



# Office of the Child's Representative

## 2011 Annual Report to the General Assembly



The Office of the Child's Representative provides competent and effective best interest legal representation to children who have been abused, neglected or abandoned, impacted by high conflict parenting time disputes or charged with delinquent acts and without a parent or guardian able to protect their best interests during the proceedings. **Seventy-three percent (73%) of the 21,700 children served by OCR are victims of serious child/sexual abuse and neglect.** OCR contracts with 231 attorneys skilled in pediatric and juvenile law throughout the state and in every judicial district to provide to provide mandated legal services. The contract entities are **small businesses**, including non-profit organizations, law firms and sole practitioners.

### Highlights:

**Advocacy guide** for dependency and neglect practitioners. This project is fully-funded through a grant award.

**Pilot program to deliver GAL legal services through multidisciplinary offices** in Arapahoe and Denver counties.

**KIDS data management** and billing system to improve service provision, budget management and oversight. KIDSV costs are highly subsidized by grant monies.

**Extensive statewide training** through conferences and frequent brown-bags/webinars.

The Office of the Child's Representative (OCR) is required by C.R.S. § 13-91-105 to submit a report to the General Assembly in September of each year. The report provides an update of the OCR's mandated efforts to provide and oversee best interest legal representation for children in Colorado. The report includes an overview of OCR's major accomplishments, fiscal management of appropriations and goals.

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## OCR 2011 General Assembly Report

### From the Executive Director

It is my pleasure to introduce the OCR's 2011 Report to the General Assembly which details the OCR's efforts to provide and oversee best interest representation for Colorado's children. The core mission of the agency, providing highly skilled lawyers to advocate for children who have no resources or ability to access the court system, continues to inform all we do. Last year, our 231 attorneys represented approximately 22,700 children in dependency and neglect, delinquency, paternity, truancy and domestic relations cases.

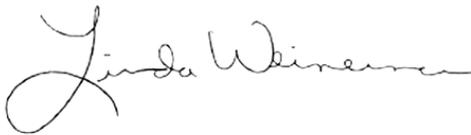
Over the past year, the OCR and our attorneys worked hard to ensure that each child involved in the court system had zealous, competent best interest representation at every stage of their case. Through our Cornerstone Advocacy Practice Model, OCR attorneys have focused on front loading services to children with the goal of reunifying families whenever possible. By emphasizing strength-based treatment services, placements that maintain children's connections to family and community and success in school, OCR attorneys are improving outcomes for Colorado's most vulnerable children.

This year, the OCR pursued several exciting innovations. We began a two and a half year pilot of multidisciplinary law offices in Denver and Arapahoe counties, two of the largest jurisdictions in Colorado. With the use of grant funding, we adopted a new web-based case management and billing system, appropriately named KIDS. Through the KIDS system, the OCR is able to access real-time data regarding attorney activity and case progress. Our goal is to use this data to track results on what really matters to children: the length of time they spend in foster care, the number of moves they experience in care and the length of time to successful closure of their case with a safe and permanent home. This data will allow us to identify jurisdictional trends, training needs and other issues that may require OCR involvement.

Additionally, we began to develop a comprehensive advocacy guide for attorneys in the child welfare system. As Colorado's first comprehensive integration of the legal standards governing child welfare cases with advocacy tips for attorneys at each stage of the proceedings, this guide ensures a higher level of base knowledge and core practice for all guardians *ad litem*.

Given the amount of work we have undertaken, I would like to take this opportunity to thank all of the staff of the OCR. Their dedication and vision have ensured that Colorado continues to be on the forefront of attorney services for children. I also want to thank each of our 231 contract attorneys who work hard day in and day out, in the courtrooms and in their communities, to provide children with a strong voice in a complex system. Finally, thank you to the members of the legislature for your continued support of our efforts. We look forward to another year of progress.

Sincerely,



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## OCR 2011 General Assembly Report

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### CHILD'S REPRESENTATIVE BOARD

The Colorado Supreme Court appoints the nine-member child's representative board (Board) in accordance with the requirements and qualifications found in Colorado Revised Statutes § 13-91-104(2). The Board must consist of three attorneys, three advocates for children in the court system and three citizens. There must be no more than five members of one political party and six of the seven congressional districts must be represented. The Board serves without compensation and works cooperatively with OCR's Executive Director to provide fiscal oversight, participate in funding decisions and assist in GAL and CASA training, as needed. The diverse and experienced Board represents all seven congressional districts and has a balance of Republican and Democratic members.

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

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

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

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

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

**Senator Cheri Jahn**, Democrat, Seventh Congressional District, *Owner, Colorado House-keeping & Home Care Services*, Citizen member

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

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

**(Former) Senator Al White**, Republican, Third Congressional District, *Director, Colorado Tourism Office*, Citizen member

**Mr. Robert Ortega**, non-voting Youth Advisory member. Although not statutorily required, the Board has included a non-voting youth advisory member. The youth advisory member is a former beneficiary of GAL services.

