

Office of the Child's Representative 7th Annual Report



Presented to
the Colorado General Assembly
September 2007

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 2007 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.

OCR Staff

Theresa A. Spahn, Executive Director
Linda Weirnerman, Deputy Director
Sarah Ehrlich, Staff Counsel
Jerrod Cotosman, Controller
Ryan Burke, Training Coordinator
Sheree Coates, Administrative Assistant
Melanie Jannicelli, Office Administrator

OCR Contact Information

Office Phone Number: 303-860-1517

Website address

www.coloradochildrep.org

Board of Directors for OCR

John Anthony Abeyta, citizen member, Democrat, First Congressional District
Marsha Caplan, advocate member, Democrat, Second Congressional District
Theodora Cox, advocate member, Republican, Fourth Congressional District
Gail Meinster, attorney member, Democrat, Sixth Congressional District
Celeste Holder Kling, attorney member, Unaffiliated, Fourth Congressional District
Lynn Hefley, citizen member, Republican, Fifth Congressional District
Shirley Rowe, advocate member, Republican, Third Congressional District
Eric Weisman, attorney member, Democrat, Second Congressional District
Paul Garcia, citizen member, Democrat, Seventh Congressional District

STATE OF COLORADO

Office of the Child's Representative
1650 Pennsylvania Street
Denver, Colorado 80203
Phone: (303) 860-1517
Fax: (303) 860-1735
www.coloradochildrep.org



Theresa A. Spahn
Executive Director

Letter from the Executive Director Appreciation and Recognition of the General Assembly's Commitment to Children and their Attorneys

August 14, 2007

Dear Members of the Colorado State Legislature:

I am pleased to provide you with the 2007 OCR General Assembly report. This year, the seventh full year of operation, the OCR has made great strides in advocating for children in Colorado. We continue to garner praise nationally for our model of services, and I was invited to speak to the Connecticut legislature this spring because they are establishing an agency using OCR as their model for services. I also want to share with you that a new national train of thought has permeated child welfare – that youth and children should have a voice in the courtroom and in the permanency planning phase of the court process.

In the past, children have often lacked a 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 efficacious 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. This was reflected in the passing of SB 07-226, which provides for youth to have a say in the permanency planning phase of their case. We are currently working on training materials for our attorneys on how to facilitate the mission set forth in SB07-226. The OCR thanks the General Assembly, and all of the dedicated OCR attorneys who provide this invaluable service to the children of Colorado.

OCR is pleased to report our progress to the General Assembly in the improvement of best interest representation for children this past year (September 2006 through September 2007). 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 private sector attorneys. Their job has become more challenging as the complexity of cases and workload has increased in the past few years.

Without the support of the General Assembly, OCR would not have achieved many of our goals and accomplishments. The OCR thanks the members of the General Assembly for creating an environment in this state in which children are entitled to 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 \$60 an hour. This increase enables children's attorneys to fully and properly investigate each case, and provide meaningful representation to the children in our state.

I also must thank the JBC for funding our training budget this year. Because of all of the nuances in juvenile and pediatric law, it is imperative to continue to fund training for our attorneys. We appreciate the additional funding for the NACC conference that is in Colorado this year. We will send attorneys from around the state and OCR board members and staff to this training.

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.

As always, we welcome your assistance, comments or suggestions. Please do not hesitate to contact me at the office, 303-806-1517 ext. 2.

Sincerely,

Theresa Spahn

*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.

