boy who had been in foster care since he was seven. The permanency plan for this case had been long-term foster care until the GAL took it over 11 months ago. She realized immediately that her client was too young to spend the rest of his childhood in foster care, and because of her insight and quick work up front, she even convinced the judge hearing the case to rescind his order transferring venue to another county. Now, 11 months later, he is home with

¹ The El Paso County GAL Office is the only staff model that employs Case Coordinators to work closely with the GAL. The GAL Office Case Coordinator is not with the department of social services but is staff employed by the GAL Office.

his mother and stepfather, and the permanency plan has just been modified to remain home. This is the type of case that really underscores the impact a thorough and thoughtful GAL can have. The GAL was able to successfully view the case differently from all of the other professionals (including the former GAL who never objected to the long-term foster care plan) and was able to completely reverse its course.”

The OCR acknowledges the consistent, outstanding advocacy provided by GAL Gail Meinster, and the knowledge and dedication she applied to this case and the success she achieved on behalf of the child.

The second case concerns a GAL’s representation of three Native American girls and the Indian Child Welfare Act (ICWA). “The baby had been placed in a foster home at the beginning of the case when she was less than a year old, and the older two girls were placed in another foster home together. Parental rights were terminated for all three girls 18 months into the case, and one of the tribes that had previously refused to intervene wanted to bring the three girls back to the reservation for placement. The tribe did not have a specific adoptive family for the girls. The GAL, concerned about the bonding that had taken place, challenged ICWA on the grounds that the ties to the tribe were too attenuated and that because the tribe did not have an actual family for the girls, sending them to Oklahoma would essentially be placing them in foster care on the reservation and changing placements too far into the case. The GAL argued that best interests dictated that the girls remain where they were and where they had been since the case opened. Amazingly enough - she won. These girls are now in the process of being adopted by their respective foster families and they continue to see each other very regularly. In fact, all three were together at the zoo party last Saturday. I have to admire the GAL’s sense of what is right for these children, plus her tenacity in taking on the ICWA in a case that cried out for it, and winning.”

The OCR cannot thank the GAL in this case, Jenna Reulbach, enough for her fortitude and resolve to ensure that the best interests of her clients were met.

- **1st Judicial District (Jefferson County) - Making sure a client thrives and medical needs are met.** When a Jefferson County GAL’s client came into the system, he was 18 months old and weighed only 11 pounds, due to neglect and failure to thrive syndrome. Without any muscle tone, he could not sit up, move his limbs or do many other activities usually possible for a child his age. He could not eat or drink orally, and he screamed constantly for periods exceeding 24 hours at a time. Doctors diagnosed him as needing a number of surgeries to promote as normal development as possible, including a time-sensitive surgery critical to saving the vision in one of his eyes. His GAL met with all of his doctors, researched and understood the implications of the various recommended surgeries and decided that it was in her client’s best interest that the surgery be performed immediately. However, the county department of human services, her client’s temporary legal custodian, wouldn’t consent to the surgery because it was wary of legal liability for potential complications.

Knowing that her client didn't have much time, the GAL fought for the necessary surgery in court. She also worked with her client's father and supported him in making and following through with informed medical decisions about his child. **Ultimately, the client got the surgery he needed.**

However, the GAL's advocacy did not end with the surgery. The social services caseworker attempted to pull the client from the one foster home he had known, and then place him with an out-of-state relative without conducting a thorough assessment of that relative's ability to care for his many special and medical needs. Because of the GAL's advocacy, the client remained in the foster home where he had begun to stabilize, and the out-of-state relative participated in the evaluations and planning needed to ensure the client's successful transition to her home. The client moved to the out-of-state placement this summer, which, because of the GAL's advocacy, is being monitored by that state's social services department. The client is reportedly beginning to thrive in his new home, walking with a walker, drinking small amounts of liquids orally and the many other activities which, without the surgery and his GAL's advocacy, he may have never had the chance to do.

The OCR also recognizes GAL Stacey Nicholas for her incredible persistence and determination throughout this case and ensuring that the child's best interests were ultimately met.

The OCR is fortunate to have so many competent, dedicated GALs representing children's best interest. These are just several examples of the many imperative investigations and principled actions taken by the many GALS in the state and they further demonstrate the need to have attorneys representing children's interests.

I. What attorneys and professionals do NOT fall under the auspices and oversight of the OCR?

It is also important to distinguish attorneys who contract with the OCR from attorneys and mental health professionals who provide services in domestic relations cases but who do not fall under the auspices of the OCR and who the OCR *does not* oversee or monitor. In Colorado, in domestic relations cases, the court may appoint a special advocate or child's representative in cases involving contested issues of parental responsibility (formerly known as custody disputes), Section 14-10-116, C.R.S. A GAL appointment no longer exists under Title 14, C.R.S.

In the majority of these case types, the court appoints a special advocate, as opposed to a child's representative, to investigate and make best interest recommendations concerning parenting time and decision making. Most of these special advocates are either mental health professionals or private attorneys whose services are paid for by the parents. The OCR does not contract with or provide oversight to the majority of work performed in domestic relations cases. In a minority of cases, if the parents are indigent then the state will pay for these services. If a finding of indigency is made and the court appoints a

state paid mental health professional, the State Court Administrator's Office compensates for their services. If a finding of indigency is made and the court appoints a state paid attorney, those special advocates or child representatives fall under the oversight of OCR.

Under no circumstances, whether indigency is found or not, does the OCR oversee, provide or pay for special advocate services by mental health professionals.

II. UPDATE ON OCR MANDATES AND ACTIVITIES

A. Improve quality of children's representation statewide, provide oversight and serve as a resource.

By way of background, in the first year (2002) of the agency operations, the Director conducted a statewide assessment by traveling to all 64 counties in the state to investigate the quality of attorney services. Within that same year, the OCR staff then required every attorney within the state, whether currently practicing as a GAL or a new applicant, to complete an application and participate in an interview process. The OCR contracted with approximately 250 attorneys and chose not to contract with many who had been previously providing services as a GAL but were not meeting the expected OCR standards of practice.

Improve quality of representation. The attorney application and interview process was repeated again in May and June of 2003. Prior to the application process, the OCR created and distributed evaluations forms for feedback on all OCR attorneys. They were sent to CASA volunteers, court facilitators, court administrators and all judges in the 22 judicial districts. This information assisted the OCR in again assessing services within each jurisdiction. The results allowed the OCR to confirm the competency of the many attorneys who provide quality services as well as the validity of new concerns.

The office then required all attorneys, regardless of whether they had existing contracts or were new applicants, to complete a 2003/2004 application. No contract was automatically renewed and all applications were reviewed. The OCR Director and Deputy Director again revisited each jurisdiction to assess attorney services, meet with the attorneys who had existing contracts for the past fiscal year and interview new applicants and any attorney in which the OCR had previously received a complaint or was otherwise concerned about their performance. Visiting each jurisdiction allows the OCR to learn what is working, how the provision of services can be improved, how to be a better resource for the attorneys providing services and how to better meet the needs of the communities and court personnel.

The annual OCR attorney application and interview process is an effective method of monitoring attorney services and ensuring that only the most qualified attorneys provide legal representation for children. As a result of this process, the OCR again made improvements to the quality of attorney services by: not renewing contracts for some attorneys who had contracts the previous year; placing several attorneys on probationary

status; bringing new attorneys in the field; and renewing contracts of the majority of attorneys who provide exceptional services.