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## OCR 2011 General Assembly Report

### OCR Staff

Linda Weinerman,  
Executive Director

Sheri Danz,  
Deputy Director

Cathleen Kendall,  
Staff Attorney / Pilot Staff Office Project  
Manager

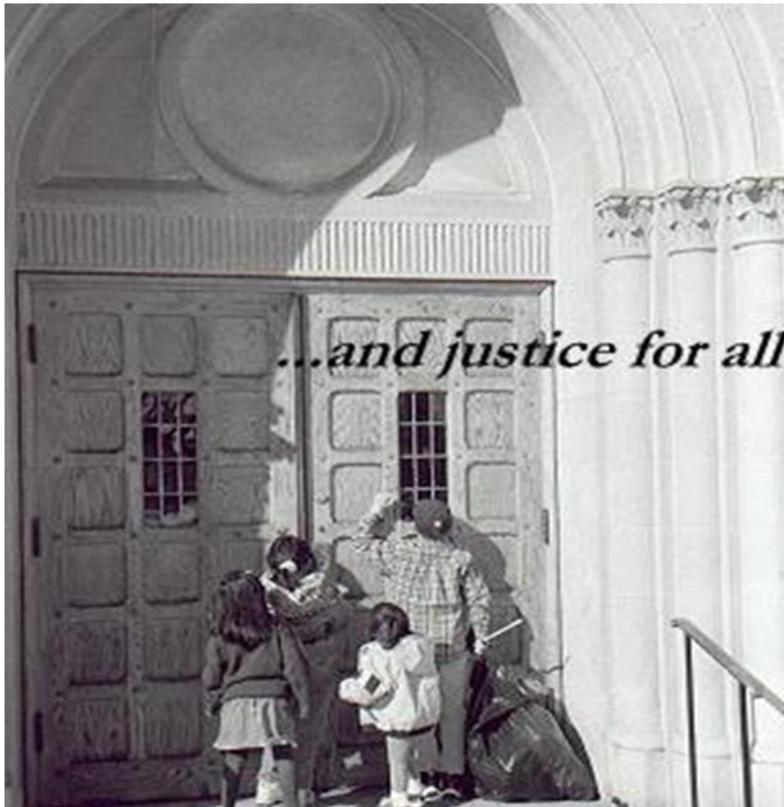
Dorothy Macias,  
Staff Attorney and Legislative Liaison

Sheree Coates,  
Billing Administrator

Elisabeth Dickinson,  
Controller and Budget Officer

Melanie Jannicelli,  
Office/Billing Manager

Andrea Koo,  
Training/Media Coordinator and Indigency  
Screener



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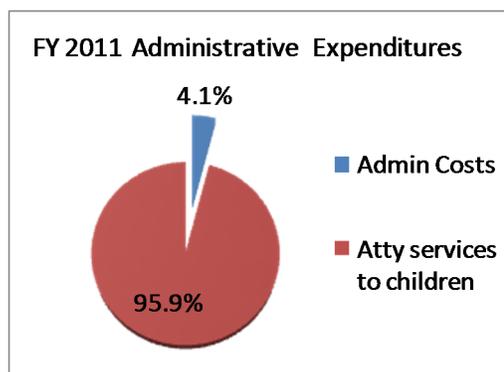
## OCR 2011 General Assembly Report

### OVERVIEW

**The Office of the Child’s Representative (OCR)** is the state agency mandated to provide competent and effective best interest legal representation to Colorado’s children involved in the court system. OCR was created by the General Assembly in 2000 to improve representation for Colorado’s most vulnerable children by establishing minimum practice standards, providing litigation support, providing accessible high-quality statewide training and providing oversight of the practice.

**OCR serves children** who have been abused and neglected, impacted by high conflict parenting time disputes or charged with delinquent acts and without a parent or guardian able to protect the children’s best interests during the proceedings. **At least, Seventy-three percent (73%) of the 21,700 children served by OCR are victims of serious child abuse and neglect.** Dependency and neglect cases are filed in every county in the state. Many of children have been removed from their homes and spend time in foster care. All require attorney services for the entire life of their case. OCR also provides children with representation in delinquency, truancy, probate and high conflict divorce cases.

**OCR spends 95.9% of its budget** on attorney services for children. The remaining 4.1% is used to administer the agency, which consists of a staff of eight employees. OCR staff oversee 231 contract attorneys. OCR contract attorneys represented approximately **21,700 children** in FY 2011 in dependency and neglect, delinquency, paternity, truancy and dissolution of marriage cases. The average cost of an OCR case is \$1,173 in FY 11.



**OCR provides best interest representation through state employees in El Paso County and contracts with small businesses throughout the state.** OCR contract attorneys are skilled in pediatric and juvenile law and provide attorney services at a cost-effective rate of \$65 hour. These attorneys often live and work in the same communities as the children they represent and are known as Guardians *ad Litem* or GALs.

**OCR maintains high expectations** of its contractors. In addition to the professional standards governing all attorneys, OCR attorneys are held to standards set by Chief Justice Directive (CJD) 04-06 and their contract with OCR. GALs must independently investigate the matters to which they are appointed, make recommendations that are in the best interest of the child and advocate on the child’s behalf. GALs must meet each child client in each placement

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## OCR 2011 General Assembly Report

and continue to communicate with the child throughout the case.

**OCR monitors attorney services** throughout the year in a number of ways. The OCR sends surveys annually to judicial officers, court facilitators, court administrators and CASA agencies in all 22 judicial districts. Each year, the OCR Executive Director and attorney staff meet with or communicate with stakeholders in each of the 22 judicial districts to assess attorney services. The OCR monitors hourly billing statements submitted 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. The OCR conducts random audits of attorney work. Every complaint received by the OCR is thoroughly investigated. The OCR has implemented corrective action, including terminated or not renewing attorney contracts with GALs who have displayed a pattern of failing to meet OCR expectations, the requirements of CJD 04-06 and contractual obligations.

**OCR may serve as a resource to legislators** by providing information and answering questions concerning children's issues. OCR welcomes comments and questions from legislators regarding GALs, legislation or specific issues concerning children or GALs in a legislator's community.

