

Office of the Child's Representative 5th Annual Report



**Presented to
the Colorado General Assembly
September 2005**

OCR's Mission Statement

The mission of the OCR is to provide Colorado's children with attorneys who will engage in competent and effective "best interest" representation and who will zealously advocate for their best interests. 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.

OCR 2005 General Assembly Report

The Office of the Child's Representative (OCR) is required by state statute, Section 13-91-105, C.R.S., to submit an annual 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 year, fiscal management of appropriations 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 of children. The guardian ad litem, child's representative and attorney child and family investigator zealously advocate for, and/or make recommendations in the child's best interests.

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Appreciation and Recognition of the General Assembly's Commitment to Children and of the Attorneys who Provide Those Services

The Office of the Child's Representative (OCR) is pleased to report to the General Assembly that it has made much progress in the improvement of best interest representation for children this past year (September 2004 through September 2005). These achievements could not have taken place without the efforts and dedication of the approximately 250 attorneys with whom the OCR contracts. These attorneys, who serve as Guardians ad Litem (GALs), Child's Legal Representatives, and Child and Family investigators, have put in thousands of hours to zealously represent the best interests of children in Colorado. They labor to improve the quality of best interest representation in the state at a rate of compensation much lower than private attorneys. Their job has become more challenging as the complexity of cases and workload has increased as a result of budget cuts in other programs.

The OCR wishes to acknowledge the many GALs who have made themselves available to the OCR at a moment's notice when the OCR has called on them for support in its training efforts, meetings with members of the legislature and many other activities. The OCR sends a sincere thank you to each and every one of these attorneys.

The OCR must emphasize the goals and accomplishments of the past year could *not* have been achieved without the support of the General Assembly. The OCR thanks the members of the General Assembly for creating an environment in this state in which children are entitled to effective legal counsel and for providing the oversight, support and appropriations to the office to ensure consistent, quality representation to all children who are appointed a GAL.

Most importantly, the office thanks the members of the General Assembly, who through the JBC, approved transitioning the compensation model of OCR attorneys to an hourly payment system (fee for services rendered). This fair and equitable model of payment enables children's attorneys to fully and properly investigate each case and provide meaningful effective representation to the children in our state who need their services.

One more acknowledgment, the OCR would be remiss not to thank Stephanie Walsh, JBC Analyst, for her dedication and taking the time and effort to understand our agency and our statutory mandates.

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I. CASE IN POINT; WHY DOES DANNY NEED HIS OWN ATTORNEY WHEN HE IS IN FOSTER CARE?

My name is Danny. When I was 2 months old I lived with my mommy who had a drug problem. Someone came to my house in the middle of the night and took me away from my mommy. I went to live with my grandpa but he drank a lot and he could not take care of me. Someone came and took me from him when I was 4 months. I was moved to a foster home where I had a foster mommy and foster daddy. My foster mommy and foster daddy have 5 children so I have 5 brothers and sister to play with. My foster daddy is a postman. My foster mommy stays home all day and takes care of all of us. I am the youngest. I have never had to move from my home. My mommy feeds me every day and takes care of me when I wake up in the middle of the night. She and my brothers and sisters take turns reading to me every night. They took a picture of me when I got my first tooth. It took me a few times before I could walk from the couch to my brother. They all clapped when I walked the first time. My family has birthday parties for all of us. We get to blow out candles. Everyone sings. My family has a big family with lots of aunts and uncles. We always spend time with them. They are fun. Christmas Santa brings me a present along with my brother and sister. When I am sick my mommy stays in my bedroom until I fall asleep. My sister and brothers play with me. They blow bubbles and I try to pop them. My real mommy was never able to fix her life so she could take care of me. My foster family loves me and wants me to live with them forever. My caseworker thinks it is a good idea but one of her bosses said no because my family does not make a lot of money. I don't know what that means. I don't want to leave my foster mommy, my toys, my brothers and sister and my foster daddy. I like my house and the playing in the yard. I will miss our dog. I will be scared when I have to leave.

My foster mommy and foster daddy have talked to my lawyer. I have a lawyer who represents just me. She went to court and fought for me to stay with my family. She made the judge say I could stay with my family. I got to go to court and was adopted on a few months ago. My family got all dressed up and my brother and sisters came. We had a big party. My family invited my attorney Mary McWilliams.

THIS IS BASED ON A TRUE STORY. The names have been changed except for the child's lawyer, Mary McWilliams. She represents the child's best interest and is called a Guardian ad Litem. She is a licensed attorney who is the legal advocate for the child and is paid by the state. The above referenced child was taken by the DSS at 2 months old. At the time he lived with his mother who had a serious methamphetamine addiction. The child was initially moved to live with his grandfather, who eventually could not care for him because of his own serious alcohol problem. The child was moved again at the age of 4 months old. This time he was placed in a home where he had a very devoted foster mother and foster father. Father was a postman and mother was a homemaker. They had 5 of their own biological children ranging from toddlers to pre-adolescent. This family was devoted to this child, who was born drug positive and had many special needs. Mother made sure he attended all of his speech, medical and hearing therapy sessions. He quickly became attached to all of his siblings and foster parents. Biological mother's rights were terminated because she could not kick the meth addiction. She was murdered

after her rights were terminated. This child had not lived in any other foster home and was thriving. At 17 months, (1 ½ years old) and after parental rights were terminated, the family wished to adopt this child. However, DSS would not give their approval because they were “lower income” despite the fact the caseworker acknowledged this child had thrived in this home and there were no other concerns.

When Mary McWilliams learned of DSS’s plan to move the child from the only home he had ever known, and where he exceeded expectations with loving parents and siblings, she questioned DSS. DSS explained to her that even though the caseworker agreed with her, the department was not going to consent to the adoption because they were “lower income.” Mary McWilliams aggressively fought this issue in court. She filed legal motions, had the DSS served and set the matter for hearing. Mary prevailed and DSS eventually consented. In January of this year Danny was adopted by this family. But for Mary McWilliams, this child would have been removed from this loving home, the only home he knows.

A recent report from the Pew Commission stated that on any given day in the U.S. half a million children and youth are in foster care, removed from homes because of abuse or neglect. On average, children have three different foster care placements; some have many more. Frequent and unexpected moves in childhood, especially through unfamiliar homes can affect children’s development well into adulthood.

Children often lack a strong, effective voice in court, limiting the information available to judges and denying children input into decisions that affect their lives. Not surprisingly, the Pew Commission found children and parents need a stronger, more effective voice in dependency courts through better trained attorneys. The state of Colorado and the children of Colorado are fortunate to have a General Assembly that so strongly support the OCR and the office’s attorneys who ensure that children do indeed have a strong, effective voice in the courtroom. The OCR thanks the General Assembly, Mary McWilliams and all of the other dedicated OCR attorneys who provide this priceless, necessary service to the children of Colorado.

II. INTRODUCTION AND GENERAL OVERVIEW: WHAT IS THE OCR, WHO DOES IT SERVE AND HOW CAN IT ASSIST YOU AS LEGISLATORS REPRESENTING YOUR CONSTITUENCY?

A. What is the OCR?

The OCR is a small independent state agency that provides and oversees all attorney services rendered by Guardians Ad Litem (GALs) to children and youth under the age of 18 years. The GAL is a licensed attorney who independently represents the best interests of the child in dependency and neglect, delinquency, probate, paternity and other civil matters. Seventy-eight percent of the OCR appointments are for children who are abused and neglected. The OCR also provides attorney services (Child and Family Investigator and/or Legal Representative under C.R.S. §§ 14-10-116 and 14-10-116.5) for court appointments in matters involving parental responsibility when the parties are found to be indigent.