Another *important* component of improving the quality of legal representation for children is the provision of ongoing, meaningful training tailored to the specialized needs of attorneys representing children. The OCR provides annual statewide training to attorneys, which is addressed in detail on page 17 of this report.

Provide oversight. In addition to the attorney application and interview process, the OCR also oversees the provision of attorney services on a daily basis. The OCR has a formal **complaint process** in which the OCR investigates every complaint received concerning the representation provided by attorneys who have a contract with the OCR. This last year the OCR processed over 70 complaints. If the complaint is founded, the attorney is put on notice and a plan of action to remedy the situation is decided and will be considered during the contracting process for the subsequent year. Should the complaint be serious enough, the attorney's contract is terminated forthwith. Some investigations did result in termination of contracts this last year. **Many complaints concerned attorneys whose contract with OCR had previously been terminated and who were not receiving new appointments; in these older existing cases, only the judge has the power to remove the GAL from the case.**

Also, on a daily basis, the OCR responds to **jurisdictions' feedback, criticism and/or requests** concerning OCR attorneys. For instance, the OCR received information that attorneys in Denver could benefit from "Domestic Violence and Children" training. The OCR brought in an expert, and she provided training to the attorneys. In Jefferson County, the 1st Judicial District shared with the OCR that an attorney needed training in interacting with respondent parents and training in the area of child development. Again, the OCR responded by providing the requested trainings to improve attorney services. Simply put, if the OCR receives a call from a judge, court administrator, court facilitator or community member, the OCR will respond.

An additional oversight method and safeguard was added this year. The **review of hourly billing** statements was recently made available by the Joint Budget Committee when they granted approval to the OCR to convert to an hourly payment process. However, due to the budget shortfall suffered by the state, OCR must transition over a five-year period. Regardless, this is the most effective way to monitor services on any given case. This fiscal year, the OCR transitioned all cases in all rural jurisdictions and all delinquency cases to hourly payment. The OCR will work to expand all jurisdictions to hourly payment within the next four years. (See page 14 for further discussion.)

Serve as resource. The **OCR staff also supports and serves as a resource** to the dedicated attorneys who provide highly competent services. Attorneys are free to contact the Director, Deputy Director or Staff Attorney for assistance. As an example, an attorney in the 2nd Judicial District (Denver) contacted this office because she was the GAL in a very complicated custody case that involved issues under the Indian Child Welfare Act. The OCR was able to set up a conference call with an attorney in Ft. Collins

who also serves as a GAL and who is very knowledgeable in this area. The Ft. Collins attorney was able to give advice and guidance that allowed the Denver attorney to better serve the needs of that child.

The OCR also created a centralized legal and professional **resource center** for 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. The website also includes links to specialty information such as psychological effects of sibling separation, conduct disorders, attachment disorders, developmental disabilities, brain development, adolescent adoption and parental alienation. The Resource Center, webpage and library will be revised, updated and expanded this upcoming year. 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.

The OCR library. The OCR 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 is 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.

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.

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

B. Establish fair and realistic compensation for GALs.

It is the statutory mandate of the OCR to “establish fair and realistic rates of compensation” in order to enhance the legal representation of children. Other attorneys who provide services for the state outside the OCR, such as criminal defense attorneys, are compensated by the state on an hourly basis of \$45 out of court and \$55 in court (fee

for services rendered). When the OCR was established, the agency inherited a payment system which was different from other state paid attorneys. The Children's attorney, who provides best interest representation in complicated abuse cases, was paid a flat fee of \$1,040 for two years of work. Most of these cases typically involve several children, all of whom would be represented by the same attorney for the single flat fee. Often this flat fee was paid upfront before any services were likely to have been performed. These cases are extremely complicated and require a significant amount of attorney time and expertise. For instance, attorneys who represent children who are abused and neglected are expected to complete a number of tasks, such as: viewing each child in his or her placement; understanding the special psychological and social needs of each child; advocating for their needs; attending all court appearances and staffings; conducting an independent investigation; litigating all phases of the case; etc., all for \$1,040 over two years.

One of the top priorities of the OCR since its creation has been to fulfill its mandate of fair and realistic compensation by converting these state paid attorneys who represent the best interest of those abused and or neglected children to the state hourly rate. **The reasons that the OCR so strongly advocated for converting to the hourly state rate include:**

- **Accountability.** There is no accountability to the state and/or the taxpayer when one is compensated with an upfront lump sum payment. The attorney receives the \$1,040 at the beginning of the case on the promise that he or she will provide adequate services with no further billing required. The state has no idea what services are performed, if any; the quality of the services; or at what stage of the case the attorney involvement commenced. The state agency overseeing the attorney services has absolutely no way of tracking the work performed. An attorney could wait for months before seeing the child or conducting an investigation and the overseeing agency would have no way to monitor their services.

An hourly attorney is not compensated until he or she actually perform services and, therefore, has a natural incentive to commence work immediately and frontload services. Moreover, when an attorney is required to bill at an hourly fee, the OCR can pull an itemized bill in any case, at any given moment and ascertain exactly what work has been performed, within what time frame and whether it is reasonable or not. **The hourly fee creates accountability to the state, taxpayer and to the children who are served.**

Another factor one must remember is that adults who qualify for state paid attorneys, such as defense counsel, are capable of complaining when their attorney is negligent in his or her representation. They can complain to the court, call the Attorney Regulation Office, call the agency or hire their own attorney. However, up to 60 percent of the children who are in the court system due to abuse and neglect are preverbal and are under the age of three. These children are unable to complain and have no control over their representation. **Children, because of their vulnerability,**

more than any other group should be guaranteed accountability through an hourly payment system.

- **Ensure children’s right to competent attorney representation.** Children have a right to the same quality and competent services as others who are able to utilize state paid attorneys. Inherent in the flat fee system of compensation are the abuses and challenges which the GAL system has struggled with for years and the reason the legislature created this office. Legitimate attorneys must take a high volume of cases in order to maintain a practice in which they can focus on and dedicate themselves to cases concerning abused and neglected children. This may cause attorneys to take a caseload that is not always manageable and puts one in a position where they are challenged to provide upfront services in a timely manner. However, under the hourly system, an attorney is free to take only that number of cases they can reasonably handle and are able to immediately and fully provide attorney services to each child in the case. An hourly paid attorney does not get paid by the State until they perform the services, which results in timely and meaningful outcomes for children. There is no incentive to take a caseload that is not manageable. The attorney who can only work a certain number of hours a week, whether it is 20, 30 or 40, can adjust his or her caseload according to their number of available hours.
- **Fair and equitable to state, attorney and child.** Finally, the complexity of each case varies, with some requiring extensive hours of work and others less attorney time. Payment for services should vary and be disbursed in accordance with the needs of the case rather than on a flat rate that is the same in every case regardless of how complicated or simple the case. Subsequently, hourly payment is the most fair and equitable method of compensation for both the attorney and the state with the children of Colorado benefiting.

The OCR is extremely pleased to announce that in the last budget request session (FY-03/04), the JBC granted OCR the authority to convert the flat fee payment to an hourly payment system. However, because the JBC had to take into consideration the state’s challenges with the budget shortfall, it required the transition to occur over a four-year cycle. The result of this significant decision is that, effective July 1, 2003, the OCR transitioned all cases in all rural jurisdictions and all delinquency cases statewide to hourly payment. Over the next four years, the OCR will slowly transition the Front Range jurisdictions accordingly.

The OCR again thanks the JBC and all members of the General Assembly for approving this transition to an hourly payment system. This decision is a milestone for attorneys representing children in Colorado. It is a monumental step toward realizing the original vision set forth by the legislature in 2001, and it is indicative of the commitment of the State of Colorado to enhance and ensure competent legal representation for the children in Colorado.