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### OCR's LEGISLATIVE MANDATES

OCR's legislative mandates are set forth in C.R.S. § 13-91-101, *et seq.* The mandates include:

- I Provide oversight and improve quality of best interest attorney services and maintain consistency of best interest representation statewide.
- II Establish minimum practice standards, duties and responsibilities for all attorneys representing children in judicial proceedings., including the investigation of maximum-caseload limitations for GALs.
- III Provide litigation support to OCR attorneys.
- IV Establish minimum training requirements and accessible high-quality training statewide for attorneys, judges, magistrates and Court Appointed Special Advocates (CASA) volunteers.
- V Establish fair and realistic compensation for state-appointed children's attorneys sufficient to retain high-quality, experience pediatric attorneys.
- VI Assess and document the effectiveness of various models of representation.
- VII Work with CASA to develop CASA offices in each county and enhance funding resources for CASA.



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## OCR 2011 General Assembly Report

### I. **Provide oversight and improve quality of best interest attorney services and maintain consistency of best interest representation statewide.**

The Executive Director, Deputy Director, staff attorneys and office staff monitor attorney services in a number of ways. The OCR sends surveys annually to judicial officers, court facilitators, court administrators and CASA agencies in all 22 judicial districts. Each year, the OCR Executive Director and attorney staff meet with or communicate with stakeholders in each of the 22 judicial districts to assess attorney services. In addition, OCR staff monitor contract attorney services by scrutinizing billing statements, conducting an annual contract/evaluation process, investigating complaints and assessing compliments and other feedback on contract attorney's work.

**Billing statements are scrutinized** by OCR staff, controller and, as needed, attorneys. OCR staff reviews hourly billing statements submitted by contract attorneys in order to ensure that the work done meets minimum standards and that state dollars are efficiently used for only allowable expenditures. OCR also conducts random audits of attorney billing.

**OCR's annual contract process** serves as an effective method of monitoring attorney services and ensures that qualified attorneys provide consistent legal representation for children throughout Colorado. The contract process also provides OCR with the ability to address systemic needs within each jurisdictional district, such as the need for additional or fewer attorneys, training requirements on specific issue(s) or concerns 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 evaluations are sent to CASA agencies, court facilitators, court administrators and judicial officers in all judicial districts. The evaluation results allow OCR to review the competence of attorneys and quality of attorney services, as well as the validity of any concerns. OCR then requires all attorneys, regardless of whether they have existing contracts or are new applicants, to complete an application. Every application is considered, and contracts are not automatically renewed.

OCR's Executive Director and attorney staff endeavor to meet personally or by teleconference with contract attorneys, new applicants, court personnel, judicial officers and CASA directors. In some instances, the OCR contacts county attorneys and county department of social services directors, as well as other community agencies involved in the protection

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of children. OCR discusses attorney performance, judicial concerns, jurisdictional trends and potential training needs. At the completion of the judicial district contacts, OCR compiles its annual list of attorneys eligible for appointment in each judicial district, distributes it to judges and court staff within each judicial district by July 1st of each year and subsequently prepares yearly contracts for attorneys on its list.

**OCR attorney staff investigate complaints** and assess complements of contract attorney's work throughout the year. OCR investigated 16 complaints in FY 11. Each complaint was thoroughly investigated by contacting the complainant, interviewing witnesses, reviewing the court record of action and contacting the assigned attorney. Seven complaints were deemed "founded" and the OCR has implemented corrective action, including terminating or not renewing attorney contracts with GALs who have displayed a pattern of failing to meet OCR expectations, the requirements of CJD 04-06 and contractual obligations.

### **II. Establish minimum practice standards, duties and responsibilities for all attorneys representing children in judicial proceedings, including the investigation of maximum-caseload limitations for GALs.**

OCR maintains high expectations of its contractors. In addition to the professional standards governing all attorneys, OCR attorneys are held to standards set by CJD 04-06 and their contract with OCR. An OCR attorney must independently investigate matters, make recommendations that are in the best interest of the child and advocate on the child's behalf. The attorney must meet each child client in every placement and continue to communicate with the child throughout the case. Usually, there is more than one child per case and the children are often placed in different homes or treatment facilities. The attorney must appear at all court hearings; attend ancillary hearings such as special education hearings or child support hearings; prepare for and litigate contested hearings and participate in out-of-court meetings concerning appropriate placement, treatment and long-term planning for the child. The GAL must interview and maintain contact with other people involved in the child's life, including the Court Appointed Special Advocate (CASA) volunteer if one is assigned to the case. The GAL is responsible for promoting the child's safety and well-being throughout the case and ensuring that the child is successfully placed in a safe, appropriate and permanent home.

**OCR's Cornerstone Advocacy initiative**, a modified version of New York's Center for Family Representation's Cornerstone Advocacy program, emphasizes proactive and intensive advocacy in D&N cases focused on four cornerstones:

- Frequent and meaningful visits;
- Placement arrangements supportive of family connections;
- Services tailored to the strengths and needs of children and parents;
- Education and transition planning supportive of academic and life success.

Cornerstone Advocacy provides a framework for a GAL's investigation and advocacy and

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is consistent with the Colorado Children's Code stated preference for in-home placement and purposes of preserving and strengthening family ties whenever possible and timely resolution of cases in the best interests of children. See C.R.S. § 19-1.102(1). An assessment of Cornerstone Advocacy as implemented in New York City demonstrated that this model has resulted in significantly more children remaining in in-home placements, reduced time in foster care and lower foster care reentry rates.