This past year, the OCR provided representation to children in 11,660 cases. The OCR provides services in all 22 judicial districts and all 64 counties in the state. The agency operates with a staff of seven. Over 93% of OCR's expenditures are used exclusively for attorney services, which directly benefit the children in each legislative district.

B. When was the OCR created?

The General Assembly created the OCR in the 2000 legislative session through House Bill 00-1371, sponsored by Representative Kay Alexander and Senator Norma Anderson. The legislative intent was to create an independent agency that would improve and monitor (GAL) attorney services for children.

C. Who are the OCR attorneys?

The OCR contracts with approximately 200 licensed attorneys throughout the state. These attorneys, also known as GALs, child's legal representatives and attorney child and family investigators, are professionals who live and work in your local communities and legislative districts. They are specially trained in the area of issues related to children who are abused and neglected, victims of high conflict divorce or involved in the delinquency system. The OCR also provides attorney services in El Paso County through an attorney staff model office, which is supervised by Director Debra Campeau.

D. Who are the children represented?

GALs represent the children who live in your communities—this year, over 17,000. Primarily, these children have been abused and neglected and are the subject of a dependency and neglect case.

E. Why are OCR attorneys appointed by the Court?

The state of Colorado requires that every child who has been abused and neglected be appointed an attorney to serve his or her best interests. Consequently, the child must have his or her own attorney or advocate to independently and zealously protect his or her unique interests.

Finally, when understanding why attorneys must be appointed to represent children, it is helpful to ask: Would any of us want to appear in court without the best available legal representation? Would any of us completely trust decisions made by the other parties in a case? Even more poignant for children who are unable to articulate their legal needs, wouldn't any parent, grandparent or relative want an independent advocate for a child when a court is making critical decisions that will impact or change that child's life, development and relationships with others for a lifetime? As Marvin Ventrell, Executive Director of the National Association of Counsel for Children, states, "We recognize, for example, that the most competent, sophisticated corporate executive is not capable of going in to court to represent himself." Why, then, should we expect children to? As with any of us, it is critically important that a child be afforded an independent legal advocate zealously protecting their best interests in court—especially when it is their lives at stake.

F. 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 which are sufficient to attract and retain high-quality, experienced attorneys to serve as GALs;
- Provide quality, 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 assist with oversight of the provision of GAL 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; and

- Develop measurement instruments to assess and document the effectiveness of various models of representation.

OCR's fulfillment of these mandates will be detailed in subsequent sections of this report.

G. 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 those attorneys and mental health professionals who provide services in domestic relations cases but who *do not* fall under the auspices of the OCR and whom the OCR *does not* oversee or monitor. In domestic relations cases in Colorado, the court may appoint a child and family investigator (formerly known as special advocate) or child's legal representative in cases involving contested issues of parental responsibility (formerly known as custody disputes), Sections 14-10-116 and 14-10-116.6, 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 child and family investigator, as opposed to a child's legal representative, to investigate and make best interest recommendations concerning parenting time and decision making. Most of these child and family investigators 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 for appointments in these cases, which constitute 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 child and family investigators or child's legal representatives fall under the oversight of OCR.

Under no circumstances, whether indigency is found or not, does the OCR oversee, provide or pay for child and family investigator services provided by mental health professionals.

H. What can the OCR do for legislative delegates?

As a state agency, the OCR also serves as a resource to legislators by providing information and answering questions concerning children's issues and the attorneys who represent children. The OCR welcomes comments and questions from legislators regarding attorney issues and any other topics involving children or the office, including complaints, legislation or specific information concerning children or GALs in a legislator's community. Examples of legislator services available from the OCR include:

- ***The provision of information concerning the GALs who serve in a legislator's community.*** The OCR will arrange for legislators to meet with the GALs in their district to gain personal knowledge of the unique issues within their communities.

- ***The provision of child-specific information for a district.*** The OCR can provide legislators with data on the number of cases involving OCR-contract attorneys, the case types in which children are represented, the issues presented in those cases and how these statistics have changed over time.
- ***Assistance with constituent complaints, concerns or questions.***
- ***Legislative assistance.*** The OCR regularly reviews legislation, offers input and testimony and works with legislators on a wide variety of proposed legislative issues concerning children.
- ***The provision of statistics or information concerning trends in the community.*** Unique trends and specific issues concerning child abuse and the provision of child welfare and GAL services may exist in a legislator's particular community, as each community is distinct and presents its own set of issues concerning children. The OCR's oversight of attorneys and ongoing relationships with all entities and officers involved in the protection of children in each community enable it to provide pertinent information to legislators attempting to understand an issue in their community.
- ***Other data and resources pertaining to issues involving children.*** The office maintains a resource library with a significant amount of current information on children's issues from a variety of resources.

Please do not hesitate to contact the OCR with any requests for assistance, concerns or questions regarding the office or children's issues.

III. OCR UPDATE

As previously noted, Colorado state statute, Section 13-91-101, et seq., sets forth specific mandates that are necessary and essential components of the OCR's creation, provision and maintenance of the delivery of consistent and high quality best interest representation for children. Because of their importance, this section provides a detailed overview of how the OCR has fulfilled these mandates.

A. Improve quality of children's representation statewide:

(1) Provide oversight

(a) OCR's annual evaluation, jurisdictional assessment, and contract process.

By way of background, in the first year (2002) of the OCR's operations, the Director traveled to all 64 counties in the state to assess and investigate the quality of attorney services. Within that same year, the OCR staff then required every attorney, whether currently practicing as a GAL or interested in providing services in the upcoming year, to complete an application and interview process. At the conclusion of this process, the OCR contracted with over 200 attorneys and chose not to contract with many who were not meeting OCR's set standards of practice. The OCR has continued an annual application and interview process since 2002.

The OCR's current contract process includes a series of steps. The OCR first distributes an objective evaluation form (*available in Appendix A*) to gather feedback on all attorneys who are providing services. The surveys are sent to all CASA agencies, court facilitators, court administrators and judicial officers in all 22 judicial districts within the state. The survey results allow the OCR to review the competency and quality of attorney services as well as the validity of concerns raised. The office then requires all attorneys, regardless of whether they have existing contracts or are new applicants, to complete a 2004/2005 application. Every application is considered, as contracts are not automatically renewed.

This past May and June, as has been the case each year since 2002, the OCR Director and staff visited each of the 22 judicial districts to assess attorney services and to learn how the OCR can better serve its attorneys and each community. This assessment includes meeting with the attorneys who have been providing services; interviewing new applicants and any other attorney that the OCR has founded a complaint against or otherwise has concerns about his or her performance; and meeting with court personnel, judicial officers, CASA directors and, in some instances, county attorneys and department of social services directors, as well as other community agencies involved in the protection of children. Taking the time to personally meet with all judicial districts allows the OCR to learn about the existing provision of services, areas in need of improvement and ways in which it can serve as a better resource within that community. Upon collecting all of this information, the OCR compiles its annual list of attorneys eligible for appointment in each judicial district, distributes it to judges and court officers within each judicial district by July 1 of the upcoming fiscal year and prepares yearly contracts for attorneys on its list.

The OCR's annual appraisal process serves as an effective method of monitoring attorney services and ensures that only the most qualified attorneys provide legal representation for children. It also helps the OCR address systemic needs within each jurisdictional district, such as the need for additional or fewer attorneys, training on a specific issue or the facilitation of communication between local actors within the system. The OCR anticipates the annual completion of this process prior to the beginning of each fiscal year.