C. Provide accessible training statewide for attorneys.

Training serves are a critical component to 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 not only the law but on issues unique to children. When representing children, lawyers must, in addition to their legal skills, also be able to draw upon interdisciplinary knowledge from such pertinent fields as psychology, sociology, social work and medicine. Children are also best served by the legal child welfare system when judges understand the social and psychological implications of a case and what those mean developmentally for each child. Therefore, it is no surprise that the OCR is mandated to provide accessible and meaningful training to attorneys and judges.

The OCR, through its original multidisciplinary training committee, developed a thorough and extensive list of core legal and other child welfare topics that all attorneys contracting with the OCR should have training in to ensure that they provide effective best interest representation. This list will serve as the foundation for all OCR training curriculum and as a guide for the collection of information and materials at the OCR resource center. Examples of subject areas contained in this list include such topics as the effects of domestic violence on children, sibling separation and its effect on children, child development, attachment disorder and bonding issues.

This last year, the OCR again provided statewide training on many of these critically important topics. Two and three-day conferences were held throughout the state (rural areas included) on topics ranging from ethics for the GAL, immigration issues, adoption subsidies, domestic violence, federal Indian Child Welfare Act, trial advocacy skills, civil contempt, identifying physical and sexual child abuse, how the D&N system damages children and how to avoid these damages, meth and children and other issues of use and interest to GALs in their specialized practice.

In addition to providing training for the attorneys that contract with the OCR, the agency also invited the other professionals and volunteers within the community to participate at no cost. Other professionals and volunteers that participated included CASA, county attorneys, respondent parents' counsel, judges and social services caseworkers. The combined participation of these professions resulted in fostering working relationships and a sharing of resources that greatly benefit the participants and the children of Colorado. The OCR is very proud of the dynamic and excellent training provided. The OCR would like to thank the high quality speakers who graciously offer their expertise and time and all of the professionals who participated. A copy of each conference agenda is provided in Appendix A, page 31 of this report.

As previously mentioned, throughout the year the OCR provides training on an ad hoc basis to isolated jurisdictions when a special need presents or when requested by court personnel or other outside agencies. For instance, the office responded to a request to provide training in Denver (2nd Judicial District) on the effects of domestic violence and

children. In the 1st Judicial District, upon request by the court administration, the OCR facilitated trainings on better practices when interacting with respondent parents and child development.

The OCR also endeavors to provide attorneys with updated training when new topics of urgency concerning children arise. For example, the OCR, together with the North Metro Task Force, Kempe Center, SCAO and Attorney General's Office, provided statewide training to over 2000 GALs, other attorneys, caseworkers, district attorneys, law enforcement, CASAs, county department of social services, probation officers, community members and judges on the abuses surrounding drug endangered children. This training focused on children exposed to and living in environments where their caretakers are manufacturing methamphetamine. It was critically important to OCR to raise awareness of these volatile environments and the tragic abuse they inflict upon the children living in the homes.

Finally, because GALs are the legal advocates for the children, it has always been a priority for the OCR that GALs continue to develop trial skills in order to provide competent best interest representation. The OCR conducted a three-day trial advocacy training session with Colorado Supreme Court Justice Kourlis as the keynote speaker and some of the most recognized trial attorneys in the state. Marv Ventrell, Executive Director of the National Association for the Counsel of Children, provided the closing remarks. The OCR extends a sincere thank you to all who participated.

The OCR also is always grateful to the many professionals who generously donate their time, experience and knowledge with the OCR attorneys at the OCR continuing education conferences. It is due to their selflessness and interest in the well-being of children that the OCR can provide ongoing, quality training to attorneys in the field. The OCR specifically recognizes the Kempe Center, Office of Attorney Regulation, Children's Hospital, North Metro Task Force, Alternate Defense Counsel Office and the judicial officers throughout the state for their valued assistance and expertise.

D. Provide statewide training to judges and magistrates.

The mandated duties of the OCR also include providing high-quality training to judges and magistrates who regularly hear matters involving children and families. Any and all training sponsored by the OCR is designed not only to serve the needs of the attorneys who represent children, but also to provide information to the judges and magistrates who hear these cases and make critical decisions in the lives of children and families. As such, the OCR provides notice to and invites all judges, magistrates and court facilitators to participate in the trainings at no cost. As a result, the OCR has had judges attend and participate in the OCR's continuing legal education.

This last year, the OCR also provided training sessions specifically tailored to the needs of judges and magistrates on the dangers and abuses of drug endangered children and meth as mentioned above. Over 30 to 35 percent of the homes in which meth is manufactured or used have children residing in the home. The abuse of meth and the

devastating effects it has on the health and well-being of children is a critical, statewide issue of concern to all parties interested in the welfare of children, including the judges who hear meth related cases. The training was enthusiastically received, and the OCR appreciates the assistance of Magistrate Hernandez-Sullivan, Diana Coffey, Melinda Taylor and the other staff at the State Court Administrator's Office who helped facilitate these training sessions.

E. Recommend and establish minimum training requirements for attorneys.

The current Chief Justice Directive 97-02 requires that an attorney who practices as a GAL have at least ten hours of continuing legal education or other course of relevance that enhances the attorney's knowledge on the issues of representation. One of the OCR's goals in the upcoming year is to revisit this requirement. As previously mentioned, an OCR multidisciplinary committee has created a list of critical topics and subject areas to serve as guidance for the creation of a comprehensive training curriculum for new attorneys as well as the development of advanced continuing legal education modules for experienced attorneys. It is the hope of the OCR that the office will create a series on video that will incorporate a basic curriculum necessary to educate an attorney so that he or she can effectively advocate for children. The thought behind the video series is that it will be the optimum of accessible training: it can be easily used by one or many; at any time or place; and at little or no cost by anyone regardless of where they are located within the state. It will eventually be available on the OCR's homepage. The State Court Administrator's Office is considering creating similar resources for new judges who enter juvenile court. That office has expressed a willingness to share its materials with the OCR. With the SCAO assistance, it is the hope of the OCR that this training curriculum and series can be realized.

It will make sense to revisit the minimum training requirements of GALs if more effective training can be offered consistently and at a low cost throughout the state. This is also timely because the Supreme Court, through its Family Issues Committee, is revisiting the current minimum training requirements of Chief Justice Directive 97-02 for attorneys who not only serve as GALs but who also practice in the area of Domestic Relations. The director of the OCR serves on that committee.

F. Recommend and establish minimum practice standards.

The OCR is given statutory authority and mandated to set minimum practice standards for its attorneys. One of the reasons the OCR was created was to address the inconsistent quality of legal representation to children and establish minimum standards for all GALs. While the OCR must emphasize that the overwhelming majority of attorneys who serve as GALs provide excellent services as has been referenced throughout this report, (occasional problems still occur) when the OCR *initially* assumed oversight of attorneys, some problems did exist that needed resolution.

For example, in its initial assessment the OCR became aware of GALs chronically not returning phone calls to other professionals; GALs not responding to motions filed by

other attorneys; and GALs not participating in litigation necessary to represent clients' best interests by failing to attend scheduled hearings, not obtaining proper coverage for missed hearings, and literally excusing themselves in the middle of ongoing hearings, including termination of parental rights hearings. The OCR is fully cognizant that, when GALs are not even present to hear evidence and examine witnesses in critical hearings, their clients' best interests are not being served.