Implemented in FY 10, OCR has continued implementation of this initiative by sponsoring five webinars throughout FY 11 as well as a second statewide Cornerstone Advocacy conference in September 2010. The OCR also integrated Cornerstone Advocacy themes into its June statewide conference, for example, by dedicating an entire day of the conference to a training on family finding and diligent search. OCR additionally planned an advocacy skills training, scheduled in September 2011. In this hands-on training, attorneys will practice trial skills and an advocacy approach focused on the four cornerstones in a fictional dependency and neglect case.

The OCR's Cornerstone Advocacy Implementation Committee has continued to meet periodically throughout the year. This committee has assisted the OCR in ensuring the continuing relevance and usefulness of the Cornerstone Advocacy initiative from the GAL practitioners' perspective and its members have spearheaded local implementation of some of the strategies presented at the trainings and conferences. Several of its members have provided training for other GALs at the OCR's webinars and conferences. As will be discussed in more detail in this report, the OCR has also secured grant funding to publish a dependency and neglect advocacy guide. This guide will integrate Cornerstone Advocacy principles into its hearings checklists and advocacy tips, providing another concrete and useful tool supportive of this initiative.

**OCR continues to assess the establishment of caseload limitations.** OCR's pilot office programs and new data management system will further inform the assessment. Through the use of the KIDS data system, OCR is able to monitor individual attorney caseloads.

### III. Provide litigation support to the practice of OCR attorneys.

OCR staff provides litigation support to contract attorneys on a daily basis. The OCR serves as a resource and offers litigation support to its contract attorneys in the following ways:

**Response to individual inquiries by contract attorneys.** Attorneys are encouraged to contact the Executive Director, staff attorneys and other staff for assistance and support. OCR provides litigation support, legal references and expert resources. OCR assists contract attorneys by providing legal information and guiding them to appropriate professionals, written materials and other resources.

**OCR updates.** OCR provides periodic electronic newsletters to its attorneys, informing them of recent federal and state court decisions and legislative changes that pertain to the

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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.

**The OCR listserv.** OCR contract attorneys are required to subscribe to the OCR 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 motions and various training resources. OCR also uses the listserv to communicate new case processes and inform contractors of developments in the field. The listserv is limited to attorneys who provide GAL services within Colorado.

**The OCR website.** OCR's website maintains an active motion bank for OCR attorneys. OCR attorneys may also access billing procedures and policies. The website also publishes links to national organizations and resources for use by the general public.

### **IV. Establish minimum training requirements and provide accessible training statewide for attorneys, judges, magistrates, and Court Appointed Special Advocates (CASA) volunteers.**

OCR recognizes 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. Attorneys representing children 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 appreciate the impact of the developmental level and unique needs of each child.

OCR maintains stringent training requirements. OCR contract attorneys are required to participate in a minimum of 10 hours of OCR sponsored training each year. Training opportunities were consistently offered throughout the year through annual conferences and regular monthly brown-bag trainings. The brown-bags were held in multiple jurisdictions and could be attended in person or via webinar. All of the brown-bag sessions were recorded and posted to the OCR website to ensure that training could be easily accessed at anytime thereafter by those attorneys who could not attend.

To further expand training opportunities, the OCR collaborated with the Colorado Department of Human Services to provide Continuing Legal Education credits for OCR attorneys who completed courses through the Colorado Child Welfare Training Academy. The Colorado Child Welfare Training Academy was only being utilized only caseworkers, but this partnership has proven to be efficient use of State resources as many of the in-person and computer-based trainings were applicable to both caseworkers and GALs. In addition, OCR attorneys gained access to the Colorado Child Welfare Training Academy's online student tracking system, which keeps track of the courses each student has completed.

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Listed below are some of the major trainings that the OCR has sponsored or participated in during FY 11.

- a) Broomfield Cornerstone Conference (9/13 - 9/14/2010)
- b) No Reasonable Effort brown-bag (8/24/2010)
- c) Effective Participation in Administrative Reviews Brownbag (7/12/2010)
- d) Evidentiary Issues in D&N Cases brownbag (7/30/2010)
- e) MEPA (Multi-Ethnic Placement Act) Brown-bag Training (9/27/2010)
- f) ICPC Brown-bag Training (10/8/2010)
- g) Differential Response Brown-bag Training (3/1/2011 and 3/23/2011)
- h) Juvenile Delinquency Practice: Translating Current Research into Convincing Advocacy Conference, sponsored in partnership with the Office of the Alternate Defense Counsel and the Colorado Juvenile Defender Coalition (3/10-3/11/2011)
- i) Where's the Money? Understanding Funding Streams Brown-bag Training (4/8/2011)
- j) Using Department Regulations & CFSR in Your Advocacy Brown-bag Training (4/15/2011)
- k) Holding Quality Permanency Planning Hearings Brown-bag Training (5/2/2011)
- l) A GAL's Role in Independent Living and Life Skills Planning Brown-bag Training (5/16/11)
- m) The Initial Investigation: Laying the Groundwork for Effective Advocacy Conference (6/20-6/21/2011)

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### V. Establish fair and realistic compensation for state-appointed children's attorneys sufficient to retain high-quality, experienced pediatric attorneys.