During this year's assessment process, the OCR was able to make improvements in best interest representation by: 1) not renewing contracts for some attorneys who had contracts the previous year but did not meet the expectations set forth by relevant rules, statutes and directives; 2) bringing new qualified and dedicated attorneys into the field; and 3) renewing contracts of the majority of attorneys who provide exceptional services. Below is an example of one of the changes made in a judicial district as a result of the assessment process:

- In the 18th Judicial District (Arapahoe, Douglas and Elbert Counties), it was brought to OCR's attention that some GALs were acting inappropriately and lacked independence between the GALs and department of social services. Professionalism was another issue that was brought to our attention and the OCR

took action on these complaints by conducting an audit of these GALs. The audit confirmed that several of the GALs were not seeing the children as mandated by the Chief Justice directive and as a result of this the OCR terminated all of their contracts in this jurisdiction. OCR recruited and hired several new enthusiastic GALs with significant trial experience as former District Attorneys, Public Defenders, and respondent parent's counsel.

(b) Complaint process. In addition to the attorney application and interview process, the OCR also oversees the provision of attorney services on a continuous basis throughout the year. The OCR has instituted and conducts a formal complaint process in which it investigates every complaint received concerning the representation provided by attorneys who have a contract with the OCR. The OCR complaint forms are available on the OCR website in English and Spanish.

In fiscal year 2004-2005, 25 formal complaints were filed and all of the complaints (with the exception of one pending case) have been fully investigated. In each case, the investigation included at a minimum of a review of the record of court proceedings in the case and interviews with all involved parties including social workers, CASA, foster parents, relatives, respondents and attorneys.

Of the 25 complaints received, four were founded as a failure of the attorney to meet their professional obligations under Chief Justice Directive 04-06. In three of the cases, the GAL did not meet with their client in the child's placement within the time proscribed by CJD 04-06. In one case, the attorney did not conduct him or herself in a professional manner. In each of those founded cases, an audit of that particular GAL's case was conducted to determine whether this failure was an isolated event or a pattern of behavior. Two of these audits resulted in the OCR's termination of the attorney's contract.

(c) Audit process created in 2005. In addition to the investigation of formal complaints, this year the OCR developed an audit process in which concerns about attorney performance can be assessed. As has been explained, in visiting every judicial district, the OCR obtains feedback on attorneys in the form of written evaluations from judges, court staff and CASA as well as verbal feedback on an ongoing basis. In cases in which legitimate concerns are raised, the OCR has developed a sampling instrument as a means to assess the attorney's work in an objective manner. A random computer generated sample of the attorney's caseload is pulled and the attorney is requested to provide dates of placement for each child as well as dates of the GAL's home visit with that child. This year, the audit procedure resulted in the termination of four attorney contracts. At the present time, two additional audits are underway. The audit process is an effective and objective method of confirming concerns when a complaint is filed. It is a very useful tool to help assist the attorney if needed and verify the accuracy of complaints. *(Please see Appendix A for Case Information Request form.)*

(d) Monitoring hourly billing statements to assess quality of services. The OCR reviews hourly billing statements provided by GALs in order to ensure that the work done on a case is adequate and that state dollars are used for only allowable expenditures. This is the most effective way to monitor services on any given case.

(2) Serve as a resource.

The OCR views serving as a resource to attorneys as a critical part of its mission to improve the quality of best interest representation. Attorneys are free to contact the Director, Deputy Director, Staff Attorney and other staff for assistance. The OCR serves as a resource and offers technical support to its contract attorneys in the following ways:

(a) Response to individual inquiries by GALs. The OCR regularly receives phone calls and emails from attorneys seeking assistance with cases. Often these phone calls involve the application of federal law, such as the Indian Child Welfare Act or Special Immigrant Juvenile Status, the need for additional information about psychological issues that are presenting in a case or consultation on appropriate treatment or assessments that the attorney may believe a child needs. While the OCR staff cannot give legal advice to contract attorneys, it assists them in the resolution of their issues by guiding them to appropriate professionals, written materials and other resources.

(b) Response to inquiries from judicial districts. The OCR also receives inquiries from judicial staff regarding questions on payments, appointments and other inquiries. The OCR routinely assists the judicial districts and their staff.

(c) OCR updates. The OCR provides quarterly electronic updates to its attorneys, informing them of recent court decisions and legislative changes that pertain to the representation of the best interests of children, trainings and other events that are occurring throughout the state, current events involving child welfare issues and resources for attorneys and children of which the OCR has become aware. Judicial officers, child welfare professionals and members of the public are also welcome to subscribe to these electronic updates by emailing resourcecenter@qwest.net.

(d) The OCR list serve. The OCR list serve has proven to be an invaluable resource for many attorneys representing the best interests of children. This list serve, to which all OCR-contract attorneys are required to subscribe, serves as a forum on which contract attorneys can ask questions about any aspect of their case, from information about a particular child placement agency or service provider to technical legal issues regarding a motion that the attorney is considering filing. The attorneys receive statewide responses from a variety of GALs, and, during OCR's visits throughout the state, many contract attorneys expressed that the list serve has significantly enhanced their representation of children.

(e) The OCR website. The OCR's website was recently updated. Our new website address is <http://www.coloradochildrep.org> (changed from

<http://www.coloradochildrep.com>). The new website allows us to make changes (ie. Updating information, new pages etc.) without the need for a third party and gives us the flexibility to provide valuable information to the GALs in the state as well as posting training information on a wide variety of topics regarding the practice of children's law. 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.

(f) Upcoming resource tools. The OCR has gathered over 70 motions for its motions bank to be made available to contract attorneys through the OCR's website. OCR has also compiled a residential facilities "report card" containing information about each of the residential facilities in the state and comments from GALs on their experiences with the facilities to facilitate GALs' advocacy on behalf of children. We wish to create a user-friendly database for the residential project but in the meantime will provide hard copies of the materials to GALs at our upcoming conference.

B. Establish fair and realistic compensation for GALs.

The Joint Budget Committee recognized the benefits of the hourly payment system and authorized the statewide conversion to an hourly payment system in the 2003-2004 budget request session. 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. This upcoming budget year marks the final fourth year of the transition.

The statutory mandate of the OCR is 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, have always been compensated by the state on an hourly basis of \$45 for out-of-court work and \$55 for in-court work (fee for services rendered). When the OCR was established, the agency inherited a payment system that was different from the payment system for other state paid attorneys. Children's attorneys, who provide best interest representation in complicated abuse cases, were paid a flat fee of \$1,040 for two years of work on a case. 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. Cases involving the representation of children are extremely complicated and require a significant amount of attorney time and expertise. Attorneys who represent children who are abused and neglected are expected to complete a number of tasks including: visiting each child in his or her placement; understanding the special psychological and social needs of each child; advocating for the child's needs, both informally and through motions and litigation; attending all court appearances and staffings; conducting an independent investigation; litigating all phases of the case; applying federal laws when implicated; and much more — 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 which is still far below that which an attorney would be paid in private practice.

The OCR again recognizes 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 2000, and it is indicative of the commitment of the State of Colorado to enhance and ensure competent legal representation for the children in Colorado.

This year the OCR joined the State Court Administrator's Office and the Alternate Defense Counsel's Office in seeking a pay increase for court appointed counsel in its annual budget request to the JBC. GALs currently receive \$45/hour for out-of-court and \$55 for in-court work. The budget request sought an increase in appropriation for a flat \$55/hour for work.

The OCR requested the increase along with others for the following primary reasons: 1) State-paid attorneys have received one pay raise (\$5) since 1990; 2) Cases are increasingly complex and require significant amount of attorney time and expertise; and 3) This area of law is very specialized and complex and the disparity in pay is making it increasingly difficult to retain much less attract experienced, qualified attorneys.