Table of Contents

<u>I. Quotes and excerpts regarding the OCR and OCR attorneys</u>	7
<u>II. Introduction and General Overview: What Is the OCR, Who Does It Serve and How Can It Assist You as Legislators Representing Your Constituency?</u>	8
A. What is the OCR?.....	9
B. When was the OCR created?.....	9
C. Who are the OCR attorneys?.....	9
D. Who receives attorney services?.....	9
E. Why are OCR attorneys appointed by the Court?.....	9
F. What attorneys and professionals do not fall under OCR?.....	9
G. What can the OCR do for legislative delegates?.....	10
<u>III. OCR Mandates</u>	11
A. What are the OCR’s legislative mandates?.....	11
1. Provide oversight.....	11
a. OCR’s annual contract process.....	11
b. Complaint process.....	12
c. Audit process.....	13
d. Monitor hourly billing statements to access quality of attorney services.....	14
2. Serve as a resource.....	14
a. Response to individual inquiries by GALs.....	14
b. Response to inquiries from judicial districts.....	14
c. OCR updates.....	14
d. The OCR list serve.....	14
e. The OCR website.....	15
f. Partnerships with National Organizations.....	15
B. Establish fair and realistic compensation for GALs.....	15
C. Provide accessible training statewide.....	16
D. Recommend and establish minimum practice and training requirements.....	17
E. The Office of the Guardian ad Litem for El Paso County (4 th JD).....	18
F. Work with Court Appointed Special Advocates (CASA) programs in the state.....	19

G. Provide statewide training to judges and magistrates	19
---	----

Table of Contents (cont.)

<u>IV. OCR Budget and Audit Overview</u>	19
A. 2007 Legislative Budget Process	19
B. Trends and Efficiencies	20
C. Fiscal Year 2006 Audit	21
D. OCR's Fiscal Year 2006 Expenditures	21
1. Attorney Services	21
2. Administrative Costs	22
3. Training	22
4. CASA	22
<u>V. OCR Goals for Upcoming Year</u>	23
<u>Appendices</u>	
Appendix A – OCR Legislative Review for 2006 Legislative Session	24
Appendix B – OCR Committee Involvement	26

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.

We are writing to you very respectfully to give our thanks for all the arduous work and excellent GAL representation of Carole Krohn. She was in charge of representing our daughter. We are also pleased to know that when there is a need for legal representation (for children who have had unfortunate experiences which end in the hands of the state or government) we can and did count on a terrific person like Ms. Krohn. She always showed a great deal of interest in O's everyday life and took many hours of traveling to ensure the well-being of our daughter.

-Monica Griego, Paternal Aunt and Legal Guardian commenting on Carole Krohn of the 14th JD

Mr. Lococo has the best interest of children at heart. He makes an effort to keep abreast of occurrences and is interested in helping the children.

- CASA volunteer in the 8th JD on GAL Randall Lococo

Peg (Russell) did an incredible job on a D&N tied to a death penalty case.

- O. John Kuenhold, Chief Judge 12th JD

Excellent in every sense of the word.

- Comment by Judge Delgado on her evaluation of GAL Elizabeth Martinez, who represents the best interest of children in the 17th JD

Probably the best GAL that I work with. She is kind and professional with caseworkers and with the families. She does not hesitate to advocate for kids in court when she needs to. It feels very collaborative when working with Gail. What stands out most about her is that she is actually an active presence in the children's lives. Not just an attorney that shows up to court that hasn't even seen the child for months.

- DCFS staff member about Gail Meinster, GAL in the 1st and 20th JDs

Doug Glover is always a delight to work with. He is well-prepared for the case and always has the best interests of the child in mind. He makes an effort to visit his children and knows their particular situation.