OCR's legislative mandate includes establishing fair and realistic compensation for contract attorneys, with the goal of adequately paying attorneys for the work they perform. OCR inherited a flat rate pay system at its formation. With General Assembly support, OCR transitioned the payment structure to hourly billing. The hourly fee limit has been set at \$65/hour over the course of several legislative sessions and is the identical rate paid by the Office of Alternative Defense Counsel and the State Court Administrator's Office. The JBC supports this hourly rate and recognizes that the attorneys who are paid the state rate earn less than attorneys in the private sector. Due to the budget crisis, OCR has not pursued a raise for court appointed attorneys during past fiscal years and it will not do so in the current fiscal climate.

### VI. Assess and document the effectiveness of various models of legal service provision.

OCR provides attorney services to Colorado's children by employing three models of representation. OCR provides legal services by (1) contracting with independent contractors, (2) hiring state employees in one judicial district and (3) contracting with pilot offices in two judicial districts.

1) **Independent contractors** continue to provide children legal services in each judicial district. The contract attorneys are small business owners within their communities. Many lease office space and employ other members of the community in which they practice. This model is the historical means of providing best interest representation.

2) **The Office of the Child's Representative El Paso County Guardian *ad litem* office.**

The OCR El Paso County Guardian *ad Litem* Office in the 4<sup>th</sup> Judicial District office is a model office staffed by state employees that falls under the oversight of the OCR. The Managing Attorney remains Debra Campeau. OCR's El Paso GAL Office provides legal services in a manner similar to the manner in which 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 whether 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 OCR El Paso County GAL Office operates as a multidisciplinary law firm and employs 13 attorneys, 4 case coordinators and 4 administrative staff. The case coordinators have a social work or related background. The case coordinators make a signifi-

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cant contribution to the legal representation of children by assisting attorneys in their analyses of treatment needs, participating in case meetings, communicating with treatment providers, reviewing psycho-social assessments and observing visits between parents and their children.

The effectiveness of this type of model has been recognized 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 OCR El Paso County GAL office.

In FY 2011, the office was appointed to 674 matters, adding to its ongoing caseload. The office closed 455 dependency and neglect cases and 202 delinquency matters.

- 3) **Pilot multidisciplinary offices in Denver and Arapahoe Counties.** In 2003, the General Assembly instructed OCR in SB 03-258 Footnote 118 to study alternative methods of providing GAL services in dependency and neglect cases, specifically whether OCR could implement a multidisciplinary office in Denver similar to the OCR El Paso County GAL office. The multidisciplinary office would include professionals with social work or related backgrounds. The conversation continued for several years as the OCR has explored how best to pursue staff pilot offices.

In early 2010, the OCR determined that a Request for Proposal (RFP) for establishing multidisciplinary law offices was the best means for implementing the legislature's request. In May 2010, the OCR issued RFPs for the creation of offices in Denver and Arapahoe Counties. The OCR received many promising proposals. After extensive negotiations, the OCR entered into contracts with three entities to organize as pilot offices set to begin accepting new appointments on January 3, 2011. Rocky Mountain Children's Law Center provides GAL representation on new D&N appointments in two divisions of Denver Juvenile Court, while Radley, Sandoval & Southerland LLC, a group of former independent contractors, covers the third division in Denver. Contract attorneys continue to provide GAL representation in new delinquency and conflict cases in Denver. In Arapahoe County, a group of former independent contract attorneys formed the firm of Bettenberg, Sharshel & Maguire, LLC which now provides GAL representation on both new D&N and new delinquency appointments.

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While the pilot project is in the initial ramp-up stage, the OCR has been pleased with the progress made in establishing these new offices. The OCR believes the new pilot offices provide a good avenue for training new attorneys who are interested in becoming GALs, create the ability for GALs to have an institutional presence in the courthouse akin to the presence of the city or county attorneys and, most importantly, encourages more contact by the multidisciplinary team with the minor children in D&N cases. The OCR looks forward to assessing the outcomes of these offices at the conclusion of the two and a half year pilot. The OCR will attempt to assess whether the staff model offices provide improved representation and whether they help to create efficiencies in the system by decreasing the time children spend in out-of-home placement and/or decreasing the average length of cases. The OCR anticipates great success for the three offices 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 included in both the RFP and contracts will ensure a innovative and efficient GAL practice and better outcomes for children and their families.

### **VII. Support Colorado Court Appointed Special Advocates in the development of programs in each county and enhance funding resources.**

While GALs are the child's legal advocate and parties to D&N cases, community volunteers, known as CASAs, are appointed in several of Colorado's judicial districts by the court to serve as a support to children and provide helpful information. Although each local program is unique, similarities do exist. CASA volunteers must meet minimum requirements, pass background checks and successfully complete a mandatory 30 or 40-hour training program. Local CASA programs often require additional annual training. Most CASA volunteers concentrate their valuable service on one case at a time. Typically, volunteers must commitment to 1 year of service or for the duration of a case, which ever is longer. For example, Voices for Children, the Boulder County CASA Office, has over 100 community volunteers, at least 20% of which have served abused and neglected children 5 years or longer. In addition, local programs often require a minimum monthly time commitment from their volunteers. For example, CASA Advocates for Children in the 18th Judicial District requires volunteers to provide 10 hours of service monthly and maintain weekly contact with the children they serve.

OCR contract attorneys and CASA volunteers work collaboratively to advance the best interest of children. CASA volunteers provide written reports to the court and parties. CASAs participate in case meetings, help address educational issues, conduct supervised visits, enable sibling visits and provide transportation. CASAs also establish supportive relationships with children, parents and relatives or kin. CASA volunteers are able to engage the children they serve in fun activities such as bowling, attending movies and shopping.