A study performed by the SCAO compared Colorado's state attorney pay rate with other states and the federal government and found that a \$68/hour rate would be fair, but in consideration of state budget constraints the \$55/hour was requested. The OCR will be requesting a pay raise for its attorneys in the upcoming fiscal year budget request process.

C. Provide accessible training statewide.

Training serves as a critical component to enhancing the provision of legal services to 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, be able to draw upon interdisciplinary knowledge from such pertinent fields as psychology, sociology, social work and medicine. Children are best served by a legal child welfare system when judges and attorneys understand the social and psychological implications of a case and what those mean developmentally for each child. In fiscal year 2004-2005, the JBC graciously reinstated our training funding programs. With this money, the OCR was able to fulfill its mandate to provide training across the state in a variety of forums and was able to bring in speakers who are considered leaders in domestic violence, methamphetamine use and treatment, LGBTQ youth in care, preparing foster youth for college and adolescent permanency. Training provided this past year included the

following items listed below. (Please see Appendix E for detailed training sessions and agendas.)

- **Understanding and Addressing Substance Abuse in Court Cases Involving Children training.** In February of 2005, the OCR held a training on the Western Slope featuring local experts on addiction treatment, the role of Drug Courts, Substance Abuse and Mental Illness, and Pre and Postnatal Drug Exposure. Attendees included GALs, DHS, School district representatives, mediators, probation workers, SCAO and medical workers.
- **Adolescent Issues Summit training.** In May, the OCR held a three-day seminar on adolescent issues and a movie screening in conjunction with the summit at the Mayan theater. The summit was dedicated to adolescents and the transition to adulthood and domestic violence and its impact on children. Day one and two of the summit explored adolescent development, effective transitioning and permanency planning for teens and young adults. Day three focused on domestic violence and the presentation of nationally known experts on domestic violence to understand and analyze children's best interest in these cases. Feedback on this conference was excellent, and almost 200 attorneys, CASA volunteer and staff and court personnel attended. The OCR collected a \$75 donation to CASA for registration to this conference, which totaled \$6000 at the end of the event.

We should also note the judges held their conference on family issues at the same time as the OCR May conference. We worked with the judges' training coordinator and were able to share nationally recognized expert and presenters to the benefit of both conferences.

- **Core Curriculum Educational Interactive CD-Rom series.** In early August 2004, the OCR became aware of federal funds that were available if expended by August 31, 2004. OCR was able to quickly put together a grant proposal to develop a core curriculum educational interactive CD-Rom series. The product, *Building Competency in Pediatric Law: Tools for Effective Advocacy*, will offer statewide accessibility to OCR's core curriculum to contract attorneys, respondent parents' counsel, and county attorneys throughout the state. The core curriculum for this training, created by the OCR, consists of a fundamental combination of legal and child welfare related topics that an attorney must have in his or her foundation of expertise in order to competently represent children who have been abused or neglected. The ultimate product, a series of ten CD-Roms, features high-quality videos of experts speaking about a topic with a simultaneous written presentation featured on half of the computer screen. Computerized connections to a variety of resources, such as checklists and flow charts, are also included within sections. Although OCR was not awarded the grant until the second week of August, it was able to purchase the materials for this product, film a majority of the speakers and produce a partial draft containing the majority of the core curriculum in compliance with the grant deadline of August 31, 2004. The OCR is in the process of editing the draft CD-

Rom series and videotaping a few more speakers, and has received additional funding from the CIC in order to complete and distribute the product before December 31, 2006. The final product will be distributed to all contract attorneys and made available to other attorneys and individuals involved in dependency and neglect cases upon its completion.

- **Issues Impacting All Parties in Cases Involving Children.** The OCR hosted a training in Cortez in February, encompassing Child Development—The Impact of Trauma; Attachment and Visitation Issues; Overview of the OCR; Expectations of Guardians Ad Litem, Child’s Legal Representatives and Child and family investigators under the new CJDs 04-06 and 04-08; Drug Endangered Children and Mental Illness as a Factor in Domestic Relations Cases Involving Children. The training was held in response to GALs in remote areas of the state and providing accessible training for them.

D. Recommend and establish minimum practice and training standards.

The OCR’s enabling statute, C.R.S., 13-91-101. et., seq., mandates OCR to establish minimum practice and training standards for attorneys who represent the best interests of children. Last year, the OCR achieved its goal of revisiting and amending practice standards by drafting CJD 04-06 and co-drafting CJD 04-08. These amended requirements bolster training requirements and set higher standards of practice. CJD 04-06 governs all attorney service appointments made through the OCR, and CJD 04-08 applies to all child and family investigators throughout the state, some of which provide services through the OCR. These practice standards were approved by the Supreme Court on April 12, 2004 and are available for review on OCR’s website, www.coloradochildrep.org.

E. Work with Court Appointed Special Advocates (CASA) programs throughout the state.

The OCR is mandated to enhance CASA programs through the allocation of appropriated funds, enhancement of existing funding resources, exposure to training opportunities and support of the creation of local CASA programs. This year, the OCR worked on these mandates in a number of ways. In addition to its allocation of the \$20,000 in CASA monies appropriated by the Joint Budget Committee, the OCR raised money for CASA by requiring donations to CASA as a registration “fee” for its conferences. Approximately \$15,000 for the year was collected and forwarded to the Colorado state CASA.

The OCR also assists many of the local CASA programs with facilitating better working relationships with the Gals and the judiciary. OCR also continues to meet with CASA in its visits to judicial districts and to solicit feedback from CASAs on its contract attorneys through the OCR’s evaluation process. The OCR have always responded to 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 the OCR evaluation forms, which greatly assisted the OCR in ascertaining the quality of its attorney services.

F. 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.

IV. SUMMARY OF OCR'S OTHER ACCOMPLISHMENTS THAT FALL OUTSIDE SPECIFIC MANDATES

OCR has implemented a new web-billing system: As more jurisdictions have been converted to the hourly fee payment system, the workload to process payment of bills has dramatically increased. We processed approximately 18,500 bills in FY 04 and 24,808 bills in FY 05. Due to the increase in processing, we created an automated billing system to streamline the turnaround of payments. Our Controller traveled to Grand Junction, Fort Morgan, Colorado Springs and Arapahoe county to ensure that GALs who contract with OCR had a clear understanding of the new billing procedures.

Statewide conversion to hourly compensation: As has been discussed, the Joint Budget Committee and General Assembly committed to a phased-in transition to hourly pay for all attorneys with whom the OCR contracts. In fiscal year 2005, the OCR transitioned the 1st and 17th Judicial Districts to hourly payment. The 2nd, 18th and 20th Judicial Districts transitioned on July 1, 2005. At this point, the transition to hourly payment is complete except for the 10th Judicial District, which is scheduled to convert at the beginning of fiscal year 2007.

Process payments for OCR attorneys within 30 days or less: The OCR has a small staff and one person to process payment for all OCR bills. Since the inception of the OCR, Sheree Coates has processed payment of all bills and this year processed 24,808 bills. The OCR and attorneys throughout the state appreciate her dedication and hard work.

State Audit: OCR's Controller, Jerrod Cotosman, diligently works to make sure OCR is in compliance with all state and accounting protocols. The annual State Audit of OCR was completed this August and no recommendations were made.

OCR's efforts to continually educate the JCB and JBC staff on the role and responsibilities of GAL: Over the past year, the OCR, with the cooperation of the GALs throughout the state, have invited JBC members out to several districts to learn more

about the work they do. The OCR thanks Senators Tapia, Owen and Keller and Representatives Buescher, Hall and Plant for meeting with the staff at OCR and their attorneys. OCR also thanks JBC analyst Stephanie Walsh for traveling to court in Weld and Jefferson counties.

