

# Office of the Child's Representative 6th Annual Report



Presented to  
the Colorado General Assembly  
September 2006

## OCR's Mission Statement

Legal representation is a critical element in giving children a voice in the court system.  
C.R.S. § 13-91-102.

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 is accountable to the state of Colorado and we must achieve this mission in the most cost-efficient manner without compromising attorney services. The OCR is committed to ensuring that children, Colorado's most vulnerable and voiceless population in the courts, receive the best attorney services available throughout the state.

## **OCR 2006 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 this year's major accomplishments, 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 their Attorneys**

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 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, and all of the dedicated OCR attorneys who provide this invaluable service to the children of Colorado.

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 2005 through September 2006). 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 (CLRs), and Child and Family Investigators (CFIs), 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 what private sector attorneys bill. Their job has become more challenging as the complexity of cases and workload has increased in the past few years.

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 from a flat rate of \$1040 per case to an hourly payment system (fee for services rendered) and subsequently raised the hourly rate of pay to \$57 an hour. This increase enables children's attorneys to fully and properly investigate each case and provide meaningful effective representation to the children in our state.

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

\*The Pew Commission on Children and Foster Care is committed to improving outcomes for children in foster care. The Commission is dedicated to developing practical research based on nonpartisan policy recommendations related to federal financing and court oversight of child welfare.

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## **I. Quotes and excerpts regarding the OCR and OCR attorneys.**

Throughout the year, the OCR receives feedback on the attorneys from evaluations and compliments from those who also work with the children in the dependency and neglect system.

*“When I heard that I had an attorney, I thought I was on top of the world.”*

-Youth client in foster care

*“They (GALs) are good hard workers. Their commitment is inspiring. The system is working very well in Weld County.”*

-19<sup>th</sup> Judicial District (JD) Magistrate

*“The GALs do an outstanding job, and I am very impressed with them. They work closely with our CASA office.”*

-CASA director in the 10<sup>th</sup> JD

*“I’d like to compliment you and your office for providing our county with some truly exceptional guardians ad litem in the last couple years. It has been a refreshing change of pace.”*

-Weld County (19<sup>th</sup> JD) Caseworker

*“I received a message late last Friday that all the young ladies in the Griffith Center in Grand Junction were going to be moved out the next Monday morning due to not meeting an unspecified bureaucratic demand. My client was thriving there. GAL Barbra Remmenga of Montrose immediately got a judge to order that no one be moved until after a court hearing on the issue. Barbra then had a contested court hearing, which she won, allowing the Griffith Center to remain open and continue its great work.”*

-OCR GAL

*“The aunt informed me that Mahna was terrific- in fact she said that without Mahna’s involvement and insistence on the father moving forward with his treatment plan, the children would have not been able to return home. The aunt further stated that Mahna was in touch with her on a regular basis and visited not only her home, but also had conducted unannounced visits to the father’s home before and after the children returned home to be ensure their well-being.”*

-From the Aunt of youth in foster care

*“Because I was an experienced attorney, including domestic relations practice when I was younger, I knew that I needed to get a specific Probate Court Order or this visitation would not occur. Had I not gotten that order, Jack would not have had that visitation which was 2 weeks before the hearing. The visitation was critical and the family fell in love with him and wanted him ASAP. Jack now has a family of his own and he is no longer labeled a “problem child.”*

-Letter from OCR probate attorney Paula Young

*“Lisa Martinez was the GAL on the case for two foster brothers. She was warm, available, and clearly had the best interests of not just the two boys, but their siblings, at the forefront of her work. When one of the boys was having terrible behavior problems she was quick to try to find time to come and observe and support the placement. She was wonderful and truly worked hard for the children.”*

-Local Foster Parent

*“Our staff and board appreciate all of the work that the Office of the Child’s Representative does for the children of Colorado. In addition, by directing donations made at your conferences to Colorado CASA, your organization helps us to achieve our goals of supporting the fourteen local CASA programs in Colorado and providing outreach to counties that do not yet have CASA programs.”*

-Letter from Lori Burkey, State Executive Director of Colorado CASA



## **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 an 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-seven percent of OCR's attorney services dollars are expended on 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 12,408 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 250 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 on 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 receives attorney services?**

GALs represent the children who live in your communities—this year, almost 15,000. 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?**

*“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 is afforded an independent legal advocate zealously to protect their best interests in court.”*

-Marvin Ventrell, Executive Director of the National Association of Counsel for Children

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 receives his or her own attorney to independently and zealously protect his or her unique interests.

