
Office of
the Child's Representative
Annual Report



Presented to
the Colorado General Assembly
September 2010

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 goals for the upcoming year.

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From the Executive Director Linda Weinerman

As the completion of my first year as the OCR Executive Director comes to a close, I am pleased to offer you this report detailing the successes of the agency during the past year. One of the major milestones of the office in the last year was the statutory extension of the OCR. The OCR's enabling legislation, HBoo-1371, was set to repeal July 1, 2010. However, with the support of the legislature, the repeal provision was struck from the statute. The OCR now exists as a permanent part of the Judicial Branch, thus guaranteeing the continued mission of the agency.

The core mission of this agency is simple and has not changed since the inception of the office: Children who have no resources and who lack the ability to independently access the court system — but who are severely impacted by every judicial decision — need highly skilled lawyers who can advocate and, when necessary, litigate on their behalf.

As the Executive Director, I am excited to lead the agency as we head into the next phase of our existence. As part of the transition into our second decade, the OCR continues to be on the forefront of attorney services for children. When the OCR first opened its doors in March 2001, it was the first state agency in the nation created exclusively to enhance and oversee attorney representation for children. Ten years later, the OCR continues to improve attorney representation for children by providing a new training module, Cornerstone Advocacy, and by creating new multidisciplinary law offices in two judicial districts.

Cornerstone Advocacy stresses upfront strategy in the areas of services, placement, visitation and education. This module encourages OCR attorneys to build their advocacy around those four “cornerstones” in every case. By actively pursuing the four cornerstone at the inception of the case, the goal is to engage the child and family so that faster reunification is possible. The OCR will focus much of its training efforts on Cornerstone Advocacy for the next two years, with the hope of improving attorney advocacy and results for children and families.

The creation of multidisciplinary law offices is considered nationally to be a best practice, and is an idea that the OCR has discussed with the JBC in the past. By initiating an RFP process, the OCR worked with GALs to form local staff model offices to serve the 2nd and 18th Judicial Districts. This process will be detailed further in the report.

It is difficult to believe that ten years have passed so quickly. The following pages highlight the efforts made by the OCR to work within our budget while overseeing and monitoring attorney services during the past year. As the office is embarking on several new programs, we anticipate continued successes for the office and the children in Colorado and will keep you apprised over the next year on the status of the programs. We thank the members of the legislature for the continued support of the office and our mission, and we look forward to working with you as we move forward into the next decade.

Sincerely,

Linda Weinerman

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Board of Directors for OCR

The Board of Directors for the OCR is appointed by the Colorado Supreme Court. The board serves without compensation and, through statute, the board must work with the Director to provide fiscal oversight, establish policy, and achieve compliance with the OCR legislative mandates. The board represents all nine congressional districts, and has a balance of Republican and Democratic members.

Marsha Caplan, Democrat, Second Congressional District, *Executive Director, Voices for Children*

Shirley Rowe, Republican, Third Congressional District, *Executive Director, CASA Mesa County*

Paul Garcia, Democrat, Seventh Congressional District, *Dean of Adams City High School*

Representative Cheri Jahn, Democrat, Seventh Congressional District, *President of the Center for Economic Policy*

Lynne Hufnagel, Democrat, First Congressional District, *Retired Denver District Court Judge*

Laura Hunt, Republican, Fourth Congressional District, *Executive Director, Larimer County Child Advocacy Center*

Peggy Rudden, Republican, Sixth Congressional District, *Executive Director, CASA Advocates for Children*

Joseph Wallis, Republican, Fifth Congressional District, *GAL, El Paso County*

Terraine Bailey, Democrat, Sixth Congressional District, *GAL, Denver County*

Ember Beamon, *Youth Advisory Member*



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OCR Staff

Linda Weinerman, Executive Director

Sheri Danz, Staff Attorney

Cathleen Kendall, Staff Attorney and Staff Office Project Manager

Melanie Jannicelli, Office Administrator

Sheree Coates, Billing Administrator

Andrea Koo, Training Coordinator

Lynne Winchell, Controller



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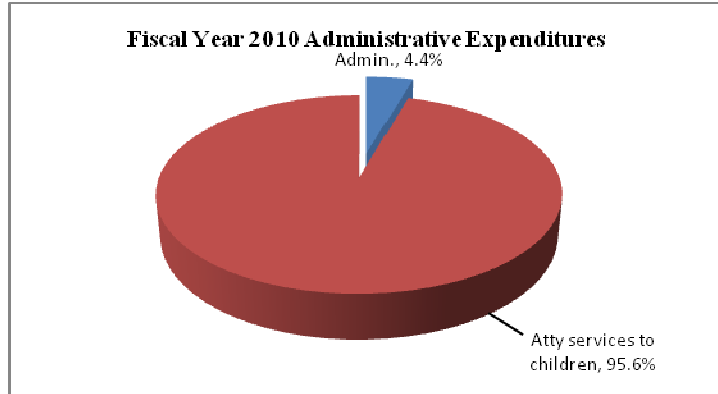
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Introduction and General Overview