V. OCR BUDGET AND AUDIT OVERVIEW

A. 2005 Legislative Budget Process.

The OCR was extremely fortunate and pleased that the Joint Budget Committee restored OCR's general funded training budget this last legislative session. These monies had been eliminated in Fiscal Year 2004 due to the state's budget crisis. OCR was able to use fund balance from an existing cash fund in Fiscal Year 2005, but this source would not be available in future years. The OCR would once again like to thank the JBC for its generosity in restoring these funds.

After careful consultation, the OCR joined with the State Court Administrator's Office and the Alternate Defense Counsel's Office in seeking a pay increase for court appointed counsel. GALs currently receive \$45 per hour for out-of-court and \$55 for in-court work. OCR sought to increase this amount to a flat \$55 for the following reasons:

- State-paid attorneys have only received one \$5 raise since 1990.
- Cases have increased in complexity and require a significant amount of attorney time and expertise.
- This area of law requires an expertise in pediatric law and is very specialized and complex. The discrepancy in pay compared to private attorneys makes it increasingly difficult to attract and retain experienced, qualified attorneys.
- The SCAO performed a rate study comparing the Colorado pay rate to other states, including the Federal Government. This study concluded that an increase to \$68 per hour would be fair, but in light of the current budget crises a smaller increase would be requested.

Unfortunately, the State's budget status prevented the JBC from granting this request. OCR appreciates the Committee's careful consideration of the proposed increase. OCR plans to submit another such request for the next fiscal year budget session.

B. Trends and Efficiencies

Over the past year, the OCR has worked with various judicial districts to create efficiencies in the appointments of GALs for various types of cases. The amount of Domestic Relations (high-conflict divorce) cases that OCR had paid increased by over 35%. By working with various jurisdictions and implementing procedures that required the court to consider the marital estate before determining indigency (C.R.S. 14-10-113), the OCR was able to affect a decrease of over 20% of the number of these cases paid. The table below summarizes the change in cases the OCR paid on in the past two fiscal years.

Comparison of OCR Cases Paid FY04 and FY05¹

Case Type	FY04	FY05	Increase/ (Decrease)	% change
Dependency & Neglect	6493	6972	479	7.4%
Juvenile Delinquency	2673	3374	701	26.2%
Domestic Relations	969	762	(207)	-21.4%
Truancy	369	281	(88)	-23.8%
Paternity	125	86	(39)	-31.2%
Probate	113	149	36	31.9%
Other	52	36	(16)	-30.8%
Total	10794	11660	866	8.0%

¹ OCR tracks the number of cases paid by the agency. Thus the above figures represent the number of cases that received payment from OCR, which is not necessarily the number of new appointments or filings.

As caseload continues to increase, the OCR will work with jurisdictions to create and maintain efficiencies.

C. Fiscal Year 2005 Audit

The OCR receives an annual independent financial audit in compliance with Section 13-91-105 (1)(g), C.R.S. The audit was conducted by the accounting firm of Gelfond Hochstadt Pangburn, P. C. (GHP) in conjunction with the annual statewide financial audit performed by the Office of the State Auditor. Audit procedures performed by GHP included interviewing staff, reviewing internal controls and examining documents. At the time of this report, the OCR had not received notice of any findings resulting from the audit.

D. OCR's Fiscal Year 2005 Expenditures

The following schedules summarize the OCR's Fiscal Year 2005 expenditures:

1. ATTORNEY SERVICES

GALs, child and family investigators 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 case type are as follows:

Type of Case	Amount Expended in Fiscal Year 2005
Dependency and Neglect	6,559,462
Juvenile Delinquency	1,338,555

Type of Case	Amount Expended in Fiscal Year 2005
Domestic Relations	426,186
Truancy	68,983
Paternity	27,126
Probate	87,839
Other	19,787
Mandated Costs	24,211
TOTAL	8,552,149

2. ADMINISTRATIVE AND OPERATING COSTS

\$580,409 was spent on administrative and operating costs of the OCR. These dollars were used primarily to compensate staff, rent office space and pay for staff travel on judicial district visits.

3. TRAINING

The OCR spent \$ 27,859 on providing training and conferences in the past fiscal year including three major conferences. Please see page 16 and Appendix E for detailed information on these trainings.

4. CASA

\$ 20,000 was contributed to Colorado CASA, which is a non-profit organization of volunteer court-appointed special advocates. This funding allowed the state CASA to pay portions of the Executive Director's and Field Representatives salaries, as well as Program Support and Training Expenditures.

The OCR is mandated to allocate appropriated monies to local CASA programs under 13-91-105(b)(IV), a duty that was assumed from the State Court Administrator's Office in Fiscal Year 2002.

VI. OCR GOALS FOR THE UPCOMING YEAR

The OCR is pleased with the progress achieved this fourth year of operation. The OCR has developed 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:

- Complete and distribute core curriculum educational interactive CD-Rom series.
- Consider augmentation of minimum training requirements for attorneys who represent best interests of children as OCR completes the CR-Rom series and makes training increasingly available and accessible throughout the state.
- Continue monitoring of attorney services through hourly billing and investigation of complaints and audits.

- Continue to process payment for all 200 attorneys in the state in the timely manner established by OCR (30 days form time of receipt of bill).
- Continue to have no recommendations on State Auditor's report.
- Increase litigation support through trial advocacy training, creation of motions bank and continued availability of mentoring by experienced attorneys.
- Provide useful and directly relevant information to GALs to empower them in their advocacy, including creation of residential facilities "report card" searchable database to input all information compiled by summer law clerk project. Also, assist in advocacy for appropriate placement and continued distribution of OCR quarterly update of current legislation and case law, resources and trainings.
- Continue to recruit competent attorneys in rural jurisdictions where the state has a real need.
- Assist the ABA president-elect Karen Mathis with her goal to better serve our youth nationally.
- Continue to create efficiencies within the OCR budget in DR appointments with the support and assistance of State Court Administrator's Office
- Get GAL NCIC-CCIC and Icon access for the safety of our children
- Facilitate a summit and debate on the issue of best interest representation versus client directed attorney representation for youth in a spring forum in conjunction with local law school juvenile law programs. OCR must invite all key stakeholders, those who have expertise, state and community leaders, and youth themselves to participate.
- Reevaluate the need for 22 local oversight committees and reinstate a local oversight committee to compliment the oversight systems of the OCR and the best interest of children. The OCR shall also explore foster care youth participation in local oversight committees and/or development of youth oversight committee.
- Investigate institution of staff office model in Second Judicial District.
- Assist the 8th Judicial District in setting up training with CASA, GALs and DSS to facilitate the understanding of the role, rights and responsibilities of the CASA volunteer.
- Revise website to reflect new content and billing system.
- Present domestic relations CLE for the attorneys who are child and family investigators so they are in compliance with the training requirement as set forth in Chief Justice Directive 04-08.
- Assist Ruth Achenson and the other community leaders of the 12th Judicial District with developing best practices for child abuse investigation and consideration of developing a Child Advocacy center where child victims can be interviewed together by law enforcement and the DSS in a safe and non threatening environment.
- Ascertain all Child Advocacy centers in Colorado and facilitate their understanding of the role of the GAL and foster better working relationships.
- Maintain close working relationship with CASA.
- Participate in legislative process and continue to inform legislative delegates about children's issues, GALs and trends in their communities.

- Work with child advocacy groups outside of Colorado to improve best interest representation on a National level.
- Continue to pursue a long over due hourly rate increase for OCR attorneys who work far below any private rate, yet are specialists in the area of pediatric law, and increase the salaries of the talented and devoted attorneys at the El Paso Office to comparable salaries of other state paid attorneys.
- Elevate the respect of this practice. Educate and create awareness of the role of the GAL, the critical need that all attorneys representing children be experts in the area of pediatric law to the Colorado bar and Colorado Judicial Institute. Promote our fellow attorneys to members of the Colorado Bar so that they receive the recognition for their dedication to children and litigation skills. Finally, dispel the old belief that all GALS have too high a caseload. Create awareness that the conversion to hourly has alleviated that problem.