To understand why attorneys must be appointed to represent children, it is helpful to consider the story of a young homeless man in Denver. This young man was moved 36 times in foster care. He ended up in DYC when he was 16 years old. Upon his release from DYC he had no support system to turn to and walked into the shelter for homeless youth. If this young man had a legal advocate in the court system perhaps he would not have been moved 36 times. He has long since aged out of the system, and now it is too late for him to have a legal advocate. Unfortunately, this young man was in the system long before the beginning of the OCR office. On the other hand, we consider a story of children who received the services of a competent attorney since the inception of OCR: In Pagosa Springs, three young children were sexually abused by their father. Despite several reports by therapists, caseworkers in this jurisdiction failed to act upon the allegations of abuse and the children remained in the care of the abusive parents. Finally, the children were interviewed by a local caseworker and detective in this western slope jurisdiction. The caseworker and detective did not think the stories of the children were consistent. The oldest child continued to make allegations of abuse after the original interview, so the children were again interviewed at a nearby advocacy center. When a subsequent therapist reviewed the interview, she realized that it did not qualify as a true forensic interview. Because of the efforts of this GAL and her determination to have the children tell their stories to the proper authorities, the children were brought up to a front range advocacy center and were re-interviewed by a local DA and intake worker who worked with children who are victims of sexual abuse. This GAL now has consistent stories to implicate the father, and she will be able to use this information against this father who repeatedly abused his children. Most importantly, these children were able to tell their stories, and the oldest child is grateful that her voice was heard and that someone believed her story.

These stories demonstrate the importance of legal representation for children and how a GAL can improve the outcome of a case. Because children are unable to articulate their legal needs, it is crucial for them to have an independent advocate when a court is making critical decisions that will impact or change that child's life, development, and relationships with others for a lifetime.

## **F. 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 CFI (formerly known as special advocate) or CLR 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 mental health professional child and family investigator, as opposed to an attorney child and family investigator or child's legal representative, to investigate and make best interest recommendations concerning parenting time and decision making. 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 indigency is found 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 or other non-licensed attorney individuals.

## **G. What can the OCR do for legislators?**

The OCR may serve as a resource to legislators by providing information and answering questions concerning children's issues and GALs, CFIs or CLRs. 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 services available to legislators 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 at 303-860-1517 with any requests for assistance, concerns, or questions regarding the office or children’s issues.

### **III. OCR Mandates**

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. 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;
- 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.

## **1. Provide oversight**

### **(a) OCR's annual contract process.**

The OCR's current contract process includes a series of steps. The OCR first distributes an objective evaluation form to gather feedback on all OCR attorneys. 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 any concerns. The office then requires all attorneys, regardless of whether they have existing contracts or are new applicants, to complete a 2005/2006 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 attorney staff visited each of the 22 judicial districts to assess attorney services and to learn how the OCR can support attorneys in their communities. This assessment includes meeting with the attorneys who are under contract with OCR, interviewing new applicants and meeting with court personnel, judicial officers, CASA directors. In some instances, OCR meets with county attorneys and department of social services directors, as well as other community agencies involved in the protection of children. At the completion of the judicial visits, 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 subsequently 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 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.

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.