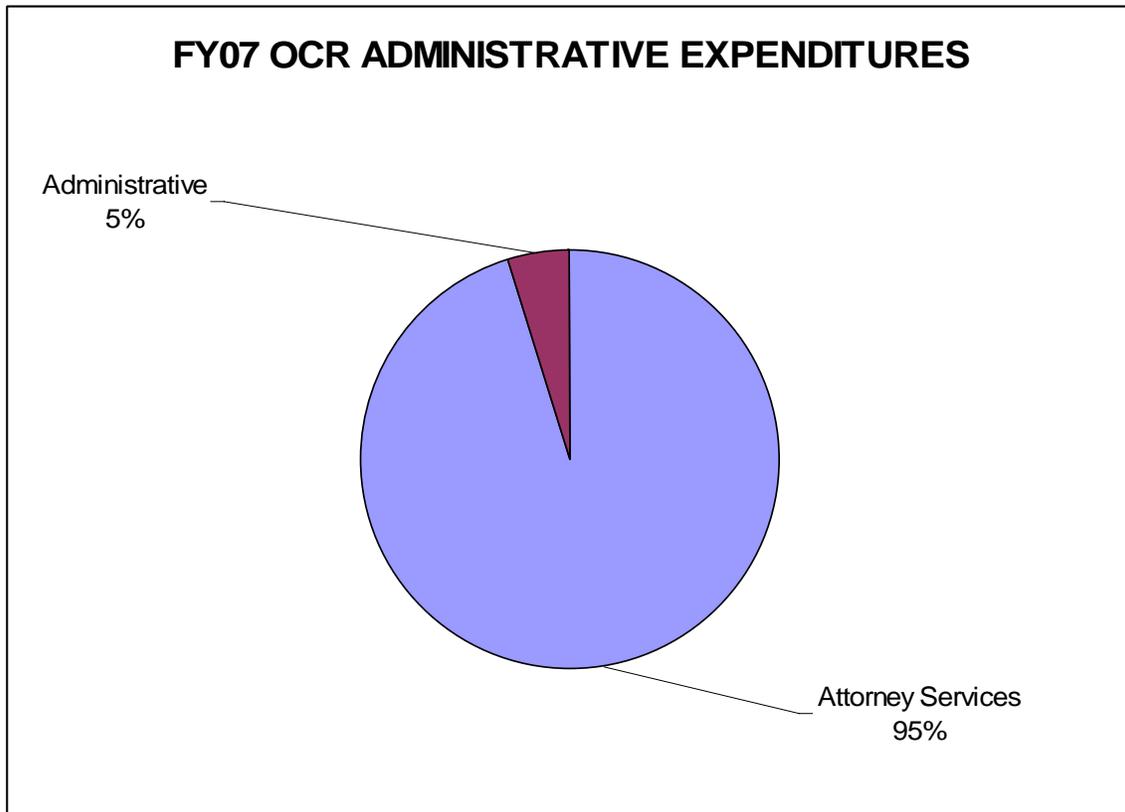
-CASA staff in the 10th JD.

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 administered 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 12,964 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. As shown in the chart below, almost 95% 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. For example, Barb Remmenga, who works out of Montrose in the 7th JD was a social worker prior to becoming an attorney; Kim Verhoff who covers the 15th and 16th Judicial Districts on the eastern plains drives 15,000 miles a year in order to attend hearings and visit children in placement, or Lisa Toy who covers all of Archuleta county. 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. Some of the attorneys are former public defenders or district attorneys. 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, over 19,000. 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? What can attorneys do for a child in a case?

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.

Attorneys can file motions, practice discovery, participate in settlement negotiations, litigate the case, file reports, call upon experts in a case, present evidence and file appeals. Attorneys advocate for the child both in and out of court.

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 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.

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. We are only mandated to pay for attorney services.

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. For example, information regarding trends in your district in such areas as truancy, delinquency, or participation in model courts around the state.
- ***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. This section provides a detailed overview of the OCR 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.

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 2006/2007 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. This assessment includes meeting with the attorneys who are under contract with OCR, interviewing new applicants and meeting with court personnel, judicial officers, and 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 this time, we also discuss training for attorneys and judicial officers during the year. Because Colorado is such a large state, we often address training needs jurisdiction by jurisdiction. For example, in February of 2007, we assisted Judge Hansen in Cortez with a training session on the benefits of a CASA program to address local concerns about CASA in her judicial district. 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 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.

During this year's assessment process, the OCR was able to improve 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) recruiting 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. OCR utilizes the standards set forth in CJD 04-06 to analyze attorney performance, and we do not make additional recommendations on the outcome of the case at hand. (In domestic relations cases OCR is only able to process complaints for attorneys we have

contracts with and that have been properly appointed with a finding of indigence for domestic relations cases.) 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. 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 parent organizations regarding its complaint process.