**APPENDIX A - ATTORNEY EVALUATION FORM AND CASE
INFORMATION REQUEST FORM - OCR ATTORNEY EVALUATION FORM**

The Office of the Child's Representative (OCR) requests that you please complete this evaluation form for each attorney who provides juvenile contract GAL services in your judicial district. Please return the evaluation form by April 30, 2005, to the OCR, Attn: Theresa Spahn, 1650 Pennsylvania Street, Denver, CO 80203, or e-mail to resourcecenter@qwest.net.

_____ **Judicial District** _____ **Name of GAL**
_____ **Date** _____ **Judge/District Administrator/Court Facilitator**

1. **Meet with child.** Does the GAL timely and personally always meet with the child in the relevant living environment?
_____ Exceeds expectations
_____ Meets expectations
_____ Below expectations
2. **Court appearance.** Does the GAL consistently attend all court hearings and/or send a qualified substitute?
_____ Exceeds expectations
_____ Meets expectations
_____ Below expectations
3. **Preparedness.** Is the GAL well prepared for court hearings?
_____ Exceeds expectations
_____ Meets expectations
_____ Below expectations
4. **Knowledge and application of law.** Does the GAL demonstrate a thorough knowledge and application of juvenile law and other psycho/social fields such as child development that impact best interest decisions involving children?
_____ Exceeds expectations
_____ Meets expectations
_____ Below expectations
5. **Investigations.** Does the GAL complete an independent investigation?
_____ Exceeds expectations
_____ Meets expectations
_____ Below expectations
6. **Recommendations.** When parties do not concur with best interest recommendations, does the GAL present an independent recommendation?
_____ Exceeds expectations
_____ Meets expectations
_____ Below expectations
7. **Professionalism.** Does the GAL have a professional working relationship with all parties involved in a case (i.e., parents, CASA volunteers, caseworkers, etc.)?
_____ Exceeds expectations
_____ Meets expectations
_____ Below expectations

Comments: _____

APPENDIX B – OCR LEGISLATIVE REVIEW FOR 2005 LEGISLATIVE SESSION

- H.B.05-1172, sponsored by Representative Jahn and Senator Grossman. This legislation created a nomenclature change for professionals who are appointed by the court in Domestic Relations (Title 14, C.R.S. 14-10-116) cases involving children and issues of parental responsibility. The name was changed from “Special Advocate” to “Child and Family Investigator”. This change was made because this court appointed professional was often confused with the local CASA non-profit organization that provide volunteers to abused and neglected children. CASA stands for Court Appointed Special Advocate. This bill also distinguished the role between child and family investigator and Child’s Legal Representative (another professional appointment available to the court within this statute). The awareness of the need to create this legislative change was the result of the Supreme Court Colorado Commission on Families developing 79 recommendations on how the Colorado courts can better serve families and children. A group of multidisciplinary professionals worked on drafting, arranging sponsors and providing education and testimony to the General Assembly. Colorado State CASA and all of the 19 local CASA programs supported this legislation. The OCR Director was part of the multidisciplinary team and served as the legislative liaison. The bill was approved by the Governor in June 2005.
- H.B. 05-1171, sponsored by Representative Jahn and Senator Grossman. This bill provides for the appointment of parenting coordinators and parental decision makers to assist families who remain in high conflict with resolving disputes and implementing the existing court’s order. This bill was also originally drafted, sponsors sought, and education and testimony provided by the multidisciplinary professionals who also worked on HB 05 -1172. The OCR director served as the legislative liaison on this bill. The bill was approved by the Governor in June 2005.
- H.B. 05-1157, sponsored by Representative Riesberg and Senator Shaffer. This bill grants judicial officers discretion to deny request for supplemental evaluations in Parental Responsibility cases (formerly referred to as custody cases) when both the child and family investigator report and evaluation concerning parental responsibilities have been completed and filed with the court. This bill allows for a minimum of two thorough and extensive investigations/evaluations in a case involving contested issues of parental responsibility (formerly known as custody) before the court could find that an *additional* (third) evaluation would not be in the best interests of the child. High conflict divorce is very traumatic to children and children suffer emotionally. The child and family investigator review and parental responsibility evaluations are exhaustive investigations which involve interviews of the children, many times psychological evaluations, access to the child’s performance at school, etc. HB05-1157 is a child-friendly bill and in the best interest of children

with the purpose of authorizing a judge to limit continual evaluations and the trauma of high conflict divorce proceedings for children when all appropriate and necessary investigations have occurred. This bill was also originally drafted, sponsors sought, and education and testimony provided by the multidisciplinary professionals that also worked on HB 05 -1171 and 1172. The OCR director served as the legislative liaison on this bill. The bill was signed by the Governor in June 2005.

- H. B. 05-1012, sponsored by Representative Stengel and Senator Grossman. The OCR actively opposed HB 1012 because it would have given county attorneys sole discretion to file petitions and motions for termination of parental rights in dependency and neglect cases, removing important safeguards that judicial oversight and GAL representation provide to the protection of children under the Colorado Children's Code. The OCR contacted Colorado Counties Inc., and their lobbyist explaining how detrimental this would be to children. The bill was PI'd in committee.
- H.B. 05 -1141, sponsored by Representative Ted Harvey and Senator Lois Tochtrop. H.B. 05-1141 added child testing positive at birth for a Schedule I or II controlled substance as grounds for filing a D&N petition. In its introduced version the bill would have also allowed testing positive at birth for a Schedule I or II controlled substance as grounds for immediate termination of parental rights under 19-3-604(1)(b) without providing the parent opportunity for treatment. The OCR was in support of this bill, but offered testimony against the section that allowed termination of parental rights without offering a treatment plan to parents. After going to conference committee, the termination provision was amended out of the bill. The was approved by both the Senate and House.
- H.B. 05-1174, sponsored by Representative Stafford and Senator Grossman. This bill proposed changes to advisement that must be given to parents at temporary custody hearings in an attempt to provide better identification of relative placements upfront in a case. It required county departments of social services to provide to appropriate identified relatives notice that opportunity for a child to be placed with them may terminate at some point in the future. The bill also set forth a number of factors that a court should "give strong consideration to" in making placement determinations under 19-3-605(3) and 19-3-702(9). OCR staff was very involved in the committee that worked on this legislation including providing advice on sections that should be revisited and amended. The bill was signed by the Governor in June 2005.
- H.B. 05-1007, sponsored by Representative Schultheis and Senator Lamborn. This bill would have submitted a constitutional amendment to the voters that would limit the provision of all state and county services to citizens and persons legally present in the United States. Child welfare and social services were not listed as exceptions. The OCR opposed the bill and monitored it closely. The bill was vetoed by the Governor.

- H.B. 05-1173, sponsored by Representative Ted Harvey and Senator Peter Groff. This bill limits the time frame under which a relative can request that child get placed with them and receive preference to 20 days after the filing of motion to terminate parental rights. The bill also clarified that hearings on petitions regarding stepparent kinship and custodial adoptions must take place no sooner than six months after child has begun to live in prospective adoptive parent's home. The bill also allows the court to open adoption hearings to the public if the court finds that opening the hearing is in the child's best interests and the adoptive parents have consented. The bill was signed by the Governor in March 2005.
- SB05-04, sponsored by Representative Soper and Senator Tochtrop. SB05-04 concerns additions to the list of those mandated to report child abuse to include juvenile probation officers, animal control officers and special advocates under title 14. This bill was signed into law by the Governor in April.