It became clear to the OCR that these problems could be alleviated through the application of minimum standards that currently exist for all attorneys: 1) the Rules of Professional Conduct; and 2) Rules established by the Colorado Supreme Court for all GALs, Chief Justice Directive 97-02.

Colorado law requires GALs to be licensed attorneys and, as such, the GALs are subject to the same Rules of Professional Conduct that govern every other attorney practicing in the state – regardless of whether their client is a child and their representation is best-interest oriented. A child has a right to competent representation by a GAL who makes all court appearances, who thoroughly and properly prepares and litigates the case, and who conducts himself or herself professionally at every stage of the litigation. The CJ97-02 further sets training requirements and additional minimum practice standards for attorneys practicing as GALs.

The OCR has concluded that these existing minimum standards do promote competent representation of children. Consequently, the OCR believes it can best serve Colorado's children by ensuring their attorney's abide to existing minimum standards while remaining cognizant of the need to refine and/or modify these standards in the future. To that end, this year, the OCR took additional steps to ensure that GALs are knowledgeable of the minimum standards that govern their representation of children by implementing a campaign to educate GALs about these existing standards.

The OCR conducted its educational campaign with the assistance of the Supreme Court Attorney Regulation Office. Terry Bernuth, a renowned attorney who at that time was with the Attorney Regulation Office, created a two and one-half hour Continuing Legal Education segment concerning the minimum practice standards for GALs. This training set forth what is expected from GALs under the Rules of Professional Conduct and CJD97-02, and was presented to OCR attorneys throughout the state. These sessions served to reinforce and remind many attorneys who represent children that they must adhere to the Code of Professional Conduct and CJD97-02 in their practice. However, a minority of attorneys seemed genuinely surprised by the realization that these standards govern their practice.

Finally, the OCR has and will continue to address problematic behaviors through its ongoing contract and oversight procedures. Many of the attorneys who had exhibited the most problematic behaviors no longer have contracts to perform GAL services with the OCR but remain on the older cases because only the judicial officer can remove them

from the case.² Other attorneys are contracted with under a probationary status. The OCR's complaint form and attorney evaluation process have in the past and will continue to allow the OCR to address GAL practice deficiencies on an as-needed basis.

As the OCR continues its education and enforcement campaign regarding minimum standards, the OCR will continue to consider the need for refining or amending the existing standards. Additionally, the OCR currently serves on a Supreme Court Family Issues committee that is the process of revisiting the minimum standards sections of Chief Justice Directive 97-02, and it will continue to consider and evaluate GAL minimum practice standards from that perspective in the upcoming year.

G. Create local oversight committees.

The OCR is also mandated to create local oversight committees, which were developed in the previous year. These oversight committees played an instrumental role in the first statewide attorney application and interview process. The local oversight committees did not participate in this year's attorney application and interview process due to the OCR's budget constraints and staff shortage. However, the OCR will be meeting with these committees in the near future to provide updates on attorney services within their community, the number of children represented, share outcomes of complaints, if any, and again gather feedback on how the office can best meet the needs of their local community. The committees serve a vital role in the OCR's oversight and ongoing communication with each jurisdiction and the quality of attorney services provided in those jurisdictions.

H. Work with CASA on expanding programs statewide, enhance funding.

The OCR is statutorily mandated with the responsibility of working cooperatively with Colorado CASA to develop local CASA programs in each judicial district, and helping CASA seek additional funding. This past year the OCR assisted state CASA by transferring \$20,000 of general funds to CASA, which monies are used for program development and technical support for existing CASA programs. The office also participated in the CASA campaign for the CASA tax check-off.

The OCR also raised monies for local CASA programs by asking the OCR training participants to make a donation towards their local CASA instead of paying a nominal registration fee. This generated approximately \$5,350, which was distributed to the Boulder, Denver, Mesa and Pueblo County and Continental Divide CASA programs.

Finally, the OCR always responds to any of the local CASA requests and works collaboratively with them to continually evaluate the OCR attorney services in their jurisdiction. The local CASAs invested a significant amount of time in the completion of

² However, the OCR must emphasize that even though these attorneys no longer have contracts with the OCR and are precluded from taking new cases with the OCR, they still may provide ongoing representation in existing cases because only the judge has authority to remove the court appointed GAL from a case.

the OCR evaluation forms, which greatly assisted the OCR in ascertaining the quality of its attorney services.

I. GAL Pilot – El Paso County GAL Office.

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 third year of operation. Because all provisions of GAL services now rest with the OCR, the 4th Judicial District’s pilot project continues under the oversight of this agency.

Since the OCR inherited this pilot, it has and continues to conduct extensive evaluation and investigation as to the quality of attorney services provided by this office in dependency and neglect cases. The result of our inquiry is that this pilot continues to provide consistent and quality attorney services in the state. This staff model provides direct accountability, continual mentoring, consistent training and effective representation through all phases of the case, especially the litigation phase.

The staff model employs not only attorneys, but other professionals such as managing social workers and case coordinators who make an important contribution to the legal representation of children. These mental health professionals work the most difficult, high-risk cases and are able to supplement the attorney services by providing analyses of treatment needs, meaningful participation in case staffings [when the attorneys are in court], communication with treatment providers, psycho-social assessments and the ability to observe parent/child visitation.

Not only has the OCR found this office to be one of the better models for representation in areas of dependency and neglect case filings, but the Joint Budget Committee also confirmed that this office provides the most cost-effective attorney services (average \$34/hour per case, including staff and administrative costs).

Since the office was created, it has represented over 3,200 children and closed 1,163 cases successfully (meaning children were permanently placed). Currently the office has 854 open cases. These permanency and litigation statistics are some of the best in the state, and this office is to be highly commended.

However, this year this office had to absorb an increased caseload without additional staff. This hardship appeared to be at times overwhelming and unmanageable. Nonetheless, the El Paso County GAL Office stayed true to their charge and withstood these hardships due to their steadfast commitment to ensure quality legal representation for children in spite of these extenuating circumstances. The OCR is extremely grateful

and appreciative to this office for their efforts and dedication throughout this difficult time.

And, once again, the OCR gives credit to Office Director and Supervising Attorney Debra Campeau and her staff, who have somehow managed to endure these difficulties and yet still provide effective attorney services through their own initiative and excellence.

III. OCR RESPONSE TO BUDGET CRISIS

Please note that the office appreciates and is fully aware that all agencies suffered similar budget limitations and struggled to maintain services within budget constraints.

The OCR went to great lengths to keep budgetary cuts to a minimum, maintain a high standard of service and continue operating at its absolute best under extenuating circumstances. Again, the OCR thanks the Joint Budget Committee for its willingness to remain available for discussion and receive updated information during such a challenging time and facing difficult decisions on a daily basis. The OCR will continue to work hard to carefully manage FY 03-04 appropriations and create efficiencies where possible without impacting the quality of attorney services.

However, the OCR and its attorneys were set back by the budget shortfall. Impacts included: the loss of attorneys due to cuts in attorney fees; cancellation of its annual September training conference due to the elimination of training funds; and the El Paso GAL Office incurred significant caseload increases without funds to add staff. Provided below are several examples of the impact of the budget shortfall and how the OCR responded accordingly.