In Fiscal Year 2007, 23 formal complaints were filed and fully investigated. Of those 23 complaints, all involved Guardians ad Litem in dependency and neglect cases. Of the 23 complaints investigated, five were founded. In two cases, the GAL failed to meet with the children in subsequent placements within 45 days of placement as required by CJD 04-06. A review of one of the GAL's case load indicated that this was an isolated instance and not a pattern of conduct, so the OCR opted to continue to work with this attorney while monitoring her caseload. In the second instance, the attorney was assigned to the case prior to the creation of OCR. This attorney had several GAL appointments which predated OCR. As a result of OCR's investigation into this complaint, that attorney voluntarily withdrew from all best interest representation, and his cases were reassigned to another contract attorney. In two other founded complaints, the attorneys failed to conduct an adequate independent investigation prior to making a recommendation to the court. In each of these instances, OCR has investigated the attorney's caseload and continues to monitor the attorneys. In the final founded complaint, OCR determined that the Guardian ad Litem acted in a less than professional manner and failed to act independently. In that case, the OCR, who had received other negative feedback on the GAL involved during jurisdictional visits, opted to terminate that Guardian ad Litem's contract.

(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 2006-2007, an audit of attorney services was conducted in the 1st JD. From June of 2006 through May of 2007, OCR became heavily involved in the State Auditor's performance review of guardian ad litem services. This state wide audit of GAL services required OCR to gather information from individual attorneys, in order to review specific cases and court files, as well as coordinate site visits and interviews with individual attorneys throughout the state. Issues examined included but were not limited to: whether attorneys providing best interest representation had current contracts, whether attorneys were physically present at each court hearing, and whether the attorney had done a thorough independent investigation into the children's circumstances including visit with the children in placement. Field work for this intensive state wide audit was completed in May 2007. A final report was submitted to the state legislature in July of 2007 (see section IV(B) for results and recommendations).

(d) 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 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. 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. For example, in Fiscal Year '08, we also created a handbook for new GALs.

(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 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.

(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. The list serv is limited to attorneys who provide GAL services within Colorado.

(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.

(f) Partnerships with Local and National Organizations. The OCR has cultivated relationships with large national organizations in order to further our mission, such as the American Bar Association Children and the Law center, the National Association of Counsel for Children, Casey Foundation and the National Center for State Courts for technical and training assistance. On a local level, we have worked with the Mile High United Way Bridging the Gap program to establish connections with youth who have recently aged out of foster care. The youth serve as a resource for us on training projects.

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 (at the inception of the case) of \$1,040 for two years of work. 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 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 received one pay raise (\$5) in fourteen years; 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. Because of this, OCR requested an additional raise during the 2007 session and we were funded to \$60/hour pay raise.

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

- **Back to Basics**, September 2006 – The conference provided information on secondary trauma, visitation, how foster moves hurt children, and how to conduct an independent investigation, and LGBTG issues. We also heard from a youth panel on how repeated moves in foster care were a hardship.
- **DVD on Indian Child Welfare Act (ICWA)**, July 2007– This training DVD focused on the application of ICWA in Dependency and Neglect cases.
- **DVD on the Voices of Youth** – July 2007 – This DVD focuses on the voice of youth, and how the child welfare system must listen to the youth that are part of the system. We collaborated with Kippi Clausen, and the youth at the Mile High United Way on this DVD. We are distributing to CASAs, attorneys and judicial officers.
- **Role of the CASA**, February 2007 – At the request of Judge Hansen in Cortez, this training was offered in Cortez in 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. We brought in a CASA director, GALs, Respondent Parent's Counsel, and a County Attorney to help facilitate the implementation of a CASA program in the 22nd Judicial District.
- **OCR and University of Colorado Law School symposium**, November 2006- The theme of this symposium was "Voices of Youth in the Courtroom – Is it

Time for a Change?” The theme was based on the Pew Commission recommendation that “children and parents have a direct voice in the courtroom.” The OCR co-sponsored this symposium with CU and brought 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 commenced with youth speakers, and professors and attorneys who practice in other states commented on best interest representation, attorney client representation, ethics, and developmental considerations. The second day consisted of workgroups charged with developing recommendations on youth training and attorney training for the future.