APPENDIX C – OCR COMMITTEE INVOLVEMENT

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 an active participant on many judicial, state and local government committees, special interest groups and other advocacy 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:

- **Supreme Court Family Issues Committee and Other Professionals Standing Subcommittee:** This committee was established by the Supreme Court, as a result of the recommendations of the Colorado Supreme Court Commission on Families. This follow up committee is charged with implementation of the 79 recommendations from 2002. Last year, the above referenced subcommittee was instrumental in the establishment of Special Advocate standards, which were adopted in CJD 04-08. OCR's Executive Director dedicated a great deal of time to the creation of these standards and statewide training on the standards.

During the past year, this committee temporarily separated from the Supreme Court in order to draft and propose legislation that was necessary to implement several of the recommendations requiring statutory change in order to better serve families and children. This subcommittee drafted the proposed legislative changes, recruited sponsors, and provided testimony. The OCR Executive Director served as the legislative liaison and coordinated the efforts at the Capitol, including drafting of fact sheets, and facilitating testimony in committee. The three bills are outlined in the attached legislative review in Appendix B and include HB-5-1157, HB-05 1171 and HB 05- 1172. The OCR must emphasize these bills would not have been successful but for the hard work of the standing committee, the General Assembly's legislative bill drafter Beth Kane, and the Colorado Bar Association Lobbyist, Michael Valdez.

- **Colorado Task Force on Unaccompanied Immigrant Children.** This task force, which the OCR co-chairs, has made significant strides this year on educating attorneys and judges about the immigration options available to children in the dependency and neglect system, particularly Special Immigrant Juvenile Status (SIJS). OCR assisted the task force in drafting a chapter on SIJ status for the upcoming juvenile law benchbook. This bench book is heavily relied upon by the judges throughout the state and by many of the other professionals who provide services to abused and neglected children. Also, OCR extensively researched the issue of how to pay for unaccompanied minor children because historically, DSS has denied services for them. While there may not be available federal funds for SIJS children to be placed in foster care, funds are

available for these children who have either been abused and neglected, or are without parents or relatives to care for them.

- **Denver Model Court Project** – This goal of this project is to form a collaborative team to enhance services to families and children in the court system, and to ultimately improve court practices for cases involving abused and neglected children. The OCR was asked to be a member of the Model Court Executive Board, which will consist of "decision makers" in the court process including judges and members from DHS. The Executive Board is compiling a list of community representatives to invite to participate in the Model Court Project Meetings. This larger Model Court Committee will make suggestions to the Executive Committee, which retains power to make policy/goals for the Model Court. We are also currently working on a "Mission Statement" for the Denver Model Court. The Deputy Director of OCR submitted a draft for the mission statement to be considered at the next meeting.
- **Child Abuse Prevention Month/CAPM Coalition** – OCR participated in planning for Child Abuse Prevention Month in order to raise awareness about safe children and healthy families. Because over 7,000 children in Colorado are abused and neglected each year, the group founded a coalition to participate and advocate for more activities during this month. The group helped to put on a rally with the Governor and several state legislators.
- **Court Improvement Committee** – OCR became an official member of the Colorado Court Improvement Committee, serving as an ex-officio member without voting rights. The CIC focuses on improving the justice system for children, especially children in dependency and neglect cases. Specifically, the CIC oversees the federal grant given to each state that is to be utilized to improve the Dependency Court System. This committee has existed since 1994 and was instrumental in creating reform in Colorado Courts. The committee has allocated funds to CASA programs and conducted D&N court reform and appellate reform projects. The OCR is one of the few outside agencies to participate in the CIC and we are honored to be an official member of this committee. In the past year, some examples of what the CIC has focused on include: developing protocols for D&N involving substance abuse, representation of parties (child and family investigators, respondent parent's counsel and funding for training materials. The CIC has approved some of the federal funds be diverted to the OCR to create a core curriculum CD-Rom training series.
- **Juvenile Justice and Mental Health Subcommittee of the Legislative Task Force on the Mentally Ill in Criminal Justice.** This committee has just completed several focus groups and has three key areas of focus: 1) Recommendations to transform the system either by proposing legislation or a pilot project; 2) Obtain more consistent screening for those in the juvenile justice system, and 3) Proposal for health coverage to cover court ordered mental health

treatment for juveniles in the justice system. OCR will continue to participate in these meetings and to support this subcommittee's effort.

- **The Colorado Statewide Team Promoting Equity, formerly the Minority Overrepresentation Committee.** This committee continues to explore the issue of minority overrepresentation in dependency and neglect and delinquency cases. The committee is working on strategies to reduce disproportionate minority contact in the juvenile justice system and is focusing on comparing differences in outcomes, such as recidivism for different program types.
- **Strengthening Abuse and Neglect Courts Act (SANCA) Grant Steering Committee.** Colorado has received one of six federal grants under SANCA, through which the State Court Administrator's Office and Colorado Department of Human Services will be able to streamline their respective computer information data systems to allow for better tracking of children and families in the dependency and neglect system to better serve those children and families. The grant will also monitor Colorado's progress on federally-required system improvement measures; and institute data-driven system reform strategies to improve Colorado's performance on federal audit measures. OCR is a member of the steering committee overseeing the creation of this program and was active in presenting rules to address the issue of whether the originally proposed implementation plan of TRAILS and ICON created ex-parte communications and violated due process. New business rules were then implemented to address this issue.
- **Muskie School of Public Policy Research Advisory Committee** – The Muskie School is conducting a three-year research project on cross system collaboration to meet the needs of children in foster care. This field study will take place in Adams, Arapahoe, El Paso, Conejos and Alamosa counties. OCR was invited to serve on the advisory committee, which meets several times during the year. The immediate goals of the project are to highlight best practices and coordinate IDEA and ECE services for young children in the child welfare system.
- **State Department of Health and Human Services Spring Forum Advisory Group** – The goal of this committee was to plan a forum that focused on meeting the educational needs of youth in foster care and to address the need for coordination between child welfare and education systems. OCR was invited to participate in the planning for the 2006 spring forum. The forum was held on June 13-14, 2005. The focus of the forum was on school stability, access to information and records, and the roles in the education process of children, ensuring daily school success, educational options and credits. The OCR was impressed by the forum and the ability of the participants to recognize and educate on critical needs essential to the success of any child, and subsequently the OCR built its September conference around many of these issues.

- **National Association of Counsel for Children** – The NACC is a non-profit child advocacy and professional organization. The NACC provides assistance to attorneys and monitors public policy and legislative advocacy. The OCR Executive Director is on the board of the NACC and supports various projects that the NACC engages in, including filing amicus briefs in child welfare cases, training on legal advocacy for children’s issues and trial training.
- **Colorado Equal Care Coalition (LGBTQ Youth in Care Task Force).** As documented in national studies, foster care places severe risks on lesbian, gay, bisexual, transgender and questioning (LGBTQ) youth than for other children. These youth are more likely than their counterparts to be abused in care, have their needs ignored and end up on the streets. The Colorado Equal Care Coalition was formed to bring various entities involved in child welfare together to ensure that the needs of LGBTQ youth in care in Colorado are met. This year the coalition was involved in the hosting of a listening forum, in which youth and professionals involved in the dependency and neglect system were able to express their concerns and experiences for a national study. The OCR presented training on this issue at its May conference (referenced in Appendix E). Nationally recognized speakers on this topic were brought in by the OCR. The May conference also had a panel which created a forum for real life anecdotal stories, awareness and a question and answer session.
- **ARD Steering Committee** - OCR has been invited to share in the Administrative Review Division meetings. The ARD has amended the out-of-home review instrument changes and because GALs may be invited to the reviews, OCR was asked to share input into the new instrument. For example, “GAL” was added to the pilot instrument in the section on “invitation to review and given three weeks notice.” This change documents whether the GAL was invited to the review session. OCR staff continues to participate.
- **Bridging the Gap:** Jim Casey Youth Opportunity Initiative of Mile High United Way – OCR was invited to participate in implementing the goals of the initiative, whose target goal is to insure youth who age out of foster care will have increased opportunities for transitioning to independent living. This three-year program will assist 75 youths each year to transition out of care and track the success of the youths as they build solid foundations and life skills. OCR staff continues to participate.