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In FY 11, Colorado CASA received \$520,000 from the State of Colorado as a line item in the OCR Budget. Of this amount, \$100,000 was used for general operating support for the Colorado CASA office and \$420,000 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 the children could be served. Specifically, this allocation provided services for 100 children in Denver County, 78 children in Adams and Broomfield counties, 73 children in Arapahoe County, 55 children in Jefferson County, 32 children in Montrose and Delta counties, 31 children in Larimer County and 12 children in Summit County. Funding was also used to sustain operations for programs 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, volunteer recruitment efforts and training opportunities for volunteers. In total, the CASA network served 3,608 children/youth in calendar year 2010 — a 10% increase over 2009. These children were served by 1,637 volunteers who donated over 140,000 hours of their time. Colorado CASA also utilized funding to provide support to community efforts in the 9th judicial district to create a CASA program.

## 2011 INNOVATIONS TO OCR PROVISION OF LEGAL SERVICES

### I. KIDS Data Management and Billing System.

In order to support the pilot offices in Denver and Arapahoe and to provide the necessary data to assess their success, the OCR adopted a new web-based case management and billing system designed by KidsVoice USA, LLC (KidsVoice). Through grants obtained by KidsVoice, the cost for the initial software design and ongoing support for the system is heavily subsidized through June 30, 2013. The new pilot offices and OCR El Paso County GAL Office began using the system on March 15, 2011. All contract attorneys began using the system on July 1, 2011. The KIDS system allows for better file sharing between attorneys, paralegals, social workers and supervisors on each case and permits the OCR to track data for all open cases. All attorneys and paralegals in the pilot offices and all independent contract attorneys must enter information about all home visits, phone calls, meetings, document preparation, court hearing outcomes and placement moves. The OCR's access to this data, excluding attorney work product, allows the OCR to confirm compliance with the requirements set forth in CJD 04-06, provide additional oversight and track trends for jurisdictions and the state. The OCR looks forward to evaluating data in the future when more information is included in KIDS.

### II. Dependency and Neglect Advocacy Guide

A longstanding goal of the OCR has been to develop a comprehensive advocacy guide for GALs. This year, the OCR secured Children's Justice Act funds to publish such a guide in Fiscal Year 2012. The OCR has collaborated with Colorado's Court Improvement Program to include parents' counsel in the group of attorneys to whom this guide will apply.

The advocacy guide will serve as a reference for GALs and respondent parent counsel, similar to a judicial bench book. The guide will cover the main hearings that occur in D&N cases, detailing the black letter law (statutes and seminal cases) governing the hearings and containing checklists and practice tips for GALs and parents' counsel. The checklists will consist of a list of activities and considerations that each attorney should engage in prior to, during and after each hearing type. Fact sheets will highlight key aspects of issues that arise in D&N cases but that are not unique to a particular hearing (e.g., educational stability, sibling connections, involving youth in court). Quick reference will be facilitated by the use of tabs, a user-friendly formatting system and an extensive index. Physical copies will be made available to all GALs and respondent parent counsel, as well as judicial officers and county attorneys; the relatively small size of the book (although it will contain approximately 500 pages, it will be approximately the size of a Colorado statutes book) will further its ease of use for attorneys in court. The guide will also be posted on line. This project is modeled after the California Dependency Quick Guide, <http://www.courtinfo.ca.gov/programs/cfcc/pdffiles/DQG070922pressCH.pdf>.

Because the guide will serve as Colorado's first comprehensive integration of the legal standards governing dependency and neglect cases with best and promising attorney prac-

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tices, it is a significant step in improving the practice of GALs in Colorado. Its publication and dissemination will allow the OCR to assume a higher level of base knowledge and core practice for all GALs representing the interests of children in Colorado's courts.

OCR staff has taken the lead in the coordination of the writing and publishing of this guide and the Deputy Director is serving as primary content editor. Although the writing, editing and publishing of this guide will take place during Fiscal Year 2012, the project is already significantly underway at the time of the writing of this report and the guide is on track to be published before the end of Fiscal Year 2012.

### III. National Association of Counsel for Children (NACC) Child Welfare Law Certification Program

The NACC is a non-profit child advocacy and membership organization "dedicated to providing high-quality legal representation for children." The NACC has developed a child welfare law certification program, in which an attorney who has demonstrated substantial and satisfactory involvement in child welfare law and passed a national child welfare law exam can be certified as a Child Welfare Law Specialist. In 2009, NACC Certification as a Child Welfare Law Specialist became available in Colorado. OCR supported the NACC's efforts to make certification available. In July 2011, the first group of Colorado Child Welfare Law Specialists received their credentials (7 attorneys). Attorneys interested in becoming certified traditionally must pay a \$300 application fee and a \$300 examination fee, making this endeavor cost-prohibitive for some GALs. In 2011, the U.S. Children's Bureau National Quality Improvement Center on the Representation of Children in the Child Welfare System supported the NACC in waiving some of the costs associated with certification, enabling more attorneys to pursue certification as a Child Welfare Law Specialist.

The OCR believes the option of certification serves as yet another means of elevating the practice of juvenile law. At least 30 GALs are currently pursuing certification as Child Welfare Law Specialists during the NACC's current certification cycle.

### IV. Monitoring and Involvement in Court of Appeals and Supreme Court Cases

OCR attorney staff actively monitor decisions published by the Colorado Court of Appeals and the Colorado Supreme Court and keeps GALs apprised of significant Court of Appeals and Supreme Court decisions impacting their GAL/CLR practice.

OCR occasionally weighs in as *amicus curiae* on cases that may have significant implications for GALs. 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.