A. What is the OCR?

What is the Office of the Child’s Representative (OCR)? The OCR is the state agency mandated to represent the best interest of all children in the Colorado court system. Approximately **ninety-six percent (95.6%)** of the OCR’s budget is directly spent on attorney services for children. The remaining 4.4% is used to administer the state agency, which consists of a staff of eight employees who oversee approximately 250 attorneys. The OCR represented approximately 22,600 children in the last year in dependency and neglect, delinquency, paternity, truancy and dissolution of marriage cases.



Who are the children represented? Seventy-two percent (72%) of the 22,600 children are victims of serious child abuse and neglect. Many of children have spent time in foster care and all require attorney services for the entire life of a case. D&N cases are filed in every county in the state, and these children are removed from homes all over the state. Children also receive attorneys in delinquency, truancy, probate and high conflict divorce cases.

What is the mission of the OCR? The OCR was created by the state legislature in 2000 to improve representation for Colorado’s most vulnerable children by providing competent and effective legal services. The legislation was sponsored by Sen. Norma Anderson and Rep. Kay Alexander.

Who are the OCR attorneys? OCR attorneys are skilled in pediatric and juvenile law, and they provide attorney services at a cost-effective rate of \$65 hour. These attorneys live and work in the same communities as the children they represent and are available to speak with legislators to discuss the challenges children in the court system face. They are known in the legal community as Guardians ad Litem, or GALs.

What is a GAL expected to do in every case? The attorney must visit each child in placement. Usually, there is more than one child per case and they are often placed in different homes or facilities. Required responsibilities of the GAL include: maintain contact with the child in placement; independently investigate the facts of the case; attend all court hearings, attend ancillary hearings such as special education hearings or child support hearings; prepare for and litigate contested hearings; and attend staffing. (A staffing is a meeting between the GAL, caseworkers, therapists and other individuals that work with the child. Critical treatment and placement decisions are often determined at staffing.)

What is the average cost per case for the state? The average cost of an OCR case is \$1,071.60 per year.

What the OCR can do for you: The OCR may serve as a resource to legislators by providing information and answering questions concerning children’s issues and GALs. 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.

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B. What are the 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 following section highlights some of the legislative mandates in detail.

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
- Serve as a resource for attorneys
- Establish fair and realistic compensation for state-appointed GAL 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 (CASAs) to develop local CASA offices in each of the 64 counties statewide, enhance funding resources for CASA and work with CASA to provide training

Each of the OCR's primary responsibilities are detailed below.

I. Attorney Oversight

a) OCR's annual contract process

The OCR's annual contract process serves as an effective method of monitoring attorney services and ensures that 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'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 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 an application. Every application is considered, as contracts are not automatically renewed. Due to the budget crisis this year, the OCR did not have the need to contract with many new attorneys. In certain instances, the OCR contracted with new attorneys to fill the slots of those who have retired or moved on to the bench.

As part of the contract period, the OCR Director and attorney staff visited each of the 22 judicial districts to assess attorney services. This assessment includes meeting with the attorneys who are under contract with the OCR, interviewing new applicants and meeting with court personnel, judicial officers, and CASA directors. In some instances, the OCR meets with country attorneys and

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department of social services directors, as well as other community agencies involved in the protection of children. At this time, staff also discusses training for attorneys and judicial officers during the year. Because Colorado is such a large state, the OCR often addresses training needs jurisdiction by jurisdiction. At the completion of the judicial visits, 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 subsequently prepares yearly contracts for attorneys on its list. While this is a time consuming endeavor, it is necessary to visit communities around the state to gather information on the attorneys and the unique challenges of each judicial district.

b. Compensation

One of the top priorities of the OCR since its creation has been to fulfill its mandate of fair and realistic compensation. Attorneys are currently paid \$65/hour. During the inception of the office, the OCR inherited a flat rate pay system. One of the initial goals of the office was to properly compensate attorneys for their work. With the support of the legislature, the OCR was able to change this payment structure from flat fee to hourly billing. The goal has always been to pay attorneys properly for the work that they perform. The hourly fee limits were set at \$45/\$55 per hour, and have been raised to \$65 an hour over the course of several fiscal years and legislative sessions. The members of the JBC supported these increases and recognized that the attorneys who are paid the state rate still earn less than attorneys in the private sector. Due to the budget crisis, the OCR did not pursue a raise for the court appointed attorneys in the last fiscal year, and it will not do so in the current fiscal climate. The OCR's goal is to protect the rate of compensation through the remainder of the budget crisis.