- Reduction of attorney fee rates. This was one of the most difficult hardships for the independent contractors (the attorneys) to endure. Rates for GALs are already far below that of private practice and, in FY 2000, GALs had received their first small fee increase (\$5) in 10 years. This increase in 2000 was rolled back, effective February 1, 2002, due to the state's budget crisis. As a result, the OCR lost qualified attorneys who had long been providing GAL services but could not afford to do so any longer at the reduced rates. The OCR appreciates the hardships the attorneys sustained, and thanks them for their perseverance and willingness to continue to provide quality attorney services.
- El Paso County GAL Office. This office suffered significantly due to budget limitations. It incurred significantly increased caseloads the last fiscal year without the ability or funds to hire added staff. The OCR also required that the office relocate to reduce rent expenses. Again, this office never lost sight of their mission, survived the hardship and remained committed to effectively advocating for children.
- Training. The office's training funds were eliminated, and the OCR subsequently cancelled its September Conference and cut back other regularly scheduled training sessions for attorneys.

- Out-of-state travel. The OCR restricted and reduced out of state travel expenses.
- 4th and 18th Judicial Districts – efficiencies created. While the OCR continuously works to identify and implement cost-efficiency measures, a clarification of the appointment and payment process in the 4th and 18th Judicial Districts will result in cost savings. Although all jurisdictions operate under the same requirements, some of the 4th and 18th Judicial District appointment and expenditure practices warranted a further clarification and enforcement of procedures. The OCR clarified policies and procedures concerning the circumstances that the OCR would process payment for attorney services and what attorneys could be appointed.

IV. OCR CHILD ADVOCACY AND ACTIVITIES

To effectively set policy, advocate for and serve the best interests of children, the OCR office and staff must extend its activities and work beyond the prescribed list of mandates contained in statute. Successful advocacy for children requires collaboration and the sharing of resources among many state agencies, child advocate organizations and other interested professionals. There are many entities whose area of work impacts the mission of the OCR. As a result, the OCR is represented and an active participant on many judicial, state and local government committees, special interest groups and other advocate organizations. The following provides a sample of committees that the OCR staff chair, serve as members of or initiated in the office's efforts to continually better serve the children of Colorado.

A. Supreme Court Family Issues Committee (Director)

Last year, the OCR 2002 General Assembly Report provided an update on the OCR activities regarding the Colorado Supreme Commission on Families Committee. The OCR Director served on the Commission on Families, which was charged with creating recommendations concerning how courts can better serve children and families. The committee concluded its work and presented 78 recommendations.

From that committee, the Supreme Court Family Issues Committee was established this year to implement the recommendations. The Director serves on this committee, which includes a subcommittee that is developing best practice standards for special advocates in domestic relations cases. Special advocates are usually attorneys and/or mental health professionals who function as an investigative arm of the court and make recommendations concerning parental responsibility issues (formerly known as custody in domestic relation cases) under Section 14-10-116, C.R.S.

The practice of special advocate has long been an area in which no oversight has been available and no standards have been established in order to protect the public who benefit from these services. Standards will give direction to the court on how to best utilize the services of the special advocate.

B. Colorado Bar Association, Domestic Violence and Children Committee and Website “Kids and Court” (Director)

The OCR Director chairs the Domestic Violence and Children Committee of the Colorado Bar Association (CBA). This committee has recently concluded its development of best practices for children who are victims of or witness a crime and are exposed to the court system. The committee will next explore other case types in which children may be exposed to court procedures and incorporate best practice standards for all cases that involve children.

This committee has also created a website that will make this legal information easily accessible to all attorneys in the state to enable them to better serve children and reduce the trauma experienced by children in the court system. The website will be online in the near future through the CBA.

C. Drug Endangered Children (Director)

This last year, Colorado has become aware of the devastating effects of crystal methamphetamine on Colorado’s children and communities. The desperate plight of children who reside in homes in which this highly volatile and dangerous drug is manufactured and where their caretakers provide only the most minimal, if any care, is a severe form of child abuse that has become a statewide issue for Colorado.

The tragic reality provides Colorado with the opportunity to create an integrated response to these drug endangered children. That response is in the form of the recently created Colorado Alliance for Drug Endangered Children, a multi-disciplinary group responding to the needs of these children. The OCR Director has been involved with the Alliance since its inception and serves on its executive board. In the less than a year of this group’s existence, the Alliance has accomplished the following:

- Developed a White Paper outlining a mission statement and goals for the Alliance
- Developed a first draft of best practice standards for a collaborative approach for each community to apply to meet the needs of children
- Successfully advocated for and lobbied legislation created to respond to meth and its impact on children in the 2003 legislative session
- Hosting an upcoming National Conference on meth, its abuses and drug endangered children in Colorado
- Created a statewide awareness of this issue by training over 2000 professionals across the state who serve children

D. Immigration Issues Committee (Director)

The OCR Director has recently initiated a committee to address issues concerning the needs of immigrant children in Colorado courts and the unique problems they pose for the state court. The committee will discuss how to proceed when the child who is the subject of a dependency and neglect case does not have proper immigration status.

The committee is composed of a diverse group of individuals that will either help identify these children or respond to their needs. The committee includes representatives from various state agencies, several immigration attorneys who are willing to do pro-bono work and provide education, a public defender, county attorney, judge, GAL, Colorado Refugee Service program director and other professionals.

E. Juvenile Justice and Mental Health Subcommittee of the Legislative Task Force on the Mentally Ill in Criminal Justice (Deputy Director)

The OCR Deputy Director has worked with professionals from across the state in the areas of mental health, law enforcement, corrections, drug and alcohol treatment and the judiciary to evaluate how effectively the juvenile criminal justice system addresses juvenile offenders with mental health needs. The committee has looked at all components of the juvenile justice system to analyze how effectively mental health services are being delivered to children. The committee is working on how the system might be modified to increase cooperation and collaboration between various parts of the system to improve the delivery of mental health services to children who enter the juvenile justice system.

The deputy director is also a member of the subcommittee on competency. This subcommittee is examining juvenile competency from several aspects including when a separate definition of competency be established for the juvenile court; when juveniles charged directly in adult court be held to the same standard of competency as an adult; and whether there is a need for additional modifications to the Colorado Children's Code to accommodate a new definition of competency in the juvenile courts.

F. Denver Juvenile Court Domestic Violence Protocol Committee (Deputy Director)

The OCR Deputy Director is also a member of this committee which was established to create protocols for Denver Juvenile Court cases in which domestic violence is an issue. This committee was formed when concerns were raised about the way Denver Juvenile Court cases were being conducted when domestic violence issues were present. The OCR in conjunction with the Denver Department of Human Services put on training for caseworkers, GALs and judges to educate them on the unique requirements of dealing with Denver juvenile cases where domestic violence is present. Following the training, the OCR has continued to participate with other committee members in developing a protocol to be used in dealing with these cases.

G. The Domestic Violence Containment Committee (Deputy Director)

The OCR Deputy Director, in collaboration with other governmental and community members, has worked to develop proposals to better contain domestic violence perpetrators. The goal of the committee is to develop and recommend changes in the criminal justice system to more effectively contain the perpetrators of domestic violence and thereby increase the safety of victims and the community. The initial work of the committee has centered on increasing the ability of the system to hold domestic violence

perpetrators accountable and more effectively deal with issues of treatment for domestic violence perpetrators.

H. The Colorado State-wide Team Promoting Equity (STPE), formerly the Minority Over Representation Committee (Deputy Director)

The OCR Deputy Director has recently become a member of this committee. The OCR looks forward to working with other committee members in promoting equal treatment for everyone entering the juvenile justice and child welfare system.

I. Status Offender Committee (Deputy Director)

The OCR Deputy Director worked with the Colorado Department of Justice and the Colorado Office of Homeless Youth and others to develop a definition of status offense to be included in the Colorado Statutes. Several meetings were held to develop a definition of Status Offender, which was incorporated into state law this last year

V. AUDIT

The OCR prepares an annual audit report 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 OCR by September 1, 2003.