### **(b) Complaint Process**

OCR actively monitors attorney services through its formal complaint process. OCR has developed a formal written process for those involved in the child welfare and domestic relations arena to file complaints regarding the performance of Guardians ad

Litem, Child Legal Representatives, and attorney Child and Family Investigators. Every written complaint received by OCR is fully investigated. This investigation includes a thorough review of the court record of proceedings and interviews of all involved parties including social workers, treatment providers, parents, relatives, and caregivers. In every case, OCR determines whether the complaint is founded and requires further action. A written summary of OCR's findings is provided to the complaining party and the attorney involved. The formal complaint process is detailed in the Complaint Procedures link of the OCR web site [www.coloradochildrep.org](http://www.coloradochildrep.org). This link includes Complaint forms, available in both English and Spanish. Throughout the year OCR, actively educates child welfare and court professionals as well as foster parents organizations regarding its complaint process.

In Fiscal Year 2006, 17 formal complaints were filed and fully investigated. Of those 17 complaints, 14 involved Guardians ad Litem in dependency and neglect cases while 3 involved Child and Family Investigators in Domestic Relations cases. Of the 17 complaints investigated, two were founded. In one case, the GAL failed to meet with the children in their placement within 30 days of placement as required by CJD 04-06. An audit of that attorney's active cases was initiated by OCR to determine whether this failure was an isolated event or a pattern of behavior. The particular GAL involved voluntarily removed his name from the OCR contract list. In the second founded complaint, a GAL failed to conduct herself in a professional manner when interacting with other child welfare professionals. Based upon the particular facts of this incident, this attorney's conduct is being monitored by OCR.

### **(c) Audit Process**

OCR developed a formal audit process in 2005 as a way to sample attorneys' work in an objective fashion. In particular judicial districts, random computer generated samples of dependency and neglect cases are selected. For each case sampled, the GAL is required to provide the placement history for each child represented as well as the dates the GAL met with that child in those placements. GALs are also required to provide contact name and telephone information for each child's placement. OCR staff contacts the placements and interviews the care provider regarding the visit by the Guardian ad Litem and that attorney's level of involvement in the case. OCR actively follows up on all problems identified by the audit process. Follow up by OCR varies from additional training for the Guardian ad Litem to termination of the attorney's contract with OCR.

In fiscal year 2005-2006, audits of attorney services were conducted in the 2<sup>nd</sup> JD and the 9<sup>th</sup> JD. As a result of problems identified by these audits, OCR completed in-depth analysis of the entire caseload for four specific attorneys and two attorneys' contracts were not renewed.

During fiscal year 2005-2006, OCR developed a schedule of audits for every judicial district in Colorado. The schedule will allow for completion of an audit in each of the

22 judicial districts in Colorado by December 2008. The schedule for the coming fiscal year is as follows:

1<sup>st</sup> JD - Jefferson County - August 2006  
20<sup>th</sup> JD - Boulder County –October 2006  
17<sup>th</sup> JD - Adams County- December 2006  
10<sup>th</sup> JD Pueblo County-February 2007  
15<sup>th</sup> JD -Lamar – April 2007  
16<sup>th</sup> JD – La Junta –April 2007

**(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 another way to monitor services on any given case.

## 2. Serve as a resource.

The OCR believes serving as a resource to attorneys is 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. 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 inquires from judicial districts.** The OCR also receives inquires from judicial officers and their staff regarding questions on payments, appointments, trainings and other inquiries.

**(c) OCR updates.** The OCR provides quarterly electronic newsletters 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 current events involving child welfare issues.

**(d) The OCR list serv.** This list serv, which all OCR-contract attorneys are required to subscribe, serves as a forum on which contract attorneys 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.

**(e) The OCR website.** The website has links to national organizations and resources for use by the general public and OCR attorneys. Attorneys may access the website for most of their contract, billing, training information, and forms.

### **B. Establish fair and realistic compensation for GALs**

One of the top priorities of the OCR since its creation was to fulfill its mandate of fair and realistic compensation. The OCR's first priority in changing the compensation model was to convert state paid attorneys who represent abused and/or neglected children to the state hourly rate. 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. 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. This rate was of \$45 for out-of-court work and \$55 for in-court work (fee for



services rendered). 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 next phase of improving the compensation model for these attorneys was to raise the hourly rate for the attorneys. The members of the JBC supported this issue and recognized that the attorneys who are paid the state rate still make far below attorneys in the private sector. During the Fiscal Year 2007 budget process 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 previously received \$45/hour for out-of-court and \$55 for in-court work. The budget request sought an increase in appropriation for a flat \$60/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 \$71/hour rate would be average, but in consideration of state budget constraints the \$57/hour was requested. The 2006 JBC approved this request and the General Assembly raised the hourly rate to \$57. The JBC recognized the need for an additional rate increase for these attorneys when presenting the budget in 2006 in order to ensure the continuation of competent representation to children.