c. Monitoring hourly billing statements

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 efficiently. This is another way to monitor services on any given case.

d. Complaint process

The OCR monitors attorney services throughout the year and takes the complaint process seriously. If FY 10, the OCR investigated 25 complaints concerning its attorneys, resulting in 15 unfounded and 10 founded complaints. Two of the founded complaints concerned attorneys who had been appointed on the case prior to the creation of the office. These attorneys were removed from their cases. Three attorneys (one with multiple complaints) had their contracts terminated as a result of violations of Chief Justice Directive 04-06. Two attorneys were reprimanded and were placed on probation as a result of founded complaints, as their conduct did not rise to the level of termination.

II. Provide accessible training statewide

The OCR has always recognized that training for the attorneys 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 legal practitioners in the child welfare system when judges and attorneys understand the social and psychological implications of a case, as well as how they vary depending on the developmental level and unique needs of each child. The OCR has

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stringent training requirements, and OCR attorneys must list applicable Continuing Legal Education credits on their application and are required to participate in 10 hours of training sponsored by the OCR. Because the focus this year is on Cornerstone Advocacy, the training on the Cornerstone materials are mandatory.

Listed below are some of the major trainings that the OCR has participated in or sponsored over the last year.

- OCR Broomfield Conference—Dependency and Neglect and Domestic Relations (9-14-09 and 9-15-09)
- Low/Slow Pay Training (1-29-10)
- Billing Webinar (4-15-10)
- Salida Cornerstone Conference (5-20-10 and 5-21-10)
- Cortez D&N Basics Training (6-11-10)
- Administrative Reviews Brown-bag Training (7-12-10)

OCR Executive Director and/or staff were invited to speak at the following conferences and training:

- State CASA Annual Conference—Legislative Presentation
- Colorado Bar Association CLE on Juvenile Law—Legislative Presentation
- AFCC Annual Conference—ENA Presentation
- NACC Texas Trainings—Litigation Skills
- NACC Annual Conference—Challenges for GAL practice in Tough Budget Climates
- Colorado Foster Parent Association—Role of the GAL
- Denver Human Services Training—Expectations and Role of the GAL

As part of its training efforts, 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, staff attorneys 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 assists the attorneys by guiding them to appropriate professionals, written materials and other resources. The OCR also provides litigation support, appellate support and experts when necessary.
- (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 issues.
- (c) OCR updates: The OCR provides periodic electronic newsletters to its attorneys, informing them of recent federal and state court decisions and legislative changes that pertain to the representation of the best interests of children, trainings and current events involving child welfare issues. The OCR update is available to the public on the OCR website.

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- (d) The OCR listserv: All OCR-contract attorneys are required to subscribe to the listserv. The listserv is a forum for contract attorneys to 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 motions and various training resources.
- (e) The OCR website: The OCR's website has links to national organizations and resources for use by the general public. OCR attorneys may access billing procedures and requests for payment, sample motion the attorney is considering filing. The listserv is limited to attorneys who provide GAL services within Colorado.

III. CASA

In the 2009-2010 fiscal year, Colorado CASA received \$520,000 of operating support from the State of Colorado through the OCR. Of this total amount, \$80,000 was used for general operating support for the Colorado CASA office and \$440,000 was passed through to the 17 CASA programs in the state.

These dollars were primarily used for personnel expenses necessary to supervise and train volunteers so that children could be served. Specifically, this allocation provided services for 55 children in Jefferson and Gilpin Counties, 29 children in Larimer County, 22 children in Pueblo County, 75 children in Denver County, and 17 children in Boulder County. The allocation also allowed CASA of the Pikes Peak Region to increase the total number of kids served by 22%. The money was also used to sustain existing programs, ensuring that CASA services were available specifically in the 3rd, 7th, 11th, 13th, 14th, 15th, 16th, and 22nd Judicial Districts.

The money retained by Colorado CASA was used primarily for staff salaries, and it also supported marketing and training efforts to ensure quality services were provided to children. In total, the CASA network served 3,273 kids in Calendar Year 2009. These children were served by 1,411 volunteers who donated over 158,000 hours of their time. This time contribution equals a monetary equivalent of approximately \$3.4 million dollars in value donated to the state and to victims of child abuse or neglect. Additionally, conversations have been held with parties interested in bringing CASA programs to the 6th, 9th and 12th Judicial Districts. It is anticipated that the initial steps to starting programs in these areas will be taken during the 2010-2011 fiscal year.