This audit was conducted by the accounting firm of Gelfond Hochstadt Pangburn, P.C. in conjunction with the annual statewide financial audit performed by the Office of the State Auditor. Audit procedures performed by Gelfond Hochstadt Pangburn, P.C. included interviewing staff, reviewing internal controls, and examining documents. The audit did not result in any findings or recommendations to the OCR.

The office was also subject to a performance audit conducted by the Colorado Office of the State Auditor in February 2003. Again, the audit did not result in any findings or recommendations to the OCR.

Fiscal year 2003 is the second year of operations for the OCR. The schedule provided below summarizes the office's fiscal year 2003 expenditures.

OFFICE OF THE CHILD'S REPRESENTATIVE SCHEDULE OF GENERAL FUNDED 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	\$5,516,225
Juvenile Delinquency	\$981,246
Domestic Relations	\$488,916
Truancy	\$113,082
Paternity	\$57,974
Probate	\$51,560
Other	\$14,600
Counsel Expenses	\$6,773
TOTAL	7,230,376

ADMINISTRATIVE AND OPERATING COSTS

\$434,927 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

\$22,991 was spent to train attorneys, judges, and magistrates throughout the state. The OCR hosted seminars in the rural areas of the state including Lamar, Steamboat Springs, Durango, and Sterling. Some topics covered in the training sessions include child development, effects of domestic violence, trial practice skills, and youth services. The largest training event was a three-day conference held at the metro area focusing on trial advocacy skills.

CASA

\$20,000 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.

VI. OCR GOALS FOR UPCOMING YEAR

The OCR is extremely encouraged with the progress achieved this second year of operation. However, the OCR is already developing strategies and goals for the upcoming year which will enable us to continue to advocate for children and enhance the quality of best interest legal representation for children. Future goals include the following:

- Develop a new attorney core curriculum training program available on videotape and/or CD
- Find training dollars so the OCR can continue to present excellent continuing legal education programs
- Monitoring billing and attorney services. With the new hourly conversion comes the responsibility to closely monitor the cost of attorney services - not only to confirm attorneys are competently providing representation, but to ensure the OCR is best utilizing its appropriated funds in a cost-effective manner.
- Update the website and make it more user-friendly with new information that can improve or assist the day to day practice of GALs
- Provide litigation support for attorneys
- Closely monitor jurisdictions where concerns have been brought to the attention of the OCR and jurisdictions where we have attorneys on probationary status
- Continue to monitor recently implemented strategic plans to create cost-efficiencies in the two jurisdictions that consistently over expend
- Hire additional staff for 4th Judicial District El Paso County GAL Office
- Investigate a possible staff model for the 2nd Judicial District as requested by the Joint Budget Committee
- Develop a closer working relationship with and a better understanding of the differing roles of the local CASA, OCR and the GALs who provide services

- Better inform legislative delegates of the number of children represented in their district, the attorneys who provide representation in their district and the importance of their independent representation for the communities and children in their district
- Revitalize and update local oversight committees on attorney services, number of children served and any complaints processed
- Consider the implementation of a Colorado certification program with the National Association of Counsel for Children

VII. APPENDIX

Appendix A. OCR Training

APPENDIX A OCR TRAINING

- A. The Denver Juvenile Court Brown Bag Series, An Introduction to the Denver Juvenile Court and Judicial Expectations, Denver, CO, August 21, 2002**
- B. Four Corner's Training, "Through the Child's Eyes",
Northeastern Junior College, Sterling, CO, September 12-13, 2002**
- C. Four Corner's Training, "Through the Child's Eyes"
Otero Junior College, La Junta, CO, November 14-15, 2002**
- D. Four Corner's Training "Through the Eyes of the Child"
Steamboat, CO, February 5-7, 2003**
- E. Domestic Violence Education, "The Epidemic of Domestic Violence"
Denver Juvenile Court, April 11, 2003**
- F. Trial Advocacy Training,
Broomfield Courthouse, Broomfield, CO, April 30-May 2, 2003**

**THE OFFICE OF
THE CHILD'S REPRESENTATIVE**

presents

The Denver Juvenile Court Brown Bag Series

An Introduction to the Denver Juvenile Court and
Judicial Expectations
Chief Judge Karen Ashby

August 21, 2002

12:00-1:00

Courtroom 164

Open to all GALs, but program will be geared toward attorneys who are new
to the Denver Juvenile Court

Questions please contact Kent Spangler, Deputy Director OCR or Margaret Hansen, Staff
Attorney OCR at (303) 860-1517

**OFFICE OF THE CHILD'S REPRESENTATIVE
FOUR CORNER'S TRAINING
"Through the Child's Eyes"**

**Hays Student Center Room 230
Northeastern Junior College
Sterling, CO
September 12-13, 2002**

September 12, 2002

10:00 a.m. – 12:00 p.m.

**How the System Damages Children
and How to Avoid It**

*Terri James Banks, LCSW
Kempe Center, Denver CO*

1:15 - 3:15 p.m.

The Developmentally Delayed Client

*Rose Mary Zapor, JD
Denver, CO*

3:15 – 3:30 p.m.

Break

3:30 – 5:30 p.m.

Ethics for the GAL

*Terry Bernuth, JD
Attorney Regulation Office
Denver, CO*

September 13, 2002

9:30 a.m. – 12:00 p.m.

**RCCF v. RTC, What to Look for in
Placement**

*Stephanie Eells, MS, LPC
Anne Robinson, BS
Court House Incorporated
Denver, CO*

1:30 – 4:30 p.m.

Immigration Issues for GALs

*Jennifer Kain-Rios, JD
Denver, CO*

**OFFICE OF THE CHILD'S REPRESENTATIVE
FOUR CORNER'S TRAINING
"Through the Child's Eyes"**

**Otero Junior College
La Junta, CO
November 14-15, 2002**

Thursday November 14

10:00-12:00

Adoption Subsidies

*Seth Grob, JD
Evergreen, CO*

1:30-3:30

ICWA

*Randal Lococo, JD
Diane Peterson, JD
Lococo and Peterson, LLC
Loveland, CO*

3:45-5:00

Civil Contempt

*Magistrate Diane Dupree
Denver, CO*

Friday November 15

9:00-12:00

Controlling Difficult Witnesses

*Beth Klein, JD
Purvis, Gray & Gordon, LLP
Boulder, CO*

1:30-3:45

Meth Labs and Children

*North Metro Task Force
Kempe Child Protection Team*

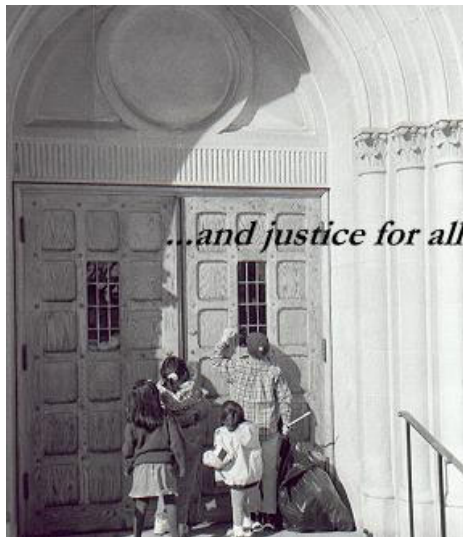
4:00-5:00

IDEA

*Bradley Bittan, JD
Denver, CO*

**Office of the Child's Representative
Four Corner's Training
February 5-7, 2003
Steamboat, CO**

***“Through the
Eyes of the
Child”***



**Registration cost is \$35 donation to CASA.
To register online, please go to the OCR homepage. Please note: Scheduled times
and speakers subject to change, check the OCR homepage for the latest update.**

**Office of the Child's Representative
1650 Pennsylvania Street
Denver, CO 80203
www.coloradochildrep.com**

WEDNESDAY, FEB. 5

10 a.m. – 12 p.m. - "Don't Be Frightened or Stressed about the ICWA" Randall Lococo, Esq., Diane Peterson, Esq.