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During FY 11, the OCR *amicus* activity focused on *People v. Gabriesheski*, No. 08SC0945 in 2008-9. *Gabriesheski* is a criminal case in which the Court of Appeals upheld 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 in July 2009, 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 2009, and is awaiting a decision from the Supreme Court on that case.

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### OVERVIEW OF OCR BUDGET

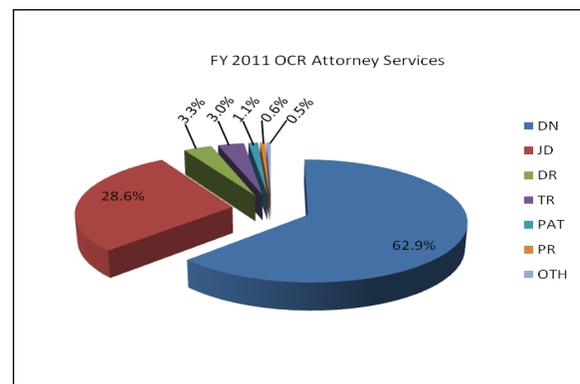
One of the OCR’s mandates is to enhance funding to promote effective legal advocacy. Given the state of Colorado’s FY 11 budget, the OCR focused on creating efficiencies and securing basic funding to meet the increased need for attorney services. The following is an overview of the OCR budget and an outline of factors that contribute to the budget.

**Summary of Appropriations and Factors Driving the Budget:** In Fiscal Year 2011, the OCR expended \$18,981,131, of which \$18,195,792, a full 95.9% of its budget was spent directly on attorney services for children.

**Breakdown of the Mandated Attorney Services Provided by OCR:** OCR attorneys represent the best interests of children in dependency and neglect, delinquency, domestic relations, truancy, paternity and probate. In FY 11, the OCR oversaw 13,656 appointments. The OCR saw a decrease in appointments from the previous

Type of Case	FY07	FY08	FY09	FY10	FY11
Dependency & Neglect	8,012	8,269	8,906	9,038	8,594
Juvenile Delinquency	3,594	3,874	4,423	4,299	3,903
Domestic Relations	624	606	760	690	450
Truancy	458	514	475	406	416
Paternity	126	108	138	198	146
Probate	105	73	71	64	79
Other	44	56	70	99	68
<b>Total</b>	<b>12,963</b>	<b>13,500</b>	<b>14,843</b>	<b>14,794</b>	<b>13,656</b>

two fiscal years. The breakdown of appointments over the last five fiscal years is shown in the table to the left. The average cost of an OCR case was \$1,173 in FY 11. The appointments in dependency and neglect cases account for approximately 63% of attorney services expenditures. The breakdown of expenditures by case type is in the chart below.

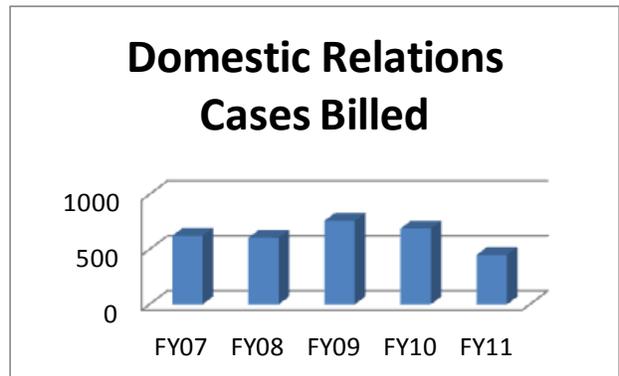


**Dependency and Neglect.** The OCR experienced an increase in dependency and neglect costs. The average cost per dependency and neglect cases was \$1,565 in FY 11. In FY 10, the average cost per dependency and neglect case was \$1,417.95. The increase in billing costs is attributed to economic factors which create case complexities. Fewer resources for families and increased caseloads for social services staff mean that additional attorney time is required to successfully resolve cases.

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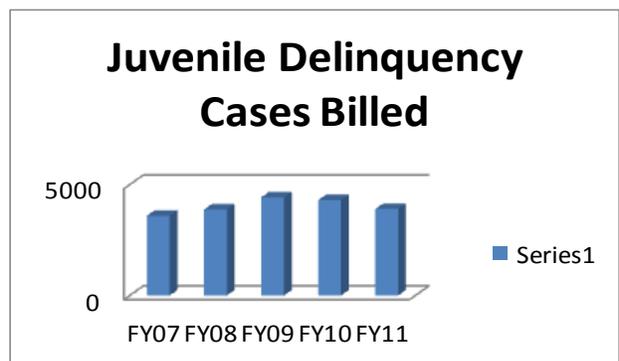
**Domestic Relations Cases.** Indigent parties may seek court appointment of a state-paid attorney child and family investigators (CFI) or child's legal representatives (CLR). The attorneys appointed as such are subject to OCR oversight and comprise the OCR DR appointments. Domestic relations appointments of OCR attorneys fell by 9.2% in FY 11. OCR attributes the fall in appointments to the second year of implementation of SB 09-268 clarification of appropriate indigency qualifications for CFI/CLR appointments and the use of OCR staff to conduct indigency screenings.



In FY 10, the OCR began to conduct an indigency screening process for DR applications in select judicial districts similar to the screening process used by the PD, the OCR's indigency screening process ensures that parties are financially eligible for state paid CFI/CLR services. The use of OCR staff to conduct indigency screenings has had a significant impact of the number of cases OCR oversees. In FY09 OCR incurred \$801,945 in costs for 760 cases, with an average cost per case of \$1,055. This year, FY11, the OCR, with an indigency screener, incurred \$352,768 in costs for 450 cases, an average cost per case of \$784. Total costs were reduced 56.0%, and the average cost per case was reduced by 25.7%.