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2010 Innovations To GAL Practice

This year, the OCR has adopted two new and innovative approaches to improving attorney services for Colorado's children: Cornerstone Advocacy and the initiation of staff office models in Colorado's Second and Eighteenth Judicial Districts.

I. Cornerstone Advocacy

The Cornerstone Advocacy approach was developed by the Center for Family Representation (CFR) for the representation of respondent parents in New York City. CFR's four cornerstones—visits, placement, services, and conferences—provide a framework for providing proactive and comprehensive advocacy throughout the entire dependency and neglect proceeding, with a special emphasis on intensive advocacy within the first sixty days of a case. The Cornerstone Advocacy approach has shown promising results in the cases to which it has been applied, with greater numbers of children maintained in in-home placements, increased reunification rates, reduced lengths of stay in out of home care and decreased reentry rates.

The OCR is integrating an adapted model of the Cornerstone Advocacy approach to GAL practice in Colorado. This approach provides GALs with a framework for consistent and proactive advocacy in the best interests of the children they represent. Because of the importance of education to all children and the significant unmet educational and emancipation needs of children in foster care, the OCR, with permission from CFR, has changed the fourth cornerstone (conferences) to education and life skills.

In summary, the four cornerstones the OCR is promoting as foundational considerations for GALs in their best interest advocacy include:

- Frequent and meaningful visits
- Placement arrangements supportive of family connections and other connections that the child had prior to placement in foster care
- Services that address both strengths and needs of a child and their parent(s)
- Education and transition plans that promote academic and life success through stability in settings and programs tailored to the unique interests, strengths, and needs of the child/youth

The four key strategies the OCR is promoting as integral components of GAL practice in Colorado include:

- Intensive and upfront advocacy
- Youth Voice
- Participation in Conferences
- Collaboration

The OCR is promoting an interdisciplinary and comprehensive approach to instituting Cornerstone Advocacy in Colorado. The OCR completed two conferences providing information on the overall Cornerstone philosophy as it applies to each of the four cornerstones. The first conference held in Salida in May focused on Visits and Placements. The second conference in Broomfield in September focused on

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Appropriate Services and Education. Handbooks containing relevant information (social science research, statutory and regulatory authority) and concrete implementation tools (checklists, sample advocacy letters, sample motions) were disseminated for each of the four cornerstones. Throughout Fiscal Year 2011 and on an ongoing basis thereafter, GALs' implementation of Cornerstone advocacy will be supported through regularly scheduled brown bag trainings and webinars; the establishment of a multidisciplinary consultation/support team; and dissemination of periodic Cornerstone updates conveying regulatory, statutory, case law, and practice developments relevant to Cornerstone Advocacy. Efforts to include specific requirements in Chief Justice Directive 04-06 promoting the Cornerstone strategies will be considered. A Cornerstone Advocacy Implementation Committee was created to assist with the development of additional curricula involving Cornerstone. The committee is made up of various professionals including mental health professionals, service providers and GALs. The committee meets every other month to discuss ideas and monitor the progress of the Cornerstone Approach to advocacy.

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II. The creation of multidisciplinary law offices

In 2003, the OCR was instructed by the legislature in SB- 258 to study alternative methods of providing GAL services in dependency and neglect cases, specifically whether the OCR could implement in Denver an office similar to the El Paso County GAL office. This conversation has continued for several years with the legislature as the OCR has explored how best to pursue a staff model office. The OCR's initial analysis of the costs associated with the creation of a GAL office utilizing state employees was approximately \$1 million dollars. Due to the state budget crisis, the OCR realized it was not an opportune time to request additional funding and FTE from the legislature; however, the OCR continued to move forward with the idea of creating staff model offices with grants or other funding.

Last fall, the OCR began conversations with other agencies located around the country who have implemented staff model offices. Nationally, multidisciplinary staff model offices are a growing trend in child welfare, and they are endorsed by the National Association of Counsel for Children and the American Bar Association as a best practice for attorney services. After speaking with similar agencies around the country, the OCR determined the most pragmatic approach to implementing the staff office model was to issue a Request for Proposal (RFP) for multidisciplinary law offices to provide best interest legal representation to children in dependency and neglect, and delinquency cases. This RFP process allowed OCR contract attorneys and any other interested attorney in Colorado to submit a bid. The RFP established specific requirements for both the structure/organization and performance of these offices. Among the structural requirements, the most important mandate was that the office be multidisciplinary with attorneys and social workers working together on the cases. The performance requirements for an office include: 1) the office must adopt the Cornerstone Advocacy approach to case management; 2) each attorney and social worker must be limited to representing the best interests of a certain number of children/cases; 3) the office must follow prescribed contact requirements for the children involved in these cases and; 4) the office must use a specific case management system in order to track the activities on each case and to create a system for obtaining statistics.