Diane Peterson and Randall Lococo are recognized experts in the area of juvenile law and the Federal Indian Child Welfare Act. The presentation will include practical application of ICWA in D&N cases. They recently presented at the Colorado Child Welfare Conference and received great reviews on their knowledge of the law, thought provoking presentation, and pragmatic approach. They have a great sense of humor too! Materials will include a comprehensive outline and case law update.

1:30 – 3:30 p.m. - "IDEA" Bradley Bittan, Esq., GAL, Denver CO

Think you may have a client who falls under the Individuals with Disabilities Education Act (IDEA)? Don't be overwhelmed, Mr. Bittan is here to help. Mr. Bittan is a GAL, Special Education counsel, and an expert in the IDEA. Materials will include a "how to" handout outlining the step-by-step process required to navigate the IDEA.

3:45 – 5:30 p.m. - "The Role of the GAL: Professional life in the Land of Ambiguity" Terry Bernuth, Esq.

Terry Bernuth, Attorney Regulation Counsel, who formerly practiced as a GAL, will present on the expectations of the GAL from the perspective of the Attorney Regulation Office. Her presentation includes a review of the Rules of Professional Conduct, Chief Justice Directive 97-02, and the American Bar Association Practice Standards. Not only is it great to have the opportunity to earn 2.4 ethics credits but it is a great refresher for all attorneys. She provides a positive approach on how GALs can avoid the pit falls and problems that are commonly investigated by her office. She recently presented to a group of attorneys in Sterling and received great reviews in the follow-up evaluations. She is a wonderful presenter and recognizes the importance of this area of practice.

THURSDAY, FEB. 6

8 – 10:15 a.m. - "Trial Advocacy Skills" Bert Nieslanik, Esq., Deputy Alternate Defense Counsel, Greeley, CO, Lindy Frolich, Esq., Denver, CO

How the West was won!!!! Here is your opportunity to learn trial skills from some real gun slingers. Burt Nieslanik currently works for the Office of Alternative Defense Counsel. She spent 11 years at the Colorado Public Defender's Office. She currently teaches at the National Criminal Defense

College, Western Trial Advocacy Institute, New York Defenders Institute, Indiana Public Defenders Council's Trial Advocacy Program and the Kentucky Department of Public Advocacy. Lindy Frolich was a former public defender, trial and appellate divisions. Lindy is currently in private practice doing all types of criminal defense work. These top litigators will teach you how to do it right. Learn some tips on improving your trial skills through story telling, themes and theories.

**10:30 a.m. – 12:30 p.m. - "Civil Contempt"
Magistrate Diane Dupree, Denver, CO**

Find your way through the maze of contempt as it applies to domestic relations and juvenile cases. For example, is the court able to award attorney fees in domestic relations cases? Is the court really allowed to suspend any portion of jail sentence once contempt has been found? How can these principles be effectively applied in juvenile cases? Denver District Court Magistrate Dupree, former esteemed domestic relations attorney, will walk you through the nuances of proper service, advisement, burden of proof, sentencing alternatives, attorney fees, and the myths and truths about remedial vs. punitive contempt. Materials will include form motions and orders.

**1:30 – 3:00 p.m. - "Adoption Subsidies"
Seth Grob, Esq., Evergreen, CO**

Seth Grob is a recognized expert in the area of adoption and in particular adoption of children with special needs. Prior to entering private practice and focusing on adoption law, Seth was the Assistant Director of the Child Advocacy Law Clinic at the University of Denver. Seth's presentation will include information on the history of the Federal Adoption Assistance Program, the benefits of federal and state adoption assistance programs, eligibility for a subsidy after a final decree of adoption is entered, duration and termination of benefits, and appeals. Essentially, everything you ever wanted to know about subsidies and more.

**3:30 – 5 p.m. - "GAL in the Criminal Case" Stephanie Villafuerte, Esq.,
Denver DA's Office**

Children who are the victims of physical and sexual abuse are frequently the critical witnesses in a pending criminal case that may be proceeding simultaneously yet independent of the D&N case. Exposure to the criminal justice system can often re-victimize a child who has already been subject to horrific abuse and neglect. Learn about the typical procedure and the impact of an effective prosecution. Stephanie Villafuerte, Denver District Attorney's Office Chief Trial Deputy of Crimes Against Children, will share with you what and how the GAL can best interface in the criminal case in order to best serve the child. Presentation will include prep with the child prior to being

called as a witness, situations where a child may or may not have to testify, preliminary and motions practice that effect children and best practice standards, and benefits a child receives from a relationship or sharing of information between the GAL and prosecutor.

FRIDAY, FEB. 7

8 – 10 a.m. - "How the System Damages Children and How to Avoid It" Terri James-Banks, Kempe Children's Center, Denver, CO

The D&N system serves and protects maltreated children. However, some of the best intended processes and recommendations actually cause more harm with the negative impact carrying into that child's adulthood. Terri James Banks, Licensed Clinical Social Worker and Director of Social Work at the Kempe Center, brings her years of experience into this session and helps us recognize areas where we need to evaluate differently in order to meet the needs of every child. Her presentation is moving and will cause anyone to pause and reconsider how they can best serve this vulnerable population.

10:15 a.m. – 12:15 p.m. - "Identification of Physical and Sexual Abuse and the Developmental Implications of Abuse" Stephanie Stronks Knapp, LCSW, Kempe Children's Center, Denver, CO

Stephanie Stronks Knapp is a member of the Kemp Center Child Protection Team. She has a wealth of knowledge in the area of child abuse and child maltreatment. Her presentation is both dramatic and informative. Stephanie presents a fantastic overview of child abuse and maltreatment. The presentation includes information on recognizing child abuse and maltreatment, statistical information, information on domestic violence and its inter-face with child abuse and child maltreatment, the etiology of child abuse and maltreatment, the interface of substance abuse on child abuse and maltreatment, the mechanisms and symptoms of AHT (Abusive Head Trauma), recognizing non-accidental injuries, and evaluating sexual abuse allegations.

FRIDAY, Feb. 7

**1:15 – 5 p.m. (or end at 3:30 p.m.)
"Meth and Children"**

**Lt. Lori Moriarty, North Metro Task Force
Lynn Reimer, Chemist, North Denver Task Force
Dr. Kathryn Wells, Kempe Child Protection Team**

This presentation is the most dramatic and important presentation you will see all year. These three speakers are both knowledgeable and dynamic. The impact of the meth epidemic on children is devastating. The tentacles of meth labs and meth use will touch everyone concerned with the protection

and care of children. Being naïve in this area could prove dangerous to your health. The presentation will cover the effects of meth addiction and manufacturing on children, the toxic nature of the substances used to manufacture meth, the highly addictive nature of meth, and how the use of meth directly contributes to child abuse and neglect.

3:30 – 5:30 Closing

Closing, the knock out punch. Learn how to put it all together for the jury with lasting impact. Learn how to organize your closing to make your case and resolve any lingering doubts on the part of the judge or jury.