- **Java and Juice event with Mile High United Way** – With the help of MHUW, OCR planned an event for youth to hear from successful women who are leaders in the community. We invited female attorneys and professionals to present to several youth on how to become an accomplished female and how to maintain success.
- **Women in Philanthropy Event** - Theresa Spahn and Sarah Ehrlich spoke about the needs of foster youth the Women in Law and Accounting Networking Group in Denver. This was also in conjunction with Mile High United Way.
- **Colorado Judicial Institute** –At the request of CJI, we were asked to weigh in with the SCAO and Mile High United Way to study Youth Voice in Court.
- **Youth Summit on SB07-226** - at the University of Colorado School of Law, OCR, and the National Association of Counsel for Children will present a youth summit in the fall.

D. Recommend and establish minimum practice and training standards.

The OCR is currently working with the Training sub-committee of the Court Improvement Committee to develop a training curriculum that all professionals who work in the child welfare system can utilize. We will also begin work on the next DVD in our GAL DVD series on domestic violence and the impact domestic violence has on the D&N system, and in dissolution of marriage cases. 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. We are drafting revisions to the CJD 04-06 for our attorneys during coming year in order to incorporate the new provisions in SB07-226.

E. The Office of the Guardian ad Litem for El Paso County– 4th Judicial District

The Office of the Guardian Ad Litem for El Paso County in the 4th 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 13 attorneys, 4 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. 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 \$38 per hour. This rate is well below the hourly rate for GALs of \$60 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 6,500 children. This year alone, the office successfully closed 514 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 over 150 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.

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. OCR once again donated all the funds from the conferences to 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. We also distribute our DVD training materials to judges through the Court Improvement Committee. OCR also requested that CJI (Colorado Judicial Institute) provide scholarships to attend the NACC conference, and CJI responded by funding 25 scholarships to the conference.

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 has affected a decrease of over 36% of the number of these cases paid.

Another trend has been the increase in Truancy cases paid by the agency. Over half of this amount is attributable to Arapahoe County. Beginning in January 2007, the County began aggressively filing Truancy cases.

The table below summarizes the change in cases the OCR paid on in the past two fiscal years.

Comparison of OCR Cases Paid FY06 and FY07¹

Case Type	FY06	FY07	Increase/ (Decrease)	% change
Dependency & Neglect	7,618	8,012	394	5.17%
Juvenile Delinquency	3,459	3,594	135	3.90%
Domestic Relations	671	624	(47)	(7.00%)
Truancy	374	458	84	22.46%
Paternity	107	126	19	17.76%
Probate	137	105	(32)	(23.36%)
Other	42	45	3	7.14%
Total	12,408	12,964	556	4.48%

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

The OCR processed 50,093 payments during Fiscal Year 2006, an increase of almost 35% 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 its 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 2007 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. As of this time, OCR has not been notified of any findings or recommendations as a result of this audit.

C. Performance Audit

The Office of the State Auditor conducted a performance audit of Guardian ad Litem services in the State of Colorado. The audit hearing in front of the Legislative Audit Committee was in July 2007. A copy of the report is available at <http://www.leg.state.co.us/OSA/coauditor1.nsf/ReportPublic?openform>.