The OCR's goals for these multidisciplinary offices include: providing a more efficient and effective means to deliver legal services; enhancing accountability through internal supervision, training, case and file management, and data collection; increasing the amount of out-of-court time spent on cases; and assessing a different model for providing best interest representation to children in juvenile matters in Denver Juvenile Court and Arapahoe District Court.

As mentioned above, the OCR intends to adopt a new web-based case management and information system which will be utilized by these multidisciplinary offices as well as the El Paso GAL office. Beginning January 1, 2011, these offices will be required to input all case information and data for each new case into this system which will allow better file sharing between attorneys, social workers and supervisors on each case. OCR will also have access to all information in the case management system, excluding attorney work product. Such access will allow the OCR to confirm compliance with the performance requirements and track trends for the jurisdiction.

The OCR issued RFPs in May for two counties: Denver and Arapahoe. The OCR received ten proposals to provide services in Arapahoe and/or Denver District Courts. A screening committee comprised of local child welfare professionals and the OCR staff assessed all of the proposals and narrowed the field to the best proposals. The OCR selected two entities to represent the best interests of children in Denver County and one entity for Arapahoe County and entered into contracts with these entities on Sept. 21, 2010. The services under these contracts will commence on January 1, 2011 and continue for two and a half years, until June 30, 2013.

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The OCR looks forward to assessing the outcomes of this new program at the conclusion of the two and a half year pilot. The OCR will attempt to assess whether the staff model offices provide better representation and whether they help to create efficiencies in the system by decreasing the time children spend in out-of-home placement, decreasing the average length of cases, and/or reducing the re-entry rate of families into the system. The OCR anticipates great success for the three entities in representing the best interest of children in Colorado. The OCR believes the adoption of a multidisciplinary team approach in coordination with new specific attorney and office performance requirements will ensure a more innovative and efficient GAL practice and better outcomes for children.

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Amicus Curiae Activity

The OCR had the opportunity to participate as *amicus curiae* in three cases before the Colorado Supreme Court in the last fiscal year. Participation as *amicus*, also referred to as “friend of the court,” allows a non-party to the case to weigh in on the case’s policy or other implications. The court must grant permission to participate as *amicus*. The cases on which the OCR has participated as *amicus* have significant policy implications for GALs and juvenile law practitioners.

The first case, *In the Interest of C.Z.*, 226 P.3d 1054 (Colo. 2010), concerned whether Colorado should allow *Anders* briefings for appeals of decisions to terminate parental rights in Dependency and Neglect cases. *Anders v. California*, 386 U.S. 738; 87 S. Ct. 1396 (1967); 386 U.S. 738 (1967), set forth a procedure in criminal cases in which a court-appointed defense attorney being asked to pursue an appeal on behalf of a client that the attorney believed lacked merit could withdraw. In that case, the Supreme Court required that attorney to file what has become known as an *Anders* brief detailing all of the possible arguments/ issues that could possibly be made on appeal. The adoption of such a procedure for dependency and neglect cases would have due process, permanency and cost considerations that would have directly impacted the OCR, the attorneys who contract with the OCR, and the children they represent. Because of the fundamental rights implicated in dependency and neglect cases, the OCR supported the extension of an *Anders* procedure to appeals of decisions terminating parental rights in Colorado. However, the Supreme Court declined to adopt an *Anders* procedure in Colorado for termination proceedings, holding that parents' counsel could not withdraw in such circumstances.

In the second case, *In the Matter of D.I.S.*, No. 2009SC483, the Supreme Court case certified two issues: 1) Whether a parent relinquishes his or her fundamental liberty interest in the care, custody and control of his or her child by consenting to a guardianship? 2) Whether it was error to place the burden upon the parents to prove, by a preponderance of the evidence, that termination of non-parents’ guardianship would be in the best interests of minor child, where parents originally consented to guardianship?

The OCR filed a joint *amicus* brief with the National Association of Counsel for Children and the Rocky Mountain Children’s Law Center arguing that while parents do not relinquish their fundamental liberty interests by consenting to guardianship, the trial court did not err in applying the preponderance of the evidence standard. The oral argument in this case is set for the end of September.

The OCR also participated as *amicus* in *People v. Gabriesheski*, No. 08SC0945 in 2008-9. The OCR filed an *amicus* brief in July 2009. *Gabriesheski* is a criminal case in which the Court of Appeals found no error in the trial court’s ruling that “in representing the child’s best interests, the GAL was also representing the child, and thus, under CJD 04-06 and Colo. RPC 1.6, was precluded from divulging T.W’s communications to her in the absence of a waiver.” This ruling called into question the best interest model of representation that the General Assembly has defined for GALs in Colorado, and the OCR filed an *amicus* brief explaining the policy and practical problems with the Court of Appeals’ ruling. Specifically, the OCR requested that the Supreme Court hold that neither privilege nor the duty of confidentiality preclude GALs from sharing information necessary to advocate for the best interests of the children they represent. The OCR participated in oral argument in September, and questions asked by the Supreme Court during the argument demonstrated the Court’s view of the important role GALs play in protecting children’s interests.