### **C. Provide accessible training statewide.**

Training is 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 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.

- **Education is the Path to Success**, September 2005 – OCR dedicated a training to ensure that GALs have the necessary skills to advocate for the educational needs of children. Topics included administrative and procedural safeguards for kids with IEPs, coordinating school records and credit transfers, interpreting educational testing, educational alternatives for kids committed to the Department of Youth Corrections, and identifying key factors to make a difference in the educational success of kids in care.

- **Steamboat Springs Training**, February 2006-This training fulfills OCR's policy to have a training outside of the Front Range. This training was the most well attended Steamboat conference to date. GALs received training on Motions Practice, Truancy, Cultural Competency, Mental Health Competency statute, and information on psychotropic medication.
- **OCR Domestic Relations Training**, May 2006 - This three day conference focused on training methodologies for the Child and Family Investigator and Child's Legal Representative. The OCR decided that it was necessary to provide training for the attorneys that are appointed in Domestic Relations cases. Presentations included: an overview of practice standards for the CFI and CLR, Understanding Domestic Violence for Children, High Conflict Divorce, and CFI report writing.
- **Brown Bag on Indian Child Welfare Act (ICWA)**, February 2006 – This brown bag was requested by the Chief Juvenile Judge in Colorado Springs and was attended by court staff, caseworkers, GALs and county attorneys. The presentation focused on the application of ICWA in Dependency and Neglect cases.
- **Brown Bag on RTC changes**, May 2006– Residential Treatments Centers changed their requirements during the spring of 2006. This created some confusion among GALs, county attorneys and judges. OCR partnered with the Colorado Department of Human Services RTC administrator and held brown bag sessions on RTC changes in four front range jurisdictions: Adams, Jefferson, Denver and Boulder.
- **Brown Bag on the Role of the CASA**, December 2005 – At the request of the CASA Director in Fort Collins, this training was offered in Fort Collins in December 2005 to educate those who work with CASA in the court system on the role of the CASA, statutory authority, and how other judicial districts use CASA in D&N cases.
- **ABA LGBTQ forum**, July 2006 – The American Bar Association contacted the OCR last spring about conducting a listening forum in Denver with youth, judges and attorneys. The purpose of the forum was to hear from LGBTQ youth in the system and to facilitate a dialogue between the youth and the court systems in order to achieve more positive outcomes for them in the future. The goal of the ABA project is to create a manual that will be used by judicial officers and attorneys because LGBTQ youth are in the foster care system and often they face undue hardships because of their sexual preference.
- **OCR September Conference** –This “*Back to Basics*” training for OCR attorneys, will be held in mid-September. The conference will provide information on secondary trauma, visitation, how foster moves hurt children, and how to conduct an independent investigation.

- **OCR and University of Colorado Law School symposium**, November 2006- The theme of this upcoming symposium is “Voices of Youth in the Courtroom – Is it Time for a Change?” The theme of the symposium is based on the Pew Commission recommendation that “children and parents have a direct voice in the courtroom.” The OCR is co-sponsoring this symposium with CU and we are bringing in national speakers and to address whether we may want to modify the model of representation for children in Colorado or ascertain methods to empower youth or give them a voice in the courtroom. The two-day symposium will commence with youth speakers and professors and attorneys who practice in other states will comment on best interest representation, attorney client representation, ethics, and developmental considerations. The second day will consist of workgroups charged with developing recommendations and a report on the Respondent Parents Task Force.