The ENA pilot program in Adams County has also proven to be a cost effective measure. This pilot program is similar to mediation in that 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. In FY 11, five Adams County cases qualified for participation in the ENA program at total cost of \$2,340 while 25 traditional CFI appointments in Adams County cost of \$21,193.

**Juvenile Delinquency.** FY 11 yielded a decrease in JD costs. The OCR attributes this to the second full year of implementation of SB09-268, which amended C.R.S. § 19-1-111 to clarify that GALs are only appointed in certain instances in delinquency matters: 1) if a parent is not present, 2) if there is a conflict of interest between the child and parent and 3) appointment is in the best interest of the child. Also, the GAL must not remain on the case indefinitely. The GAL's appointment terminates upon sentencing when the child is returned home.



**Wait time in court.** In July of 2009, OCR began to highlight wait time in its efforts to reduce costs to the state. OCR staff recognized that in some jurisdictions attorneys were waiting for

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lengthy periods of time for their cases to be called on the docket. The OCR brought this to the attention of the judicial districts by providing monthly wait time reports which began a dialogue between OCR, the courts and attorneys regarding strategies to minimize this unnecessary cost.

Throughout FY 11, OCR continued to publish monthly reports of wait time in court in each judicial district. These reports have been well received by judicial officers and court administrative staff. On occasion, OCR provides wait time data by attorney and date. This has enabled court staff, attorneys and the judicial officers to identify and resolve specific docketing issues. The results of this combined focus have been marked. In FY 10 a total of 10,318 hours of wait time were billed to OCR. In FY 11, Wait Time was reduced to 5,336 hours a 51.7% reduction. While some of that reduction is attributed to the January 2011 establishment of OCR's Staff pilot offices in Denver and Arapahoe (see page 15) that do not bill OCR for Wait Time, OCR is appreciative of the significant attention given to this issue by the courts and its attorneys.

### **Other factors driving the OCR 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 county human/social service departments have been forced to make staff reductions. Because of the reductions, GALs are doing more initial advocacy to seek services. Also, as there is a lack of available service providers, GALs have increased the litigation of matters such as placements and appropriate treatment. If treatment is not available for parents and children, the goal of reunification is threatened and the duration of out of home placement increases, thereby increasing the costs to the state. As one GAL notes, "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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### Appendix A OCR Legislative Review

#### **SB 11-120 Protections for Youth in Foster Care**

Amendment to the Children's Code by addition of Article 7. The act sets forth a legislative declaration concerning a "bill of rights" for youth in foster care, excluding those in the custody of the division of youth corrections or a state mental hospital (youth). In addition, the act sets forth procedures for identifying and addressing instances in which a foster youth's identity is stolen. The act also directs the Department of Human Services to promulgate rules concerning policies for allowing youth 12 years of age and older greater access to extracurricular activities, including the waiver of certain fingerprint-based criminal history records checks.

#### **HB 11-1079 Methods to Reduce the Number of Homeless Youth**

The act makes state statute compliant with the federal "Runaway and Homeless Youth Act" by (1) increasing the upper age limit for the definition for "homeless youth" in from 18 years of age to 21 years of age, (2) lowering the age limit for the definition of "homeless youth" from 15 years of age to 11 years of age, (3) increasing the number of days that a runaway and homeless youth can stay in a licensed child care facility or a licensed homeless youth shelter from 14 days to 21 days and (4) allowing a licensed host family home to be an allowable placement for 21 days for a runaway and homeless youth.

**HB 11-1053 Court Proceedings Initiated to Compel a Minor to Attend School.** The legislative declaration encourages best practices in truancy matters.

**SB 11-034 Requiring an Educator Who Provides Services Through the Women, Infants and Children Program to Report Child Abuse and Neglect.** The act expands the number of mandatory reports of child abuse and neglect.

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### APPENDIX B OCR COMMITTEE WORK

Successful advocacy for children is often 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.

**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 Executive Director serves on this committee.

**The Child Welfare Strategy Group:** This group is sponsored by the Annie E. Casey Foundation's Center for Effective Services and System. The group is working on identifying and implementing strategies to advance permanency for older youth in Colorado. The Executive Director is a member of the Sponsor Group .

**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. The Deputy Director serves on this committee.

**Court Improvement Committee:** OCR is a 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, Respondent Parent's Counsel and other stakeholders.

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

**Our Kids, Your Kids Steering Committee:** OCR is one of the founding organizations which are creating a network to support children and youth involved in the court system.

**Juvenile Law Section of the Colorado Bar Association:** The 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. The Deputy Director is the past-chair of the committee.

**Legislative Implementation Committees:** Legislation passed by the General Assembly requires implementation by the Executive and Judicial Branches. OCR attorney staff participate in multi-disciplinary committees in order to affect the General Assembly's intent in the area of child and juvenile law.

**Three Branch Institute on Adolescents in Foster Care.** Colorado was awarded a grant by the National Governor's Association — Three Branch Institute on Adolescents in Foster Care to bring together representatives from the Executive, Legislative and Judicial branches, county government and key permanency stakeholders to address permanency for older youth in foster care. The Executive Director and staff attorneys participate in various committees/summits held in order to affect cross-systems improvements for this vulnerable population of abused and neglected children.