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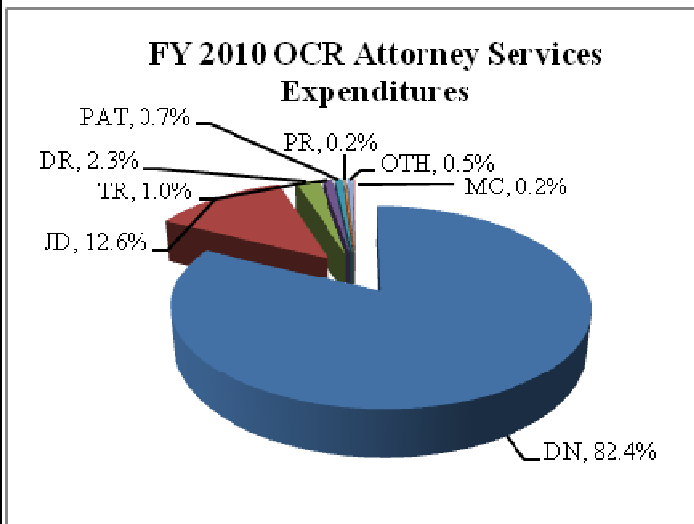
Overview of the Budget

One of the OCR’s specific mandates is to enhance funding to promote effective legal advocacy. In previous General Assembly reports, the OCR has reported on its efforts to improve compensation for attorney services. This year, given the continued state of the budget, the OCR focused on creating efficiencies and securing basic funding to meet the increased need for attorney services. The following is an overview of the OCR budget and an outline of factors that contribute to the budget.

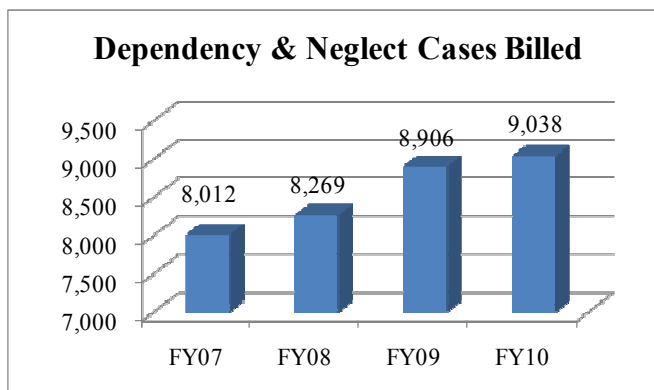
Summary of Appropriations and Factors Driving the Budget: In Fiscal Year 2009/2010, the OCR expended \$18,829,818, of which \$17,998,759, was spent directly on attorney services for children.

Breakdown of the Mandated Attorney Services Provided by OCR: OCR attorneys represents the best interests of children in dependency and neglect, delinquency, domestic relations, truancy, paternity, and probate. This fiscal year, the percentage of the number of cases by case type was as follows: 61.1% dependency and neglect, 29.1% delinquency, 4.7% domestic relations, 2.7% truancy, 1.3% paternity, 0.4% probate and 0.7% other. The average cost per case for D&N cases was \$1,417.95, and the average cost per case for all case types was \$1,071.60. The breakdown of expenditures by case type is in the chart below.

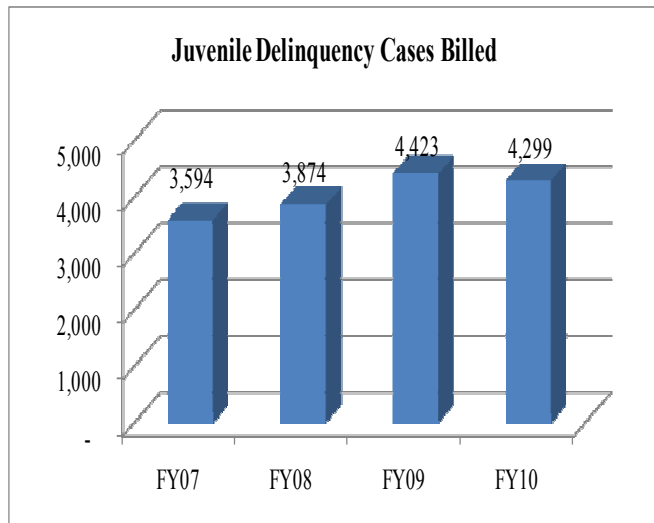
Type of Case	FY07	FY08	FY09	FY10
Dependency & Neglect	8,012	8,269	8,906	9,038
Juvenile Delinquency	3,594	3,874	4,423	4,299
Domestic Relations	624	606	760	690
Truancy	458	514	475	406
Paternity	126	108	138	198
Probate	105	73	71	64
Other	44	56	70	99
Total	12,963	13,500	14,843	14,794