#### **D. Recommend and establish minimum practice and training standards.**

The OCR previously worked with the Colorado Supreme Court to draft minimum practice and training standards. Chief Justice Mary Mullarkey of the Colorado Supreme Court approved these standards in Chief Justice Directives 04-08 and 04-06. The CJDs have set forth the minimum practice and training standards for the OCR attorneys. The standards are available on the OCR web site at [http://www.coloradochildrep.org/CJ\\_Directive/cj\\_directive.html](http://www.coloradochildrep.org/CJ_Directive/cj_directive.html).

#### **E. The Office of the Guardian ad Litem for El Paso County– 4<sup>th</sup> Judicial District**

The Office of the Guardian Ad Litem for El Paso County in the 4<sup>th</sup> Judicial District was created in December 1999 in response to Senate Bill 99-215 which directed the Judicial Department to pilot alternative methods of providing GAL services. The goal of this pilot program was to determine if higher quality services could be provided through a staff model at the same or less cost as the then existing attorney payment process (contract/hourly billing model). This staff model office is now in its seventh year of operation. In 2005, the JBC ended the pilot status of the office and it is now a permanent part of the State Judicial Department under the oversight of the OCR.

The staff model operates as a law firm and employs 15 attorneys, 3 case coordinators, and 5 administrative staff. The case coordinators have a social work or related background. These professionals make a significant contribution to the legal representation of children by assisting attorneys in their analyses of treatment needs, participating in case staffings, communicating with treatment providers, reviewing psycho-social assessments, and observing visitation between parents and their children.

Since its inception, this model has proven to be one of the most cost effective methods of delivering consistently high quality 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 and the court system have commented on the significant improvements in GAL representation as a direct result of the El Paso County GAL office.

In addition to the high degree of professionalism and expertise that the GAL 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 \$57 per hour. These attorneys are compensated at a lower rate than other agency attorneys. The OCR will request a pay raise for these attorneys in the coming year.

Since the GAL office was created, it has represented over 5,500 children. This year alone, the office successfully closed 522 cases with the placement of children in permanent homes. These permanency records and the office's litigation statistics are among the best in the state, and this office should be highly commended.

Historically, the office has attracted highly skilled and experienced attorneys. The present staff of attorneys consists of a combination of very experienced attorneys as well as several with less than three years experience. The entire staff has a combined experience of 120 years in juvenile law. OCR would like to acknowledge the entire staff of the El Paso County GAL office for maintaining their high level of professionalism. Particular credit needs to be given to Office Director and Managing Attorney Debra Campeau. The OCR is extremely grateful and appreciative to the staff of this office for their efforts and dedication throughout this difficult time.

**F. 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 \$12,000 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 has always responded to the local CASA requests and works collaboratively with them to continually evaluate the OCR attorney services in their jurisdiction.

**G. 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. All training sponsored by the OCR is designed to serve the needs of the attorneys who represent children, 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.

**IV. OCR BUDGET AND AUDIT OVERVIEW**

**A. Trends and Efficiencies**

The OCR continues to work with various judicial districts to create efficiencies in the appointments of GALs for various types of cases. For example, the amount of Domestic Relations (high-conflict divorce) cases that OCR had paid increased by over 35% in Fiscal Year 2004. 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 in Fiscal Year 2005 and a further 12% decrease in Fiscal Year 2006. The table below summarizes the change in cases the OCR paid on in the past two fiscal years.

**Comparison of OCR Cases Paid FY05 and FY06<sup>1</sup>**

<b>Case Type</b>	<b>FY05</b>	<b>FY06</b>	<b>Increase/ (Decrease)</b>	<b>% change</b>
Dependency & Neglect	6,972	7,618	646	9.3%
Juvenile Delinquency	3,374	3,459	85	2.5%
Domestic Relations	762	671	(91)	(11.9%)
Truancy	281	374	93	33.1%
Paternity	86	107	21	24.4%
Probate	149	137	(12)	(8.1%)
Other	36	42	6	16.7%
<b>Total</b>	<b>11,660</b>	<b>12,408</b>	<b>748</b>	<b>6.4%</b>

<sup>1</sup> 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.