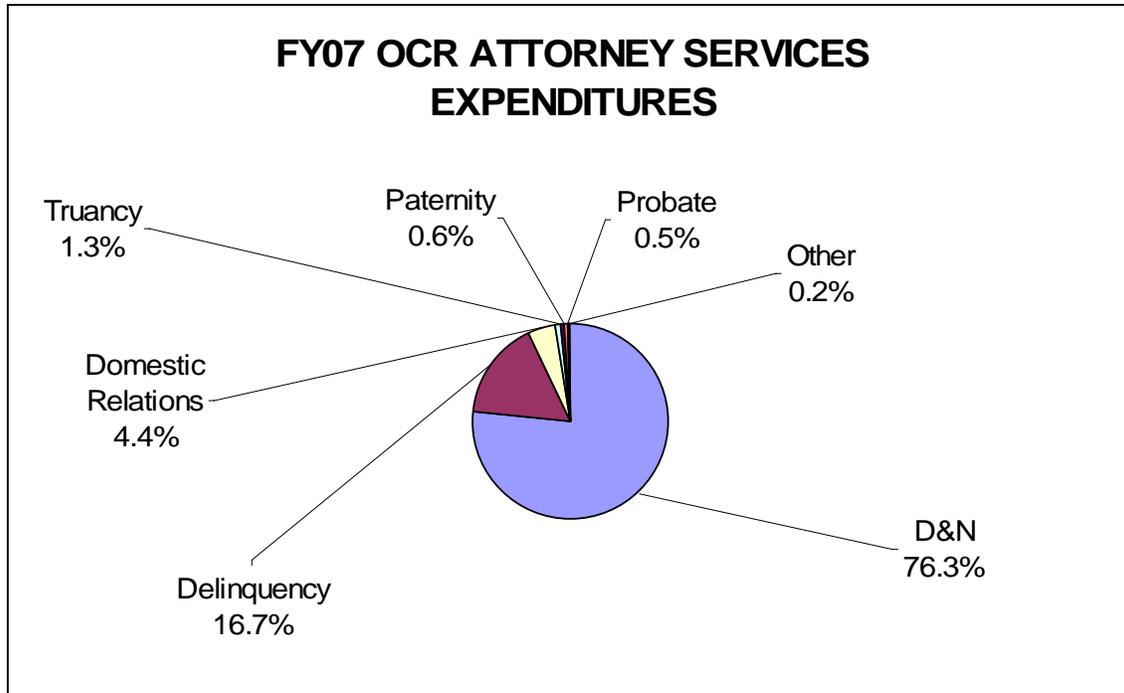
D. OCR's Fiscal Year 2007 Expenditures

The following schedules summarize the OCR's Fiscal Year 2007 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 shown in the table below and in the following chart:

Type of Case	Amount Expended in Fiscal Year 2007
Dependency and Neglect	\$ 9,128,247
Juvenile Delinquency	2,001,483
Domestic Relations	525,290
Truancy	151,299
Paternity	73,517
Probate	59,298
Other	28,503
Mandated Costs	26,342
TOTAL	\$ 11,993,979



2. Administrative and Operating Costs

\$602,118 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 \$31,747 on providing training and conferences in the past fiscal year including the agency's training CD project.

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. Create additional Training DVDs for the Core Training Curriculum and distribute statewide
2. Motions Bank – establish password protected motions bank on website. After extensive research we have compiled over 100 motions. Our challenge over the next year is to find a way to either put the motions on our website in a password protected database, or distribute in some other capacity.
3. Collaborate with other state agencies and legislators on restoring ICON/Eclipse/CoCourt access to our attorneys as set forth in SB07-262.
4. Overhaul Web Site
5. Develop and provide training on SB07-226 for our attorneys.
6. Continue to monitor and support bills that are introduced in the upcoming legislative session
7. Assist with the planning of the combined judicial and CDHS training conference in June of 2008.
8. Revise the CJD 04-06 as a result of SB07-226 and the Pew recommendations that children have a voice in their permanency planning hearings.

**APPENDIX A – OCR LEGISLATIVE REVIEW FOR
2007 LEGISLATIVE SESSION**

State Legislation

There is much to report on the 2007 legislative session. These are just a few of the bills that OCR monitored during 2007.

HB 07-1025, Jahn – CDHS to review rates, services, and outcomes of service providers by Jan. 1, 2008 and every even year thereafter in order to standardize services across the state. This includes rate setting for foster care providers and Medicaid residential treatment centers.

HB 07- 1054 - Concerning an Increase in the Number of Judges – Will add 9 new District Court Judges, and thirty two staff, also 110 probation officers.

HB07-1090, T. Carroll, Boyd – Concerning Adoption of a child by a person convicted of a felony offense. The intent is to open up a pool of potential adoptive parents, but the court still has the discretion to approve the adoption. The felony or misdemeanor must be at least 10 years prior to the application for adoption. The child may not be placed in the prospective home pending the outcome of the investigation.

HB07-1161, Labuda – Concerning Training for Juvenile Risk Assessment – Requires local juvenile services planning committees to be trained in the use of risk assessment tool used by the division of youth corrections in the department of human services.

HB 07-1255, McGihon, Gordon – Child Abduction Prevention Act – Serves to provide consistency and procedural guidance in cases involving the risk of child abduction. Allows a party to obtain a warrant to prevent wrongful adduction of a child.