5:30 – 5:45 Final Remarks

Marvin Ventrell, Executive Director National Association of Council for Children.

Domestic Violence Education

The Office of the Child's Representative in conjunction with the Denver Juvenile Court and the Denver Department of Human Services will present a training on Domestic Violence. This training will be provided at no cost and continuing legal education credits have been applied for. Cynthia Geissinger, MSW will present her program entitled "**The Epidemic of Domestic Violence**". This program will be offered on **April 11, 2003, 12:00-3:00p.m.**, in **Room 450** of the Denver Juvenile Court. Please register in advance with Kent Spangler Office of the Child's Representative at 303-860-1638.

Office of the Child's Representative Trial Advocacy Training

April 30-May 2, 2003
Broomfield Courthouse
17 DesCombes Dr.
Broomfield, CO

How the West was Won

With each registration a \$75 donation to CASA is requested. To register online, please go to the OCR homepage.

Office of the Child's Representative
1650 Pennsylvania Street
Denver, CO 80203
www.coloradochildrep.com

WEDNESDAY, April 30, 2003

9:00-9:30 Keynote address "Advocacy for Children" Justice

Rebecca Love Kourlis of the Colorado Supreme Court will give the Keynote Address. Justice Kourlis has been a long standing advocate for Colorado's children through out her legal career. She helped to lead the Colorado Commission on Families and chairs the Supreme Court Standing Committee on Family Issues. Hear the view from the top of the importance of child advocacy in Colorado.

9:45 – 12:00 a.m. - *Advocacy Skills and the Art of Storey Telling* Bert Nieslanik, Esq., Deputy Alternate Defense Counsel, Greeley, CO, Lindy Frolich, Esq., Denver, CO

Learn how to build a persuasive argument from the start. Bert and Lindy will teach you the importance of a good investigation and how to utilize character development to build a persuasive argument on behalf of your child client. You will learn the importance of having a theme or purpose for every court hearing. Bert Nieslanik currently works for the Office of Alternative Defense Counsel. She spent 11 years at the Colorado Public Defender's Office. She currently teaches at the National Criminal Defense College and various other trial advocacy institutes. Lindy Frolich was a former public defender in the trial and appellate divisions. Lindy is currently a well respected attorney in private practice doing all types of criminal defense work and Guardian Ad Litem work. Learn some tips on improving your trial skills through story telling and themes. This was one of our highest rated presentations in Steamboat.

1:00 – 3:00 p.m. – Voir dire and opening Statements

Gary fielder, Esq. Gary is partner in the firm of Bettenberg & Fielder PC. Gary will not only teach you how to say “Voir Dire”, he will teach you how to do it right. You will learn the true art to speaking with a jury and jury selection. Learn how to break the ice and get the jurors ready to hear your case. This presentation will cover making motions for cause and handling sensitive issues such as sexual abuse etc. with a jury. Learn how to win your case right out of the “chute”. This presentation will teach you how to set the stage for your case and get the jury thinking your way. Chart the course for your case in an effective and persuasive way.

3:15 – 5:30 p.m. – Refreshing Recollection, Impeachment with Prior Inconsistent Statements and Dealing with the Hostile Witness.

Stephanie Villafuerte, Esq. Denver Deputy District Attorney. Stephanie is the Chief Trial Deputy in the crimes against children unit of the Denver District Attorney’s Office. She has broad experience in dealing with both the fragile witness and hostile witness. Stephanie will teach you how to get what you want out of a witness. She will teach you what to do when your own witnesses’ memory is fading or just plain wrong. You will learn how to refresh their recollection so their testimony is accurate and understandable. Special emphasis will be placed on the recanting witness in a domestic violence and child abuse case. In dealing with the hostile witness, Stephanie will teach you how to use impeachment with prior inconsistent statements to insure the truth comes out and you keep a handle on the witness.

THURSDAY, May 1, 2003

8:00 a.m. – 9:15 a.m. - “Motions Practice”

James Covino, Esq. Jim is an outstanding Guardian Ad Litem practicing in the metro area. Jim was instrumental in pushing forward the prosecution of the Garner case in Douglas County. *Defining the rules of engagement. Motions in Limine, 404b motions and how to respond to them, child hearsay, and competency motions. Filing your own motions to terminate and responding to appellate motions. Jim Covino is a long time Guardian Ad Litem and former public defender. He filed the motion to terminate in the Garner case. He will teach you how to set up your case for trial and Structure the rules of the game to protect your child client. This presentation will teach you how to use motions so you know what evidence the jury is going to hear.*

9:30 – 12:00 a.m. “Direct Examination”

Beth Klein, Esq. Learn direct examination from the attorney responsible for one of the largest products liability settlements. Beth Klein is a partner at Purvis, Gray, Klein & Murphy LLP specializing in mass torts, class actions, products liability and trials. Beth is a NITA National Level Instructor and has been a trial advocacy instructor at the CU Law School 2001 and 2003 intersession trial advocacy course. Beth Klein will help you learn the true art of direct examination. Go from just getting the facts out to really telling a

story that will impact the jury. Beth will teach you how to add spark to your case in chief.

1:00- 3:30 p.m. Expert Witnesses

Tim Mehrstens, Esq. Tim is a partner in the firm of Litvak, Litvak Mehrstens and Epstein. Tim is a highly respected litigator in the Denver area. Tim has tried hundreds of cases and examined hundreds of experts. Learn how to present an expert witness who is understandable and avoid objections which distract from your presentation. Learn the keys to cross-examining the opposing expert and make it stick. Learn the extra steps it takes to prepare quality testimony and truly prepare to cross-examine the expert.

3:45-5:15 "Introduction of Physical Evidence and Documents"

Learn the simple sure fire steps to getting physical evidence and documents admitted for the jury and court's review. Physical and documentary evidence can make or break your case. Don't take chances. Learn how to get this evidence admitted quickly and with minimal effort. Don't let your inability to get evidence admitted quickly distract from the presentation of your case.

Friday May 2, 2003

8:30 – 11:30 Cross-Examination

Boogie (Forrest) Lewis, Esq. With a name like this, you know, he has to be good. Mr. Lewis is a past president and member of the board of directors for the Colorado Criminal Defense Bar. He was the first recipient of the Jonathon Olom Award for the Public Defender of the year in 1985. He received the Charles B. Dillon Public Service Award in 1994. He will teach you how to do Cross-examination. Cross-examination is often the most fun and also the most deadly part of any trial. Boggie will teach you how to avoid the land mines and surgically remove the witnesses' heart and your opponent's case. Learn how to do it right.

1:00 – 3:00 The Child Witness

Judge Sheila Rappaport. Judge Rappaport is currently a judge on the Denver District Court Bench. Prior to taking the bench, Judge Rappaport, was the Chief Trial Deputy for crimes against children unit of the Denver District Attorney's Office. She was integral in setting the parameters of this unit within the Denver District Attorney's Office. The child witness is often the cornerstone of your case. Learn how to prepare and present the child witness. The child witness has many unique strengths and possible problems. Learn how to draw on the strengths and avoid the pit falls. Learn when to use a child witness and when other alternatives may be available and better.

3:30 – 5:30 Closing

Closing, the knock out punch. Learn how to put it all together for the jury with lasting impact. Learn how to organize your closing to make your case and resolve any lingering doubts on the part of the judge or jury.

5:30 – 5:45 Final Remarks

**Marvin Ventrell, Executive Director, National Association of Council
for Children (NACC).**