The OCR processed 36,996 payments during Fiscal Year 2006, an increase of almost 50% over the previous year. The agency was able to maintain its stated policy of

processing payments within 30 days of receipt through the exceptional efforts of Administrative Assistant Sheree Coates and a new automated billing system. As caseload continues to increase, the OCR will work both internally and with jurisdictions to create and maintain efficiencies.

**B. Fiscal Year 2006 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. There were no findings or recommendations as a result of this audit.

**C. Performance Audit**

The Office of the State Auditor is conducting a performance audit of Guardian ad Litem services in the State of Colorado. The audit is scheduled for a hearing before the Legislative Audit Committee in either September or October 2006. At this time, the OCR has not been formally notified of the results of the audit.

**D. OCR’s Fiscal Year 2006 Expenditures**

The following schedules summarize the OCR’s Fiscal Year 2006 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:

<b>Type of Case</b>	<b>Amount Expended in Fiscal Year 2006</b>
Dependency and Neglect	\$ 6,714,287
Juvenile Delinquency	1,333,673
Domestic Relations	435,775
Truancy	65,431
Paternity	64,278
Probate	102,735
Other	28,987
Mandated Costs	24,014
<b>TOTAL</b>	<b>\$ 8,769,180</b>

## **2. Administrative and Operating Costs**

\$585,667 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 \$28,000 on providing training and conferences in the past fiscal year including three major conferences.

## **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 other managers' salaries, as well as costs for general operating support.

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.

## **V. OCR GOALS FOR THE UPCOMING YEAR**

The OCR is pleased with the progress achieved this fifth 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:

1. Complete the CD ROM Core Training Curriculum and distribute CDs statewide
2. Motions Bank – establish password protected motions bank on website
3. Overhaul Web Site
4. Increase hourly rate for attorney services
5. Continue to monitor the legislature
6. Empower youth and implement recommendations from the November Symposium
7. Continued collaboration with judges, CASAs, county attorneys

## **APPENDIX A – OCR LEGISLATIVE REVIEW FOR 2006 LEGISLATIVE SESSION**

### **State Legislation**

*There is much to report on the 2006 legislative session. These are just a few of the bills that OCR monitored during 2006.*

- HB 1169- Decker, Bacon- This bill concerned protecting personal information in domestic case filings and open inspection by the public. This bill had some legal inaccuracies on the role of CLRs, stating that the “legal representative may file a report.” Theresa Spahn testified on this bill and the language was amended. The bill passed through the house and senate but was requested to go to conference committee. In Committee, the bill was drastically revised and the outcome was that the State Court Administrators Office, along with representatives from the media, attorneys, and the courts, shall form a committee to determine access to records and present findings by December 2006 to the legislature. HB 1169 was signed by the Governor on June 2, 2006.
- HB 1071-Massey- This proposed legislation would have eliminated jury trials in D&N proceedings. This bill was amended and the language concerning eliminating jury trials was removed, and this part of the statute remains the same. This bill allows a county department to intervene upon request and sets out additional duties for magistrates. OCR did not take a position on this bill which was signed by the Governor on April 18, 2006.
- HB 1315-Hefley– Allows juveniles who are convicted as adults of a class 1 felony offense to be eligible for parole after serving forty years. This bill also recognized the importance of rehabilitation services for juveniles who are sentenced to life imprisonment. OCR testified in support of this bill. The Governor signed this bill on May 25, 2006.
- HB 1137-Judd, Shaffer – This bill amended the probate code. After the bill went to the Senate Judiciary Committee, the bill was amended to add that GALs did not have to be licensed attorneys in probate matters. OCR acted quickly and worked with the bill sponsor to kill this amendment before it passed through the senate on 3<sup>rd</sup> reading. This bill was signed by the Governor on April 18, 2006.
- HB 1151- Hefley, Groff – The bill allows for the conviction of a person that commits child abuse by malnourishment, lack of proper medical care, isolation, repeated threats of harm or death, or continued patterns of domestic violence to be convicted of a class 5 felony if they have a prior conviction under this section. OCR did not testify on behalf of this bill, but conducted extensive research on emotional abuse in other state statutes for the bill sponsor.