APPENDIX D – EL PASO COUNTY GAL OFFICE

4th Judicial District GAL Office. The creation of the 4th Judicial District Pilot Project resulted from Senate Bill 99-215 (Long Appropriations Bill), which directed the Judicial Department to pilot alternative methods of providing GAL services. 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 now in its fifth year of operation and last year the JBC specified in a footnote that the office is no longer a pilot project. As all provisions of GAL services rest with the OCR, the 4th Judicial District's GAL Office continues under the oversight of the OCR.

The staff model operates as a law firm and employs, 15 attorneys, 3 social workers and 4 case coordinators. These professionals make an important contribution to the legal representation of children by assisting attorneys in their analyses of treatment needs, participation in case staffings, communication with treatment providers, review of psycho-social assessments and observation of parent/child visitation.

Since its inception, this model has proven to be one of the most effective and consistent methods of delivering GAL services. The effectiveness of this type of model has been recognized nationally by the National Association of Counsel for Children, which has endorsed dedicated children's law offices as one of the best models for delivery of high-quality legal services. Moreover, members of the El Paso child welfare community have commented on the significant improvements in GAL representation as a direct result of the El Paso GAL office.

In addition to the high degree of professionalism and expertise that this office provides, this office is cost-effective, as demonstrated by objective measurements. The cost per hour for GAL services coming from this office (including not only attorney services but staff and administrative costs as well) was \$34 per hour per case. This rate is well below the hourly rate for GALs of \$45 per hour out-of-court and \$55 per hour for in-court time.

Since the office was created, it has represented over 4,900 children. This year alone, the office successfully closed cases with the placement of children in permanent homes.. These permanency and litigation statistics are some of the best in the state, and this office is to be highly commended. For much of this year, due to the budget crisis, the office had to absorb an increased caseload without additional staff. This hardship appeared to be at times overwhelming and unmanageable.

The Joint Budget Committee also allowed the office to hire three new attorneys to begin September 2004. These additional staff members allowed the GAL Office to decrease the caseload per attorney to more manageable levels.

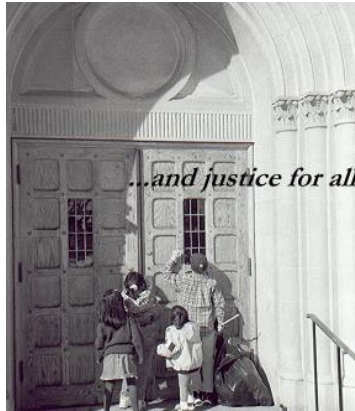
OCR would like to acknowledge the entire staff of the El Paso GAL office for maintaining their high level of professionalism. Particular credit needs to be given to Office Director and Supervising Attorney Debra Campeau for weathering the budget

crisis with initiative and steadfast commitment. The OCR is extremely grateful and appreciative to the staff of this office for their efforts and dedication throughout this difficult time.

We must also note that this office has achieved all of its hard earned success in a county that has the highest child abuse caseload filings in the state.

APPENDIX E – OCR TRAINING AGENDAS

Office of the Child's Representative Cortez Conference *Issues Impacting All Parties in Cases Involving Children*



***February 22, 2005
601 North Mildred (Probation Dept. Training Room)
Cortez, Colorado***

***Free of Charge and Open to All Professionals Involved in Cases Pertaining to
Children***

9:45 to 10:00 Registration and Introduction

Theresa Spahn, Executive Director of the OCR; Sheri Danz, Deputy Director, OCR

**10:00-11:45 Child Development—The Impact of Trauma; Attachment and
Visitation Issues**

Donna Anderson, M.S.

When advocating for appropriate placement, visitation and services for children in dependency, domestic and other cases—whether on behalf of a parent, child or county department—a solid foundation of child development is key. This presentation will provide a basic overview of child development, with key emphasis on the impact of trauma on development and decisionmaking with regard to visitation and services that promote healthy development.

**12:00 to 1:30 OCR Presentation—Overview of the OCR; Expectations of
Guardians Ad Litem, Child's Legal Representatives and Special
Advocates under the new CJDs 04-06 and 04-08**

Theresa Spahn, Executive Director, OCR; Sheri Danz, Deputy Director, OCR

***** Lunch presentation at location TBA by Cortez Bar Association *******

All parties in cases involving children should be aware of the unique expectations governing attorneys representing children and professionals (including attorneys) serving as special advocates. This presentation will provide an overview of the new directives governing GALs, Child's Legal Representatives and Special Advocates,

offering a basic overview of the history and rationale of these standards and procedures for promoting compliance with these standards. A basic overview of the OCR and its advocacy for children and attorneys representing children will also be provided. Ethics application pending.

1:45 to 2:45 Update on Drug Endangered Children

Nicola Erb, OCR Training Coordinator and Active Member of Colorado DEC; other speaker TBA

Methamphetamine addiction and manufacturing remain an unfortunate and growing factor in all types of cases involving children. This dynamic and multimedia presentation will provide a basic overview of the issue and an update on research, policy and practices with regard to handling cases involving drug endangered children.

2:45 to 3:00 Break

3:15 to 4:30 Mental Illness as a Factor in Domestic Relations Cases Involving Children

Robert LaCrosse, Ph.D.

*Psychological reports and allegations of psychological issues come into play for all parties in domestic relations cases involving children. This presentation will help you learn to navigate your way through psychological reports, explaining the implications of different diagnoses and the testing that serves as the basis for reports. Whether and how diagnoses should factor into decision domestic cases will be explored. **Topic may be slightly modified.***

CLE application pending, including application for 1.5 ethics credits. Scheduled times and speakers are subject to change. Please check the OCR homepage for the latest update: www.coloradochildrep.com. If you have questions regarding this training, please contact Nicola Erb, OCR's training coordinator at (970) 331-9502 or (303) 860-1517.

Office of the Child's Representative's Cortez Conference

Cortez, Colorado
February 22, 2005

REGISTRATION FORM

Send registration to Office of the Child's Representative, 1650 Pennsylvania Street,
Denver, CO 80203 or fax registration to Christina Gonzales at (303) 860-1735.

In order to guarantee that each conference participant receives the conference materials please have your registration to the Office of the Child's Representative by February 7, 2005. We will be accepting registrations after February 7, 2005 but cannot guarantee that materials will be available at the conference for persons who register after February 7, 2005.

Name_____

Firm/Organization_____

Street Address_____

City/State/Zip_____

Telephone (____)_____ Fax (____)_____

E-mail Address_____

Attorney Registration Number_____

OPEN TO JUDGES, MAGISTRATES, GUARDIANS AD LITEM, SPECIAL
ADVOCATES, CHILD'S LEGAL REPRESENTATIVES, MENTAL HEALTH
PROFESSIONALS, CASE WORKERS, PROBATION OFFICERS, MEDIATORS,
CASAS, AND ANY OTHER INTERESTED PROFESSIONALS

CLEs pending

Any questions please contact
Nicola Erb with the Office of the Child's Representative at
(970) 331-9502; (303) 860-1517