Increases in fiscal year 2010: In the most challenging of economic times for Colorado, the OCR experienced an increase in billing in dependency and neglect cases, but a decrease in domestic relations and delinquency proceedings due to the first full year of implementation of SBO9-268. In the fiscal year relevant to this report, there was an increase in D&N cases billed from 8,906 cases in FY 2009 to 9,038 cases in FY 2010. The increase in billing is attributed to cases requiring more attorney time to successfully resolve and case complexity as departments cut social services budgets.



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Domestic Relations Cases: In DR cases, there was a 9.2% reduction in cases due to the use of indigency screeners and the first full year of implementation of SB09-268. Indigency screening ensures that parties are financially eligible for state paid CFI services. Families are able to obtain a CFI as part of a domestic relations proceeding if both parties are indigent and the case is pre-decree. The court may appoint a CFI 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. In these case types, the court appoints an attorney or mental health professional child and family investigator to investigate and make best interest recommendations concerning parenting time and decision making. These services are overseen by

the court pursuant to CJD 04-08. In a minority of cases, if the parents are indigent then the state will pay for these services. If the court appoints a state-paid mental health professional, the State Court Administrator's Office compensates for their services. If parties are indigent, and the court appoints a state-paid attorney, those child and family investigators or child's legal representatives fall under the oversight of OCR. In post decree matters, the court is to allocate the costs in a manner that will minimize the costs to the state.

With the use of indigency screening, the OCR was able to save precious state dollars in domestic relations proceedings. For example, in FY09 OCR incurred \$801,945 in costs for 760 cases, with an average cost per case of \$1,055.19. This year, with an indigency screener, the OCR incurred \$402,210 in costs for 690 cases, an average cost per case of \$582.91. Total costs were reduced 49.8%, and the average cost per case was reduced by 44.7%.

The ENA program in Adams County has also proven to be a cost effective measure. This pilot program is similar to mediation where the parties work with an attorney and a therapist prior to court in order to work out any differences in such matters as parenting time and visitation. For example, this year in Adams County 7 cases qualified for ENA at a cost of \$3,640 while there were 15 traditional CFI appointments at a cost of \$18,562.

There was a slight drop in billing in juvenile delinquency matters. The OCR attributes this to the first full year of implementation for SB09-268. The goal of SB09-268 was to streamline the GAL appointments in delinquency cases. The statute was amended so GALs are only appointed in certain instances in delinquency cases: 1) if no parent is present; 2) if there is a conflict of interest with the parent; 3) if in the best interest of the child. Also, the GAL must not remain on the case indefinitely, instead, the GAL's appointment terminates upon sentencing when the child is returned home.

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Wait time in court: As part of its efforts to reduce costs to the state, OCR staff reviewed attorney billing statements at the inception of the budget crisis in FY 2009. In certain jurisdictions, the OCR realized that in some jurisdictions attorneys were waiting for inordinate amounts of time for their cases to be called on the docket. The OCR brought this concern to the attention of the judicial districts by publishing monthly wait time reports, beginning a dialogue about strategy to minimize this unnecessary cost in the OCR's budget. The problem was most significant in some of the larger districts, apparently due to their heavier case loads and unpredictable court dockets. After working with the districts for the past year, the OCR has seen wait time costs decrease significantly. For example, in July of 2009, \$34,953 was spent on wait time costs in the 2nd Judicial District (Denver). By May of 2010, the monthly wait time cost was reduced to \$12,441. In the 1st Judicial District, wait time costs were \$10,669 in January, and reduced to \$3,283 in May 2010. The OCR is appreciative of the courts' cooperation and efforts in managing this aspect of its budget.

Other factors driving the budget: Several other factors drive the OCR's budget. For example, after meeting with the attorneys in many of the judicial districts, it has come to the OCR's attention that in many of the counties the human services departments have been forced to make staff reductions. Because of the reductions, GALs are doing more initial casework in order to compensate for the lack of staff on the county level. Also, as there is a lack of available service providers, GALs are forced to spend more time litigating matters such as placements and appropriate treatment. If treatment is not available for parents and children, it delays the chances of reunification for the family, extends the duration of out of home placement and likely costs the state more money. As one of GAL stated during a judicial visit, "the cases are more complex. Not only am I an attorney who must file motions and litigate issues, but I have to understand the treatments available to children and families, substance abuse, mental health issues and the psychological ramifications of physical and sexual abuse. I am doing more and more casework as the department of social services is short staffed."