- HB 1385– Plant, Tapia – The long bill provided for a rate increase to \$57 per hour for OCR attorneys. Previously, there was only one \$5 increase in the last fifteen years. The OCR worked with many legislators during the past year to obtain this rate for the attorneys around the state who provide best interest representation to children.
- 2006 First Extraordinary Session – Theresa Spahn and Jerrod Cotosman were called to testify in front of the JBC before the start of the session on the fiscal impact, if any, of services provided to illegal immigrants by the agency.

## APPENDIX B – OCR COMMITTEE INVOLVEMENT

To effectively set policy, advocate for and serve the best interests of children, the OCR staff must 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 and setting policy to serve the best interest of children and their families. The following provides a sample of committees that the OCR staff chair, serve as members of or initiated in order to improve the representation of children in 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. The OCR Executive Director served on the original Committee on Families and the subsequent Supreme Court subcommittee. To date, the committee has successfully implemented 75% of the 79 recommendations.
- **Colorado Women’s Bar Association** – The Executive Director of OCR was recently appointed the incoming president of the Women’s Bar Association beginning in May 2007. She is the former public policy chair. The women’s bar association works to promote women and children’s issues throughout Colorado.
- **Denver Model Court:** The Deputy Director OCR Staff is currently the Chairperson of the Permanency Planning Subcommittee of Denver Model Court. This subcommittee is charged with developing strategies to eliminate multiple foster placements for children in the child welfare system. Statistics indicate that children in Colorado’s child welfare system are moved more frequently across the foster system than children in other states. Denver Model Court focuses on the goal of eliminating foster care moves by ensuring that the permanent plan for each child is well thought out and achievable.
- **Denver Child Protection Team:** This is a multidisciplinary team that meets weekly with the Denver Department of Human Services pursuant to CRS 19-3-308 (6) to review the Department’s response to reports of child abuse. Referrals to the Department’s Child Abuse hotline are reviewed to determine if the Department’s response was timely, adequate, and in compliance with the appropriate provisions of the Children’s Code.
- **Colorado Child Fatality Prevention Review Team:** This is a state wide multidisciplinary team that examines every child death in Colorado. The committee is charged with compiling statistical analysis, trends and recommendations to reduce child fatalities.

- **Adams County Model Court:** The Adams County Model court project is a collaborative model court that focuses on improving outcomes for children and families involved in the child welfare system.
- **State Department of Health and Human Services Spring Forum Advisory Committee** - This committee's purpose is to facilitate meeting the educational needs of children in foster care, which requires collaboration and cooperation from numerous stakeholders within both the child welfare and educational systems.
- **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. 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.
- **Juvenile Justice and Mental Health Subcommittee of the Legislative Task Force on the Mentally Ill in Criminal Justice.** This committee is working on obtaining more consistent screening for those in the juvenile justice system, and working with family advocates to assist families with mental health or juvenile justice problems.
- **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 annually. 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.
- **National Association of Counsel for Children** – The NACC is a non-profit child advocacy and professional organization for children's attorneys. 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 on a national level.
- **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.

- **Methamphetamine Task Force** – OCR serves on the task force lead by the Attorney General, John Suthers. The task force members are local and state leaders in law enforcement, prevention and treatment. The task force has recently obtained funding through a grant from the El Pomar foundation.
- **Respondent Parents Counsel Task Force** – This task force is sponsored by the Court Improvement Program. The goal of the task force is to improve resources and outcomes for parents which subsequently improves the lives of children in the dependency and neglect system.
- **Juvenile Law Section of the Colorado Bar Association.** The OCR Deputy Director is the Incoming Chair for the committee which involves planning the section's meetings and activities for the year. The OCR Deputy Director is also the co-editor (along with Barb Shaklee of DDHS) for the Juvenile Law section of the *Colorado Lawyer* which involves obtaining article submissions and editing them for publication in the *Colorado Lawyer*.