HB07-1330, Madden, Viega- Second Parent Adoption bill - Allows a specified adult to adopt a child with a sole legal parent upon a written and verified consent by that parent. A homestudy is still required, unless the 2nd parent was already part of the home study within a six month time frame. OCR board and staff testified in support of this bill.

HB 07-1350, Romanoff, King, Tupa – Victim Address Confidentiality Program – Establishes the address confidentiality program to protect the confidentiality of the address of a relocated victim of domestic violence, a sexual offense or stalking.

SB07 -02, Sandoval, Stafford – Concerning Medicaid Eligibility for persons in Foster Care – Allows persons younger than 21 who were in care at 18 to be eligible for Medicaid. The OCR board worked and supported Senator Sandoval and lobbied for this bill to move out of appropriations.

SB07- 03, Kester, Jahn- Concerning the creation of Advisory Board Competency Evaluations – Creates an advisory board to study and recommend standards regarding the

level of training, education and experience for psychiatrists or psychologists who perform competency evaluations in criminal cases.

SB07-16, Tapia, Butcher – Concerning the Minimum Age for Compulsory Education – Lowers the Minimum age of compulsory school attendance from 7 to 6 years of age. July 1, 2008

SB07- 018, Sandoval – Procedures for the Expedited Relinquishment of Parental Rights - attempts to clarify existing procedures related to expedited relinquishment procedures.

SB07-33, Brophy Concerning adoption of High Risk Children –Cost of care for an adopted child not to exceed adoption subsidy

SB07-64, Keller, Frangas – Task Force for System for Care of Foster Children – Established a task force to address problems in the state foster care system includes foster youth representative, judicial representative and foster parents. The OCR was originally slated to be a part of the task force, but we were removed from the bill during Senate committee hearings.

SB07-136, Morse – Jurisdiction of Courts to Enter Orders for the Protection of Persons – allows the court to enter an injunction preventing the restrained party from ceasing to make payments for mortgage, rent, insurance, utilities or related services where a prior existing duty or legal obligation exists to make those payments.

SB07-212, Sandoval, Marshall Family Friendly Facilities – Court Child care – Places court child care centers under the guest child care facility exemptions, making life easier for districts with family friendly facilities.

SB07-226, Boyd, Riesberg – Compliance with Fed. Law for placement of children – complies with the Federal Safe and Timely Interstate Placement of Foster Children Act of 2006, requires a court to consider the appropriateness of out-of-state placement options for a child. Requires a court to ensure that notice has been provided to foster care providers and also requires that children participate in the development of their permanency plan. The OCR Executive Director testified on behalf of this bill.

SB07-262, Shaffer – Electronic Access to ICON – Allows District Attorneys and Public Defenders to access the name index and ROA of D&N cases. As required by SB07- 262, OCR is working on an amendment for this legislation with SCAO, ADC, and County Attorneys.

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, and child advocate organizations. 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 to 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 of OCR 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.
- **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 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. The final meeting of this committee will occur in October, 2007.
- **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 and to serve on the Partnership Board.
- **Methamphetamine Task Force** – OCR served 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. Currently, Debra Campeau of the El Paso County GAL office is serving on this committee.
- **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 to subsequently improve the lives of children in the dependency and neglect system.
- **Juvenile Law Section of the Colorado Bar Association.** The OCR Deputy Director is the 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*. The co-chairs are sponsoring the special edition on Juvenile Law for the October issue of the *Colorado Lawyer*.
- **C-SIMI Advisory Board – Colorado Systems Integration Model for Infants** – The purpose of the committee is to recommend a community standard and approach for the screening of at-risk pregnant women and newborns for exposure of drugs during pregnancy.
- **CBA Youth at Risk committee** – This committee was initiated by CBA immediate Past President Liz Starrs, and the goal of the committee was to implement best practices for youth in the system. Ms. Starrs’ ended her term in May, and OCR is unsure if the next president will continue with the campaign.
- **Jim Casey Youth Opportunities Initiative Meeting** – The OCR Executive Director attended this all-site convention for Casey participants. The purpose of the meeting was to help youth in foster care make successful transitions to adulthood.