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Office of the Child's Representative El Paso County Guardian ad Litem Office for 4th Judicial District

The El Paso County Guardian ad Litem Office in the 4th Judicial District office is a staff model office of state employees that fall under the oversight of the OCR. This staff model office is similar to the way a local Public Defender's office provides attorney services. The office 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). In 2005, the JBC ended the pilot status of the office.

The staff model operates as a multidisciplinary law firm and employs 13 attorneys, 5 case coordinators, and 4 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. Due to the success of this office, we are attempting to adopt this model through the RFP process in Denver and Arapahoe. 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. One judicial officer recently stated, "My experience with a GAL office model has been great. From the bench perspective, there are several advantages to the GAL office model." The judge went on to note advantages of efficiency, quality of representation, synergy and systemic presence.

The permanency records and the office's litigation statistics are among the best in the state, and this office should be highly commended. Since the GAL office was created, it has represented over 7,500 children. For the period from July 1, 2009 to June 30, 2010 the office closed 444 D&N and 182 JD cases.

Historically, the office has attracted highly skilled and experienced attorneys. The present staff of attorneys consists of a combination of very experienced trial attorneys. OCR would like to acknowledge the entire staff of the El Paso County GAL office for maintaining their high level of professionalism. Office Director and Managing Attorney Debra Campeau deserves much credit for the success of the office. The OCR is extremely grateful and appreciative to the staff of this office for their efforts and dedication.

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APPENDIX A OCR LEGISLATIVE REVIEW

2010 LEGISLATIVE SESSION

There is much to report on the 2010 legislative session. The following is a sampling of the bills that OCR monitored during 2010.

HB 1226-Concerning an alternative approach for a county department of social services to use in addressing certain interfamilial child abuse or neglect cases. OCR Executive Director testified in support of this legislation.

HB 1274-Concerning successful transitions back to the public school system for students in out-of-home placement who have demonstrated behavior that is detrimental to the safety or welfare of themselves or others during the previous twelve months. OCR staff served on the policy committee for the creation of this legislation.

HB 1359 -Concerning change of venue in dependency and neglect proceedings, and clarifying the role of the county departments when jurisdictions over a case is transferred between counties. OCR staff assisted with the drafting of this legislation.

SB 43—Concerning the repeal of the Office of the Child’s Representative, this struck the repeal section in the OCR statutes, 13-91-107. This bill was at the request of the OCR. OCR Executive Director testified in support of this legislation.

SB– 54 Concerning the provision of educational services for juveniles against whom charges have been filed in district court, and making an appropriation therefore. OCR supported this legislation and attended policy meetings on the drafting of the legislation.

SB-66 Concerning the requirement that certain persons report child abuse or neglect. OCR supported this legislation.

SB-152 Amends 19-1-307 county departments shall provide information back to certain mandatory reporters. OCR supported this legislation and worked with the bill sponsors to pass this legislation.

SB-171 Concerning the creation of a child protection ombudsman program. OCR worked extensively with other stakeholders and the bill sponsors in the drafting process of this legislation and OCR E

Joint Select Committee– OCR Executive Director and Staff testified at the request of committee chairs on the status of the child welfare system in Colorado.

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APPENDIX B

OCR COMMITTEE WORK

Successful advocacy for children is the result of collaboration and the sharing of resources among many state agencies and child advocate organizations. The following is a list of OCR committee involvement either as member or chairperson.

Governor's Task force on Child Welfare/HB 08-1404—The former Executive Director served on the Child Welfare Action Committee.

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. The OCR Executive Director serves on this committee.

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. OCR Staff Attorney serves on this committee.

Court Improvement Committee – OCR is 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.

Training Subcommittee of the Court Improvement Committee – This subcommittee was established in the beginning of 2007, and the purpose of the committee is to develop a multi-disciplinary training curriculum with CDHS, judges, county attorneys, GALs, and Respondent Parent's Counsel.

Juvenile Justice and Mental Health Subcommittee of the Legislative Task Force on the Mentally Ill in Criminal Justice. This committee focuses 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.

CASA Legislative Committee—OCR staff was appointed to serve on the CASA legislative committee. This committee will gather information about pursuing upcoming legislation to benefit CASA programs statewide.

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. OCR staff serve on the Partnership Board of Bridging the Gap.

Juvenile Law Section of the Colorado Bar Association. The OCR Staff Attorney is the president of the committee. The OCR Executive Director is 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.